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Doc#: 0923118083 Fee: \$58.00
Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 08/19/2009 12:52 PM Pg: 1 of 12

Property of Cook County Clerk's Office

This instrument prepared
by and after recording should
be returned to:
Adam R. Walker
Assistant Corporation Counsel
City of Chicago
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

AFFORDABLE HOUSING COVENANT AND LIEN (TBI Grant)

THIS AFFORDABLE HOUSING COVENANT AND LIEN ("Covenant") dated as of July 30, 2009, is made by Visions Complex III, LLC, an Illinois limited liability company ("Developer"), for the benefit of THE CITY OF CHICAGO (the "City"), acting by and through its Department of Community Development ("DCD").

Recitals

WHEREAS, Developer is the owner of the property and improvements located at 3323-25 W. Douglas Blvd/1405-09 S. Christiana, Chicago, Illinois and legally described on Exhibit A attached hereto ("Property"); and

WHEREAS, in connection with the Development (as defined in Section 1 below) of the Property (the "Project"), Developer purchased the Property for less than its fair market value in accordance with the terms and conditions of that certain Redevelopment Agreement dated as of

Box 334

1708

C7 8454579 Park and North 6/18

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January 13, 2006 and recorded with the Cook County Recorder of Deeds on January 17, 2006 as Document Number 0601734114, with Baric Lawndale, LLC, an Illinois limited liability company ("Baric"), as amended by that Amendment to Redevelopment Agreement dated June 30, 2006, and recorded with the Office of Cook County Recorder as document number 0618126053, as further amended by that certain Amendment to Redevelopment Agreement dated as of the date hereof and recorded with the Cook County Recorder of Deeds on or after the date hereof among the City, Baric and the Developer (as amended, the "Redevelopment Agreement"); and

WHEREAS, Developer is receiving Financial Assistance (as defined in Section 1 below) from the City in connection with the Development in accordance with the terms and conditions of that certain CDFG Grant Agreement and that certain TBI Grant Agreement (collectively, "Grant Agreement"), dated as of the date hereof; and

WHEREAS, pursuant to Section 2-45-110 of the Municipal Code of Chicago (the "Code"), the City requires any developer receiving Financial Assistance and/or acquiring property for less than fair market value to establish affordable housing through (a) the development of Eligible Units (as defined in Section 1 below) as part of a Development project, or (b) the payment of a fee in lieu of such development, or (c) a combination of (a) and (b).

NOW THEREFOR, Developer agrees and covenants as follows:

Section 1. Definitions.

"Commissioner" means the Commissioner of Community Development of the City.

"Development" means the construction or Substantial Rehabilitation of ten or more Units.

"Eligible Units" means those Units in the Project which will be occupied by or available for occupancy to Low-Income Households.

"Financial Assistance" means any assistance provided by the City through grants, direct or indirect loans, or allocation of tax credits for the Development of Units.

"Household" means and includes an individual, a group of unrelated individuals or a family, in each case residing in one Unit.

"HUD" means the United States Department of Housing and Urban Development, and its successors and assigns.

"Imputed Income Limitation" means, for each Eligible Unit, the Income Limit which would apply to the Household occupying such Eligible Unit if the number of individuals in the Household were as follows: (a) in the case of an Eligible Unit which does not have a separate bedroom, one individual; and (b) in the case of an Eligible Unit which has one or more separate bedrooms, 1.5 individuals for each separate bedroom.

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“Income Limit” means 60% of the Chicago Primary Metropolitan Statistical Area median income, adjusted for Household size, as such adjusted income and Chicago Primary Metropolitan Statistical 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 USC 1437), and thereafter such income limits shall apply to this definition.

“Low-Income Households” means and includes Households whose adjusted annual income does not exceed the Income Limit.

“Substantial Rehabilitation” means the reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure or portion thereof requiring a permit issued by the City; provided the cost for the Project must be \$25,000.00 or more per Unit.

“TIF Guidelines” means those guidelines established pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (“TIF Act”), and adopted by the City Council in “An Ordinance Adopting Guidelines for Use of Tax Increment Financing Revenues for Construction of Affordable Housing” passed on July 31, 2002, and published at pages 90838-90859 of the Journal of Proceedings of the City Council of that date.

“Unit” means a room or suite of rooms designed, occupied, or intended for occupancy as a separate living quarter with cooking, sleeping, and sanitary facilities provided within the unit for the exclusive use of the occupants of the unit, provided that a “Unit” does not include dormitories, or a “hotel” as that term is defined in Section 13-4-010 of the Code.

Section 2. Term of Agreement. Developer, for itself and its successors and assigns, agrees to be bound by the terms and provisions of this Covenant during the “Term of the Agreement,” which is defined as follows: commencing as of the earlier of (a) the issuance of the certificate of occupancy for the Project, and (b) the first day of the initial lease of Units in the Project, and expiring as of the earlier of (y) the thirtieth (30th) anniversary of said commencement date, and (z) the date of foreclosure or condemnation of the Property. Developer shall inform DCD of the date the Project receives a certificate of occupancy from the City, or, if no certificate of occupancy is issued, the date of the commencement of the first lease term of a Project Unit, within 60 days following Developer’s receipt of the certificate of occupancy or the executed initial lease, as the case may be.

Section 3. Covenant Running with the Land. Developer hereby declares its express intent that the Covenant set forth herein shall be deemed a covenant running with the land during the Term of the Agreement and shall pass to any person or entity (except lessees) to whom Developer may sell or assign all or a portion of its interest in the Property or any successor in title to all or a portion of the Property. Developer shall not sell or assign all or any portion of its interest in the Property or the Development without the prior written consent of the City.

Section 4. Affordability Restrictions.

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4.1 Developer agrees that during the Term of the Agreement, it will comply with the affordable housing commitment required pursuant to Section 2-45-110 of the Code through either or a combination of the following:

- (a) Establishing initially and maintaining as Eligible Units the greater of: (i) the number of Units comprising at least 20% of the rentable square feet of the Project, and (ii) 20% of the total number of Project Units; or
- (b) paying to the City \$100,000 per Unit not initially established as an Eligible Unit as required above.

4.2 The rental of Eligible Units required pursuant to Section 4.1 shall be made only to Low-Income Households.

4.3 During the Term of the Agreement, the rent (including tenant-paid heat) charged each month for any Eligible Unit shall not exceed at any time 30% of the Imputed Income Limitation applicable to such Eligible Unit.

4.4 During the Term of the Agreement, the Developer shall provide the City with a compliance certificate in the form attached hereto as Exhibit B ("Compliance Certificate") on or prior to October 1 of each year. Developer shall obtain and keep such records as are necessary to enable it to complete the Compliance Certificate and substantiate all statements made therein.

4.5 If on the date that is 6 months following commencement of the Term of the Agreement, less than (a) 20% of the number of Project Units or (b) the number of Project Units comprising 20% of the rentable square feet of the Project are rented or available for rental by Low-Income Households in accordance with this Section 4, and Developer has not made payment to the City as required by Section 4.1(b), then Developer shall be in noncompliance with this Covenant and subject to the City's remedies set forth in Section 5.

Section 5. Remedies and Enforceability.

5.1 Upon the rental of any Eligible Unit at a rental price in excess of what is permitted by Section 4.3 above, or to a Household that is not a Low-Income Household, Developer shall pay to the City a fee ("Fee") of \$500.00 per Eligible Unit per day for each day that the Developer is in noncompliance, subject to the right to cure such noncompliance as set forth below.

5.2 Developer shall have 90 days after written notice from the Commissioner to cure any noncompliance with this Covenant. If after 90 days, the Developer fails to cure the noncompliance, the Fee shall be assessed from the first day of noncompliance.

5.3 In addition to the foregoing remedy, the City shall have the right to enforce this Covenant and in furtherance thereof institute any action or proceeding at law or in equity against Developer.

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Section 6. General Provisions.

6.1 This Covenant shall be interpreted under the laws of the State of Illinois.

6.2 This Covenant shall not be waived, modified or amended except as set forth in a written document executed by the Commissioner.

6.3 Any notices and communications under this Covenant shall be in writing and shall be: (a) delivered in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) by overnight express carrier, to the following addresses (or to such other or further addresses as the City or Developer may hereafter designate by like notice similarly sent):

Developer: Visions Complex III, LLC
c/o Johnnie B. Herron
141 S. Central Ave.
Chicago, IL 60644

With Copies to: Applegate & Thorne-Thomsen, P.C.
322 South Green Street, Suite 400
Chicago, Illinois 60607
Attention: Nicholas J. Brunick

City: Commissioner
City of Chicago
Department of Community Development
121 N. LaSalle St. – Room 1000
Chicago, Illinois 60602

Every notice or other communication hereunder shall be deemed to have been given as of the date evidenced by a receipt from such national courier service or the United States Postal Service or immediately if personally delivered.

6.4 The Developer hereby agrees to fully and unconditionally indemnify, defend and hold harmless the City from and against any judgments, losses, liabilities, damages (including consequential damages), costs and expenses of whatsoever kind or nature, including, without limitation, attorneys' fees, expert witness fees, and any other professional fees and litigation expenses or other obligations, incurred by the City that may arise in any manner out of or in connection with actions or omissions which result from the Developer's responses or documents provided pursuant to the terms of this Covenant or the Compliance Certificate, including breaches of the representations and warranties herein and therein contained.

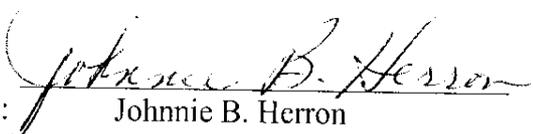
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IN WITNESS WHEREOF, the undersigned has executed this Covenant as of the date first above written.

VISIONS COMPLEX III, LLC,
an Illinois limited liability company

By: Herron Properties II, LLC, an Illinois limited liability company

Its: Sole Member

By: 
Name: Johnnie B. Herron
Its: Manager

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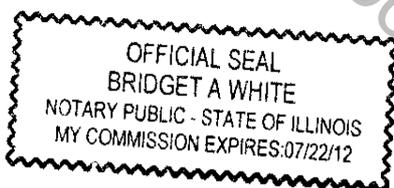
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STATE OF ILLINOIS)
) ss.
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Johnnie Herron, personally known to me to be the Manager of Herron Properties II, LLC, an Illinois limited liability company, which is the sole member of Visions Complex III, LLC (the "Mortgagor"), an Illinois limited liability company, 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 severally acknowledged that as such managing member, she signed and delivered the said instrument, pursuant to authority given by the members of the Mortgagor, as their free and voluntary act, and as the free and voluntary act and deed of the Mortgagor, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 21st day of July, 2009.

Bridget A White
 Notary Public



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EXHIBIT A

Legal Description

LOTS 9 AND 10 IN BLOCK 1 IN PRESCOTT'S DOUGLAS PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF BLOCK 5 IN CIRCUIT COURT PARTITION OF THE EAST ½ OF THE NORTHEAST ¼ AND THAT PART OF THE EAST ½ OF THE SOUTHEAST ¼ LYING NORTH OF THE CENTER LINE OF OGDEN AVENUE, IN SECTION 23, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 3323-25 W. Douglas/1405-09 S. Christiana
Chicago, Illinois 60623

Permanent Index Number: 16-23-219-001-0000

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EXHIBIT B

Compliance Certificate

CITY OF CHICAGO DEPARTMENT OF HOUSING

ANNUAL OWNER'S CERTIFICATION FOR PROJECT SUBJECT TO AFFORDABLE HOUSING COVENANT OF THE MUNICIPAL CODE OF CHICAGO

Owner: _____

Project Name: _____

Project Number: _____

Owner Federal Employer Identification Number: _____

The Owner has executed an Affordable Housing Covenant and Lien ("Covenant") for the benefit of the City of Chicago (the "City"). Pursuant to the Covenant, the Owner is required to maintain certain records concerning the Project and the City is authorized to monitor the Project's compliance with the requirements of the Covenant. This Annual Owner's Certification must be completed in its entirety and must be executed by the Owner, notarized and returned to the City by October 1 of each year for the period commencing on October 1 of the first year of the Term of the Agreement (which commences upon the issuance of a certificate of occupancy for the Project, or, if no certificate of occupancy is issued, upon the first day of the initial lease of Units in the Project), and ending at the end of the Term of the Agreement (which expires as of the earlier of the thirtieth anniversary of the commencement date, and the date of foreclosure or condemnation of the Property). No changes may be made to the language contained herein without the prior approval of the City. Except as otherwise specifically indicated, capitalized terms contained herein shall have the meanings ascribed to them in the Covenant.

A. INFORMATION

1. Please list the building identification numbers and address for each building included in the Project: (If there are additional buildings in the Project, please provide the requested information on a separate sheet and attach to this document.)

Building Identification Number Building Address

2. Has any change occurred, either directly or indirectly, (a) in the identity of the Owner, (b) in the identity of any shareholder, partner, member, trustee or other owner of the Owner or (c)

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which would otherwise cause a change in the identity of the individuals who possess the power to direct the management and policies of the Owner since the date of the Covenant or the most recent Annual Owner's Certification?

Yes _____ No _____

If Yes, provide all the appropriate documents.

3. Have the Owner's organizational documents been amended or otherwise modified since they were submitted to the City?

Yes _____ No _____

If Yes, provide all amendments and modifications of the Owner's organizational documents.

B. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Owner hereby represents and warrants to the City that each of the following statements is true and accurate and covenants as follows:

1. The Owner is [check as applicable].
 - (a) ___ an individual
 - (b) ___ a group of individuals
 - (c) ___ a corporation incorporated and in good standing in the State of _____
 - (d) ___ a general partnership organized under the laws of the State of _____
 - (e) ___ a limited partnership organized under the laws of the State of _____
 - (f) ___ a limited liability company organized under the laws of the State of _____
 - (g) ___ other [please describe]: _____

2. The Owner is [check as applicable] (a) _____ the owner or fee simple title to, or (b) _____ the owner of 100 percent of the beneficial interest in, the hereinafter described Project.

3. The Project consists of ___ building(s) containing a total of ___ residential unit(s), with total rentable square feet of _____.

4. (a) _____ of the residential unit(s) (the "Eligible Units") in the Project is/are occupied by individuals whose income is 60 percent or less of the Chicago Primary Metropolitan Statistical Area median income ("Low-Income Households").
 - (b) For the 12-month period preceding the date hereof (the "Year"):
 - (i) 20 percent or more of the residential units in the Project were occupied by Low-Income Households, and such residential units comprise at least 20% of the rentable square feet of the Project;

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- (ii) the Owner has received an annual income certification from each Low-Income Household and documentation to support such certification;
- (iii) all of the units in the Project were for use by the general public and used on a nontransient basis;
- (iv) each building in the Project was suitable for occupancy, taking into account the health, safety and building codes of the City; and
- (v) if an Eligible Unit became vacant during the Year, reasonable attempts were or are being made to rent such Eligible Unit or the next available residential unit in the Project of a comparable or smaller size to one or more Low-Income Households before any residential units in the Project were or will be rented to tenants who are not Low-Income Households.

5. The Project is in compliance with all of the currently applicable requirements of the Covenant. The Owner will take whatever action is required to ensure that the Project complies with all requirements imposed by the Covenant during the periods required thereby.

The Owner shall retain, for the period required under the Covenant, as from time to time amended and supplemented, all tenant selection documents, which include but are not limited to: income verification, employment verification, credit reports, leases and low-income computation forms, to be available for periodic inspections by the City or its representative. The City, at its option, can periodically inspect the Project, and all tenancy-related documents to determine continued compliance of the Project with all applicable requirements.

6. No litigation or proceedings have been threatened or are pending which may affect the interest of the Owner in the Project or the ability of the Owner to perform its obligations with respect thereto.

7. All Units in each building included in the Project are affirmatively marketed and available for occupancy by all persons regardless of race, national origin, religion, creed, sex, age or handicap.

8. The Owner has not demolished any part of the Project or substantially subtracted from any real or personal property of the Project or permitted the use of any residential rental unit for any purpose other than rental housing. The Owner has used its best efforts to repair and restore the Project to substantially the same condition as existed prior to the occurrence of any event causing damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of the _____ [Loan] [Grant] [Redevelopment] Agreement.

9. The Owner has not executed any agreement with provisions contradictory to, or in opposition to, the provisions of the Covenant. The Owner shall continue to cooperate with the City and furnish such documents, reports, exhibits or showings as are required by the Covenant and the City or the City's counsel.

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If the Owner is unable to make any representation or warranty set forth above, the Owner must immediately contact the City and inform the City of the reason that the Owner is unable to make such representation or warranty.

Under penalties of perjury, the Owner declares that, to the best of its knowledge and belief, each response, representation, warranty and document delivered by the Owner in connection herewith is true, correct and complete and will continue to be true, correct and complete.

C. INDEMNIFICATION

The Owner hereby agrees to fully and unconditionally indemnify, defend and hold harmless the City from and against any judgments, losses, liabilities, damages (including consequential damages), costs and expenses of whatsoever kind or nature, including, without limitation, attorneys' fees, expert witness fees, and any other professional fees and litigation expenses or other obligations, incurred by the City that may arise in any manner out of or in connection with actions or omissions which result from the Owner's responses or documents provided pursuant to the terms of this Annual Owner's Certification, including breaches of the representations and warranties herein contained.

IN WITNESS WHEREOF, the Owner has executed this Annual Owner's Certification this ____ day of _____, _____.

Owner: _____
By: _____
Its: _____

Subscribed and sworn to before me this ____ day of _____, ____.

Notary Public

(SEAL)