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EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 06/19/2020 11:19 AM PG: 1 OF 8

**THIS INSTRUMENT WAS PREPARED BY
AND AFTER RECORDING RETURN TO:**
Adam R. Walker
City of Chicago Department of Law, Finance Div'n
121 North LaSalle St., Suite 600
Chicago, Illinois 60602

Property Addresses and PINs:
See Attached Exhibit A

AMENDMENT TO RESTRICTIVE COVENANTS

(City Regulatory Agreement)

This AMENDMENT TO RESTRICTIVE COVENANTS is made as of May 1, 2020, by **BMBS CAPITAL PARTNERS, LLC** ("Borrower") and the **City of Chicago, an Illinois municipal corporation, by and through its Department of Housing** ("Agency").

WHEREAS, Borrower has obtained financing from Berkadia Commercial Mortgage LLC, an Illinois limited liability company ("Lender"), for the benefit of the project known as Bryn Mawr – Belle Shore Apartments ("Project"), which loan is secured by a Multifamily Mortgage, Assignment of Rents and Security Agreement ("Security Instrument") dated as of May 1, 2020, and recorded in the Recorder's Office of Cook County, Illinois ("Records") ~~on~~ as Document Number, and which is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, in 1997 Borrower received a loan from the Agency, which Agency required certain restrictions be recorded against the Project; and

WHEREAS, Borrower entered into that certain Regulatory Agreement dated July 1, 1997 ("Restrictive Covenants") with respect to the Project, which Project is more particularly described in Exhibit A attached hereto, and recorded as document number 97555117 on July 31, 1997 in the Records;

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

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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 that the Restrictive Covenants are amended as follows:

(a) Rider 1-A of the Restrictive Covenants, the HUD-Required Provisions Rider, is hereby deleted. 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 Berkadia Commercial Mortgage LLC, 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 of the Restrictive Covenants 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 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

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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) Except for the Agency's reporting requirement, 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; or
- iii. Available residual receipts authorized by HUD, if the Borrower is a non-profit entity.

(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.

(i) This Amendment to Restrictive Covenants may be executed in one or more counterparts, all of which when taken together, shall constitute a single instrument.

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BORROWER:
BMBS CAPITAL PARTNERS, LLC, an Illinois
limited liability company

AGENCY:
THE CITY OF CHICAGO, a municipal
corporation, by and through its Department
of Housing

By: BMBS General Partner, Inc., an Illinois
corporation, its manager

By: _____

By: 

James J. Glikin, President

Name: Marisa Novara, Commissioner

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IN WITNESS WHEREOF, the parties have executed and delivered this Amendment to Restrictive Covenants as of the date first above written.

BORROWER:
BMBS CAPITAL PARTNERS, LLC, an Illinois limited liability company

AGENCY:
THE CITY OF CHICAGO, a municipal corporation, by and through its Department of Housing

By: BMBS General Partner, Inc., an Illinois corporation, its manager

By: Marisa Novara

By: _____
James J. Glikin, President

Marisa Novara, Commissioner

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

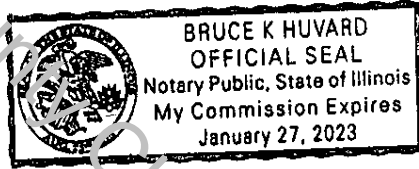
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that James Glikin, the President of BMBS General Partner, Inc., an Illinois corporation, the manager of BMBS Capital Partners, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument in such capacity, appeared before me on May 4, 2020 in person and acknowledged that he signed and delivered the foregoing instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on May 4, 2020.

Bruce K. Huvard

Notary Public

[seal]



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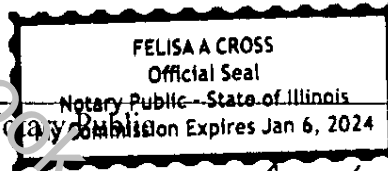
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STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that on this May 11, 2020, Marisa Novara, 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 she signed and delivered the said instrument as her free and voluntary act as Commissioner of the Department of Housing of the City of Chicago for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on May 11, 2020.

[seal]



Felisa A Cross

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Exhibit A – Legal Description

LOTS 1, 2, 3 AND 4 IN BLOCK 2 IN JOHN LEWIS COCHRAN’S SUBDIVISION OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PINs: 14-08-201-008-0000
 14-08-201-009-0000
 14-08-201-010-0000

Commonly known as: 5550 N. Kenmore Avenue, Chicago, Illinois

LOT 13 AND THE SOUTH 18 FEET OF LOT 14 IN BLOCK 8 IN COCHRAN’S ADDITION TO EDGEWATER, A SUBDIVISION OF THE SOUTH 1,946 FEET OF THE WEST 1,320 FEET OF THE EAST FRACTIONAL ½ OF SECTION 5, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 14-05-409-008-0000

Commonly known as: 1062 W. Bryn Mawr Avenue, Chicago, Illinois

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