



Doc#: 0419034016  
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Date: 07/08/2004 10:04 AM Pg: 1 of 30

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**THIS DOCUMENT WAS  
PREPARED BY AND AFTER  
RECORDING RETURN TO:**

Illinois Housing Development Authority  
401 North Michigan Avenue, Suite 900  
Chicago, Illinois 60611  
Attn: Matt Rangel  
Multifamily Department

Property Address:  
Scattered Sites  
Garfield, Chicago, IL

Property Identification No(s):

**LOW INCOME HOUSING TAX CREDIT EXTENDED USE AGREEMENT**

**Project Summary**

Project Owner:	Liberty Square Limited Partnership
Project Owner's Address:	406 E. 41 <sup>st</sup> Street, Suite 101 Chicago, IL 60653
Project Name:	Liberty Square
Project Address:	Scattered Sites Garfield, Chicago, IL
IHDA Tax Credit No.:	TC-1500-03
Additional IHDA Project No.:	N/A
Project Unit Count:	51/57 (Number of Low Income Units/ Total Number of Units in the Project)
Minimum Low Income Set-Aside Election:	At least 40% of the units in the Project must be occupied by Tenants at or below 60% of Area Median Gross Income and Rent-Restricted in accordance with such income level.
Minimum Applicable Fraction for Project:	At least 89.0198%

**THIS LOW INCOME HOUSING TAX CREDIT EXTENDED USE AGREEMENT** (this "Agreement") is entered into on the 1<sup>st</sup> day of JULY, 2004, by and between **ILLINOIS HOUSING DEVELOPMENT AUTHORITY** (the "IHDA"), a body politic and corporate established pursuant to the Illinois Housing Development Act, ILCS 3805/1 *et seq.*, as amended from time to time (the "Act") with its principal offices located at 401 North Michigan Avenue, Suite 900, Chicago, Illinois 60611, and the project owner, (the "Owner"), with its principal offices located at the office referred to above in the Project Summary.

BOX 430

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## RECITALS

(1) The Owner is the holder of legal title of certain real property upon which a qualified low income housing development is erected, or to be erected, with the common address set forth above in the Project Summary, and legally described on **Exhibit A** attached hereto.

(2) The IHDA has been designated by Section 7.24g of the Act as the housing credit agency for the State of Illinois for the allocation of low income housing tax credit authority ("Tax Credit Authority") pursuant to Section 42 of the Code (as hereinafter defined).

(3) The Owner has applied to the IHDA for an allocation of Tax Credit Authority in connection with the Project, and has represented to the IHDA in its Application (as hereinafter defined) that it will lease at least the minimum percentage of Units (as hereinafter defined) and residential floor space in the Project to Qualifying Tenants (as hereinafter defined) such that the Minimum Applicable Fraction for the Project shall be as set forth above in the Project Summary.

(4) As a condition precedent to the allocation of Tax Credit Authority, the Owner must enter into an extended low income housing commitment, as provided in Section 42 of the Code, to be recorded in the Office of the Recorder of Deeds in the county in which the Project is located in order to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code by regulating and restricting the use, occupancy and transfer of the Project.

(5) The Owner under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project shall be and are covenants running with the Project land for the Compliance Period and Extended Use Period (as hereinafter defined), are binding upon all subsequent owners and operators of the Project during such Compliance Period and Extended Use Period, and are not merely personal covenants of the Owner.

In consideration of the mutual promises set forth below, and other good and valuable consideration, the Owner and the IHDA agree as follows:

### **A. Definitions.**

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the following meanings:

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“Agreement” means this Low Income Housing Tax Credit Extended Use Agreement between the IHDA and the Owner.

“Applicable Fraction” means the smaller of the Unit Fraction (as hereinafter defined) or the Floor Space Fraction (as hereinafter defined), all calculated in accordance with Section 42(c)(1) of the Code.

“Application” means the application the Owner submitted to the IHDA in connection with the reservation, carryover allocation or allocation of Tax Credit Authority.

“Area Median Gross Income” means the median gross income of the area in which the Project is located as determined by the Secretary (as hereinafter defined) for purposes of Section 42 of the Code, including adjustments for family size.

“Assumption Agreement” means that certain agreement defined in Section F of this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and where appropriate, regulations and revenue rulings promulgated pursuant thereto.

“Compliance Period” (notwithstanding Section 42(i)(1) of the Code) means the period of 15 consecutive taxable years beginning with the first taxable year of the Credit Period, unless otherwise indicated in **Appendix A** hereto or unless terminated earlier in accordance with Section D hereof.

“Credit Period” means, with respect to any building in the Project, the period of ten taxable years beginning with the taxable year in which such building is placed in service or (at the election of the Owner) the following taxable year.

“Extended Use Period” means the period beginning with the first day of the Compliance Period and ending on the date which is 15 years after the end of the Compliance Period, unless otherwise indicated in **Appendix A** hereto or unless terminated earlier in accordance with Section D hereof.

“Floor Space Fraction” means the fraction, the numerator of which is the total floor space of the Low Income Units in a building and the denominator of which is the total floor space of the Units in such building.

“Gross Rent” means all amounts paid by a Tenant for rent, determined in a manner consistent with Section 42(g)(2) of the Code. If the Tenant pays utilities directly, Gross Rent shall include any utility allowance prescribed by the Secretary.

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“Income” means the income of a tenant in the Project determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code.

“Low Income” means, with respect to any tenant in the Project, an income level not exceeding 50% or 60% of Area Median Gross Income, as applicable to the Project pursuant to the Minimum Low Income Set-Aside Election set forth above in the Project Summary, or, in context, such alternative income level as may be set forth in **Appendix A**.

“Low Income Unit” means a Unit in the Project that is occupied by (or, pursuant to the Code, treated as occupied by) a Qualifying Tenant, is Rent-Restricted and meets the other requirements of Section 42 of the Code, in particular, Section 42(i)(3).

“Minimum Applicable Fraction” means the proportion of the Project, measured by calculation of the Applicable Fraction in accordance with Section 42 of the Code, which is required to be occupied by Qualified Tenants, as set forth above in the Project Summary.

“Minimum Low Income Set-Aside Election” means the minimum number of Units in the Project required to be Low Income Units for purposes of determining the income level for Qualifying Tenants, which Minimum Low Income Set-Aside Election for this Project is 20% or 40% of the Units, as set forth above in the Project Summary.

“Occupancy Restrictions” means those restrictions set forth in Section C(1) of this Agreement.

“Project” means the residential rental housing project identified above in the Project Summary.

“Qualified Low Income Housing Project” means a residential rental project meeting the requirements of Section 42 of the Code.

“Qualifying Tenants” means individuals or families whose income is less than or equal to the percentage of Area Median Gross Income (including adjustments for family size), as applicable to the Project pursuant to the Minimum Low Income Set-Aside Election set forth above in the Project Summary, as determined in accordance with Section 42. Individuals or families meeting this requirement shall be referred to herein as “Qualifying Tenants”. For so long as a tenant, which had been determined to be a Qualifying Tenant, occupies the particular Unit, the tenant will remain a Qualifying Tenant if the tenant's income, upon the most recent income certification, does not exceed 140% of the applicable Low Income limit.

“Regulations” means those regulations promulgated pursuant to the Code.

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“Rent-Restricted” means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than 30% of the imputed income limitation applicable to such Unit pursuant to Section 42(g)(2)(C) of the Code, as modified by **Appendix A**, if applicable.

“Secretary” means the Secretary of the Treasury of the United States.

“Section 42” means Section 42 of the Code.

“Service” means the United States Internal Revenue Service and any successor thereto.

“Tax Credits” means the low income housing tax credits for which owners of a Qualified Low Income Housing Project may qualify pursuant to Section 42 of the Code.

“Tax Credit Authority” means the maximum amount of Tax Credits which, pursuant to an allocation by the IHDA under Section 42(h)(1) of the Code, may be received by the owner of a Qualified Low Income Housing Project in any one year.

“Term” shall have the meaning set forth in Section D of this Agreement.

“Unit” means any residential rental unit in the Project consisting of an accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation; provided, however, that single room occupancy units used on a nontransient basis may be treated as Units.

“Unit Fraction” means the fraction, the numerator of which is the total number of Low Income Units in a building and the denominator of which is the total number of Units in such building.

## **B. Representations and Warranties of the Owner.**

The Owner hereby makes the following representations and warranties to induce the IHDA to enter into this Agreement:

(1) The Owner (i) is duly organized and validly existing under the laws of the state in which the partnership was formed, and is qualified to transact business under the laws of the State of Illinois, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted (and as now contemplated by this Agreement) and (iii) has the full legal right, power and authority to execute and deliver this Agreement and to perform all the undertakings of the Owner hereunder.

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(2) The execution and performance of this Agreement by the Owner (a) will not violate or, as applicable, have not violated, any provision of law, rule or regulation, or any order of any court or other agency or governmental body; (b) will not violate or, as applicable, have not violated, any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Owner is a party or by which it or the Project is bound; and (c) will not result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature.

(3) The Owner has, as of the date of execution, recordation and delivery of this Agreement, good and marketable title to the real estate legally described in **Exhibit A** free and clear of any lien or encumbrance, except those created by any loan documents relating to the Project, those which are created pursuant to this Agreement and those which are otherwise permitted encumbrances.

(4) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement), or would materially adversely affect its financial condition.

(5) The Project constitutes or will constitute a Qualified Low Income Housing Project, as defined in Section 42, within and throughout the time period required under this Agreement and Section 42.

(6) Each Unit in the Project contains, or will contain, complete facilities for living, sleeping, eating, cooking and sanitation, which are to be used on other than a transient basis as provided in Section 42(i)(3) of the Code (unless the Project qualifies as a single-room occupancy project or transitional housing for the homeless).

(7) During the term of this Agreement, all Low Income Units shall be leased and rented or made available to members of the general public who qualify as Qualifying Tenants (or otherwise qualify for occupancy of the Low Income Units).

(8) Upon completion of the rehabilitation or construction of the Project, and during the remainder of the term of this Agreement, the Owner represents, warrants and agrees that each Low Income Unit will be and will remain suitable for occupancy taking into account local, health, safety and building codes.

(9) Upon completion of the rehabilitation or construction of the Project, the Owner will not demolish any part of the Project, or substantially subtract from any real or

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personal property of the Project or permit the use of any residential rental Unit for any purpose other than rental housing during the term of this Agreement, unless required by law.

(10) The Owner represents, warrants and agrees that if the Project, or any part of it, is damaged or destroyed or is condemned or acquired for public use, the Owner will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement.

(11) The Owner represents and warrants that it has not and will not execute any other agreements with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

(12) The Owner agrees, warrants, and covenants to comply with all applicable laws, ordinances, statutes, codes, orders, rules, regulations and decrees of any governmental authority, including, without limitation, the following: Section 42, the Act and Rules promulgated under the Act, as amended from time to time; the Civil Rights Act of 1964 (42 U.S.C. 2000(d)); Executive Order 11-63, as amended by Executive Order 12259; Executive Order 11246; Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.); Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); Fair Housing Act (42 U.S.C. 3601 et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.); Section 3 of the Housing and Urban Development Act of 1968; Executive Orders 12425, 12432 and 12138, as amended; the Copeland Anti-Kickback" Act (18 U.S.C. 874 et seq.); the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4201 et seq.); the Housing and Community Development Act of 1974; the National Environmental Policy Act (42 U.S.C. 4321 et seq.); ("NEPA "); the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822 et seq.); and such governmental requirements as may be from time to time amended or superseded and all of their implementing regulations, as may be amended.

## C. Occupancy Restrictions.

(1) At least the percentage of Units and percentage of floor space in the Project (and in each building in the Project, as applicable) needed to support the Minimum Applicable Fraction, as set forth above in the Project Summary, shall be both Rent-Restricted and occupied (or treated as occupied as provided herein) by Qualifying Tenants, as determined in accordance with Section 42 and the Regulations. The Owner shall make the determination of whether an individual or family is a Qualifying Tenant at least annually on the basis of the current income of such Qualifying Tenant(s). Any Unit occupied by an individual or family

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who is a Qualifying Tenant at the commencement of occupancy shall continue to be treated as if occupied by a Qualifying Tenant, provided that should such Qualifying Tenant's income subsequently exceed one hundred forty percent (140%) of the applicable income limit, such tenant shall no longer be a Qualifying Tenant if, after such determination of income, but prior to the next determination, any residential Unit of comparable or smaller size in the building is rented to a tenant who is not a Qualifying Tenant. If a tenant ceases to be a Qualifying Tenant, the Owner shall take such steps as may be necessary to ensure that the Project meets the Minimum Applicable Fraction. A Low Income Unit that has been vacated will continue to be treated as a Low Income Unit, provided that (i) reasonable attempts are made to rent the Unit and (ii) no other Units of comparable or smaller size in the Project are rented to persons who are not Qualifying Tenants. In no case will a Unit be treated as a Low Income Unit if all the tenants of the Unit are students (as determined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint income tax return; provided, however, that such rule shall not apply to the types of students identified at Section 42(i)(3)(D) of the Code.

(2) The Owner shall require each individual or family that is intended to be a Qualifying Tenant (i) to sign and deliver an income certification form prior to occupancy of a Low Income Unit in the Project, (ii) to sign and deliver such income certification form at least annually so long as such individual or family remains a tenant in the Project, and (iii) to provide appropriate documentation to support each such certification in accordance with the Regulations and in accordance with the requirements of the IHDA, as such may be modified from time to time. The Owner shall be responsible for assuring that each tenant's income certifications and documentation satisfy the Regulations and the requirements of the IHDA. The Owner shall retain the income certification forms and supporting documentation for all Qualifying Tenants for a period of five years, or such other period as may be specified in Section 42 and/or the Regulations.

(3) The amount of Tax Credit Authority allocated to the Project is based upon the requirement that the Applicable Fraction for buildings in the Project will be at least the Minimum Applicable Fraction set forth above in the Project Summary, and as specified, building-by-building. The Owner's failure to ensure that each building in the Project complies with such requirement will cause the IHDA (i) to report such fact to the Service, which may result in the reduction and recapture by the Service of Tax Credits, and (ii) to take other appropriate enforcement action.

(4) The Project and the Owner are subject to the additional and/or modified requirements, if any, set forth at **Appendix A**, which requirements are incorporated herein and made a part hereof.



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## D. Term of Restrictions.

(1) **Term.** This Agreement shall become effective with respect to a building in the Project on the first day of the Compliance Period for such building and shall terminate on the last day of the Extended Use Period, unless this Agreement is earlier terminated pursuant to Sections D(2), D(3) or D(4) below (the "Term").

(2) **Involuntary Non-Compliance.** This Agreement and the Occupancy Restrictions shall cease to apply in the event of an involuntary noncompliance caused by unforeseen events such as fire or other casualty loss, seizure, requisition, condemnation or a change in federal law or an action of a federal agency after the date of final allocation of Tax Credit Authority to the Project that prevents the IHDA from enforcing the requirements of this Agreement; provided that if insurance proceeds, condemnation awards or other amounts received as a result of any such loss, destruction or other event are used to restore the Project, the Occupancy Restrictions shall continue to apply.

(3) **Foreclosure.** This Agreement and the Occupancy Restrictions shall cease to apply in the event of a foreclosure, transfer of title by deed in lieu of foreclosure or similar event, unless (a) at any time subsequent to such event, and during the Term hereof, the Owner or a related person (as defined in the Code) obtains an ownership interest in the Project for federal tax purposes, or (b) the Service determines that such foreclosure, transfer of title by deed-in-lieu of foreclosure or similar event has occurred pursuant to an arrangement between the Owner and any lender(s) or any other party, a purpose of which is to terminate the Occupancy Restrictions.

(4) **Qualified Contract.** This Agreement and the Occupancy Restrictions shall cease to apply if, following the end of the Compliance Period, the Owner has properly requested the IHDA's assistance in procuring a "Qualified Contract", as defined in the Code, for the acquisition of a building, and the IHDA is unable to present a Qualified Contract. To properly request the IHDA's assistance in procuring a Qualified Contract for the acquisition of a building, the Owner must submit a written request to the IHDA no earlier than one year prior to the expiration of the Compliance Period, or in any year during the Extended Use Period, if applicable. The IHDA will have one year from the date of receipt of the Owner's written request to find a buyer to acquire the Owner's interest in the building. The IHDA will attempt to procure a Qualified Contract for the acquisition of any building only once during the Extended Use Period. This section does not apply to Projects with a Compliance Period of 30 or more years.

(5) **Occupancy Restrictions.** If this Agreement is terminated pursuant to subsections (3) or (4) above, the Qualifying Tenant of any Low Income Unit on the date of such termination shall be entitled to occupy such Unit, except for eviction for good cause, in

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accordance with the provisions of this Agreement for a period of three years following such termination date.

## E. Records and Enforcement.

(1) During normal business hours and upon reasonable notice, the Owner shall permit any duly authorized representative of the IHDA to inspect all books and records of the Owner with respect to the Project's compliance with the Occupancy Restrictions and the requirements of Section 42.

(2) The Owner and the IHDA each acknowledges that the primary purpose for requiring that the Owner comply with the Occupancy Restrictions is to assure that the Owner and the Project are in compliance with Section 42 and the Regulations, AND FOR THAT REASON THE OWNER, IN CONSIDERATION FOR RECEIVING TAX CREDIT AUTHORITY FOR THE PROJECT, AGREES AND CONSENTS THAT THE IHDA AND ANY QUALIFYING TENANT (WHETHER PROSPECTIVE, PRESENT OR FORMER), SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN A STATE COURT OF COMPETENT JURISDICTION. The Owner further specifically acknowledges that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

(3) The Owner agrees that the representations and covenants set forth in this Agreement may be relied upon by the IHDA and all persons interested in the compliance of the Project with the provisions of Section 42 and the Regulations. The Owner further agrees that all such representations and covenants represent ongoing and continuing requirements, and that the Owner will give notice to the IHDA, in accordance with Section N hereof, in the event of any change in the facts or circumstances upon which any such representations and covenants are based.

(4) The Owner acknowledges that the IHDA is required pursuant to Section 42(m)(1)(B)(iii) of the Code, (i) to monitor the Owner's and the Project's compliance with the requirements of Section 42 and (ii) to notify the Service of any noncompliance which is found. The Owner agrees that it will take any and all actions reasonably necessary and required by the IHDA (I) to substantiate the Owner's compliance with the Occupancy Restrictions and the requirements of Section 42 and (II) to allow the IHDA to monitor such compliance.

(5) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42, the Act or this

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Agreement. Any violation of Section 42, the Act or this Agreement may constitute or warrant the filing of IRS Form 8823 with the Service. Moreover, the Owner covenants to take any lawful action (including amendment of this Agreement) as may be necessary, in the opinion of the IHDA, to comply fully with the Code and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury, the Service, or the United States Department of Housing and Urban Development, from time to time, pertaining to the Owner's obligations under Section 42 and affecting the Project.

(6) The Owner agrees that the IHDA may, at any time during the construction, rehabilitation or operation of the Project, enter and inspect the Project to evaluate its physical and financial condition, construction, rehabilitation, operation, management and maintenance.

(7) The Owner agrees that the IHDA may at any time order it and/or its managing agent or Project manager to do whatever is necessary to comply with or refrain from violating an applicable law, ordinance, IHDA rule, or term of an agreement regarding the Project, and that the IHDA may file and prosecute a complaint against a managing agent, Project manager, or the Owner for a violation of any applicable law or ordinance.

(8) Upon a determination by the IHDA that the Owner has failed to comply with the Occupancy Restrictions or to maintain the Project in good and habitable condition and suitable for occupancy as hereinabove required, the Owner agrees to correct any cited noncompliance or to supply any missing certifications within 90 days of receipt of notice of noncompliance from the IHDA; provided that the IHDA, in its sole discretion, (i) may extend the correction period for up to six months if it determines that good cause exists for granting such extension and (ii) may provide such other period for correction, whether shorter or longer, as is (a) permissible under the law and (b) appropriate, in the IHDA's determination, to the circumstances.

(9) The Owner agrees to indemnify and hold harmless the IHDA, its members, officers, agents and employees from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by the IHDA as a result of any inaccuracy in any of the representations and warranties contained in this Agreement, or as a result of any action by the Owner, including claims by third parties.

(10) The Owner agrees that should any claims, demands, suits or other legal proceedings be made or instituted by any person against the IHDA which arise out of any of the matters relating to this Agreement, the Owner will cooperate fully with the IHDA in the defense or other disposition thereof.

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(11) In order to compensate the IHDA for its responsibilities pursuant to Section 42(m)(1)(B)(iii) of the Code, the Owner agrees to pay to the IHDA an annual compliance monitoring fee in an amount which shall be determined by the IHDA from time to time. Such fee must be paid and sent to the IHDA lock box at the time that compliance monitoring information is supplied to the IHDA, unless the IHDA shall direct an alternative means or time for payment.

## **F. Transfer Restrictions.**

The Owner agrees to notify the IHDA in writing prior to any sale, transfer or exchange of the entire Project, or of any low income portion of the Project, and to provide to the IHDA with the name(s), address(es) and any other information requested by the IHDA of any prospective successor owner and operator of the Project or building. The Owner agrees that (i) it will not dispose of any portion of a building in the Project unless the individual or entity that acquires such portion also acquires the entire building in which such portion is located and (ii) the transferee of the Project shall assume in writing, in a form of Assumption Agreement acceptable to the IHDA, this Agreement and all duties and obligations of the Owner under this Agreement, Section 42 and the Regulations. The Owner shall have such Assumption Agreement recorded in the Office of the Recorder of Deeds in the county in which the Project is located and deliver a copy of such recorded Assumption Agreement, certified by the Recorder of Deeds, to the IHDA prior to the Transfer. The Owner agrees that the IHDA may void any sale, transfer or exchange of the Project if the buyer or successor or other person fails to assume in writing the requirements of this Agreement, Section 42 and the Regulations. This provision shall not act to waive any other restriction on sale, transfer or exchange of the Project or any building in the Project. Notwithstanding the requirement of an Assumption Agreement, and regardless of whether any such Assumption Agreement shall be executed, the requirements of this Agreement are, and shall only be interpreted to be, covenants running with the Project, encumbering the Project for the term of this Agreement, and binding upon the Owner's successors in title and all subsequent owners and operators of the Project.

## **G. Tenant Selection.**

The Owner shall not, in the selection of Qualifying Tenants, in the provision of services or in any other matter relating to the construction, rehabilitation or operation of the Project, discriminate against any person on the basis of race, creed, religion, color, sex, sexual orientation, age, handicap, marital status, family status, national origin or unfavorable military discharge, or because the tenant is receiving governmental assistance, which includes, but is not limited to, vouchers or certificates of eligibility under Section 8 of the United States Housing Act of 1937.

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## H. Covenants Run With the Land; Successors Bound.

(1) Upon execution and delivery of this Agreement, the Owner shall cause this Agreement and all amendments hereto to be recorded and filed in the Office of the Recorder of Deeds of the county in which the Project is located, and shall pay all fees and charges incurred in connection therewith. All liens on this real property upon which the Project is located must be subordinate to this Agreement. The Owner shall ensure that this Agreement is recorded prior to any and all loan documents used in connection with the financing for the Project. Upon recording, the Owner shall immediately transmit to the IHDA an executed original of the recorded Agreement showing the date and recording number of record. The Owner agrees that the IHDA shall not be required to issue IRS Form(s) 8609 for the building(s) constituting the Project, unless and until the IHDA has received the properly recorded, executed original of this Agreement.

(2) The Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Project during the term of this Agreement, that this Agreement and the covenants and restrictions set forth herein regulating and restricting the use, occupancy and transfer of the Project (i) shall be and are covenants running with the Project, encumbering the Project for the term of this Agreement, and binding upon the Owner's successors in title and all subsequent owners and operators of the Project; (ii) are not merely personal covenants of the Owner; and (iii) shall bind the Owner (and the benefits shall inure to the IHDA and any past, present or prospective Qualifying Tenant) and its respective successors and assigns during the term of this Agreement. For the longer of (I) the period during which the Tax Credits are claimed and (II) the Term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project, or portion of it, shall expressly provide that such conveyance is subject to this Agreement; provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project, or portion of it, provides that such conveyance is subject to this Agreement.

## I. Notification of Noncompliance.

The Owner agrees to notify the IHDA or its designee if there is a determination by the Service that the Project is not a "Qualified Low Income Housing Project." Notification to the IHDA shall be made within ten business days of receipt of any such determination.

## J. No Conflicting Agreements.

The Owner warrants that it is not bound by and will not execute any other agreement with provisions that bind it to violate the provisions of this Agreement.

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## K. Interpretation.

Any terms not defined in this Agreement shall have the same meaning as terms defined in Section 42 and the Regulations. In the event of any conflict between this Agreement and Section 42 and/or the Regulations, Section 42 and/or the Regulations shall control. The IHDA's interpretation of this Agreement shall be controlling for purposes of determining whether (i) the Compliance Period or the Extended Use Period shall have commenced, (ii) this Agreement shall have been terminated in accordance with Section D hereof, and (iii) the Additional Use Restrictions indicated in **Appendix A** hereto, if any, shall have been complied with.

## L. Amendment.

This Agreement may only be amended with the prior written approval of the IHDA to reflect changes in the Act, Section 42 and/or the Regulations and any revenue ruling promulgated thereunder, and any such amendment shall be recorded in the Office of the Recorder of Deeds in the county in which the Project is located. The Owner expressly agrees to enter into all amendments to this Agreement that, in the opinion of counsel to the IHDA, are reasonably necessary or desirable for maintaining the compliance of the Project under Section 42 and the Regulations.

## M. Severability.

The invalidity of any clause, part or provision of this Agreement shall not affect the validity of its remaining portions.

## N. Notices.

Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder shall be given in writing (at the addresses set forth below) by any of the following means: (a) personal service; (b) registered or certified United States mail, postage prepaid, return receipt requested; or (c) overnight courier.

Authority: Illinois Housing Development Authority  
401 North Michigan Avenue, Suite 900  
Chicago, Illinois 60611  
Attn: Matt Rangel, Multifamily Department

Owner: The address set forth above in the Project Summary

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Such addresses may be changed by notice to the other parties given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to subsection (a) shall be served and effective upon such personal service. Any notice, demand, request or other communication sent pursuant to subsection (b) shall be served and effective upon proper deposit with the United States Postal Service. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective upon deposit with the overnight courier.

## **O. Governing Law.**

This agreement shall be governed by the internal laws of the State of Illinois and, where applicable, the laws of the United States of America.

## **P. Project Decertification.**

Notwithstanding anything in this Agreement to the contrary, if the Owner fails to comply fully with Section 42, the covenants and agreements contained herein and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury, the Service or the IHDA, from time to time, pertaining to the obligations of the Owner, the IHDA may, in addition to all of the remedies described above or provided by law or in equity, request the Service to decertify the Project for Tax Credits and to immediately commence recapture of the Tax Credits previously allocated to the Project. In such circumstances, if it shall be permissible under Section 42, the IHDA may treat the Tax Credit Authority associated with the Project as "returned credit" under Section 42 and the Regulations.

## **Q. Survival of Obligations.**

The obligations of the Owner as set forth herein and in the Application shall survive the allocation of the Tax Credits, and shall not be deemed to terminate or merge with the awarding of such allocation.

## **R. Counterparts.**

This Agreement may be executed in counterparts, and each counterpart shall, for all purposes for which an original of this Agreement must be produced or exhibited, be the Agreement but all such counterparts shall constitute one and the same instrument.

## **S. HUD Rider Incorporated.**

The document entitled "HUD-Required Provisions Rider" attached hereto is hereby incorporated into this agreement as if fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives, as of the day and year set forth above.

**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

By: [Signature]  
Charlotte Flickinger, Director  
Tax Credit Department

**OWNER:**

Liberty Square Limited Partnership,  
an Illinois limited partnership

By: Bonheur Corporation,  
an Illinois corporation  
Its General Partner (49% Interest)

By: [Signature]  
Printed Name: Fred L. Bonheur  
Its: President  
Title

By: H.I.C.A., Inc.,  
an Illinois corporation  
Its General Partner (51% Interest)

By: [Signature]  
Printed Name: Lee B. Baker  
Its: President  
Title



**UNOFFICIAL COPY**

STATE OF ILLINOIS                    )  
   ) SS  
 COUNTY OF COOK                    )

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Charlotte Flickinger, personally known to me to be the Director of the Tax Credit Department of **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**, 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 she signed and delivered the said instrument in her capacity as Director of the Tax Credit Department of **ILLINOIS HOUSING DEVELOPMENT AUTHORITY** as her free and voluntary act and deed and as the free and voluntary act and deed of **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**, for the uses and purposes therein set forth.

Given under my hand and official seal this 7 day of July, 2004.

Deirdre M. Kenny  
 Notary Public



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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, certify that Fred Bonner, personally known to me to be the President of Bonheur Corporation 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/she signed and delivered the said instrument in his/her capacity as President of Bonheur Corporation as his/her free and voluntary act and deed and as the free and voluntary act and deed of Bonheur Corporation, as the general partner of Liberty Square Limited Partnership, for the uses and purposes therein set forth.

Given under my hand and official seal this 30<sup>th</sup> day of June, 2004 *JB*

Jamie Bronzal  
Notary Public

Property of Cook County Clerk's Office

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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, certify that Lee E Baker, personally known to me to be the President of H.I.C.A., Inc. 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/she signed and delivered the said instrument in his/her capacity as President of H.I.C.A., Inc. as his/her free and voluntary act and deed and as the free and voluntary act and deed of H.I.C.A., Inc., as the general partner of Liberty Square Limited Partnership, for the uses and purposes therein set forth.

Given under my hand and official seal this 30th day of June, 2005. *HJ*

Janice Brongel  
Notary Public



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## APPENDIX A

### ADDITIONAL USE RESTRICTIONS

(Check each item which applies.)

1.  **Additional Occupancy and Rent Restrictions/Lowest Income Tenant Election**

At least twenty percent (20%) or more of the Units in the Project must be Rent Restricted and occupied by Qualifying Tenants at or below 40% of Area Median Gross Income.

**HOME - Funded Project**

Forty percent (40%) of the Units in the Project must be Rent Restricted and occupied by Qualifying Tenants at or below fifty percent (50%) of the Area Median Gross Income. Additional Occupancy and Rent Restrictions as referenced above (if applicable) may count toward meeting this requirement.

2.  **Longer Compliance Period and Extended Use Period**

The Compliance Period shall be a period of 15 consecutive taxable years and the Extended Use Period shall be a period of 40 consecutive taxable years.

3.  **Material Participation by Qualified Nonprofit Organization**

Throughout the Compliance Period and the Extended Use Period, an Illinois-domiciled "qualified nonprofit organization" within the meaning of Section 42(h)(5)(C) of the Code shall own an interest in the Project and shall materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Project.

4.  **Special Needs Population**

The Owner will reserve at least 20% of the Units in the Project for Qualifying Tenants who are (i) homeless or displaced individuals, (ii) persons with physical, mental or developmental disabilities, (iii) persons who are chronically

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unemployed, if the Owner intends to provide appropriate employment services to such persons, or (iv) persons with other special needs, as approved by the IHDA.

5.        **Accessible and Adaptable Housing**

At least five percent (5%) of the Units in the Project will be constructed as “accessible” and an additional fifteen percent (15%) of the Units in the Project will be constructed as “adaptable”, as these terms are defined in the Illinois Accessibility Code (71 Ill. Adm. Code 400 et seq.), for the physically disabled in accordance with the Application and any supporting documentation submitted with the Application. Requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) must be met. The proportion of “accessible” and “adaptable” Units which must be constructed for Qualifying Tenants must be consistent with the Project’s Applicable Fraction.

6.        **Supportive Housing / Assisted Living Facility**

The Owner will reserve one hundred percent (100%) of the Units in the Project for the frail elderly or for Qualifying Tenants who are (i) homeless or displaced individuals, (ii) persons with physical, mental or developmental disabilities, (iii) persons who are chronically unemployed, if the Owner intends to provide appropriate employment services to such persons, or (iv) persons with other special needs, as approved by the IHDA.

7.   X   **Families with Children**

At least twenty percent (20%) of Units in the Project will contain three or more bedrooms targeted to Qualifying Tenants who are Low Income families.

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## EXHIBIT A

### PARCEL 1: (SITE 1)

LOTS 7 (EXCEPT THAT PART TAKEN FOR STREET), ALL OF LOT 8 AND THE NORTH 25 FEET OF LOT 9 IN THE SUBDIVISION OF THE WEST HALF OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-001-0000 (affects Lots 7 and 8)

ADDRESS: 701 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

PIN #: 16-14-307-002-0000 (affects North 25 feet of Lot 9)

ADDRESS: 711 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

### PARCEL 2: (SITE 1)

THE NORTH 25 FEET OF THE SOUTH 45 FEET OF LOT 33 IN GOLDY'S SECOND ADDITION TO CHICAGO IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-007-0000 (affects North 25 feet of south 45 feet of Lot 33)

ADDRESS: 3727 S. FLOURNOY, CHICAGO, IL

### PARCEL 3: (SITE 2)

LOT 9 (EXCEPT THE NORTH 25 FEET THEREOF) AND THE NORTH 25 FEET OF LOT 10 IN THE SUBDIVISION OF THE WEST HALF OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-003-0000 (affects North 25 feet Lot 10)

ADDRESS: 715-17 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

### PARCEL 4: (SITE 2)

THE SOUTH 20 FEET OF LOT 33 IN GOLDY'S SECOND ADDITION TO CHICAGO IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-007-0000 (affects the South 20 of Lot 33)

ADDRESS: 3727 S. FLOURNOY, CHICAGO, IL

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## **PARCEL 5: (SITE 2)**

THE NORTH 30 FEET OF LOT 11 IN GOLDY'S ADDITION TO CHICAGO IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-014-0000 (affects part of Lot 11) also

PIN #: 16-14-307-015-0000 (affects part of Lot 11)

ADDRESS: 3727 S. FLOURNOY, CHICAGO, IL

## **PARCEL 6: (SITE 3)**

LOT 10 (EXCEPT THE NORTH 25 FEET THEREOF), ALL OF LOT 11 AND LOT 12 (EXCEPT THAT PART TAKEN FOR STREET) IN THE SUBDIVISION OF THE WEST HALF OF THE NORTH HALF OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-003-0000 (affects Lot 10 except the North 25 feet)

ADDRESS: 715-17 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

PIN #: 16-14-307-004-0000 (affects Lot 11)

ADDRESS: 719 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

PIN #: 16-14-307-005-0000 (affects Lot 12)

ADDRESS: 725 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

## **PARCEL 7: (SITE 3)**

THE SOUTH 25 FEET OF THE NORTH 55 FEET OF LOT 11 IN GOLDY'S ADDITION TO CHICAGO IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-015-0000 (affects South 25 feet of North 55 feet of Lot 11)

ADDRESS: 715-17 S. INDEPENDENCE BOULEVARD, CHICAGO, IL

## **PARCEL 8: (SITE 4)**

THE WEST 10 FEET OF LOT 27, LOT 28 AND THE EAST 15 FEET OF LOT 29 IN GOLDY'S 2ND ADDITION TO CHICAGO IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-010-0000 (affects West 10 feet of Lot 28 & East 15 feet of lot 29)

ADDRESS: 3715 W. FLOURNOY, CHICAGO, IL

PIN #: 16-14-307-011-0000 (affects West 10 feet of Lot 27 & East 15 feet of lot 28)

ADDRESS: 3713 W. FLOURNOY, CHICAGO, IL

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## **PARCEL 9: (SITE 5)**

THE WEST 2 FEET OF LOT 4, LOT 5 AND THE EAST 23 FEET OF LOT 6 OF GOLDY'S ADDITION TO CHICAGO IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-307-021-0000 (affects East 23 feet of Lot 6 & West 2 feet of lot 5)  
ADDRESS: 3714 W. LEXINGTON, CHICAGO, IL

PIN #: 16-14-307-022-0000 (affects East 23 feet of Lot 5 & West 2 feet of lot 4)  
ADDRESS: 3710 W. LEXINGTON, CHICAGO, IL

## **PARCEL 10: (SITE 6)**

THE EAST 6¼ FEET OF LOT 19, LOTS 20 AND 21 IN GOLDY'S ADDITION TO CHICAGO IN SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-311-015-0000 (affects East 6¼ feet of Lot 19 & West 22 feet of lot 20)  
ADDRESS: 3707 W. LEXINGTON, CHICAGO, IL

PIN #: 16-14-311-016-0000 (affects East 3 feet of Lot 20 & Lot 21)  
ADDRESS: 3703 W. LEXINGTON, CHICAGO, IL

## **PARCEL 11: (SITE 7)**

LOT 1 IN RESUBDIVISION OF LOTS 25 TO 25 IN BLOCK 1 IN BOILVAN'S SUBDIVISION OF THE 10 ACRES SOUTH AND ADJOINING THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-308-021-0000  
ADDRESS: 3636 W. LEXINGTON, CHICAGO, IL

## **PARCEL 12: (SITE 8)**

LOTS 18, 19 AND 20 IN BLOCK 1 IN BOILVIN'S SUBDIVISION OF 10 ACRES SOUTH AND ADJOINING THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-308-003-0000 (affects Lot 19 & Lot 20)  
ADDRESS: 3645 W. FLOURNOY, CHICAGO, IL

PIN #: 16-14-308-004-0000 (affects Lot 18)  
ADDRESS: 3643 W. FLOURNOY, CHICAGO, IL



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**PARCEL 13: (SITE 9)**

LOTS 14 AND 15 IN BLOCK 1 IN BOILVIN'S SUBDIVISION OF 10 ACRES SOUTH OF AND ADJOINING THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-308-007-0000 (affects Lot 15)  
ADDRESS: 3637 W. FLOURNOY, CHICAGO, IL

PIN #: 16-14-308-008-0000 (affects Lot 14)  
ADDRESS: 3633 W. FLOURNOY, CHICAGO, IL

**PARCEL 14: (SITE 10)**

LOTS 12 AND 13 IN BLOCK 1 IN BOILVIN'S SUBDIVISION OF 10 ACRES SOUTH OF AND ADJOINING THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-308-009-0000 (affects Lot 13)  
ADDRESS: 3631 W. FLOURNOY, CHICAGO, IL

PIN #: 16-14-308-010-0000 (affects Lot 12)  
ADDRESS: 3629 W. FLOURNOY, CHICAGO, IL

**PARCEL 15: (SITE 11)**

LOTS 44 (EXCEPT THE NORTH 25 FEET), 45 (EXCEPT THE NORTH 25 FEET) AND 46 (EXCEPT THE NORTH 25 FEET) IN BOILVIN'S SUBDIVISION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-304-030-0000 (affects Lot 44 and part of Lot 45)  
ADDRESS: 3610 W. FLOURNOY, CHICAGO, IL

PIN #: 16-14-304-031-0000 (affects part of Lot 45)  
ADDRESS: 3608 W. FLOURNOY, CHICAGO, IL

PIN #: 16-14-304-032-0000 (affects part of Lot 46)  
ADDRESS: 3606 W. FLOURNOY, CHICAGO, IL

**PARCEL 16 (SITE 12)**

LOTS 1, 2, AND 3 IN THE SUBDIVISION OF LOTS 1, 2, 3, 4 AND 5 IN BLOCK 1 IN BOILVIN'S SUBDIVISION OF 10 ACRES LYING SOUTH AND ADJOINING THE NORTH 5 ACRES OF THE EAST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #: 16-14-308-041-0000  
ADDRESS: 700 S. CENTRAL PARK, CHICAGO, IL

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## HUD-REQUIRED PROVISIONS RIDER TO ILLINOIS HOUSING DEVELOPMENT AUTHORITY LOW INCOME HOUSING TAX CREDIT EXTENDED USE AGREEMENT

**THIS RIDER** (the "Rider") is attached to and made a part of that certain Low Income Housing Tax Credit Extended Use Agreement (the "Document"), dated as of July 1, 2004, entered into by and between the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**, a body politic and corporate established pursuant to the Illinois Housing Development Act, ILCS 3805/1 et seq. (the "Authority"), and Liberty Square Limited Partnership, an Illinois partnership (the "Partnership or Owner"), relating to the property known as Liberty Square and located in Chicago, Illinois. In the event of any conflict, inconsistency or ambiguity between the provisions of this Rider and the provisions of the Document, the provisions of this Rider shall control. All capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Document. As used herein, the term "HUD" shall mean the United States Department of Housing and Urban Development; the term "FHA" shall mean the Federal Housing Administration, an organizational unit within HUD; the term "Project" shall have the same meaning as in the HUD Regulatory Agreement described below; and the term "HUD/FHA Loan Documents" shall mean the following documents relating to the HUD-insured mortgage loan for the Project (Project No. 071-32144):

- A. Commitment for insurance dated July 1, 2004, as amended, issued by the Secretary of HUD pursuant to Section 220 to Prairie Mortgage Company ("Mortgagee") in the original amount of \$3,798,300.00;
- B. Building Loan Agreement dated as of July 1, 2004 between the Owner and Mortgagee (the "HUD Building Loan Agreement").
- C. Mortgage Note dated as of July 1, 2004 made by the Owner payable to the order of mortgagee in the principal amount of \$2,667,500.00 ("Note A") and Mortgage Note dated as of July 1, 2004 made by the Owner payable to the order of the Mortgagee in the principal amount of \$1,130,800.00 ("Note B"). (Notes A and B are collectively and individually referred to as the "Mortgage Note");
- D. Mortgage dated as of July 1, 2004 made by owner in favor of Mortgagee and encumbering the project as security for the Mortgage Note (the "Mortgage");
- E. Security Agreement dated as of July 1, 2004 between the Owner, as Debtor, and Mortgagee and/or the Secretary of HUD as their interests may appear, as secured party;
- F. UCC financing statements made by the Owner, as Debtor, in favor of Mortgagee and/or the Secretary of HUD as their interests may appear, as secured party; and

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- G. Regulatory Agreement for Multifamily Housing Projects, dated as of July 1, 2004, between the Owner and HUD (the "HUD Regulatory Agreement").
- H. Assignment of Rents and Leases dated as of July 1, 2004 from Owner to Mortgagee; and
- I. Assignment of Contracts and Documents dated as of July 1, 2004 from Owner to Mortgagee.

Notwithstanding anything else in this Rider to the contrary, the provisions of this Rider shall be and remain in effect only so long as the HUD/FHA Loan Documents, or any of them, are in effect; thereafter, this Rider shall be deemed no longer in effect.

- R-1 Notwithstanding anything in the Document to the contrary, the provisions of the Document are subordinate to all applicable Federal statutes, HUD mortgage insurance regulations and related HUD directives and administrative requirements, other than those HUD mortgage insurance regulations, related HUD directives and/or administrative requirements which have been waived in writing by HUD with respect to the Project. The provisions of the Document are also expressly subordinate to the HUD/FHA Loan Documents. In the event of any conflict between the Document and the provisions of applicable Federal statutes, HUD mortgage insurance regulations, related HUD directives and administrative requirements, or HUD/FHA Loan Documents, the Federal statutes, HUD mortgage insurance regulations, related HUD directives and administrative requirements and HUD/FHA Loan Documents shall control, unless waived in writing by HUD with respect to the Project.
- R-2 Failure on the part of the Partnership to comply with the covenants contained in the Document shall not serve as the basis for default on any HUD-insured or HUD-held mortgage on the Project.
- R-3 Compliance by the Partnership with the provisions and covenants of the Document and enforcement of the provisions and covenants contained in the Document, but not limited to, any indemnification provisions or covenants, will not and shall not result in any claim or lien against the Project, any asset of the Project, the proceeds of the Mortgage, any reserve, or deposit required by HUD in connection with the Mortgage transaction or the rents or other income from the Project, other than distributable "**Surplus Cash**" (as that term is defined in the HUD Regulatory Agreement).
- R-4 No amendment to the Document made after the date of the HUD initial endorsement of the Mortgage Note shall have any force or effect until and unless such amendment is approved in advance in writing by HUD. No amendment made after the aforesaid date to any HUD/FHA Loan Document shall be binding upon the Authority unless the Authority has consented thereto in writing.

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- R-5 Unless waived in writing by HUD with respect to the Project, any action prohibited or required by HUD pursuant to applicable Federal law, HUD regulations, HUD directives and administrative requirements or the HUD/FHA Loan Documents, shall supersede any conflicting provision of the Document; and the performance or failure to perform of the Partnership in accordance with such laws, regulations, directives, administrative requirements or HUD/FHA Loan Documents shall not constitute an event of default under the Document.
- R-6 Any provision requiring the owner to take any action necessary to preserve the tax credits or prohibiting the owner from taking any action that might jeopardize the tax credits is qualified to except actions prohibited or required by HUD pursuant to the National Housing Act, applicable mortgage insurance regulations, the HUD/FHA loan documents, or, if applicable, Section 8 of the U.S. Housing Act of 1937 and the regulations thereunder.
- R-7 So long as HUD is the insurer or holder of any mortgage on the Project or any indebtedness secured by a mortgage on the Project, the Partnership shall not and is not permitted to pay any amount required to be paid under the provisions of the Document except from distributable Surplus Cash, as such term is defined in, and in accordance with the conditions prescribed in the HUD Regulatory Agreement.
- R-8 In the event of the appointment, by any court, of any person, other than HUD or Mortgagee, as a receiver, as a mortgagee or party in possession, or in the event of any enforcement of any assignment of leases, rents, issues, profits, or contracts contained in the Document, with or without court action, no rents, revenue or other income of the Project collected by the receiver, person in possession or person pursuing enforcement as aforesaid, shall be utilized for the payment of interest, principal or any other amount due and payable under the provisions of the Document, except from distributable Surplus Cash in accordance with the HUD Regulatory Agreement. The receiver, person in possession or person pursuing enforcement shall operate the Project in accordance with all provisions of the HUD/FHA Loan Documents.
- R-9 A duplicate of each notice given, whether required or permitted to be given, under the provisions of the Document shall also be given to:

Department of Housing and Urban Development  
77 West Jackson Boulevard  
Chicago, IL 60604

Attention: Director of Multifamily Housing  
Project No. 071-32144

HUD may designate any further or different addresses for such duplicate notices.

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- R-10 Notwithstanding anything in the Document to the contrary, and expressly excepting residential leases and subleases which conform to the HUD Regulatory Agreement and HUD directives and policies, the Partnership and its successors and assigns may sell, convey, transfer, lease, sublease or encumber the Project or any part thereof, provided it obtains the prior written consent of HUD to any such sale, conveyance, transfer, lease, sublease or encumbrance and subject to the provisions of paragraphs R-5 and R-6 hereof such sale, conveyance, transfer, lease, sublease or encumbrance is conducted in such a manner that the Project will continue to be a "qualified low-income housing project," as provided in Section 42 (g) of the Code as determined by the Authority. Notwithstanding anything in the Document to the contrary, the Partnership may make application to HUD for approval of a Transfer of Physical Assets in accordance with HUD regulations, directives and policies. A duplicate copy of such application shall be served on the Authority. Within 90 days after such service, the Authority shall serve written notice of its approval of such transfer, or of its requirements for approval of such transfer, on HUD, the Mortgagee and the Partnership. No such transfer shall occur or be effective until the requirements shall have been satisfied. In the event the Authority fails to serve such notices on HUD, the Mortgagee and the Partnership within said time, then any consent by HUD to such transfer shall be deemed to be the Authority's prior written consent to such transfer and consummation of such transfer shall not be a default under the Document.
- R-11 Notwithstanding anything in the Document to the contrary, the provisions of this HUD-Required Rider are for the benefit and are enforceable by HUD and the Mortgagee.
- R-12 It is the intent and agreement of the parties hereto, and for any other party who may claim any interest herein, that the Document shall qualify as an "extended low-income housing commitments under the provisions of Section 42(h)(6)(B) and Section 42(h)(6)(E) of the Code. Notwithstanding any other provision of this Rider, the provisions of Section 42 of the Code shall supersede, govern and control any inconsistent or contradictory terms of this Rider through expiration of the Extended Use Period and the Three-Year Period, if any, but solely for the purpose of qualifying this Document under the minimum requirements set forth in Section 42(h)(6)(B) and 42(h)(6)(E) of the Code.
- R-13 This Rider may be executed in several counterparts, which shall be treated as originals for all purposes, and all so executed shall constitute one agreement, binding on all of the parties, notwithstanding that all parties are signatory to the original or the same counterpart. Any such counterpart shall be admissible into evidence as an original hereof against the party who executed it.

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Executed as of the date set forth above.

LIBERTY SQUARE LIMITED PARTNERSHIP,  
an Illinois limited partnership  
By: Reinhard Corporation, its Managing General Partner

OWNER:

Fred L. Bonne

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**CHAR FLICKINGER**  
**DIRECTOR OF TAX CREDITS**

Property of Cook County Clerk's Office