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Cook County Recorder

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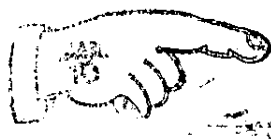
Property of Cook County Clerk's Office

This instrument prepared by  
and when recorded return to:

Adam R. Walker  
Assistant Corporation Counsel  
City of Chicago Department of Law  
121 North LaSalle Street, Room 600  
Chicago, Illinois 60602

### FIRST AMENDMENT TO FINANCING DOCUMENTS

This First Amendment to Financing Documents (this "Amendment") is made in Chicago, Illinois as of January 31, 2002, by and among the City of Chicago, an Illinois municipal corporation (the "City"), by and through its Department of Housing ("DOH"); LPSS Limited Partnership, an Illinois limited partnership (the "Borrower"); and Investment Management Corporation, an Illinois not for profit corporation ("IMC") and the general partner of the Borrower. The City, the Borrower and IMC are sometimes referred to herein as the "Parties."



Box 430

**RECITALS**

**WHEREAS**, the City made a loan of MULTI-Program funds in the amount of \$71,755 with a term of approximately 17 years and an interest rate of three percent per annum for the term (the "Loan") to Rezmar Corporation, an Illinois corporation ("Rezmar"), for certain pre-rehabilitation costs of a building located at 2358-60 East 70<sup>th</sup> Place, in Chicago, Illinois (the "Property"); and

**WHEREAS**, the City made the Loan to Rezmar on December 21, 1990, which was evidenced by, among other things, that certain Promissory Note dated December 21, 1990, made by Rezmar in favor of the City in the original principal amount of the Loan (the "Note"); and secured by that certain Mortgage, Assignment of Rents and Security Agreement dated December 21, 1990, made by Rezmar in favor of the City (the "Third Mortgage") and recorded in the office of the Cook County Recorder of Deeds on December 27, 1990 as Document No. 90624310; and

**WHEREAS**, on September 19, 1991, Rezmar, which had become the general partner of the Borrower, conveyed the Property, subject to the Third Mortgage, to Borrower by warranty deed, and also entered into an Addendum to the Note and Mortgage, Assignment of Rents and Security Agreement ("Addendum") with the City, which Addendum was dated September 19, 1991 and recorded in the office of the Cook County Recorder of Deeds on September 20, 1991 as Document No. 91490510; and

**WHEREAS**, the City subordinated the Third Mortgage to that certain Construction Loan Mortgage, Security Agreement and Assignment of Leases and Rents, dated September 19, 1991, securing a loan in the amount of \$581,250 (the "Old Senior Loan"), made by the Borrower in favor of Continental Community Development Corporation ("CCDC"), whose successor in interest is Bank of America, a national banking association, and also to that certain Junior Mortgage, dated September 19, 1991, securing a loan in the amount of \$500,000 (the "Junior Mortgage"), made by Borrower in favor of the Illinois Housing Development Authority ("IHDA"), which was evidenced by that certain Subordination Agreement dated September 19, 1991, made by the City in favor of CCDC and IHDA ("Subordination Agreement") and recorded in the office of the Cook County Recorder of Deeds on September 20, 1991 as Document No. 91490511; and

**WHEREAS**, the City and Borrower entered into a Regulatory Agreement for Multifamily Housing Projects ("Regulatory Agreement") on December 28, 1992, which was recorded in the office of the Cook County Recorder of Deeds on December 30, 1992 as Document No. 92983236 and re-recorded on December 31, 1992 as Document No. 92987341. The Note, the Third Mortgage, the Addendum, the Subordination Agreement and the Regulatory Agreement are collectively referred to as the "City Financing." All City Financing documents, and all other documents executed by the City, the Borrower and IMC in connection with the City Financing are sometimes collectively referred to herein as the "Financing Documents;" and

**WHEREAS**, IMC is the current general partner of the Borrower, having replaced Rezmar; and

**WHEREAS**, the operating income from the Property has been insufficient to make the annual payments of principal required under the terms of the Loan and the Borrower and IMC have requested that DOH approve a proposed restructuring of the Financing Documents; and

**WHEREAS**, as of January 31, 2002, the Borrower procured a loan ("New Senior Loan") in an amount not to exceed \$381,839 from IHDA (the "New Senior Lender") and, combined with Borrower equity in an amount not to exceed \$125,000, paid off the Old Senior Loan; and

**WHEREAS**, DOH proposes to restructure the Loan in a manner which (1) will not alter the principal amount of the Loan or alter the priority of the Third Mortgage, (2) will not alter the interest rate or the principal balance of the Loan, (3) will extend the maturity date of the Loan, and (4) will ratify IMC as the replacement general partner;

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

### **AGREEMENTS**

**Section 1.** The City, the Borrower, and IMC hereby agree that the Financing Documents are modified as follows:

the defined term "Maturity Date" in the Note is amended to mean: (i) the date, if any, on which all outstanding principal of and accrued and unpaid interest on the New Senior Loan to the Borrower, which is evidenced, among other things, by that certain Mortgage Note between the New Senior Lender and the Borrower executed on January 31, 2002, shall be due and payable in full; (ii) January 1, 2032; or (iii) the date as of which the principal of and interest on the Loan may become due and payable because of acceleration or prepayment as provided in any of the Loan Documents.

**Section 2.** Audited financial statements shall be provided by the Borrower to the City annually from the date hereof through and including the year of the Maturity Date, and shall be based upon an examination of the books and records of the Property, shall be conducted by an Illinois-licensed independent certified public accountant at the Borrower's expense, shall be prepared in accordance with the requirements of DOH, and shall be provided to DOH no later than April 1 of the following year.

**Section 3.** IMC is hereby ratified as the replacement general partner of the Borrower.

**Section 4.** Pursuant to Paragraph 9.4 of that certain Articles of Limited Partnership of LPSS Limited Partnership dated as of September 19, 1991 (the "Partnership Agreement") and as further specified in Exhibit D thereto, IMC may receive, for services rendered, a

partnership management fee and a monthly guaranty fee (together, the "Partnership Management Fee"). IMC agrees that it will waive any future Partnership Management Fee to which it may otherwise be entitled under the Partnership Agreement for the remainder of the term of the Loan or until the Loan is paid in full.

**Section 5.** Except as specifically modified by this Amendment, the Borrower and IMC each hereby represents, warrants and confirms to the City that:

**5.1.** All the Financing Documents and the obligations of the Borrower thereunder remain in full force and effect, are hereby ratified and confirmed, and may be enforced against the Borrower in accordance with their terms by the City against the Borrower or the Property;

**5.2.** All representations, warranties, certifications, statements, affidavits and other items heretofore made or furnished to the City by or on behalf of the Borrower in connection with the Financing Documents were true, accurate and complete as of the date made or furnished to the City, and continue to be true, accurate and complete as if furnished or made by or with respect to the Borrower as of the date hereof;

**5.3.** The Borrower and IMC acknowledge and warrant to the City that they claim no defense, right of offset or counterclaim against enforcement of the Financing Documents (as modified by this Amendment) and have no other claim against the City;

**5.4.** Any Event of Default under any of the Financing Documents will be or has been cured to the satisfaction of the City as of the date hereof; and

**5.5.** The execution, delivery and performance of this Amendment and the consummation of the transactions hereby contemplated will not conflict with any law, statute or regulation to which the Borrower, IMC or the Property is subject.

**Section 6.** The parties hereto acknowledge and agree that this Amendment does not constitute a novation of the existing indebtedness under the Loan, but is intended to be an amendment and modification of the Financing Documents. Except as amended hereby, the provisions of the Financing Documents remain in full force and effect and are hereby ratified and confirmed. The Third Mortgage shall continue to secure repayment of all amounts due under the Note as modified by this Amendment without loss of priority.

**Section 7.** The Borrower and IMC: (i) are represented by independent legal counsel of their respective choice in the transactions contemplated by this Amendment; (ii) are fully aware and clearly understand all the terms contained in this Amendment; (iii) have voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Amendment; (iv) are not relying on any representation, either written or oral, express or implied, made by the City other than as set forth in this Amendment; (v) on their own initiative have made proposals to the City, the terms of which are reflected by this Amendment; and (vi) have received actual and adequate consideration to enter into this Amendment.

**Section 8.** In the event of a conflict or inconsistency between the provisions of the Loan Agreement, the Note or any of the other Financing Documents and the provisions of this Amendment, the provisions of this Amendment shall govern and control.

**Section 9.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that the Borrower and IMC may not assign this Amendment or its rights and obligations under the Financing Documents without the prior written consent of the City.

**Section 10.** This Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute a single agreement.

**Section 11.** This Amendment shall be governed by and construed in accordance with the internal laws of the State of Illinois without regard to its conflict of laws principles.

**Section 12.** If any provision of this Amendment is determined by a court having jurisdiction to be illegal, invalid or unenforceable under any present or future law, the remainder of this Amendment will not be affected thereby. It is the intention of the parties that if any provision is so held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible that is legal, valid and enforceable.

**Section 13.** Neither this Amendment nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by all parties to this Amendment.

**Section 14.** No waiver of any action or default will be implied from the failure or delay by the City to take any action in respect of such action or default. No express waiver of any condition precedent or default will affect any other default or extend any period of time for performance other than as specified in such express waiver. One or more waivers of any default in the performance of any provision of this Amendment or of the Financing Documents will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any act or request by any party will not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act or request.

**Section 15.** The Borrower and IMC expressly agree that no member, official, employee or agent of the City shall be individually or personally liable to the Borrower or IMC or any of their successors or assigns, in the event of any default or breach by the City under this Amendment.

**Section 16.** This Amendment shall be recorded against the Property in the Office of the Cook County Recorder of Deeds at the expense of the Borrower.

*[The remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, the undersigned have executed this First Amendment to Financing Documents as of the date first written above.

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

By: [Signature]  
JOHN G. MARKOWSKI  
Commissioner

LPSS LIMITED PARTNERSHIP, an Illinois limited partnership,

INVESTMENT MANAGEMENT CORPORATION, an Illinois not for profit corporation

By: Investment Management Corporation, an Illinois not for profit corporation, and its sole general partner

By: Steven A. Merrill  
Name: Steven A. Merrill  
Its: Treasurer

By: Steven A. Merrill  
Name: Steven A. Merrill  
Its: Treasurer

The New Senior Lender hereby consents to the execution, delivery and performance by the Borrower of this Amendment to the Loan Documents.

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 2002



IN WITNESS WHEREOF, the undersigned have executed this First Amendment to Financing Documents as of the date first written above.

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

By: \_\_\_\_\_

\_\_\_\_\_ Commissioner

LPSS LIMITED PARTNERSHIP, an Illinois limited partnership,

INVESTMENT MANAGEMENT CORPORATION, an Illinois not for profit corporation

By: Investment Management Corporation, an Illinois not for profit corporation and its sole general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

The New Senior Lender hereby consents to the execution, delivery and performance by the Borrower of this Amendment to the Loan Documents.

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

By:   
Name: Mary H. Kenney  
Its: GENERAL COUNSEL

Dated: January 31, 2002

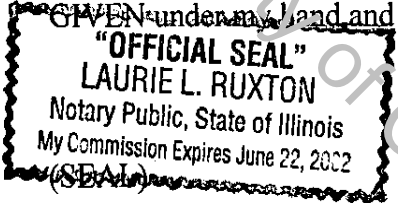
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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Steven A. Merrill, personally known to me to be the Treasurer of Investment Management Corporation (the "General Partner"), an Illinois not for profit corporation and sole general partner of LPSS 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, 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 31<sup>st</sup> day of January, 2002.



Laurie L. Ruxton  
Notary Public

Cook County Clerk's Office





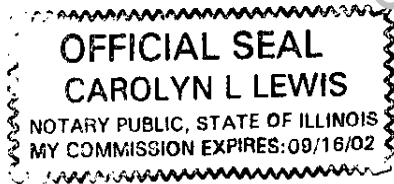
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a notary public in and for the County and State aforesaid, DO  
HEREBY CERTIFY THAT Mary H. Kenney, personally known to me to be the GENERAL COUNSEL  
the Illinois Housing Development Authority (the "New Senior Lender") 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 said New Senior Lender, for the uses and purposes therein set  
forth.

GIVEN under my hand and notarial seal this 31st day of January, 2002.

Carolyn L. Lewis  
Notary Public

(SEAL)



Property of Cook County Clerk's Office

EXHIBIT A

Legal Description

LOTS 13 AND 14 IN BLOCK 3 IN RESUBDIVISION OF BLOCKS 10 AND 11 AND PART OF BLOCK 12 IN SOUTH SHORE DIVISION NUMBER 5, A SUBDIVISION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. ✓

Address Commonly Known as:

2358-60 East 79<sup>th</sup> Place, Chicago, Illinois

PIN:

20-24-427-006 ✓

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