

Document prepared by:  
Alicia C. Lobeiras  
Office of County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301

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

Tax Parcel Numbers:  
4842-34-00-0320  
4842-34-00-0330  
4842-34-00-0290  
4842-34-00-0300

(For Recorder's Use Only)

**SUBORDINATION AGREEMENT  
(Marquis Apartments Project – City - \$407,750)**

THIS SUBORDINATION AGREEMENT (this “Agreement”) is entered into this April \_\_, 2020 by and among (i) Broward County, a political subdivision of the State of Florida (the “Senior Lender”), (ii) City of Pompano Beach, a Florida municipal corporation (“Subordinate Lender”), and (iii) Marquis Partners, Ltd., a Florida limited partnership (the “Borrower”).

**Recitals**

A. The Senior Lender has made or is making a loan to the Borrower in the original principal amount of up to FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00) (the “Senior Loan”). The Senior Loan is being advanced pursuant to that certain Loan Agreement dated the date hereof (the “Senior Loan Agreement”) and is secured by, among other things, a mortgage lien, located in the City of Pompano Beach, Broward County, Florida (the “Property”) pursuant to that certain Mortgage and Security Agreement and Assignment of Leases, Rents, and Profits dated the date hereof from the Borrower to the Senior Lender (the “Senior Mortgage”). The Property is more fully described in **Exhibit A** attached hereto. The Borrower’s obligation to repay the Senior Loan is evidenced by that certain Promissory Note dated the date hereof (the “Senior Note”) in the original principal amount of up to FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00).

B. The Subordinate Lender has made a loan to Borrower in the amount of FOUR HUNDRED SEVEN THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS (\$407,750.00) (the “Subordinate Loan”), which Subordinate Loan is evidenced by a certain promissory Note, dated as of April \_\_, 2020, made by Borrower to

Subordinate Lender (the "Subordinate Note") and secured by the Subordinate Mortgage (as hereinafter defined) encumbering the Property.

C. As a condition to the making of the Senior Loan, Senior Lender requires that Subordinate Lender execute and deliver this Agreement.

NOW, THEREFORE, to induce the making of the Senior Loan and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Senior Lender, the Subordinate Lender, and the Borrower agree as follows:

### **1. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

“Subordinate Mortgage” means that certain Mortgage and Security Agreement dated April \_\_, 2020, encumbering the Property as security for the Subordinate Loan, which the Subordinate Lender will cause to be recorded among the applicable land records immediately before this Agreement.

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

## **2. Permission to Place Mortgage Lien Against Property.**

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

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

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

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

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a Promissory Note dated on or about the date hereof in the original principal amount of up to \$5,000,000.00 (the "Senior Note") issued by Marquis Partners, Ltd., and payable to Broward County, a political subdivision of the State of Florida ("Senior Lender"), or order, to the extent and in the manner provided in that certain Subordination Agreement, dated as of April \_\_, 2020 (the "Subordination Agreement"), among the Senior Lender, Borrower, and City of Pompano Beach ("Subordinate Lender"). The Mortgage and Security Agreement securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants, and conditions of the Senior Mortgage securing the Senior Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the Subordinate Lender and each subsequent holder of this Note under the Mortgage and Security Agreement securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to

be performed or observed by the Subordinate Lender under the Subordination Agreement.

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

**(c) Subordinate Loan Documents.** The executed copies of each of the Subordinate Loan Documents delivered by Borrower to Senior Lender are certified to be true, correct and complete.

#### **4. Terms of Subordination.**

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

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

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

**(d) Payments After Senior Loan Default.** The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Loan Default,

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

**(e) Remitting Subordinate Loan Payments to Senior Lender.** If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with Section 4(d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment will be received and held in trust for the Senior Lender and unless and until the Senior Lender notifies the Subordinate Lender that the default has been cured, waived, or otherwise suspended, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and remitted to the Senior Lender under this Section 4(e), shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

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

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

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

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

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

## **6. Default Under Senior Loan Documents.**

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

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



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

## **7. Conflict.**

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

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

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

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

necessary repairs to the Property and curing other defaults by the Borrower under the Subordinate Loan Documents.

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

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

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

**(c) No Modification of Subordinate Loan Documents.** The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full,

it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loan without the Senior Lender's consent shall be void ab initio and of no effect whatsoever.

#### **9. Modification or Refinancing of Senior Loan.**

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

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

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

#### **11. Notices.**

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section 11 referred to collectively as "notices" and referred to singly as a "notice") which the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United

States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

**SENIOR LENDER:**

Broward County  
Broward County Administrator  
115 South Andrews Avenue, Room 409  
Fort Lauderdale, Florida 33301

**With a copy to:**

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

**SUBORDINATE LENDER:**

City of Pompano Beach  
City Manager  
100 W. Atlantic Boulevard  
Pompano Beach, Florida 33060

**With a copy to:**

City of Pompano Beach  
Director of Office of Housing and Urban Improvement  
100 W. Atlantic Boulevard, Suite 220  
Pompano Beach, Florida 33060

**BORROWER:**

Marquis Partners, Ltd.  
2100 Hollywood Boulevard  
Hollywood, Florida 33020

Either party may, by notice given pursuant to this Section 11, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

**12. General.**

**(a) Assignment/Successors.** This Agreement shall be binding upon the Borrower, the Senior Lender, and the Subordinate Lender and shall inure to the

benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Lender.

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

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

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

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

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

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

**(h) Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and

other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Senior Mortgage; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement.

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

**[Signature Pages Follow]**

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

**SENIOR LENDER:**

Broward County, a political subdivision of the State of Florida

By: \_\_\_\_\_  
Name: Bertha Henry  
Title: Broward County Administrator

WITNESSES:

\_\_\_\_\_  
Signature of Witness 1

\_\_\_\_\_  
Print Name of Witness 1

\_\_\_\_\_  
Signature of Witness 2

\_\_\_\_\_  
Print Name of Witness 2

Approved as to form and legal sufficiency:

By: \_\_\_\_\_  
Alicia C. Lobeiras  
Assistant County Attorney

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_\_, 2020, by Bertha Henry as County Administrator of Broward County, a political subdivision of the State of Florida. Said person [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(SEAL)

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

**SUBORDINATE LENDER:**

CITY OF POMPANO BEACH, a Florida municipal corporation

WITNESSES:

By: \_\_\_\_\_  
Rex Hardin, Mayor

\_\_\_\_\_  
Signature of Witness 1

By: \_\_\_\_\_  
Gregory P. Harrison, City Manager

\_\_\_\_\_  
Print Name of Witness 1

\_\_\_\_\_  
Signature of Witness 2

\_\_\_\_\_  
Print Name of Witness 2

Attest:

(SEAL)

\_\_\_\_\_  
Asceleta Hammond  
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 [ ] physical presence or [ ] online notarization, this \_\_\_\_\_, 2020, 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.

(SEAL)

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





## EXHIBIT A

### Legal Description of Property

The land referred to herein below is situated in the County of Broward, State of Florida, and is described as follows:

PARCEL 1:

The NE 1/4 of the SW 1/4 of the NW 1/4 lying Southwest of County Road of Section 34, Township 48 South, Range 42 East, less the East 365.8 feet and less the West 294.2 feet thereof, Broward County, Florida.

PARCEL 2:

The East 169.3 feet of the West 294.2 feet of the NE 1/4 of the SW 1/4 of the NW 1/4 lying South of County Road, less the South 100 feet, Broward County, Florida.

PARCEL 3:

The West 165.80 feet of the East 365.80 feet of a portion of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of the Northwest one-quarter (NW 1/4) of Section 34, Township 48 South, Range 42 East, lying South of the South right-of-way line of State Road No. 361, Broward County, Florida.

AND

That part of the East 200.00 feet of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of the Northwest one-quarter (NW 1/4) of Section 34, Township 48 South, Range 42 East, lying south of the South right-of-way line of state Road No. 361, Broward County, Florida, less the East 15.00 feet thereof, for road purposes and also less the following described portion thereof:

BEGINNING at a point on the said South right-of-way line at a point 15.00 feet West of the East line of the said Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of the Northwest one-quarter (NW 1/4); thence Southerly parallel to the said East line a distance of 65.40 feet; thence S88°58'54" W, a distance of 73.39 feet; thence S35°27'14" W, a distance of 1.23 feet; thence S88°58'54" W, a distance of 16.2 feet; thence N35°27'14" E, a distance of 106.98 feet, more or less, to an intersection with the South right of way line of said State Road 361; thence Southeasterly along said right-of-way line to the Point of Beginning.

(continued)

ALSO LESS:

The South 10.00 feet of the NE 1/4 of the SW 1/4 of the NW 1/4 lying Southwest of County road of Section 34, Township 48 South, Range 42 East, LESS the East 365.8 feet and LESS the West 294.2 feet thereof, Broward County, Florida.

ALSO LESS:

The South 10.00 feet and the West 10.00 feet of the East 25.00 feet of that part of the East 200.00 feet of the Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of the Northwest one-quarter (NW 1/4) of Section 34, Township 48 South, Range 42 East, lying South of the South right-of-way line of State Road No. 361, Broward County, Florida, LESS the East 15.00 feet thereof, for road purposes and also less the following described portion thereof:

Beginning at a point on the said South right-of-way line at a point 15.00 feet West of the East line of the said Northeast one-quarter (NE 1/4) of the Southwest one-quarter (SW 1/4) of the Northwest one-quarter (NW 1/4); thence Southerly parallel to the said East line a distance of 65.40 feet; thence S88°58'54" W, a distance of 73.39 feet; thence S35°27'14" W, a distance of 1.23 feet; thence S88°58'54" W, a distance of 16.2 FEET; thence N35°27'14" E, a distance of 106.98 feet, more or less, to an intersection with the South right-of-way line of said State Road 361; thence Southeasterly along said right-of-way line to the Point of Beginning.