

Capital Advance Program  
Use Agreement

For Section 202 of the Housing Act of 1959 or  
Section 811 of the National Affordable Housing Act

U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner



OMB Approval No. 2502-0470 (exp. 3/31/92)

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This Agreement made the 30<sup>th</sup> day of August, 19 95, by and between the United States of America, Secretary of Housing and Urban Development (hereinafter called "HUD") and United Church Residences of South Horn Lake, Mississippi, Inc., a private nonprofit corporation, organized and existing under and by virtue of the laws of the State of Ohio (hereinafter called the "Owner"), provides as follows:

Whereas, the Owner and HUD have entered into a Capital Advance Agreement to assist in financing a rental housing project to house elderly persons or persons with disabilities, (hereinafter called "persons"), in accordance with Section 202 of the Housing Act of 1959 or Section 811 of the National Affordable Housing Act, and the applicable regulations;

Whereas, HUD through the Capital Advance Agreement has provided funding for the Project identified as project number 065-EE009, financed with a Note and Mortgage (Deed of Trust), dated August 30, 1995 and covering real property as described in Exhibit "A" attached hereto, which Mortgage was recorded in the Recorder's Office of DeSoto County on August, 1995, as Instrument \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_;

Whereas, The Project is subject to a Regulatory Agreement, dated August 30<sup>th</sup>, 1995 and recorded on August, 1995 in the Recorder's Office of DeSoto County as document number \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_;

Whereas, pursuant to section 202 of the Housing Act of 1959 (elderly projects) or section 811 of the National Affordable Housing Act (disabled projects) and the corresponding regulations, in exchange for HUD's agreement to provide capital advance financing and project rental assistance payments, the Owner has agreed to continue to operate the Project only as rental housing for very-low income elderly or disabled persons for not less than 40 years from August 30, 1995, unless otherwise approved by HUD;

Now Therefore, in consideration of the mutual promises set forth herein and of other valuable consideration, the parties hereby agree as follows:

1. **Definitions.** All terms used in this Agreement have the same meaning as set forth in the definitions in 24 CFR Part 889 or 890.
2. **Term.** This Agreement shall remain in effect for not less than 40 years from July 1, 1996, unless otherwise approved by HUD.
3. **Use Restriction.** The Project shall be used solely as rental housing for very-low income elderly or disabled persons.
4. **Transfer.** HUD has been granted and is possessed of an interest in the above described Project such that the Owner shall remain seized of the title to said property and refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of said property or any part thereof without the release of said covenants by HUD. The Owner has constituted HUD as its attorney-in-fact to transfer the project to another private nonprofit corporation in the event of default under the Capital Advance Agreement or the Regulatory Agreement. The Owner may transfer the Project during the term of this Agreement only with the prior written approval of HUD, and any such grantee shall assume the obligations under this Agreement as a condition of any transfer. In any event, this Agreement shall be binding upon the Owner's successors and assigns.
5. **Release.** The endorsement by a duly authorized officer of HUD (1) upon any conveyance or transfer made by the Owner of any real or personal property which is determined to be excess to the needs of the Project, or (2) upon any instrument of conveyance or dedication of property, or any interest therein, for use as streets, alleys, or other public rights-of-way, or for the establishment, operation and maintenance of public utilities, or (3) upon any instrument transferring or conveying an interest therein, or (4) upon any instrument of release made by the Owner of the Project shall be effective to release such property from the restrictive covenants hereby created.

enforcement. In the event of a breach or threatened breach of any the provisions of this Agreement, any eligible tenant or applicant occupancy, or the Secretary or his or her successors or delegates, ay institute proper legal action 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.

7. Severability. The invalidity, in whole or in part, of any of the provisions set forth above shall not affect or invalidate any remaining provisions.

Witness Whereof, HUD and the Owner by its officers thereunto duly authorized has caused these presents to be signed in its name and its corporate seal to be hereunto affixed and attested this 30<sup>th</sup> day of August, 1995.

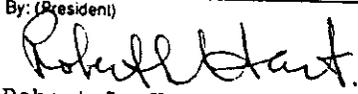
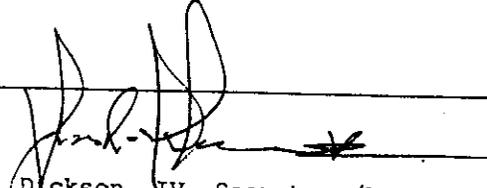
Name of Owner: United Church Residences of South Horn Lake, Mississippi, Inc.	
By:  Robert L. Hart, President	By:  R. Dickson, IV, Secretary/Treasurer
Title: <b>Reba G. Cook, Director Multifamily Division</b> AUG 23 1995	
United States of America Secretary of Housing and Urban Development 	

Exhibit A

Lot 1, First Revision, to Willowbend Apartments in Section 33, Township 1 South, Range 8 West, Horn Lake, DeSoto County, Mississippi, as shown by plat appearing of record in Plat Book 51, Page 1, in the office of the Chancery Clerk, of DeSoto County, Mississippi, more particularly described as follows:

BOOK 69  
PAGE 554

Beginning at a point being the Northeast corner of Section 33, Township 1 South, Range 8 West, said point being located on the centerline of Goodman Road; thence South 00 degrees 04 minutes 31 seconds East a distance of 40 feet to a point on the south right of way of Goodman Road; thence North 89 degrees 44 minutes 31 seconds West along same said south right of way for distance of 1993.06 feet, more or less to a point; thence South 00 degrees 04 minutes 20 seconds East for a distance of 458.90 feet to a point; thence along a curve to the left having the following data: Radius = 280.00 feet; Arc length = 159.90 feet; Chord bearing = South 16 degrees 25 minutes 55 seconds East; to the true point of beginning for the herein described tract; thence South 32 degrees 47 minutes 32 seconds East for a distance of 145.00 feet to an iron pin found; thence South 77 degrees 12 minutes 32 seconds East for a distance of 160.41 feet to a point; thence North 86 degrees 51 minutes 56 seconds East for a distance of 32.51 feet to a point; thence South 00 degrees 04 minutes 04 seconds West for a distance of 168.55 feet to a point; thence North 89 degrees 55 minutes 56 seconds West for a distance of 115.17 feet to a point; thence North 70 degrees 34 minutes 59 seconds West for a distance of 145.05 feet to a point; thence South 27 degrees 14 minutes 13 seconds West for a distance of 115.00 feet to a point; thence along a Non-Tangential curve to the right having the following data: Radius = 595.86 feet; Arc length = 26.77 feet; Chord bearing = North 61 degrees 28 minutes 33 seconds West; to an iron pin found; thence along a curve to the left having the following data: Radius = 50.00 feet; Arc Length = 37.18 feet; chord bearing = North 81 degrees 29 minutes 39 seconds West; to an iron pin found; thence along a non-tangential curve to the right having the following data; Radius = 610.00 feet; Arc length = 453.23 feet; (Chord bearing = North 35 degrees 43 minutes 22 seconds West, Chord length = 442.88 feet;) to an iron pin found; thence North 89 degrees 56 minutes 27 seconds East for a distance of 355.41 feet to the true point of beginning. Containing 3.32 acres, more or less.

Prepared By:  
BRIDGFORTH & BUNTIN  
P. O. Box 241  
Southaven, MS 38671  
393-4450

STATE OF Ohio  
COUNTY OF Marion

Personally appeared before me, the undersigned authority in and for the said county and state, on this 30 day of August, A.D., 1995, within my jurisdiction, the within named John R. Dickson, IV, who acknowledged that he is Secretary/Treasurer of United Church Residences of South Horn Lake, Mississippi, Inc., an Ohio corporation, and that for and on behalf of the said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Kenneth L. Young  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_



**KENNETH L. YOUNG, Attorney At Law**  
**Notary Public - State of Ohio**  
**My Commission Has No Expiration Date.**  
**Section 147.03 R.C.**

STATE OF MISSISSIPPI

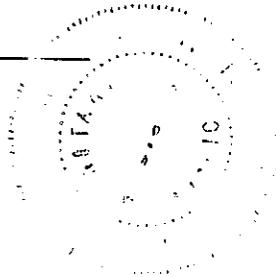
COUNTY OF HINDS

Personally appeared before me, the undersigned authority in and for the said county and state, on the 23 day of August, A.D., 1995, within my jurisdiction, the within named Reba G. Cook, who is personally known to me to be the person who executed the foregoing instrument by virtue of the authority vested in her signed and delivered the foregoing instrument on the day and year therein mentioned as Authorized Agent, Mississippi State Office, for and on behalf of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner.

Reba G. Hartzog  
NOTARY PUBLIC

My Commission Expires:

My Commission Expires Feb. 5, 1996



STATE OF Ohio

COUNTY OF Marion

Personally appeared before me, the undersigned authority in and for the said county and state, on this 30 day of August, A.D., 1995, within my jurisdiction, the within named Robert L. Hart, who acknowledged that he is President of United Church Residences of South Horn Lake, Mississippi, Inc., an Ohio corporation, and that for and on behalf of the said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.



KENNETH L. YOUNG, Attorney At Law  
Notary Public - State of Ohio  
My Commission Has No Expiration Date.  
Section 147.83 R.C.

Kenneth L. Young  
NOTARY PUBLIC

My Commission Expires:

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STATE MS. - DESOTO CO.  
FILED  
Aug 30 4 51 PM '95

BK 69 PG 552  
W.E. DAVIS CH. CLK.  
by: P. Stankay OC

Prepared By:  
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