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Doc#: 1609719046 Fee: \$60.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 04/08/2016 11:41 AM Pg: 1 of 10

**THIS INSTRUMENT PREPARED BY
AND WHEN RECORDED RETURN TO:**

Jason L. Sethen, Esq.
Chicago Low-Income Housing Trust Fund
121 North LaSalle Street, Room 1006
Chicago, Illinois 60602

FIRST AMENDMENT AND MODIFICATION AGREEMENT

This First Amendment and Modification Agreement (this "**First Amendment**") is made in Chicago, Illinois on February 1, 2016 (the "**Closing Date**"), by and among Midwest Limited Partnership, an Illinois limited partnership (the "**Borrower**"), with a mailing address of c/o Holsten Real Estate Development Corporation, 1020 West Montrose Avenue, Chicago, Illinois 60613 and the Chicago Low-Income Housing Trust Fund (the "**CLIHTF**"), with a mailing address of 121 North LaSalle Street, Room 1006, Chicago, Illinois 60602, Attention: Cary Steinbuck, Executive Director, but is effective with respect to the modifications set forth below as of September 1, 2015.

RECITALS

A. In 1994, the Board of Directors of the CLIHTF approved financing to the Borrower for the rehabilitation of Midwest Apartments, located at 6 North Hamlin Avenue, Chicago, Illinois, as more fully described in Exhibit A (the "**Property**") in the aggregate amount of \$900,000 with a maturity date of September 1, 2015 and an interest rate of zero percent per annum (the "**CLIHTF Loan**").

B. The CLIHTF Loan is evidenced by that certain Loan Agreement (the "**CLIHTF Loan Agreement**"), dated as of September 1, 1995, secured by, among other things, that certain Junior Mortgage, Security Agreement and Financing Statement, dated as of August 1, 1995, executed by the Borrower in favor of the CLIHTF (the "**CLIHTF Mortgage**"), and recorded in the Office of the Cook County Recorder of Deeds on September 26, 1995 as Document No. 95652457, and further evidenced by that certain Note dated as of September 1, 1995, made by the Borrower in favor of the CLIHTF in the original principal amount of the Loan (the "**CLIHTF Note**") and that certain Regulatory Agreement, dated as of September 1, 1995, by and between the Borrower and the CLIHTF (the "**CLIHTF Regulatory Agreement**"), and recorded in the Office of the Cook County Recorder of Deeds on September 26, 1995 as Document No. 95652454. The CLIHTF Loan Agreement, CLIHTF Mortgage, CLIHTF Note,

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and CLIHTF Regulatory Agreement are collectively referred to herein as the “**Financing Documents.**”

C. The Borrower has requested that the CLIHTF approve an extension of the maturity date related to the CLIHTF Loan.

D. On November 10, 2015, the Board of Directors of the CLIHTF approved a modification of the maturity date of the CLIHTF Loan in a manner which will extend the maturity date of the CLIHTF Loan for three (3) years (the “**Extension**”)

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the Recitals which are made a contractual part of this First Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENTS

Section 1. The CLIHTF and the Borrower agree that the Financing Documents are modified as follows:

1.1. This First Amendment shall be included in the definition of the term “Loan Documents” as set forth in the CLIHTF Loan Agreement.

1.2 Paragraph 2 of Exhibit B to the CLIHTF Mortgage is hereby deleted and is replaced with the following:

“2. As referred to in first Recital of the Mortgage, the Maturity Date of the Note is: September 1, 2018.”

In addition, in Paragraph 6 of Exhibit A to the Loan Agreement, “2015” is hereby deleted and is replaced with “2018”.

Section 2. Except as specifically modified by this First Amendment, the Borrower hereby represents, warrants and confirms to the CLIHTF that:

2.1. All the Financing Documents and the obligations of the Borrower thereunder remain in full force and effect, are hereby ratified and confirmed, and may be enforced against the Borrower in accordance with their terms by the CLIHTF against the Borrower and the Property;

2.2. All representations, warranties, certifications, statements, affidavits and other items heretofore made or furnished to the CLIHTF by or on behalf of the Borrower, in connection with the Financing Documents were true, accurate and complete as of the date made or furnished to the CLIHTF, and continue to be true, accurate and complete as if furnished or made by or with respect to the Borrower as of the date hereof (excluding those representations, warranties, certifications, statements, affidavits and other items that have expired by their

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express terms or have expired with the passage of time and are not required to be renewed in connection with this First Amendment);

2.3. The Borrower acknowledges and warrants to the CLIHTF that it claims no defense, right of offset or counterclaim against enforcement of the Financing Documents (as modified by this First Amendment) and has no other claim against the CLIHTF arising under such Financing Documents;

2.4. The Borrower is not in default of its obligations under the Financing Documents. Any prior Event of Default by Borrower under any of the Financing Documents has been cured to the satisfaction of the CLIHTF as of the date hereof, and Borrower will cure any future Event of Default by Borrower under any of the Financing Documents to the satisfaction of the CLIHTF; and

2.5. The execution, delivery and performance of this First Amendment and the consummation of the transactions hereby contemplated will not conflict with any law, statute or regulation to which the Borrower or the Property is subject.

Section 3. The Parties hereto acknowledge and agree that this First Amendment does not constitute a novation of the existing indebtedness under the CLIHTF Loan, but is intended to be an amendment and modification of the Financing Documents. Except as amended hereby, the provisions of the Financing Documents remain in full force and effect and are hereby ratified and confirmed. The CLIHTF Mortgage shall continue to secure repayment of all amounts due under the CLIHTF Note as modified by this First Amendment without loss of priority. The CLIHTF Mortgage, the Financing Documents and any and all renewals, modifications, extensions or advances thereunder or secured thereby (including interests thereon), unconditionally do and will remain at all times a lien, claim or charge on the Property.

Section 4. The Borrower: (i) is represented by independent legal counsel of its choice in the transactions contemplated by this First Amendment; (ii) is fully aware and clearly understand all the terms contained in this First Amendment; (iii) has voluntarily, with full knowledge and without coercion or duress of any kind, entered into this First Amendment; (iv) is not relying on any representation, either written or oral, express or implied, made by the CLIHTF other than as set forth in this First Amendment; (v) on its own initiative has made proposals to the CLIHTF, the terms of which are reflected by this First Amendment; (vi) understands and agrees that the provisions of the Regulatory Agreement are and will remain in effect throughout the term of this extension and as otherwise provided in the Regulatory Agreement, and (vii) has received actual and adequate consideration to enter into this First Amendment.

Section 5. In the event of a conflict or inconsistency between the provisions of the CLIHTF Loan Agreement, the CLIHTF Note or any of the other Financing Documents and the provisions of this First Amendment, the provisions of this First Amendment shall govern and control.

Section 6. This First Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; provided, however, that the

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Borrower may not assign this First Amendment or its rights and obligations under the Financing Documents without the prior written consent of the CLIHTF.

Section 7. This First Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute a single agreement.

Section 8. This First Amendment shall be governed by and construed in accordance with the internal laws of the State of Illinois without regard to its conflict of laws principles.

Section 9. If any provision of this First Amendment is determined by a court having jurisdiction to be illegal, invalid or unenforceable under any present or future law, the remainder of this First Amendment will not be affected thereby. It is the intention of the Parties that if any provision is so held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible that is legal, valid and enforceable.

Section 10. Neither this First Amendment nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by all Parties to this First Amendment.

Section 11. No waiver of any action or default will be implied from the failure or delay by the CLIHTF to take any action in respect of such action or default. No express waiver of any condition precedent or default will affect any other default or extend any period of time for performance other than as specified in such express waiver. One or more waivers of any default in the performance of any provision of this First Amendment or of the Financing Documents will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any act or request by any party will not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act or request.

Section 12. The Borrower expressly agrees that no member, official, employee or agent of the CLIHTF shall be individually or personally liable to the Borrower, or any of their successors or assigns, in the event of any default or breach by the CLIHTF under this First Amendment.

Section 13. This First Amendment shall be recorded against the Property in the Office of the Cook County Recorder of Deeds at the expense of the Borrower. The parties agree that entering into this First Amendment shall have no effect on the recording priority of the CLIHTF Mortgage and the CLIHTF Regulatory Agreement, and that this First Amendment shall relate back to the date that the CLIHTF Mortgage and the CLIHTF Regulatory Agreement were originally recorded in the Office of the Cook County Recorder of Deeds.

Section 14. From and after the Closing Date, Borrower agrees to indemnify, pay, defend and hold the CLIHTF and its employees, officers, members, agents and affiliates (each, individually, an "Indemnitee," and, collectively, the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims,

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costs expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnities in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating to Borrower's performance under the Financing Documents.

Section 15. All capitalized terms not otherwise defined herein, shall have the same meanings as set forth in the Financing Documents.

Section 16. Borrower represents and warrants to the other parties that this First Amendment is duly authorized by all necessary corporate or limited liability company action and that the person executing this First Amendment on behalf of such party is duly authorized to execute this First Amendment on behalf of such party.

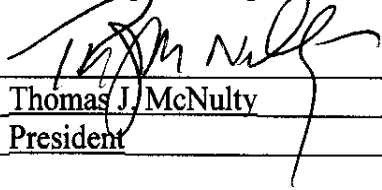
Section 17. The use of the singular form of any word herein shall also include the plural, and vice versa. The use of the masculine, feminine and neuter pronouns for any word herein shall be fully interchangeable.

[Remainder of this page intentionally left blank]

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IN WITNESS WHEREOF, the undersigned have executed this First Amendment and Modification Agreement as of the date first written above.

CHICAGO LOW-INCOME HOUSING TRUST FUND,
an Illinois not-for-profit corporation

By: 
Name: Thomas J. McNulty
Title: President

MIDWEST LIMITED PARTNERSHIP,
an Illinois limited partnership

By: Holsten Real Estate Development Corporation,
an Illinois corporation,
its general partner

By: _____
Name: _____
Its: _____

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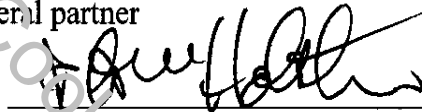
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CHICAGO LOW-INCOME HOUSING TRUST FUND,
an Illinois not-for-profit corporation

By: _____
Name: Thomas J. McNulty
Title: President

MIDWEST LIMITED PARTNERSHIP,
an Illinois limited partnership

By: Holsten Real Estate Development Corporation,
an Illinois corporation,
its general partner

By: 
Name: Peter M. Holsten
Its: President

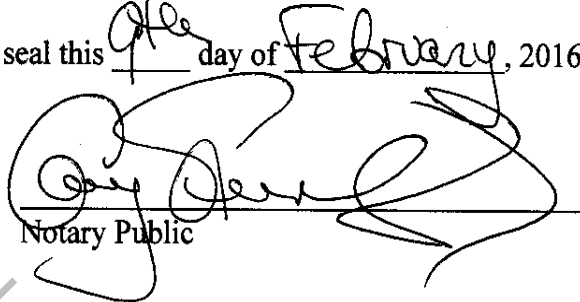
Property of Cook County Clerk's Office

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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, do hereby certify that Thomas J. McNulty, personally known to me to be the President of the Chicago Low-Income Housing Trust Fund, an Illinois not-for-profit corporation (the "CLIHTF"), 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 as such President, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act of the CLIHTF for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 14th day of February, 2016.



 Notary Public

(SEAL)



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STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

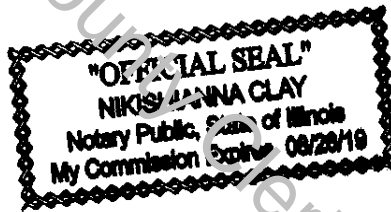
I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Peter M. Holsten, personally known to me to be the President of Holsten Real Estate Development Corporation, an Illinois corporation (the "Borrower"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such President, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act of the Borrower for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 9th day of February, 2016.



 Notary Public

(SEAL)



UNOFFICIAL COPY**EXHIBIT A****LEGAL DESCRIPTION****PARCEL 1:**

THE NORTH 33 FEET OF THE SOUTH 158 FEET OF LOT 5 (EXCEPT THAT PART THEREOF CONVEYED TO THE CITY OF CHICAGO, BY DEED DATED AUGUST 12, 1897, AND RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS, JULY 7, 1894, AS DOCUMENT NUMBER 2070355, IN BOOK 4908, PAGE 290), IN RUNYAN AND CURTIS' SUBDIVISION OF THE EAST 5 ACRES OF THAT PART LYING SOUTH OF LAKE STREET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE WEST 110 FEET OF THE SOUTH 125 FEET OF LOT 5 IN RUNYAN AND CURTIS' SUBDIVISION OF THE EAST 5 ACRES OF THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER LYING SOUTH OF LAKE STREET OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 10 (EXCEPT THE NORTH 10 FEET THEREOF), IN BLOCK 4 IN EVANS AND OTHER SUBDIVISION OF BLOCKS 1, 2, 3, AND 4, IN OSBORNE'S SUBDIVISION OF THE WEST 5 ACRES OF THE EAST 10 ACRES OF THAT PART LYING SOUTH OF LAKE STREET OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER, OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address Commonly Known as: 6 North Hamlin
Chicago, Illinois 60622

AND

LOTS 6, 7, 8, 9 AND 10 IN BLOCK 4 IN S.L. BROWN'S SUBDIVISION OF BLOCKS 1, 2, 3 AND 4 OF S.L. BROWN'S SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS ~~3826-34~~ WEST MADISON STREET, CHICAGO, ILLINOIS
60622

3824-26

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