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Cook County Recorder 37.00



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(b) 209991

THIS INSTRUMENT PREPARED
BY AND WHEN RECORDED
RETURN TO:

Miluska Novotny
Assistant Corporation Counsel
City of Chicago
Department of Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

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SUBORDINATION AGREEMENT

This Subordination Agreement (this "**Subordination Agreement**") is made in Chicago, Illinois, as of February 13, 2002 (the "**Closing Date**"), by and among the City of Chicago, an Illinois municipal corporation (the "**City**"), by and through its Department of Housing ("**DOH**") with a mailing address of 318 South Michigan Avenue, Chicago, Illinois 60604; Austin Mutual Limited Partnership, an Illinois limited partnership ("**Borrower**") with a mailing address of 1 East Superior Street, Chicago, Illinois 60611; and the Illinois Housing Development Authority ("**IHDA**"), a body politic and corporate of the State of Illinois with a mailing address of 401 North Michigan Avenue, Suite 900, Chicago, Illinois 60611. The City, the Borrower and IHDA are sometimes referred to herein as the "**Parties**."

RECITALS

A. The City Council, pursuant to an ordinance enacted on April 12, 1991, and published at pages 32193-32197 of the Journal of the Proceedings of the City Council (the "**Journal of Proceedings**") of that date, and amended by an ordinance enacted on July 24, 1991, and published at pages 3590-3593 of the Journal of Proceedings of that date, authorized DOH to provide to the Borrower MULTI-Program financing for the rehabilitation of three buildings owned by the Borrower and located at 5501-5503 West Congress Parkway, 5447-5453 West Quincy Street and 5040-5044 West Quincy Street, in Chicago, Illinois, as more fully described in Exhibit A (together, the "**Property**") in the aggregate amount of \$759,066 (the "**City Loan**").

B. The City made the City Loan to the Borrower on August 15, 1991. The City Loan

BOX 430



is evidenced by that certain Housing Loan Agreement (the "**City Loan Agreement**"), dated as of August 15, 1991, secured by, among other things, that certain Junior Mortgage and Security Agreement, dated as of August 15, 1991, executed by the Borrower in favor of the City (the "**City Mortgage**"), and recorded in the Office of the Cook County Recorder of Deeds on August 15, 1991 as Document No. 91417938, further evidenced by that certain Note dated August 15, 1991, made by the Borrower in favor of the City in the original principal amount of the City Loan (the "**City Note**"), further evidenced by that certain Assignment of Rents and Leases dated August 15, 1991, executed by the Borrower in favor of the City (the "**City Assignment**"), and recorded in the Office of the Cook County Recorder of Deeds on August 15, 1991 as Document No. 91417939, and further evidenced by that certain Declaration of Restrictive Covenants and Regulatory Agreement, dated as of August 15, 1991, executed by the Borrower in favor of the City (the "**City Regulatory Agreement**"), and recorded in the Office of the Cook County Recorder of Deeds on August 15, 1991 as Document No. 91417935. The City Loan Agreement, the City Mortgage, the City Note, the City Assignment, the City Regulatory Agreement and any other documents executed in connection with the City Loan are collectively referred to herein as the "**City Loan Documents**." The City and the Borrower have executed or will execute as of the Closing Date an amendment to the City Loan Documents (the "**City Amendment**").

C. The City Mortgage is (i) subordinate to that certain Construction Mortgage, Personal Property, Security Agreement and Assignment of Leases and Rentals (the "**Bank Mortgage**"), dated as of August 15, 1991, securing a loan in the amount of \$727,260 (the "**Bank Loan**"), made by the Borrower in favor of First National Bank of Chicago, a national banking association, whose successor in interest is Bank One, a national banking association (the "**Bank**"); and (ii) senior to that certain Third Mortgage (the "**IHDA Third Mortgage**") dated as of August 15, 1991, securing a loan in the amount of \$336,311 (the "**IHDA Third Loan**"), made by the Borrower in favor of IHDA. The IHDA Third Mortgage, and any other documents evidencing or securing the IHDA Third Loan are collectively referred to herein as the "**IHDA Third Loan Documents**."

D. The Bank has agreed to: (i) forgive a portion of the Bank Loan in an amount not to exceed \$36,241; and (ii) release the Bank Mortgage upon payment of an amount not to exceed \$640,517.83 by the Borrower on or after the Closing Date stipulated by the Bank and the Borrower to be in full satisfaction of the Bank Loan pursuant to that certain Payoff Request Revision IV executed by the Bank on February 8, 2002. Closing costs, recording costs and other fees associated with the IHDA Senior Loan, the City Amendment and the release of the Bank Mortgage are \$24,336 as of the Closing Date.

E. The City and the Borrower desire that IHDA make a mortgage loan to the Borrower in the amount of \$647,295 (the "**IHDA Senior Loan**") which, with the addition of up to \$17,558.83 in funds from the Borrower, shall be used to pay off the Bank Loan and secure the release of the Bank Mortgage. On February 7, 2002, the Borrower executed a Mortgage, Security Agreement and Assignment of Rents and Leases (the "**IHDA Senior Mortgage**") a Mortgage Note (the "**IHDA Senior Note**") in the amount of \$647,295, in favor of IHDA, and a

Regulatory and Land Use Restriction Agreement (the “Senior Regulatory Agreement”). The IHDA Senior Mortgage secures the IHDA Senior Note and is being recorded concurrently herewith. The IHDA Senior Note, IHDA Senior Mortgage, Senior Regulatory Agreement and any other documents evidencing and securing the IHDA Senior Loan are hereinafter collectively referred to as the “IHDA Senior Loan Documents.” Once the Bank Loan is paid off, the Borrower and IHDA agree to promptly ensure that the Bank Mortgage is released.

F. It is a condition to IHDA making the IHDA Senior Loan to Borrower that the IHDA Senior Mortgage unconditionally be and remain at all times a lien, claim and charge upon the Property prior and superior to the liens, claims and charges of the City Loan Documents.

G. IHDA would not make the IHDA Senior Loan without this Subordination Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the Recitals which are made a contractual part of this Subordination Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENTS

1. The City agrees that the IHDA Senior Mortgage and the Senior Regulatory Agreement, and any and all renewals, modifications, extensions or advances thereunder or secured thereby (including interest thereon), unconditionally do and will remain at all times a lien, claim or charge on the Property prior and superior to the City Mortgage and the City Loan Documents, as amended by the City Amendment. The maximum amount of indebtedness secured by the IHDA Senior Mortgage is \$1,294,590, plus any disbursements for the payment of taxes and insurance on the Property, plus interest thereon, plus any other sums advanced in accordance with the terms thereof or any of the other IHDA Senior Loan Documents to protect the security of the IHDA Senior Mortgage or any of the other IHDA Senior Loan Documents, including, without limitation any Protective Advances (as defined in the IHDA Senior Mortgage), plus interest thereon.

2. The City agrees that:

2.1. The City intentionally and unconditionally: (i) consents to the liens, claims and charges upon the Property of the IHDA Senior Loan Documents, and (ii) subjects and subordinates the liens, claims and charges of the City Loan Documents, as amended by the City Amendment, in favor of the liens, claims and charges upon the Property of the IHDA Senior Loan Documents and understands that in reliance upon, and in consideration of, this subjection and subordination, specific loans and advances are being and will be made and, as part and parcel thereof,

specific monetary and other obligations are being and will be entered into that would not be made or entered into but for IHDA's reliance upon this subjection and subordination.

- 2.2. Any waiver or forbearance by IHDA in the exercise of its rights and remedies under the IHDA Senior Mortgage shall not impair the priority of the lien of the IHDA Senior Mortgage.
3. IHDA agrees that the City Mortgage, the City Loan Documents and any and all renewals, modifications, extensions or advances thereunder or secured thereby (including interest thereon), unconditionally do and will remain at all times a lien, claim or charge on the Property prior and superior to the IHDA Third Mortgage and the IHDA Third Loan Documents. IHDA acknowledges that the City Amendment or this Subordination Agreement do not constitute a novation of the existing indebtedness under the City Loan, but are intended to be an amendment and modification of the City Loan Documents. IHDA agrees that except as noted in the City Amendment and this Subordination Agreement, the provisions of the City Loan Documents remain in full force and effect and are hereby ratified and confirmed. The City Mortgage shall continue to secure repayment of all amounts due under the City Note without loss of priority.
4. This Subordination Agreement is the whole and only agreement with regard to the subordination of the liens, claims and charges of the City Loan Documents, as amended by the City Amendment, to the IHDA Senior Loan Documents. This Subordination Agreement is binding on and inures to the benefit of the legal representatives, heirs, successors and assigns of the Parties.
5. If any Party to this Subordination Agreement brings an action to interpret or enforce its rights under this Subordination Agreement, the prevailing Party will be entitled to recover its costs and attorneys' fees as awarded in the action.
6. All notices given under this Subordination Agreement must be in writing and will be served effectively upon delivery, or if mailed, upon the first to occur of receipt or the expiration of forty-eight (48) hours after deposit in certified United States mail, postage prepaid, sent to the Party at its address appearing in the preamble. Those addresses may be changed by any Party by notice to all other Parties.
7. This Subordination Agreement is governed by the laws of the State of Illinois, without regard to the choice of law rules of that State.
8. This Subordination Agreement may be executed in counterparts, and all counterparts constitute but one and the same document.

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

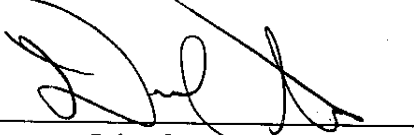
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IN WITNESS WHEREOF, this Subordination Agreement is executed as of the day and year above written.

CITY OF CHICAGO, acting by and through its
Department of Housing

By:



John G. Markowski
for Commissioner

ILLINOIS HOUSING DEVELOPMENT AUTHORITY,
a body politic and corporate of the State of Illinois

By:

Name:

Mary R. Kenney

Its:

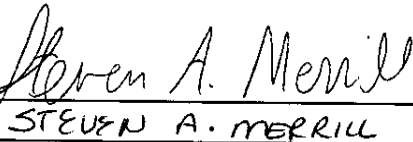
GENERAL COUNSEL

AUSTIN MUTUAL LIMITED PARTNERSHIP,
an Illinois limited partnership

By: **INVESTMENT MANAGEMENT CORPORATION**,
an Illinois not for profit corporation and
its sole general partner

By:

Name:


STEVEN A. MERRILL

Its:

TREASURER

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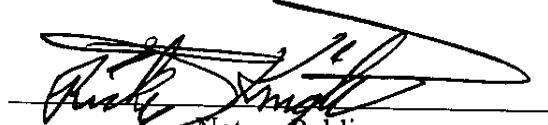
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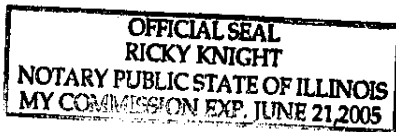
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a notary public in and for the County and State aforesaid, do hereby certify that David Saltzman, personally known to me to be the Deputy Commissioner of the Department of Housing of the City of Chicago, Illinois (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 as such Commissioner, he signed and delivered the said instrument pursuant to authority, as his/her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13th day of February, 2002.

(SEAL)


Notary Public



Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

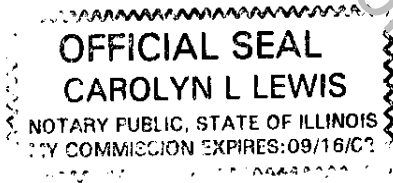
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I, the undersigned, a notary public in and for the County and State aforesaid, DO
HEREBY CERTIFY THAT MAR+R. Kenney, personally known to me to be the General Counsel of
the Illinois Housing Development Authority ("IHDA") and personally known to me to be the
same person whose name is subscribed to the foregoing instrument, appeared before me this day
in person and acknowledged that as such General Counsel, (s)he signed and delivered the said
instrument pursuant to authority, as his/her free and voluntary act, and as the free and voluntary
act and deed of IHDA, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13th day of February, 2002.

(SEAL)

Carolyn L. Lewis
Notary Public



Property of Cook County Clerk's Office

Seal

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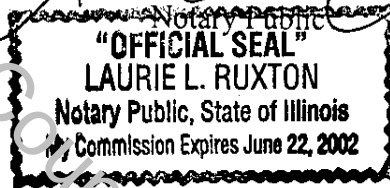
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that STEVEN A. MERKILL personally known to me to be the TREASURER of Investment Management Corporation (the "**General Partner**"), an Illinois corporation and sole general partner of Austin Mutual Limited Partnership (the "**Borrower**"), an Illinois limited partnership, and 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 as such TREASURER (C), he/she signed and delivered the said instrument pursuant to authority given by the Board of Directors of the General Partner, and as his/her free and voluntary act and deed and as the free and voluntary act and deed of the General Partner and the Borrower for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13th day of February, 2002.

(SEAL)



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EXHIBIT A

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Legal Description

PARCEL 1:

LOT 25 AND LOT 26 (EXCEPT THE WEST 11 FEET THEREOF) IN BRITIGANS HARRISON STREET AND CENTRAL AVENUE SUBDIVISION OF LOTS 141, 142, 143 AND 144 (EXCEPT STREET) IN SCHOOL TRUSTEE'S SUBDIVISION OF THE NORTHWEST 1/4 OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 1 IN JOHN J. LYON'S SUBDIVISION OF LOT 122 (EXCEPT THE NORTH 33 FEET) IN SCHOOL TRUSTEE'S SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE WEST 50 FEET OF THE EAST 445 FEET (EXCEPT THE NORTH 8 FEET THEREOF DEDICATED FOR A PUBLIC ALLEY) OF LOT 37 (EXCEPT THE PART TAKEN FOR STREET) IN SCHOOL TRUSTEE'S SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Addresses Commonly Known as:

5501-5503 West Congress Parkway, Chicago, Illinois.

5447-5453 West Quincy Street, Chicago, Illinois.

5040-5044 West Quincy Street, Chicago, Illinois.

PIN:

16-16-120-023 Vol. 564

16-16-110-001 Vol. 564

16-16-207-021 Vol. 565