

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
BUILDING LOAN AGREEMENT
 (Under Section 202 of the Housing Act of 1959)

THIS AGREEMENT made the _____ day of _____, 197____, by and between the United States of America, Secretary of Housing and Urban Development (hereinafter called "HUD") and _____ a nonprofit corporation organized and existing under and by virtue of the laws of the State of _____ (hereinafter called the "Borrower").

WHEREAS, the Borrower has made application for a loan to assist in financing a rental housing project to house elderly families and elderly persons (hereinafter called the "Project") in accordance with the provisions of Section 202, Housing Act of 1959, as amended, (12 U.S.C. 1701q); and

WHEREAS, the Project will be located at _____ and shall consist of _____.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and of the valuable considerations, the parties hereto do covenant and agree as follows:

1. HUD, subject to the terms of this Agreement, will make a loan to the Borrower, to be advanced as hereinafter provided, in an amount not to exceed _____ Dollars (\$ _____), the applicable mortgage amount if the mortgage were insured under Section 231 of the National Housing Act, or the total development cost of the project, as determined by HUD, whichever amount is the lesser. The said loan will bear interest at the rate of _____ per centum (____ %) per annum during the construction period and the rate of (____ %) thereafter. The principal and interest shall be payable in level monthly installments over a term of _____ (____) years, except that the first _____ years only the payment of interest shall be required. Said loan shall be secured by a _____ (hereinafter called the "Mortgage") on the property described in Exhibit "A." The Mortgage shall constitute a valid first lien on said property and the improvements to be erected thereon and the only lien thereon except for liens for taxes and assessments not yet payable and other liens acceptable to HUD.

2. The Borrower shall complete the aforesaid property by a project in accordance with drawings and specifications filed with HUD and designated _____ HUD Project Number _____, dated _____. Such drawings and specifications, which include "General Conditions of the Contract for Construction" (AIA Document A201) and "Supplementary Conditions of the Contract for Construction" (FHA Form No. 2554), have been identified by the Borrower, the Design Architect, the Architect administering the Construction Contract (hereinafter called the "Architect"), the Contractor and the Contractor's Surety.

3. Changes in the Drawings and Specifications, or changes by altering or adding to the work contemplated, or orders for extra work must have the prior written approval of the Architect. In addition, any such change or work order which will result in a net construction cost increase, or will change the design concept, or will result in a net cumulative construction cost decrease by more than 2% of the contract amount may be effected only with the prior written approval of HUD and under such conditions as HUD may establish.

4. (a) The Borrower shall make monthly applications on HUD Form No. _____ for advances of mortgage proceeds by HUD. Applications for advances with respect to construction items shall be for amounts equal to (i) the total value of classes of the work acceptably completed; plus (ii) the value of materials and equipment not incorporated in the work, but delivered to and suitably stored at the site; less (iii) 10 percent (holdback) and less prior advances. The "values" of both (i) and (ii) shall be computed in accordance with the amounts assigned to classes of the work in the Contractor's and/or Mortgagee's Cost Breakdown," attached hereto as Exhibit "B" and made a part hereof. Each application shall be filed at least _____ days before the date the advance is desired, and the Borrower shall be entitled thereon only to such amount as may be approved by HUD.

(b) Upon completion of the improvements, including all landscape requirements and off-site utilities and streets, the Borrower shall furnish HUD satisfactory evidence that all work requiring inspection by municipal and other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and by the rating or inspection organization, bureau, association or office having jurisdiction; and that all requisite certificates of occupancy and other approvals have been issued. The balance due the Borrower hereunder shall be payable at such time after completion as HUD releases the holdback, after the expiration of any period which mechanics and materialmen may have for filing liens.

(c) The Borrower agrees that any funds required for the completion of the project over and above the proceeds of the loan shall be deposited in the Construction Account prior to the advance of any proceeds of the loan.

(d) The Borrower covenants that it will deposit the proceeds from the HUD loan and the additional funds to be furnished by the Borrower in order to assure the payment of all Project costs into a separate account called the "Construction Account" established by it in a bank or banks which are members of the Federal Deposit Insurance Corporation. Moneys in the Construction Account shall be expended only for the purposes for which loan advances and such expenditures were requested and approved.



(e) The Borrower agrees that the loan shall at all times remain in balance. HUD shall, in accordance with the provisions of this agreement, continue to advance to the Borrower funds out of the proceeds of the loan as long as the loan remains in balance and the Borrower is not in default hereunder or under the Note or Mortgage. The loan shall be deemed to be in balance only when the undistributed proceeds of the loan (after provision for reserves, fees, expenses and other deposits required by HUD) equal or exceed the amount necessary (based on HUD's estimate of the cost of construction) to pay for all work completed and all materials delivered, for which payment has not been made, and the cost of completing construction of the project in accordance with the Drawings and Specifications.

5 HUD shall advance to the Borrower loan funds for application to the charges or items enumerated below, but only to the extent that such charges have accrued and the Borrower is otherwise entitled to payment on account of such items:

- (a) Interest during development \$ _____
- (b) Real Estate taxes during development \$ _____
- (c) Insurance during development \$ _____
- (d) Preliminary expense \$ _____
- (e) Land and rights-of-way \$ _____
- (f) Architect/Engineering services \$ _____
- (g) Legal expenses including title and recording expense \$ _____
- (h) Administrative expenses \$ _____
- (i) Government field expense \$ _____
- (j) \$ _____
- (k) \$ _____

6 The Borrower shall cause either this instrument or the construction contract under which the improvements are to be erected to be filed in the public records, if the effect thereof will be to relieve the mortgaged property from mechanics' and materialmen's liens. Before any advance hereunder, HUD may require the Borrower to obtain from the contractor and all subcontractors and materialmen dealing directly with the principal contractor acknowledgments of payment and release of lien down to the date covered by the last advance, and concurrently with the final payment for the entire project. Such acknowledgments and releases shall be in the form required by local lien laws and shall cover all work done, labor performed and materials (including equipment and fixtures) furnished for the project.

7 The Borrower shall, as a condition precedent to the first advance hereunder, furnish HUD with a certified, current survey of the mortgaged property and a mortgagee's title policy (or other evidence of title) in form, substance and amount satisfactory to HUD. Said policy shall be extended so as to cover each and every advance of said loan at the time of payment thereof and shall show no mechanics' or materialmen's liens against the mortgaged property.

8 The Borrower agrees that said project shall be constructed strictly in accordance with all applicable ordinances and statutes, and in accordance with the requirements of all regulatory authorities, and any rating or inspection organization, bureau, association or office having jurisdiction. The Borrower further agrees that said project shall be constructed entirely on the aforesaid property and will not encroach upon any easement or right-of-way, or the land of others; and that the buildings when erected shall be wholly within the building restriction lines, however established, and will not violate applicable use or other restrictions contained in prior conveyances, zoning ordinances or regulations. The Borrower shall furnish from time to time such evidence with respect thereto as may be required by HUD, and, upon completion of construction, shall furnish a survey, certified by a registered surveyor, which shows the project to be entirely on said property and to be free from any such violations.

9 If the Borrower at any time prior to the completion of the project abandons the same or ceases work thereon for a period of more than 20 days or fails to complete the erection of the project strictly in accordance with the Drawings and Specifications, or makes changes in the Drawings and Specifications without first securing the written approval required by paragraph 3 hereof, or otherwise fails to comply with the terms hereof, any such failures shall be a default hereunder, and HUD, at its option, may terminate this agreement. If HUD so elects to terminate this agreement, it may use and apply any funds deposited with it by the Borrower, regardless of the purpose for which such funds were deposited, in such manner and for such purposes as it may prescribe. If HUD elects not to terminate this Agreement, it may enter into possession of the premises and perform any and all work and labor necessary to complete the improvements substantially according to the Drawings and Specifications, and employ watchmen to protect the premises from injury. All sums so expended by HUD shall be deemed to have been paid to the Borrower and secured by the Mortgage. For this purpose, the Borrower hereby constitutes and appoints HUD

its true and lawful attorney-in-fact, with full power of substitution on the premises, to complete the project in the name of the Borrower. The Borrower hereby empowers said attorney as follows: (a) To use any funds of the Borrower, including any balance which may be held in escrow and any funds which may remain unadvanced hereunder for the purpose of completing the project in the manner called for by the Drawings and Specifications; (b) to make such additions, changes and corrections in the Drawings and Specifications as shall be necessary or desirable to complete the project in substantially the manner contemplated by the Drawings and Specifications; (c) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for said purposes; (d) to pay, settle, or compromise all existing bills and claims which may be liens against the mortgaged property, or as may be necessary or desirable for the completion of the project, or for clearance of title; (e) to execute all applications and certificates in the name of the Borrower which may be required by any of the contract documents; (f) to prosecute and defend all actions or proceedings in connection with the mortgaged premises or the construction of the project and to take such action and require such performance as he deems necessary under the accepted guaranty of completion; (g) to do any and every act which the Borrower might do in its own behalf. It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. The Borrower hereby assigns and disclaims to HUD all sums unadvanced under the Mortgage and all sums due in escrow conditioned upon the use of said sums for the completion of the project, such assignment to become effective only in case of the Borrower's default.

10 The Borrower shall provide or cause to be provided workmen's compensation insurance and public liability and other insurance required by applicable law or by the general conditions included in the Specifications. The Borrower further agrees to purchase and maintain fire insurance and extended coverage on the mortgaged property. All such policies shall be issued by companies approved by HUD and shall be in form and amounts satisfactory to HUD. Such policies shall be endorsed with standard mortgage clauses making loss payable to HUD or its assigns, and may be endorsed to make loss during construction payable to the Contractor, as interest may appear. The originals of such policies shall be deposited with HUD.

11 HUD and its agents shall, at all times during construction, have the right of entry and free access to the project and the right to inspect all work done, all materials, equipment and fixtures furnished, installed or stored in and about the project, and to inspect all books, subcontracts and records of the Borrower.

12 The Borrower shall execute and deliver to HUD, upon completion of the project, a security agreement and financing statement, or other similar instrument, covering all property of any kind whatsoever purchased with mortgage proceeds and concerning which there may be any doubt as to such property's being subject to the lien of the Mortgage under the laws of the state in which the project is situated.

13 The Borrower shall furnish to HUD assurance of completion of the project in the form specified in the applicable Regulations in effect on the date of this agreement. Such assurance of completion shall run to HUD as obligee.

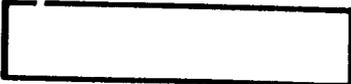
14 (a) The Borrower understands that the wages to be paid laborers and mechanics employed in the construction of the project are required by the provisions of Section 202(c)(3) of the Housing Act of 1959, as amended, to be not less than the prevailing wage rates for corresponding classes of laborers and mechanics employed on a construction of a similar character in the locality in which the work is to be performed, as determined by the Secretary of Labor with respect to this project. The Borrower hereby states that it has read the aforesaid determination by the Secretary of Labor and is fully familiar with the same.

(b) The Borrower shall, as a condition precedent to any advance hereunder, submit to HUD (i) with each application for advance prior to the final application, certifications, in form approved by HUD, that all laborers and mechanics employed in the construction of the project whose work is covered by that or any previous application and who have been paid in whole or in part on account of said employment, have been paid at rates not less than the said prevailing wage rates; and (ii) with the final application for advance, certifications, in form satisfactory to HUD, that the project has been fully constructed in accordance with the provisions of this agreement and that all laborers and mechanics employed in the construction of the completed project have been paid not less than the said prevailing wage rates. The Secretary's prevailing wage determination shall be construed to include every amendment to or modification of the determination which may be made prior to the beginning of construction.

(c) The Borrower agrees that should any advances hereunder be ineligible for loan disbursement by reason of (i) the nonpayment of the said prevailing wage rates, or (ii) violation of any of the applicable labor standards provisions of the Regulations of the Secretary of Labor, HUD may withhold from the Borrower all payments or advances payable to the Borrower hereunder until the Borrower establishes to the satisfaction of HUD that all laborers and mechanics or other persons employed in the construction of the project have been paid said prevailing wage rates and that such violation of the said Labor Standards provisions no longer exists. The written statement of any officer of HUD agent declining to make any advance of funds hereunder by reason of such nonpayment or violation shall be deemed conclusive proof that such advances are ineligible for loan disbursement.

(d) The Borrower shall insert the labor standards provisions of the aforesaid Supplementary Conditions of the Contract for Construction in any contract made by him for the construction of the project, or any part thereof, and shall require the Contractor to insert similar provisions in each subcontract relating to the construction of the project.

15 The Borrower shall furnish such records, papers and documents relating to the project as HUD may reasonably require from time to time.



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16 The Borrower shall not transfer, assign or pledge any right or interest in, or title to, any funds deposited in the Construction Account without the approval of HUD.

17 Prior to the disbursement of any portion of the loan proceeds, the Borrower shall present evidence satisfactory to HUD that it is able to finance from other than loan funds or Project revenues the applicable minimum capital investment required under the Regulations.

18 The Borrower covenants and agrees that it will attempt to obtain and maintain in effect exemption of the Project from state and local real and personal property taxes.

19 The Borrower shall, on or before substantial completion of the Project, provide from sources other than the loan hereunder, and from sources and in a manner which will not jeopardize the security for the loan, the furnishings and moveable equipment necessary to the full enjoyment of the use and occupancy of the Project.

20 Prior to the disbursement of any portion of the loan proceeds the Borrower shall obtain from the Internal Revenue Service a tax exemption ruling, if it is a nonprofit corporation.

21 No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

22 By execution of this Agreement the Borrower represents that it has not paid, and, also, agrees not to pay, any bonus, commission, or fee for the purpose of obtaining an approval of its application for the loan hereunder.

UNITED STATES OF AMERICA
Secretary of Housing and Urban Development

_____ Date

By _____

_____ Name of Borrower

(Seal)
ATTEST:

_____ Secretary

By _____ President