

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered this ____ day of _____, 2023, by and between:

CITY OF POMPANO BEACH, a Florida municipal corporation, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida (“City”)

and

CAPTIVA COVE III ASSOCIATES, LTD., a Florida limited partnership whose address is 2100 Hollywood Blvd., Hollywood, Florida 33020 (“Developer”)

collectively referred to as “the Parties.”

W I T N E S S E T H:

WHEREAS, the Parties desire to enter into a development agreement setting forth the mutual understandings and undertakings regarding the sale and development of property located at 740 S.W. 11th Street, Pompano Beach, Florida and further legally described in Exhibit “A”, attached and incorporated in this Agreement (“Property”), upon which Developer intends to build a 106-unit new affordable housing development (“Project”), and Developer’s role in designing, developing, constructing and marketing the Property; and

WHEREAS, the City is a recipient of funds appropriated under Section 3205 of the American Rescue Plan Act of 2021 (Pub.L. 117-2) for the Home Investment Partnerships Program (HOME)(HOME-ARP) from the United States Department of Housing and Urban Development (HUD), under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) to be used in accordance with 24 CFR 92 (“HOME regulations”) and HUD Community Planning and Development Notice CPD-21-10; and

WHEREAS, the City has determined that the Project is consistent with and furthers the goals and objectives of the City’s grant funding, and that development of the Project is in the best interest and welfare of City residents; and

WHEREAS, the City desires to financially assist Developer with the Project in accordance with the City’s HOME-ARP Program (the “Program”); and

WHEREAS, the Developer has agreed to certain commitments regarding number of affordable units, affordability levels, permanent supportive housing and, where applicable, market rate units; and

WHEREAS, the Program restricts the use and operation of the Project in certain respects and mandates recapture of certain Program funding, and the Developer has agreed to such restrictions and mandates to be later provided and recorded in a Declaration of Restrictions;

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises set forth, Developer and City agree as follows:

1. **Recital**. The foregoing recitations are true and correct. All Exhibits to this Agreement are deemed a part of this Agreement.

2. **Project Overview**.

2.1 Developer will develop the Property and will construct no fewer than 106 rental housing units, consisting of two (2) three-story buildings and one (1) six-story building, on the Property, together with ancillary improvements, all of which shall be known as Captiva Cove III. The Developer will ensure that ten (10) of the rental housing units in the Project shall be “Affordable Rental Housing Units” subject to the restrictions and conditions of the Declaration of Restrictions executed by the parties (the “Restrictions”). None of the Affordable Rental Housing Units may be used for transitional housing, for emergency shelters, or for other non-permanent housing as defined in City and HUD regulations.

2.2 Developer will lease, for a period of thirty-three (33) years from the date of the issuance of the last certificate of occupancy for the Affordable Rental Housing Units (the “Compliance Period”), all of the Affordable Rental Housing Units in the Project to households whose gross incomes, adjusted for family size, are no more than income-averaged at sixty percent (60%) of Area Median Income (“AMI”) at the time these units are first occupied and, thereafter, at any time new tenants occupy these units. AMI shall mean the most recent area median income published by HUD for the Pompano Beach Metropolitan Statistical Area and consistent with the rental limits most recently published by the Florida Housing Finance Corporation. The Affordable Rental Housing Units are deemed floating units, providing the Developer with the flexibility to designate different units in the Project at different times as Affordable Rental Housing Units.

2.3 Developer shall not discriminate on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, in the use or occupancy of any housing unit constructed on the Property.

2.4 Developer shall maintain complete and accurate records as to the rental of the Affordable Rental Housing Units and submit to the City an annual report, in the same format required by the Florida Housing Finance Corporation, detailing the Developer's compliance with the terms of this Agreement, by no later than the last date on which a similar report is required to be provided to or for the benefit of the Florida Housing Finance Corporation.

2.5 In carrying out the Project, Developer will submit to the City, no later than ninety (90) days after the Effective Date of this Agreement, an operational plan including, but not limited to, the strategies and tasks to be achieved and completed by the Developer, the personnel responsible for each strategy or task, the timeline for commencing and concluding each strategy or task, and the available financial resources to complete each strategy and task.

3. **Project Schedule**

3.1 Developer expressly agrees to complete all work required by this Agreement substantially in accordance with the timetable set forth in Composite Exhibit B attached and incorporated in this Agreement. All milestones listed in Exhibit B shall commence on the Effective Date of this Agreement. Timely completion of the work specified in this Agreement is an integral part of performance. By acceptance and execution of this Agreement, it is understood and agreed by Developer that the Project will be completed as expeditiously as possible and that Developer will make every effort to ensure that the Project will proceed and will not be delayed. Failure to meet these deadlines shall be considered an Event of Default after notice and opportunity to cure and may result in termination of this Agreement.

3.2 In the event Developer is unable to meet the above schedule or complete the above services because of Permitted Delays (as defined in Section 16.16 below), the City shall grant a reasonable extension of time for completion of the Project not to exceed One Hundred Twenty (120) days from the scheduled completion date. It shall be the responsibility of Developer to notify the City promptly in writing whenever a delay is anticipated or experienced, and to inform the City of all facts and details related to the delay.

4. **Permitting.** The City will assist with the expediting of permits for the development of the Property and construction of the Project.

5. **Scope of Work**

Developer shall perform all services necessary to complete the development and construction of the Project in full compliance with the terms of this Agreement as follows:

- a. Developing an operational plan for carrying out the Project;
- b. Securing Project financing;
- c. Securing building permits;
- d. Monitoring the development of the Project throughout the course of the Project and submit quarterly reports to the City.
- e. Completing the Project substantially in accordance with the Project Schedule attached as Exhibit B.

6. **Procurement Standards.** Developer shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective and equitable manner.

7. **Labor, Training and Business Opportunity**

7.1 The Parties agree that, to the greatest extent feasible, opportunities for training and employment will be given to low and moderate income residents of the City, and that contracts for work in connection with the Project will be awarded to businesses which are located in, or owned in substantial part by persons residing in the City. The Developer will undertake good faith efforts to ensure that selected subcontractors incorporate this objective into their subcontracts carrying out the Project.

7.2 **EEO COMPLIANCE:** Developer shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, disability,

pregnancy, gender identity and expression, or sexual orientation as may be amended from time to time, in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement. Developer shall include the foregoing or similar language in its contracts with any subcontractors or sub-consultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as City deems appropriate.

7.3 Developer shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Developer shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Developer shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

8. **Compliance with Federal, State and Local Laws.** Developer covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the local, state and federal governments, and all amendments, including, but not limited to: Title 8 of the Civil Rights Act of 1968 PL.90-284; Executive Order 11063 on Equal Opportunity and Housing, Section 3 of the Housing and Urban Development Act of 1968 and the Housing and Community Development Act of 1974. Developer agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations 40 CFR part 15.

9. **Reporting Responsibilities**

Developer agrees to submit any and all quarterly reports required by the City to the City's Office of Housing and Urban Improvement (OHUI) on the following due dates for the applicable calendar quarters in any given year:

- 1st Quarterly Report (January/February/March) - May 15th
- 2nd Quarterly Report (April/May/June) - August 15th
- 3rd Quarterly Report (July/August/September) - November 15th
- 4th Quarterly Report (October/November/December) - February 15th

OHUI will send Developer one reminder notice if the quarterly report has not been received seven (7) days after the due date. If Developer has not submitted a report thirty (30) days after the date on the reminder notice, such failure shall be considered an Event of Default and may result in termination of this Agreement.

10. **Inspection, Monitoring and Access to Records.**

10.1 The City reserves the right, upon two (2) calendar days' notice and during regular business hours, to inspect, monitor, and observe work and services performed by

Developer. The City reserves the right to audit the records of Developer any time during the performance of this Agreement and for a period of five (5) years after completion of the Project. Reasonable access shall be granted, upon reasonable advance notice, to the City or any of its duly authorized representatives to any books, documents, papers, and records of Developer, which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

10.2 Public Records.

10.2.1. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Developer shall comply with Florida's Public Records Law, as amended. Specifically, the Developer shall:

a. Keep and maintain public records required by the City in order to perform the service.

b. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the 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.

c. 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 contract term and following completion of the contract if the Developer does not transfer the records to the City.

d. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Developer, or keep and maintain public records required by the City to perform the service. If the Developer transfers all public records to the City upon completion of the contract, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Developer keeps and maintains public records upon completion of the contract, the Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

10.2.2. Failure of the Developer to provide the above described public records to the City within a reasonable time may subject Developer to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060
(954) 786-4611
RecordsCustodian@copbfl.com

11. City Financial Assistance

11.1 City Loan. The City has agreed to lend to Developer One Million Five Hundred Thousand Dollars (\$1,500,000.00) (“Loan”) in furtherance of the Project’s construction, specifically to secure construction financing. The Loan shall be secured by a mortgage and interest bearing promissory note, with the principal balance due and payable thirty three (33) years after Developer receives the final certificate of occupancy for the Project, subject to the payment terms set forth in the Promissory Note securing the Loan (“Note”). The Mortgage and Note shall be substantially similar in form as the Mortgage and Note attached and incorporated in this Agreement as Exhibit "C", and shall be executed at Closing. All Loan proceeds will available at Closing, but shall not be credited toward any Closing costs.

11.2 Repayment of City Funds. The City Loan shall be repaid to the City as set forth in the Note, at the Maturity Date (as such term is defined in the Note), subject to the requirements of affordability set forth in the Declaration of Restrictions (the “Declaration”) recorded in favor of the City and that is substantially similar in form as Exhibit “D”, attached and incorporated in this Agreement.

12. **Developer Obligations**. Developer shall have the following obligations with respect to the Project:

12.1 Project Financing. Developer will secure the necessary financing to develop and complete the Project. Developer will submit to the City such documentation as will reasonably demonstrate to the City the Developer’s financial ability to commence construction of the Project upon request by the City but no later than two hundred seventy (270) days following execution of this Agreement by both parties.

12.2 Other Conditions.

a. The principal use permitted in the Project shall be multi-family rental as depicted on the Conceptual Plan attached and incorporated in this Agreement as Composite Exhibit B. The Project may also contain accessory uses customarily incidental to the principal use permitted. Portions of the Project shown on the Conceptual Plan for use as recreation or open space or otherwise restricted to recreation or open space shall be devoted exclusively to the common use and enjoyment of the occupants of the Project and not to members of the general public, unless otherwise approved by the City. No business shall be carried on or operated in conjunction with the recreational facilities.

b. The Developer understands and agrees that the Affordable Rental Housing Units shall be rented to households whose gross incomes, adjusted for family size, are no more than income-averaged at sixty percent (60%) or less of the Broward County area median income published by HUD for the Pompano Beach Metropolitan Statistical Area and consistent with the rental limits most recently published by the Florida Housing Finance Corporation. All such actions shall be consistent with the Declaration. In addition, Developer agrees to provide OHUI information as it relates to eligibility of occupants for the Project, as frequently as Developer is required to provide such information to the Florida Housing Finance Corporation and in the same format.

c. Lot coverage and open space within the Project shall conform to the City's land development code.

d. No building or other improvements shall be constructed on, over, or within the boundary lines of any rights-of-way or easements within the Project unless such construction has been approved by the City and the holder or owner of such easements, or will not interfere with the easement holder's exercise of its easement for its given purpose.

e. The Project, when completed, shall be maintained in a clean, sanitary, and safe condition. The Project shall be appropriately landscaped, such landscaping to be maintained with a mechanical sprinkling system and in accordance with the City land development code. No portion of the Project shall be allowed to become or remain overgrown or unsightly.

f. No portion of the Project shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste must be kept in sanitary containers, placed in the trash enclosures, and screened from public view.

g. No travel trailer, mobile home, recreational vehicle, boat, tent, storage building, garage, barn or out-building erected within the Project shall at any time be used as a residence, temporarily or permanently.

h. No signs of any kind shall be displayed to the public view in the Project except signs approved by the City in accordance with its sign code.

i. No animals, livestock or poultry of any kind shall be raised, bred or kept within the Project, except that dogs, cats or other domestic pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All animals must be housed inside the residence.

j. No individual water wells, septic tanks or other individual sewage, disposal facility shall be permitted within the Project. This provision, however, shall not be construed to prohibit private water wells for irrigation.

k. No chain link type fence shall be permanently constructed or installed within the Project, except as has been approved by the City.

1. There shall be no discrimination in the use of any building or improvement located within the Project on the basis of race, color, religion, sex, disability, familial status or country of national origin.

12.3 This Agreement and the covenants referenced in this Agreement shall be covenants running with the land and they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the City and its successors and assigns. The Developer, its successors or assigns, may not modify, amend, repeal or alter the Declaration, in whole or in part, without the written consent of the City. Invalidation, in whole or in part, of the Declaration by a court of competent jurisdiction shall in no way affect any other provisions or parts which will remain in full force and effect.

12.4 The Project shall be constructed, used and maintained substantially in accordance with the Project Schedule (Milestones), Conceptual Plan, Declaration of Restrictions, and the terms of this Agreement.

12.5 The Project shall be constructed in accordance with the Florida Building Code, ordinances and all other applicable City, State and Federal laws, rules, regulations and requirements. The quality of the workmanship shall be equal to or greater than the quality of other projects built by the Developer and its affiliates.

12.6 Following execution of the Agreement, Developer shall prepare or have prepared applications for all necessary governmental approvals and diligently process such applications through the appropriate governmental approval process.

12.7 Following issuance of all Governmental Approvals and all development permits required for construction of the Project, including building permits, the Developer shall proceed with and complete construction of the Project. The buildings and improvements to be constructed on the Property by Developer shall be of a unified architectural design as shown on the Conceptual Plan.

12.8 During construction of the Project, Developer covenants and agrees that it shall safely maintain the site of construction activities and protect against damage to persons and property by reason of construction activities and will provide adequate security during non-construction periods. In the case of damage or loss to the Project, Developer shall, as soon as possible after the occurrence of such loss or damage, repair or rebuild the affected portion of the Project to the condition it was in prior to such loss or damage. Such repairs shall be begun within sixty (60) calendar days after such occurrence or if rebuilding is required, such rebuilding shall be begun within one hundred twenty (120) calendar days after such occurrence and in either case shall be completed in a reasonable time, Permitted Delays excepted, provided insurance funds are available, but in no event shall commencement of repairs or rebuilding be delayed beyond one hundred eighty (180) days from the date of occurrence. Developer shall pay for all such repairing and rebuilding so that the Property and the Project shall be free and clear of any construction liens arising out of such repair, rebuilding or reconstruction of the Project.

12.9 Developer shall complete the Project, subject to extension for Permitted Delays, not later than thirty (30) months from the effective date of this Agreement (the "Completion Date"). By completion, it is understood and agreed that the same shall mean that it is ready for the issuance of a temporary or final Certificate of Occupancy. The failure of Developer to complete construction of the Project by the Completion Date, subject to extension for Permitted Delays, shall constitute a material Event of Default in accordance with the provisions of this Agreement.

12.10 The Developer's performance of these obligations are substantial and material provisions to this Agreement and Developer acknowledges that the City has materially relied upon such representation from Developer as a component to this transaction. If the Developer fails to perform consistent and in compliance with this Agreement, the Developer shall be an Event of Default.

13. **Required Insurance.** Throughout the term of this Agreement, Developer and all contractors shall maintain in full force and effect, at its sole cost, the insurance coverage set forth in Exhibit E below.

Developer shall provide the following: (i) certificates of insurance evidencing the required coverage; (ii) names and addresses of companies providing coverage; (iii) effective and expiration dates of policies; (iv) a provision in all policies affording the City thirty (30) days written notice by a carrier of any cancellation or material change in any policy. In the event of destruction of or damage to any portion of the Project covered by insurance, and subject to the corresponding provisions of any mortgage encumbering the Property, the funds payable in pursuance of these insurance policies for repair or reconstruction shall be deposited in a commercial national bank located in Pompano Beach, Florida, selected by the City as a trust fund. These funds shall be used for the purposes of reconstruction or repair of the Project and the replacement of personal property within the Project, so damaged or destroyed. Such reconstruction and repair work shall be performed in strict conformity with the ordinances of the City and all governmental agencies having jurisdiction. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then in such event, such funds shall be used as far as the same will permit in paying the cost of reconstruction or repair and Developer shall be responsible for the remaining funds. In the event that the cost of such reconstruction or repair work shall be less than the proceeds derived for such insurance policies, the surplus shall be payable to Developer. Should any of the required insurance policies be canceled before the expiration date or non-renewed, the issuing company will provide thirty (30) days written notice to the certificate holder.

14. **Developer Default, Remedies, Termination and Further Rights.**

14.1 **Event of Default.** The occurrence of any one or more of the following shall constitute an Event of Default:

a. If Developer defaults in the performance of an obligation imposed upon it under this Agreement or if Developer fails to complete construction of the Project, and Developer does not commence to cure such default within thirty (30) days after delivery of notice of such

default from the City and diligently pursue cure of such default within sixty (60) days after delivery of such notice, except in the event of a Permitted Delay.

b. If any statement or representation made by Developer in this Agreement or in any writing furnished in connection with this Agreement is determined to be false in any material respect.

c. If a petition in bankruptcy is filed by or against the Developer or a petition for the appointment of a receiver or trustee of the Property, which, in the reasonable judgment of City, will cause material interference with the timely completion of the Project, and any such petition not filed by the Developer is not dismissed within ninety (90) days of the date of filing.

d. Developer sells, transfers or otherwise dispose of the Project or any portion, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld, except where such transfers and assignments are permitted as described in Paragraph 16 of this Agreement.

If an Event of Default occurs and there is no cure within the time provided in this Agreement, then Section 14.2 shall be applicable.

14.2 Remedies. Upon the occurrence of any Event of Default, the City shall have the following non-exclusive rights: (i) to terminate this Agreement; (ii) to cease any further disbursements of the Loan; (iii) to immediately enforce all of its rights under this Agreement; and (iv) to avail itself of any right it may have at law or in equity.

15. City Default, Remedies, Termination and Further Rights.

15.1 Default by City. If the City fails to disburse the Loan pursuant to the provisions of Section 11 of this Agreement, such failure shall constitute a default by the City. The City shall have thirty (30) days after delivery of notice of such default from Developer to cure the default. If there is no cure of the default within the time provided, then Section 15.2 shall be applicable.

15.2 Remedies. In the event of default by the City, Developer shall have the following non-exclusive rights: (i) to terminate the Agreement without cost or liability to the City; (ii) to immediately enforce all of its rights under this Agreement; and (iii) to avail itself of any right it may have at law or in equity.

16. General Provisions.

16.1 Non-liability of City Officials. No member, official or employee of the City shall be personally liable to Developer or to any person with whom Developer shall have entered into any contract, or for any amount which may become due to Developer under the terms of this Agreement.

16.2 Notices. All notices to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts to the parties at the following addresses (or to such other

or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail, if sent by registered or certified mail, or the date actually received if sent by personal delivery or air courier service, except that notice of a change in address shall be effective only upon receipt.

If to the City:
City Manager
City of Pompano Beach
100 W. Atlantic Boulevard
Pompano Beach, FL 330602

With a copy to:
Miriam Carrillo, Director
City of Pompano Beach
Office of Housing and Urban Improvement
100 West Atlantic Blvd Suite 220
Pompano Beach FL 33060

If to Developer:
Captiva Cove III Associates, Ltd.
2100 Hollywood Blvd.
Hollywood, FL, 33020
Telephone No. (305) 443-8288
Fax No. (305) 443-9339

With a copy to:
NEF Assignment Corporation (“Limited Partner”)
10 S. Riverside Plaza, Suite 1700
Chicago, Illinois 60606
Attention: General Counsel

16.3 Entire Agreement. This Agreement, including all exhibits attached and which are expressly incorporated by this reference, sets forth all of the promises and covenants between the parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, oral or written, except as contained in this Agreement.

16.4 Pronouns. All pronouns and any variations shall be deemed to refer to the masculine, feminine and neuter, singular or plural, as the identity of the party or parties, personal representatives, successors or assigns may require.

16.5 Severability. The invalidity of any provision shall in no way affect or invalidate the remainder of this Agreement.

16.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

16.7 Headings. The headings contained in this Agreement are inserted for convenience only and shall not affect, in any way, the meaning or interpretation of the Agreement.

16.8 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceeding arising between the parties in any manner pertaining to this Agreement shall, to the extent permitted by law, be in courts of jurisdiction for Broward County, Florida.

16.9 Binding Effect. The obligations imposed pursuant to this Agreement upon Developer shall be binding upon and enforceable by and against the parties, their successors, grantees and assigns.

16.10 Amendments. This Agreement may not be amended, modified or terminated orally, but only in writing signed by the parties.

16.11 Authority of Developer. By execution of this Agreement, Developer does certify to the City that the officer executing this Agreement has been duly authorized by proper resolution of the partners of Developer to enter into, execute and deliver this Agreement and all other documents, certificates, agreements, consents and receipts, and to take any and all other actions of any kind whatsoever in order to accomplish the purposes and undertakings of this Agreement.

16.12 Assignment. Developer agrees that it shall not assign or transfer this Agreement to another party without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. The assignment or transfer shall be permitted so long as (i) there is not a Change of Control as defined in the Mortgage, and (ii) the assignee or transferee agrees to be bound by the terms and conditions set forth in this Agreement.

16.13 Contingent Fee. Developer represents and warrants that it has not employed or retained any person to solicit or secure this Agreement and that it has not paid or agreed or promised to pay any person any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the execution of this Agreement.

16.14 Indemnification. Developer shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses including reasonable attorney's fees or liabilities of every kind in connection with or arising this Agreement, or directly out of the improvement, operation, or possession of the Property by Developer except for any occurrence arising out of or resulting from intentional torts or gross negligence of the City or its respective officers, agents and employees. Nothing in this Agreement shall constitute a waiver by the City of the limits of sovereign immunity found in Section 768.28, Florida Statutes. City shall provide notice of any lawsuits or claims within four (4) business days of service. Without limiting

the foregoing, any and all such claims, suits, causes of action, etc., relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the Project, actual or alleged infringement of any patent, trademark, copyright, or of any other tangible or intangible personal or real property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. Developer further agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other related costs and expenses, even if the claim is groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by Developer for breach of warranties under the deed or any causes of action Developer has or may have for breaches or defaults by the City under this Agreement.

16.15 Approvals. Wherever in this Agreement City approval or approval of the City designees shall be required for any action, such approvals shall not be withheld unreasonably.

16.16 Permitted Delays. Subject to providing written notice of such an event and the party's intention to exercise the applicability of this provision, no party to this Agreement shall be deemed in default, and the time for performance of any required act shall be extended for such period, where such a default is based on a delay in performance as a result of war, insurrection, strikes, lockouts, riots, floods earthquakes, fires, casualty, acts of God, epidemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, government restrictions of priority, litigation, severe weather and other acts or figures beyond the control or without the control of either party; provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay, and in no event shall any of the foregoing excuse any financial inability of a party.

16.17 Attorney's Fees and Costs. The prevailing party in any action to enforce the terms of this Agreement shall recover from the non-prevailing party all and singular the costs, charges and expenses including, but not limited to, reasonable attorney's fees, at trial, on appeal and involving bankruptcy litigation, as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions and covenants of this Agreement, whether or not suit is brought. Such fees and costs shall bear interest at the maximum rate permitted by law.

16.18 Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, both City and Developer and their respective counsel have had equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of, and therefore construed against, either party.

16.19 Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

16.20 Failure of either party to insist upon strict performance of any covenant or condition of this Contract, or to exercise any right contained in this Agreement, shall not be

construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect. None of the conditions, covenants or provisions of this Agreement shall be waived or modified except by the Parties in writing.

16.21 Effective Date. This Agreement nor any modification, amendment or alteration, shall be effective or binding upon any of the Parties until it is approved by the City Commission and executed by the Mayor and Manager and attested by the City Clerk.

16.22 The Parties agree that this Agreement shall be recorded in the public records of Broward County, at Developer's sole cost and expense.

16.23 Any cure tendered by Limited Partner shall be accepted or rejected on the same basis as if tendered by Borrower.

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

“CITY”

WITNESSES:

CITY OF POMPANO BEACH

BY: _____
REX HARDIN, MAYOR

BY: _____
GREGORY P. HARRISON
CITY MANAGER

DATED: _____

KERVIN ALFRED
CITY CLERK

APPROVED AS TO FORM:

MARK E. BERMAN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of (check one) [] physical presence or [] online notarization this _____ day of _____, 2023, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, 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

DEVELOPER

Captiva Cove III Associates, Ltd., a Florida limited partnership

Name of Witness Printed Above

By: Cornerstone Captiva Cove III, LLC, a Florida limited liability company, its sole general partner

By: _____
Mara S. Mades, Vice President

Name of Witness Printed Above

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of (check one) [] physical presence or [] online notarization this _____ day of _____, 2023, by Mara S. Mades as Vice President of Cornerstone Captiva Cove III, LLC, the sole general partner of Captiva Cove III Associates, Ltd., a Florida limited partnership, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC STATE OF FLORIDA
(Signature of Notary Taking Acknowledgement)

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

EXHIBIT A – LEGAL DESCRIPTION

Lots 8, 9, 10, 11 and 12, Block 1, of AMENDED PLAT OF FAIRVIEW, according to plat thereof, as recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida.

AND

That part of Vacated Road as referenced in Ordinance filed February 7, 2006 in Official Records Book 41418, Page 410 being described as follows:

That portion of Palm Terrace Right of Way, lying adjacent to Lot 12, Block 1, AMENDED PLAT OF FAIRVIEW, according to the Plat thereof, as recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida. Said portion being bounded by as follows: on the North by a line parallel with and 50 feet Southerly of the Westerly extension of the North line of the aforementioned Lot 12, Block 1, on the South by the Westerly extension of the Southerly line of Block 1, on the East by the West line of the aforementioned Lot 12, Block 1, and on the West by a line 30 feet West of and parallel with the West line of the aforementioned Lot 12, Block 1.

AND

All of Lots 1, 2, 3, 4, 5, 17, 18, 19, 20, 21, 22, 23, 24, and a portion of Lot 6, Block 2, Amended Plat of Fairview, according to the plat thereof, recorded in Plat Book 10, Page 25 of the public records of Broward County, Florida, together with a portion of vacated alley as described in Official Records Book 5621, Page 419 of said public records, said parcel being more particularly described as follows: Begin at the Northwest corner of said Lot 17, Block 2; thence S89° 44'52"E along the North line of said Lots 17 thru 24, a distance of 364.87 feet (364.40 feet per plat) to the most Westerly Northeast corner of said Lot 24 thence N70°45'15"E a distance of 75.22 feet to a point on the North line of said Lot 6; thence S89°48'10"E along said North line a distance of 59.97 feet to the Northeast corner of said Lot 6; thence S36° 39'30"E along the East line of said Block 2, a distance of 35.86 feet to a point of curvature of a tangent curve concave to the West; thence Southeasterly, Southerly and Southwesterly along the arc of said curve to the right having a central angle of 49°46'53" and a radius of 15.00 feet for an arc distance of 13.03 feet to a point of tangency; thence S13°07'47"W along said East line a distance of 114.74 feet to a point of curvature of a tangent curve concave to the Northwest; thence Southerly, Southwesterly and Westerly along the arc of said curve to the right having a central angle of 77°13'40" and a radius of 15.00 feet for an arc distance of 20.22 feet to a point of tangency, said point also being a point on the South line of said Block 2; thence N89°38'46"W along said South line a distance of 464.17 feet to a point of curvature of tangent curve concave to the Northeast; thence Westerly, Northwesterly and Northerly along the arc of said curve to the right having a central angle of 89°39'51" and a radius of 15.00 feet for an arc distance of 23.47 feet to a point of tangency, said point also being a point on the West line of said Lot 17; thence North along the West line of said Lot 17 a distance of 123.62 feet to the Point of Beginning; said land situate within Broward County, Florida.

AND

The East 30 feet of vacated and abandoned Palm Terrace, now known as S.W. 8th Ave. pursuant to Ordinance No. 2005-19 recorded in Official Records Book 38974, Page 372, lying West of and adjacent to Lot 17, Block 2 of Amended Plat of Fairview, recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida.

AND

Those portions of Magnolia Drive, now known as SW 11th Street and Palm Terrace, now known as SW 8th Ave., abandoned pursuant to Ordinance No. 2019-83 recorded in Instrument # 115976317, LESS AND EXCEPT the West 30 feet of abandoned Palm Terrace, now known as SW 8th Ave.

COMPOSITE EXHIBIT B

Milestone	Deadline
Interim Milestones/Deadlines (<i>list below</i>)	
Development Team Operational Plan	90 days
Proposed Project Schedule and Project Budget	90 days
Securing of Project Financing	180 days
Selection of Engineer for Plans, Specifications, Installation, and Construction of Infrastructure	45 days
Completion of Land Infrastructure Improvements etc.	270 days
Creation of Marketing Program for Project	270 days
Securing Building Permits	180 days
Begin Construction	210 days
Complete Project	24 months total

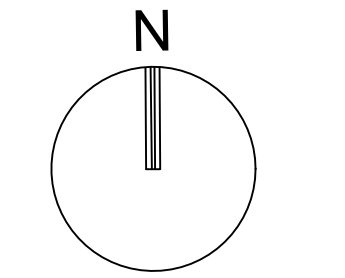
CONCEPTUAL PLAN

See next page.

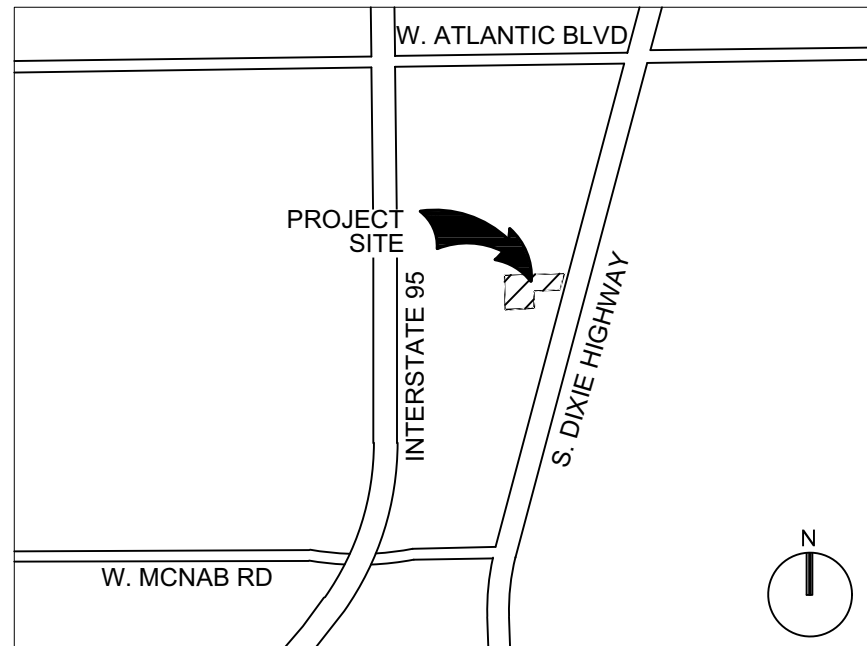
- NOTES:**
- REFER TO SURVEY FOR FULL LEGAL DESCRIPTION
 - REFER TO ARCHITECTURAL PLANS FOR INTERIOR BUILDING LAYOUT, FENCE DETAILS, BICYCLE RACK DETAIL, COMPACTOR SPECIFICATIONS, GATE DETAILS, PAVER DETAILS, SITE AMENITIES.
 - ALL PARKING SPACES TO BE DOUBLE STRIPED ACCORDING TO COPB STANDARD DETAILS.
 - VEHICLE GATES SHALL HAVE KNOX BOX SWITCH KEY TO OVERRIDE GATES IN EVENT OF EMERGENCY.
 - REFER TO CIVIL PLANS FOR UTILITY EASEMENTS.
 - REFER TO FIRE ACCESS PLAN FOR EMERGENCY VEHICLE ROUTES
 - REFER TO CPTD PLAN FOR NARRATIVE OF HOW SECURITY PRINCIPLES ARE MET.

SITE AREA CALCULATIONS: (CAPTIVA III)				OVERALL SITE CALCULATIONS (PHASE 1,2,&3)*			
	SQ. FT.	%	ACREAGE		SQ. FT.	%	ACREAGE
NET SITE AREA:	142,839		3.279	PHASE I *	653,882 *		15.01
				PHASE II *	197,693		4.54
				PHASE III	142,839		3.279
				TOTAL	984,169		22.59
IMPERVIOUS AREA				PERVIOUS AREA (25% MINIMUM)			
	SQ. FT.	%	ACREAGE		SQ. FT.	%	ACREAGE
BUILDING FOOTPRINT (INCL. OVERHANG)	31,228	21.9%	0.72		147,510	15.0%	
VEHICULAR USE AREA/PAVEMENT	58,730	41.1%	1.35		344,280	35.0%	
SIDEWALKS/CONCRETE	14,910	10.4%	0.34		62,568	6.4%	
VEHICLE OVERHANG	1,519	1.1%	0.03		6,939	0.7%	
EXISTING LAKE (CAPTIVA I) *	N/A	N/A	N/A		89,183	9.1%	
TOTAL	142,839	100%	3.279		984,169	100%	

*PER 2012 APPROVED CAPTIVA COVE I & II OVERALL DATA CALCULATIONS SHEET A0.02



GRAPHIC SCALE
0 30 60
SCALE: 1" = 30'
NOTE: PRINTED DRAWING SIZE MAY HAVE CHANGED FROM ORIGINAL. VERIFY SCALE USING BAR SCALE ABOVE.



LOCATION SKETCH
(NOT TO SCALE)

LEGAL DESCRIPTION:
A PORTION OF BLOCKS 1 & 2, AND A PORTION OF THAT CERTAIN 60 FOOT RIGHT OF WAY FOR MAGNOLIA DRIVE (SW 11th STREET) NOW VACATED PER INSTRUMENT NUMBER 115976317, OFFICIAL RECORDS BOOK 41418, PAGE 410, AND OFFICIAL RECORDS BOOK 38974, PAGE 372 ALL OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND AS SHOWN ON THE AMENDED PLAT OF FAIRVIEW, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE 25, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LAND LYING AND SITUATED IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 142,839 SQUARE (3.279 ACRES) MORE OR LESS.

SITE DATA TABLE			
PROJECT ADDRESS: 740 SW 11TH STREET, POMPANO BEACH FL 33060			
FOLIO NUMBER: 494202030130			
PROJECT INFORMATION:			
LAND USE DESIGNATION: COMMERCIAL (C) / MEDIUM RESIDENTIAL (M) 10-16 DU/AC			
ZONING DESIGNATION: B-3 COMMERCIAL / RM-45 MULTIPLE FAMILY RESIDENCE			
	SQ. FT.	ACREAGE	
NET SITE AREA (SF)	142,839	3.279	
GROSS BUILDING AREA			
# OF RESIDENTIAL UNITS	106 UNITS		FLEX UNITS APPROVED VIA RESOLUTION 2019-226
DENSITY	ALLOWED	40 UNITS / ACRE	PER RESOLUTION 2019-226
	PROVIDED	32 UNITS / ACRE	
SERVICE PROVIDERS:			
POTABLE WATER	CITY OF POMPANO BEACH		
SANITARY SEWER	CITY OF POMPANO BEACH		
SOLID WASTE	WASTE MANAGEMENT		
ZONING DISTRICT REQUIREMENTS:			
	REQUIRED (B-3)	REQUIRED (RM-45)	PROVIDED
BUILDING HEIGHT	105' MAX	105' MAX	66'-6" BLDG1 32'-6" BLDG 2 & 3
LOT COVERAGE	60% MAX	60% MAX	21.90%
PERVIOUS AREA	20% MIN	25% MIN	25.50%
VUA PERVIOUS AREA (% OF VUA)	15% MIN	15% MIN	15%
SETBACK REQUIREMENTS:			
	REQUIRED (B-3)	REQUIRED (RM-45)	PROVIDED
FRONT YARD (DIXIE HWY)	0'	25'	24.5'
STREET SIDE YARD (11TH ST)	0' (*)	10' (13.5')	53.65'
INTERIOR SIDE YARD (NORTH)	0' (4.125' *)	10' (14.25' **)	BLDG #1 = 12.01' BLDG #2 = 87.50'
INTERIOR SIDE YARD (SOUTH)	0' (*)	10' (14.25' **)	N/A
REAR YARD (WEST)	30' (*) (***)	10' (14.25' (***)	N/A

* THOSE PORTIONS OF A STRUCTURE EXTENDING ABOVE A HEIGHT OF 50 FEET SHALL BE SET BACK AN ADDITIONAL 1 FT FOR EACH 4 FT (OR MAJOR FRACTION THEREOF) THE HEIGHT OF THE PORTION OF THE STRUCTURE EXCEEDS 50 FT.
** THOSE PORTIONS OF A STRUCTURE EXTENDING ABOVE A HEIGHT OF 20 FEET SHALL BE SET BACK AN ADDITIONAL 1 FT FOR EACH 4 FT (OR MAJOR FRACTION THEREOF) THE HEIGHT OF THE PORTION OF THE STRUCTURE EXCEEDS 20 FT.
*** RESTRICTED TO 65-FOOT REAR YARD SETBACK ON LOTS 17, 18, 19, 20, 21 AND 22 OF BLOCK 2, AMENDED PLAT OF FAIRVIEW (P.B. 10, PG 25 BROWARD COUNTY RECORDS) PER INSTRUMENT #115991093

PARKING CALCULATIONS:			
	REQUIRED	PROVIDED	
MULTIPLE FAMILY DWELLING			
1 SPACE PER 1.5 DU (106 UNITS)	159	163	INCLUDES ADA SPACES
ADA PARKING	6	9	ADA SPACES (12'X18')
BICYCLE PARKING: 4 BICYCLE SPACES FOR EVERY 10 VEHICLE PARKING SPACES PROVIDED			
	REQUIRED	PROVIDED	
NOT TO EXCEED 20 REQ. SPACES	20	24	

KEITH
301 East Atlantic Blvd.
Pompano Beach, FL 33060
PH: (954) 788-3400

Florida Engineering Business License: CA7923
Florida Surveyor and Mapper Business License: LB6660
Florida Landscape Architecture Business License: LC26000457

REVISIONS		
NO.	DESCRIPTION	DATE

**PRELIMINARY PLAN
NOT FOR CONSTRUCTION**
THESE PLANS ARE NOT FULLY PERMITTED AND ARE SUBJECT TO REVISIONS MADE DURING THE PERMITTING PROCESS.
RESPONSIBILITY FOR THE USE OF THESE PLANS PRIOR TO OBTAINING PERMITS FROM ALL AGENCIES HAVING JURISDICTION OVER THE PROJECT WILL FALL SOLELY UPON THE USER.

ISSUE DATE: 4/08/2022
DESIGNED BY: MA, RG
DRAWN BY: MA
CHECKED BY: TD
BID-CONTRACT:

This item has been digitally signed and sealed by Thomas F. Donahue, P.E. on the date below using a Digital Signature.

Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.
2022.07.20 13:43:17-04'00'

THOMAS F. DONAHUE, P.E.
FLORIDA REG. NO. 60529
(FOR THE FIRM)

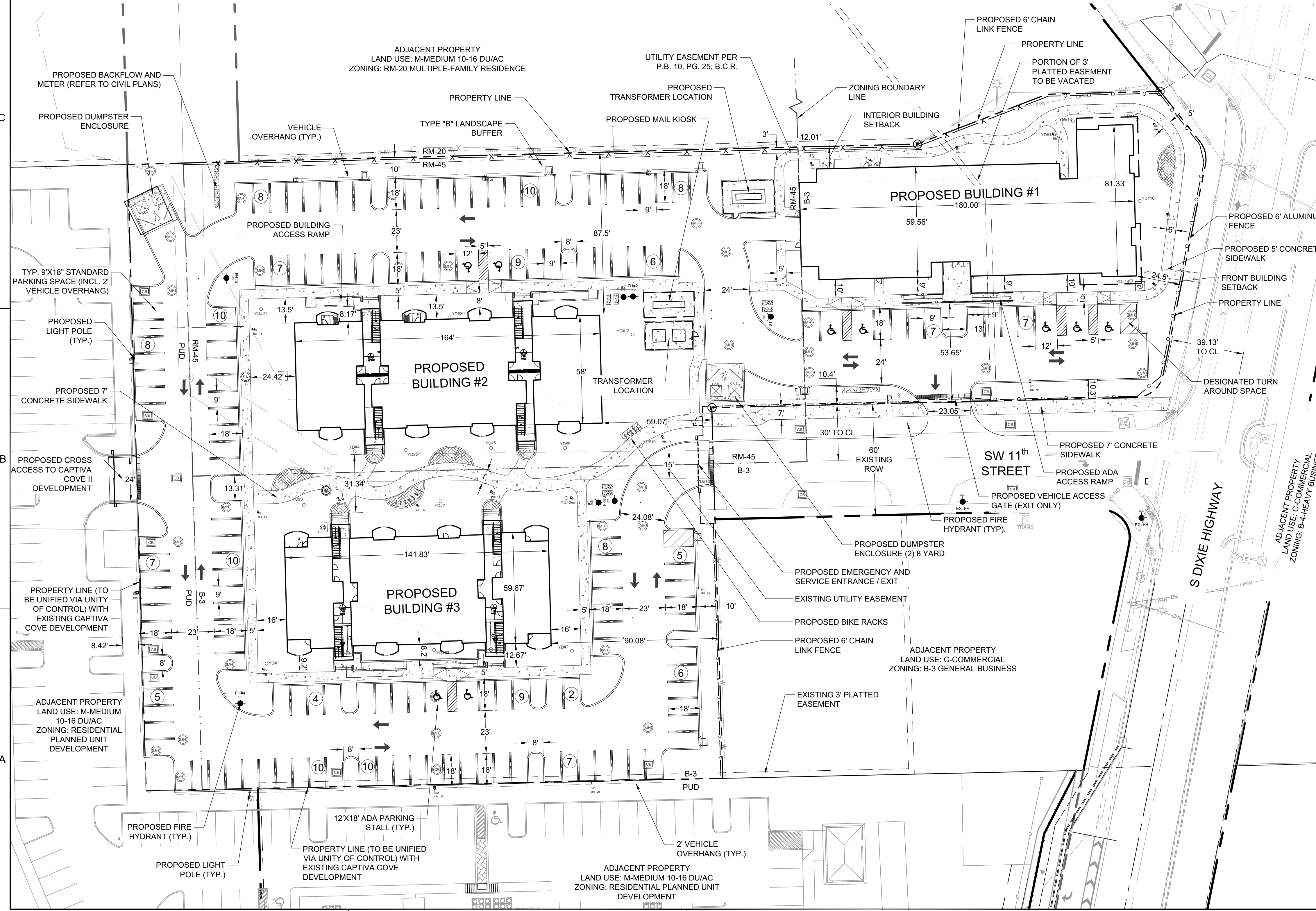
CLIENT
CAPTIVA COVE III ASSOCIATES, Ltd. (CORNERSTONE GROUP)

PROJECT
**CAPTIVA COVE III
1201 S DIXIE HWY,
POMPANO BEACH,
FL 33060**

SHEET TITLE
SITE PLAN

PROJECT NUMBER SP-101
PROJECT NUMBER 10200002

P&Z
PZ20-12000006
8/24/2022



Plotted by: mamado On 7/20/2022 11:23 AM

Drawing name: C:\10298.02 - Captiva Cove III - Captiva Cove III Associates, Ltd. (Cornerstone Group)\Engineering\Cadd\10298.02-SP-101-Site Plan.dwg

STATUS: PRELIMINARY

EXHIBIT C – MORTGAGE AND PROMISSORY NOTE

Document prepared by:

James E. Saunders III
Assistant City Attorney
City of Pompano Beach
100 W. Atlantic Boulevard, Ste. 467
Pompano Beach, Florida 33060

Return recorded document to:

James E. Saunders III
Assistant City Attorney
City of Pompano Beach
100 W. Atlantic Boulevard, Ste. 467
Pompano Beach, Florida 33060

Tax Parcel Numbers: 494202030130

(For Recorder's Use Only)

NOTE TO RECORDER: This Mortgage is given in relation to the financing of housing under Part V of Chapter 420 of the Florida Statutes and is exempt from taxation pursuant to Section 420.513 Florida Statutes.

**MORTGAGE, SECURITY AGREEMENT AND
ASSIGNMENT OF LEASES, RENTS AND PROFITS**

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES, RENTS AND PROFITS (the "Mortgage"), is executed and delivered the ___ day of _____, 2023 by CAPTIVA COVE III ASSOCIATES, LTD., a Florida limited partnership, whose address is 2100 Hollywood Boulevard, Hollywood, FL 33020 (the "Mortgagor"), to the CITY OF POMPANO BEACH, a Florida municipal corporation, with offices at 100 West Atlantic Boulevard, 4th Floor, Pompano Beach, FL 33060 (the "Mortgagee").

WITNESSETH, that in consideration of the premises and in order to secure the payment of the principal and any other sum payable under, pursuant to or by virtue of the Note or this Mortgage and the performance and observance of all of its provisions and of the Note, the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee, all of Mortgagor's estate, right, title and interest in, to, under and with respect to all of the following described real and personal property, legally described on the attached Exhibit "A", situate, lying and being in Broward County, Florida (the "Land").

TOGETHER WITH all structures and improvements now or hereafter erected or located (the "Improvements"), the rents, and all easements, privileges, hereditaments, appurtenances to the Land or the Improvements or both, rents, royalties, power, mineral, oil and gas rights, water rights, and any incomes and profits of any of the foregoing, all furniture, furnishings, fixtures and equipment ("Personal Property"), and all additions and replacements, which Land, Improvements and personalty shall collectively be referred to as the "Mortgaged Property".

TO HAVE AND TO HOLD the same, together with all tenements and hereditaments and appurtenances, unto the Mortgagee.

The Mortgagor warrants that Mortgagor has a good and marketable title to an indefeasible fee simple absolute estate in the Mortgaged Property; that the Mortgagor has full power and lawful right to convey the Mortgaged Property; that the Mortgagor covenants that this Mortgage is and will remain a valid and enforceable mortgage on the Mortgaged Property; that Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form done and that Mortgagor will preserve such title and will forever warrant and defend the validity and priority of the Mortgage against the lawful claims of all persons claiming by, through, or under Mortgagor, save Senior Lenders as defined below.

PROVIDED ALWAYS, that if the Mortgagor shall pay to the Mortgagee the indebtedness in the principal sum of \$1,500,000.00 (the "Debt") evidenced by that certain Promissory Note, of even date (the "Note"), upon the terms provided in the Note, and together with all other sums advanced by Mortgagee to or on behalf of Mortgagor pursuant to the Note or this Mortgage, the final maturity date of this Mortgage being thirty-three (33) years following the issuance of the last certificate of occupancy for the Project, and shall otherwise perform and comply with and abide by each and every one of the stipulations, agreements, conditions and covenants of the Note, this Mortgage and all other documents evidencing or securing the Debt (collectively, "Loan Documents"), then this Mortgage and the estate thereby created shall cease and terminate.

THE MORTGAGOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. PERFORMANCE OF NOTE, MORTGAGE AND HOUSING COVENANTS.

The Mortgagor shall pay all sums, including principal and interest, where applicable, secured by this Mortgage when due as provided for in the Note, and any renewal, replacement, extension or modification, and in this Mortgage, all such sums to be payable at the address specified in the Note, or at such other place as the holder of such Note may designate in writing. Mortgagor shall perform, comply with and abide by each and every of the agreements, conditions and covenants set forth in the Note and this Mortgage.

2. TAXES AND OTHER CHARGES. The Mortgagor shall pay before any interest, charge or penalty is due, all taxes, assessments, levies, liabilities, obligations, encumbrances, and all other charges or claims of every nature and kind which may be imposed or filed at any time against this Mortgage, the Mortgaged Property or any part or against the interest of the Mortgagee, or which by any present or future law may have priority over the secured indebtedness; provided, however, that if the Mortgagor in good faith and by appropriate legal action shall contest the validity of any such items or the amount, and shall have established on its books or by deposit of cash with the Mortgagee or the holder of any senior lien on the Mortgaged Property a reserve for the payment thereof in such amount as the Mortgagee may require, then the Mortgagor shall not be required to pay the item: (a) while the reserve is maintained; and (b) so long as the contest operates to prevent collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to the Mortgagor. The Mortgagor shall furnish the Mortgagee with annual receipted tax bills evidencing payment within ninety (90) days from their due date.

3. **HAZARD INSURANCE.** Mortgagor shall keep the Improvements insured against loss by fire and such other hazards included within the term "extended coverage," and any other hazards including, but not limited to wind or 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 the 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 carried in companies approved by the Mortgagee and all policies therefore shall be in such form and shall have attached loss payable clauses in favor of the Mortgagee and any other party as shall be satisfactory to the Mortgagee. The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to the Mortgagee's approval; provided that such approval shall not be unreasonably withheld.

All insurance policies and renewals shall be in a form acceptable to the Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to the Mortgagee. Mortgagor shall promptly furnish to the Mortgagee all renew notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and the Mortgagee, and the 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 Mortgaged 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 Mortgaged Property is abandoned by Mortgagor or if Mortgagor fails to respond to the Mortgagee within thirty (30) days after notice by the Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, the Mortgagee is authorized to collect and apply insurance proceeds at the Mortgagee's option either to restoration or repair of the Mortgaged Property or to the sums secured by this Mortgage.

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

If the Mortgaged Property is acquired by the 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 construction) resulting from damage to the Mortgaged Property prior to the sale or construction shall pass to the Mortgagee.

4. **PROTECTION OF MORTGAGEE'S SECURITY.** The Mortgagee may, at its option, upon notice to Mortgagor, make such appearances, disburse such sums, and take such action as is necessary to protect the Mortgagee's interest, if Mortgagor fails to perform the

covenants or agreements contained in this Mortgage or, if any action or proceeding is commenced which materially affects the Mortgagee's interests in the Mortgaged Property subject to this Mortgage, including but not limited to, eminent domain, insolvency, code enforcement, arrangements, or proceedings involving a bankruptcy

5. PROTECTIVE ADVANCES. Mortgagee may, at its option, and without waiving its right to accelerate the secured indebtedness and to foreclose the same, pay after delinquency any or all of those certain obligations required by the terms of this Mortgage to be paid by the Mortgagor for the protection of the Mortgage security or for the collection of the secured indebtedness. All sums so advanced or paid by Mortgagee shall bear interest from the date paid at the Default Rate specified in the Note as fully and to the same extent as though a part of the original indebtedness evidenced by the Note and secured by this Mortgage, excepting however, that sums shall be repaid to the Mortgagee within fifteen (15) days after demand by the Mortgagee to the Mortgagor for such payment.

6. ACCELERATION OF MATURITY; RIGHTS AND REMEDIES. Mortgagee shall have the right to mature the indebtedness and foreclose this Mortgage in the event of the following:

(a) any breach of this Mortgage or default on the part of the Mortgagor which is not cured within thirty (30) days following written notice from the Mortgagee, or if such default cannot practicably be cured within thirty (30) days, then within such additional time as may be required to effect a cure (such additional time not to exceed sixty (60) days, so long as (i) the cure is commenced within thirty (30) days and is diligently prosecuted and (ii) the lack of a cure during such continuing cure period has no material adverse effect on the Mortgaged Property; or

(b) a failure to pay promptly and fully any sums of money referred to in this Mortgage within five (5) days after the same become due and payable, without demand or notice; or

(c) failure to maintain in reasonably good repair the buildings and any Improvements, including but not limited to landscaping, on the Mortgaged Property; or

(d) failure to comply with any requirement, order, notice of violation of law, or ordinance issued by any governmental entity claiming jurisdiction over the Mortgaged Property; or

(e) failure to assign and deliver the policies insuring the buildings against loss by fire or in reimbursing the Mortgagee for premiums paid on such insurance, as provided in this Mortgage; or

(f) failure to keep, observe and perform any of the other covenants, conditions or agreements contained in this Mortgage; or

(g) in the event each and every stipulation, agreement, condition and covenant of the Note and this Mortgage are not duly, promptly and fully performed, discharged, executed, effected, completed, complied with and abided by, following the giving of notice and the expiration of applicable cure periods. Then, in such events, the aggregate sum mentioned in the Note then remaining unpaid, and all monies secured by the Mortgage shall become due and payable at the

option of the Mortgagee, as fully and completely as if all of the sums of money were originally stipulated to be paid on such day, anything in the Note or in this Mortgage to the contrary notwithstanding; and thereupon or thereafter, at the option of the Mortgagee, without notice or demand, suit at law or in equity, therefore, or thereafter begun, may be prosecuted as if all money secured this Mortgage had matured prior to its institution. Any cure by a partner of Mortgagor shall be accepted or rejected as if tendered by Mortgagor.

(h) During the continuing existence of any Event of Default, Mortgagor agrees that, subject to the rights of any senior lender as expressed in the Subordination Agreement of even date herewith, Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Mortgaged Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

- (1) Declare the entire unpaid Debt to be immediately due and payable;
- (2) Institute proceedings, judicial or otherwise, for the complete foreclosure of this Mortgage under any applicable provision of law in which case the Mortgaged Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (3) With or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien of this Mortgage for the balance of the Debt not then due, unimpaired and without loss of priority;
- (4) Institute an action, suit, or proceeding in equity for the specific performance of any covenant, condition, or agreement contained herein or in any other Loan Documents;
- (5) Recover judgment on the Note either before, during, or after any proceedings for the enforcement of this Mortgage or the Other Security Documents;
- (6) Exercise any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing: (i) the right to take possession of the Personal Property or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection, and preservation of the Personal Property, and (ii) request Mortgagor, at its expense, to assemble the Personal Property and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition, or other intended action by Mortgagee with respect to the Personal Property sent to Mortgagor in accordance with the provisions hereof at least five (5) calendar days before such action, shall constitute commercially reasonable notice to Mortgagor;
- (7) Apply for and obtain the appointment of a trustee, receiver, liquidator, or conservator of the Mortgaged Property (and the expenses, including receiver's fees, attorneys' and paralegals' fees and costs incurred by Mortgagee in connection therewith will be secured by the

lien of this Mortgage), without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Mortgagor, or of any person, firm, or other entity liable for the payment of the Debt;

(8) Pursue such other remedies as Mortgagee may have under applicable law.

(i) **Default Rate.** All delinquent payments hereunder and all monies which may be advanced by Mortgagee as a result of any default by the Mortgagor hereunder or for any other purpose authorized in this Mortgage will be repaid to Mortgagee with interest at the Default Rate (as defined in the Note) from the date of delinquency or the date advanced by Mortgagee, as the case may be, until such time as said sums are paid, including the period following entry of any judgment, which payment shall be due without demand by Mortgagor to Mortgagee and, if not repaid immediately, shall bear interest at the Default Rate, and the sum due shall be secured by the lien of this Mortgage.

(j) **Right to Cure Defaults.** Upon the occurrence of any Event of Default or if Mortgagor fails to make any payment or to do any act as herein provided, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, make or do the same in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Mortgaged Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt. Mortgagor shall, immediately upon demand by Mortgagee, pay or reimburse Mortgagee for all costs and expenses incurred by Mortgagee in connection with the exercise of the foregoing rights (including, without limitation, the cost of evident of title, court costs, appraisal costs, surveys, and reasonable attorneys' fees), together with interest thereon calculated at the Default Rate from the date of demand until paid. Such costs and expenses, including the interest described above, shall constitute a portion of the Debt and shall be secured by this Mortgage and the Other Security Documents.

(k) **Recovery of Sums.** Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

(l) **Note Non-Recourse.** Notwithstanding anything to the contrary, the Note is a non-recourse obligation of the Mortgagor and its partners and neither Mortgagor nor its partners have personal liability for repayment of the loan evidenced by the Note. Mortgagor's sole recourse shall be to the collateral which secures the Debt.

7. **APPOINTMENT OF RECEIVER.** At any time while a suit is pending to foreclose or to reform this Mortgage or to enforce any claims, the Mortgagee may apply to a court of appropriate jurisdiction for the appointment of a receiver, and such court shall appoint a Receiver of the Mortgaged Property, including all and singular the income, profits, rents, issues and revenues from whatever source derived. The Receiver shall have all the broad and effective

functions and powers entrusted by a court to a Receiver, and such appointment shall be made by such court as an admitted equity and as a matter of absolute right to the Mortgagee without reference to the adequacy or inadequacy of the value of the Mortgaged Property, or to the solvency or insolvency of the Mortgagor or the Defendants. All income, profits, rents, issues and revenues collected by the Receiver shall be applied by such Receiver according to the lien of this Mortgage, and the practice of such court.

8. LEASES AFFECTING MORTGAGED PROPERTY. The Mortgagor shall comply with and observe its obligations as landlord under all leases, now or existing or hereafter created, affecting all or any portion of the Mortgaged Property (the "Residential Leases"). Upon request, the Mortgagor shall furnish promptly to the Mortgagee executed copies of all such Residential Leases now existing or hereafter created.

9. MORTGAGE CONSTITUTES SECURITY AGREEMENT. The Mortgage also constitutes a security agreement as defined under the Uniform Commercial Code. The Mortgagor grants to the Mortgagee a security interest in and to the Mortgaged Property, including all furniture, furnishings, equipment, machinery, and personal property of every nature whatsoever now owned or hereafter acquired by the Mortgagor located upon the Mortgaged Property together with all proceeds therefrom; all leases, lettings, rental agreements, occupancy agreements and licenses, if any, of the Land or any portion and any right, title and interest of the Mortgagor; all proceeds of and any unearned premiums on any insurance policies covering the property, including without any limitation, the right to receive and apply the proceeds of any insurance, judgment or settlement made in lieu of for damage to the Mortgaged Property; all awards or payments, including interest, which may be made with respect to the Mortgaged Property; all proceeds of the conversion, including proceeds of insurance or condemnation awards, into cash or liquidation claims; the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Mortgagee in the Mortgaged Property; all rights, title, interest of Mortgagor under an agreement including the right, upon the occurrence during the continuation of an event of default to receive and collect any sums payable to Mortgagor; any rights to intangibles relating to or used in connection with the operation of the Mortgaged Property; and all earnings, royalties, accounts receivable, issues and profits from the Land, the improvements or any other part of the Mortgaged Property. The Mortgagor shall execute any and all documents as the Mortgagee may request, including, without limitation, financing statements pursuant to the Uniform Commercial Code as adopted by the State of Florida, to preserve and maintain the priority of the lien created on property which may be deemed personal property or fixtures. The Mortgagor authorizes and empowers the Mortgagee to execute and file on behalf of the Mortgagor all financing statements and refilings and continuations as the Mortgagee deems necessary or advisable to create, preserve or protect this lien. The Mortgagor and Mortgagee expressly agree that the filing of a financing statement shall never be construed as derogating from or impairing the express declaration and intention of the parties and that all such personalty located on or utilized in connection with the real property encumbered by this Mortgage shall, at all times and for all purposes, in all proceedings both legal and equitable, be deemed a part of the real property encumbered by this Mortgage.

10. MORTGAGE SECURES INDEBTEDNESS. It is expressly agreed and understood that this Mortgage secures the indebtedness and the obligation of the Mortgagor to the

Mortgagee with respect to the Note, as the same is evidenced by the Note, and all renewals, extensions and modifications thereof. This Mortgage shall not be deemed released, discharged or satisfied until the entire indebtedness evidenced by the Note is paid in full.

11. FUTURE ADVANCES. Pursuant to the laws of the State of Florida, this Mortgage shall secure not only the existing indebtedness evidenced by the Note, but also such future advances as may be made by the Mortgagee to the Mortgagor in accordance with the Note or this Mortgage, whether or not such advances are obligatory or are to be made at the option of the Mortgagee, or otherwise, and as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at one time shall not exceed two times the face amount of the Note, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property with interest on such disbursements at the rate designated in the Note to apply following a default thereunder.

12. NO WAIVER. It is expressly agreed and understood that a waiver by the Mortgagee of any right or rights conferred to it with regard to any one transaction or occurrence shall not be deemed a waiver of such right or rights to any subsequent transaction or occurrence. It is further agreed that any forbearance or delay by the Mortgagee in the enforcement of any right or remedy shall not constitute or be deemed a waiver of such right or remedy.

13. NOTICE. All notices given by Mortgagor or the Mortgagee in connection with this Mortgage must be in writing. Any notice to 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 address stated in this Mortgage unless instructed otherwise by a party. Mortgagor shall promptly notify the Mortgagee of Mortgagor's change of address. If the 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. Notwithstanding the foregoing, Mortgagee shall also provide Mortgagor's limited partner a duplicate notice of any notice of default under the Note or Mortgage, with such notice sent to NEF Assignment Corporation, 10 South Riverside Plaza, Suite 1700, Chicago, Illinois 60606. Any notice to the Mortgagee shall be given by delivering it or by mailing it by first class mail to the Mortgagee's address unless the 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 the Mortgagee until actually received by the 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 AND VENUE. This Mortgage shall be construed and enforced pursuant to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws and comity. Any action or dispute arising between the parties pertaining to this Mortgage shall, to the extent permitted by law, be in courts of jurisdiction for Broward County and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in Broward County.

15. PREVAILING PARTY. The prevailing party in any action to enforce this Mortgage, shall recover from the non-prevailing party all and singular the costs, charges and expenses, including but not limited to, reasonable attorney's fees, including but not limited to all trial, appellate, and bankruptcy litigation, including litigation for the amount as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions and covenants of this Mortgage, whether or not suit is brought, and the fees and costs shall bear interest from that date at the maximum rate permitted by law.

16. PARTIES BOUND; NO ORAL MODIFICATIONS. Each and every of the terms, covenants and conditions contained in this Mortgage shall be binding upon the parties and their successors, and assigns. This Mortgage is not subject to modification other than by a written document or instrument executed by the party or parties to be charged with such modification, in the same formality.

17. WAIVER OF TRIAL BY JURY. MORTGAGOR (AND MORTGAGEE, BY ITS ACCEPTANCE) KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED ON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS MORTGAGE, OR THE FINANCING CONTEMPLATED, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR THE ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE MORTGAGEE EXTENDING THE LOAN SECURED BY THIS MORTGAGE.

18. AGREEMENT TO SUBORDINATE. Mortgagee agrees that: (i) this Mortgage and the Note that it secures is and shall be subordinated in right of payment to the indebtedness evidenced by such mortgage as may be held by construction and permanent loan providers ("Senior Lenders") encumbering the Mortgaged Property for development of the Project as defined in the Development Agreement executed by the Parties and recorded in the public records of Broward County, Florida ("Senior Mortgages") and (ii) this Mortgage and the Note it secures are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgages and any other loan documents in favor of Senior Lenders ("Senior Loan Documents") and to all advances made or which may hereafter be made pursuant to the Senior Mortgages 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 Mortgages, curing defaults by the Mortgagor under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Mortgages, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property consistent with the Development Agreement executed by the Parties and recorded in the public records of Broward County, Florida).

19. EXTENDED USE AGREEMENT. The parties acknowledge that Mortgagor intends to enter into an extended use agreement with Florida Housing Finance Corporation (the "Agency"), which constitutes the extended low-income housing commitment described in Section 42(h)(6)(B) of the Internal Revenue Code, as amended (the "Code"). Currently, Code Section

42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in gross rent with respect to such unit not otherwise permitted under Code Section 42 for a period of 3 years after the date the building was acquired by foreclosure or by instrument in lieu of foreclosure. In the event the extended use agreement required by the Agency is recorded against the Mortgaged Property, Mortgagee agrees to comply with the provisions set forth in Code Section 42(h)(6)(E)(ii).

20. ASSIGNMENT OF LEASES AND RENTS.

(a) Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all of Mortgagor's right, title, and interest in and to all current and future Residential Leases and all rents, additional rents, revenues, issues, and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (the "Rents"); it being intended by the Parties that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Mortgage, Mortgagee grants to Mortgagor a revocable license to collect and receive the Rents. Mortgagor shall hold the Rents, or an amount sufficient to discharge all current sums due on the Debt, in trust for use in payment of the Debt. The right of Mortgagor to collect the Rents and to let the Mortgaged Property or any part thereof may be revoked by Mortgagee upon any Event of Default by Mortgagor under the terms of the Note or this Mortgage and thereafter the Mortgagee may let the Mortgaged Property or any part thereof and may retain and apply the Rents toward payment of the Debt in such order, priority, and proportions as the Mortgagee, in its discretion, shall deem proper, or toward the operation, maintenance, and repair of the Mortgaged Property, and irrespective of whether the Mortgagee shall have commenced a foreclosure of this Mortgage or shall have applied or arranged for the appointment of a receiver. Mortgagee shall give to Mortgagor notice of such revocation of the right to let and collect the Rents within a reasonable time thereafter.

(b) Mortgagor acknowledges and agrees that, upon recordation of this Mortgage, Mortgagee's interest in the Rents shall be deemed to be fully perfected, "choate," and enforced as to Mortgagor and all third parties, including and not by way of limitation any subsequently appointed trustee in any case under the U.S. Bankruptcy Code, without the necessity of (i) commencing a foreclosure action with respect to this Mortgage, (ii) furnishing notice to the Mortgagor or tenants under the Residential Leases, (iii) making formal demand for the Rents, (iv) taking possession of the Mortgaged Property as a mortgagee in possession, (v) obtaining the appointment of a receiver of rents and profits of the Mortgaged Property, (vi) sequestering or impounding the Rents, or (vii) taking any other affirmative action.

(c) Mortgagor acknowledges and agrees that all Rents shall be deemed to be "Cash Collateral" under Section 363 of the U.S. Bankruptcy Code in the event that Mortgagor files a voluntary petition in bankruptcy or is made subject to any involuntary bankruptcy proceeding. After the filing of such petition, Mortgagor may not use Cash Collateral without Mortgagee's prior written consent and/or an order of any Bankruptcy Court pursuant to 11 U.S.C. § 363(b)(2).

21. DUE ON SALE/ENCUMBRANCE.

(a) Except for Permitted Encumbrances and Permitted Transfers, Mortgagor agrees not to (1) assign, pledge, or transfer this Agreement, the Note, or any right or interest in any payment or loan disbursement due pursuant to this Agreement, (2) change its corporate, partnership, or other structure, or (3) directly or indirectly sell, convey, mortgage, grant, bargain, encumber, pledge, assign, or otherwise transfer the Mortgaged Property or any interest of any nature whatsoever in or any interest of any nature whatsoever in Mortgagor (whether partnership, stock, equity, membership, beneficial, profit loss, or otherwise), without Mortgagee's prior written consent.

(b) Notwithstanding the foregoing, Mortgagee approves the following "Permitted Transfers" in advance and the following shall not be considered a breach of this Agreement, so long as (i) such transfer does not, directly or indirectly, change the direction of the management and operations of Mortgagor, whether through the ownership of voting securities or other ownership interests, by contract or otherwise ("Change of Control"), and (ii) Mortgagor is able to remake (and shall be deemed to remake) the representations and warranties set forth in this Agreement:

(1) Any transfer, directly as a result of the death of a natural person, of stock, membership, partnership, or other ownership interests previously held by the decedent in question to the person or persons lawfully entitled thereto.

(2) The transfer of by an individual of any direct or indirect interest in Mortgagor in connection with the estate planning by such individual to a family trust of which the transferring individual is the sole trustee and of which the transferring individual has effective control.

(3) A transfer of direct or indirect ownership interests in Mortgagor to a person that is wholly owned by the transferor.

(4) Transfers of direct or indirect ownership interests in Mortgagor resulting solely from the sale, transfer, or issuance of shares of common stock in a person that is a publicly traded entity, provided such shares of common stock are listed on the New York Stock Exchange or another nationally recognized stock exchange.

(5) Provided that (i) Mortgagor owns the Mortgaged Property and remains that Mortgagor under the Note, (ii) Cornerstone Captiva Cove III, LLC, a Florida limited liability company, together with its successors and assigns ("General Partner") is the general partner of Mortgagor, and (iii) NEF Assignment Corporation, an Illinois not-for-profit corporation, its successors and assigns ("Equity Investor") has not less than 99.99% partnership interest in Mortgagor:

(i) the removal by Equity Investor of General Partner as the general partner of Mortgagor and its replacement as general partner by National Equity Fund, Inc ("Equity Investor Sponsor"), or by an affiliate of Equity Investor Sponsor, which removal shall be in accordance with the terms of that certain the Amended and Restated Operating Agreement of the Mortgagor, as the same may be amended, restated, or modified in accordance with its terms ("Operating Agreement"), provided that (A) the entity replacing the removed General Partner must

be a single purpose entity, (ii) after such replacement, Equity Investor Sponsor or an affiliate of Equity Investor Sponsor must own directly or indirectly not less than 51% of authorized membership interests, as applicable, in the entity which replaced the removed General Partner;

(ii) a transfer of member interests of Equity Investor in Mortgagor to (A) a wholly-owned affiliate of Equity Investor or a wholly-owned affiliate of Equity Investor Sponsor, or (B) an entity whose management is controlled, directly or indirectly, by Equity Investor, by a wholly-owned affiliate of Equity Investor or by Equity Investor Sponsor, (C) any entity with the consent of Mortgagee, consent which shall not be unreasonably withheld, and (D) any entity without the consent of Mortgagee, if the Equity Investor has made the final equity contribution to Mortgagor pursuant to the terms and conditions of the Operating Agreement; and

(iii) prior to the date that the Equity Investor has made all capital contributions required under the Operating Agreement, the transfer of non-partnership interests or limited partnership interests, as applicable, in Equity Investor, so long as Equity Investor Sponsor or an affiliate thereof retains, directly or indirectly, at least fifty-one percent (51%) of the managing member interests in Equity Investor.

(c) Mortgagor must provide Mortgagee with: (i) advance written notice of the identity of any entity replacing the General Partner, and (ii) upon request by Mortgagee from time to time, the names of all owners of interests in Mortgagor, whether such interests are owned directly or indirectly.

(d) Mortgagee's Rights. Mortgagee reserves the right to condition the consent required under this Section upon (1) an assumption of the Note, Mortgage, and the Other Security Documents by the proposed transferee, (2) payment of all of Mortgagee's expenses incurred in connection with such transfer, (3) the proposed transferee's continued compliance with the covenants set forth in this Mortgage, and/or (4) such other conditions as Mortgagee shall determine in its reasonable discretion to be in the interest of Mortgagee. All of Mortgagee's expenses incurred shall be payable by Mortgagor whether or not Mortgagee consents to the transfer. Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Mortgagor's sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Mortgaged Property without Mortgagee's consent. This provision shall apply to every sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Mortgaged Property regardless of whether voluntary or not, or whether or not Mortgagee has consented to any previous sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of the Mortgaged Property.

(e) Permitted Encumbrances. For purposes of this Agreement, "Permitted Encumbrances" mean (1) liens and security interests granted pursuant to the Loan Documents, and the Senior Loan Documents (as herein defined), (2) any easements, restrictions or other matters of record identified in the Mortgagee's policy of title insurance, provided there is no material encroachment by any Improvements thereon, (3) customary easements entered into by Mortgagor in connection with the development and operation of the Project which would have no material adverse effect on the use or appraised value of the Project, so long as such customary easements

are subordinate to lien of the Mortgage, (4) documents required to be recorded by applicable law which have no material adverse effect on the use or value of the Project, (5) Residential Leases, (6) the execution, delivery and recordation of a purchase option and/or right of first refusal by and between Mortgagor and the General Partner or an affiliate, provided the same is subject, subordinate and inferior to the Debt and security interests of the Loan Documents and that the exercise of any rights thereunder shall be subject to the Loan Documents, and (7) any subordinate liens securing the SAIL ELI gap financing loan funded by Florida Housing Finance Corporation.

IN WITNESS WHEREOF, the Mortgagor has set its hand and seal the day and year first above written.

MORTGAGOR:

Captiva Cove III Associates, Ltd., a Florida limited partnership

By: Cornerstone Captiva Cove III, LLC, a Florida limited liability company, its sole general partner

By: _____
Mara S. Mades, Vice President

ACKNOWLEDGMENT

STATE OF FLORIDA)
COUNTY OF _____)

THE FOREGOING INSTRUMENT was acknowledged before me by means of (check one) [] physical presence or [] online notarization on this _____ day of _____, 2023, by Mara S. Mades, as Vice President of Cornerstone Captiva Cove III, LLC, a Florida limited liability company, the sole general partner of Captiva Cove III Associates, Ltd., a Florida limited partnership. ___ She is personally known to me or produced a Florida driver’s license as identification.

My Commission Expires:

Signature of Notary Public, State of Florida

Printed Name of Notary Public

Exhibit A
Legal Description Of The Property

Lots 8, 9, 10, 11 and 12, Block 1, of AMENDED PLAT OF FAIRVIEW, according to plat thereof, as recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida.

AND

That part of Vacated Road as referenced in Ordinance filed February 7, 2006 in Official Records Book 41418, Page 410 being described as follows:

That portion of Palm Terrace Right of Way, lying adjacent to Lot 12, Block 1, AMENDED PLAT OF FAIRVIEW, according to the Plat thereof, as recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida. Said portion being bounded by as follows: on the North by a line parallel with and 50 feet Southerly of the Westerly extension of the North line of the aforementioned Lot 12, Block 1, on the South by the Westerly extension of the Southerly line of Block 1, on the East by the West line of the aforementioned Lot 12, Block 1, and on the West by a line 30 feet West of and parallel with the West line of the aforementioned Lot 12, Block 1.

AND

All of Lots 1, 2, 3, 4, 5, 17, 18, 19, 20, 21, 22, 23, 24, and a portion of Lot 6, Block 2, Amended Plat of Fairview, according to the plat thereof, recorded in Plat Book 10, Page 25 of the public records of Broward County, Florida, together with a portion of vacated alley as described in Official Records Book 5621, Page 419 of said public records, said parcel being more particularly described as follows: Begin at the Northwest corner of said Lot 17, Block 2; thence S89°44'52"E along the North line of said Lots 17 thru 24, a distance of 364.87 feet (364.40 feet per plat) to the most Westerly Northeast corner of said Lot 24 thence N70°45'15"E a distance of 75.22 feet to a point on the North line of said Lot 6; thence S89°48'10"E along said North line a distance of 59.97 feet to the Northeast corner of said Lot 6; thence S36°39'30"E along the East line of said Block 2, a distance of 35.86 feet to a point of curvature of a tangent curve concave to the West; thence Southeasterly, Southerly and Southwesterly along the arc of said curve to the right having a central angle of 49°46'53" and a radius of 15.00 feet for an arc distance of 13.03 feet to a point of tangency; thence S13°07'47"W along said East line a distance of 114.74 feet to a point of curvature of a tangent curve concave to the Northwest; thence Southerly, Southwesterly and Westerly along the arc of said curve to the right having a central angle of 77°13'40" and a radius of 15.00 feet for an arc distance of 20.22 feet to a point of tangency, said point also being a point on the South line of said Block 2; thence N89°38'46"W along said South line a distance of 464.17 feet to a point of curvature of tangent curve concave to the Northeast; thence Westerly, Northwesterly and Northerly along the arc of said curve to the right having a central angle of 89°39'51" and a radius of 15.00 feet for an arc distance of 23.47 feet to a point of tangency, said point also being a point on the West line of said Lot 17; thence North along the West line of said Lot 17 a distance of 123.62 feet to the Point of Beginning; said land situate within Broward County, Florida.

AND

The East 30 feet of vacated and abandoned Palm Terrace, now known as S.W. 8th Ave. pursuant to Ordinance No. 2005-19 recorded in Official Records Book 38974, Page 372, lying West of and adjacent to Lot 17, Block 2 of Amended Plat of Fairview, recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida.

AND

Those portions of Magnolia Drive, now known as SW 11th Street and Palm Terrace, now known as SW 8th Ave., abandoned pursuant to Ordinance No. 2019-83 recorded in Instrument # 115976317, LESS AND EXCEPT the West 30 feet of abandoned Palm Terrace, now known as SW 8th Ave.

**PROMISSORY NOTE
(CAPTIVA COVE III)**

Pompano Beach, Florida

\$1,500,000

_____, 2023

FOR VALUE RECEIVED the undersigned, Captiva Cove III Associates, Ltd., a Florida Limited Partnership (hereinafter referred to as the "Borrower") with offices at 2100 Hollywood Blvd., Hollywood, Florida 33020, promises to pay to the order of the City of Pompano Beach, a Florida political subdivision of the State of Florida ("Lender"), at 100 W. Atlantic Boulevard, Pompano Beach, Florida 33060 or such other location or address as Lender may direct from time to time, the principal sum of One Million Five Hundred Thousand Dollars (\$1,500,000) (the "Loan"), or so much thereof as shall be advanced pursuant to the Development Agreement executed of even date herewith by Borrower and Lender (the "Development Agreement"), together with interest as provided. Capitalized terms used but not defined shall have the respective meanings given to them in the Mortgage.

1. **Interest Rate.** The principal amount of this Note shall bear simple interest at 1% per annum (the "Interest Rate"). Interest shall be computed on the basis of a three hundred and sixty-five (365) day year and charged for the actual number of days elapsed. Interest shall accrue on the original principal balance only and there shall be no accrual of interest upon interest. Interest will be charged beginning on the date of this Note and continuing until the full amount of principal has been paid.

2. **Payment of Principal and Interest; Loan Forgiveness.** The Borrower will make interest payments every quarter, following issuance of a certificate of occupancy for the Project as described in the Development Agreement, and pay any other charges described below that may be owed under this Note. Borrower shall pay, in full, the unpaid principal, any accrued and unpaid interest, and all other amounts due and owing, upon the first to occur of the following: (i) Thirty-three (33) years following the issuance of the last certificate of occupancy for the Project as defined in the Development Agreement ("Maturity Date"); (ii) upon acceleration of the Loan by an Event of Default; or (iii) upon the sale, transfer, conveyance, or refinancing of the Property or Project, unless such sale, transfer, conveyance, or refinancing is (A) approved by Lender, in its sole and absolute discretion, (B) a Permitted Transfer (as such term is defined in the Mortgage), or (C) the conversion of the loan from a construction loan to a permanent loan. Notwithstanding the foregoing, if Lender consents to a sale, transfer, conveyance, or refinancing of the Property or the Project, Lender has the right to require a partial prepayment of the Loan in an amount subject to Lender's sole and absolute discretion, but Lender shall not have the right to require a partial prepayment if a refinancing occurs that is contemplated by any Senior Loan Documents (as such term is defined in the Mortgage). If the Project remains affordable, as defined in the Development Agreement, until the expiration of the Compliance Period (as such term is defined in the Declaration of Restrictions), the Lender, in its sole and absolute discretion, may elect to forgive Five Hundred Thousand Dollars (\$500,000.00) of the remaining balance of principal and interest due under the

Note and the parties shall execute any documents requested by Borrower to evidence such forgiveness.

3. **Application of Payments.** Except as otherwise specified, each payment or prepayment, if any, made under this Note shall be applied to pay late charges, accrued and unpaid interest, principal, escrows (if any), and any other fees, costs and expenses which Borrower is obligated to pay under this Note, in such order as Lender may elect from time to time in its sole discretion.

4. **Tender of Payment.** All payments made pursuant to this Note shall be made no later than 2:00 P.M. (Eastern Time) on the day when due, in lawful money of the United States, in immediately available funds. All sums payable to Lender that are due on a day on which Lender is not open for business shall be paid on the next succeeding business day and such extended time shall be included in the computation of interest (if any).

5. **Late Charge.** In the event that any installment of principal or interest required to be made by Borrower under this Note shall not be received by Lender within five (5) days after its due date, Borrower shall pay to Lender, on demand, a late charge of five percent (5%) of such delinquent payment. The foregoing right is in addition to, and not in limitation of, any other rights that Lender may have upon Borrower's failure to make timely payment of any amount due hereunder.

6. **Prepayment.** The Loan may be prepaid, in whole or in part, at any time without premium or penalty, provided that Borrower delivers to Lender evidence that Senior Lenders have consented to the prepayment if such consent is required under the Senior Loan Subordination Agreements. Any prepayment shall include accrued and unpaid interest to the date of prepayment (if any) and all other sums due and payable hereunder.

7. **Security for the Note.** This Note is executed and delivered in accordance with a commercial transaction described herein. As security for the payment of the monies owing under this Note, Borrower has delivered or has caused to be delivered to Lender the following (each a "Loan Document" and collectively with this Note, the Development Agreement, and any other guaranty, document, certificate, or instrument executed by Borrower or any other obligated party in connection with the Loan, together with all amendments, modifications, renewals or extensions thereof, the "Loan Documents"): a Mortgage and Security Agreement and Assignment of Leases, Rents, and Profits ("Mortgage") on Borrower's fee simple interest in certain real property and the improvements thereon in Broward County, Florida, as more fully described in the Mortgage (the "Property").

8. **Default Rate.** If an Event of Default (as defined in Section 9) occurs, the interest rate will rise to maximum percent permitted by Florida law (the "Default Rate"). The interest will accrue on the unpaid principal. The interest will accrue on the unpaid

principal at the Default Rate from the occurrence of an Event of Default and until it is cured to Lender's satisfaction.

9. **Events of Default.** Each of the following shall constitute an event of default hereunder (an "Event of Default"): (a) the failure of Borrower to pay any amount of principal or interest hereunder on its due date; or (b) the occurrence of any other default in any term, covenant, or condition hereunder or any Event of Default under the Development Agreement, the Mortgage, or any other Loan Document, after giving effect to all applicable notice and/or cure periods.

10. **Remedies.** If an Event of Default exists, Lender may exercise any right, power, or remedy permitted by law or as set forth herein or in the Development Agreement, the Mortgage, or any other Loan Document including, without limitation, the right to declare the entire unpaid principal amount hereof and all interest accrued hereon, and all other sums secured by the Mortgage or any other Loan Document, to be, and such principal, interest, and other sums shall thereupon become, immediately due and payable.

11. **Miscellaneous.**

11.1. Disclosure of Financial Information. Lender is authorized to disclose any financial or other information about Borrower to any regulatory body or agency having jurisdiction over Lender and to any present, future or prospective participant or successor in interest in any loan or other financial accommodation made by Lender to Borrower. The information provided may include, without limitation, amounts, terms, balances, payment history, return item history and any financial or other information about Borrower.

11.2. Integration. This Note and the other Loan Documents constitute the sole agreement of the parties with respect to the transaction contemplated hereby and supersede all oral negotiations and prior writings with respect thereto.

11.3. Attorneys' Fees and Expenses. If Lender retains the services of counsel by reason of a claim of a default or an Event of Default or under any of the other Loan Documents, or on account of any matter involving this Note, or for examination of matters subject to Lender's approval under the Loan Documents, all costs of suit and all reasonable attorneys' fees and such other reasonable expenses so incurred by Lender shall be paid by Borrower, on demand, and shall be deemed part of the obligations evidenced hereby.

11.4. No Implied Waiver. Lender shall not be deemed to have modified or waived any of its rights or remedies unless such modification or waiver is in writing and signed by Lender, and then only to the extent specifically set forth therein. A waiver in one event shall not be construed as continuing or as a waiver of or bar to such right or remedy in a subsequent event. After any acceleration of, or the entry of any judgment on, this Note, the acceptance by Lender of any payments

by or on behalf of Borrower on account of the indebtedness evidenced by this Note shall not cure or be deemed to cure any Event of Default or reinstate or be deemed to reinstate the terms of this Note absent an express written agreement duly executed by Lender and Borrower.

11.5. Waiver. Borrower, jointly and severally, waives demand, notice, presentment, protest, demand for payment, notice of dishonor, notice of protest and diligence of collection of this Note. Borrower consents to any and all extensions of time, renewals, waivers, or modifications that may be granted by Lender with respect to the payment or other provisions of this Note, and to the release of any collateral, with or without substitution. Borrower agrees that makers, endorsers, guarantors and sureties may be added or released without notice and without affecting Borrower's liability hereunder. The liability of Borrower shall not be affected by the failure of Lender to perfect or otherwise obtain or maintain the priority or validity of any security interest in any collateral. The liability of Borrower shall be absolute and unconditional and without regard to the liability of any other party hereto.

11.6. No Usurious Amounts. It is the intent of Lender and Borrower to comply at all times with applicable usury laws. In the event that any charge, interest, or late charge is above the maximum rate permitted by law, then the excess amounts over the lawful rate shall be applied by Lender to reduce the principal sum of the Loan or any other amounts due Lender, and any excess thereafter shall be refunded to Borrower. To determine if the interest rate under this Note exceeds the applicable usury laws, the interest charges shall be spread over the term of this Loan up until the Maturity Date. To charge the maximum rate permitted by law, Lender may take advantage of the rate of interest permitted by other laws of the United States or the State of Florida.

11.7. Partial Invalidity. The invalidity or unenforceability of any one or more provisions of this Note shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

11.8. Binding Effect. The covenants, conditions, waivers, releases, and agreements contained in this Note shall bind, and the benefits thereof shall inure to, the parties hereto and their respective heirs, executors, administrators, successors, and assigns; provided, however, that this Note cannot be assigned by Borrower without the prior written consent of Lender, and any such assignment or attempted assignment by Borrower shall be void and of no effect with respect to Lender.

11.9. Modifications. This Note may not be supplemented, extended, modified, or terminated except by an agreement in writing signed by the party

against whom enforcement of any such waiver, change, modification, or discharge is sought.

11.10. Sales or Participations. Lender may from time to time pledge, sell or assign, in whole or in part, or grant participations in, the Loan, this Note and/or the obligations evidenced hereby. The holder of any such sale, assignment or participation, if the applicable agreement between Lender and such holder so provides, shall be: (a) entitled to all of the rights, obligations and benefits of Lender; and (b) deemed to hold and may exercise the rights of setoff or banker's lien with respect to any and all obligations of such holder to Borrower, in each case as fully as though Borrower were directly indebted to such holder. Lender may in its discretion give notice to Borrower of such sale, assignment or participation; however, the failure to give such notice shall not affect any of Lender's or such holder's rights hereunder.

11.11. Jurisdiction and Venue. Borrower irrevocably appoints each and every owner, member, and/or officer of Borrower as its attorneys upon whom may be served, by regular or certified mail at the address set forth below, any notice, process, or pleading in any action or proceeding against it arising out of or in connection with this Note or any other Loan Document; Borrower consents that any action or proceeding against it be commenced in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida by service of process on any such owner, member, and/or officer; and Borrower agrees that such state courts shall have jurisdiction with respect to the subject matter, the person of Borrower, and all collateral securing the obligations of Borrower. Borrower further agrees not to assert any defense to any action or proceeding initiated by Lender based upon improper venue or inconvenient forum. Notwithstanding the above, if any claim arising from, related to, or in connection with this Note or any other Loan Document must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida.

11.12. Notices. All notices and communications under this Note shall be in writing and shall be given by either (a) hand-delivery, (b) first class mail (postage prepaid), or (c) reliable overnight commercial courier (charges prepaid), to the addresses listed in the Mortgage. Notice shall be deemed to have been given and received: (i) if by hand delivery, upon delivery; (ii) if by mail, three (3) calendar days after the date first deposited in the United States mail; and (iii) if by overnight courier, on the date scheduled for delivery. A party may change its address by giving written notice to the other party as specified in this Section 11.12.

11.13. Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of Florida without reference to conflict of laws principles.

11.14. Joint and Several Liability. If Borrower consists of more than one person or entity, the word "Borrower" shall mean each of them and their liability shall be joint and several.

11.15. Continuing Enforcement. If, after receipt of any payment of all or any part of this Note, Lender is compelled or agrees, for settlement purposes, to surrender such payment to any person or entity for any reason (including, without limitation, a determination that such payment is void or voidable as a preference or fraudulent conveyance, an impermissible setoff, or a diversion of trust funds), then this Note and the other Loan Documents shall continue in full force and effect or be reinstated, as the case may be, and Borrower shall be liable for, and shall indemnify, defend, and hold harmless Lender with respect to, the full amount so surrendered. The provisions of this Section 11.15 shall survive the cancellation or termination of this Note and shall remain effective notwithstanding the payment of the obligations evidenced hereby, the release of any security interest, lien, or encumbrance securing this Note or any other action which Lender may have taken in reliance upon its receipt of such payment. Any cancellation, release, or other such action shall be deemed to have been conditioned upon any payment of the obligations evidenced hereby having become final and irrevocable.

11.16. Waiver of Jury Trial. **BORROWER AND LENDER AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY SUIT, ACTION, OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT BY LENDER OR BORROWER, ON OR WITH RESPECT TO THIS NOTE OR ANY OTHER LOAN DOCUMENT OR THE DEALINGS OF THE PARTIES WITH RESPECT HERETO OR THERETO, SHALL BE TRIED ONLY BY A COURT AND NOT BY A JURY. LENDER AND BORROWER EACH HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND INTELLIGENTLY, AND WITH THE ADVICE OF THEIR RESPECTIVE COUNSEL, WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS NOTE AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION 11.16, 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. FURTHER, BORROWER WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER, IN ANY SUCH SUIT, ACTION, OR PROCEEDING, ANY SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL, OR OTHER DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. BORROWER ACKNOWLEDGES AND AGREES THAT THIS SECTION 11.16 IS A SPECIFIC AND MATERIAL ASPECT OF THIS NOTE AND THAT LENDER WOULD NOT EXTEND CREDIT TO BORROWER IF THE WAIVERS SET FORTH IN THIS SECTION 11.16 WERE NOT A PART OF THIS NOTE.**

11.17. Subordination. The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment of any amounts then due and payable in connection with the Senior Loans (as defined in the Development Agreement).

11.18. Non-Recourse. Notwithstanding anything to the contrary contained in this Note or in any of the other Loan Documents, the Loan evidenced shall be a non-recourse obligation of the Borrower, and Lender's recourse shall be limited to the collateral pledged to the repayment of the Loan under the Loan Documents.

11.19. Assignment. Subject to Lender's consent, such consent not to be unreasonably withheld, conditioned or delayed, and the terms of this Note, Borrower shall have the right to assign its rights and obligations under this Note and the other Loan Documents, so long as (i) there is not a Change of Control as defined in the Mortgage, and (ii) the assignee or transferee agrees to be bound by the terms and conditions set forth in this Note.

IN WITNESS WHEREOF, Borrower, intending to be legally bound, has duly executed and delivered this Note as of the day and year first above written.

BORROWER:

CAPTIVA COVE III ASSOCIATES, LTD., a
Florida limited partnership

By: Cornerstone Captiva Cove III, LLC, a
Florida limited liability company, its sole general
partner

By: _____
Name: Mara S. Mades
Title: Vice President

EXHIBIT D – DECLARATION OF RESTRICTIONS

Prepared by and Return to:

James E. Saunders III
Assistant City Attorney
City of Pompano Beach
100 W. Atlantic Boulevard, Ste. 467
Pompano Beach, Florida 33060

DECLARATION OF RESTRICTIONS

The undersigned, Captiva Cove III Associates, Ltd., a Florida limited partnership, having its principal office at 2100 Hollywood Boulevard, Hollywood, FL 33020 (“Declarant”), for the property described below, in consideration for the receipt of a loan in the amount of \$1,500,000 (the “Loan”) from the CITY OF POMPANO BEACH, a political subdivision of the State of Florida, having an address at 100 West Atlantic Boulevard, 4th Floor, Pompano Beach, FL 33060 (the “City”) does grant to the City the following restrictions against the real property, which is more fully described in the attached Exhibit “A” (the “Property”).

1. The restrictions contained in this Declaration of Restrictions (the “Declaration”) shall be deemed a covenant running with the land and are binding upon the undersigned, its successors and assigns. These restrictions can only be terminated or released by the City’s Board of Commissioners, or those persons to whom such authority is formally delegated, and where executed with the same formalities as this document.
2. In consideration for the receipt of the Loan, the Declarant covenants and agrees as follows:
 - a. To construct no fewer than 106 rental housing units on the Property, together with ancillary improvements, all of which shall be known as Captiva Cove Apartments (the “Development”). Ten (10) of the rental housing units in the Development shall be “Affordable Rental Housing Units” subject to the restrictions and conditions of this Declaration. None of the Affordable Rental Housing Units may be used for transitional housing, for emergency shelters, or for other non-permanent housing.
 - b. To lease, for a period of thirty-three (33) years from the date of issuance of the last certificate of occupancy for the Affordable Rental Housing Units (the “Compliance Period”), all of the Affordable Rental Housing Units to households whose gross incomes, adjusted for family size, are no more than income-averaged at sixty percent (60%) of Area Median Income (hereinafter “AMI”) at the time these units are first occupied, and thereafter, at any time new tenants occupy these units. AMI shall mean the most recent area median income published by the U. S. Department of Housing and Urban Development (“HUD”) for the Pompano Beach Metropolitan Statistical Area and consistent with the rental limits most recently published by the Florida Housing Finance Corporation.

- c. Not to discriminate on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information, in the use, or occupancy of any housing unit constructed on the Property.
- d. To maintain complete and accurate records as to the rental of the Affordable Rental Housing Units and submit to the City an annual report, in the same format required by the Florida Housing Finance Corporation, detailing the Declarant's compliance with the terms of this Declaration, by no later than the last date on which a similar report is required to be provided to or for the benefit of the Florida Housing Finance Corporation.
- e. Lot coverage and open space within the Project shall conform to the City's land development code.
- f. No building or other improvements shall be constructed on, over, or within the boundary lines of any rights-of-way or easements within the Project unless such construction has been approved by the City and the holder or owner of such easements, or will not interfere with the easement holder's exercise of its easement for its given purpose.
- g. The Project, when completed, shall be maintained in a clean, sanitary, and safe condition. The Project shall be appropriately landscaped, such landscaping to be maintained with a mechanical sprinkling system and in accordance with the City land development code. No portion of the Project shall be allowed to become or remain overgrown or unsightly.
- h. No portion of the Project shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste must be kept in sanitary containers, placed in the trash enclosures, and screened from public view.
- i. No travel trailer, mobile home, recreational vehicle, boat, tent, storage building, garage, barn or out-building erected within the Project shall at any time be used as a residence, temporarily or permanently.
- j. No signs of any kind shall be displayed to the public view in the Project except signs approved by the City in accordance with its sign code.
- k. No animals, livestock or poultry of any kind shall be raised, bred or kept within the Project, except that dogs, cats or other domestic pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All animals must be housed inside the residence.
- l. No individual water wells, septic tanks or other individual sewage, disposal facility shall be permitted within the Project. This provision, however, shall not be construed to prohibit private water wells for irrigation.

- m. No chain link type fence shall be permanently constructed or installed within the Project, except as has been approved by the City.
3. Any sale, conveyance or transfer of title to the Property prior to the end of the Compliance Period, other than as a result of a foreclosure of a senior loan or a taking by a governmental authority, shall require the consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Should Declarant change the use or planned use, or discontinue use, of the Property from affordable rental housing, or should the Declarant sell, convey or transfer title to the Property prior to the end of the Compliance Period without the consent of the City, then the Declarant shall pay to the City an amount equal to the Loan so long as the Loan is outstanding.
 4. The Declarant acknowledges and covenants that the Declarant's failure to perform any covenant, agreement, term, or condition contained in this Declaration shall constitute a default. In the event of default, before the City shall pursue any of its rights or remedies under this Declaration, the City shall first give the Declarant written notice of the default complained of which such notice shall be given to the Declarant at its address shown. The Declarant shall then have thirty (30) calendar days from the date such notice is given to cure or correct any such default to the City's reasonable satisfaction.
 5. If the Declarant fails to cure any breach of this Declaration within the period set forth above after the City provides notice to the Declarant as set forth above, the City may at any time thereafter, with or without notice or demand and without limiting any other right or remedy which the City may have under the Declaration or under the law by reason of such default or breach, declare due from Declarant immediately upon demand an amount equal to the entire Loan.
 6. If the Declarant shall fail to pay the above amount, the City shall have the right to file in a court of competent jurisdiction an action for collection of due and unpaid amounts and penalties which the Declarant is obligated to pay pursuant to the Development Agreement executed on the same date as this Declaration and any other legal obligation promised by the Declarant for the development of this Property.
 7. In addition to any remedy set forth in this Declaration, the City shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the City of any right or remedy available under this Declaration shall not preclude the City from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed as an election of remedies. The Declarant shall pay any reasonable expenses, including reasonable attorney's fees and costs incurred by the City, under this Declaration and the preparation and delivery of required notices. The failure or omission by the City to enforce any of its rights or remedies upon breach of any of the covenants, terms or conditions of this Declaration shall not bar or breach any of the City's rights or remedies on any subsequent default.
 8. All notices from the Declarant to the City and the City to the Declarant, and as otherwise required or permitted by any provision of this Declaration shall be in writing and sent by hand delivery or by registered or certified mail and sent to the parties at the respective addressees set forth in the Preamble to this Declaration. Such addresses may be changed

by each party by written notice to the other parties.

9. This Declaration shall be construed and enforced pursuant to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws and comity. Any action pursuant to a dispute under this Declaration must be brought in courts of jurisdiction for Broward County and no other venue.
10. The Parties agree that this Agreement shall be recorded in the public records of Broward County, at Declarant's sole cost and expense.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Declarant and City have caused this Declaration to be executed as of _____, 2023.

DECLARANT:

Captiva Cove III Associates, Ltd., a Florida limited partnership

By: Cornerstone Captiva Cove III, LLC, a Florida limited liability company, its sole general partner

By: _____
Mara S. Mades, Vice President

ACKNOWLEDGMENT

STATE OF FLORIDA)

COUNTY OF _____)

THE FOREGOING INSTRUMENT was acknowledged before me by means of (check one) [] physical presence or [] online notarization on this _____ day of _____, 2023, by Mara S. Mades, as Vice President of Cornerstone Captiva Cove III, LLC, the sole general partner of Captiva Cove III Associates, Ltd., a Florida limited partnership. She is personally known to me or produced a Florida driver’s license as identification.

My Commission Expires:

Signature of Notary Public, State of Florida

Printed Name of Notary Public

CITY'S SIGNATURE PAGE TO DECLARATION OF RESTRICTIONS
"CITY"

WITNESSES:

CITY OF POMPANO BEACH

BY: _____
REX HARDIN, MAYOR

BY: _____
GREGORY P. HARRISON
CITY MANAGER

KERVIN ALFRED
CITY CLERK

APPROVED AS TO FORM:

MARK E. BERMAN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of (check one) [] physical presence or [] online notarization this _____ day of _____, 20____, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager, and **KERVIN ALFRED** as City Clerk of the City of Pompano Beach, 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

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Lots 8, 9, 10, 11 and 12, Block 1, of AMENDED PLAT OF FAIRVIEW, according to plat thereof, as recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida.

AND

That part of Vacated Road as referenced in Ordinance filed February 7, 2006 in Official Records Book 41418, Page 410 being described as follows:

That portion of Palm Terrace Right of Way, lying adjacent to Lot 12, Block 1, AMENDED PLAT OF FAIRVIEW, according to the Plat thereof, as recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida. Said portion being bounded by as follows: on the North by a line parallel with and 50 feet Southerly of the Westerly extension of the North line of the aforementioned Lot 12, Block 1, on the South by the Westerly extension of the Southerly line of Block 1, on the East by the West line of the aforementioned Lot 12, Block 1, and on the West by a line 30 feet West of and parallel with the West line of the aforementioned Lot 12, Block 1.

AND

All of Lots 1, 2, 3, 4, 5, 17, 18, 19, 20, 21, 22, 23, 24, and a portion of Lot 6, Block 2, Amended Plat of Fairview, according to the plat thereof, recorded in Plat Book 10, Page 25 of the public records of Broward County, Florida, together with a portion of vacated alley as described in Official Records Book 5621, Page 419 of said public records, said parcel being more particularly described as follows: Begin at the Northwest corner of said Lot 17, Block 2; thence S89°44'52"E along the North line of said Lots 17 thru 24, a distance of 364.87 feet (364.40 feet per plat) to the most Westerly Northeast corner of said Lot 24 thence N70°45'15"E a distance of 75.22 feet to a point on the North line of said Lot 6; thence S89°48'10"E along said North line a distance of 59.97 feet to the Northeast corner of said Lot 6; thence S36°39'30"E along the East line of said Block 2, a distance of 35.86 feet to a point of curvature of a tangent curve concave to the West; thence Southeasterly, Southerly and Southwesterly along the arc of said curve to the right having a central angle of 49°46'53" and a radius of 15.00 feet for an arc distance of 13.03 feet to a point of tangency; thence S13°07'47"W along said East line a distance of 114.74 feet to a point of curvature of a tangent curve concave to the Northwest; thence Southerly, Southwesterly and Westerly along the arc of said curve to the right having a central angle of 77°13'40" and a radius of 15.00 feet for an arc distance of 20.22 feet to a point of tangency, said point also being a point on the South line of said Block 2; thence N89°38'46"W along said South line a distance of 464.17 feet to a point of curvature of tangent curve concave to the Northeast; thence Westerly, Northwesterly and Northerly along the arc of said curve to the right having a central angle of 89°39'51" and a radius of 15.00 feet for an arc distance of 23.47 feet to a point of tangency, said point also being a point on the West line of said Lot 17; thence North along the West line of said Lot 17 a distance of 123.62 feet to the Point of Beginning; said land situate within Broward County, Florida.

AND

The East 30 feet of vacated and abandoned Palm Terrace, now known as S.W. 8th Ave. pursuant to Ordinance No. 2005-19 recorded in Official Records Book 38974, Page 372, lying West of and adjacent to Lot 17, Block 2 of Amended Plat of Fairview, recorded in Plat Book 10, Page 25, of the Public Records of Broward County, Florida.

AND

Those portions of Magnolia Drive, now known as SW 11th Street and Palm Terrace, now known as SW 8th Ave., abandoned pursuant to Ordinance No. 2019-83 recorded in Instrument # 115976317, LESS AND EXCEPT the West 30 feet of abandoned Palm Terrace, now known as SW 8th Ave.

EXHIBIT E
INSURANCE

(A) Property Insurance. "**All risk**" property insurance with extended coverage against loss or damage by earthquake, mudslide, windstorm, flood with an endorsement for amended coverage, vandalism, malicious mischief, sprinkler leakage and special coverage, including flammable materials.

Amounts. Such coverage shall be in the following amounts: (a) as to windstorm, \$100,000,000; (b) as to flood, \$12,500,000; and (c) as to all other perils, One Hundred Percent (100%) of the replacement cost of the Improvements (exclusive of foundation and excavation costs), Developer's alterations, improvements, fixtures, equipment, furniture, trade fixtures and floor coverings, including the expense of the removal of debris as a result of damage by an insured peril (collectively, the "**Insured Property**") on the Property.

Deductibles. The maximum deductibles for such coverage shall be as follows: (A) as to flood and windstorm, Five Percent (5%) of the completed building value; and (B) as to all other perils, One Percent (1%) of the insured value.

Loss Payees and Insureds. City, CRA, Developer, and any Approved Leasehold Mortgagee shall be named as loss payees. Developer shall be the first named insured, and City, CRA and any Approved Leasehold Mortgagee shall be named as additional insureds.

Special Considerations for Casualty and Windstorm Insurance. Notwithstanding the foregoing, the Parties acknowledge and agree that coastal properties are often precluded from being insured by private insurers and that any casualty and windstorm insurance may have to be written through the Florida Joint Underwriters Association or another governmental or other insurance pool which may include certain prohibitions such as no replacement cost coverage.

Determination of Replacement Cost. Unless expressly waived in writing by the City Manager, the replacement cost of the Insured Property shall be determined every seven (7) years during the Term by an insurance appraiser selected and paid for by Developer, provided that Developer shall obtain City or CRA's approval (which approval shall not be unreasonably withheld) of the appraiser before commencement of the appraisal. The appraiser selected by Developer shall submit to City, CRA and Developer a written report of the appraised replacement cost. If City, CRA or Developer is not satisfied with such report, the dissatisfied party shall serve upon the other a notice of dissatisfaction within thirty (30) days after receipt of the report, and the Parties shall in good faith attempt to resolve any disputes concerning the appraised replacement cost. During this period of the dispute, Developer shall continue to maintain insurance in an amount equal to that maintained before the dispute arose. Promptly upon receipt of the appraiser's report and resolution of any such dispute, Developer shall procure and deliver to City and CRA written confirmation from the insurer(s) evidencing the adjustment in insurance amounts which may be required.

(B) Boiler and Machinery Insurance. Boiler and machinery insurance covering repair and replacement of all boilers and machinery serving or benefiting the Improvements. The policies of insurance shall be endorsed so as to provide use and occupancy coverage for the Improvements in such amount as may be reasonably acceptable to City and CRA. City, CRA, Developer and any Approved Leasehold Mortgagee shall be named as loss payees. Developer

shall be the first named insured, and City, CRA and any Approved Leasehold Mortgagee shall be named as additional insureds.

(C) Other Insurance to Be Carried. At all times during the Term, Developer shall also, at Developer's sole cost and expense but for the mutual benefit of Developer, CRA and City (with City and CRA being named as an additional insured thereunder and with leasehold mortgage clauses for the benefit of any Approved Leasehold Mortgagee, which clauses shall be consistent with the terms of this Agreement), maintain the following insurance:

(i) CGL Insurance. Commercial General Liability insurance on a commercial general liability coverage form with "**broader form**" coverage, or its equivalent, including contractual liability, products and completed operations, personal injury, liquor legal liability, garage keepers liability, and products and completed operations, personal injury, and premises coverage against sums adjudicated to be payable by the insured on account of bodily injury, death or property damage occurring in or about the Property (it being understood, however, that such coverage does not extend to damage to property in the insured's care, custody and control).

(1) *Amounts.* The limits of such coverage shall not be less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate single limit for bodily injury and property damage. No deductible in excess of \$50,000 will be carried under this coverage without the City Manager's prior written consent, which shall not be unreasonably withheld.

(2) *Umbrella Policy.* Developer shall further maintain an excess liability umbrella policy whose limits shall not be less than a combined single limit of Five Million Dollars (\$5,000,000).

(3) *Adjustments in Amounts.* Such insured amounts as provided above shall be adjusted as of the fourth (4th) anniversary of the January 1 following the Commencement Date, and every three (3) years thereafter, by any increase or decrease (which decrease shall not result in an amount less than the amounts initially required as set forth above) in the CPI from the Commencement Date to the date on which the adjustment is to be made.

(ii) Builder's Risk. During any periods of: (1) excavation and/or construction; (2) alteration; (3) restoration in the event of damage or destruction or condemnation; or (4) razing or demolition, at, in or on the Property, the Improvements or any part of it, an all risk Builder's Risk policy (including extended coverage for fire, lightning, earth movement, flood, collapse, business interruption, hurricane, boiler and machinery) covering the interests of City, CRA and Developer. Such policy shall insure that portion of the Improvements which is affected by such activities for not less than One Hundred Percent (100%) replacement cost on a completed value basis (including foundations and pilings), and shall include coverage for the increased cost of construction due to the enforcement of any laws, as well as the contingent liability from the operation of buildings, and coverage for the demolition cost of undamaged portions of buildings.

(iii) *E & O Coverage.* In addition, Developer shall cause all of the key or primary professionals retained by it in connection with any construction (e.g., architects and engineers) to procure errors and omission coverage reasonably satisfactory to Developer for

Developer's and City and CRA's benefit, in such amounts as are customarily carried by such professionals in Broward County, Florida.

(iv) Pollution/Environmental Impairment Liability.

Pollution/Environmental Impairment Liability Insurance coverage on a claims made basis with limits of Five Million Dollars (\$5,000,000) per occurrence (with the policy period extending at least six (6) years from and after the expiration or sooner termination of this Agreement), providing coverage for the damage caused by spillage of any fuel, petroleum, products or any other "**hazardous substances**", "**hazardous materials**" or "**toxic substances**" (as defined in any and all Applicable Laws), whether those substances are solid, liquid or gaseous. Such policy of insurance shall also provide coverage for the cost of cleanup of the affected area and for the removal, transportation and safe disposal of any contaminated area. City, CRA and Developer shall be named as loss payees. Developer shall be the first named insured, and City, CRA and any Approved Leasehold Mortgagee shall be named as additional insureds.

(v) Worker's Compensation.

Worker's compensation and occupational disease coverage in the amounts and types required by Chapter 440, F.S., or any successor. Only Developer shall be named as an insured.

(vi) Automobile Liability.

Automobile liability insurance covering all owned, non-owned and hired vehicles used in conjunction with operations covered by this Agreement. The policy or policies of insurance shall contain such limits as may be reasonably requested by City or CRA from time to time but not less than One Million Dollars (\$1,000,000). Such insured amount shall be increased as of the fourth (4th) anniversary of the January 1 following the Commencement Date, and every three (3) years thereafter.

(vii) Other Coverage.

In the event that any other type of legislation may be enacted imposing special liability upon City, CRA or Developer by virtue of its use for any special purposes, before Developer shall so use the Property and/or the Improvements or any part of it for such purposes, Developer shall provide insurance in form and substance, and with insurers and limits reasonably satisfactory to City and CRA and meeting commercial standards insuring the interests of City, CRA and Developer and naming City and CRA as additional insured.

(viii) "Wrap-Up" Policy.

City acknowledges and agrees that the coverage required by this subparagraph and any other required coverages may be obtained through a so-called "**wrap-up**" policy.



CERTIFICATE OF LIABILITY INSURANCE

4/30/2023

DATE (MM/DD/YYYY)

2/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 1185 Avenue of the Americas, Suite 2010 New York NY 10036 646-572-7300	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Lexington Insurance Company		19437
INSURER B : --- SEE ATTACHMENT ---		
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES CERTIFICATE NUMBER: 19249732 REVISION NUMBER: XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDD INSD	SUBR WDD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR Retention: \$250,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	N	14180759	4/30/2022	4/30/2023	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ Excluded
							PERSONAL & ADV INJURY	\$ 2,000,000
							GENERAL AGGREGATE	\$ 4,000,000
							PRODUCTS - COMP/OP AGG	\$ 4,000,000
								\$
	AUTOMOBILE LIABILITY			NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident)	\$ XXXXXXXX
	ANY AUTO						BODILY INJURY (Per person)	\$ XXXXXXXX
	OWNED AUTOS ONLY						BODILY INJURY (Per accident)	\$ XXXXXXXX
	HIRE AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX
	SCHEDULED AUTOS NON-OWNED AUTOS ONLY							\$ XXXXXXXX
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 25,000	Y	N	See Attached	4/30/2022	4/30/2023	EACH OCCURRENCE	\$ 50,000,000
							AGGREGATE	\$ 50,000,000
								\$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		NOT APPLICABLE			PER STATUTE	
							OTH-ER	
							E.L. EACH ACCIDENT	\$ XXXXXXXX
							E.L. DISEASE - EA EMPLOYEE	\$ XXXXXXXX
							E.L. DISEASE - POLICY LIMIT	\$ XXXXXXXX

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED.
 project address: 740 SW 11th Street, Pompano Beach, FL 33060
 City of Pompano Beach are listed as additional insured as required by written contact. 30 days' notice of cancellation, except for non-payment of premium, in which case, ten (10) days' notice for nonpayment of premium

APPROVED *Thorpe*
 By Danielle Thorpe at 11:25 am, Feb 21, 2023

CERTIFICATE HOLDER 19249732 City of Pompano Beach P.O. Box 1300 Pompano Beach FL 33061	CANCELLATION See Attachments SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

Cornerstone

Report: Umbrella/ Excess Liability Policy Information

Policy Term: 4/30/2022-4/30/23

Carrier	Layer	Policy Term	Policy Number
Allied World Assurance Co. (U.S.), Inc.	\$3MM xs Primary	4/30/22- 4/30/23	0312-8556
Axis Surplus Insurance Company	\$5MM xs \$3MM	4/30/22- 4/30/23	P-001-000546329-02
Markel American Insurance Company	\$10MM xs \$8MM	4/30/22- 4/30/23	MKLM6MM30000525
Gray Surplus Lines Insurance Company	\$7MM xs \$18MM	4/30/22- 4/30/23	GSL100627
Great American Security Insurance Company	\$12.5M po \$25MM xs \$25MM	4/30/22- 4/30/23	EXC 4138546
Travelers Excess and Surplus Lines Company	\$12.5M po \$25MM xs \$25MM	4/30/22- 4/30/23	ZUP-16P06183-22-NF



City of Pompano Beach
P.O. Box 1300
Pompano Beach FL 33061

Dear Captiva Cove III Associates, LTD certificate holder:

In an effort to meet demand for instant electronic delivery of certificates, Lockton Companies now provides paperless delivery of Certificates of Insurance. Thank you for your patience and willingness to help us lessen our environmental footprint.

To fulfill your certificate delivery, we need your email address. Please contact us via one of the methods below with your Holder ID number, email address, and phone number in the event we have any questions.

Your Holder ID number is 19249732.

- Email: Cornerstonecertrequests@lockton.com
- Toll-free automated phone service: 866-218-4018

If this certificate is no longer needed or valid, please notify us.

Thank you,

Lockton Companies



City of Pompano Beach
P.O. Drawer 1300
Pompano Beach FL 33061

Dear Captiva Cove III Associates, LTD certificate holder:

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To fulfill your certificate delivery, we need your email address. Please contact us via one of the methods below with your Holder ID number, email address, and phone number in the event we have any questions.

Your Holder ID number is 19284233.

- Email: Cornerstonecertrequests@lockton.com
- Toll-free automated phone service: 866-218-4018

If this certificate is no longer needed or valid, please notify us.

Thank you,

Lockton Companies



EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)
1/27/2023

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

PRODUCER NAME, CONTACT PERSON AND ADDRESS Lockton Companies 1185 Avenue of the Americas, Suite 2010 New York NY 10036		PHONE (A/C, No, Ext): 646-572-7300	COMPANY NAME AND ADDRESS ***See Attached***	NAIC NO:
FAX (A/C, No): E-MAIL ADDRESS:		SUB CODE:	IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE: AGENCY CUSTOMER ID #:		POLICY TYPE Property		
NAMED INSURED AND ADDRESS 1005402 Brookstone Construction LLC c/o The Cornerstone Group 2100 Hollywood Boulevard Hollywood FL 33020		LOAN NUMBER	POLICY NUMBER See Attached	
ADDITIONAL NAMED INSURED(S)		EFFECTIVE DATE 4/30/2022	EXPIRATION DATE 4/30/2023	CONTINUED UNTIL TERMINATED IF CHECKED <input type="checkbox"/>
		THIS REPLACES PRIOR EVIDENCE DATED:		

PROPERTY INFORMATION (ACORD 101 may be attached if more space is required) BUILDING OR BUSINESS PERSONAL PROPERTY

LOCATION / DESCRIPTION

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

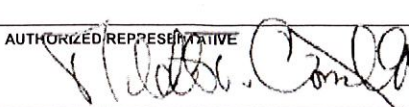
COVERAGE INFORMATION	PERILS INSURED	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL	
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$			\$100,000,000		DED: 100,000
	YES NO N/A				
<input checked="" type="checkbox"/> BUSINESS INCOME <input checked="" type="checkbox"/> RENTAL VALUE	X			X	If YES, LIMIT: 100,000,000 Actual Loss Sustained; # of months: 18
BLANKET COVERAGE	X				If YES, indicate value(s) reported on property identified above: \$
TERRORISM COVERAGE	X				Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		X			
IS DOMESTIC TERRORISM EXCLUDED?		X			
LIMITED FUNGUS COVERAGE	X				If YES, LIMIT: 1,000,000 DED: 100,000
FUNGUS EXCLUSION (If "YES", specify organization's form used)		X			
REPLACEMENT COST	X				
AGREED VALUE		X			
COINSURANCE		X			If YES, %
EQUIPMENT BREAKDOWN (If Applicable)	X				If YES, LIMIT: 100,000,000 DED: 100,000
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg	X				If YES, LIMIT: 25,000,000 DED: 100,000
- Demolition Costs	X				If YES, LIMIT: 25,000,000 DED: 100,000
- Incr. Cost of Construction	X				If YES, LIMIT: 25,000,000 DED: 100,000
EARTH MOVEMENT (If Applicable)	X				If YES, LIMIT: 50,000,000 DED: 100,000
FLOOD (If Applicable)	X				If YES, LIMIT: 50,000,000 DED: 100,000
WIND / HAIL INCL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions:	X				If YES, LIMIT: 100,000,000 DED: 100,000
NAMED STORM INCL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions:	X				If YES, LIMIT: 100,000,000 DED: 5% min \$500,000
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS		X			

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

9M [D581123]

CONTRACT OF SALE MORTGAGEE	LENDER'S LOSS PAYABLE <input type="checkbox"/> LOSS PAYEE	LENDER SERVICING AGENT NAME AND ADDRESS
NAME AND ADDRESS 814851 Evidence of Insurace		AUTHORIZED REPRESENTATIVE 

APPROVED

By Danielle Thorpe at 4:52 pm, Jan 30, 2023

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Builder's Risk Limit: \$100M. Evidence Only
City of Pompano Beach
P.O. Drawer 1300
Pompano Beach, FL 33061

APPROVED

D. Thorpe

By Danielle Thorpe at 4:52 pm, Jan 30, 2023

Cornerstone 2022-2023: Supplemental limits, deductibles, policy numbers, & paper names

Limits:

Policy limit: \$100,000,000 per occurrence

Earthquake: \$50,000,000 per occurrence and in the annual aggregate

Flood limit (non high hazard): \$50,000,000 per occurrence and in the annual aggregate

FEMA high hazard flood limit: \$50,000,000 per occurrence and in the annual aggregate

Deductibles:

Standard/All other perils deductible: \$100,000 per occurrence

24 hour waiting period to apply for service interruption

Earthquake: \$100,000 per occurrence

Named Windstorm in Florida: 5% per unit of insurance subject to a minimum of \$500,000 per occurrence

Flood occurring as a result of named storm: 5% per unit of insurance subject to a minimum of \$500,000 per occurrence

FEMA high hazard flood zones: 5% per unit of insurance subject to a minimum of \$500,000 per occurrence

All other Flood: \$100,000 per occurrence

24 hour waiting period to apply for service interruption

Each unit of insurance is defined as:

1. Each separate building or structure sustaining loss or damage.
2. Stock and inventory in each such building or structure sustaining loss or damage.
3. Other personal property in each building or structure sustaining loss or damage.
4. Business interruption or other time element loss attributable to each building or structure

Participating Insurers, Policy Numbers, & Paper Names:

Carrier	Paper Name	Policy Number	Layer	Participation (%)	Participation (\$)
Argo Bermuda	Argo Re Ltd.	P153116	P100M	9.00%	\$9,000,000
Sompo	Endurance American Specialty Insurance Company	GPR10011056805	P100M	5.00%	\$5,000,000
Lexington	Lexington Insurance Company	011144793	P100M	12.50%	\$12,500,000
Lloyd's	Lloyd's of London	PRPNA2202005	P50M	27.50%	\$13,750,000
LSM Bermuda	Liberty Specialty Markets Bermuda Limited	LSMAPR242293A	P50M	10.00%	\$5,000,000
AWAC Bermuda	ALLIED WORLD ASSURANCE COMPANY, AG	P000417/021	P25M	23.50%	\$5,875,000
Starr	Starr Surplus Lines Insurance Company	SLSTPTY11610222	P25M	7.50%	\$1,875,000
Kemah	National Fire & Marine Insurance Company	DF00006251	P5M	5.00%	\$250,000
Aspen	Aspen Specialty Insurance Company	PX00GEM22	\$20Mxs\$5M	5.00%	\$1,000,000
Alcor	Lloyds of London (Beat syndicate)	22ALC559000A	\$25Mxs\$25M	8.50%	\$2,125,000
Ironshore	Ironshore Specialty Insurance Company	1000403437-03	\$25Mxs\$25M	10.17%	\$2,541,667
Everest Re (behind Starr)	Starr Surplus Lines Insurance Company	SLSTPTY11610222	\$25Mxs\$25M	4.00%	\$1,000,000
Chubb Bermuda	Chubb Bermuda Insurance Ltd.	CORNER01708P03	\$50Mxs\$50M	40.17%	\$20,083,333
Navigators	Navigators Specialty Insurance Company	GA22HABZ07AL7IC	\$50Mxs\$50M	20.00%	\$10,000,000

Crum & Forster	Crum & Forster Specialty Insurance Company	PPP-911399	\$75Mxs\$25M	6.67%	\$5,000,000
Starstone	Starstone Specialty Insurance Company	E71175221CSP	\$75Mxs\$25M	6.67%	\$5,000,000
Mosaic (terrorism)	Lloyd's of London	PWT1999322AA	P25M	100.00%	\$25,000,000