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Doc#: 1231447029 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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NSP Project Number: NOA 31343

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS **NEIGHBORHOOD STABILIZATION PROGRAM**

THIS DECLARATION ("Declaration") is made and entered into as of the **30th day of August, 2012**, between **County of Cook**, a body politic and corporate of the State of Illinois (the "**County**"), and **Presidio Capital, LLC**, an Illinois Limited Liability Corporation, having a principal place of business at 3 Grant Square Suite 415, Hinsdale, Illinois 60521 ("**Borrower**").

WHEREAS, Borrower is the fee owner and legal title holder of certain real estate located in Cicero, County of Cook and State of Illinois, which real estate is legally described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Property**");

WHEREAS, the County of Cook, a body politic and corporate of the State of Illinois, ("**County**") has been designated a Participating Jurisdiction in the Neighborhood Stabilization Program ("**NSP**"), as authorized under Title III of the Housing and Economic Recovery Act of 2008 (Pub. L 110-289, 122 Stat. 2850, enacted July 30, 2008) ("**HERA**"), to be treated as though such funds were Community Development Block Grant funds under the Housing and Community Development Act of 1974 (Pub. L 93-383) as amended (the "**Act**") and to be administered through the United States Department of Housing and Urban Development ("**HUD**"). HUD has promulgated regulations for NSP as published in the Federal Register on October 6, 2008 and amended by document Docket No. FR-5255-N-02 (hereinafter, together with any amendments thereto, the "**Regulations**").

WHEREAS, the County has agreed to make a deferred zero interest loan to Borrower to be used for the acquisition and rehabilitation of the Property ("**Loan**").

WHEREAS, Borrower has executed and delivered to County its promissory note ("**Note**") as evidence of its indebtedness to County in the principal amount of the Loan, with interest thereon at the rates and payable at the times and in the manner as specified in the Note.

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WHEREAS, the County's and Borrower's authority to enter into this Loan is evidenced, secured and governed by, among other things: (a) Developer Agreement Neighborhoods Stabilization Program approved by County Board Resolution #34 dated November 4, 2009, together with any subsequent amendments ("**Project Agreement**," such Project Agreement being on file at the offices of the Cook County, Bureau of Economic Development, 69 W. Washington, Chicago, Illinois), (b) this Declaration, (c) the Note, (d) a Loan Agreement (the "**Loan Agreement**"), and (e) a Mortgage securing the Loan and recorded against the Property ("**Mortgage**"). The Declaration, the Project Agreement, the Note, the Mortgage, and all other documents executed by Borrower which evidence, govern or secure the Loan are collectively referred to as the ("**Loan Documents**").

WHEREAS, as an inducement to County to make the Loan, Borrower has agreed to enter into this Declaration in accordance with the terms, conditions, and covenants set forth below.

WHEREAS capitalized terms used herein and not otherwise defined shall have the meanings established in the Loan Agreement.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Borrower hereby declares that the Property and such addition thereto as may hereafter be made is and shall be transferred, held, sold, conveyed and accepted subject to this Declaration of Covenants, Conditions, and Restrictions. The Borrower does hereby further declare that the following covenants, restrictions, conditions, burdens and uses shall with respect to the Project: (1) exist at all times during the term of this Declaration amongst all parties having or acquiring any right, title or interest in all or any portion of the Project; (2) be binding upon each owner, where said owner is one or more person or entity holding title to or an interest in the real estate or any portion thereof, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation (hereinafter referred to as "**Owner**"); (3) be enforced by the County, and its successors and assigns to the administration or management of the NSP Program; and (4) all restrictions and covenants contained in this Declaration shall run with the land, to be held, sold and conveyed subject hereto, subject to the limitations set forth herein.

RECITALS

The foregoing recitals and declarations are incorporated herein and made part thereof by reference.

COVENANTS, CONDITIONS, AND RESTRICTIONS

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Regulatory Compliance. Borrower agrees that at all times its acts regarding the Project shall be in conformance with HERA, the ACT, the Regulations, the NSP Project Agreement and any additional rules, regulations, policies and procedures of County promulgated

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under HERA or the ACT, which may be amended and supplemented from time to time. The Borrower shall obtain all Federal, State and local governmental approvals required by law for the Project. The Borrower shall cause the Project to comply with all local codes, ordinances, zoning ordinances, and the Cook County Bureau of Community Development Property Standards Policy.

2. Maintaining Affordability. Every person or entity who is an Owner of the Property is bound to comply with the affordable housing requirements set forth at 24 CFR Part 92, and as amended, as well as those requirements of the County NSP Program set forth herein:

a. Compliance with the County NSP Program includes maintaining any applicable affordable housing for very low-income and low-income persons as set forth at 24 CFR Part 92, sections 92.252 and 92.254 for the Applicable Affordable Housing Period:

(i) Section 92.252 sets forth, inter alia, rent limitations necessary to qualify as affordable housing and provides that an Owner of real estate must reexamine the income of each tenant household living in low-income units at least annually pursuant to Department of Housing and Urban Development ("HUD") guidelines. The maximum monthly rent must be recalculated by the Owner and reviewed and approved by Cook County annually; and

(ii) Section 92.254 sets forth, inter alia, purchase and/or rehabilitation limitations for qualification as affordable homeownership and provides that as to purchase, resale restrictions include making the housing available only to a low-income family, as determined by HUD, that will use the Real Estate as its principal residence.

(iii) Declarant represents and warrants that all the units are comparable for purposes of 24 CFR 92.252(j) and, in the event that HUD determines that they are not comparable, Declarant agrees to cover all costs incurred by the County associated with the adverse determination by HUD.

b. The Project shall have an after-rehabilitation market appraised value not to exceed \$275,000.00. If required by County, such value shall be established by an after rehabilitation market appraisal performed by a State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) (See the Current FHA Appraiser Roster).

c. In the event of foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Property, the County shall have the right, but not the obligation, to acquire the project prior to such foreclosure or deed in lieu of foreclosure to preserve the foregoing affordability provisions of the NSP Program Regulations.

3. Bar from other County Programs. If the County determines that any Owner has violated any of the covenants, conditions or restrictions of this Declaration, the County may bar the Owner, its directors, officers, principals, and agents from ever again participating in any Cook County administered or Cook County related federally assisted housing program, and all

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such Owners, directors, officers, principals and agents are bound by said determination made by the County.

4. Violation of Agreement by Borrower. Upon violation of any of the provisions of this Declaration by Borrower, County shall give written notice thereof to Borrower in the manner provided in Paragraph 10 hereof. If such violation is not corrected to the satisfaction of County within seven (7) days (with respect to monetary defaults) or within thirty (30) days (with respect to non-monetary defaults) after the date such notice is mailed, or within such further time as the County permits. Then the County may declare a default under this Declaration (“Default”), effective on the date of such declaration of default and notice thereof to Borrower, and upon such default the County may exercise any rights or remedies as may be available.

The County’s remedies are not cumulative, and the exercise of one remedy shall not be deemed an election of remedies, nor foreclose the exercise of any other remedy by the County. No waiver of any breach of this Declaration by the County shall be deemed to be a waiver of any other breach or a subsequent breach. If the County fails to exercise, or delays in exercising, any right under this Declaration, such failure or delay shall not be deemed a waiver of such right or any other right.

5. Term of Agreement, Covenants Run with the Land. The covenants, conditions, and restrictions contained herein shall commence on the date hereof and shall run with the land. By execution and recordation of this Declaration, the Borrower subjects the Property and any such addition thereto as may hereafter be made, to the covenants and restrictions herein. This Declaration shall be binding on all persons and entities who hold title to or an interest in the Property, any portion thereof, including contract sellers, and those claiming under them, during the affordable housing period, unless an instrument signed by the then owner of the Property and the duly authorized chief administrative officer of the County of Cook or his/her designee, on behalf of Cook County, or the County’s successors and assigns to the administration or management of the County NSP Program, changing said declaration in whole or in part has been executed and recorded.

In the event that any Owner, including a contract seller, desires to transfer title to the real estate within the applicable affordable housing period, as a condition precedent to each and every proposed transfer, the Owner shall notify the Bureau Chief of the Bureau of Community Development in writing to that effect by registered or certified mail at the principal office of the Bureau of Community Development. Further, the Owner and prospective grantee shall submit to the Bureau Chief the information necessary for the County to make a determination as to whether affordable housing will be maintained by the prospective grantee pursuant to the County NSP Program.

Within thirty (30) days subsequent to the sending of notice by the County to the Owner, the County will issue, or refuse to issue, its "Cook County NSP Program Certificate of Compliance", executed by the Bureau Chief or his/her designee, or the County's successors and assigns to the administration or management of the County NSP Program. The Certificate of Compliance is the County's certification that the covenants, conditions and restrictions in this Declaration are not violated by the proposed transfer of title. If the County does not issue its Certificate of Compliance, any transfer of title is in violation of the covenants, conditions and restrictions contained herein, and the County will have the right to exercise all remedies set forth in this agreement in addition to all other rights and remedies at law or in equity. In the event the

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County does not issue a compliance notice, the refuse to issue notice, sent to the Borrower, shall include a statement of the reason(s) for such refusal.

6. Termination on Foreclosure. In the event of a foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Project, the County or its designee shall have the right, but not the obligation, to acquire the Project prior to such foreclosure or deed in lieu of foreclosure to preserve the foregoing affordability provisions as provided in the NSP Program Regulations.

7. Conflicts and Partial Invalidity. Borrower warrants that it has not executed, and shall not execute, any other agreement with provisions contradictory, or in opposition to, the provisions hereof and that, in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations set forth in such other agreement and supersede any other requirements in conflict therewith. If any term, covenant, condition or provision of this Declaration, or the application thereof to any circumstance, shall, at any time or to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration, or the application thereof to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, condition and provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

8. Binding Effect. All the covenants, conditions and restrictions contained herein shall run with the land and be binding upon Declarant and each subsequent holder of any interest in any portion of the Real Estate, and their respective grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Real Estate or any part thereof.

9. Void Conveyance; Remedies at Law and in Equity; No Waiver. Any conveyance or transfer of the Real Estate made or attempted to be made by the Owner in violation of the covenants, conditions and restrictions of this Declaration is void.

The County, and its successors or assigns to the administration or management of the County NSP Program, has the right to enforce, by any proceeding at law or in equity, all covenants, conditions, or restrictions, now or hereafter imposed by the provisions of this Declaration. The County's remedies include but are not limited to seeking restraint or enjoinder of a violation of the covenants, conditions or restrictions of this Declaration and recovering damages, including but not limited to those resulting from the labor and expense incurred by the County in making substitute affordable housing available to low and very-low income persons. Any Owner found to be in violation by a court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorneys' fees and court costs incurred by the County in prosecuting such action.

Failure by the County to enforce any covenant, condition or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

10. Notices. Any notice, demand, request or other communication which 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) electronic communication, whether by facsimile or electronic mail, together with confirmation of

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transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

TO THE COUNTY: Cook County
Bureau of Economic Development
69 West Washington, Suite 2900
Chicago, Illinois 60602
Attn: Bureau Chief

TO THE BORROWER: Presidio Capital, LLC
Attn: Cicero NSP Project Manager
3 Grant Square, Suite 415
Hinsdale, Illinois 60521
Phone: 630-409-1321

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

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IN WITNESS WHEREOF, the parties have caused this Declaration to be executed by its authorized representatives as of the date first written above.

COUNTY OF COOK, ILLINOIS

By: _____
Hermon Brewer, Bureau Chief
Bureau of Economic Development

ATTEST: _____
David Orr, Cook County Clerk

Approved as to form: _____
Staff Attorney

BORROWER
Presidio Capital, LLC
An Illinois Limited Liability Corporation

Mr. M / President
Signature/Title

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Omar Haaji is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as President for Presidio Capital LLC, signed, sealed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

My Commission expires: 5/18/13

[Signature]
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION:

**LOT 15 IN BLOCK 31 IN GRANT LOCOMOTIVE WORKS ADDITION TO CHICAGO,
BEING A SUBDIVISION IN SECTION 21, TOWNSHIP 39 NORTH, RANGE 13, EAST
OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

PERMANENT INDEX NUMBER:

16-21-221-036-0000

COMMON STREET ADDRESS:

1428 S 49th Avenue
Cicero, Illinois 60804

Property of Cook County Clerk's Office