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Doc#: 0622033209 Fee: \$44.00
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Cook County Recorder of Deeds
Date: 08/08/2006 01:23 PM Pg: 1 of 11

Lisa Misher
Assistant Corporation Counsel
City of Chicago
30 North LaSalle Street, Suite 1610
Chicago, Illinois 60602
(312) 742-3932

AFFORDABLE HOUSING COVENANT

This Affordable Housing Covenant ("Covenant") is made this 2nd day of August, 2006, by Jacqueline I. Harris (together, the "Owner"), for the benefit of the City of Chicago, an Illinois municipal corporation, having its principal office at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 (the "City"). Capitalized terms not otherwise defined herein shall have the meanings set forth in Exhibit B.

WITNESSETH:

WHEREAS, the City and Revere Community Housing Development LLC, an Illinois limited liability company ("RCHD"), have previously entered into that certain Agreement for the Sale and Redevelopment of Land dated as of May 12, 2005, and recorded with the Office of the Recorder of Deeds of Cook County, Illinois ("Recorder") on May 16, 2005, as Document No. 0513633180, as amended by that certain First Amendment to Agreement for the Sale and Redevelopment of Land dated as of January 17, 2006, and recorded with the Recorder on February 14, 2006, as Document No. 0604519045 (collectively, the "Redevelopment Agreement"); and

WHEREAS, pursuant to the Redevelopment Agreement, the City has previously sold to RCHD seventeen (17) vacant parcels of land more particularly described in the Redevelopment Agreement (the "City Property") for \$1.00 (the "Land Contribution"); and

WHEREAS, RCHD owns five (5) additional parcels of land more particularly described in the Redevelopment Agreement (the "RCHD Property," and together with the City Property, the "Revere Community Property").

WHEREAS, RCHD has built a single family housing unit (the "Affordable Unit") on the real property legally described on Exhibit A attached hereto, which is a portion of the Revere Community Property; and

WHEREAS, the Owner is on the date hereof purchasing the Affordable Unit for \$215,000.00 (the "Purchase Price"); and

WHEREAS, the City's Land Contribution and agreement to execute the Redevelopment Agreement were conditioned upon, among other things, RCHD's agreement to impose certain

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affordability requirements upon each of the Affordable Units to be constructed on the Revere Community Property; and

WHEREAS, this Covenant is designed to satisfy the foregoing condition by requiring that the Affordable Unit be maintained for a term of seven (7) years from the date hereof (the "Covenant Term") as affordable housing; and

WHEREAS, this Covenant requires, among other things, that with respect to the initial sale of the Affordable Unit and with respect to each subsequent resale of the Affordable Unit thereafter during the Covenant Term, such Affordable Unit may be sold only to a Qualified Household for a price that does not exceed the then applicable Affordable Price; and

WHEREAS, the Owner's household is a Qualified Household and the Purchase Price is an Affordable Price as of the date hereof; and

WHEREAS, the Owner acknowledges and agrees that the Purchase Price is less than the fair market value of the Affordable Unit, as evidenced by contemporaneous or projected sales of comparable units; and

WHEREAS, the Owner is able to purchase the Affordable Unit for less than its fair market value because of the City's Land Contribution and the agreements and undertakings of the parties under the Redevelopment Agreement, which together have subsidized a portion of the development costs of the Affordable Unit; and

WHEREAS, the City has required the Owner to execute this Covenant in order to impose the affordability requirements upon the Affordable Unit and give notice of the affordability requirements to the Owner, to any subsequent purchaser of the Affordable Unit, and to any lender having a mortgage secured by the Affordable Unit.

NOW, THEREFORE, in consideration of the Land Contribution, the execution of the Redevelopment Agreement, the benefits accruing to the Owner as a result of its purchase of the Affordable Unit for an Affordable Price, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby intends, declares and covenants on behalf of itself and its heirs, successors, assigns, legal representatives and personal representatives, that the following covenants, conditions, rights and restrictions shall run with the land and shall bind the Owner, its heirs, successors, assigns, legal representatives and personal representatives, and inure to the benefit of, and shall be enforceable by, the City, its agents, successors, designees and assigns.

ARTICLE I **INCORPORATION OF RECITALS**

The recitals set forth above constitute an integral part of this Covenant and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

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ARTICLE II INCOME ELIGIBILITY OF OWNER

The Owner represents and warrants to the City that the Owner's Household income, as of the time of the Owner's execution of its purchase contract for the Affordable Unit, met the income eligibility requirements established by the City applicable to a purchaser of the Affordable Unit, as set forth in the definition of Qualified Household on Exhibit B hereto.

ARTICLE III RESALE AND TRANSFER RESTRICTIONS

3.01 Primary Residence; Restrictions Against Leasing and Junior Encumbrances. The Owner covenants to the City that, during the Covenant Term, it shall own and use the Affordable Unit as its Primary Residence (and the Primary Residence of the Owner's Qualified Household) as long as the Owner owns the Affordable Unit. The Owner covenants to the City that during the Covenant Term it will not lease the Affordable Unit to any person or let any other person occupy or use the Affordable Unit without the prior written consent of the City, which shall be in the City's sole discretion, and which, if granted, may require that the total amount payable by any tenant household not exceed 30% of the income of a household whose income is 120% of the then-prevailing Area Median Income. The Owner covenants to the City that during the Covenant Term it will not refinance, encumber (voluntarily or otherwise) or mortgage the Affordable Unit (with the exception of a Senior Mortgage), without the prior written consent of the City, which consent shall be in the City's sole discretion.

3.02 Permitted Transfers. The Owner covenants to the City that, during the Covenant Term, it shall not sell or otherwise directly or indirectly transfer ownership of the Affordable Unit, except (a) to a Qualified Household, and (b) for an amount equal to or less than the then applicable Affordable Price. All such transfers shall be subject to the City's approval rights under Section 3.03. Any transfer of ownership (x) resulting from the Owner's death and occurring pursuant to the terms of a written land trust, personal trust or will, or state intestacy law, or (y) that simply consists of the Owner's transfer of the Affordable Unit into a land trust or personal trust of which the Owner is the sole beneficiary and holder of power of direction, shall not be subject to the foregoing transfer restriction, provided, however, that the transferee in any such transfer shall be bound by all of the provisions of this Covenant. **IF THE OWNER ATTEMPTS OR PURPORTS TO TRANSFER THE AFFORDABLE UNIT TO A TRANSFEREE IN VIOLATION OF THIS SECTION 3.02, EXCEPT IN THE CASE OF A TRANSFER TO A SENIOR LENDER IN LIEU OF FORECLOSURE, SUCH ATTEMPTED OR PURPORTED TRANSFER SHALL BE A VIOLATION OF THE AFFORDABILITY REQUIREMENTS AND SHALL BE NULL AND VOID AND CONFER NO RIGHT, TITLE OR INTEREST WHATSOEVER UPON THE PURPORTED TRANSFEREE.**

3.03 Approval of Transfer. During the Covenant Term, no closing may occur, and no sale or other transfer of the Affordable Unit or any interest therein shall be valid, until the City has verified in writing that such transfer is a permitted transfer hereunder and effective to deliver legal title to the transferee. Within thirty (30) days after receipt of a Complete Information Package, the City shall execute and deliver to the Owner a certificate in recordable form

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certifying that (a) the prospective purchaser of the Affordable Unit is a Qualified Household, and (b) the proposed Purchase Price does not exceed the then applicable Affordable Price ("Certificate of Resale Compliance"). The Owner of the Affordable Unit, any good faith purchaser of the Affordable Unit and any other third party may rely upon the Certificate of Resale Compliance as conclusive evidence of the matters stated therein, and may record the Certificate of Resale Compliance in connection with the transfer of the Affordable Unit; provided, however, if the proposed sale or other transfer does not occur within six (6) months after the date the City issues such certificate, the City's approval rights hereunder shall be reinstated. If the City determines that a proposed sale or other transfer does not comply with the requirements of this Covenant, the City shall issue a statement in writing stating in reasonable detail the reasons for the finding of noncompliance.

3.04 Subordination. This Covenant shall be subject and subordinate in all respects to that certain mortgage dated as of even date herewith, between the Owner and Fifth Third Bank ("Senior Lender"), recorded with the Office of the Recorder of Deeds of Cook County, Illinois concurrent with the recording of this Covenant ("Senior Mortgage") to secure indebtedness in the original principal amount of \$130,000.00 (the "Senior Loan Amount"), provided, however, that the maximum amount of indebtedness (including indebtedness attributable to protective advances made by the Senior Lender or other amounts secured under the terms of the Senior Mortgage) that shall be superior to this Covenant shall in no instance and at no time exceed 100% of the Purchase Price. Any refinancing of the Senior Mortgage permitted under this Covenant will also be deemed a Senior Mortgage for purposes of the subordination set forth in this Section 3.04.

3.05 Foreclosure of Senior Mortgage. In the event of a transfer of title of the Affordable Unit through foreclosure or recording of deed in lieu of foreclosure to the Senior Lender pursuant to the Senior Mortgage, the City acknowledges and agrees that the affordability covenants and any other provisions contained herein restricting the sale and occupancy of the Affordable Unit shall be released and shall have no further force or effect; provided, however, that all such affordability covenants and restrictions shall be revived according to the original terms if, during the Covenant Term, the Owner or any member of the Owner's Household reacquires an ownership interest in the Affordable Unit. Any other person (including the successors and/or assigns of Senior Lender) receiving title to the Affordable Unit through a foreclosure or deed in lieu of foreclosure of the Senior Mortgage shall also receive title to the Affordable Unit free and clear of such restrictions.

3.06 Right to Request Waiver or Modification. The affordability covenants in this Article III may be waived or modified in writing by the City upon a showing of undue hardship or changed circumstances that would make the enforcement of such covenants inequitable or impractical, as determined by the City, in its sole discretion.

3.07 **REASONABLE RESTRAINT ON ALIENATION. THE OWNER ACKNOWLEDGES AND AGREES THAT TO THE EXTENT THE AFFORDABILITY REQUIREMENTS, ANYTHING IN THIS ARTICLE III, OR ANY OTHER PROVISION IN THIS COVENANT COULD BE DEEMED A RESTRAINT ON ALIENATION, THAT ANY SUCH RESTRAINT (A) IS REASONABLE, (B) IS, AS EXPLAINED IN THE RECITALS, SUPPORTED BY ADEQUATE CONSIDERATION, (C) IS NECESSARY**

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TO IMPLEMENT THE CITY'S PUBLIC POLICY OBJECTIVE OF DEVELOPING AND MAINTAINING THE AFFORDABILITY OF THE UNITS CONSTRUCTED ON THE REVERE COMMUNITY PROPERTY FOR A PERIOD OF 7 YEARS, (D) SHOULD BE ENFORCED AS WRITTEN, AND (E) WAS A MATERIAL INDUCEMENT TO THE CITY'S INITIAL DECISION TO PROVIDE THE LAND CONTRIBUTION AND EXECUTE THE REDEVELOPMENT AGREEMENT, ALL OF WHICH HAS ENABLED THE OWNER TO BUY THE AFFORDABLE UNIT FOR THE PURCHASE PRICE, WHICH IS MATERIALLY BELOW THE FAIR MARKET VALUE PRICE. THE OWNER, THEREFORE, KNOWINGLY AND VOLUNTARILY, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO RAISE ANY DEFENSE TO THE ENFORCEMENT OF THE COVENANTS, CONDITIONS, RIGHTS AND RESTRICTIONS CONTAINED HEREIN, WHETHER AT LAW OR IN EQUITY.

ARTICLE IV ENFORCEMENT

4.01 Remedies. In the event of a violation or threatened violation of any of the covenants, conditions, rights and restrictions contained in Article III hereof, the City shall have all remedies available at law or in equity, without further notice or demand, including, without limitation, (a) the right to seek injunctive relief to prevent or remedy any threatened or actual violation or to recover damages, or both, (b) the right to seek specific performance, (c) rescission of any unauthorized sale or encumbrance, and (d) voiding of any unauthorized rental arrangement. The Owner shall be liable for all reasonable costs and expenses as may be incurred by or on behalf of the City in enforcing this Covenant or in taking reasonable measures to cure any violation hereof, including, without limitation, reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs involved in title insurance and title examinations (collectively, "Enforcement Costs").

4.02 Remedies Cumulative. No right, power or remedy conferred upon or reserved to the City by this Covenant is intended to be exclusive of any other right, power or remedy, but each and every right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

4.03 Waiver. No delay or omission of the City to exercise any right, power or remedy accruing upon any violation or threatened violation of the covenants, conditions, rights and restrictions contained herein shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such violation or threatened violation or acquiescence therein; and every right, power and remedy given by this Covenant to the City may be exercised from time to time as often as may be deemed expedient by the City. No consent or waiver, expressed or implied, by the City to or of any violation or threatened violation of this Covenant shall be deemed or construed to be a consent or waiver to or of any other violation or threatened violation of this Covenant. Failure on the part of the City to complain of any act or failure to act, irrespective of how long such failure continues, shall not constitute a waiver by the City of its rights hereunder or impair any rights, powers or remedies on account of any violation or threatened violation of this Covenant by the Owner.

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4.04 Compliance Information. The Owner shall submit any information, documents or certificates as the City may reasonably request from time to time with respect to the occupancy and use of the Affordable Unit to substantiate the Owner's continuing compliance with the provisions of this Covenant.

ARTICLE V COVENANTS TO RUN WITH THE LAND

The covenants, conditions, rights and restrictions set forth in this Covenant shall run with the land and shall be binding upon each Owner, and all heirs, successors, assigns, legal representatives and personal representatives of each Owner, for the benefit of and enforceable by the City for the Covenant Term, unless and until the City executes and records a notice of termination in the office of the Recorder of Deeds of Cook County, Illinois. The Owner agrees that any and all requirements of the laws of the State of Illinois to be satisfied in order for the provisions of this Covenant to constitute a restrictive covenant running with the land shall be deemed to be satisfied in full, and that any privity of estate requirements are also deemed to be satisfied in full. Each and every contract, deed or other instrument hereafter executed conveying the Affordable Unit or any interest therein shall be deemed to include and incorporate by this reference the covenants, conditions, rights and restrictions contained herein.

ARTICLE VI MISCELLANEOUS

6.01 Severability. If any provision of this Covenant or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Covenant and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by law.

6.02 Waiver. Nothing contained herein shall limit the rights of the City to release or waive, from time to time, in whole or in part, any of the covenants, conditions, rights and restrictions contained herein with respect to the Affordable Unit. Any such release or waiver must be made in writing and must be executed by the City.

6.03 Applicable Law. This Covenant shall be interpreted, construed and enforced under the laws of the State of Illinois, without regard to its conflict of laws principles.

6.04 Assignment of Rights and Delegation of Duties. The City may assign its rights or delegate its duties under this Covenant, in whole or in part, without the consent of the Owner. Any reference herein to the City shall include the City, its successors, assigns, agents and designees.

6.05 Notice. All notices, requests, consents, approvals or other communications hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified first class mail, postage prepaid, return receipt requested:

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If to the City: City of Chicago
Department of Housing
33 North LaSalle Street, Second Floor
Chicago, Illinois 60602

If to the Owner: Jacqueline I. Harris
7117 S. University
Chicago, Illinois 60619

Any such notice, request, consent, approval or other communication shall be deemed given two (2) business days following mailing, if mailed, or upon delivery, if personally delivered or sent by overnight courier. Any party may designate a different address by notice given as herein required. The refusal to accept delivery by any party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this section shall constitute delivery.

Copies of all notices hereunder shall be sent to RCHD as follows (or at such other address as RCHD may designate from time to time):

Revere Community Housing Development, LLC
7211 South Ellis Avenue
Chicago, Illinois 60619
Attention: Lee Reid, Jr.

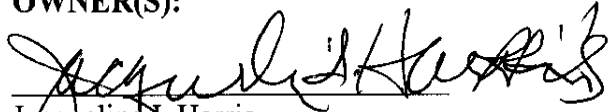
6.06 Exhibits. All exhibits attached hereto are incorporated herein by this reference and made a part hereof.

6.07 Prevailing Party. If any action is brought in a court of law by either party to this Covenant concerning the enforcement, interpretation or construction of this Covenant, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorneys' fees as well as costs, including expert witness's fees, incurred in the prosecution or defense of such action.

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IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed on or as of the date first above written.

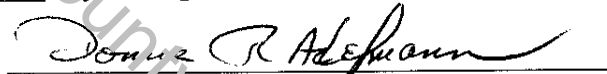
OWNER(S):

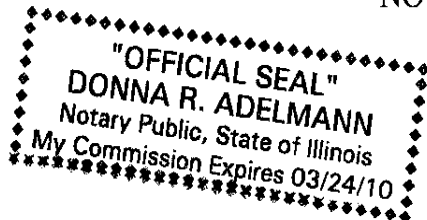

Jacqueline I. Harris

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, DONNA R. ADELMANN, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Jacqueline I. Harris, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and, being first duly sworn by me, acknowledged that she signed and delivered the foregoing instrument as her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my notarial seal this 4th day of August, 2006.


NOTARY PUBLIC



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EXHIBIT A TO AFFORDABLE HOUSING COVENANT

LEGAL DESCRIPTION OF AFFORDABLE UNIT

LOT 40 IN BLOCK 1 IN CORNELL, BEING A SUBDIVISION OF THE WEST 1/2 OF SECTION 26, THE SOUTH EAST 1/4 OF SECTION 26 (WITH THE EXCEPTION OF THE EAST 1/2 OF THE NORTH EAST 1/4 OF THE SOUTH EAST 1/4) THE NORTH 1/2 OF THE NORTH WEST 1/4, THE SOUTH 1/2 OF THE NORTH WEST 1/4, LYING WEST OF ILLINOIS CENTRAL RAILROAD AND THE NORTH WEST 1/4 OF THE NORTH EAST 1/4 OF SECTION 35, ALL IN TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 7117 SOUTH UNIVERSITY

PERMANENT REAL ESTATE TAX INDEX NO.: 20-26-106-003

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EXHIBIT B TO AFFORDABLE HOUSING COVENANT

DEFINITIONS

The following terms shall have the following meanings for purposes of this Covenant:

“Affordable Price” means an amount less than or equal to the price at which Monthly Homeownership Costs for the Affordable Unit would total not more than 30% of Household income for a Household with a family size equal to the product of 1.5 multiplied by the number of bedrooms in the Affordable Unit and whose income is the maximum amount allowable for such Household to be a Qualified Household.

“Area Median Income” or “AMI” means the median income for the Chicago Primary Metropolitan Statistical Area, adjusted for Household size, as such adjusted income and Chicago-area median income are determined from time to time by HUD for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437).

“Complete Information Package” means any information reasonably required by the City in order to determine a prospective purchaser’s income eligibility, including, by means of illustration and not limitation, the fully-executed real estate sales contract between the Owner and the prospective purchaser, the W-2 forms from the prospective purchaser’s employers, U.S. 1040 income tax returns from the previous two (2) years, an affidavit or verification from the prospective purchaser with regard to Household size, and the employer verification form utilized by the Federal National Mortgage Association or Fannie Mae.

“Household” means a single person, family or unrelated persons living together in the Affordable Unit.

“Monthly Homeownership Costs” means the sum of the following estimated amounts:

(a) monthly principal and interest payments on a 30-year fixed rate residential mortgage (with zero points) in the amount of 95% of the purchase price bearing interest at a rate equal to the prevailing rate as published in the Chicago Tribune (or posted on the internet website maintained by the Chicago Tribune) as of the date of calculation of Monthly Homeownership Costs, rounded up to the nearest $\frac{1}{4}$;

(b) annual estimated real property taxes, divided by 12; and

(c) annual insurance premiums, divided by 12, for homeowners’ insurance in the amount of the replacement value of the Affordable Unit.

“Owner” means each legal and equitable owner of all or any portion of the Affordable Unit during the Covenant Term, including the Owner identified above, and any subsequent Owner by sale, conveyance or other transfer of any legal or beneficial interest in the Affordable Unit, and all heirs, successors, assigns, legal representatives and personal representatives of such persons.

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“Primary Residence” means the residence a person occupies for a minimum of nine (9) full months out of any consecutive twelve (12) month period.

“Qualified Household” means a Household whose adjusted annual income at the time of executing a purchase contract for the Affordable Unit does not exceed 120% of AMI.

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