



Doc#: 0923234033 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 08/20/2009 11:19 AM Pg: 1 of 8

211751

(5)

**AMENDMENT TO
SERVICE AGREEMENT AND EASEMENT
BETWEEN
MAYWOOD PHOENIX HOMES, INC. AND
COMCAST OF
CALIFORNIA/COLORADO/ILLINOIS/INDIANA/MICHIGAN, LP**

This Amendment to Grant of Easement made this 1st day of August, 2009, ("Amendment"), hereby amends that certain Service Agreement dated as of June 13, 2007 ("Telecommunication Agreement") by and between MAYWOOD-PHOENIX HOMES, INC., an Illinois not-for-profit company ("Owner") and COMCAST OF CALIFORNIA/COLORADO/ILLINOIS/INDIANA/MICHIGAN, LP, a Delaware limited partnership, formerly known as COMCAST OF ILLINOIS/TEXAS, INC., an Illinois corporation ("Provider").

RECITALS

WHEREAS, Owner executed a Mortgage for the benefit of Red Mortgage Capital, Inc., an Ohio corporation ("Lender") to secure a loan in the amount of \$4,752,000.00, recorded in Cook County, Illinois, dated August 1, 2009, and recorded August 20, 2009, as Instrument No. 0923234030 ("Mortgage");

WHEREAS, The Mortgage is insured by the U.S. Department of Housing and Urban Development ("HUD") which has executed with the Owner to a Regulatory Agreement recorded in Cook County, Illinois, on August 1, 2009, as Instrument No. 0923234031 ("Regulatory Agreement");

WHEREAS, MAYWOOD PHOENIX HOMES, INC, an Illinois not-for-profit corporation ("Maywood") and Provider entered into a Bulk Service Agreement ("Telecommunication Agreement") dated February 9, 2007, to provide certain exclusive and non-exclusive telecommunication services in exchange for certain payments and other value, and an easement which was recorded in Cook County, Illinois, on June 13, 2007, as Instrument No. 0716444010 (the "Easement");

WHEREAS, the Telecommunication Agreement is subject to the approval of HUD and Lender; and

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WHEREAS, HUD and Lender have conditioned their approval on the revisions and clarifications to the Telecommunication Agreement as set forth in this Amendment;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby accepted and acknowledged, the parties agree as follows:

1. Owner hereby confirms that it is the owner of the property that is referenced in the Telecommunication Agreement ("Property"), which Property is identified in the legal description attached to this Amendment as Exhibit A.

2. The Telecommunication Agreement and the Easement are subordinate to the Mortgage and Regulatory Agreement and any conflict among them shall be controlled by the provisions of the Mortgage and Regulatory Agreement for so long as the Mortgage and Regulatory Agreement remain in effect.

3. Any payments by Provider to Owner under the Telecommunication Agreement shall be Property income. In the event of a forfeiture, foreclosure or deed in lieu thereof, under the Mortgage ("Foreclosure"), or if a default is declared by Lender, and Lender provides notice to Provider in accordance with this Amendment, then Provider will make any remaining payments that are required to be paid under the Telecommunication Agreement to Lender or as otherwise directed by Lender.

4. Any equipment that may be installed by Provider on the Property shall not materially change any common or structural element (such as re-wiring), without Provider first giving notice to Owner, and then giving notice to HUD and the affected tenants, of such change before such changes are made. Such installation shall not unreasonably interfere with the tenants' use and quiet enjoyment of their units. In the event that any equipment or service installed or provided by Provider constitutes a threat to resident health or safety, then Owner, subject to HUD's approval, or HUD may terminate the Telecommunication Agreement and this Amendment and require Provider, at its own expense, to terminate service from, and remove, such equipment. HUD and Owner, subject to HUD's approval, have the right to relocate any equipment installed by Provider, if necessary for the operation of the Property. Upon notice to the Provider of the exercise of this right, Provider shall relocate said equipment, and Provider may offset the cost of such relocation against the payment the Provider is required to make to Owner under the Telecommunication Agreement. If any such relocation results in an interruption of service and a loss of revenue to Provider, then Provider may offset any such lost revenues from the payment the Provider is required to make to Owner under the Telecommunication Agreement.

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5. Provider represents and warrants to Owner and HUD that any equipment it installs will not endanger tenants or cause frequency interference with normal, non-cable television. However, Provider is not giving any representations or warranties that normal, non-cable television is of any particular quality or is even normally viewable.

6. The tenants on the Property will have an option to refuse Provider's services. Any provision that limits the installation of other systems on the Property shall not apply to or interfere with the rights of the tenants as viewers to install other systems to the extent that such rights are protected under the Telecommunications Act of 1996 and related Federal Communications Commission Regulations. Neither the Owner nor the Provider may interfere with any tenant using portable antennas (rabbit ears) on a television set, an antenna on a stereo system, or any other telecommunications service such as Web TV.

7. The Telecommunication Agreement and this Amendment shall not be modified, amended, supplemented or revised, except by written approval of the Owner, Provider and HUD.

8. Provider will give HUD as least sixty (60) days notice before the expiration of the original term of the Telecommunication Agreement, and any approved renewal terms, so that HUD may, within a reasonable period thereafter, review and either approve or reject, in its sole and absolute discretion, any such renewal term. Any renewal of the term of the Telecommunication Agreement, whether automatic or otherwise, that is made without the approval of HUD shall, at the election of HUD at any time, be void. Any assignment of the Telecommunication Agreement will required prior HUD approval.

9. Any separate agreement between Owner and Provider that directly relates to this Telecommunication Agreement, such as an easement, shall be automatically amended by this Amendment.

10. To the extent that the Telecommunication Agreement or this Amendment may be interpreted to include an indemnification from the Owner to Provider, Provider agrees that it shall not pursue such indemnification from the Owner or the Property. However, this provision shall not prohibit Provider from pursuing a claim against Owner (but not the Property) for any damage to Provider's wiring or equipment that is caused by Owner's negligence or willful misconduct.

11. For purposes of this Amendment, notices between Owner, Provider and HUD shall be deemed given when (i) personally delivered, or (ii) transmitted by facsimile to the facsimile number set forth in this Amendment with a copy mailed on the same day by regular first class mail, postage prepaid, or (iii) two days after mailing by certified mail, return receipt requested, postage prepaid, to the addresses set forth below:

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For the Owner: Bishop Dr. Claude Porter, President
 Maywood-Phoenix Homes, Inc.
 411 W. Madison Street
 Maywood, Illinois 60153

For the Provider: Comcast of California/Colorado/Illinois/Indiana/Michigan,
 LP
 Attn: Amy Winchell, Law Department
1500 McConnor Pkwy # 200
Schaumburg IL 60173

For HUD: Director, Chicago Multifamily Program Center
 U.S. Department of Housing and Urban Development
 Illinois State Office
 77 West Jackson Avenue
 Chicago, Illinois 60604-3507

Unless otherwise provided in this Amendment, all time periods shall be in calendar days, but in all instances the first day a notice of communication shall be deemed given and the last day for compliance shall be the next business day if a calendar day is not a business day.

12. At each adjustment of the subscription fee for the service provided the parties shall ensure the fee to be assessed is not in excess of the amounts customarily and ordinarily charged for such fee in the locality.

13. Provider and Owner may present Provider's marketing materials to existing and prospective residents during the initial presentation of rental units and at lease signings, and to existing residents who are not subscribers to Provider's services. Marketing materials may include, at Provider's discretion, brochures, channel lineups, door hangers, service descriptions, and information regarding prices and special offers. Provider shall provide all marketing materials. Notwithstanding any other provision in the Telecommunication Agreement or this Amendment, Provider will provide all other marketing services. It may employ on-site staff to act as sales or marketing personnel; however, this staff must be separate from Owner's staff, and compensation shall not be a part of, or paid by, any management fee.

14. Paragraph 16 "Dispute Resolution" is hereby deleted from the Telecommunication Agreement.

15. This Amendment shall automatically terminate when the Mortgage and Regulatory Agreement are no longer in effect.


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16. This Amendment represents the entire agreement between HUD and the other parties to this Amendment with respect to the Telecommunication Agreement, and this Amendment shall control over the Telecommunication Agreement and any other written or oral understanding or agreement between the other parties that relate to the subject matter of this Amendment.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the date first written above.

OWNER:

MAYWOOD-PHOENIX HOMES, INC.,
an Illinois not-for-profit corporation,

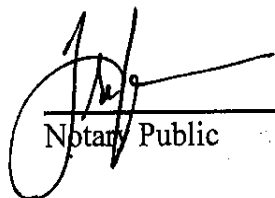
By: 
Bishop Dr. Claude Porter,
President

STATE OF ILLINOIS)
)
COUNTY OF COOK)

ss.

On this 1st day of August, 2009, before me, the undersigned Notary Public, personally appeared Bishop Dr. Claude Porter, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing Amendment to Service Agreement as President of Maywood-Phoenix Homes, Inc., an Illinois not-for-profit corporation, and acknowledged that he executed the same as the act of said company for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal



Notary Public

My Commission Expires:



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**Signature Page to
Amendment to Service Agreement
(Maywood-Phoenix Homes)**

PROVIDER:

COMCAST OF CALIFORNIA/COLORADO/
ILLINOIS/INDIANA/MICHIGAN, LP,
~~an Illinois~~ limited partnership
a Delaware

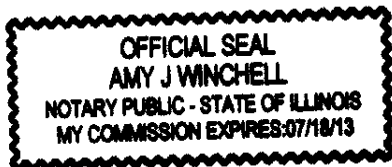
By: COMCAST OF CALIFORNIA/
COLORADO/ILLINOIS/INDIANA/
MICHIGAN, GP, ~~LLP~~, LLC,
its General Partner

By: *Susan Gibbs*
Name: *Susan Gibbs*
Title: *Vice President - Finance*

STATE OF ILLINOIS)
)
COUNTY OF COOK) ss.

On this 19th day of August, 2009, before me, the undersigned Notary Public, personally appeared *Susan Gibbs*, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing Amendment to Service Agreement as *Vice President - Finance* of Comcast of California/Colorado/Illinois/Indiana/ Michigan GP, LLC, general partner of Comcast of California/Colorado/Illinois/ Indiana/Michigan, LP, ~~an Illinois~~ *a Delaware* limited partnership, and acknowledged that she executed the same as an act of said partnership for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.




Amy J Winchell
Notary Public

My Commission Expires: *7/18/13*

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**Signature Page to
Amendment to Service Agreement
(Maywood-Phoenix Homes)**

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT


By: 
Name:
Title:

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

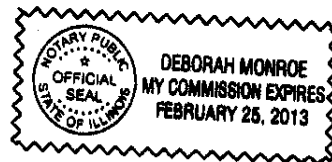
Before me, Deborah Monroe, a Notary Public in and for the said State, on this 20th day of August, 2009, personally appeared MARY ANDERSON who is well known to me to be the Director, Chicago Multifamily Hub, and the person who executed the foregoing instrument by virtue of the authority vest in him by the National Housing Act, as amended, and I having first made known to him by the contents thereof to be his free and voluntary act and deed on behalf of the Secretary of Housing and Urban Development for the uses, purposes and considerations therein set forth.

Witness my hand and official seal the 20th day of August, 2009.

(SEAL)


Notary Public

My Commission expires 2/25, 2013.



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EXHIBIT "A" **LEGAL DESCRIPTION**

(Maywood Phoenix Homes)

*** LOTS 6 TO 15, BOTH INCLUSIVE IN BLOCK 131 IN "MAYWOOD", A SUBDIVISION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 2, THE WEST HALF OF SECTION 13 AND THE NORTHWEST QUARTER OF SECTION 14, ALL IN TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

THAT PART OF THE VACATED 14 FEET ALLEY LYING EAST OF AND ADJOINING LOTS 6 THROUGH 10, WEST OF AND ADJOINING LOTS 11 THROUGH 15, NORTH OF THE SOUTH LINE OF LOTS 10 AND 11 EXTENDED AND SOUTH OF AND ADJOINING THE NORTH LINE OF LOTS 6 AND 15, EXTENDED, ALL IN BLOCK 131 IN "MAYWOOD", AS AFORESAID.***

PIN NOS: 15-14-104-004
 15-14-104-005
 15-14-104-006 ✓
 15-14-104-011
 15-14-104-012
 15-14-104-013

COMMON ADDRESS: 401 North Green Street, Maywood, Illinois