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Cook County Recorder 14.00

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Cook County Recorder 14.00



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**THIS INSTRUMENT PREPARED BY  
AND WHEN RECORDED RETURN TO:**

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

A:\Su Casa\Restructuring Agreement.3.wpd

**FIRST AMENDMENT TO LOAN DOCUMENTS**

This First Amendment to Loan Documents (this "Amendment") is made in Chicago, Illinois as of December 12, 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"); Su Casa Associates 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."

**RECITALS**

- A. The City programmed (i) funds from its Rental Rehabilitation Program, (ii) Community Development Block Grant funds for its Multi-Unit Rehabilitation Assistance Program, and (iii) Community Development Block Grant funds for its Supplemental Loan Rehabilitation Program (collectively, the "Program Financing") to provide financing to owners of rental properties containing five or more dwelling units in low- and moderate-income areas to rehabilitate said rental properties.
- B. The City Council, pursuant to ordinances enacted on (i) September 23, 1987, and published at pages 3886-3889 of the Journal of the Proceedings of the City Council (the "Journal of Proceedings") of that date, and (ii) December 9, 1987, and published at pages

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6554-6557 of the Journal of Proceedings of that date, authorized DOH to provide Program Financing to an entity listed as Peoples Housing for the rehabilitation of a building located at 1614-1622 West Jonquil Terrace, in Chicago, Illinois, as more fully described in Exhibit A (the "Property").

- C. The City made a loan in the amount of \$927,127 (the "Loan") to the Borrower on October 1, 1987. At the time of the making of the Loan, the general partner of the Borrower was Peoples Development Corporation, an Illinois corporation ("PDC"), which was a wholly owned subsidiary of Peoples Housing, an Illinois not-for-profit corporation.
- D. On May 15, 1995, IMC replaced PDC as the general partner of the Borrower. The City Council, pursuant to an ordinance enacted on January 14, 1997, and published at pages 36934-36935 of the Journal of Proceedings of that date, ratified and affirmed the replacement of PDC as the general partner of the Borrower with IMC.
- E. The Loan is evidenced by: (i) that certain Building Loan Agreement (the "Loan Agreement"), dated as of October 1, 1987, by and between Harris Trust and Savings Bank, an Illinois banking corporation (the "Bank"); and (ii) that certain Note dated October 1, 1987, made by the Borrower in favor of the City in the original principal amount of the Loan (the "Note"). The Note is secured by, among other things, that certain Junior Mortgage Assignment of Rents and Security Agreement, dated as of October 1, 1987, executed by the Borrower in favor of the City (the "Mortgage"), and recorded in the Office of the Cook County Recorder of Deeds on October 9, 1987 as Document No. 87551246. The Loan Agreement, the Mortgage, the Note, and any other documents executed in connection with the Loan are collectively referred to herein as the "Loan Documents."
- F. The Mortgage is subordinate to that certain Construction Loan Mortgage (the "Bank Mortgage"), dated as of October 1, 1987, securing a loan in the amount of \$368,000 (the "Bank Loan"), made by the Borrower in favor of the Bank and recorded in the Office of the Cook County Recorder of Deeds on October 9, 1987 as Document No. 87551244. The subordination of the Mortgage is evidenced by that certain Subordination Agreement between the City and Harris dated as of October 1, 1987 and recorded in the Office of the Cook County Recorder of Deeds on October 9, 1987 as Document No. 87551247.
- G. As of the Closing Date, the Borrower procured an Illinois Affordable Housing Trust Fund loan from IHDA in an amount not to exceed \$302,514 (the "IHDA Loan") to retire the Bank Loan. The Borrower has agreed to mortgage the Property in favor of IHDA to secure the IHDA Loan (the "IHDA Mortgage").
- H. The Bank has agreed to: (i) forgive a portion of the Bank Loan in an amount not to exceed \$7,543.18; and (ii) release the Bank Mortgage upon payment to the Bank in an amount not to exceed \$282,130.42 by the Borrower on the Closing Date stipulated by the

Bank and the Borrower to be in full satisfaction of the Bank Loan pursuant to that certain Payoff Letter executed by the Bank on December 3, 2002.

- I. The Borrower has met with certain financial difficulties in the operation of the Property and has requested that DOH approve a proposed restructuring of the Loan.
- J. The City Council, pursuant to an ordinance enacted on September 4, 2002, and published at pages 92199-92022 of the Journal of Proceedings, has approved a restructuring of the Loan in a manner which (1) will not alter the principal amount of the Loan, (2) will not alter the interest rate on the principal balance of the Loan, (3) will extend the maturity date of the Loan, (4) will alter the repayment terms of the Loan by deferring all principal and interest payments due under the Loan until the maturity of the Loan, (6) will waive late charges, and (7) will subordinate the Mortgage to the IHDA Mortgage.
- K. The aggregate amount of the due but unpaid principal and interest under the Loan as of December 11, 2002 was \$958,279.

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 Parties hereby agree that the aggregate amount of the due but unpaid principal and interest under the Loan as of December 11, 2002 was \$958,279.

Section 2. The City hereby ratifies IMC as general partner of the Borrower.

Section 3. The City, IMC and the Borrower agree that the Loan Documents are modified as follows:

3.1. This Amendment shall be included in the definition of the term "City Security Documents" as set forth in the Loan Agreement.

3.2. Commencing on the Closing Date, the repayment terms of the Loan Agreement and the Note shall be and are hereby amended to require that the Borrower repay the Loan as follows:

"The entire remaining principal balance, together with interest and unpaid interest thereon, and any other sums due under any of the Loan Documents, shall be due and payable in full on the earliest (the "Maturity Date") of: (i) the date, if any, on which all outstanding principal of and accrued and unpaid interest on that certain loan in an amount

not to exceed \$302,514 from IHDA to the Borrower evidenced, among other things, by that certain Mortgage Note between IHDA and the Borrower executed as of December 12, 2002, shall be due and payable in full; (ii) December 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.”

3.3. Commencing on the Closing Date, the term “General Partner” shall mean: “Investment Management Corporation, an Illinois not for profit organization.”

3.4. Commencing on the Closing Date, the default interest and late charge terms of the Loan under the Loan Documents shall be and are hereby amended to require:

“If any payment of principal or interest, if any, due under any of the Loan Documents, or any other charges due to the City as required under the Loan Documents, shall not be paid on the date such payment is due, the Borrower shall pay the City as liquidated damages and not as a penalty an additional "late charge" of 10 percent of such delinquent payment or the maximum permitted by law, whichever is less, in order to defray the increased cost of collection occasioned by any such late payments. Further, any such delinquent payments (not including interest payments) shall bear interest from and after the date due at the lesser of the rate of 10 percent per annum or the maximum rate permitted by law until so paid.”

Section 4.

4.1. Reviewed financial statements shall provided by the Borrower to the City, 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. At a minimum, the reviewed financial statements must include a balance sheet, statements of operations, statements of partner’s equity or deficit, statement of cash flow, notes to financial statements, and schedules of project operating expenses.

4.2. At the request of DOH, the Borrower shall provide to the City audited financial statements, which 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 90 days after the date DOH issues such request.

Section 5. The City agrees to waive any late charges incurred by the Borrower and due to the City under the terms of the Note, the Mortgage and/or the Loan Agreement prior to the Closing Date.

Section 6. Borrower agrees to fund a segregated replacement reserve account for the

purpose of funding project replacements and improvements in connection with the Property (the "Replacement Reserve") to the satisfaction of the City. Commencing on the first day of the month following the Closing Date, or such other earlier date as IHDA designates in writing to the Borrower, and on the first day of each month thereafter, the Borrower shall make deposits into the Replacement Reserve in the amount of one-twelfth (1/12<sup>th</sup>) of \$34,761.60 per calendar year, or such other sum as IHDA shall, from time to time, specify. The Replacement Reserve shall be under the control of IHDA or its designee.

Section 7. Except as specifically modified by this Amendment, the Borrower and IMC each hereby represents, warrants and confirms to the City that:

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

7.2. All representations, warranties, certifications, statements, affidavits and other items heretofore made or furnished to the City by or on behalf of the Borrower or IMC respectively, in connection with the Loan 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 and IMC as of the Closing Date;

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

7.4. Any Event of Default under any of the Loan Documents will be or has been cured to the satisfaction of the City as of the Closing Date; and

7.5. 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 8. 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 Loan Documents. Except as amended hereby, the provisions of the Loan Documents remain in full force and effect and are hereby ratified and confirmed. The Mortgage shall continue to secure repayment of all amounts due under the Note as modified by this Amendment without loss of priority.

Section 9. 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,



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

Section 11. 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 Loan Documents without the prior written consent of the City.

Section 12. 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 13. 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 14. 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 15. 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 16. 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 Loan 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 17. 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, IMC, or any of their successors or assigns, in the event of any default or breach by the City under this

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Amendment.

Section 18. 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  
and the signature page follows.]*

Property of Cook County Clerk's Office

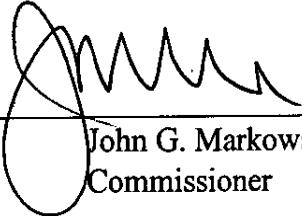
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IN WITNESS WHEREOF, the undersigned have executed this First Amendment to Loan Documents as of the date first written above.

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

By:

  
\_\_\_\_\_  
John G. Markowski  
Commissioner


SU CASA ASSOCIATES LIMITED PARTNERSHIP,  
an Illinois limited partnership,

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

By:

Name:

Its:

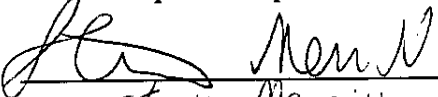
  
\_\_\_\_\_  
Steve Merrill  
\_\_\_\_\_  
Treasurer

INVESTMENT MANAGEMENT CORPORATION,  
an Illinois not for profit corporation

By:

Name:

Its:

  
\_\_\_\_\_  
Steve Merrill  
\_\_\_\_\_  
Treasurer

Property of Cook County Clerk's Office



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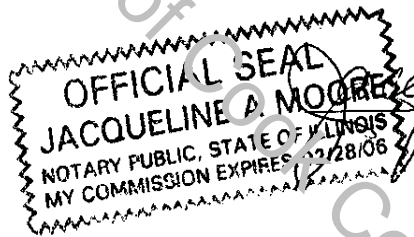
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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Steven Merrill, personally known to me to be the Treasurer of Investment Management Corporation (the "General Partner"), an Illinois corporation and sole general partner of South Hamlin Associates 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 on Dec. 12, 2002

(SEAL)



Jacqueline A. Moore  
Notary Public

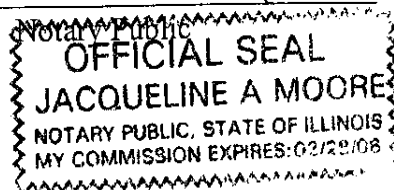
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Steven Merrill, personally known to me to be the Treasurer of Investment Management Corporation (the "Corporation"), 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 Corporation, and as his/her free and voluntary act and deed and as the free and voluntary act and deed of the Corporation and the Borrower for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal on December 12, 2002

(SEAL)

Jacqueline A. Moore



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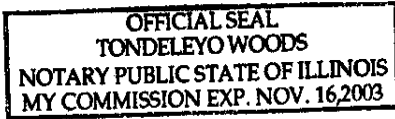
STATE OF ILLINOIS        )  
                                  ) SS        21397070  
COUNTY OF COOK        )

I, the undersigned, a notary public in and for the County and State aforesaid, do hereby certify that John G. Markowski, personally known to me to be the 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 12/4/02.

(SEAL)

Tondeley Woods  
Notary Public



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## EXHIBIT A

LEGAL DESCRIPTION

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PARCEL 1:

LOTS 11 AND 12 IN BLOCK 5 IN GUNDERSON'S NORTH BIRCHWOOD SUBDIVISION OF BLOCKS 4 TO 17 INCLUSIVE IN DAVID P. O'LEARY'S SUBDIVISION OF PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 8, 1913 AS DOCUMENT NO. 5180393, IN COOK COUNTY, ILLINOIS. ✓

Addresses Commonly Known as: 1614-1622 West Jonquil Terrace, Chicago, Illinois.

PIN: 11-30-217-011-0000 ✓

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