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Regulatory Agreement Housing for the Elderly or Handicapped (Nonprofit)

U.S. Department of Housing
and Urban Development
Office of Housing



Section 8 Housing Assistance Payments Contract
Project Assistance Contract

Section 202 of the Housing Act of 1959

Project Number 071-2H583/IL06-T8Q1-015	Amount of Mortgage Note \$3,336,400.00	Date December 1, 1991
Mortgage Recorded in State Illinois	County Cook	Date December 18, 1991 Doc # 91666825

This Agreement entered into this 1st day of December, 1991, between Hayes Senior Housing Corporation

whose address is 1571 W. Ogden Ave., 2nd Floor, LaGrange Park, Illinois, hereinafter called Mortgagor, and the undersigned Secretary of Housing and Urban Development hereinafter called HUD.

In consideration of the making of the loan by HUD and the disbursement of any part thereof, and in order to comply with the requirements of the Housing Act of 1959 and the Regulations adopted by the Secretary pursuant thereto, the Mortgagor agrees for itself, its successors and assigns, and any owner of the mortgaged property, that in connection with the mortgaged property and the project operated thereon and so long as the loan is outstanding:

- Mortgagor shall promptly make all payments due under the Note and Mortgage.
- Mortgagor will establish and maintain a special fund to be known as the revenue fund account in a bank which is a member of the Federal Deposit Insurance Corporation, Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund, into which will be deposited all rentals, charges, income and revenues arising from the operation or ownership of the project. Expenditures shall be made from this revenue fund account only in accordance with the operating budget submitted and approved by HUD.
- Not later than 30 days prior to the beginning of each fiscal year, the Mortgagor shall submit an operating budget for that fiscal year to HUD. The budget shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, taxes and special assessment levies, prorated amounts required for insurance and all other expenses incident to the operation of the project; and shall show the expected revenues to pay such expenses, including annual debt service requirements and reserve fund deposits. The expenses incurred and disbursements shall not exceed the reasonable and necessary amount thereof, and the Mortgagor will not expend any amount or incur any obligations in excess of the amounts approved in the annual operating budget except upon written certification by the Mortgagor to HUD that such expenses were unanticipated and are necessary and provided further, that nothing in this section shall limit the amount which the Mortgagor may expend from funds obtained from some other source than project revenues or other funds required of the Mortgagor pursuant to this Agreement or the Building Loan Agreement.
- As security for the loan, for the required payments under this Agreement into the reserve fund for replacements, and for all other obligations of the Mortgagor under this Agreement, the Mortgagor hereby assigns, pledges and mortgages to HUD all its rights to the income and charges of whatever sort which it may receive or be entitled to receive from the operation of the mortgaged property, subject, however, to any judgment of rents or project income in the mortgage referred to herein. Until a default occurs under this Agreement, however, permission is granted to Mortgagor to collect and retain under the provisions of this Agreement such rents, income, operating surplus and charges, but upon default this permission is terminated, as to all rents, income, operating surplus and charges due or collected thereafter.
- (a) Mortgagor will establish and maintain a reserve fund for replacements in a separate account in a bank which is insured by the Federal Deposit Insurance Corporation, Savings Association Insurance Fund, or

the National Credit Union Share Insurance Fund. Concurrently with the effective date of the Assistance Contract, the Mortgagor will deposit an amount equal to \$ 1,175.17 per month under a different date or amount is approved in writing by HUD. Such fund, whether in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America shall at all times be subject to the control of HUD. Disbursements from such fund, whether for the purpose of effecting replacement of structural elements and mechanical equipment of the project or for any other purpose, may be made only after the consent in writing of HUD. In the event of a default in the terms of the mortgage, HUD may demand the full or partial application of the balance in such fund to the amount due on the mortgage debt.

- (b) Mortgagor will deposit the minimum capital investment with an approved agent acceptable to HUD pursuant to Regulations.
- (c) Within 60 days after the end of each fiscal year, any residual receipts realized from the operation of the mortgaged property shall be deposited in a separate residual receipts account. Residual receipts shall be under the control of HUD and shall be disbursed only at the discretion of HUD for such purpose as it may determine to be necessary or appropriate.
- The real property covered by the mortgage and this Agreement is described in Schedule A attached hereto.
- Mortgagor shall not without the written approval of the Secretary:
 - Transfer, dispose of or encumber any of the mortgaged property. Any such transfer shall be only to a person or persons or corporation satisfactory to and approved by HUD, and shall, by legal and valid instrument in writing, to be recorded or filed in the same recording office in which conveyances of the property covered by the mortgage are required to be filed or recorded, duly assume all obligations under this Agreement and under the Note and Mortgage;
 - Assign, transfer, dispose of, or encumber any personal property, including rents or charges, and shall not disburse or pay out any funds except as provided herein and in the Building Loan Agreement;
 - Remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
 - Pay any compensation or make any distribution of income or other assets to any of its officers, directors or stockholders;
 - Enter into any contract or contracts for supervisory or managerial services;

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(f) Receipts as a condition of occupancy in the project, any contribution or deposit other than the prepayment of the first month's rent (the gross family contribution in assisted units) plus a security deposit in an amount not in excess of one month's rent, or \$50 whichever is greater, to guarantee the performance of the covenants of the lease. Any funds collected as security deposits shall be kept separate and apart from all other funds of the project in a trust account the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account;

(g) Permit the use of the dwelling accommodations of the project for any purpose except the use which was originally intended, or permit commercial use greater than that originally approved by HUD;

(h) Amend its articles of incorporation or by-laws other than as permitted under the terms of the articles of incorporation approved by HUD.

8. Mortgagor shall maintain the mortgaged premises, accommodations and the grounds and equipment appurtenant thereto, in good and substantial repair and condition: PROVIDED THAT, in the event all or any of the buildings covered by the mortgage shall be destroyed or damaged by fire or other casualty, the money derived from any insurance on the property shall be applied in accordance with the terms of the mortgage.

9. Mortgagor shall not file any petition in bankruptcy or insolvency, or for a receiver, or for reorganization or composition, or make any assignment for the benefit of creditors or to a trustee for creditors; or permit an adjudication in bankruptcy, or insolvency, the taking possession of the mortgaged property or any part thereof by a receiver, or the seizure and sale of the mortgaged property or any part thereof under judicial process or pursuant to any power of sale and fail to have such adverse action set aside within 45 days.

10. Mortgagor shall from funds other than project income immediately satisfy or release any mechanic's lien, attachment, judgment lien, or any other lien which attaches to the mortgaged property or any personal property used in the operation of the project, and shall dismiss or have dismissed or vacated any receivership, or petition in bankruptcy or assignment for benefit of creditors, creditors bill or insolvency proceeding involving the project or the mortgaged property.

11. (a) If the Mortgagor has or comes to have any nonproject funds, all income and other funds of the mortgaged project shall be segregated from any such funds of the Mortgagor and segregated from any funds of any other corporations or persons. Income and other funds pledged to the mortgaged project shall be expended only for the purposes of the project.

(b) Mortgagor shall provide for the management of the project satisfactory to HUD. Any management contract entered into by the Mortgagor involving the project shall contain a provision that it shall be subject to termination, without penalty and with or without cause, upon written request by HUD addressed to the Mortgagor and the management agent. Upon receipt of such request the Mortgagor shall immediately move to terminate the contract within a period of not more than 60 days and shall make arrangements satisfactory to HUD for continuing proper management of the project.

(c) Neither Mortgagor nor its agents shall make any payments for services, supplies or materials unless such services are actually rendered for the project or such supplies or materials are delivered to the project and are reasonably necessary for its operation. Payments for such services or materials shall not exceed the amount ordinarily paid for such services, supplies or materials in the area where the services are rendered or the supplies or materials furnished.

(d) The mortgagor shall, upon receipt of all bills, plans, orders, invoices, books, apparatus, contracts, records, documents, and all other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by HUD and its duly authorized agents. Mortgagor and its successors, assigns or its agents shall retain copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by HUD or its duly authorized agents.

(e) The books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of HUD.

(f) Within 60 days following the end of each fiscal year HUD shall be furnished with a complete annual financial report based upon an examination of the books and records of Mortgagor prepared in accordance with the requirements of HUD, certified to be an officer of the Mortgagor and, when required by HUD, prepared and certified by a Certified Public Accountant, or other person acceptable to HUD.

(g) At the request of HUD, its agents, employees, or attorneys, the Mortgagor shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operation, and condition of the property and the status of the Mortgage and any other information with respect to the Mortgagor or the mortgaged property and of the project which may be requested.

(h) All receipts of the project shall be deposited in the name of the project in a bank, whose deposits are insured by the FDIC, Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund. Such funds shall be withdrawn only in accordance with the provisions of this agreement for expenses of the project. Any person receiving funds of the project shall immediately deposit such funds in the project bank account and failing to do so in violation of this Agreement shall hold such funds in trust. Any person receiving property of the project in violation of this Agreement shall immediately deliver such property to the project and failing to do so shall hold such property in trust.

(i) Mortgagor shall at all times, if required by the laws of the jurisdiction, maintain in full force and effect a license to operate the project from the state and/or other licensing authority. Mortgagor shall lease any portion of the project only on terms approved by HUD.

(j) Mortgagor shall not collect from tenants or occupants or prospective tenants or occupants of the project any admission fee, founder's fee, life-care fee, or similar payment pursuant to any agreement, oral or written, whereby the Mortgagor offers to furnish accommodations or services in the project to persons making such payments.

(k) No officer, director, trustee, member, stockholder nor authorized representative of the Mortgagor shall have any financial interest in any contractual arrangement entered into by the Mortgagor in connection with rendition of services, the provision of goods or supplies, management of the project, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.

12. (a) Mortgagor will limit public occupancy of the project to elderly, and handicapped families and individuals as defined in Section 202 of the Housing Act of 1959 and applicable HUD Regulations. The criteria governing eligibility of tenants for admission to assisted units and the conditions of continued occupancy shall be in accordance with the Assistance Contract.

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(b) Except as provided in (d) below, the Secretary will make the dwelling accommodations and services available to eligible occupants or change of occupancy in accordance with a schedule to be approved in writing by HUD. Such accommodations shall not be rented for a period less than 30 days nor more than 3 years. Commercial facilities, if any, shall be rented only in accordance with a schedule of charges filed by the Mortgagee and approved in writing by HUD. Subleasing of dwelling accommodations or commercial facilities shall be permitted only upon the terms and conditions approved by HUD in writing.

(c) Upon prior written approval by the Secretary, the Mortgagee may change in and receive from any tenant such amounts as from time to time may be mutually agreed upon between the tenant and the Mortgagee for any facilities and/or services which may be furnished by the Mortgagee or others to such tenant upon his request, in addition to the facilities and services included in the approved rental schedule.

(d) The Secretary will, at any time containing a written request for a rental increase property support of HUD, submit supporting evidence and within a reasonable time shall:

(1) Approve a rental schedule that is necessary to compensate for any net increase occurring since the last approved rental schedule, in which the Mortgagee has no effective contract.

(2) Deny the increase stating the reasons therefor.

(c) The maximum rent that may be charged for occupancy of an assisted unit shall be in accordance with the provisions of the Assistance Contract and adjustments in such rent shall be made in accordance with the terms of the Assistance Contract.

(1) Nothing contained in this Agreement shall be construed to relieve the Mortgagee of any obligations under the Assistance Contract.

13. Mortgagee will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, creed, age, sex, handicap, familial status or national origin, including Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000A-1), the Fair Housing Act (42 U.S.C. 3601), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791), Age Discrimination Act of 1975 (42 U.S.C. 6101) and Executive Order 11063 (27 F.R. 11577), and all requirements imposed by or pursuant to the regulations of the Department of Housing and Urban Development (24 CFR) issued pursuant to Title VI, the Fair Housing Act, the Rehabilitation Act, the Age Discrimination Act or Executive Order 11063.

14. No litigation seeking the recovery of a sum in excess of \$5,000 nor any action for specific performance or other equitable relief shall be instituted nor shall any claim for a sum in excess of \$5,000 be settled or compromised by the Mortgagee unless prior written consent thereto has been obtained from HUD. Such consent may be subject to such terms and conditions as HUD may prescribe.

15. Upon a violation of any of the above provisions of this Agreement by the Mortgagee, HUD may give written notice, hereof, to the Mortgagee, by registered or certified mail, addressed to the address stated in this Agreement, or such other address as may subsequently, upon appropriate written notice directed to HUD, be designated by the Mortgagee as its legal business address. If such violation is not corrected to the satisfaction of HUD within 30 days after the date such notice is mailed or within such further time as HUD determines is necessary to correct the violation, without further notice HUD may declare a Default under this Agreement effective on the date of such declaration of default and upon such default HUD may:

- (a) Take possession of the project, bring any action necessary to enforce any rights of the Mortgagee arising out of the project operation, and operate the project in accordance with the terms of this Agreement and such terms as HUD in its discretion determines that the Mortgagee is again in a position to operate the project in accordance with the terms of the Agreement and in compliance with the requirements of the Note and Mortgage.
- (b) Collect all rents and charges in connection with the operation of the project and use such collections to pay the Mortgagee's obligations under this Agreement and under the Note and Mortgage, and the necessary expenses of preserving the property and operating the project.
- (c) Declare the whole of said indebtedness immediately due and payable and then proceed with the foreclosure of the mortgage.
- (d) Apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the property in accordance with the terms of this Agreement, or for such other relief as may be appropriate, since the injury to HUD arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain.
16. (a) Mortgagee has executed an Agreement to Enter into an Assistance Contract. The terms of the Assistance Contract, when executed, shall be incorporated by reference into this Regulatory Agreement.
- (b) A violation of the Assistance Contract may be construed to constitute a default hereunder in the sole discretion of HUD.
- (c) In the event said Assistance Contract expires or terminates before the expiration or termination of this Agreement, the provisions of this paragraph and any other reference to said Contract, and to assisted units contained herein shall be self-canceling and shall no longer be effective as of the date of the expiration or termination of the Assistance Contract.
17. As used in this Agreement the terms:
- (a) "Mortgage" includes "Deed of Trust", "Trust Mortgage" and any other security for the Note identified herein;
- (b) "Mortgagee" refers to the holder of the mortgage identified herein, its successors and assigns;
- (c) "Mortgaged Property" includes the project, real personal, or intangible, covered by the mortgage or mortgages securing the note held by HUD;
- (d) "Project" includes the mortgaged property and all its other assets or whatsoever same, used in or owned by the business conducted on said mortgaged property;
- (e) "Distribution" means any withdrawal or taking of cash or other assets of the project other than for mortgage payments or for payment of reasonable expenses incident to its construction, operation and maintenance.
- (1) "Default" means a default declared by HUD when a violation of this Agreement is not corrected to the satisfaction within the time allowed by this Agreement or such further time as may be allowed by HUD after written notice;

11/11/82

Handwritten mark

By: Elizabeth M. Hayes
 Name: Elizabeth M. Hayes
 Official Title: President
 Date: December 18, 1991
 Signature: Elizabeth M. Hayes
 Mortgagee: Hayes Senior Housing Corporation

By: Louis M. DePina
 Name: Louis M. DePina
 Official Title: Director of Housing DEU
 Date: DECEMBER 16, 1991
 Signature: Louis M. DePina
 Secretary of Housing and Urban Development
 United States of America

Property of Cook County

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18. HUD shall not be liable for any of its actions hereunder except to the extent of the actual loss sustained.
19. The instrument shall bind, and the benefits shall inure to, the respective parties herein, their legal representatives, executors, administrators, and all successors in office or interest, and all owners of the mortgaged property, so long as the loan is outstanding.
20. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.
21. Mortgagee warrants that it has not, and will not, accrue any other agreement with previous contractors of, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth and supersedes any other requirements in conflict therewith.
22. Mortgagee does not assume personal liability for payments due under the note and mortgage or for payments to the reserve for replacement fund. However, the mortgagee's willingness and ability to perform or cure mortgage defaults or place default mortgages under an arrangement acceptable to HUD will have a bearing on the mortgagee's future participation in HUD's program.
23. Mortgagee shall have available necessary equipment or devices and make reasonable accommodations to meet the needs of persons with visual and/or hearing impairments in compliance with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and 24 CFR Part 8.
- (1) "Assistance Contract" refers to a Housing Assistance Payments Contract between the mortgagee and HUD under Section 8 of the United States Housing Act of 1937, or to a Project Assistance Contract between the mortgagee and HUD under Sec. 202 (b)(4) of the Housing Act of 1959 as amended by Sec. 162, Housing and Community Development Act of 1987.
- (2) The segregation of:
- (i) An amount equal to the aggregate of all special funds required to be maintained by the project;
 - (ii) All (real) security deposits held;
 - (iii) "Assisted Units" refers to units assisted pursuant to an Assistance Contract.
- (3) All obligations of the project other than the mortgage held by HUD under funds for payment or deferral of payment has been approved by HUD, and
- (4) All amounts required to be deposited in the reserve fund for replacement:
- (i) All sums due or currently required to be paid under the terms of any mortgage or note held by the Secretary of Housing and Urban Development;
- (ii) All amounts required to be deposited in the reserve fund for replacement;
- (iii) The Payment of:
- (1) "Residual Receipts" means any cash remaining after:

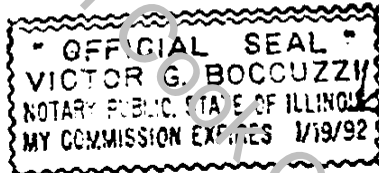
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STATE OF ILLINOIS)
) ss.
COUNTY OF C O O K)

On this 16th day of DECEMBER, 1991, before me appeared LOUIS M. BEARA, who, being duly sworn did say that he is the duly appointed Authorized Agent and the person who executed the foregoing instrument by virtue of the authority vested in him and acknowledged the same to be his free and voluntary act and deed as Authorized Agent for and on behalf of the SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal on the day and year least above written.

(Seal)



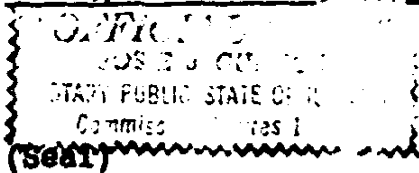
Victor G. Bocuzzi
Notary Public

My Commission Expires _____

STATE OF ILLINOIS)
) ss.
COUNTY OF C O O K)

I, Jose D. Garcia, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Edwin M. Conway and _____, personally known to me to be the same persons whose names are respectively as President and Secretary of _____, a corporation of the State of _____, subscribed to the foregoing instrument, appeared before me in person and severally acknowledged that they, being thereunto duly authorized, signed, sealed with corporate seal, and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 17 day of December, 1991.



Jose D. Garcia
Notary Public

My Commission Expires 10-23-92

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LEGAL DESCRIPTION

Hayes Manor
1211 West Marquette Road
Chicago, Illinois 60636

LOTS 2, 3, 4, 5, 6, 7, 45 AND 46, THE SOUTH HALF OF THE VACATED ALLEY LYING NORTH OF AND ADJOINING LOT 46, AND THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH OF AND ADJOINING LOTS 1, 2, 3, 4 AND 5 IN WEDDELL AND COX'S ADDITION TO ENGLEWOOD, A SUBDIVISION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. # 20-20-307-030 Vol. 430

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EXHIBIT "A"