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RHSP Fee: \$9.00 RPAF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 09/28/2014 12:01 PM Pg: 1 of 9

ILLINOIS

**THIS DOCUMENT WAS PREPARED BY  
AND AFTER RECORDING SHOULD BE  
RETURNED TO:**

Deutsch, Levy & Engel, Chartered  
225 W. Washington Street, 1700  
Chicago, IL 60606  
Attn: Jeffrey B. Horwitz

PIN: 16-30-220-030-0000  
Address: 2422 Scoville Ave.  
Berwyn, Illinois 60402

*This space reserved for Recorder's use only.*

## AMENDED AND RESTATED CONSTRUCTION MORTGAGE

THIS INDENTURE, made August 29, 2014, between The City of Berwyn, an Illinois municipal corporation, whose mailing address is 6420 West 16<sup>th</sup> Street, Berwyn, Illinois 60402, herein referred to as the "MORTGAGOR", and The Illinois Housing Development Authority, a body politic and corporate of the State of Illinois, created and existing pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 *et. seq.* (1994), whose mailing address is 401 N. Michigan Ave., Suite 700, Chicago, Illinois 60611, herein referred to as "MORTGAGEE," witnesseth:

THAT, WHEREAS, the MORTGAGOR and the MORTGAGEE are parties to that certain Neighborhood Stabilization Program Agreement dated April 12, 2010 (the "NSP Agreement") pursuant to which the MORTGAGEE has agreed to advance funds to the MORTGAGOR in the form of any interest-free grant, in the amount of Two Hundred Twenty-One Thousand Four Hundred Twenty-Seven and 93/100 Dollars (\$221,427.93) (the "NSP Funds") for use in connection with certain activities (collectively, the "Eligible Uses") to benefit Low, Moderate and Middle Income Persons as set forth in 24 CFR 570, as supplemented by the October 2008 Notice and the June 2009 Notice, and as further amended, supplemented or revised from time to time (the "National Objective") and other uses of NSP Funds permitted under the NSP Laws.

THAT, WHEREAS, in consideration thereof, the MORTGAGOR, has agreed to comply with the terms and conditions of the NSP Agreement and that certain Regulatory and Land Use Restriction Agreement, dated as of July 15, 2010 and recorded with the Cook County Recorder of Deeds as Document No. 1023249032 (the "Regulatory Agreement"), which includes, upon the occurrence of certain events prior to the expiration of the Affordability Period (as defined therein) prior to July 15, 2025, the repayment of any funds advanced to the MORTGAGOR by the

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MORTGAGEE. Terms not otherwise defined herein shall have the meanings provided for in the NSP Agreement or the Regulatory Agreement as the case may be

THAT, WHEREAS, the obligations of MORTGAGOR under the NSP Agreement and the Regulatory Agreement are further secured by that certain Construction Mortgage, dated as of March 9, 2011, and recorded with the Cook County Recorder of Deeds as Document No. 1129431057 (the "Original Mortgage").

THAT, WHEREAS, MORTGAGOR has submitted to the MORTGAGEE a request for a final disbursement (the "Final Draw") of the NSP Funds to be applied towards the development of the Premises (as hereinafter defined). In consideration of the MORTGAGEE'S consent to the approval and disbursement of the Final Draw, the MORTGAGEE and MORTGAGOR hereby agree to amend and restate the Original Mortgage in its entirety pursuant to the terms and conditions of this Indenture.

NOW, THEREFORE, the MORTGAGOR, to secure its obligations under the NSP Agreement and the Regulatory Agreement, and the performance of the covenants and agreements herein contained, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, does by these presents CONVEY AND WARRANT unto the MORTGAGEE, and the MORTGAGEE'S successors and assigns, the following described Real Estate and all of the estate, right, title and interest therein, situate, lying and being in the City of Berwyn, County of Cook, and State of Illinois legally described on Exhibit "A" attached hereto and made a part hereof.

Which, with the property hereinafter described, is referred to herein as the "Premises,"

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as MORTGAGOR may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, awnings, stoves, and water heaters. All the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by MORTGAGOR or his successors or assigns shall be considered as constituting part of the real estate.

**TO HAVE AND TO HOLD the premises unto the MORTGAGEE, and the MORTGAGEE'S successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the MORTGAGOR does hereby expressly release and waive.**

This mortgage includes each and every one of the covenants, conditions and provisions

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appearing subsequent to the signature page hereof, all of which are incorporated herein by reference and are a part hereof and shall be binding on MORTGAGOR, its successors, and assigns.

(Signatures on Next Page)

COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the MORTGAGOR has caused their signatures and seal to be hereto affixed and these presents to be signed by him on the day and year first written.

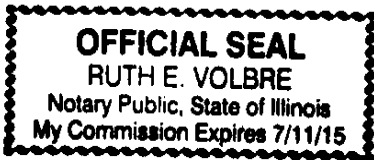
CITY OF BERWYN, an Illinois municipal corporation

By: [Signature]  
Name: Robert J. Lavers  
Its: Mayor

STATE OF ILLINOIS            )  
  )  
COUNTY OF COOK            )            SS

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Robert J. Lavers, the Mayor of The City of Berwyn, an Illinois municipal corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Mayor, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and official seal, this 27 day of August, 2014.



[Signature]  
Notary Public

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## THE COVENANTS, CONDITIONS AND PROVISIONS OF THE MORTGAGE

1. MORTGAGOR shall (1) comply with the NSP Agreement and the Regulatory Agreement, (2) keep said premises in good condition and repair in accordance with local building codes without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the MORTGAGEE; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. MORTGAGOR shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to the MORTGAGEE duplicate receipts therefor. To prevent default hereunder MORTGAGOR shall pay in full under protest, in the manner provided by statute, any tax or assessment, which MORTGAGOR may desire to contest.

3. In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the MORTGAGEE the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by MORTGAGOR, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the MORTGAGEE'S interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event, the MORTGAGOR, upon demand by the MORTGAGEE, shall pay such taxes or assessments, or reimburse the MORTGAGEE therefor; provided, however, that if in the opinion of counsel for the MORTGAGEE (a) it might be unlawful to require MORTGAGOR to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the MORTGAGEE may elect, by notice in writing given to the MORTGAGOR, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of this Mortgage, the Regulatory Agreement, or the NSP Agreement, the MORTGAGOR covenants and agrees to pay such tax in the manner required by any such law. The MORTGAGOR further covenants to hold harmless and agrees to indemnify the MORTGAGEE, and the MORTGAGEE'S successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of this Mortgage, the Regulatory Agreement or the NSP Agreement.

5. Intentionally Omitted.

6. MORTGAGOR shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and windstorm under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all in companies satisfactory to the MORTGAGEE, under insurance policies payable, in case of loss or damage, to MORTGAGEE, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the MORTGAGEE, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

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7. In case of default therein, MORTGAGEE may, but need not, make any payment or perform any act hereinbefore required of MORTGAGOR in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by MORTGAGEE to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon equal to the rate of interest of the first mortgage loan. Inaction of MORTGAGEE shall never be considered as a waiver of any right accruing to the MORTGAGEE on account of any default hereunder on the part of the MORTGAGOR.

8. The MORTGAGEE making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

9. MORTGAGOR shall pay each item of indebtedness herein mentioned, both principal and interest, if and when due according to the terms hereof. At the option of the MORTGAGEE and without notice to MORTGAGOR, all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the NSP Agreement, the Regulatory Agreement or in this mortgage to the contrary, become immediately due and payable.

10. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, MORTGAGEE shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of MORTGAGEE for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches, and examinations, title insurance policies, and similar data and assurances with respect to title as MORTGAGEE may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the highest rate now permitted by Illinois law, when paid or incurred by MORTGAGEE in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the MORTGAGEE shall be a party, either as plaintiff, claimant or defendant, by reason of this mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

11. In the event of a foreclosure of a prior mortgage or mortgages, or transfer in lieu of foreclosure, the MORTGAGOR agrees that the net proceeds, if any, of a foreclosure sale (after payment of the prior mortgage or mortgages) or transfer in lieu of foreclosure shall be paid to the MORTGAGEE in payment and satisfaction of the amount loaned herein.

12. Upon or at any time after the filing of a complaint to foreclose this mortgage the court in

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which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of MORTGAGOR at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the MORTGAGEE may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when MORTGAGOR, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by an decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

13. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law.

14. The MORTGAGEE shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

15. The MORTGAGOR shall periodically deposit with the MORTGAGEE such sums as the MORTGAGEE may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.

16. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provision hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the MORTGAGEE, notwithstanding such extension, variation or release.

17. MORTGAGEE shall release this mortgage and lien there of by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to MORTGAGEE for the execution of such release.

18. This mortgage and all provision hereof, shall extend to and be binding upon MORTGAGOR and all persons claiming under or through MORTGAGOR, and the word "MORTGAGOR" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed this mortgage. The word "MORTGAGEE" when used herein shall include the successors and assigns of the MORTGAGEE named herein and the holder or holders, from time to time, of the NSP Agreement secured hereby.

19. If all or any part of the premises or any interest in it is sold or transferred (if a beneficial interest in MORTGAGOR is sold or transferred and MORTGAGOR is not a natural person), the principal is due on sale or transfer.

20. Notwithstanding any foregoing provision to the contrary, if the recapture of funds required under this Mortgage is triggered by a sale (voluntary or involuntary) of the housing unit, and

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there are no net proceeds or the net proceeds are insufficient to repay the sums due MORTGAGEE, the MORTGAGEE will only recapture the net proceeds, if any. The net proceeds are the sales price minus superior loan repayment and any closing costs.

21. The NSP Funds made available by the MORTGAGEE to the MORTGAGOR are to be used to finance the cost of the construction of certain improvements upon the Real Estate in accordance with the provisions of the NSP Agreement and the Regulatory Agreement, and this Mortgage is a construction mortgage as such term is defined in Section 9-334(h) of the Uniform Commercial Code of the State of Illinois. The terms and conditions recited and set forth in the NSP Agreement and the Regulatory Agreement are fully incorporated in this Mortgage and made a part hereof. MORTGAGOR and its successors and assigns shall comply with each and every of the covenants and conditions set forth in the NSP Agreement and the Regulatory Agreement and an Event of Default under any of the conditions or provisions of the NSP Agreement or the Regulatory Agreement shall constitute a default hereunder.

22. In no event shall the total amount of the indebtedness secured hereby, including NSP Funds disbursed plus any additional charges, exceed two hundred percent (200%) of the NSP Funds. All such advances are intended by the Mortgagor to be a lien on the Development pursuant to this Mortgage from the time this Mortgage is recorded, as provided in the Foreclosure Act of the State of Illinois.

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## EXHIBIT A TO CONSTRUCTION MORTGAGE

**THE SOUTH 3/5THS OF LOT 133 AND THE NORTH 1/2 OF LOT 134 IN THE 25TH STREET LAND TRUST SUBDIVISION OF THE NORTH 1/2 OF THE SOUTH EAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

PIN: 16-30-220-030-0000  
ADDRESS: 2422 SCOVILLE  
BERWYN, ILLINOIS 60402