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RECORDED

When Recorded Return to:
Executive Director
Utah Housing Finance Agency
300 East 554 South
Salt Lake City, Utah 84111

NOV 16 1994
UTAH HOUSING
FINANCE AGENCY

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LOW-INCOME HOUSING CREDIT COMMITMENT AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS

This Low-Income Housing Credit Commitment Agreement and Declaration of Restrictive Covenants (the "Agreement") is made effective as of the 20 day of December, 1994, by and between Pauline Downs, L.L.C., a Utah limited liability company, its successors and assigns (the "Project Owner"), and Utah Housing Finance Agency ("Agency"), an independent state agency and a body politic and corporate of the State of Utah.

RECITALS:

WHEREAS, section 42 of the Internal Revenue Code of 1986, as amended ("IRC § 42"), provides for the allocation of low-income housing credits for the construction, acquisition and/or rehabilitation of qualified low-income housing buildings;

WHEREAS, the Agency is the housing credit agency which has been designated as the agency responsible for the allocation of low-income housing credits for the State of Utah pursuant to IRC § 42;

WHEREAS, Project Owner has made application, which application is on file with the Agency and is hereby incorporated herein by this reference, to the Agency for the allocation of low-income housing credits with respect to the construction, acquisition and/or rehabilitation of that certain qualified low-income building or buildings located upon and being a part of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (herein the "Project");

WHEREAS, Project Owner represents that the Project satisfies the requirements of IRC § 42, as amended, as a qualified low-income housing project, and Project Owner represents it will maintain the Project in conformity and continuous compliance with IRC § 42 and applicable regulations thereunder, as the same may hereafter be amended, any other federal or state requirements applicable thereto and this Agreement;

WHEREAS, the Agency has relied on the information submitted by Project Owner in its application, as supplemented,

COURTESY RECORDING

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This document is being recorded solely as a courtesy and an accommodation to the parties named therein. Associated Title Company hereby expressly disclaims any responsibility or liability for the accuracy of the content thereof.

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with respect to the Project in reserving low-income housing credits to the Project Owner;

WHEREAS, the Agency is unwilling to allocate any low-income housing credits to Project Owner for the Project unless Project Owner shall, by entering into and pursuant to this Agreement, consent and agree to the conditions and restrictions set forth herein and make a declaration of restrictive covenants with respect to the Project as set forth herein; and

WHEREAS, Project Owner, under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project shall be and are covenants running with the land for the term stated herein and binding upon all subsequent owners of the Project for such term set forth herein, and are not merely personal covenants of the Project Owner.

NOW THEREFORE, in consideration of the mutual premises set forth above, and based upon the mutual covenants and promises hereinafter set forth, and such other valuable consideration the receipt and sufficiency of which is hereby acknowledged, Project Owner and the Agency agree as follows:

1. Applicable Fraction. Project Owner agrees that the applicable fraction, as defined in IRC § 42(c)(1), for each taxable year in the extended use period, as defined in IRC § 42, for the following qualified low-income buildings of the Project will not be less than 100%:

<u>Building:</u>	<u>Address:</u>
UT-93-04001	110 S. 300 E., SLC, UT
UT-93-04002	120 S. 300 E., SLC, UT
UT-93-04003	130 S. 300 E., SLC, UT
UT-93-04004	136 S. 300 E., SLC, UT

2. Set-Aside Election. Project Owner agrees that for each taxable year in the extended use period, as defined in IRC § 42, 100% of the residential units in the Project shall be both rent restricted, as defined in § 42, and occupied by individuals (hereinafter "low-income tenants") whose income is 60% or less of the area median gross income for the county in which the Project is located as annually determined and published by H.U.D.

3. Notification of Non-Compliance. Project Owner agrees to not take or permit to be taken any action which would have the effect or result, directly or indirectly, of subjecting the Project to non-compliance with IRC § 42, as the same may be amended from time to time, the regulations issued thereunder, any other state or federal requirements or any provisions of this Agreement. If the Project Owner becomes aware of any incidence or manner in which the Project does not comply with IRC § 42 or this

Agreement, the Project Owner shall notify the Agency of such non-compliance within 30 days after the date Project Owner becomes aware of such non-compliance. The Agency shall notify the Internal Revenue Service of any non-compliance of which the Agency becomes aware.

4. Consistency of Units. Project Owner agrees that the residential rental units of the Project occupied by low-income tenants will be of comparable quality to all other units in the Project.

5. Ownership. Project Owner represents and warrants, upon execution and delivery of this Agreement, that it has good and marketable title to the Project, free and clear of liens and encumbrances, except for those liens and encumbrances which secure financing for the acquisition, construction or rehabilitation of the Project, property taxes, and customary non-monetary liens and encumbrances relating to easements, utilities, and similar matters.

6. Release and Indemnification. Project Owner represents that it has independently reviewed the applicable allocation documents providing for the allocation of low-income housing tax credits for the Project to ensure the correctness and validity of the same, and has not relied on any representations or statements from the Agency with respect to Project Owner's entitlement to the allocation of low-income housing tax credits for the Project. Project Owner agrees to release and hold the Agency, its officers, directors, employees and agents harmless from any claim, loss, liability, demand or judgment incurred by or asserted against Project Owner resulting from or relating to the allocation of low-income housing credits, or the recapture thereof by the Internal Revenue Service, or the monitoring of the Project's compliance with IRC § 42 and this Agreement. Further, Project Owner agrees to indemnify and hold the Agency, its officers, directors, employees and agents harmless from any claim, loss, liability, demand or judgment incurred by or asserted against the Agency, its officers, directors, employees and agents as a result of or in any way related to the allocation to Project Owner of low-income housing credits, or the recapture thereof, or the monitoring of the Project's compliance with IRC § 42 and this Agreement.

7. Compliance Monitoring. Project Owner acknowledges that the Agency, or its delegate, is required to monitor the Project's compliance with the requirements of IRC § 42 and the covenants of this Agreement. Accordingly, Project Owner agrees to comply with the obligations, terms and conditions of the Agency's Compliance Monitoring Plan, as the same may be amended from time to time. As a condition to leasing a low-income unit, a low-income tenant shall be required to provide sufficient documentation to substantiate income levels of all individuals residing therein.

8. Inspection. Project Owner shall permit, during normal business hours, upon reasonable notice, any duly authorized

representative of the Agency to inspect any books and records of Project Owner relating to the Project and the incomes of low-income tenants. Specifically, Project Owner shall make available to the Agency the documentation substantiating incomes of low-income tenants. The Agency shall notify the Internal Revenue Service ("IRS") of any non-compliance with the provisions of IRC § 42, or of this Agreement, with which it becomes aware.

9. Extended Use Period. Project Owner and the Agency agree that the extended use period, as used in IRC § 42 and this Agreement, for each low-income building of the Project, means the period beginning on the first day in the compliance period, as defined in IRC § 42, on which a qualified low-income building is a part of a qualified low-income housing project and ending on the date which is 26 years after the close of the compliance period (for a total of 41 years from the beginning date of the compliance period for a qualified low-income building); however, notwithstanding the foregoing to the contrary, the extended use period shall terminate upon the occurrence of either of the following:

(a) On the date a qualified low-income building is acquired by foreclosure (or instrument in lieu of foreclosure), unless the IRS determines that such acquisition is part of an arrangement of the taxpayer a purpose of which is to terminate the extended use period; or

(b) One year from the date Project Owner submits a written request to the Agency to find a person ("qualified buyer"), to acquire the Project Owner's interest in the low-income portion of the qualified low-income building, who will continue to operate such portion as a qualified low-income building, PROVIDED THAT (i) the Agency is unable to present during such one year period a qualified contract, as defined in IRC § 42(h)(6)(F), as amended, and (ii) Project Owner shall not request that the Agency find a qualified buyer, and Project Owner hereby waives its right to do so for purposes of this paragraph 9(b) and IRC § 42, until the expiration of 41 years from the beginning date of the compliance period for the Project.

10. Termination of Extended Use Period. Notwithstanding the termination of the extended use period pursuant to the provisions of paragraph 9(a) or (b) above, Project Owner shall not evict or terminate the tenancy (other than for good cause) of an existing low-income tenant of any low-income unit of the Project or increase the gross rent with respect to a low-income unit, not otherwise permitted under IRC § 42, before the close of the three year period

following the termination of the extended use period under the provisions of paragraph 9(a) or (b).

11. Subordination. The Project Owner agrees to obtain the agreement of any prior recorded lienholder of any building in the Project to subordinate its lien priority to the terms of this Agreement whereby the prior recorded lienholder, or its assigns or successors in interest, agrees to not evict an existing low-income tenant (other than for cause) and not increase gross rent with respect to a low-income unit, not otherwise permitted under IRC § 42, for a period of three years from the date of any foreclosure with respect to any qualified low-income building in the Project.

12. Sale of Building. Pursuant to IRC § 42(h)(6)(B)(iii), no portion of a qualified low-income building to which this Agreement applies, may be sold, transferred or conveyed to any person unless all of the low-income building to which this Agreement applies is sold, transferred or conveyed to such person.

13. Rent and Income Limits. Project Owner agrees that 20 studio units of the Project will be leased, throughout the extended use period as set forth in paragraph 9 above, (i) for a maximum monthly rental fee which serves 35% of area median income, and (ii) to individuals whose annual income (as defined under Section 8 of the United States Housing Act of 1937), aggregated for all individuals residing in a given unit, does not exceed 35% of area median income. The maximum monthly rental fee is calculated as follows:

- A. First, multiply the monthly rent limit applicable to the unit as calculated by the Agency for the applicable year, based on bedroom size, based on 50% of area median income for the county in which the unit is located, by 2 (to arrive at a rental amount based on 100% of area median income);
- B. Second, multiply the product derived in A. above by 35%.

For purposes of determining the maximum monthly rental fee pursuant to this paragraph, the maximum monthly rental fee amount shall include an allowance for tenant-paid utilities as provided in IRC § 42 or notices, regulations or revenue rulings issued or promulgated thereunder. Notwithstanding the foregoing, upon written approval from the Agency, the Project Owner may increase the maximum monthly rental fee or income limit applicable to tenants for any unit of the Project in an amount agreed to by the Agency, as the Agency shall decide in its sole discretion; however, under no circumstances may the maximum monthly rental fee or income limit applicable to tenants for any given unit of the Project exceed the rent or income limits established under IRC § 42.

14. Restrictive Covenants. The Project Owner intends, declares and covenants that the covenants, terms, provisions and restrictions set forth in this Agreement shall run with the land and shall bind, and the benefits and burdens shall inure to, Project Owner and the Agency, and their respective successors and assigns, and all subsequent owners of the Project or any interest therein, for the duration of the extended use period set forth in paragraph 9 above. Upon the termination of the extended use period, except as provided in paragraph 10 above, this Agreement shall be deemed terminated and of no further force and effect, and the Agency shall execute a release for recordation purposes if so requested by the then owner of the Project.

15. Recordation. This Agreement shall be placed of record in the real property records of the County in which the Project is located, and upon recording, the Project Owner shall cause to be sent to the Agency an executed original of the recorded Agreement showing the date, deed book and page numbers of record. The Project Owner agrees that the Agency may issue, but withhold delivery of, the Internal Revenue Service Form 8609 constituting final allocation of low-income housing credits until the Agency receives the recorded executed original of the Agreement.

16. Enforcement. All of the terms, provisions and restrictions of the Agreement may be enforced by the Agency. In addition, the Agency and Project Owner acknowledge and agree that any individual who meets the income limitations applicable to the Project under IRC § 42(g) (whether a prospective, present, or former occupant of the Project) has the right to enforce in any Utah state court the requirements and conditions of this Agreement.

17. Section 8 Tenants. Project Owner shall not refuse to lease any unit of the Project to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder.

18. Changes to IRC § 42. The Agency and Project Owner recognize that the provisions of IRC § 42 may be amended from time to time. Project Owner agrees to maintain the Project in compliance and conformity with the requirements of IRC § 42, and the regulations issued thereunder, as the same are amended from time to time. However, if in the opinion of the Agency subsequent revisions to IRC § 42 are so substantial as to necessitate amendment of this Agreement, this Agreement may be amended to reflect such changes in the law governing the low-income housing tax credit program. In such case, this Agreement shall be amended only by written instrument executed by the parties hereto.

19. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be mailed, by first class, postage prepaid, to the parties at the addresses set forth below:

to the Agency: Executive Director
Utah Housing Finance Agency
177 East 100 South
Salt Lake City, Utah 84111

to the Project Owner: Rosemary Kappes
Pauline Downs, L.L.C.
1776 South West Temple
Salt Lake City, Utah 84115

to the IRS: District Director
Internal Revenue Service
P.O. Box 2196
Stop 1000 SLC
Salt Lake City, Utah 84110

20. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, and where applicable, the laws of the United States of America. The invalidity of any paragraph, part or provision of this Agreement shall not affect the validity of the remaining portions hereof.

21. Annual Certification. The Project Owner shall, in a form designed by the Agency, annually certify to the Agency its compliance with all the provisions of this Agreement and IRC § 42 and regulations issued thereunder.

22. Definitions. All words, definitions and terms used in this Agreement that are defined or set forth in IRC § 42 shall have the meanings given in said IRC § 42.

23. Counterparts. This Agreement may be executed by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement.


24. Severability. If any provision of this Agreement or the application thereof to any party or circumstance shall be invalid or unenforceable to any extent, the remainder of the Agreement and the application of such provisions to any other party or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

25. Headings. Titles or headings to the sections of this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives.

OWNER:


PAULINE DOWNS, L.L.C.,
a Utah limited liability
company


By: Housing Authority of
Salt Lake City
Its: Member

By: Rosemary Kappes
Its: Executive Director

Agency:

UTAH HOUSING FINANCE AGENCY


By: William H. Erickson
Executive Director

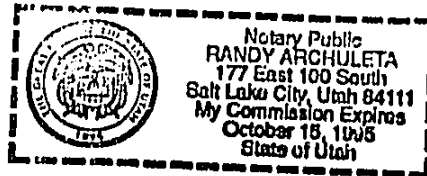
STATE OF UTAH)
 : SS.
COUNTY OF SALT LAKE)

On this 22 day of December, 1994, personally appeared before me William H. Erickson, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the Executive Director of the Utah Housing Finance Agency, and that the foregoing document was signed by him in behalf of the Utah Housing Finance Agency by authority of a resolution of its board of directors, and said William H. Erickson acknowledged to me that said corporation executed the same.

Randy A. Archuleta
NOTARY PUBLIC
Residing at: Salt Lake City

My Commission Expires:

Oct. 15, 1995



STATE OF UTAH)
 : SS.
COUNTY OF SALT LAKE)

On this 20th day of December 1994, personally appeared before me Rosemary Kappes, the signer of the foregoing instrument, who by me duly sworn, did say, for herself that said Rosemary Kappes is the Executive Director of Housing Authority of Salt Lake City, a member of Pauline Downs, L.L.C., a Utah limited liability company, and said instrument was signed in behalf of Pauline Downs, L.L.C., by authority of the Board of Directors/Trustees of Housing Authority of Salt Lake City and Rosemary Kappes acknowledged to me that Housing Authority of Salt Lake City executed the same.

Lisa I. Stocking
NOTARY PUBLIC
Residing at: Salt Lake County, UT

My Commission Expires:

8-1-96

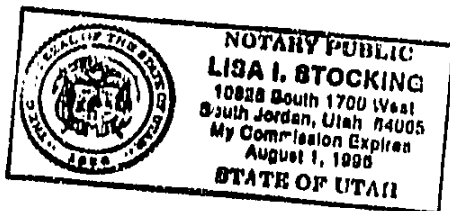


EXHIBIT A

County of Salt Lake, State of Utah

PARCEL 1:

BEGINNING at the Northeast Corner of Lot 8, Block 72, Plat "A", Salt Lake City Survey; and running thence South $0^{\circ}02'04''$ East 117.00 feet (Record = South 117 feet); and running thence South $89^{\circ}58'22''$ West 66.00 feet (Record = West 66 feet); thence North $0^{\circ}02'04''$ West 117.00 feet (Record = North 117 feet); thence North $89^{\circ}58'22''$ East 66.00 feet (Record = East 66 feet); to the point of BEGINNING.

TOGETHER WITH the following described Right of Way:

BEGINNING at a point 117 feet South from the Northeast Corner of said Lot 8, and running thence South 10 feet; thence West 8 rods; thence North 10 feet; thence East 8 rods to the point of BEGINNING.

PARCEL 2:

BEGINNING at a point which is South $0^{\circ}01'59''$ East 127.03 feet (Record = South 127 feet) from the Northeast Corner of Lot 8, Block 72, Plat "A", Salt Lake City Survey, and running thence South $0^{\circ}01'59''$ East 71.02 feet (Record = South 71 feet); thence South $89^{\circ}58'22''$ West 131.86 feet to a point which is 0.05 feet perpendicularly distant Easterly from the East face of an existing brick building; thence North $0^{\circ}00'03''$ West parallel with the face of said building 71.02 feet; thence North $89^{\circ}58'22''$ East 131.82 feet to the point of BEGINNING.

TOGETHER WITH a Right of Way over:

BEGINNING at a point which is South $0^{\circ}01'59''$ East 117.03 feet (Record = South 117 feet) from the Northeast Corner of said Lot 8, and running thence South $0^{\circ}01'59''$ East 10.00 feet of (Record = South 10 feet); thence South $89^{\circ}58'22''$ West 132.04 feet (Record = West 8

rods); thence North 0°01'59" West 10.00 feet (Record = North 10 feet); thence North 89°58'22" East 132.04 feet (Record = East 8 rods) to the point of BEGINNING.

PARCEL 3:

BEGINNING at a point which is North 0°01'59" West 72.02 feet (Record = North 72 feet) from the Southeast Corner of Lot 8, Block 72, Plat "A", Salt Lake City Survey, and running thence North 0°01'59" West 60.02 feet (Record = North 60 feet); thence South 89°58'22" West 165.05 feet (Record = West 10 rods); thence South 0°01'59" East 60.02 feet (Record = South 60 feet); thence North 89°58'22" East 165.05 feet (Record = East 10 rods) to the point of BEGINNING.

PARCEL 4:

BEGINNING at the Southeast Corner of Lot 8, Block 72, Plat "A", Salt Lake City Survey; and running thence South 89°58'22" West 165.0 feet (Record = West 10 rods); thence North 0°02'04" West 72.0 feet (Record = North 72 feet); thence North 89°58'22" East 165.0 feet (Record = East 10 rods); thence South 0°02'04" East 72.0 feet (Record = South 72 feet) to the point of BEGINNING.

TOGETHER WITH the following described Right of Way:

BEGINNING 198 feet South from the Northeast Corner of said Lot 8, Block 72, Plat "A", Salt Lake City Survey, and running thence West 146 feet; thence South 60 feet; thence East 28 feet 8 inches; thence North 51 feet 6 inches; thence East 117 feet 4 inches; thence North 8 feet 6 inches to the point of BEGINNING.

5991299
12/22/94 2:40 PM 36.00
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
ASSOCIATED TITLE
REC BY: D KILPACK DEPUTY - WI