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Doc# 1926617051 Fee \$88.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 09/23/2019 01:42 PM PG: 1 OF 7

212885

CROSS-REFERENCE: Document no. 1827018095

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

John W. Hamilton
Wooden McLaughlin LLP
One Indiana Square
Suite 1800
Indianapolis, Indiana 46204

HUD AMENDMENT TO RESTRICTIVE COVENANTS

(County Regulatory Agreement)

This AMENDMENT TO RESTRICTIVE COVENANTS is made as of **September 1, 2019**, by **HHDC-CDT ARROWHEAD JV LLC, a Delaware limited liability company** ("Borrower") and the **COUNTY OF COOK**, a body politic and corporate of the State of Illinois ("Agency").

WHEREAS, Borrower has obtained financing from Merchant's Capital Corp., ("Lender") for the benefit of the project known as **the Arrowhead Apartments** ("Project"), which loan is secured by a **Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement** ("Security Instrument") dated as of **September 1, 2019**, and recorded in the Recorder's Office of Cook County, Illinois ("Records") on **September 23, 2019** as Document Number **1926617048**, and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Borrower has received **HOME funds** from the Agency, which Agency has required certain restrictions be recorded against the Project; and

WHEREAS, Borrower entered into that certain **Regulatory Agreement and Declaration of Covenants, Conditions and Restrictions Home Investment Partnership Program** ("Restrictive Covenants") with respect to the Project, as more particularly described in Exhibit A attached hereto, dated as of **September 27, 2018** and recorded in the Records; *as document 1827018095;*

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WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Agency has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Amendment.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Amendment, the provision contained in this Amendment shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"Code" means the Internal Revenue Code of 1986, as amended.

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means **Merchants Capital Corp.**, its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act of 1934, as amended.

"Program Obligations" has the meaning set forth in the Security Instrument.

"Residual Receipts" has the meaning specified in the HUD Regulatory Agreement.

"Security Instrument" means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the "HUD Requirements"). Borrower covenants that it will not take or permit any

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action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency's ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower's knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

(e) Borrower and the Agency acknowledge that Borrower's failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) In enforcing the Restrictive Covenants the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available Surplus Cash, if the Borrower is a for-profit entity;
- ii. Available distributions of Surplus Cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity;
- iii. Available Residual Receipts authorized by HUD, if the Borrower is a non-profit entity; or
- iv. A HUD-approved collateral assignment of any HAP contract.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Agency shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Agency may require the Borrower to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Agency harmless shall be limited to available Surplus Cash and/or Residual Receipts of the Borrower.

[Signatures on following pages]

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BORROWER:

HHDC-CDT ARROWHEAD JV LLC,
a Delaware limited liability company

By: Hispanic Housing Development Corporation,
an Illinois not-for-profit corporation,
its Manager

By: *Hipolito Roldan*
Hipolito Roldan, President

STATE OF ILLINOIS
COUNTY OF COOK

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that on this 20th day of September, 2019, Hipolito Roldan, 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 of Hispanic Housing Development Corporation, an Illinois not-for-profit corporation, which is Manager of HHDC-CDT Arrowhead JV LLC, a Delaware limited liability company, (s)he signed and delivered the said instrument as a free and voluntary act for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

James T. Buchholz
Notary Public

[seal]



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AGENCY:

COUNTY OF COOK,
a body politic and corporate of the State of Illinois

By: *Susan M Campbell*
Susan M. Campbell, Director
Department of Planning and Development

ATTEST: *Karen Yarbrough*
Karen Yarbrough, County Clerk

Approved as to form: _____
Assistant State's Attorney

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Susan M. Campbell, personally known to me to be the Director of Cook County Department of Planning and Development, Bureau of Economic Development 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 the Director, she signed and delivered the said instrument pursuant to the authority given by the County of Cook as her free and voluntary act and as the free and voluntary act of the County, for the uses and purposes therein set forth.

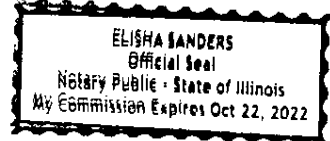
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and official seal in said County, State of Illinois, as of this 20~~th~~ day of September, 2019.

My Commission Expires:
10-22-2022

Elisha Sanders
Notary Signature

County of Residence:
Cook

Elisha Sanders
Notary Printed



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AGENCY:

COUNTY OF COOK,
a body politic and corporate of the State of Illinois

By: _____
Susan M. Campbell, Director
Department of Planning and Development

ATTEST: _____
Karen Yarbrough, County Clerk

Approved as to form: 
Assistant State's Attorney

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Susan M. Campbell, personally known to me to be the Director of Cook County Department of Planning and Development, Bureau of Economic Development 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 the Director, she signed and delivered the said instrument pursuant to the authority given by the County of Cook as her free and voluntary act and as the free and voluntary act of the County, for the uses and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and official seal in said County, State of _____, as of this ____ day of September, 2019.

My Commission Expires:

Notary Signature

County of Residence:
Cook

Notary Printed

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EXHIBIT A

THAT PART OF SECTION 1, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST AND WEST CENTERLINE OF SAID SECTION 1, 66.00 FEET EAST OF THE CENTER OF SAID SECTION 1, BEING ALSO THE EAST LINE OF BALDWIN ROAD AS PER DOCUMENT NUMBER 21960657, AND RUNNING THENCE SOUTH 00 DEGREES EAST ALONG SAID EAST LINE, 135.376 FEET; THENCE SOUTH 87 DEGREES 23 MINUTES 18 SECONDS EAST, 844.689 FEET; THENCE SOUTH 76 DEGREES 37 MINUTES 00 SECONDS EAST, 145.55 FEET; THENCE NORTH 13 DEGREES 23 MINUTES 00 SECONDS WEST, 124.00 FEET; THENCE NORTH 76 DEGREES 37 MINUTES 00 SECONDS WEST, 64.00 FEET; THENCE SOUTH 13 DEGREES 23 MINUTES 00 SECONDS WEST, 64.00 FEET; THENCE NORTH 76 DEGREES 37 MINUTES 00 SECONDS WEST, 41.24 FEET; THENCE NORTH 38 DEGREES 41 MINUTES 19 SECONDS WEST, 811.75 FEET; THENCE NORTH 87 DEGREES 23 MINUTES 18 SECONDS WEST, 429.95 FEET TO THE EAST LINE OF BALDWIN ROAD; THENCE SOUTH ALONG SAID EAST LINE OF BALDWIN ROAD, 287.53 FEET; THENCE CONTINUING ALONG SAID EAST LINE OF BALDWIN ROAD, SOUTH 23 DEGREES 45 MINUTES 23 SECONDS EAST, 99.29 FEET; THENCE CONTINUING SOUTH 00 DEGREES EAST ALONG SAID EAST LINE OF BALDWIN ROAD, 150.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PERMANENT REAL ESTATE INDEX NUMBERS: 02-01-201-006-0000 AND 02-01-400-014-0000

COMMON ADDRESS: 1902-1950 CAMBRIDGE COURT, PALATINE, IL 60067

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