



1530618051

Doc#: 1530618051 Fee: \$58.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 11/02/2015 12:03 PM Pg: 1 of 11

PREPARED BY AND WHEN)
RECORDED RETURN TO:)

Applegate & Thorne-Thomsen, P.C.)
626 W. Jackson Boulevard)
Suite 400)
Chicago, IL 60661)
Attention: Dan Klaff)

(Space Above For Recording Use)

40017240 (20)

INTERCREDITOR, SUBORDINATION AND TERMINATION AGREEMENT

THIS INTERCREDITOR, SUBORDINATION AND TERMINATION AGREEMENT (the "Agreement") is dated this 30th day of October, 2015 by and among Bank of America, N.A. ("Bank"), the City of Chicago ("City"), Park Place Venture, LLC, a Delaware limited liability company ("Seller") and PP Family, LLC, an Illinois limited liability company ("Owner").

RECITALS:

WHEREAS, on the date hereof Seller is selling to BYNC Lawndale Development, LLC, an Illinois limited liability company, ("BYNC") that certain real estate legally described on Exhibit A attached hereto (the "Property") in exchange for a promissory note ("Seller Note") in the principal amount of \$1,755,053.57, secured by that certain Mortgage, Assignment of Rents and Security Agreement (Seller Loan) ("Seller Mortgage");

WHEREAS, on the date hereof BYNC is selling to Owner the Property in exchange for Owner assuming the Seller Note and Seller Mortgage;

WHEREAS, Owner intends to construct a 74 unit rental housing development known as Park Place Apartments on the Property ("Project");

WHEREAS, in connection with the Project, Owner intends to use the following sources of financing, amongst others: (i) a construction loan from Bank, in the approximate amount of \$14,292,287.00 ("Bank Loan"); (2) a permanent loan from Bank in the approximate amount of \$1,275,000.00 ("DOJ Loan"); (3) a permanent loan from the City in the approximate amount of \$6,689,009.00 ("City Loan"); (4) Low Income Housing Tax Credits from the City ("LIHTC Financing"); and (5) Illinois Affordable Housing Tax Credits from the City ("DTC Financing").

WHEREAS, in connection with the LIHTC Financing, Owner has entered into and agreed to record that certain Low Income Housing Tax Credits Regulatory Agreement against the Property ("LIHTC Regulatory Agreement");

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WHEREAS, in connection with the DTC Financing, Owner has entered into and agreed to record that certain Donation Tax Credit Regulatory Agreement against the Property ("DTC Regulatory Agreement");

WHEREAS, in connection with the City Loan, Owner has entered into and agreed to record that certain Home Program Regulatory Agreement against the Property ("HOME Regulatory Agreement");

WHEREAS, in connection with the DOJ Loan, Owner has entered into and agreed to record that certain Affordable Housing Land Use Restriction Agreement against the Property ("DOJ Regulatory Agreement");

WHEREAS, in connection with the Bank Loan, Owner has entered into and agreed to record that certain Construction Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing against the Property ("Bank Mortgage");

WHEREAS, in connection with the City Loan, Owner has entered into and agreed to record that certain Junior Mortgage, Security Agreement and Financing Statement against the Property ("City Mortgage");

WHEREAS, in connection with the City Loan, Owner has entered into and agreed to record that certain Assignment of Rents and Leases against the Property ("City ARL");

WHEREAS, in connection with the DOJ Loan, Owner has entered into and agreed to record that certain Mortgage, Assignment of Leases and Rents and Security Agreement by the Company against the Property ("DOJ Mortgage") and

WHEREAS, the above referenced documents will be recorded in the order listed above;

WHEREAS, the proceeds of the Bank Loan, the DOJ Loan, the City Loan, the LIHTC Financing and DTC Financing will be disbursed through the construction escrow (the "Construction Escrow") established by that certain Escrow Agreement, of even date herewith (the "Construction Escrow Agreement") by and among the Owner, Bank, City and Greater Illinois Title Company, as escrow agent.

NOW, THEREFORE, in consideration of the foregoing, the agreement of the various lenders to make the various loans, the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree as follows:

1. Subordination: Seller hereby subordinates its lien and interest in the Property under the Seller Mortgage to (i) the interests of City in connection with the LIHTC Financing as set forth in the LIHTC Regulatory Agreement; (ii) the interests of the City in connection with the DTC Financing as set forth in the DTC Regulatory Agreement; (iii) the interests of the City in connection with City Loan as set forth in the HOME Regulatory Agreement; (iv) the interests of the Bank in connection with the DOJ Loan as set forth in the DOJ Regulatory Agreement; (v) the interests of the Bank in connection with the Bank Loan as set forth in the Bank Mortgage; (vi) the interests of the City in connection with the City Loan as set forth in the City Mortgage; (vii) the interests of the City in connection with the City Loan as set forth in the City ARL; and (viii) the interests of the Bank in connection with the DOJ Loan as set forth in the DOJ Mortgage.

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2. Standstill: Seller agrees that it will not exercise any right, power, or remedy under the Seller Mortgage without the prior written consent of the City and the Bank prior to the Unwind Date (as defined herein).
3. Disbursement of Funds:
 - 3.1. City: City represents and warrants that none of the proceeds of the City Loan have been disbursed as of the date hereof. City's obligation to disburse the proceeds of the City Loan shall be subject to the satisfaction of the terms and conditions of that certain Housing Loan Agreement of even date herewith (the "City Loan Agreement") by and between the City and Owner. City agrees that it will not disburse any of the proceeds of the City Loan without the prior written consent of the Seller. City will be under no obligation to disburse any of the proceeds of the City Loan until the release of record of the Seller Mortgage and the issuance of an endorsement to the City's title policy deleting the Seller Mortgage as a Schedule B exception.
 - 3.2. Bank: Bank represents and warrants that none of the proceeds of the Bank Loan have been disbursed as of the date hereof and that the proceeds of the DOJ Loan have been fully disbursed to the Construction Escrow established under the Construction Escrow Agreement, but Bank has not authorized the further disbursement of proceeds of the DOJ Loan from the Construction Escrow. Bank's obligation to disburse the proceeds of the Bank Loan and authorize the further disbursement of proceeds of the DOJ Loan from the Construction Escrow shall be subject to the satisfaction of the terms and conditions of that certain Construction Loan Agreement of even date herewith (the "Bank Loan Agreement") by and between the Bank and Owner. Bank agrees that during the term of this Agreement it will not disburse any of the proceeds of the Bank Loan or authorize the further disbursement of proceeds of the DOJ Loan from the Construction Escrow without the prior written consent of the Seller. The Bank will be under no obligation to disburse any of the proceeds of the Bank Loan or authorize the further disbursement of proceeds of the DOJ Loan from the Construction Escrow until the release of record of the Seller Mortgage and the issuance of an endorsement to the Bank's Title Policy (as defined in the Bank Loan Agreement) deleting the Seller Mortgage as a Schedule B exception.
4. Unwind: The "Unwind Date" will occur on March 1, 2016, the Maturity Date (as defined in the Seller Note), unless the Seller Mortgage is released of record. Upon the occurrence of the Unwind Date, (i) provided that all of the DOJ Loan proceeds deposited to the Construction Escrow are returned to the Bank, the Bank shall release of record the Bank Mortgage, the DOJ Mortgage and the DOJ Regulatory Agreement and the Bank's obligation to make the DOJ Loan and the Bank Loan shall cease and terminate; (ii) the City shall release of record the LIHTC Regulatory Agreement, the DTC Regulatory Agreement, the HOME Regulatory Agreement, the City Mortgage and the City ALR and the City's obligation to make the City Loan shall cease and terminate; and (iii) the parties hereto shall release of record this Agreement.
5. Termination: Notwithstanding anything to contrary contained herein, this Agreement shall terminate upon the earlier to occur of (i) the recording of the release of the Seller Mortgage or (ii) the recording of the releases contemplated by Section 4 hereof.
6. Notices. Any notice, demand, designation, or other communication which is required or permitted to be given under the terms and provisions of this Agreement shall be deemed to be duly given and received on the date the same shall be personally delivered to the party to whom the same is addressed at the address hereinbelow specified (including delivery by a professional overnight courier service), or on the third day after the same shall be deposited in the United States mail, certified mail,

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return receipt requested postage prepaid, addressed to the party to whom the same is addressed at the address hereinbelow specified:

If to Bank:

Bank of America, N.A.
101 E. Kennedy Boulevard
Tampa, Florida 33602
Mail Code: FL1-400-06-10
Attention: CREB Loan Administration

with copies to:

Charity & Associates, P.C.
20 North Clark Street, Suite 1150
Chicago, Illinois 60602
Attention: Elvin E. Charity, Esq.

If to City:

Department of Planning and Development
City of Chicago
121 North LaSalle Street, Room 1000
Chicago, Illinois 60602
Attention: Commissioner

With copies to:

Office of the Corporation Counsel
City of Chicago
City Hall
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attention: Finance & Economic Development Division

Department of Finance
City of Chicago
121 North LaSalle Street, Suite 700
Chicago, Illinois 60602
Attention: Comptroller

If to Seller:

Park Place Venture, LLC
300 W. Adams Streets
Suite 840
Chicago, Illinois 60606

With copies to:

Chico & Nunes P.C.

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333 West Wacker Drive
Suite 1420
Chicago, Illinois 60606
Attention: Sylvia Michas

If to Owner:

PP Family, LLC
c/o Brinshore Development, L.L.C.
666 Dundee Road, Suite 1102
Northbrook, Illinois 60062
Attention: David B. Brint

With copies to:
Applegate & Thorne-Thomsen, P.C.
626 West Jackson Boulevard
Suite 400
Chicago, Illinois 60661

U.S. Bancorp Community Development
Corporation
1307 Washington Avenue, Suite 300
Mail Code: SL MO RMCD
St. Louis, MO 63103
Attn.: Project Manager
Phone: (314) 335-2600
Fax: (314) 335-2601

Jill Goldstein, Esq.
Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102
Phone: (402) 346-6000
Fax: (402) 346-1148

Any party hereto may by written notice given to the others in the manner herein provided change the address to which any such notice, demand, designation, or other communication shall be thereafter given to it.

7. Miscellaneous.

7.1. The headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof. This Agreement shall take effect as a sealed instrument.

7.2. This Agreement may not be changed orally but only by an agreement in writing signed by the party against whom any waiver, change, modification or discharge is sought. No course of dealing and no delay on the part of any party hereto in exercising any right hereunder shall operate as a waiver thereof or otherwise prejudice the rights of such party and no waiver of any right hereunder on any one occasion shall operate as a waiver of such right on any other occasion.

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7.3. This Agreement and all amendments hereto may be executed in any number of original counterparts, each of which when so executed and delivered shall be an original, and all of which, collectively, shall constitute one and the same agreement, it being understood and agreed that the signature pages may be detached from one or more counterparts and combined with the signature pages from any other counterpart in order that one or more fully executed originals may be assembled.

7.4. This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois.

[SIGNATURE PAGE FOLLOWS]

Property of Cook County Clerk's Office

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[FIRST SIGNATURE PAGE OF INTERCREDITOR, SUBORDINATION AGREEMENT AND TERMINATION AGREEMENT]

IN WITNESS WHEREOF, Seller has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

SELLER:

PARK PLACE VENTURE, LLC, a Delaware limited liability company

By: Origin Manager, LLC, its Manager

By: Michael Episcopo
Michael Episcopo

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Michael Episcopo, personally known to me to be a member of Origin Manager, LLC, the manager of Park Place Venture, LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such officer, she signed and delivered the said instrument, pursuant to authority given by Origin Manger, LLC, as the free and voluntary act of such person, and as the free and voluntary act and deed of Park Place Venture, LLC for the uses and purposes therein set forth.

Given under my hand and official seal this 27 day of October, 2015.



(SEAL)

Joan T Holowaty
Notary Public

My commission expires: 4-29-18

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[SECOND SIGNATURE PAGE OF INTERCREDITOR, SUBORDINATION AGREEMENT AND TERMINATION AGREEMENT]

IN WITNESS WHEREOF, Bank has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

BANK:

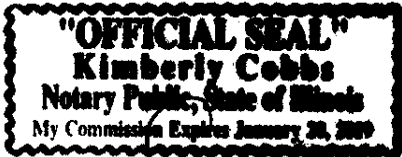
BANK OF AMERICA, N.A.,
a national banking association

By: *Kasia Blechschmidt*
Name: Kasia Blechschmidt
Title: Senior Vice President

STATE OF ILLINOIS)
)
COUNTY OF COOK)

The foregoing instrument was acknowledged before me by Kasia Blechschmidt, a Senior Vice President of Bank of America, N.A., a national banking association, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same for the purposes therein contained and acknowledged that he signed and delivered said instrument in his capacity as a senior vice president of such national banking association, for the uses and purposes therein set forth.

Given under my hand and official seal, this 28 day of October, 2015.



Kimberly Cobbs
Notary Public

My commission expires: January 20, 2019

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[THIRD SIGNATURE PAGE OF INTERCREDITOR, SUBORDINATION AGREEMENT AND TERMINATION AGREEMENT]

IN WITNESS WHEREOF, Owner has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

OWNER:

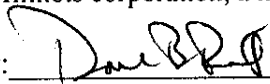
PP FAMILY, LLC, an Illinois limited liability company

By: PP Family Manager, LLC,
an Illinois limited liability company,
its Managing Member

By: Brinshore Holding, LLC,
an Illinois limited liability company,
its managing member

By: Brinshore Development, L.L.C.,
an Illinois limited liability company,
its sole member

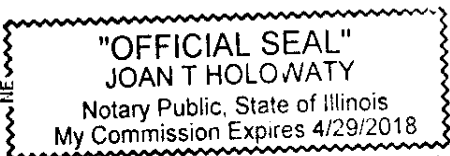
By: Brint Development, Inc.,
an Illinois corporation, a member

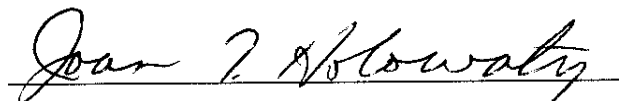
By: 
Name: David B. Brint
Title: President

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, Jean T. Holowaty a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that David B. Brint, the President of Brint Development, Inc., an Illinois corporation, which is a member of Brinshore Development, L.L.C., an Illinois limited liability company, which is the sole member of Brinshore Holding, LLC, an Illinois limited liability company, which is the managing member of PP Family Manager, LLC, an Illinois limited liability company, which is the managing member of PP Family, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in his capacity as the president of such corporation and as his free and voluntary act, and as the free and voluntary act of such corporation and limited liability companies, for the uses and purposes therein set forth.

Given under my hand and official seal, this 27 day of Oct., 2015.




Notary Public

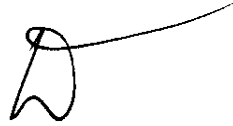
My commission expires: 4-29-18

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[FOURTH SIGNATURE PAGE OF INTERCREDITOR, SUBORDINATION AGREEMENT AND TERMINATION AGREEMENT]

IN WITNESS WHEREOF, City has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

CITY



By:

David L. Reifman, Commissioner
Department of Planning and Development

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

NOTARY CERTIFICATION

I, Patricia Sulewski, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that David L. Reifman, Commissioner of the Department of Planning and Development of the City of Chicago, Illinois, an Illinois municipal corporation (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument pursuant to the authority given to him by the City, as his free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 29th day of October, 2015.



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EXHIBIT A

Legal Description of the Property

PARCEL 1:

LOTS 1, 2, 3 AND 4 IN PARK PLACE RESUBDIVISION, BEING A RESUBDIVISION OF LOTS 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, S. CENTRAL PARK AVENUE, S. MILLARD AVENUE, W. 50TH STREET, AND THE 16 FOOT ALLEY LYING BETWEEN SAID LOTS 64 AND 65 IN PARK PLACE UNIT 1, BEING A SUBDIVISION IN THE SOUTH HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESSES:

LOT 1: 4951-57 S. LAWNDALE, CHICAGO, IL 60632; 3642-3650 WEST 50TH, CHICAGO, IL AND 4958 S. MILLARD, CHICAGO, IL 60632

TAX NUMBERS: 19-11-124-001, 19-11-124-002 AND 19-11-124-003

LOT 2: 4940 S MILLARD, CHICAGO, IL 60632; 3618-3630 W 49TH PLACE, CHICAGO, IL, 60632

TAX NUMBERS: 19-11-124-003, 19-11-124-004, 19-11-124-005, 19-11-124-006, 19-11-124-007 AND 19-11-124-009

LOT 3: 3617-3629 W 49TH PLACE, CHICAGO, IL 60632

TAX NUMBERS: 19-11-124-009 AND 19-11-124-010

LOT 4: 4957 S MILLARD, CHICAGO, IL 60632; 3616-3624 W 50TH, CHICAGO, IL 60632

TAX NUMBER: 19-11-124-011

PARCEL 2:

LOTS 25 AND 26 IN PARK PLACE UNIT 1, BEING A SUBDIVISION OF PART OF THE SOUTH 1/2 OF THE EAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 6, 2007 AS DOCUMENT NO. 0734003180, IN COOK COUNTY, ILLINOIS.

Property address: 3640 West 51st Street, Chicago, IL 60632

Tax Numbers: 19-11-121-025 and 19-11-121-026

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR THE INSTALLATION, CONSTRUCTION, AND MAINTENANCE OF AN UNDERGROUND DRAINAGE PIPES AND TO DRAIN STORM WATER THROUGH SAID PIPES, AS CREATED AND DEFINED IN THE DRAINAGE AND DETENTION EASEMENT AGREEMENT DATED OCTOBER 30, 2015 AND RECORDED OCTOBER 30, 2015 AS DOCUMENT NO. 1530618039, UNDER, OVER, ACROSS, ALONG, UPON AND THROUGH THE DRAINAGE AND DETENTION EASEMENT AREA LEGALLY DESCRIBED IN EXHIBIT C THEREOF, BEING PARTS OF LOT 69 IN PARK PLACE UNIT 1, BEING A SUBDIVISION IN THE SOUTH HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 FOR REMOVING AND STORING SOIL FOR USE ON SAID PARCELS 1 AND 2, AS CREATED AND DEFINED IN THE ACCESS AND SITE ACTIVITIES EASEMENT DATED AS OF OCTOBER 30, 2015 AND RECORDED OCTOBER 30, 2015 AS DOCUMENT NO. 1530618040 OVER, UPON, BELOW AND WITHIN LOTS 67 AND 68 IN PARK PLACE UNIT 1, BEING A SUBDIVISION IN THE SOUTH HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN.