

AFTER RECORDING, RETURN TO:

City of Olympia
Po Box 1967
Olympia, WA 98504-2525

Attention: M. Anna Schlecht

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

GRANTOR: **FLEETWOOD LIMITED PARTNERSHIP**, a Washington limited partnership
CITY OF OLYMPIA, a municipal corporation of the State of Washington

GRANTEE: **FLEETWOOD APARTMENTS LLC**, a Washington limited liability company
CITY OF OLYMPIA, a municipal corporation of the State of Washington

ABBREVIATED LEGAL: **LOT 4 PTN LOT 3 BLOCK 17 SYLVESTER'S PLAT OF OLYMPIA, VOL 1 PG 14**

(Additional Legal Description on Exhibit A, page 10)

TAX PARCEL NO(S): **78501700400**

REFERENCE NO(S): **3562796; 4007244; 4127491**

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT ("Assumption Agreement") is entered into as of this 31st day of December, 2012, by and among **FLEETWOOD LIMITED PARTNERSHIP**, a Washington limited partnership ("Assignor"), **FLEETWOOD APARTMENTS LLC**, a Washington limited liability company, with its principal offices at 2407 1st Avenue, Suite 200, Seattle, Washington 98121 ("Assignee"), and the **CITY OF OLYMPIA**, a municipal corporation of the State of Washington, whose address is PO Box 1967, Olympia, Washington 98507 ("Lender").

WHEREAS, Assignor and Lender entered into that certain City of Olympia Rehabilitation Program Contract (RRP-153) dated August 6, 2003 ("Loan Agreement RRP-153"), whereby

Lender agreed to loan Assignor One Hundred Thousand and No/100 Dollars (\$100,000.00) ("City Loan RRP-153"), in connection with the development of the property commonly known as Fleetwood Apartments located at 119 7th Avenue SE, Olympia, Thurston County, Washington ("Project"), and legally described on **Exhibit A** attached hereto and incorporated herein by reference (including all improvements thereon) (the "Property"); and

WHEREAS, to evidence City Loan RRP-153, Assignor executed that certain Promissory Note dated August 6, 2003 in favor of Lender ("City Note RRP-153"), whereby Assignor agreed to pay Lender or the holder of the City Note RRP-153 the principal sum of One Hundred Thousand and No/100 Dollars (\$100,000.00). The outstanding balance as of March 25, 2013 is \$54,800.00; and

WHEREAS, to secure payment of City Note RRP-153, Assignor executed that certain Deed of Trust dated August 6, 2003, and recorded August 13, 2003 under Thurston County Auditor's File No. 3562796 ("City Deed of Trust RRP-153"), naming Lender as Beneficiary.; and

WHEREAS, Assignor and Lender entered into that certain City of Olympia Rehabilitation Program Owner's Bid and Contract Agreement (RRP-183) dated August 24, 2007 ("Loan Agreement RRP-183"), whereby Lender agreed to loan Assignor One Hundred Ten Thousand and No/100 Dollars (\$110,000.00) ("City Loan RRP-183"), in connection with the development of the Property. The outstanding balance as of March 25, 2013 is \$109,874.52; and

WHEREAS, to evidence City Loan RRP-183, Assignor executed that certain Promissory Note dated August 24, 2007 in favor of Lender, superseded by that certain Promissory Note dated November 8, 2007 ("City Note RRP-183"), whereby Assignor agreed to pay Lender or the holder of the City Note RRP-183 the principal sum of One Hundred Ten Thousand and No/100 Dollars (\$110,000.00).; and

WHEREAS, to secure payment of City Note RRP-183, Assignor executed that certain Deed of Trust dated November 8, 2007, and recorded April 30, 2008 under Thurston County Auditor's File No. 4007244 ("City Deed of Trust RRP-183"), naming Lender as Beneficiary; and

WHEREAS, Assignor and Lender entered into that certain City of Olympia Housing Program Performance Agreement (CDBG/RRP-197) dated December 18, 2009 ("Loan Agreement CDBG/RRP-197," whereby Lender agreed to loan Assignor Two Hundred Thirty Thousand and No/100 Dollars (\$230,000.00) ("City Loan CDBG/RRP-197"), in connection with the development of the Property; and

WHEREAS, to evidence City Loan CDBG/RRP-197, Assignor executed that certain Promissory Note dated December 18, 2009 in favor of Lender ("City Note CDBG/RRP-197," whereby Assignor agreed to pay Lender or the holder of City Note CDBG/RRP-197 the principal sum of Two Hundred Thirty Thousand and No/100 Dollars (\$230,000.00). The outstanding balance as of March 25, 2013 is \$230,000.00; and

WHEREAS, to secure payment of City Note CDBG\RRP-197, Assignor executed that certain Deed of Trust dated December 18, 2009, and recorded December 21, 2009 under Thurston County Auditor's File No. 4127491 ("City Deed of Trust CDBG\RRP-197," naming Lender as Beneficiary; and

WHEREAS, Assignor is transferring the Property to Assignee and now wishes to assign to Assignee and to have Assignee assume all of Assignor's interest, rights, benefits, duties and obligations under the following: City Loan Agreement RRP-153, City Loan Agreement RRP-183, City Loan Agreement RRP CDBG/RRP-197, City Note RRP-153, City Note RRP-183, City Note CDBG/RRP-197, City Deed of Trust RRP-153, City Deed of Trust RRP-183, City Deed of Trust RRP CDBG/RRP-197, (collectively, the "City Loan Documents"), , and Assignee is willing to assume all of said obligations of Assignor thereunder; and

WHEREAS, Assignor and Assignee now request the consent of the Lender to (i) the transfer of the Property from Assignor to Assignee, (ii) the assignment of the City Loan Documents from Assignor to Assignee and (iii) the assumption of the obligations of Assignor under the City Loan Documents by Assignee.

NOW, THEREFORE, in consideration of the mutual promises of the parties and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Assignment and Assumption**

- (a) Assignor hereby confirms its agreement to transfer all of its right, title and interest in the Property to Assignee and hereby sells, transfers, assigns, grants, and conveys to Assignee all of its right, title, and beneficial interest existing as of this date in and under the City Loan Documents, as now existing or as they may be amended.
- (b) Assignee hereby expressly assumes and agrees to perform, observe and confirm all the covenants, agreements, terms conditions, obligations, duties and liabilities of Assignor under the City Loan Documents, as set forth in the recitals of this Agreement, which are incorporated by reference herein, and any document or instrument executed and delivered or furnished by Assignor in connection therewith, and agrees that the Property and all leases of the Property are subject to the liens, security interests and assignments in favor of the Lender as stated in the City Loan Documents.
- (c) Any references in the City Loan Documents to Borrower, Grantor or Owner shall, with respect to all dates from and after the effective date of this Assumption Agreement, shall now include Fleetwood Apartments LLC, a Washington limited liability company, and its successors and assigns to the extent provided in the City Loan Documents, and the address for notices to Borrower or Owner under each

and all City Loan Documents shall be 2407 1st Avenue, Suite 200, Seattle, Washington 98121 until changed by written notice to the Lender under the City Loan Documents.

- (d) Lender hereby releases and forever discharges Assignor from all liabilities and obligations concerning said City Loan Documents arising subsequent to the date of this Assumption Agreement and agrees to look solely to Assignee for all such payments and liabilities under the City Loan Documents.

2. **Representations and Warranties of Assignee.** In order to induce Lender to continue the City Loan Agreements and to consent to the assignment and assumption provided for herein, Assignee hereby represents and warrants to Lender that:

- (a) Assignee is duly incorporated as a Washington limited liability company and has the full right, power and authority to conduct all of the activities which are now conducted by it or proposed to be conducted by it in connection with the City Loan Documents, to execute, deliver and perform this Assumption Agreement, and to assume the obligations of Assignor and to fulfill its duties under the City Loan Documents.
- (b) There is no action, suit or proceeding or any investigation pending or, to the best of Assignee's knowledge, threatened against or affecting Assignee at law or in equity in any court or by any federal, state, municipal or other governmental authority, department, commission, board, agency or other governmental instrumentality that is likely to have an adverse effect on Assignee's ability to assume the obligations and to fulfill the duties of Assignor under the terms of the City Loan Documents.
- (c) Assignee is not in default or alleged to be in default with respect to any judgment, order, writ, injunction or decree or in breach or alleged to be in breach or default under any material lease, contract, agreement, commitment, instrument or obligation to which it is a party or by which it or its property is bound; and to the best of Assignee's knowledge, there is no statement of facts which is likely to create or cause a default or breach under any such material lease, contract, agreement, commitment, instrument or obligation.
- (d) To the best of Assignee's knowledge and belief, Assignee has complied in all material respects with all federal, state and local laws, regulations and orders applicable to the ownership of its properties and the conduct of its operations.
- (e) Assignee has taken all corporate and other action, necessary to authorize the execution and delivery of this Assumption Agreement.

- (f) The representations and warranties of the Borrower in the City Loan Documents, as applied to Assignee, are true and correct in all material respects as of the date hereof.
 - (g) Assignee has conducted its own inspections of the Property and is fully familiar with the condition thereof. Assignee is not relying on any representations or statements by or on behalf of Lender, express or implied, nor upon any duty of Lender to disclose information concerning the Property (whether or not known to Lender), in acquiring the Property and entering into this Assumption Agreement.
3. **Representations and Warranties of Assignor.** In order to induce Lender to allow the assignment and assumption contemplated herein, Assignor represents and warrants to Lender that:
- (a) The representations and warranties of Assignor in the City Loan Agreements, City Notes, and City Deeds of Trust are true and correct in all material respects as of the date hereof.
 - (b) To the best of Assignor's knowledge, no Event of Default under the City Loan Documents, or event that with notice or the passage of time would constitute such an Event of Default, has occurred and is continuing.
 - (c) Assignor is the sole owner of indefeasible fee simple title to the Property, subject to no liens or encumbrances except those permitted by the City Loan Documents, and the transfer of the Property to the Assignee has received all consents and approvals required by the terms of the limited partnership agreement of Assignor, of any encumbrance on the Property and of any obligation secured by an encumbrance on the Property.
4. **Consents.** The Lender hereby consents to the transfer of the Property from Assignor to Assignee and the assumption by Assignee of the obligations of Assignor under the City Loan Documents.
5. **Further Documents and Assurances.** At any time and from time to time, upon Lender's request, Assignee will promptly and duly execute and deliver any and all further instruments and documents and take such further action as Lender may deem reasonable and appropriate to effect the purposes of this Assumption Agreement, including (without limitation) the execution of the City Notes or an amended and restated promissory note(s) in form satisfactory to Lender. The Assignee hereby authorizes and agrees to the filing (at Assignee's expense) of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction, as deemed appropriate by Lender, in order to place on the public records notice of the effect of this Assumption Agreement.
6. **Acknowledgments, Agreements, and Waivers.** Assignor and Assignee acknowledge that the full principal amount of the City Notes has been disbursed by Lender, and that the

unpaid principal balance and interest accrued under the terms of the City Notes are validly outstanding and owing on the City Notes, subject to no defenses, offsets, or counterclaims through the date of this Assumption Agreement, and Assignee hereby waives any such defenses, offsets or counterclaims. Assignor and Assignee further acknowledge that the Lender has complied fully with all of its obligations to date under the City Loan Documents and that except as stated herein, the City Loan Documents have not been modified or amended

7. **Further Transfers.** Nothing herein shall be construed as consent to any further transfer of any interest in the Property.
8. **Successors and Assigns.** This Assumption Agreement shall be binding upon Assignor, Assignee and Assignee's successors and assigns and shall inure to the benefit of the Lender and its successors and assigns; *provided, however,* that Assignee shall not have the right to assign any of its obligations or rights hereunder without the prior written consent of the Lender.
9. **Effective Date.** The effective date of this Assumption Agreement shall be the date the parties sign and complete the execution of this document and it is filed of record with the Thurston County office of records and elections.
10. **Counterparts.** This Assumption Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and whether or not all parties execute each counterpart.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the parties hereto have caused this Assumption Agreement to be executed as of the day and year written above.

ASSIGNOR:

FLEETWOOD LIMITED PARTNERSHIP, a
Washington limited partnership

By: Low Income Housing Institute (LIHI), a
Washington nonprofit corporation
Its: General Partner

By: _____
Lynne A. Behar, Chief Financial Officer

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I hereby certify that I know or have satisfactory evidence that **Lynne A. Behar** appeared before me, and acknowledged that she signed this instrument, on oath stated that she was authorized to execute this instrument, and acknowledged it as the **Chief Financial Officer** of **Low Income Housing Institute (LIHI)**, a Washington nonprofit corporation, the General Partner of **FLEETWOOD LIMITED PARTNERSHIP**, a Washington limited partnership, to be the free and voluntary act of such entity for the uses and purposes mentioned in this instrument.

NOTARY PUBLIC in and for the State of Washington
My Commission expires: _____

IN WITNESS WHEREOF, the parties hereto have caused this Assumption Agreement to be executed as of the day and year written above.

FLEETWOOD APARTMENTS, LLC, a Washington limited liability company

By: Low Income Housing Institute (LIHI), a Washington nonprofit corporation
Its: Managing Member

By: _____
Lynne A. Behar, Chief Financial Officer

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I hereby certify that I know or have satisfactory evidence that **Lynne A. Behar** appeared before me, and acknowledged that she signed this instrument, on oath stated that she was authorized to execute this instrument, and acknowledged it as the **Chief Financial Officer** of **Low Income Housing Institute (LIHI)**, a Washington nonprofit corporation, the Managing Member of **FLEETWOOD APARTMENTS, LLC**, a Washington limited liability company, to be the free and voluntary act of such entity for the uses and purposes mentioned in this instrument.

NOTARY PUBLIC in and for the State of Washington
My Commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION

LOT 4 AND THE EAST 59.25 FEET OF LOT 3 IN BLOCK 17 OF SYLVESTER'S PLAT OF OLYMPIA, ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE(S) 14, AND AS DELINEATED IN VOLUME 2 OF PLATS AT PAGE(S) 15, IN THURSTON COUNTY, WASHINGTON.

SITUATED IN THE COUNTY OF THURSTON, STATE OF WASHINGTON.