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Doc# 1704817039 Fee \$62.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 02/17/2017 11:37 AM PG: 1 OF 13

Property of Cook County Clerk's Office

Property Address: 7014-16 South Kimbark Avenue

This document prepared by
and when recorded return to:

Cynthia Shawamreh
City of Chicago Department of Law
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602

THIRD AMENDMENT OF LOAN DOCUMENTS

THIS THIRD AMENDMENT OF LOAN DOCUMENTS is made as of this 17th day of February, 2017 (this "Amendment"), by and between the City of Chicago (the "City"), an Illinois municipal corporation, by and through its Department of Planning and Development ("DPD") with offices at 121 North LaSalle Street, Room 1000, Chicago, Illinois, 60602 and Celadon-Kimbark, LLC, an Illinois limited liability company (the "Borrower").

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WITNESSETH

WHEREAS, the City has received certain funds from the United States Department of Housing and Urban Development (“HUD”) in connection with the Neighborhood Stabilization Program (the “Program”); and

WHEREAS, the City is required to meet certain legal requirements in connection with the Program (the “NSP Legal Requirements”); and

WHEREAS, the NSP Legal Requirements require the City to use the Program funds for certain eligible activities (the “Eligible Activities”); and

WHEREAS, the NSP Legal Requirements require that the City allocate 25% of the Program funds to purchase and redevelop abandoned or foreclosed upon residential properties for housing individuals whose incomes do not exceed 50% of the area median income adjusted for family size (“Very Low-Income Families”); and

WHEREAS, the NSP Legal Requirements further require that the City allocate 100% of the Program funds to Eligible Activities benefiting communities and households whose incomes do not exceed 120% of the area median income adjusted for family size (“Eligible Income Families”); and

WHEREAS, the City, Mercy Portfolio Services, a Colorado non-profit corporation (“Mercy”) and MPS Community I, LLC, an Illinois limited liability company (“MPS”) entered into that certain Regulatory Agreement dated and effective March 25, 2010 and that First Amended and Restated Regulatory Agreement dated and effective as of September 7, 2011 (collectively, the “Original Regulatory Agreement”) which restricted the use of certain property located at 7014-16 South Kimbark Avenue in Chicago, Illinois (the “Property”); and

WHEREAS, the City, Mercy, MPS and the Borrower entered into that certain Assignment, Assumption and Amendment of Documents as of September 7, 2011 (the “Second Amendment”) which contemplated that the Borrower would acquire and rehabilitate the Property using \$669,704 of Program funds (the “Loan”) and that the Borrower would assume all of the obligations of Mercy under certain loan documents in connection with the Property made in favor of MPS and assigned to the City, including without limitation a certain redevelopment agreement, a note, a mortgage, an assignment of rents, and certain other documents in addition to the Original Regulatory Agreement (collectively with the Second Amendment, the “Loan Documents”); and

WHEREAS, the Borrower is the owner of the Property which is legally described on Exhibit A attached hereto, and has rehabilitated the Property in accordance with the Loan Documents;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the Borrower and the City each hereby agree as follows:

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SECTION 1 BORROWER'S REPRESENTATIONS AND COVENANTS.

The Borrower hereby represents, warrants, covenants and agrees as follows:

1.1 The Property now contains a total of 4 residential dwelling units (the "Project Units").

1.2 All of the Project Units are restricted to occupancy by Eligible Income Families ("120% AMI Restricted Project"). "Baseline Maximum Rents" shall mean the maximum amount of gross monthly rent, calculated assuming that the Borrower pays all utilities, which may be charged to tenants in the 120% AMI Restricted Project or in the 50% AMI Restricted Low-Income Project (as defined below) in accordance with the schedule entitled City of Chicago Maximum Affordable Monthly Rents 2015. Any rent increase from the Baseline Maximum Rents must be reviewed and approved by DPD in accordance with Section 1.6 and 1.7 below, as applicable.

1.3 None of the Project Units are restricted to occupancy by Very Low-Income Families ("50% AMI Restricted Low-Income Project"). Rents for any of the units in the 50% AMI Restricted Low-Income Project that are assisted with Federal or State project-based rental subsidy through any Federal or State funded contract (a "Subsidy Contract"), and for which tenants pay no more than 30% of their adjusted income, which is under the Baseline Maximum Rents indicated below, shall be deemed to meet the provisions hereof provided that the rents charged by the Borrower are allowable under the applicable Subsidy Contract. The Borrower hereby certifies to the City that all the rents currently charged by the Borrower for tenants assisted through a Subsidy Contract in the 50% AMI Restricted Low-Income Project comply with the rents allowable under such Subsidy Contract.

1.4 The 120% AMI Restricted Project is configured as follows:

<u>Number of Bedrooms</u>	<u>Number of Units</u>	<u>Baseline Maximum Rents</u>
Studio	0	\$812
1 bedroom	0	\$922
2 bedroom	3	\$1,093
3 bedroom	1	\$1,393
4 bedroom	0	\$1,624

1.5 The 50% AMI Restricted Low-Income Project is configured as follows:

<u>Number of Bedrooms</u>	<u>Number of Units</u>	<u>Baseline Maximum Rents</u>
Studio	0	\$665
1 bedroom	0	\$712
2 bedroom	0	\$855
3 bedroom	0	\$988

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4 bedroom

0

\$1,102

Each of the units in the 50% AMI Restricted Low-Income Project shall be deemed to be floating units (the "Floating Units"). Subject to the prior written consent of the City, during the Project Term one or more of the Project Units may hereafter be substituted for one or more of the initial Floating Units specified below by the Borrower. The Borrower shall ensure that any such substitution shall maintain conformity of the Property with the requirements of the NSP Legal Requirements, and both that (a) the total number of Floating Units remains the same, and (b) each substituted Project Unit is comparable in terms of size, features and number of bedrooms with the originally designated Floating Unit.

Number of Bedrooms

Unit Numbers for Initial Floating Units

Studio	N/A
1 bedroom	N/A
2 bedroom	N/A
3 bedroom	N/A
4 bedroom	N/A

1.6 The Baseline Maximum Rents for all of the units in the 120% AMI Restricted Project shall be as stated above (the "120% Initial Rents"). The 120% Initial Rents shall be subject to review and approval by DPD annually and shall be less than the maximum amount(s) provided by DPD annually to the Borrower for the Property. The Borrower shall not increase rents for the units in the 120% AMI Restricted Project during any year during the Project Term (as defined below) until after receiving the updated maximum rent limits for such year from DPD, and any such rent increase shall thereafter be promptly reported by the Borrower in writing to DPD.

Throughout the Project Term, the rents for all of the units in the 120% AMI Restricted Project shall not exceed the lesser of (a) the fair market rent for comparable units in the area as established by HUD under 24 C.F.R. Section 888.111, less utilities, or (b) 30% of the adjusted income of a family whose gross income equals 120% of the median income for the Chicago area less utilities, with adjustment for the number of bedrooms in the unit, as such adjusted income and Chicago-area median income are determined from time to time by HUD.

1.7 The Baseline Maximum Rents for all of the units in the 50% AMI Restricted Project shall be as stated above (the "50% Initial Rents"). The 50% Initial Rents shall be subject to review and approval by DPD annually and shall be less than the maximum amount(s) provided by DPD annually to the Borrower for the Property. The Borrower shall not increase rents for the units in the 50% AMI Restricted Project during any year during the Project Term until after receiving the updated maximum rent limits for such year from DPD, and any such rent increase shall thereafter be promptly reported by the Borrower in writing to DPD.

Throughout the Project Term, the rents for all of the units in the 50% AMI Restricted Project shall not exceed either (a) 30% of the adjusted income of a family whose gross income equals 50% of the median income for the Chicago area less utilities, with adjustment for the

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number of bedrooms in the unit, as such adjusted income and Chicago-area median income are determined from time to time by HUD, or (b) the rent allowable under a Subsidy Contract for the unit, provided that the Very Low-Income Family pays not more than 30 percent of the family's adjusted income as a contribution toward rent.

SECTION 2 TERM.

The obligations and responsibilities of the Borrower to the City pursuant to this Amendment shall be in full force and effect for a period of 20 years after the Completion Date as defined in the Original Regulatory Agreement (the "Project Term"), subject to the provisions of Section 6 of the Original Regulatory Agreement.

SECTION 3 SALE OR TRANSFER OF THE PROJECT.

The Borrower hereby covenants and agrees not to sell, transfer or otherwise dispose of the Property, or any portion thereof (including, without limitation, a transfer by assignment of any beneficial interest under a land trust), at any time during the Project Term, except as expressly permitted by the City, provided, however, that after payment in full of the Loan and all other amounts due and payable to the City under the Loan Documents, such permission by the City shall not be unreasonably withheld. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Property in violation of this Amendment shall be null, void and without effect, shall cause a reversion of title to the Borrower or any successor or assignee of the Borrower last permitted by the City, and shall be ineffective to relieve the Borrower or such successor or assignee, as applicable, of its obligations hereunder.

SECTION 4 ENFORCEMENT.

4.1 If a violation of any of the foregoing representations or covenants occurs or is attempted, and such occurrence or attempt is uncorrected for a period of 30 days after notice thereof from the City to the Borrower (provided, however, that if any such occurrence or attempt cannot reasonably be cured within said 30-day period and if the Borrower shall have commenced to cure such occurrence or attempt within said 30-day period and shall thereafter continue diligently to effect such cure, then said 30-day period shall be extended to 60 days upon written request from the Borrower to the City delivered during such 30-day period, and upon further written request from the Borrower to the City delivered during such 60-day period, said 60-day period shall be extended to 90 days; provided further, however, that the City shall not be precluded during any such periods from exercising any remedies hereunder if the City shall receive a request or notice from HUD to do so or if the City shall determine that the continuation of such uncorrected occurrence or attempt shall result in any liability by the City to HUD), the City and its successors and assigns, without regard to whether the City or its successors and assigns is an owner of any land or interest therein to which these covenants relate, may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel specific performance by the Borrower of its obligations hereunder, or may declare an event of default under the Loan Documents and this Amendment. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or

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recovery for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time.

4.2 All fees, costs and expenses of the City incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

4.3 The Borrower further specifically acknowledges that the beneficiaries of the Borrower's obligations hereunder cannot be adequately compensated by monetary damages in the event of any breach or violation of any of the foregoing representations or covenants.

SECTION 5 COVENANTS TO RUN WITH THE LAND.

The Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Amendment. The City and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall, throughout the Project Term, be deemed covenants, reservations and restrictions running with the land to the extent permitted by law, and shall pass to and be binding upon the Borrower's successors in title to the Project throughout the Project Term. The Borrower hereby covenants to include the requirements and restrictions contained in this Amendment in any documents transferring any interest in the Project to another Person in order that such transferee has notice of, and is bound by, such restrictions, and to obtain from any transferee the agreement to be bound by and comply with the requirements set forth in this Amendment, provided, however, that each and every contract, deed, mortgage or other instrument hereafter executed covering or conveying the Property or any portion thereof or interest therein (including, without limitation, any transfer of a beneficial interest in a land trust or a portion thereof) shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. After the end of the Project Term or, in the event that the covenants, reservations and restrictions hereof terminate pursuant to the provisions of hereof, on or after the applicable date of termination described herein, the City, upon such termination and upon a written request from the Borrower shall execute and consent to the recording of a release of this Amendment, at the expense of the Borrower.

SECTION 6 GOVERNING LAW.

This Amendment shall be construed in accordance with and governed by the internal laws of the State without regard to its conflict of laws principles, and, where applicable, the laws of the United States of America. In the event of any conflict between this Amendment and the Loan Documents, this Amendment shall control. In the event of any conflict between this Amendment and the NSP Legal Requirements, the NSP Legal Requirements shall control.

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SECTION 7 NOTICE.

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications, whether by telex, telegram or telecopy; (c) overnight courier, receipt requested; or (d) registered or certified mail, return receipt requested.

IF TO CITY: City of Chicago, Illinois
c/o Department of Planning and Development
121 North LaSalle Street, Room 1000
Chicago, Illinois 60602
Attention: Commissioner

WITH COPIES TO: Office of the Corporation Counsel
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Finance and Economic
Development Division

IF TO BORROWER: Ceradon-Kimbark, LLC
30 South Wacker, Suite 2200
Chicago, Illinois 60606
Attention: Scott Henry

With Copies to: Applegate & Thorne Thomsen
440 South LaSalle Street
Suite 1900
Chicago, Illinois 60605
Attention: Paul Davis

SECTION 8 SEVERABILITY, NO NOVATION OF INDEBTEDNESS.

8.1 If any provision of this Amendment shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

8.2 The City and the Borrower acknowledge and agree that this Amendment does not constitute a novation of the existing indebtedness under the Loan, but is intended to be an amendment and modification of the Loan Documents. Except as amended hereby, the provisions of the Loan Documents remain in full force and effect and are hereby ratified and confirmed.

SECTION 9 COUNTERPARTS.

This Amendment may be executed in any number of counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same

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document.

SECTION 10 RIGHT TO INSPECT.

Upon 30 days' prior notice to the Borrower, the Borrower shall permit, and shall cause any management agent for the Property to permit the City, HUD and/or the Comptroller General of the United States to inspect the Property at all reasonable times and access thereto shall be permitted for that purpose. At any time during normal business hours and as often as the City, HUD and/or the Comptroller General of the United States may deem necessary, the Borrower shall make available to the City, HUD and/or representatives of the Comptroller General of the United States all of its records with respect to matters covered by the Loan Documents. The Borrower shall permit, and shall cause any management agent for the Property to permit the City, HUD and/or representatives of the Comptroller General of the United States to audit, examine and make excerpts or transcripts from such records, and to make copies of records relating to personnel, conditions of employment and other data covered by the Loan Documents.

SECTION 11 NO THIRD PARTY BENEFITS.

This Amendment is made for the sole benefit of the City and the Borrower and their respective successors and assigns and, except as otherwise expressly provided herein, no other party shall have any legal interest of any kind hereunder or by reason of this Amendment. Whether or not the City elects to employ any or all of the rights, powers or remedies available to it hereunder, the City shall have no obligation or liability of any kind to any third party by reason of this Amendment or any of the City's actions or omissions pursuant hereto or otherwise in connection herewith.

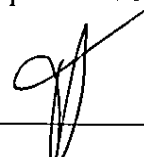
[SIGNATURES APPEAR ON NEXT PAGE]

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IN WITNESS WHEREOF, the City and the Borrower have executed this Amendment by their duly authorized representatives, all as of the date first written hereinabove.

CITY OF CHICAGO, ILLINOIS, acting by and through its Department of Planning and Development

By: _____



Name: David L. Reifman

Title: Commissioner

CELADON-KIMBARK, LLC, an Illinois limited liability company

By: Celadon Holdings, LLC, an Illinois limited liability company and its sole member

By: _____

Name: _____

Title: _____

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IN WITNESS WHEREOF, the City and the Borrower have executed this Amendment by their duly authorized representatives, all as of the date first written hereinabove.

CITY OF CHICAGO, ILLINOIS, acting by and through its Department of Planning and Development

By: _____

Name: David L. Reifman
Title: Commissioner

CELADON-KIMBARK, LLC, an Illinois limited liability company

By: Celadon Holdings, LLC, an Illinois limited liability company and its sole member

By: TMG

Name: THAO GARVOL
Title: MEMBER

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

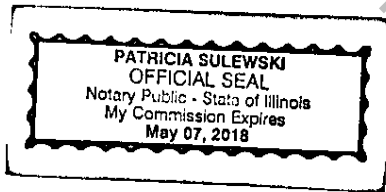
I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT David L. Reifman, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago, Illinois (the "City") and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Commissioner, he signed and delivered said instrument pursuant to authority given by the City as his free and voluntary act and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of JANUARY 2017.

Patricia Sulewski

Notary Public .

(SEAL)



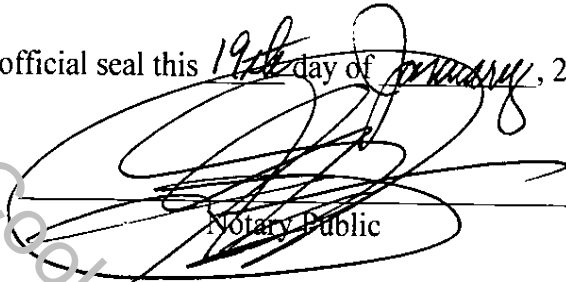
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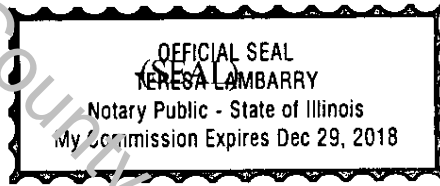
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Thad J. Barver, personally known to me to be the member of Celadon Holdings, LLC, an Illinois limited liability company and the sole member of Celadon-Kimbark, LLC, an Illinois limited liability company (the "Borrower"), and known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me, acknowledged that he/she signed and delivered the said instrument pursuant to authority given by the Borrower, and as his/her free and voluntary act and deed and as the free and voluntary act and deed of the Borrower for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 19th day of January, 2017.


Notary Public



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EXHIBIT A

LEGAL DESCRIPTION:

LOT 103 IN BROOKHAVEN, BEING S.E. GROSS SUBDIVISION OF THE SOUTH 23.569 ACRES OF THAT PART OF THE SOUTHEAST ¼ OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRICIPAL MERIDAN, IN COOK COUNTY, ILLINOIS.

ADDRESS COMMONLY KNOWN AS:

7014-16 South Kimbark Avenue
Chicago, Illinois 60637

PERMANENT INDEX NO.:

20-23-149-021-0000

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