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CA Partners  
2001 No 35 st  
Omaha NE 68111

BOOK 1050 PAGE 196

ADDENDUM TO LAND USE RESTRICTION AGREEMENT FOR  
LOW INCOME HOUSING TAX CREDITS

This Addendum to Land Use Restriction Agreement for Low-Income Housing Tax Credits ("Addendum") is entered into this 23rd day of November, 19 92 between the NEBRASKA INVESTMENT FINANCE AUTHORITY (the "Authority"), a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions under the constitution and laws of the State of Nebraska, and Grace Plaza Limited Partnership (the "Owner"), and is incorporated into and shall be deemed to amend and supplement the Land Use Restriction Agreement for Low Income Housing Tax Credits (the "Agreement") between the Authority and the Owner, filed with respect to the property described in Exhibit A hereto and recorded in the official records of Douglas County, Nebraska in Misc. Book 991, at Page 24-43.

WHEREAS, the Authority allocated to the Owner certain federal low-income housing tax credits with respect to the rental housing development located and described on the Summary Page of the Agreement (the "Project"), which Project is located at the legal description set forth in Exhibit A to this Addendum (the "Project"); and

WHEREAS, the Owner and the Project are required by the Agreement to continuously comply with Section 42 and other applicable sections of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder (the "Regulations"); and

WHEREAS, by entering into the Agreement, the Owner consented to be regulated by the Authority in order that the Authority may enforce the occupancy restrictions and other covenants, terms and conditions of the Agreement in accordance with the Code and the Regulations; and

WHEREAS, pursuant to Section 6 of the Agreement, the Authority is authorized and entitled to do all acts necessary to comply with the monitoring and notification responsibilities set forth in Section 42(m)(1)(B)(iii) of the Code and any regulations or other interpretations thereof by the IRS or the Courts; and

WHEREAS, on September 2, 1992, the Internal Revenue Service (the "Service") released final regulations for monitoring low-income housing tax credit projects;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in the Agreement and in this Addendum, and of other valuable consideration, the Owner and the Authority agree as follows:

Section 1. *Definitions.* Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms used herein shall have the respective meanings set forth in the Agreement, the Code and the Regulations.

Section 2. *Amendment to Section 3 of the Agreement.* Subsection (f) of Section 3 of the Agreement shall be replaced with the following:

"(f) that each building in the project will remain suitable for occupancy, taking into account local health, safety and building codes and that, once available for occupancy, each Dwelling Unit in the Project must be rented or available for rental on a continuous basis to members of the general public on a non-transient basis (except for transitional housing for the homeless provided under Section(42)(i)(3)(B)(iii)) for the Qualified Project Period;"

Section 3. *Amendments to Section 4 of the Agreement.* Subsection (c) of Section 4 of the Agreement shall be amended to read as follows:

"(c) the Owner will immediately notify the Authority if at any time the Dwelling Units in the Project are not occupied or available for occupancy as provided above, and the Owner will prepare and submit to the Authority, not later than January 15 of each year following the first year in which 10% of the units in the Project are occupied, a Certificate of Continuing Program Compliance (the form of which is attached hereto as Exhibit C) and an Annual Tax Credit Summary Report (the form of which is attached hereto as Exhibit D), both executed by the Owner stating the number of Dwelling Units of the Project which, as of the first date of each calendar year, were occupied by Qualified Tenants (or were deemed to be occupied by Qualified Tenants as provided in subparagraph (a) above for all or part of such period), together with copies of annual Certifications of Tenant Eligibility and Income Verification (and supporting documentation) collected by the Owner."

A new subsection (g) shall be added to Section 4 as follows:

"(g) the Owner shall collect and keep records for each Qualified low-income building in the Project that show for each year during the Qualified Project Period the following information for each building in the project and retain such records for at least six years after the due date (with extensions) for filing the federal tax return for that year (provided, however, that the records for the first year of the Qualified Project Period must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period for the building):

(i) the total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);

(ii) the percentage of residential rental units in a building that are Qualified Units;

(iii) the rent charged on each residential rental unit in the building, including any utility allowance;

(iv) the number of occupants in each Qualified Unit and changes in the number of occupants in each Qualified Unit;

(v) the Qualified Unit vacancies in the building and information that indicates when and to whom the next available units were rented;

(vi) the annual income certification of each Qualified Tenant per Qualified Unit;

(vii) documentation to support each Qualified Tenant's annual income certification (for example, a copy of the Qualified Tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is to be calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937 ("Section 8"), and not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this subsection 4(e)(vii) is satisfied if the public housing authority provides a statement declaring that the tenant's income does not exceed the applicable income limit under Section 42(g);

(viii) the eligible basis and the Qualified Basis of the building at the end of the first year of the Qualified Project Period; and

(ix) the character and use of the nonresidential portion of the building included in the eligible basis of the building under Section 42(d) of the Code (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project);"

A new subsection (h) shall be added to Section 4 of the Agreement as follows:

"(h) that the Authority shall have the right to perform an onsite inspection of the Project throughout the Qualified Project Period, in addition to the requirement that the Owner submit to the Authority each year information on tenant income, supporting documentation and rent for each low-income unit as designated above; and "

A new subsection (i) shall be added to Section 4 of the Agreement as follows:

"(i) All references in this Section 4 to Income Verifications shall mean to include and require written supporting documentation to such Income Verifications."

Section 4. *Amendment to Section 6 of the Agreement.* Section 6 of the Agreement shall be amended to read as follows:

"Section 6. Internal Revenue Service Notification. In the event the Authority discovers any noncompliance of any provisions hereof, the Authority will immediately give written notice to the Owner. The Owner shall have 60 days from the receipt of such notice (the "Correction Period") to correct such noncompliance. Following the Correction Period, the Authority will file with the IRS a copy of IRS Form 8823 explaining the nature of the noncompliance and whether or not such noncompliance has been corrected. Noncompliance includes, but is not limited to:

- (1) failure to receive or non-allowance to inspect tenant income certifications, supporting documentation and rent records;
- (2) upon inspection, noncompliance with provisions of Section 42; and
- (3) any change in the Applicable Fraction or Eligible Basis that would result in a decrease in the Qualified Basis.

The Authority is authorized and entitled to do all acts necessary to comply with the monitoring and notification responsibilities set forth in Section 42(m)(1)(B)(iii) of the Code and any regulations or other interpretations thereof by the IRS or the Courts."

Section 5. *Amendment to Exhibit B.* Page B-1 of Exhibit B of the Agreement shall be replaced with the Page B-1 attached hereto as Exhibit B.

Section 6. *Amendment to Exhibit C.* Page C-1 of Exhibit C of the Agreement shall be replaced with the Pages C-1 and C-2 attached hereto as Exhibit C.

Section 7. *Addition of Exhibit D.* A new Exhibit D to the Agreement shall be added in the form of Exhibit D attached hereto.

Section 8. *Miscellaneous.* As amended by this Addendum, the Agreement is in all respects ratified and confirmed, and the Agreement and this Addendum shall be read, taken and construed as one and the same instrument, and the terms of this Addendum shall be deemed covenants running with the land in the same manner and with the same effect as set forth in Section 7 of the Agreement. This Addendum may be executed in several counter-parts, each of which shall be an original and all of which shall constitute but one and the same instrument. The effect and meaning of this Addendum and the rights of the parties hereunder shall be governed by and construed according to the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties have caused this Addendum to be signed and sealed by their respective duly authorized representatives as of the day and year first written above.

Attest:  
By [Signature]  
Secretary

By Charles P. Fike  
Title Treasurer

STATE OF NEBRASKA }  
COUNTY OF DOUGLAS } ss.

The foregoing instrument was acknowledged before me this 23rd day of December, 19 92 by Charles P. Fike, Treasurer, and Charles A. Peters, Secretary, of Grace Plaza Corp., General Partner for and on behalf of Grace Plaza Ltd. Partnership.

Susan A. Kelly  
Notary Public

My Commission expires: 

NEBRASKA INVESTMENT FINANCE AUTHORITY  
By [Signature]  
Authorized Officer

STATE OF NEBRASKA )  
COUNTY OF LANCASTER ) ss.

The foregoing instrument was acknowledged before me this 23rd day of November, 1992 by Steven J. Clements, an Authorized Officer of the Nebraska Investment Finance Authority.

Susan M. Bruhn  
Notary Public

My Commission expires: 

## SUMMARY PAGE

Date: November 23, 1992

## THE OWNER -

Legal Name of Owner: Grace Plaza Limited Partnership

Type of Legal Organization: Limited Partnership  
(e.g., corporation, partnership)

State of Organization: Nebraska

Business Address of Owner: 2001 North 35th Street  
Omaha, NE 68111

Contact Person: Michael B. Maroney

## THE PROJECT -

Name of Project: Grace Plaza Apartments

Project Address and (See Exhibit A)  
Legal Description: (See Exhibit A)

Number of Units: 24

Cost of acquisition, construction  
and rehabilitation: ~~\$1,779,285~~ <sup>1,779,285</sup>Qualified Basis: ~~\$2,108,688~~ <sup>2,108,688</sup>

## TAX CREDIT INFORMATION -

Allocation of Housing Tax Credit Dollars: \$184,125.00  
\$174,831.00 - '91  
\$ 9,294.00 - '92

Occupancy Date: January 1993

Applicable Set-Aside Percentage: 100%  
(or percentages):      %Applicable Income Percentage: 60%  
(or percentages):      %Required Number of Years From Occupancy Date: 30 years

EXHIBIT A  
LEGAL DESCRIPTION

Project Addresses  
1820 Florence Boulevard  
1840 Florence Boulevard  
1841 Florence Boulevard  
2005 Florence Boulevard  
2015 Florence Boulevard  
2006 North 18th Street  
Omaha, NE

Project Legal Description  
Lot 4 through 9, Block 2, Lots 1 through 3 and the North 1/2 of Lot 4, Block 12, and Lots 15 and 16, Block 13, E. V. Smith's Addition, as surveyed, platted and recorded in Douglas County, Nebraska.

EXHIBIT B

Certification of Tenant Eligibility  
and Income Verification

PART I. GENERAL INFORMATION

- 1. PROJECT NAME: \_\_\_\_\_
- 2. PROJECT ADDRESS: \_\_\_\_\_
- 3. TOTAL NUMBER OF UNITS: \_\_\_\_\_
- 4. OWNER NAME & ADDRESS: \_\_\_\_\_
- 5. MANAGER NAME, ADDRESS & PHONE NUMBER: \_\_\_\_\_

PART II. UNIT INFORMATION

- 1. APARTMENT ADDRESS: \_\_\_\_\_
- 2. UNIT TYPE: \_\_\_\_\_ SQUARE FEET: \_\_\_\_\_ MONTHLY NET RENT: \_\_\_\_\_  
UTILITY ALLOWANCE: \_\_\_\_\_ MONTHLY GROSS RENT: \_\_\_\_\_

PART III. TENANT INFORMATION (See Section A of Instructions.)

- 1. Occupant Age Student (yes/no) Child (under 18 years) of Tenant (yes/no)
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
  - d. \_\_\_\_\_
  - e. \_\_\_\_\_

2. Are any of the students in number 1 above eligible to file a joint return for federal income tax purposes?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Are any of the students in Number 1 above receiving AFDC?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. List the Income of each occupant (if applicable). (See Section B of Instructions.)

- a. \_\_\_\_\_ Occupant \_\_\_\_\_ Anticipated Annual Income \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_



EXHIBIT C

Certificate of Continuing Program Compliance

TO: Nebraska Investment Finance Authority  
1033 "O" Street, Suite 218  
Lincoln, NE 68508  
Attention: Executive Director

The undersigned, \_\_\_\_\_, (the "Owner"), hereby represents, on behalf of warrants, and certifies for the 12 month period preceding the date hereof that:

1. The Owner has read and is thoroughly familiar with the provisions of the Land Use Restriction Agreement (the "Agreement") between the Owner and the Nebraska Investment Finance Authority (the "Authority") covering the Project referred to therein (the "Project").
2. As of the date of this Certificate, the following percentages of completed residential rental units in the Project (i) are occupied by Qualified Tenants (as such term is defined in the Land Use Restriction Agreement) or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Qualified Tenant vacated such unit, as indicated:  
  
Occupied by Qualified Tenants: \_\_\_\_\_ % Unit Nos.: \_\_\_\_\_  
  
Held vacant for occupancy continuously since last occupied by Qualified Tenants: \_\_\_\_\_ % Unit Nos.: \_\_\_\_\_
3. At no time since the date of filing of the last Certification of Continuing Program Compliance have less than the Applicable Set-Aside Percentage (as defined in the Land Use Restriction Agreement) of the completed units in the Project been occupied by or been last occupied by Qualified Tenants.
4. The Owner has received an annual Certification of Tenant Eligibility and Income Verification from each Qualified Tenant as well as supporting documentation, except in the case of a tenant receiving housing assistance payments under Section 8, where the local housing authority has provided a statement to the Owner declaring the tenant's income does not exceed the applicable income limits under Section 42 of the Code.
5. Each Qualified Unit in the Project was a Rent Restricted Unit as required by Section 42(g)(2) of the Code.
6. All units in the Project were for use by the general public and used on a non-transient basis.
7. Each building in the Project was suitable for occupancy, taking into account local health, safety and building codes.
8. There has been no change in the eligible basis or the applicable fraction, as per Section 42(c)(1)(B) of any building in the Project (or, if there has been any change, the nature of the change is described in an attachment hereto).
9. Reasonable attempts were or are being made to rent any available Qualified Unit to Qualifying Tenants and while a Qualified Unit was vacant, no units of comparable or smaller size were rented to non-Qualified Tenants.
10. If the income of a Qualified Tenant increased above the Applicable Income Percentage of area median gross income, the next available unit of comparable or smaller size in the Project was or will be rented to tenants having a Qualifying Income.

11. All tenant facilities included in the eligible basis of any building in the Project (i.e. swimming pools, parking areas, etc.) were provided on a comparable basis without charge to all tenants in the building.
12. The Owner is not in default under the terms of the Land Use Restriction Agreement.
13. An extended low-income housing commitment as described in Section 42(h)(6) and Section 5 of the Land Use Restriction Agreement was in effect.

THE UNDERSIGNED, ON BEHALF OF THE OWNER, CERTIFIES THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT AND ARE GIVEN BY THE UNDERSIGNED UNDER THE PENALTY OF PERJURY.

[OWNER]

By \_\_\_\_\_

Date \_\_\_\_\_

EXHIBIT D

Annual Tax Credit Summary Report As Of December 31, 19\_\_\_\_

Project Name: \_\_\_\_\_

20/50 or 40/60 Standard: (circle one)  
1 Person 2 Person 3 Person 4 Person 5 Person 6 Person 7 Person 8 Person

Qualifying Income:  
Maximum Gross Rent: (includes UA)

UNIT LEASED TO # IN UNIT TOTAL FAMILY INCOME LESS THAN MAX TENANT ANNUAL RECERT. INCREASE LESS THAN 140% BR TENANT RENTAL PAYMENT UA TENANT GROSS RENT

35331 H 1050 5A-71  
GASH BK R 196-905  
TYPE New PG 010 SCAN  
FEE 56.00 OF New OF FB 07-21-00

RECEIVED  
Dec 23 1 51 PM '92  
GEORGE J. BUE 8132  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE