

MASTER DEED EXHIBIT D

HOME INVESTMENT PARTNERSHIP PROGRAM AFFORDABLE HOUSING RESTRICTION

COMMUNITY PLACE LLC, a Michigan limited liability company, with an address of [ADDRESS INSERTED HERE] (the "Developer/Owner"), grants and conveys to the Municipality, Michigan, a Municipal Corporation, having an address of [] (the "City"), its successors and assigns, exclusively for the purpose of ensuring retention of housing for low income persons and families, the following described affordable housing restrictions on those [NUMBER OF UNITS TO WHICH RESTRICTION WILL APPLY INSERTED HERE] condominium units described on Attachment A attached hereto, each such unit being referred to hereinafter individually as "the Premises".

1. The sole purpose of this Affordable Housing Restriction is to assure that the Premises will be retained as affordable housing for occupancy by low income families, as determined from time to time by the U.S. Department of Housing and Urban Development

2. The Developer/Owner intends, declares and covenants on behalf of itself and its successors and assigns, that the covenants, and restrictions set forth in this Affordable Housing Restriction, regulating and restricting the transfer and purchase price of the Premises, (i) shall be and are covenants running with the Premises for a term of [insert the number of years required that the units remain affordable] commencing on the date the construction or rehabilitation of improvements on the Premises (the "Project") are completed, as evidenced by the issuance of a Certificate of Occupancy by the City, and are binding upon the Developer/Owner's successors in title and all subsequent owners of the Premises; (ii) are not merely personal covenants of the Developer/Owner; and (iii) shall bind the Developer/Owner and its successors and assigns (and the benefits shall inure to the City and to any present or prospective owner of the Premises). The Developer/Owner acknowledges that it has received assistance from the City in developing the Premises as affordable housing, which assistance includes a loan from the City under the HOME Investment Partnership Program (the "HOME Program"). This Affordable Housing Restriction shall continue in force for its stated term regardless of the prior repayment of such loan.

3. Developer/Owner hereby agrees that any and all requirements of the laws of the State of Michigan to be satisfied in order for this Affordable Housing Restriction to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are intended to be satisfied, or in the alternative, that an equitable servitude has been created to ensure that this Affordable Housing Restriction runs with the land.

Subject to item e below, these deed restrictions and covenants running with the land shall remain in force, without regard to the term of any mortgage or the transfer of ownership by the Developer./Owner or any subsequent Owner, for not less than [the period of affordability in years] () years commencing on the date a Certificate of Occupancy is issued for the Project by the City.

4. The specific deed restrictions and covenants applicable to the Premises are:

a. The Developer/Owner shall only convey the Premises to the head, spouse, and/or other member of a Family (as defined below) which has an annual income of less than eighty (80%) percent of the medium income for the Metropolitan Statistical Area (“Low Income Families”) based upon family size as determined by HUD. A Family is defined as one or more individuals occupying the Premises and satisfying the standards adopted by HUD for the so called Section 8 Program under the United States Housing Act of 1937 and promulgated at 24 CFR 812. A Family’s annual income shall be the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family (other than children under the age of 18 years), including all net income derived from assets for the 12 month period following the effective date of certification of income. Annual Income specifically includes and excludes certain types of income as set forth in, and shall be determined in accordance with 24 CFR 813.106 (or any successor regulations). The Family purchasing the Premises from the Developer/Owner must use the Premises as its principal residence.

b. The initial purchase price set by the Developer/Owner for sale to a low income Family which shall use the Premises for its principal residence:

- (i) Cannot exceed ninety five (95%) percent of the medium purchase price for the type of single family housing (1 to 4 family residence, condominium unit, cooperative unit, combination manufactured home or lot, or manufactured home lot) for the Metropolitan Statistical Area as determined by HUD; and
- (ii) Must have an estimated appraised value at acquisition, if standard, or after any repair needed to meet property standards in 24 CFR 92.251, that does not exceed the limit described in item (i) above.

c. The City is hereby granted a right of first refusal to purchase the Project and Premises before foreclosure to preserve the period of affordability of the Project for Low Income Families.

d. Provided another mortgage holder gives the City not less than thirty (30) days prior written notice of its intention to foreclose upon its mortgage on the Premises or to accept a conveyance of the Premises in lieu of foreclosure and affords the City the right of first refusal to purchase the Premises to preserve the low income affordability, these affordability restrictions shall terminate upon foreclosure or conveyance by deed in lieu of foreclosure. However, these affordability restrictions shall be revived according to the original affordability period if the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or Premises.

Upon receipt by the City of another mortgagee’s notice of intent to foreclose upon its mortgage on the Premises or accept a deed in lieu of foreclosure, the City shall have thirty (30)

days within which to give said mortgagee notice of its intention to exercise its right of first refusal. Thereafter, the City shall have an additional thirty (30) days to purchase the Premises. Failure of the City to timely perform hereunder shall terminate the City's right of first refusal. Any action by the other mortgagee which delays or prevents the City from purchasing the Premises shall extend the City's thirty (30) day period for executing its right of first refusal by the number of days of the delay, or for that period of time that the City is prevented from consummating the purchase. Notwithstanding any other provision herein, this Affordable Housing Restriction and the affordability restrictions herein shall not terminate upon foreclosure or acceptance of conveyance of the Premises in lieu of foreclosure by COMMUNITY PLACE Condominium Association, a Michigan nonprofit corporation ("Association"), or upon the Association taking any other action to obtain ownership of the Premises.

e. The Developer/Owner shall not sell, transfer or exchange all or any portion of the Projector Premises without the City's prior written consent. The City shall have fourteen (14) business days, from the receipt of notice from the Developer/Owner of its intent to sell, transfer, or exchange all or any portion of the Project or Premises, to object to same. Failure of the City to timely object shall be deemed approval of any said sale, transfer or exchange.

f. Developer/Owner shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project except in conjunction with renovation or rehabilitation of the Project or construction of a new project on the Premises, in either case subject to the prior written consent of the City and other lenders, which consent may be granted or withheld in the City's and other lenders' sole judgment.

g. The Developer/Owner represents, warrants and agrees that if the Project, or any part thereof, shall be damaged or destroyed. the Developer/Owner (subject to the approval of the lenders which will provide financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, and the Developer/Owner represents, warrants and agrees that the Project shall thereafter continue to operate in accordance with the terms of this Affordable Housing Restriction.

h. Any use of the Premises or activity thereon which is inconsistent with the purpose of this Affordable Housing Restriction is expressly prohibited. Developer/Owner shall carry out each activity provided for in this Affordable Housing Restriction in compliance with all applicable federal laws and regulations described in 24 CFR part 92.350 (equal opportunity and fair housing), part 92.351 (affirmative marketing), part 92.353 (displacement, relocation, and acquisition), part 92.355 (lead based paint), 92.356 (conflict of interest), part 92.357 (debarment and suspension) and part 92.358 (flood insurance). Developer/Owner hereby grants to City and its duly authorized representatives the right to enter the Premises (a) at reasonable times and in a reasonable manner for the purpose of inspecting the Premises to determine compliance with this Affordable Housing Restriction or any other agreement between Developer/Owner and City, and (b) after thirty (30) days prior written notice, to take any reasonable and appropriate action under the circumstances to cure any violation of the provisions of this Affordable Housing Restriction. The notice referred to in clause (b) shall include a clear description of the action necessary to cure the violation in question and the approximate cost of the proposed cure.

i. The rights hereby granted shall include the right of the City to enforce this Affordable Housing Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Premises to its condition prior to any such violation (it being agreed that the City will have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the City. Developer/Owner covenants and agrees to reimburse City for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Affordable Housing Restriction or in taking reasonable measures to cure any violation hereof, provided that a violation of this Affordable Housing Restriction is acknowledged by Developer/Owner or determined by a court of competent jurisdiction to have occurred. By its acceptance of this Affordable Housing Restriction, City does not undertake any liability or obligation relating to the condition of the Premises. If any provision of this Affordable Housing Restriction shall to any extent be held invalid, the remainder shall not be affected.

j. The City is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Affordable Housing Restriction; and the Developer/ Owner on behalf of itself and its successors and assigns appoints the City its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Developer/ Owner and its successors and assigns agree to execute any such instruments upon request. The benefits of this Affordable Housing Restriction shall be in gross and shall be assignable by the City to any public body administering the HOME Program. The Developer/Owner and the City intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.

In the event a mortgage holder superior to the City mortgage conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Premises are sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages on the Premises (including the City mortgage) plus all future advances, accrued interest and all reasonable costs, and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess shall be paid to the City in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the City pursuant to this Affordable Housing Restriction in connection with such proceeding (provided, that in the event that such excess shall be so paid to the City by such Superior mortgage holder, the City shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the City in accordance herewith, provided that such holder shall give prompt notice of any such claim and shall not object to intervention by the City in any proceeding relating thereto). To the extent the Developer/Owner possesses any interest in any amount which would otherwise be payable to the City under this Affordable Housing Restriction to the full extent permissible by law, Developer/Owner hereby assigns its interest in such amount to said holder for payment to the City.

5. Any notice, request or other communication which either party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have



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been properly given if mailed by United States registered or certified mail, postage prepaid, return receipt requested, or hand delivered, and addressed as follows:

If to Developer/Owner: COMMUNITY PLACE LLC.
Name of Contact
Address of Developer
With copies to: Counsel for Developer

If to City:
 [Insert address and contact person for the
City which is a party to this
Affordable Housing Restriction]

With Copy to: Counsel for City

or such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. Notice shall be deemed delivered on the date of mailing, or on the date of hand delivery where proof of delivery is confirmed by a delivery receipt signed by and authorized representative of the party receiving the notice.

6. This Affordable Housing Restriction may not be amended, nor may any City obligation hereunder be waived or released, without first obtaining the written consent of the City, which consent shall not be unreasonably withheld or delayed.

7. Upon a conveyance of the Premises in conformity with the requirements of this Affordable Housing Restriction, Developer/Owner (or any successor) shall be relieved of any obligation arising hereunder after the date of such conveyance, but this Affordable Housing Restriction shall be binding on the owner of the Premises.

No documentary stamps are required as this Affordable Housing Restriction is not being purchased by City.

Executed under seal this ____ day of [month], [year].

COMMUNITY PLACE, LLC
a Michigan limited liability company

By: Its Member

By: _____

Its: Authorized Representative



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STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this [date] , by [Member's Name] a Michigan nonprofit corporation, the member of COMMUNITY PLACE LLC, a Michigan limited liability company, on behalf of said limited liability company.

Notary Public
_____County, Michigan
My Commission Expires: _____
Acting in _____ County

Drafted by and when recorded return to:

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This publication is intended to provide general information, and is not a substitute for legal advice. If you have additional questions about this issue, contact Community Legal Resources at 313/964-4130.

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