Use Agreement	U.S. Department of Housing and Urban Development Office of Housing Federal Housing Commissioner	**OMB Approval No.** 2502-0587 Exp. xx/xx/xxxx

Public Reporting Burden

Public reporting burden for this collection of information is estimated to average .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. 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.

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Section 8 Use Agreement

This Section 8 Use Agreement ("Agreement"), made this _____ day of _____, 20_____, by and between the United States of America, Secretary of Housing and Urban Development ("HUD") and _____ ("Owner") of _____("Project"), provides as follows:

WHEREAS, the Owner or a prior owner and the Contract Administrator (HUD or a Public Housing Agency, acting under an Annual Contributions Contract with HUD), previously entered into a project-based Housing Assistance Payments ("HAP") contract pursuant to section 8 of the United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f ("Act"), that has since terminated or expired;

WHEREAS, upon termination or expiration of a project-based section 8 HAP contract, HUD is authorized pursuant to section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended, 42 U.S.C. 1437f note ("MAHRA"), to renew the contract on such terms and conditions as HUD considers appropriate, subject to the requirements of section 524 of MAHRA;

WHEREAS, the Owner and the Contract Administrator have entered or will enter into a renewal contract pursuant to section 524 of MAHRA ("Renewal Contract"), renewing the HAP contract for a term of twenty (20) years, subject to annual appropriations; and

WHEREAS, the Contract Administrator's agreement to enter into the Renewal Contract was conditioned on the requirement that the Owner agree to maintain the

Project as affordable housing for low-income families for a period of twenty (20) years, as required in this Agreement.

NOW THEREFORE, in consideration of the mutual promises set forth herein and of other valuable consideration, HUD and the Owner, for itself, its successors and assigns, hereby agree as follows:

1. **Term.** The term of the Agreement shall be twenty (20) years and shall commence on the date reflected in first sentence of the Agreement on page 1.

2. **Governing Authorities.** The project shall be operated in accordance with the requirements of section 8 of the Act, all applicable Federal regulations, the Renewal Contract, and all other applicable HUD requirements.

3. **Use Restriction and Tenant Incomes.** The HAP-assisted units within this Project shall be used solely as rental housing for tenants meeting the eligibility and income-targeting requirements that govern the HAP Contract. In the event that the HAP Contract is terminated (e.g., because of breach or non-compliance by the Owner), for the remainder of the term of the Agreement, new tenants must have incomes at or below 80 percent of the average median income (AMI) at the time of admission, applicable to all units previously covered under the HAP contract.

4. **Subordination.** Any mortgage liens will be subject to this Agreement. This Agreement will survive foreclosure and bankruptcy.

5. **Fair Housing and Civil Rights Requirements**. Compliance with all applicable fair housing and civil rights requirements, including the obligation to affirmatively further fair housing and the site selection and neighborhood standards requirements set forth in 24 CFR §§ 1.4(b)(3) and 941.202, as applicable, is required.

6. **Federal Accessibility Requirements.** Compliance with all applicable federal accessibility requirements under the Fair Housing Act and implementing regulations at 24 CFR Part 100, Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR Part 8, and Titles II and III of the Americans with Disabilities Act and implementing regulations at 28 CFR Parts 35 and 36, respectively, is required.

7. **Execution of Other Agreements.** The Owner agrees that it has not and will not execute any other agreement with provisions contradictory of, or in opposition to, the provisions of this Agreement, and that in any event, the provisions of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any conflicting requirements.

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8. **Subsequent Statutory Amendments.** If revisions to this Agreement are necessitated by subsequent statutory amendments, the Owner agrees to execute modifications to this Agreement that are needed to conform to the statutory amendments. In the alternative, at HUD's option, HUD may implement any such statutory amendment through rulemaking.

9. **Tenant Participation.** The Owner agrees (a) not to impede the reasonable efforts of tenants to organize as detailed in 24 CFR Part 245, and (b) not to unreasonably withhold the use of any community room or other available space appropriate for meetings which is part of the Project when requested by (i) a resident tenant organization in connection with the representational purposes of the organization, or (ii) tenants residing in the Project who seek to organize or to consider collectively any matter pertaining to the operation of the Project.

10. **Conflicts.** Any conflicts between this Agreement and the HAP Contract shall be conclusively resolved by HUD.

11. **Recordation.** The Owner agrees to record this Use Agreement, or to cause it to be recorded, at the Owner's cost and expense in the appropriate land records within sixty (60) days of execution by HUD.

12. **Enforcement.** In the event of a breach or threatened breach of any of the provisions of this Agreement, the Secretary or his or her successors or delegatees may institute proper legal action against the Owner or any of its successors or assigns to enforce performance of such provisions, to enjoin any acts in violation of such provisions, to recover whatever damages can be proven, and/or to obtain whatever other relief may be appropriate.

13. **Severability.** The invalidity, in whole or in part, of any of the provisions set forth in this Agreement shall not affect or invalidate any remaining provisions.

14. **Binding Nature of Agreement.** This Agreement shall be binding upon the Owners and all future successors and assigns.

15. **No Negotiation.** This Agreement is not subject to negotiation.

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Signature Page

As evidenced by the signature below of their authorized representative, the Owner and HUD hereby agree to the terms of this Use Agreement.

Owner

Name of Owner (Print or Type):

_____

By:

_____

Signature of authorized representative

Name of Signatory (Print or Type):

_____

Date (mm/dd/yyyy): _____

United States of America
Secretary of Housing and Urban Development

By:

_____

Signature of authorized representative

Name of Signatory (Print or Type):

_____

Official Title (Print or Type):

_____

Date (mm/dd/yyyy): _____

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ACKNOWLEDGEMENT BY OWNER BEFORE NOTARY PUBLIC
(Complete according to requirements of state of execution.)
ACKNOWLEDGEMENT BY COMMISSIONER:)
STATE OF) SS:
CITY AND COUNTY OF)

On this _____ day of _____, 20___, before me,

_____, a Notary Public in and for the City of

_____ in the County of _____,

appeared _____ to me personally known and known to me to

be the duly Authorized Agent of _____, and

the person who executed the aforesaid instrument bearing the date of

_____, 20___, and acknowledged that he or she executed the

aforesaid instrument for and on behalf of _____

for the purposes herein.

_____
(NOTARY PUBLIC)

My Commission Expires:

Draft

ACKNOWLEDGEMENT BY COMMISSIONER:)
STATE OF) SS:
CITY AND COUNTY OF)

On this _____ day of _____, 20___, before me,

_____, a Notary Public in and for the City of

_____ in the County of _____,

appeared _____ to me personally known and known to me to be the duly Authorized Agent of the Secretary of Housing and Urban Development, by and through the Assistant Secretary for Housing – Federal Housing Commissioner, and the person who executed the aforesaid instrument bearing the date of

_____, 20___, and acknowledged that he or she executed the aforesaid instrument for and on behalf of the Secretary of Housing and Urban Development for the purposes herein.

_____
(NOTARY PUBLIC)

My Commission Expires:

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