

{insert name of property}
{insert location of property}
{insert FHA#}

ASSUMPTION AND MODIFICATION OF USE AGREEMENT
(FORGIVENESS)

THIS ASSUMPTION AND MODIFICATION OF USE AGREEMENT
("Agreement") is made as of the ____ day of _____, _____, by and
between _____, a
_____ limited partnership ("Seller"),
_____, a _____ non-profit corporation
(the "Purchaser"), and SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington D.C. (the "Secretary" or "HUD").

Whereas, Seller owns certain real property located in the city of
_____, _____, as more particularly described in
Exhibit A, on which is constructed a rental apartment project known as
_____(collectively, "Property");

Whereas, Seller and HUD entered into a "Use Agreement for Multifamily
Projects Participating in the Mark-to-Market Program Under the Multifamily Assisted
Housing Reform and Affordability Act of 1997", dated _____, 200_, and
recorded {insert date Use Agreement is or will be recorded} in the office of the {insert
name/location in jurisdiction where deeds and mortgages are recorded} (the "Land
Records") attached hereto as Exhibit B ("Use Agreement");

Whereas, the Use Agreement set forth certain obligations requiring the use of the
Property, affordability of the units rented, and similar restrictions;

Whereas, the Seller and Purchaser have entered into a Purchase and Sale
Agreement by which Seller agrees to sell, and Purchaser agrees to purchase the Property;

Whereas, as part of its request and proposal for the transfer of physical assets, the
Purchaser has received approval from the Secretary for the forgiveness (the
"Forgiveness") of that certain Mortgage Restructuring Mortgage Note dated
_____, 200_, in the amount of _____ No/100's
Dollars (\$_____), payable to the Secretary (the "Mortgage Restructuring
Note"), made and executed by Seller, and the release of the mortgage securing the
Mortgage Restructuring Note that encumbers the Property;

Whereas, it is a condition of the Forgiveness that the Use Agreement be assigned
to and assumed by the Purchaser, and additional restrictions regarding the Property be
added to the Use Agreement; and

Whereas, the Seller desires, with the consent of the Secretary, to assign all its rights and obligations in and to the Use Agreement as herein provided, effective upon the consummation of the transaction contemplated by the Purchase and Sale Agreement (“Effective Date”).

NOW, THEREFORE, in consideration of the Forgiveness, the mutual agreements contained herein and other good and valuable consideration, it is agreed as follows:

1. Seller and the Secretary hereby agree to the assignment of the undertakings and obligations contained in the Use Agreement from the Seller to the Purchaser and its successors and assigns subject to the additional terms set forth herein.
2. Seller shall be responsible for all liabilities, duties and obligations under the Use Agreement prior to the Effective Date.
3. Purchaser agrees to the assumption of all duties, obligations and restrictions set forth in the Use Agreement and shall be responsible for all liabilities or obligations arising under the Use Agreement from and after the Effective Date.
4. Purchaser agrees that the Use Agreement is amended as follows:
 - (a) Extension of Expiration Date. The Expiration Date, as defined in the Use Agreement shall mean the fiftieth (50th) anniversary of the Closing Date under the Use Agreement.
 - (b) This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective successors and/or assigns; provided, however, with respect to any party benefiting from a mortgage or lien encumbrance placed against the Property after the recording of the Use Agreement and prior to the recording of this Agreement, if any, the terms and conditions contained herein shall not bind the Property if this Agreement would alter the original superiority in title of the Use Agreement as described in paragraph 14 thereof. Nothing contained herein or done hereby shall alter the original superiority of the Use Agreement.
5. Except as amended herein, the Use Agreement shall be and remains in full force and effect in accordance with its terms.
6. This Agreement may be executed in counterparts all of which when taken together shall constitute an original document.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year written above.

Witness:

SELLER:

By: _____

Witness:

PURCHASER:

By: _____

Witness:

SECRETARY OF HOUSING AND URBAN
DEVELOPMENT ACTING BY AND THROUGH
THE DEPUTY ASSISTANT SECRETARY OF
THE OFFICE OF AFFORDABLE HOUSING
PRESERVATION [SEAL]

By: _____

THEODORE TOON,
DEPUTY ASSISTANT SECRETARY

[add acknowledgements]

Public reporting burden for this collection of information is estimated to average 0.5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits. The office of Multifamily Housing, Office of Affordable Housing Preservation 451 7th Street SW, Room 6216 6230 Washington, DC 20410. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. Title V of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act of 1988 (P.L.106 65, 111 Stat. 1384) authorizes the FHA Multifamily Housing Mortgage and Housing Assistance Restructuring Program. HUD implemented a statutory permanent program directed at FHA-insured multifamily projects that have project-based Section 8 contracts with above-market rents. The information collection is used to determine criteria eligibility of FHA-insured multifamily properties for participation in the Mark to Market program and the terms on which participation should occur. The purpose of the program is to preserve low-income rental housing affordability while reducing the long-term costs of Federal rental assistance. While no assurances of confidentiality are pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.