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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

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MICHAEL J. BROWN

LIEN AND RESTRICTIVE COVENANT AGREEMENT
CDBG-D Program Award #DR2H-012-014

A Lien and Restrictive Covenant Agreement ("Agreement") is made by **747 BROADWAY PLAZA 1 LLC**, ("Owner"), the Owner of certain real estate located at 700-710 Broadway Ave in Lake County, State of Indiana, more particularly described on "Exhibit A" ("Real Estate"), as recipient of an award of funds from Indiana Housing and Community Development Authority, a public body corporate and politic of the State of Indiana ("IHCDA").

Owner and Developer enter this Agreement for the benefit of IHCDA. IHCDA has the exclusive right to enforce the terms of and protect the interests created by, this instrument.

I. PURPOSE

- A. IHCDA administers the state's Community Development Block Grant - Disaster Relief II Program (the "Program"), which funds are awarded to Owner subject to certain rules, regulations, guidance and notices relating to the Program issued by IHCDA from time to time.
- B. Developer and/or Owner received a loan from IHCDA in the amount of **One Million Five Hundred Thousand and 00/Dollars (\$1,500,000.00)** for repair, rehabilitation, construction, acquisition, or reconstruction (including demolition, site clearance and remediation) of affordable rental properties located on the Real Estate ("Project"), which assistance is subject to all of the requirements of the Program.
- C. Developer and/or Owner have represented that the Project shall be used in compliance with all applicable construction, occupancy, leasing and affordability requirements of the Program and the CDBG-D assisted rental units shall be leased to and occupied by individuals or families whose income is at or below eighty percent (80%) of the area median income ("Qualifying Tenants").
- D. The Program requires that certain use restrictions be imposed upon any real estate assisted by funds awarded by IHCDA to ensure that the benefits of such funds remain with the intended beneficiaries under the program.
- E. Specifically, IHCDA requires restrictive covenants be placed on the Real Estate as of the date of this Agreement, to remain in effect for the period required by IHCDA's Program Manual ("Affordability Period") which period is indicated below by an "X":

Insert "X"	Amount Awarded	Term of Restrictive Covenants
	Under \$15,000	5 years
	\$15,000 to \$40,000	10 years
	Over \$40,000	15 years
X	New Construction (regardless of amount)	20 years
	RHTC Combo Deals	Term of Rental Housing Tax Credit Compliance/Extended Use Period

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II. AGREEMENT

Developer and Owner hereby impose the following restrictive covenants upon the Real Estate, which shall be enforceable by IHCD, and Owner hereby warrants, grants and conveys to IHCD a lien upon the Real Estate for the period specified above (the "Lien"). In consideration of these mutual undertakings and covenants, the parties further agree as follows:

1. Throughout the Affordability Period the CDBG-D assisted rental units located on the Real Estate shall: (1) be leased to a Qualifying Tenant; (2) be occupied by a Qualifying Tenant as its primary residence for the remainder of the Affordability Period; and (3) the rent must not exceed **thirty percent (30%)** of the Qualifying Tenant's gross income or the Federal Program Rent and Income Limits as published annually by IHCD, published annually by IHCD on its website, ("Affordable Rents"). Subsections 1, 2, and 3 of this paragraph shall be collectively defined as "the Affordability Requirements".
2. Upon the occurrence of any of the following events during the Affordability Period, the entire sum secured by the Lien, without interest, shall be due and payable by Developer and/or Owner upon demand. Repayment may be demanded upon:
 1. Transfer or conveyance of the Real Estate by deed, land contract, lease, or otherwise, within the applicable Affordability Period;
 2. Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within **twenty (20)** years from the effective date of this Agreement; or
 3. If the CDBG-D assisted rental units in the Project are not being used as a residence by a Qualifying Tenant; or
 4. CDBG-D assisted units are not being used or leased in compliance with the Affordability Requirements.

PROVIDED, HOWEVER, the amount specified above shall not be due and payable if the Project is transferred to a new owner, who will use it as rental housing for Qualifying Tenants, or for such other use as specifically approved in writing by IHCD. If such a transfer occurs, then the transferee owner must agree to take and the Real Estate must remain and continue to be subject to the terms and provisions of this Agreement for the Affordability Period approved by IHCD.

3. The Lien may be foreclosed in accordance with the laws of the State of Indiana on the date the Real Estate is acquired by foreclosure or deed in lieu of foreclosure, provided IHCD has received prior written notice of such foreclosure.
4. Developer hereby states, and Owner hereby acknowledges, that the financial assistance received through the CDBG-D Program represents good and valuable consideration for this Agreement and Lien and that use of the Real Estate is subject to the statutes, regulations, terms, conditions, and requirements of the CDBG-D Program as administered by IHCD.
5. Notwithstanding anything to the contrary in this Agreement, Developer and Owner agree that the Lien is subject and subordinate to any Senior Debt, as defined below, in priority. As used in this Agreement, "Senior Debt" means any indebtedness of Owner to any lender that provides financing to Owner exclusively for the purchase, construction, rehabilitation, or refinancing of the Real Estate. This Agreement will not be subordinate to any debt incurred by Owner after the effective date of this Agreement, unless the new lender consents to the terms of this Agreement. The foregoing shall not apply to the Project if the Authority determines that such acquisition is part of an arrangement with the Owner, or its successors or assigns, a purpose of which is to terminate the Affordability Period.

6. This Agreement shall be binding upon the Real Estate and shall constitute covenants running with the land. Developer and Owner agree that any and all requirements of the laws of the State of Indiana which must be satisfied so that the provisions of this Agreement constitute valid and binding deed restrictions and covenants running with the Real Estate shall be satisfied in full. Except as otherwise provided herein, the covenants and restrictions contained herein shall survive and be effective throughout the Affordability Period, regardless of whether any contract, deed or other instrument hereafter executed conveying the Real Estate or a portion thereof provides that such conveyance is subject to this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.
7. In the event there is a breach or violation of the restrictions and covenants set forth herein during the Affordability Period, IHEDA may bring an action at law or in equity in a court of competent jurisdiction to enforce the Lien and restrictions and covenants set forth herein against any or all of the following: the Owner; the Developer; or any subsequent owner in possession at the time of the breach or violation. In addition, IHEDA may recover reasonable attorney's fees and court costs incurred enforcing the Lien.

This Lien and Restrictive Covenant Agreement is effective as of the 3rd day of July, 2013.

IN WITNESS WHEREOF, Owner and Developer have caused this Agreement to be signed by duly authorized representatives, on the day and year first written above.



OWNER: 747 BROADWAY PLAZA 1 LLC

By: John Coldea *John Coldea*

Title: Member

STATE OF INDIANA)
) SS:
COUNTY OF)

Before me, a Notary Public, in and said for County and State, personally appeared John Coldea, who acknowledged that the foregoing Lien and Restrictive Covenant Agreement was executed in such capacity as its voluntary act and deed and that the foregoing representations are true and correct.

WITNESS my hand and seal this 30th day of July, 2013.

Notary: *Monica A. Chavez*

A Resident of _____
County, Indiana

My Commission Expires: _____

DEVELOPER: 747 Broadway Plaza 1 LLC

By: *John Coldea*

Title: John Coldea *Member*



STATE OF INDIANA)
) SS:
COUNTY OF)

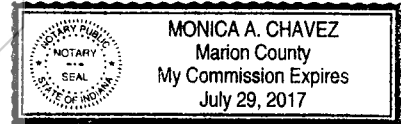
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WITNESS my hand and seal this 30th day of July, 2013.

Notary: *Monica Chavez*

A Resident of _____
County, Indiana

My Commission Expires: _____



This instrument was prepared by Carmen M. Files (26363-49), Staff Attorney, Indiana Housing and Community Development Authority, 30 South Meridian Street, Suite 1000, Indianapolis, IN 46204 (317) 232-7777.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, /s/ Carmen Files.

EXHIBIT A
LEGAL DESCRIPTION

LOTS 42, 43 AND 44, IN BLOCK 35, IN GARY LAND COMPANY'S FIRST SUBDIVISION, IN THE CITY OF GARY, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 6 PAGE 15, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

