



W2917732

**THIS INSTRUMENT PREPARED BY AND
AFTER RECORDING, RETURN TO:**

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01 - 036-0068

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E# 2917732 PG 1 OF 7
Leann H. Kilts, WEBER COUNTY RECORDER
27-Apr-18 0351 PM FEE \$22.00 DEP TT
REC FOR: COTTONWOOD TITLE INSURANCE AGENCY
ELECTRONICALLY RECORDED

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

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

Section 8 Use Agreement

This Section 8 Use Agreement ("Agreement"), made this 27th day of April, 2018, by and between the UNITED STATES OF AMERICA, SECRETARY OF HOUSING AND URBAN DEVELOPMENT ("HUD") and OGDEN COMMUNITY PARTNERS, LP, A UTAH LIMITED PARTNERSHIP ("Owner") of Normandie Apartments and Osmond Heights Apartments (together, the "Project"), provides as follows:

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

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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 contracts, which have now been combined into a single HAP contract in the form of the Renewal 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

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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.
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 delegates 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.

Signature Page

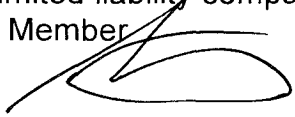
As evidenced by the signature below of their authorized representative, the Owner and HUD hereby agree to the terms of this Use Agreement.

Owner

OGDEN COMMUNITY PARTNERS, LP,
a Utah limited partnership

By: WNC Ogden Partners, LLC,
a California limited liability company,
its General Partner

By: WNC Development Partners, LLC,
a California limited liability company,
its Managing Member

By: 

Anand Kannan, President

Date (mm/dd/yyyy): 04/04/2018

[SEE ATTACHED CALIFORNIA NOTARY ACKNOWLEDGMENT]

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On April 4, 2018 before me, Melissa Gallarzo, Notary Public
(insert name and title of the officer)

personally appeared Anand Kannan
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Melissa Gallarzo (Seal)



[ADDITIONAL SIGNATURE PAGE FOLLOWS]

**EXHIBIT A
PROPERTY DESCRIPTION**

PARCEL 1:

All of Lots 26 through 32, Block 4, CROPSEY ADDITION, Ogden City, Weber County, Utah, and part of the Northwest quarter of Section 16, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, more particularly described as follows (basis of bearing is North 89°09'45" West 1242.41 feet between the centerline monuments located at Orchard Avenue and Cook Street and Adams Avenue and Cook Street):

Beginning at the intersection of the North right of way line of 1st Street and the East right of way line of Jefferson Avenue, said point being 821.60 feet East and 882.98 feet South (partie) from the Northwest corner of said quarter section and running thence North 89°09'45" West along the North line of said 1st Street 203.97 feet; thence North 00°58'00" East along the West line of said Lot 31, Cropsey Addition 132.50 feet; thence South 89°09'45" East along the centerline of a vacated alley 15.00 feet; thence North 00°58'00" East to and along the West line of said Lot 32, Cropsey Addition 130.29 feet to the South line of the Ogden Weber Applied Technology Center property and a chainlink fence in a concrete wall; thence South 89°11'06" East along said South line and fence 476.66 feet to a chainlink line fence running North and South; thence South 01°16'26" West along said fence and its projection being the West line of the East 115.00 feet of Lot 36, Meadow Homes Subdivision No. 2 as recorded with the Weber County Recorder 146.05 feet; thence North 89°08'46" West along the North line of Lot 35, said subdivision and chainlink fence in concrete 53.56 feet to the Northwest corner of said lot; thence South 00°58'59" West along the West line of said subdivision (Lots 32 - 35) 249.94 feet; thence North 89°09'45" West 46.36 feet to a fence in a concrete retaining wall; thence North 18°38'52" West along said fence and wall 84.35 feet; thence North 48°03'21" West along a chain link fence in concrete 28.96 feet to a fence corner; thence North 88°33'43" West along a fence in a concrete curb wall 136.72 feet to the East right of way line of Jefferson Avenue; thence North 00°54'19" East 33.00 feet along said East line to the point of beginning.

PARCEL 2:

Part of Lots 2 through 4, Block 42, Plat A, Ogden City Survey, Weber County, Utah:

Beginning at the Southeast corner of said Lot 2 and running thence North 00°58'50" East 331.02 feet to the North line of said lot; thence North 89°01'27" West along the North line of said Lot 2 and Lot 3 and part of Lot 4 337.65 feet to a point which is South 89°01'27" East 59.50 feet from the Northwest corner of Lot 4; thence South 00°58'50" West 331.02 feet to the North line of 23rd Street; thence South 89°01'27" East along said North line 83.38 feet; thence North 00°58'50" East 122.00 feet; thence South 89°01'27" East 28.85 feet; thence North 00°58'54" East 43.00 feet; thence South 89°01'27" East 93.04 feet to the West line of said Lot 2; thence South 00°58'50" West along said West line 8.50 feet; thence South 89°01'27" East 82.50 feet; thence South 00°58'50" West 156.50 feet to said North line of said street; thence South 89°01'27" East along said North line 49.88 feet to the point of beginning.

Tax Id No.: 12-029-0065 and 01-036-0068