



# FORECLOSURE SALE

Glenarden Apartments, Phase I  
3012 Brightseat Road  
Glenarden, MD 20706  
A 340 Unit Multifamily Community

Is offered for sale at foreclosure:

- ❖ HUD intends to bid the amount of the indebtedness at the foreclosure sale.



Oral bids will be accepted on:  
September 24, 2014  
at: 10:00 a.m. (local time)

Sale Location:  
Prince George's County Circuit Court  
(at the courthouse steps)  
14735 Main Street  
Upper Marlboro, MD 20772



U. S. Department of Housing and Urban Development  
Multifamily Property Disposition  
801 Cherry Street, Unit #45, Ste. 2500  
Fort Worth, TX 76102

DUE DILIGENCE SHOULD BE PERFORMED IN ADVANCE OF SUBMITTING A BID. WHILE CARE HAS BEEN EXERCISED TO ENSURE ACCURACY, ALL INFORMATION PROVIDED IS SOLELY FOR THE PURPOSE OF PERMITTING PARTIES TO DETERMINE WHETHER OR NOT THE PROPERTY IS OF SUCH TYPE AND GENERAL CHARACTER AS TO INTEREST THEM IN ITS PURCHASE. HUD MAKES NO WARRANTY AS TO THE ACCURACY OF SUCH INFORMATION

## INVITATION TO BID

Consistent with and subject to the terms and conditions of this Invitation to Bid, there is an opportunity to make an offer to purchase the Project more particularly described below. This document, titled Invitation to Bid, sometimes referred to herein as the "Invitation," and commonly known as a "Bid Kit," sets forth the terms and conditions for the submission of a bid to acquire the Project at the foreclosure sale of the Project. This Invitation also includes information concerning Previous Participation Certification (Form HUD-2530) requirements and a list of the forms necessary to submit a complete, responsive bid.

## INVITATION DEFINITIONS

The following definitions apply to capitalized terms in this Invitation.

1. **APPS:** The Active Partners Performance System (APPS) allows HUD's business partners to manage their company and individual participation information and submit their APPS Previous Participation Certification (APPC) requests directly to HUD for processing via the Internet.
2. **Acknowledgment:** The document executed at the Foreclosure Sale by the High Bidder, obligating the High Bidder to the terms and requirements of the Foreclosure Sale, the form of which is attached to this Invitation as Attachment B.
3. **Act:** Multifamily Mortgage Foreclosure Act, 12 U.S.C. § 3701-15.
4. **Affiliate:** Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. The ways we use to determine control include, but are not limited to (a) Interlocking management or ownership; (b) Identity of interests among family members; (c) Shared facilities and equipment; (d) Common use of employees; or (e) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person. ([24 C.F.R. § 200.215](#) - Affiliate.)
5. **Cash Due at Closing:** The bid price less the Earnest Money Deposit received, plus any prorations. Cash due at Closing includes all initial deposits to escrow and/or reserve accounts as may be required by HUD. Funds shall be paid in the form of a money order, certified funds or a cashier's check made payable to: The U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
6. **Certification of Substantial Compliance:** A certification by High Bidder that its other properties in the jurisdiction of the Project are in substantial compliance with state and local laws. Attachment G of this Invitation.
7. **Closing:** When title to the Project is transferred to the bidder that HUD deems qualified to purchase the Project.
8. **Days:** Federal government business days, unless otherwise stated as calendar days.
9. **Deed:** see Foreclosure Deed.
10. **Earnest Money Deposit:** The amount of the deposit identified in the Property at a Glance. Must be submitted at the Foreclosure Sale.
11. **Evidence of APPS registration:** After the foreclosure sale, this is certification that must be submitted to the Realty Specialist identified in the Property at a Glance and can be in the form of a copy of the *Participant Successfully Registered* page from the APPS system **and** a copy of the *Multifamily Coordinator and User Registration page* from Secure Systems **or** a copy of the *Participant Detail* page. (See APPS User Guide-Industry for printing instructions).
12. **Extension Fees:** The fee that must be paid to HUD when requesting an extension of the time, or deadline, for the Closing. If an extension of the deadline for the Closing to occur is authorized, the Purchaser must pay a fee for each thirty (30) calendar day extension period, the amount of which will be determined by HUD consistent with current policies and procedures.
13. **Extension Period:** Extensions of time for Closing are granted for a thirty (30) calendar day period.
14. **Foreclosure Commissioner:** An attorney or law firm designated by HUD to conduct the Foreclosure Sale of the Project, pursuant to 12 U.S.C. §3704.
15. **Foreclosure Deed:** The deed that will transfer title to the Purchaser. It will not contain any warranties of title.
16. **Foreclosure Sale:** Sale of the Project resulting from a mortgage foreclosure by HUD.
17. **Form HUD-9552:** Not Applicable
18. **High Bidder:** Highest, responsive bidder at Foreclosure Sale.

19. LOC: Letter of Credit: An assurance of the completion of HUD required demolition/redevelopment. An unconditional, irrevocable and nondocumentary Letter of Credit, issued from a recognized FDIC-insured lending institution. The amount is identified in the Property at a Glance.
20. Payment and Performance Bonds: An assurance of completion of HUD required Redevelopment. Form HUD-92452A should be used for payment bonds and a form for the performance bond that is acceptable to HUD, each equaling 100% of the estimate of the required Redevelopment.
21. PCS: Physical Condition Standards; The Department's minimum physical condition standards. ([24 C.F.R. § 5.703](#)). These are the decent, safe and sanitary conditions, and in good repair, standards which must be met within a specified number of calendar days after Closing.
22. Post-Bid Document Submittals: All documents, statement, and forms listed in the Invitation that must be submitted by High Bidder in order to be considered for HUD approval to purchase the Project.
23. Post-Closing Redevelopment: All redevelopment work, including demolition, must be performed in a manner compliant with the essential and material requirements of the state and local codes and laws, ordinances, regulations, HUD's Physical Condition Standards, and the approved Redevelopment Plan.
24. Previous Participation: It is HUD's policy that participants in its housing programs be responsible individuals and organizations that will honor their legal, financial, fair housing and contractual obligations. ("Responsibility" is a term used by HUD to mean business integrity, honesty and capacity to perform). Accordingly, uniform standards are established in HUD regulations for approval, disapproval or withholding of action on principals for projects in which they apply to participate.
25. Previous Participation Certification: Form HUD-2530. The information within this form, in combination with other factors and submitted documentation, will be used to determine whether HUD will approve a bidder to purchase, operate, and/or manage the Project.
26. Principal: Principal means (a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or (b) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who (1) Is in a position to handle Federal funds; (2) Is in a position to influence or control the use of those funds; or, (3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (c) A person who has a critical influence on, or substantive control over, a covered transaction, whether or not employed by the participant. (For complete definition see [24 C.F.R. § 200.215](#) – Principal.)
27. Project: The multifamily apartment project and all real and personal property appurtenant thereto, as presented on the cover of this Invitation.
28. Property at a Glance: Contains information about the Project and contact information for the Realty Specialist – see Attachment A to Invitation.
29. Purchaser: Person or entity receiving HUD approval to purchase the Project.
30. Realty Specialist: HUD staff member to be contacted for additional information concerning the Project or the Foreclosure Sale. Identified on the Property at a Glance.
31. Repairs: see Post-Closing Redevelopment.
32. Second High Bidder: Second highest, responsive bidder at Foreclosure Sale.
33. Section 8: Section 8 of the United States Housing Act of 1937 and applicable regulations within Title 24 of the Code of Federal Regulations.
34. Statement of Experience: The written statement to be submitted by High Bidder, as part of the qualification process in order to be considered by HUD for approval to purchase the Project.
35. Use Agreement: The Foreclosure Sale Use Agreement in the form attached as Attachment C to this Invitation, which will be executed by Purchaser of the Project at Closing and run with the land to bind the Purchaser and any permitted successors and assigns.

## SECTION 1 - INTRODUCTION AND GENERAL INFORMATION

1. **BID RESPONSIVENESS:** A bid must be responsive to the terms of the Foreclosure Sale. To be considered for award, a bid must comply in all material respects with this Invitation. Each bid on its face shall be firm, unconditional, responsive, fixed in one amount certain, and not in the alternative. Special conditions, alterations, or deletions will render a bid non-responsive. The terms of the Foreclosure Sale are those set out in this Invitation and Attachments. Lack of an Earnest Money Deposit, as required by this Invitation, will be cause for bid rejection.
2. **SALE TO HIGHEST QUALIFIED BIDDER:** Sale of this Project will be awarded to the highest bidder determined to be qualified to purchase the Project. The defaulting owner of the Project, or any affiliate thereof, will not be permitted to bid.
3. **NO REDEMPTION PERIOD:** This Foreclosure Sale is not subject to redemption by the defaulting owner of the Project.
4. **BID ACCEPTANCE OR REJECTION:** At any time prior to Closing, HUD reserves the right to reject any and all bids, to waive any informality in any bid received, and to reject the bid of any bidder HUD determines lacks the eligibility to bid, experience, ability, or financial responsibility necessary to own and provide management acceptable to HUD.
5. **CANCELLATION OF SALE:** HUD reserves the unconditional right to cancel this Invitation and reject any and all bids at any time prior to the Closing of the Foreclosure Sale.
6. **BIDDER'S DUE DILIGENCE:** Bidders, their agents and advisors should review carefully the information in this Invitation and Attachments, and any additional information made available by HUD, and should undertake their own investigation of the Project to evaluate the risks associated with purchasing the Project.
7. **POST-CLOSING REQUIRED REDEVELOPMENT:** Any demolition and redevelopment that must be completed by Purchaser after Closing, if applicable to this Foreclosure Sale, are included in **Riders 2, 3, 4 and 5 of the Use Agreement.**
8. **While care has been exercised to assure accuracy, all information provided is solely for the purpose of permitting parties to determine whether or not the Project is of such type and general character they are interested in purchasing. HUD makes no warranty as to the accuracy of the information. The failure of any bidder to inspect or be fully informed as to the condition of all or any portion of the Project, or any conditions of Foreclosure Sale, will not constitute grounds for any claim, demand, adjustment, or withdrawal of a bid.**
9. **OUTSTANDING ENCUMBRANCES THAT SURVIVE FORECLOSURE:** By entering its bid, the High Bidder agrees to assume all responsibility for paying all outstanding encumbrances and expenses, including, but not limited to, taxes, assessments, utility bills and any liens not extinguished by the foreclosure. Bidders are advised to determine outstanding expenses, taxes, utilities, assessments, and liens as part of the due diligence process and take them into consideration when bidding.
10. **RECORDATION OF CERTAIN DOCUMENTS:** The Use Agreement, with any riders thereto (if provided herein) will be recorded with the Deed.
11. **ADDITIONAL INFORMATION:** For further information, please contact the Realty Specialist.

## SECTION 2 – PREVIOUS PARTICIPATION CERTIFICATION FOR PARTICIPANTS IN HUD MULTIFAMILY PROGRAMS

1. **GENERAL:** All bidders, management agents and other participants as required by HUD must file a Previous Participation Certification (Form HUD-2530) in either electronic or paper format. Bidders must comply with all HUD Previous Participation Certification (Form HUD-2530) requirements as outlined in the Acknowledgment (Attachment B.)
2. **ELECTRONIC FILING:** If filing electronically, use [APPS](#) to submit Previous Participation Certification (Form HUD-2530) on HUD's Secure Systems Internet Site. Prior registration is not mandatory in order to bid at the Foreclosure Sale. However, all potential bidders registering for the first time in Secure Systems and/or APPS should do so at least two (2) weeks prior to the Foreclosure Sale because it takes approximately two (2) weeks after registration to receive the User/Coordinator ID. Instructions for registering for both Secure Systems and APPS are located on the [Active Partners Performance System \(APPS\) web site.](#)

3. **PAPER FILING:** If filing in paper format, submit the Form HUD-2530, and an Organizational Chart of the proposed ownership entity to the Realty Specialist.
4. **UPDATES:** If a management agent will be participating in the management of the Project, or if bidder is changing principals, adding principals, changing the name of the purchasing entity, or changing tax identification from information already recorded in APPS or on a paper 2530, **it is the High Bidder's responsibility to ensure that all required participants register and complete the 2530 process within the prescribed time frames.**
  - **Failure of any participant to submit a Previous Participation Certification (Form HUD-2530) or other required document(s) within the indicated time frame specified in Section 4 below may be grounds for rejection of the bid.**
  - **The High Bidder's experience, qualifications and capacity to purchase the Project must be approved by HUD in order to purchase the Project. This includes, but is not limited to, 2530 approval.**

### **SECTION 3 - FORECLOSURE SALE PROCEDURES AND SUBMISSION OF BIDS**

1. **GENERAL:** In order to submit a complete, responsive bid to this Invitation, a bidder must submit the items listed in this Section, and the additional items as indicated in Section 4, below.
2. **BIDDING AT THE FORECLOSURE SALE:**
  - a. The Foreclosure Sale is an oral, open bid sale that takes place at the date, time and place indicated on the cover of this Invitation. HUD has designated a Foreclosure Commissioner to conduct the sale of this Project.
  - b. The bidder must either:
    - i. State a bid price orally at the sale, or
    - ii. Submit a written bid to the Foreclosure Commissioner two (2) days before the date of the Foreclosure Sale. Written bids, if received, will be read aloud at the Foreclosure Sale before oral bids are accepted. Only the bidder that submitted the written bid, or an agent thereof, may raise a written bid price. Please contact the Realty Specialist identified in the Property at a Glance for details regarding submitting a written bid.
3. **CORRECTIONS:** Any changes or erasures made to information submitted by a bidder in connection with a written bid may be made by the bidder or their agent only and must be initialed by the bidder or agent.
4. **TELEGRAPHIC OR FACSIMILE BIDS:** Emailed, telegraphic or facsimile bids and/or bid modifications will not be considered.
5. **ITEMS THAT MUST BE SUBMITTED AT THE FORECLOSURE SALE:**
  - a. **Earnest Money Deposit:**
    - i. The Earnest Money Deposit, for the amount specified in the Property at a Glance (Attachment A), must be submitted to the Foreclosure Commissioner prior to presenting an oral or written bid, at the start of the Foreclosure Sale.
    - ii. The Earnest Money Deposit must be in the form of a money order, certified funds, or cashier's check payable to: **THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.** No other method of payment is acceptable.
    - iii. A financial organization submitting a bid on its own behalf must have the Earnest Money Deposit drawn on another financial organization
    - iv. Lack of proper deposit will be cause for rejection of the bid by HUD.
    - v. Immediately following the Foreclosure Sale, the Earnest Money Deposit will be returned to all but the High Bidder.
  - b. **Evidence of bidder eligibility**, if applicable (ex: non-profit organization.) See Attachment I, if provided.
6. **NOTIFICATION TO THE HIGH AND SECOND HIGH BIDDER:** The High Bidder and Second High Bidder will be notified orally of their bidding positions by the Foreclosure Commissioner immediately after the Foreclosure Sale.
7. **ACKNOWLEDGMENT BY BIDDER:** Immediately after the Foreclosure Sale, the High Bidder must submit **ONE** (1) signed copy of the Acknowledgment to the Foreclosure Commissioner.

### **SECTION 4 - POST FORECLOSURE SALE PROCEDURES**

1. **CONTINUANCE OF OFFERS:** All bids shall be deemed to be continuing offers from the time of the Foreclosure Sale until bid-rejection by HUD or until Closing.

2. **POST-BID DOCUMENTS SUBMITTALS:** The High Bidder must submit the following items within the timeframes shown below:
- a. Five (5) Days After Foreclosure Sale:
    - i. Previous Participation Certification:
      - (a) Paper filing:
        - (i) **Form HUD-2530:** A completed paper Form HUD-2530(s), with original signatures, for the purchasing entity and all principals. Proposed ownership must have established tax identification or social security number; **and**
        - (ii) **Organization Chart:** An organization chart, reflecting all principals of the purchasing entity and each principal's percentage of ownership must accompany the completed paper Form HUD-2530.
      - (b) Electronic filing:
        - (i) **Bidders not registered in APPS and Secure Systems:** Submit certification of registration in Secure Systems and APPS.
        - (ii) **Electronic Filers registered in APPS and Secure Systems:** Submit evidence of filing in accordance with Section 2 herein.
    - ii. Certification of Substantial Compliance: A completed and original, Attachment G to this Invitation. If HUD determines that such projects of the High Bidder, are not in substantial compliance with state and local codes, HUD may determine that the High Bidder is not qualified to purchase the Project. The Earnest Money Deposit may be forfeited
    - iii. Written Statement of Experience: The High Bidder must submit a written Statement of Experience. Instructions for preparing the written Statement of Experience are provided in the Acknowledgment.
  - b. Ten (10) days After Foreclosure Sale: The High Bidder must submit the documents checked below:
    - Affirmative Fair Housing Marketing Plan (Form HUD-935.2A)
    - Form HUD-2530 for Purchaser, if different from High Bidder
    - Form HUD-2530 for the Management Agent, if applicable
    - Personal Financial and Credit Statement (Form HUD 92417), for each proposed
    - Management Entity Profile (Form HUD-9832)
    - Project Owner's Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839A),
    - OR**
    - Project Owner's/Management Agent's Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents (Form HUD-9839B)

**(Only one of these forms A or B will be required for management certification.)**
  - c. Fifteen (15) days After Foreclosure Sale: Electronic filing of the Form HUD-2530 for the management agent or the High Bidder's ownership entity must be completed and a signed copy provided to the Realty Specialist.

**FAILURE TO SUBMIT THE REQUIRED DOCUMENTS WITHIN THE INDICATED TIME FRAME MAY BE GROUNDS FOR REJECTION OF THE BID. HUD RESERVES THE RIGHT TO REJECT THE BID AND RETAIN THE BIDDER'S EARNEST MONEY DEPOSIT.**

3. **QUALIFICATION, ACCEPTANCE, REJECTION OF BID:**
- a. **Required Bidder Qualifications to Purchase Project:**
    - i. It is the objective of the Department's multifamily foreclosure process to transform troubled and distressed multifamily properties into viable, long-term affordable rental housing resources. To accomplish this objective, the Department will only award a HUD-foreclosed property to a High Bidder that has the financial capacity and demonstrated experience (approximately five (5) years) of successfully owning, managing and transforming distressed and troubled multifamily properties as viable, low-income housing resources.
    - ii. The Department has the discretion to evaluate, starting with the High Bidder and proceeding in descending order, if necessary, the bidder's experience, qualifications and capacity to purchase the Project based on a review of the documentation described below, information independently obtained and verified by HUD, and the Post-Bid Document Submittals required herein. The documentation must demonstrate that the bidder owns (or has owned) and is successfully managing and operating (or has successfully managed and operated) properties of similar size and characteristics (including problematic complexities) as the Project being sold. The documentation will be used by HUD to determine whether the bidder has the financial capacity and demonstrated experience to acquire and successfully transform the Project into a long-term, viable rental housing resource.
    - iii. HUD may, in its sole discretion, accept or reject any bid submitted for the purchase of the Project. The review and approval of the Previous Participation Certification (Form HUD-2530) is a requirement for the purchase of the Project. However, Previous Participation Certification approval is only one aspect of HUD approval of the bidder's qualifications.

- iv. Based on HUD's review of the documentation submitted, as well as any additional information independently obtained and verified by the Department, HUD will determine whether the bidder has the requisite experience, qualifications and financial capacity to purchase the Project. This determination is within HUD's sole and absolute discretion. If HUD determines that the bidder does not have the experience, qualifications and/or financial capacity to purchase the Project, HUD will reject the bid and proceed to the next highest bidder pursuant to the terms of the Invitation.
  - v. In the event that HUD rejects a bid, HUD will return the bidder's earnest money deposit, provided the bidder has not failed to meet time limits required to submit documentation, or made any misrepresentation or material omission(s) in the bidder's submission of documentation. If the bidder fails to properly submit all required documentation within the required time limit or HUD determines that the bidder misrepresented his or her experience, qualifications, or financial capacity, the Earnest Money Deposit will be forfeited and retained as liquidated damages. HUD may seek any and all additional remedies.
  - vi. HUD may require the High Bidder to obtain the services of a qualified multifamily project management firm. Management acceptable to HUD (see paragraph 5 below) must be approved prior to Closing.
- b. **Bidder Approval:**
- i. If HUD determines that the High Bidder is qualified, the High Bidder will be confirmed as and identified as the Purchaser;
  - ii. If the high bid is rejected due to HUD's determination that the High Bidder is not qualified to purchase the Project, HUD will notify the High Bidder in writing;
  - iii. If HUD rejects the High Bidder, HUD may in its sole discretion elect to contact the Second High Bidder, and/or succeeding bidders as bidders withdraw or do not qualify, to purchase the Project. If contacted by HUD, the Second High bidder or succeeding bidder will be offered the opportunity to purchase the Project and will be given twenty-four (24) hours to submit the earnest money deposit and execute the Acknowledgment, and thereby will be deemed as the High Bidder. HUD will review the bidder's Post-Bid Document Submittals, which must be submitted within the same timeframes detailed in Section 4 of this Invitation beginning from the date the Acknowledgment is executed, in order to determine if the bidder is qualified to purchase the Project;
  - iv. HUD's notification of rejection due to lack of qualifications, if applicable, shall be deemed to be given when mailed to the individual that executed the Acknowledgment; and
  - v. The written rejection of the bid will be made as promptly as possible and generally within thirty (30) days after the date of the Foreclosure Sale.
4. **EARNEST MONEY DEPOSIT:** All bidders must submit the Earnest Money Deposit to the Foreclosure Commissioner at the start of the Foreclosure Sale. Immediately following the Foreclosure Sale the Earnest Money Deposit will be returned to all but the High Bidder. Interest will not be paid on Earnest Money Deposits.
- a. If HUD determines that the High Bidder is qualified to own and manage the Project, its bid is acceptable and the High Bidder complies with the requirements of this Invitation, the Earnest Money Deposit will be credited against the bid price at Closing.
  - b. If the bid amount is unacceptable, the bidder's Earnest Money Deposit will be refunded.
  - c. If, during the review of the High Bidder, it is found that the High Bidder has made any misrepresentation or material omission(s) in the bidder's submission of documentation, the Earnest Money Deposit will be forfeited.
  - d. If the High Bidder is determined not to be qualified to purchase the Project and the High Bidder has complied with the requirements of this Invitation the Earnest Money Deposit will be refunded.
  - e. If the High Bidder has failed to comply with the provisions outlined in this Invitation, the Earnest Money Deposit will be forfeited.
5. **REVIEW OF PROJECT MANAGEMENT:** HUD will review the statements and Post-Bid Document Submittals to determine, in its sole discretion, if the proposed management entity has the necessary qualifications to operate, manage, and/or administer the type and nature of the project being offered for sale. HUD may elect to discuss Project management plans after submission of the Post-Bid Document Submittals by the High Bidder. HUD reserves the right to reject the bid of any bidder and retain the Earnest Money Deposit, if the High Bidder does not provide management acceptable to HUD.
6. **CLOSING DATE REQUIREMENT:** The date and place for Closing will be determined by HUD and the Foreclosure Commissioner and occur within the time period specified in the Acknowledgment, (Attachment B).
7. **EXTENSION OF CLOSING:** The right to extend the Closing is expressly reserved by HUD as set forth in the Acknowledgment (Attachment B).

## SECTION 5 – CLOSING

1. **EXECUTION OF USE AGREEMENT:** The Purchaser and HUD will execute the Use Agreement at Closing. HUD will have the Deed, Use Agreement and all attachments recorded.



2. **CASH DUE AT CLOSING:** Cash due at Closing is the bid price less the Earnest Money Deposit received, plus any outstanding encumbrance amount that survived foreclosure and/or any pro-rations (see Paragraph 3 below.) All initial deposits to escrows and/or reserve accounts, if applicable, must be made at Closing.
3. **PRORATIONS:**
  - a. Purchaser is responsible for paying all taxes, assessments, liens, and utility bills including but not limited to, water, sewer, gas and electric, and any other encumbrances not extinguished by the foreclosure. These amounts will not be prorated.
  - b. If Extension Fees were paid, and the Closing occurs prior to the expiration of an Extension Period, the prorated amount of the Extension Fees for the unused portion of the Extension Period will be credited toward the amount due from Purchaser at Closing.
4. **CLOSING EXPENSES:** Irrespective of local custom, the Purchaser shall pay all Closing expenses, including, but not limited to, all documentary stamp taxes, and any costs in connection with a review of title or title insurance. The fees for the recordation of the HUD Deed and Use Agreement will be paid by HUD.
5. **METHOD OF PAYMENT:** Cash Due at Closing shall be paid in the form of a money order, certified funds, or cashier's check made payable to:

**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

6. **REPAIR ESCROW:** At Closing Purchaser shall provide a Letter of Credit as assurance that the demolition and redevelopment will be completed.
7. **CONVEYANCE:** Conveyance of the Project shall be by Foreclosure Commissioners Deed ("Deed"). The Deed will not contain any warranties of title.
8. **RECORDATION OF DEED:** HUD shall record the Deed and the Use Agreement.
9. **DOCUMENTS TO BE FURNISHED OR EXECUTED AT CLOSING:**
  - Foreclosure Sale Use Agreement       Letter(s) of Credit       Closing Statement

**SECTION 6 DISCLAIMERS**

1. **DISCLAIMER:**
  - a. This is an "all-cash", "as-is" sale. As stated in paragraph 6 of Section 1 bidders interested in purchasing this Project are expected to perform due diligence to arrive at conclusions as to physical condition, number and occupancy of revenue producing units, estimates of operating costs, repair costs (where applicable), and any other factors bearing upon valuation of the Project. **Any bid submitted shall be deemed to have been made with full knowledge of all the terms, conditions and requirements contained in this Invitation and in any Addendum hereof.**
  - b. While care has been exercised to assure accuracy, all information provided is solely for potential purchasers to determine whether or not the Project is of such type and general character as might interest them in its purchase. **HUD makes no warranty as to the accuracy of such information.** The failure of any bidder to inspect, or be fully informed as to the condition or value of the Project, or conditions of sale, will not constitute ground for any claim, demand, adjustment or withdrawal of a bid.
2. **UNAUTHORIZED ORAL STATEMENT OR MODIFICATIONS:** Any oral statement or representation by any representative of HUD changing or supplementing this Invitation, or any condition hereof, is unauthorized and shall confer no right upon the bidder (Purchaser).
3. **HUD LIABILITY:** HUD's liability shall not exceed the amount of such portion of the bid price that has been paid to HUD.



**ATTACHMENTS**

- ATTACHMENT A:** Property at a Glance
- ATTACHMENT B:** Terms and Requirements of Foreclosure Sale – Acknowledgment by Bidder
- ATTACHMENT C:** Foreclosure Sale Use Agreement
- ATTACHMENT D:** Letter of Credit (LOC) Sample
- ATTACHMENT E:** Post Closing Repair Requirements, Form HUD-9552 and Exhibits
- ATTACHMENT F:** Reserved
- ATTACHMENT G:** Certification of Substantial Compliance
- ATTACHMENT H:** Protecting Tenants at Foreclosure Act
- ATTACHMENT I:** Evidence of Bidder Eligibility
- ATTACHMENT J:** Reserved
- ATTACHMENT K:** 24 CFR PART 5, Physical Condition Standards
- ATTACHMENT L:** Post-Closing Demolition and Redevelopment Report

**THESE FORMS ARE AVAILABLE AT**

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/forms](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms)

**OR USE THE URL PROVIDED BELOW TO OBTAIN THE FORM**

<input checked="" type="checkbox"/>	Previous Participation Certification (Form HUD-2530) <a href="http://portal.hud.gov/hudportal/documents/huddoc?id=2530.pdf">http://portal.hud.gov/hudportal/documents/huddoc?id=2530.pdf</a>
<input checked="" type="checkbox"/>	Personal Financial and Credit Statement (Form HUD-92417) for each proposed principal and/or partner <a href="http://portal.hud.gov/hudportal/documents/huddoc?id=92417.pdf">http://portal.hud.gov/hudportal/documents/huddoc?id=92417.pdf</a>
<input checked="" type="checkbox"/>	Management Entity Profile (Form HUD-9832) <a href="http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35584.pdf">http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35584.pdf</a>
<b>OR</b> <input checked="" type="checkbox"/>	Project Owners Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839 A) <a href="http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35589.pdf">http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35589.pdf</a>
<input checked="" type="checkbox"/>	Project Owner’s/Management Agent’s Certification for Multifamily Housing Projects for Identity of Interest or Independents Management Agents (Form HUD-9839 B) <a href="http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9839-b.pdf">http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9839-b.pdf</a> <b>(Only one of these forms, 9839A or B will be required for management certification.)</b>

**FAILURE TO SUBMIT THE REQUIRED DOCUMENTS WITHIN THE INDICATED TIME FRAME SHALL BE GROUNDS FOR REJECTION OF THE BID. HUD RESERVES THE RIGHT TO REJECT THE BID AND RETAIN THE BIDDER’S EARNEST MONEY DEPOSIT.**



## USE RESTRICTIONS

### 20 Years affordable rental housing.

## TERMS OF SALE

- HUD intends to bid the amount of the indebtedness at the foreclosure sale.
- This is an "All-Cash" – "As-Is" sale. HUD is not providing financing for this sale. Payment of the full bid price must be presented at Closing.
- No consideration will be given to a bid submitted by any party currently suspended or debarred from participating in HUD programs. As provided for in 24 C.F.R. Part 27, the defaulting mortgagor, or any principal, successor, affiliate, or assignee on the mortgage at the time of default shall not be eligible to bid on or otherwise purchase this Project. ("principal" and "affiliate" are defined at [24 C.F.R. § 200.215](#).)
- Bids for this Project will only be considered for acceptance if properly submitted by following the bidding instructions which includes but is not limited to submitting the Earnest Money Deposit, forms and statements as required in the Invitation. High Bidder will be reviewed to determine if qualified to purchase, own and manage the Project.
- The High Bidder must certify to HUD that any/all projects that are owned by the bidder or its affiliates and are located in the same jurisdiction (City or Town) where the Project is located are in substantial compliance with applicable state and local housing statutes, regulations, ordinances and codes. See Attachment G, Certification of Substantial Compliance.
- High Bidder has the option to file the required Previous Participation Certification (Form HUD-2530) in electronic or paper format. **For questions concerning APPS contact the Multifamily Housing Systems Help Desk at 1-800-767-7588. For questions concerning Secure Systems contact the REAC Help Desk at 1-888-245-4860.**
- Redevelopment must be completed to HUD's satisfaction within **sixty (60) months** of Closing. Refer to the Use Agreement, **Riders 2, 3, 4** and **5** for more information.
- Closing is to be held thirty (30) calendar days after HUD notifies the High Bidder that they are qualified to purchase the Project being offered.
- If HUD approves an extension of the Closing, the Purchaser must pay a fee which is the greater of 1.5% of the bid price or HUD's holding costs of **\$40.80 per unit** per calendar day for each thirty (30) calendar day period.
- The Use Agreement will include the following Riders: Enforcement, Redevelopment, Demolition, Redevelopment Plan, Affordability of Units, Nondiscrimination Against Section 8 Certificate Holders and Voucher Holders, Environmental Hazards with Demolition.

**PROSPECTIVE BIDDERS SHOULD READ AND THOROUGHLY UNDERSTAND ALL INFORMATION PROVIDED HEREIN AND IN THE BID KIT PRIOR TO SUBMITTING A BID.**

## INFORMATION AND BID KIT

INFORMATION and BID KIT may be viewed or printed at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/pd/mfpplst](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/pd/mfpplst).

You may also sign up for our electronic mailing list at

<http://www.hud.gov/subscribe/signup.cfm?listname=Multifamily%20Property%20Disposition&list=mfpd-l>. If you do not have access to the internet or cannot download a PDF file, you may contact the Realty Specialist identified below to obtain a copy of the bid kit.

### **Bids for Glenarden Apartments, Phase I:**

MUST BE PRESENTED ON: September 24, 2014

At: 10:00 a.m. (local time)

Location of Foreclosure Sale:

Prince George's County Circuit Court  
(at the courthouse steps)  
14735 Main Street  
Upper Marlboro, MD 20772

### **HUD Office and Contact Information for submission of documents:**

Fort Worth HUD Office  
Multifamily Property Disposition, 6AHMLAT  
801 Cherry Street, Unit #45, Ste. 2500  
Fort Worth, TX 76102

**Realty Specialist:** Sean Alfred

Phone: (817) 978-5816

Fax: (817) 978-6018

Email: [sean.t.alfred@hud.gov](mailto:sean.t.alfred@hud.gov)

## INSPECTION OF PROJECT

HUD does not own or operate this facility and cannot grant access for viewing. Viewing is at the discretion of the current owner. No Open House has been scheduled for this sale.

## ATTACHMENT B

### TERMS AND REQUIREMENTS OF FORECLOSURE SALE - ACKNOWLEDGMENT BY BIDDER

#### PART I

BID PRICE - The Undersigned, \_\_\_\_\_, (the "High Bidder") submits a bid of \_\_\_\_\_ dollars (\$) at the Foreclosure Sale of Glenarden Apartments Phase I (the "Project"), the legal description of which is included as Exhibit A, to be paid as follows:

1. **EARNEST MONEY:** \$ 100,000.00 in the form of a money order, certified funds, or cashier's check, as the Earnest Money Deposit, which has been submitted at the Foreclosure Sale to the Foreclosure Commissioner, and which shall not earn interest, **and**
2. **BALANCE OF THE BID PRICE:** \$ \_\_\_\_\_, to be paid by the High Bidder at Closing, in the form of a money order, certified funds, or cashier's check in accordance with the Acknowledgment. The Closing will be held at a place, date and time established in accordance with Part II, paragraph 4 below.
3. **CLOSING COSTS, DEPOSITS, REPAIR ESCROW:** In addition to the above, the High Bidder will be required to pay at Closing all Closing costs, regardless of local custom, and, where applicable, deposits to reserve accounts, and/or Letters of Credit as described in Riders incorporated herein, the Invitation, the Use Agreement.
4. **PRORATIONS:**
  - a. High Bidder is responsible for paying all taxes, assessments, liens, and utility bills including, but not limited to, water/sewer, gas and electric, and any other encumbrances not extinguished by the foreclosure. These amounts will not be prorated.
  - b. If Extension Fees were paid, and the Closing occurs prior to the expiration of the Extension Period, the prorated amount of the Extension Fees for the unused portion of the Extension Period shall be credited against the amount owed by the High Bidder at Closing.

#### PART II

The High Bidder, by executing this document, acknowledges the following requirements as conditions of purchasing the Project:

1. **ACKNOWLEDGMENT OF TERMS:** High Bidder affirms to have full knowledge of all the terms, conditions and requirements contained in herein, including the Use Agreement and Invitation, which are incorporated by reference in this Acknowledgment.
2. **EXECUTION OF USE AGREEMENT:** Without limiting the foregoing, at Closing High Bidder will, in addition to any other related documents, execute the Use Agreement and all of the Exhibits to the Use Agreement as contained in the Invitation. Such documents will control the use of the Project for a specified period, be recorded with the Deed, and run with the land.
3. **SUBMISSION OF POST-BID DOCUMENTS BY HIGH BIDDER:**
  - a. **Five (5) Days After Foreclosure Sale:**
    - i. **Previous Participation Certification:**
      - (a) **Paper Filers:**
        - (i) **Form HUD-2530:** The completed paper Form HUD-2530(s), with original signatures, for the purchasing entity and all principals. Proposed ownership must have established tax identification or social security number; an entity "to be formed" will not be accepted, and
        - (ii) **Organization Chart:** an organization chart, reflecting all principals of the purchasing entity and each principal's percentage or ownership must accompany the completed Form HUD-2530.
      - (b) **Electronic Filers:**
        - (i) **Bidders not registered in APPS and Secure Systems:** Submit certification, evidence of registration in APPS and Secure Systems.
        - (ii) **Electronic Filers registered in APPS and Secure Systems:** Submit evidence of filing.
    - ii. **Certification of Substantial Compliance:** Complete, original certification (Attachment G). The High Bidder must certify to HUD that any/all projects that are owned by the High Bidder or its affiliates and are located in the same jurisdiction (city or town) where the Project is located are in substantial compliance with applicable state and local housing statutes, regulations, ordinances and codes.

**NOTE:** If HUD determines that such projects of the High Bidder are not in substantial compliance with state and local codes, HUD may refuse to sell the Project to the High Bidder and retain its Earnest Money Deposit.

- iii. **Written Statement of Experience:** The High Bidder must submit a written Statement of Experience demonstrating approximately five (5) years of experience in successfully owning and managing properties similar to the Project. The written Statement of Experience shall provide the following information for all properties similar to the Project being sold, not to exceed three (3) specific examples. The written Statement of Experience should not exceed five (5) pages per property:
- The location of other owned multifamily properties.
  - The number of units and construction type (garden, walk-up, hi-rise) for each property.
  - Identify type of management.
  - Identify properties that have government assistance and type of assistance, i.e., project-based assistance, tenant-based voucher assistance, etc.
  - Identify the initial physical needs of each property and how they were addressed.
  - Identify the social needs of each property and how they were addressed.
  - Identify the economic needs of each property and how they were addressed.

For the Project being sold, describe how you will:

- Satisfy conditions of the sale, i.e., repair program, income and rent limitations, etc.
- Implement a sound financial and physical management program for the Project.
- Respond to the needs of the tenants and work cooperatively with resident organizations.
- Provide adequate organizational staff and financial resources to the Project.
- Provide services, maintenance and utilities to the Project.
- In addition, disclose whether other government assistance will be utilized; HUD is not providing project-based or tenant-based Section 8 rental assistance with this foreclosure sale.

Based on the required documentation set forth above, as well as any additional information independently obtained and verified by the Department, HUD will determine whether the High Bidder has the requisite experience, qualifications and financial capacity to purchase the Project. This determination is a matter within HUD's sole and absolute discretion. If HUD determines that the High Bidder does not have the experience, qualifications and/or financial capacity to purchase the Project, HUD will reject the bid and proceed to the next highest bidder pursuant to the terms of the Invitation to Bid.

- b. **Within Ten (10) Days of Foreclosure Sale:** The High Bidder must, if checked below, submit the additional post-bid document:
- Affirmative Fair Housing Marketing Plan (Form HUD-935.2A)
  - Form HUD-2530 for Purchaser, if different from High Bidder (See paragraph 3 above)
  - Form HUD-2530 for the Management Agent, if applicable (See paragraph 3 above)
  - Personal Financial and Credit Statement (Form HUD-92417), for each proposed principal/general partner
  - Management Entity Profile (Form HUD-9832)
  - Project Owner's Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839A)
- OR**
- Project Owner's/Management Agent's Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents (Form HUD-9839B)

**(Only one of the forms 9839 A or B will be required for management certification)**

- c. **Within Fifteen (15) Days of Foreclosure Sale:** If the management agent or the High Bidder's ownership entity registered Form HUD-2530 electronically (e2530), the High Bidder and/or management agent must subsequently electronically file the e2530 after registration has been completed.

**NOTICE:** It is the High Bidder's responsibility to ensure compliance with form and document submission as required in this Invitation to Bid and the Acknowledgment by Bidder. Failure to submit or comply with any requirements of the Invitation or Acknowledgement may result in High Bidder being declared ineligible to purchase the Project. In such case the Bidder shall forfeit the Earnest Money Deposit and any Extension Fees paid.

All forms and instruments referred to in this Acknowledgment are standard HUD forms and instruments prepared by HUD, used by HUD in the jurisdiction in which the Project is located and contain any additional covenants and conditions required by the Invitation.

4. **ESTABLISHMENT OF CLOSING DATE, TIME AND PLACE:**

- a. Time is of the essence.
- b. If HUD approves the High Bidder as being qualified, the High Bidder will be confirmed, identified as the Purchaser and notified in writing of the approval. Approval to purchase is subject to review and approval of bidder's Post Bid Document Submittals as required in Section 4 (Post Foreclosure Sales Procedures) of the Invitation, and in Acknowledgment, specifically Part II, paragraph 3. The Closing **shall be within thirty (30) calendar days of such notification**, unless extended pursuant to paragraph 9 below.
- c. The Closing date and place will be determined by the Foreclosure Commissioner and/or HUD and will take place within the time period specified above in paragraph 4.b. The Purchaser will be notified of said date and place by HUD and the Foreclosure Commissioner.

5. CLOSING, CLOSING EXPENSES AND TRANSFER OF POSSESSION:
- The sale shall be effective upon Closing.
  - Purchaser shall pay all Closing costs and expenses, excluding fees for recording the Deed and Use Agreement, irrespective of local custom. Recording fees for the HUD Deed and Use Agreement shall be paid by HUD.
  - Transfer of title and possession of the Project shall become effective as of the Closing date.
6. PAYMENT OF BID PRICE AT CLOSING: The Purchaser shall pay the balance of the bid price at Closing and, where applicable, make the deposits to escrows and reserve accounts, in the form of a money order, certified funds or cashier's check made payable to:
- THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**
7. DEMOLITION ESCROW: At Closing the Purchaser shall submit to HUD a unconditional, irrevocable and non-documentary Letter of Credit (LOC):
- which totals **\$330,000**, and
  - which shall remain in effect and may be drawn on by HUD for at least eighteen (18) months, six (6) months past the deadline for the completion of demolition, **and**
  - LOCs will be returned as provided in Rider 3, Demolition, paragraph 3.
- The LOC must have an expiration date that extends beyond HUD's demolition completion date by at least six (6) months.
8. LIQUIDATED DAMAGES: Should the High Bidder/Purchaser fail or refuse to perform all obligations hereunder for any reason including, but not limited to, failure to establish the legal entity that is to take title in a timely manner that permits Closing within the deadline set forth in paragraph 4, the Earnest Money Deposit and any Extension Fees, paid under paragraph 9, HUD reserves the right to retain the Earnest Money Deposit.
9. EXTENSION FEES: The granting of extensions of time to close the sale is within the sole and absolute discretion of HUD. Any extension, if granted, will be on the following conditions:
- A written request, which clearly states the reason for the Purchaser's inability to close the sale on or before the prescribed Closing date, or any Extension Period, must be received within ten (10) days prior to the prescribed Closing date, or within any Extension Period. The request **must be accompanied by the payment** of the required Extension Fee and sent to the following address:  
Property Disposition Division, 6AHMLAT  
Attn: Scott R. Bearden, Director  
801 Cherry Street, Unit #45, Ste. 2500  
Fort Worth, TX 76102
  - Extensions shall be for thirty (30) calendar days.
  - For each thirty (30) calendar day period requested by Purchaser and approved by HUD, Extension Fees shall be equal to;
    - \$ 40.80, per unit, per calendar day, which is \$ \$13,872.00 daily, a cost of \$ **\$416,160.00**, which covers the 30-calendar day period (the holding cost for such period), **or**
    - one and one-half percent (1.5%) of the bid price, whichever is greater.
  - The Extension Fees are not credited against the amount due from Purchaser at Closing. However, if the Closing is held prior to the expiration of an Extension Period, the prorated amount of the Extension Fee, for the unused portion of the Extension Period, shall be credited toward the amount due from the Purchaser at Closing.
  - The granting of one or more extensions shall not obligate HUD to grant additional extensions.
  - If any form or instrument required by HUD is not submitted within sufficient and reasonable time for HUD's review or processing and such delay necessitates an extension of the Closing deadline, an Extension Fee must be paid for this period.
  - Extension fees must be submitted by money order, certified funds or cashier's check made payable to:  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**
10. BIDDER RESTRICTIONS:
- No Member of/or Delegate to Congress, resident commissioner, or local elected official, shall be admitted to any share or part of this Foreclosure Sale ("Sale"), or to any benefit arising from it. However, this provision does not apply to this Sale to the extent that this Sale is made with a corporation for the corporation's general benefit.
  - If bidder is, or becomes suspended, debarred, or temporarily denied from participating in HUD programs prior to Closing, this Sale shall be terminated. In addition, if such suspension, debarment or temporary denial of participation occurs either before or after bidder's execution of this Acknowledgment, any Extension Fees paid under paragraph 9 shall be retained by HUD as liquidated damages.

- c. Pursuant to 24 C.F.R. Part 27.20(f), the defaulting mortgagor, or any principal, successor, affiliate, or assignee thereof, on the multifamily mortgage being foreclosed, shall not be eligible to bid on, or otherwise acquire, the Project being foreclosed by the Department under this subpart or any other provision of law. A "principal" and an "affiliate" are defined as provided at 24 C.F.R. § 200.215.

11. AS-IS SALE; NO REPRESENTATIONS:

- a. Purchaser shall accept the Project "as is." HUD makes no representations or warranties concerning the physical condition of the Project. In addition, HUD does not represent or warrant the number and occupancy of revenue producing units, or any factor bearing upon the value of the Project or otherwise.
- b. High Bidder acknowledges that the bid price set forth in this Acknowledgment is based on its own evaluation of the Project and not upon any representations by HUD. High Bidder's failure to inspect, or to be fully informed as to any factor bearing upon the valuation of the Project, shall not affect the liabilities, obligations or duties of HUD, nor be a basis for termination of this Foreclosure Sale or for the return of any Earnest Money Deposit or Extension Fees paid to HUD.

12. LIMITATION OF LIABILITY: In no event shall HUD's liability exceed the portion of the bid price that has been paid to HUD.

13. ANTI-COLLUSION CERTIFICATION:

- a. The High Bidder certifies:
  - i. The bid price in this offer was arrived at independently, without (for the purposes of restricting competition) any consultation, communication, or agreement with any other bidder relating to:
    - (a) the bid price;
    - (b) the intention to submit a bid price; or
    - (c) the methods or factors used in calculating the bid price offered.
  - ii. The bid price in this offer has not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before or during the actual time of the bid event, unless otherwise required by law; **and**
  - iii. No attempt has been made or will be made by the bidder to induce any other bidder to submit or not to submit a bid price for the purpose of restricting competition.
- b. If the bid procedure requires or permits written bids, each signature on the offer is considered to be certification by the signatory that the signatory:
  - i. Is the person in the High Bidder's organization responsible for determining the bid price being offered in this bid and that the signatory has not participated and will not participate in any action contrary to paragraph a. above; **or**
  - ii. Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraph a., above;

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization responsible  
for determining price \_\_\_\_\_

(a) As an authorized agent, does certify that the principals named in the above have not participated, and will not participate, in any action contrary to paragraph a. above; **and**

(b) As agent, has not personally participated, and will not participate, in any action contrary to paragraph a. above.

14. FAILURE TO COMPLY: Upon the failure or refusal of the High Bidder to comply with any of the requirements listed above or elsewhere in this Invitation, HUD may declare the High Bidder ineligible to purchase the Project. In which case the High Bidder shall forfeit the Earnest Money Deposit and any Extension Fees paid.

**HUD reserves the right to review, approve or reject the proposed management.** If HUD determines that the High Bidder is not qualified to self-manage the Project, HUD, in its sole discretion, may either reject the bid or require the High Bidder to obtain the services of a property management firm satisfactory to HUD. If HUD chooses the latter, the High Bidder must provide HUD with evidence that a qualified property management firm has been retained prior to Closing. HUD must approve form and type of management prior to Closing and throughout the term of the Use Agreement. If the High Bidder does not meet this obligation, HUD reserves the right to reject the bid and retain the High Bidder's Earnest Money Deposit and any Extension Fees paid.



15. SEVERABILITY: If for any reason one or more of the provisions contained in the Invitation, including this Acknowledgment, the Use Agreement, or any other attachments or exhibits thereto, shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision(s) of the Invitation, but the Invitation shall be construed as if such invalid, illegal or unenforceable provision(s) had never been included therein.
16. ASSIGNMENT: The High Bidder may not assign its rights and responsibilities under this Acknowledgment without the prior written approval of HUD.
17. CONFLICTING TERMS: In the event that there are terms or conditions herein that conflict with terms or conditions contained in the Invitation incorporated herein by reference, the terms or conditions of this Acknowledgment shall control.
18. REQUIRED STATEMENTS AND FORMS: The High Bidder acknowledges the receipt of the Use Agreement applicable to this Project's Foreclosure Sale and the inclusion of the following Riders to that Use Agreement:
  - Enforcement
  - Demolition
  - Redevelopment
  - Redevelopment Plan
  - Affordability of Units
  - Nondiscrimination Against Section 8 Certificate Holders and Voucher Holders
  - Environmental Hazards with Demolition
19. EXECUTION
  - a. By signature below, High Bidder indicates acknowledgment of an agreement to the terms and requirements of this Foreclosure Sale.
  - b. In the case of a bid submitted by an agent or representative of the High Bidder, the signatory attests to be duly authorized to submit the bid on behalf of the High Bidder and to execute this Acknowledgment.

**WARNING:** It is a crime to knowingly make false statements to the United States in this document or any other document related to this sale. Penalties upon conviction can include a fine or imprisonment. For details see: Title 18 U.S. Code, Section 1001 and Section 1010.

Executed by the Bidder on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Witness: \_\_\_\_\_

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, ST Zip: \_\_\_\_\_

Phone No. with Area Code: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

**ATTACHMENT C**  
**FORECLOSURE SALE USE AGREEMENT**

This Agreement is entered into by \_\_\_\_\_ ("Grantee") and the Secretary of Housing and Urban Development ("Secretary" or "HUD").

WHEREAS, pursuant to the provisions of the Multifamily Mortgage Foreclosure Act, 12 U.S.C. Sections 3701 et seq. (the "Act"), and the Department of Housing and Urban Development's regulations thereunder at 24 C.F.R. Part 27, the Secretary has elected to exercise the nonjudicial power of sale provided under the Act, or pursuant to a judicial foreclosure the Secretary has elected to apply Section 367(b) of the Act, with respect to Glenarden Apartments Phase I, HUD Project No. , 000-35406, (the "Project") a legal description of which is attached as Exhibit "A"; **and**

WHEREAS, pursuant to the Act and to provisions of 12 U.S.C. Section 1715z-11a, the Secretary has authority to impose certain use restrictions, as set forth in this Agreement, on the Project subject to a mortgage held by the Secretary that is sold at foreclosure to a purchaser other than HUD; **and**

WHEREAS, by Use Agreement executed this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_, the Project has been conveyed to the Grantee; **and**

NOW THEREFORE, in consideration of the mutual promises set forth herein and in further consideration of the sale of the Project to the Grantee, the parties agree as follows:

1. **TERM OF AGREEMENT:** This Agreement shall be in effect for twenty (20) years from the date of this Agreement (the "Restricted Period".) During the Restricted Period the Project must be maintained as affordable rental housing.
2. **CONVEYANCE:** During the term of this Agreement, any Conveyance of the Project must have the prior written approval of HUD, or such Conveyance will be deemed to be null and void, and a default will exist under this Agreement. Conveyance is defined as any sale, assignment, transfer, creation of a leasehold estate in excess of one (1) year, or any other legal or equitable conveyance or transfer of the Project or an interest therein, or any legal or equitable transfer of an interest in the Grantee or any entities that may comprise the Grantee. Without limiting the foregoing and not intending to be all inclusive, a merger, conversion, share exchange, or exchange of corporate or partnership interests is deemed to be a Conveyance, which requires the prior written approval from HUD.

The preceding provisions shall be applicable and in full force and effect notwithstanding that any applicable statutory law or case decision provides that any such merger or conversion or share (or interest) exchange, or leasehold estate transaction or other type of Conveyance does not constitute or involve the occurrence of a "transfer" or "assignment" of the Project, any of the assets related thereto, or an interest in the Grantee

Any request for HUD's approval of Conveyance must include the entity and all principals obtaining Previous Participation Certification approval (clearance), submission of a signed Certification of Substantial Compliance, and a signed Agreement to Abide by Deed Restrictions. HUD's approval of a Conveyance will be based on information provided in written statements of how the Grantee, or any subsequent Grantee, in consideration of any and all existing use restrictions, will:

- a. Implement and/or continue to comply with all existing use restrictions;
- b. implement sound financial and physical management program;
- c. respond to the needs of the residents and work cooperatively with resident organizations;
- d. provide adequate organizational staff and resources to manage the Project; and
- e. provide evidence of a minimum of five (5) years' substantive experience owning and managing affordable multifamily rental properties of a similar size, type and complexity as the Project.

The approval of a Conveyance is within the sole discretion of HUD.

3. **CONDITION OF UNITS FOR RENTAL HOUSING:** The Grantee shall comply with the Physical Condition Standards and inspection requirements of 24 CFR Part 5, Subpart G, including any changes in the regulation and related Directives. In addition, the Grantee shall comply with HUD's Physical Condition Standards of Multifamily Property of 24 CFR Part 200, Subpart P, including any changes in the regulation and related Directives.
4. **RENTAL RATES:** The rent rates and tenant eligibility will be controlled by the Affordability of Units provision, Rider 5.

5. **PROJECT MANAGEMENT:** HUD reserves the right to approve management for the Project during the term of this Agreement. Any proposed property manager must demonstrate a minimum of five (5) years substantive experience managing multifamily properties of similar size and complexity. If the Project has project-based Section 8 assistance, any proposed property manager must demonstrate a minimum of five (5) years' experience managing multifamily properties with project-based Section 8 assistance.

Any change in management of the Project must have HUD's prior written approval. Any request for HUD's approval of the proposed Grantee's/owner's management of the Project must include the entity and all principals obtaining Previous Participation Certification approval (clearance) and the proposed management agent for the Project must submit for HUD's review and approval the following documents/forms:

- Management Entity Profile (Form HUD-9832),
  - Project Owner's Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839A) **or**
  - Project Owner's/Management Agent's Certification for Multifamily Housing Projects for Identity-Of-Interest (Form HUD-9839B)
- (Only one of these forms, 9839 A or B, will be required for management certification.)**

6. **SUBJECT TO EXAMINATION:** The Project shall at all times,
- a. Be maintained in decent, safe and sanitary condition and in good repair to the greatest extent possible,
  - b. Maintain full occupancy to the greatest extent possible,
  - c. Be maintained as rental housing for the term of this Agreement,
  - d. Be subjected to periodic HUD inspections or inspections under REAC protocol (24 C.F.R. parts 5 and 200).

The Owner will be obligated to provide audited annual financial statements to HUD (24 C.F.R. parts 5 and 200.)

At the request of the Secretary, Grantee must supply evidence by means of occupancy reports, physical condition reports, reports on operations, or any evidence as requested to ensure that the above requirements are being met.

7. **UNIT NUMBER OR USE CHANGE:** Changes to the use, number, size, or configuration of residential units in the Project; e.g., apartment units, beds in a care facility, from the use as of the date **of completion of the demolition and redevelopment requirement**, must receive the written prior approval of HUD.
8. **NON-DISCRIMINATION REQUIREMENTS:** The Grantee will comply with the provisions of all federal, state, or local laws prohibiting discrimination in housing.
9. **HAZARD INSURANCE:** Hazard insurance shall be maintained in an amount to ensure that the Grantee is able to restore the Project so that it meets the rental housing requirements described in this Agreement after restoration.
10. **DESTRUCTION OF PROJECT: After completion of the demolition and redevelopment**, in the event that any, or all, of the Project is destroyed or damaged by fire or other casualty, the money derived from any insurance on the Project shall be applied to rebuild or replace the Project destroyed or damaged, unless the Secretary gives written approval to use insurance proceeds for other purposes.
11. **DEMOLITION OF PROJECT: After completion of the demolition and redevelopment**, the Grantee will not demolish any part of the Project or withdraw any part of the Project from use (except as temporarily necessary for routine repairs), without the prior written approval of HUD.
12. **REMEDIES FOR NONCOMPLIANCE:** Upon any violation of any provision of this Agreement by the Grantee, HUD may give written notice thereof to the Grantee by registered or certified mail, to the address stated in this Agreement, or such other address as subsequently, upon appropriate written notice thereof to the Secretary may be designated by the Grantee as its legal business address. If such violation is not corrected to the satisfaction of the Secretary within thirty (30) calendar days after the date such notice is mailed or within such further time as HUD reasonably determines is necessary to correct the violation, without further notice, HUD may declare a default under this Agreement and may apply to any court, state or federal, for specific performance of this Agreement, for an injunction against

any violation of this Agreement, for the appointment of a receiver to take over and operate the Project in accordance with the terms of this Agreement, and/or such other relief as may be appropriate, since the injury to the Secretary arising from a default of the terms of the Agreement would be irreparable and the amount of damage would be difficult to ascertain. The availability of any remedy under the Agreement shall not preclude the exercise of any other remedy available under any provision of the law, nor shall any action taken in the exercise of any remedy be considered a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not be construed as a waiver of the right to exercise that or any other right or remedy at any time.

13. **SUCCESSORS AND ASSIGNS:** This Agreement is binding upon the Grantee's heirs, successors and assigns. If HUD approves a Conveyance during the term of this Agreement, it may be conditioned upon, among other things, the grantee assuming in writing Grantee's obligations under this Agreement.
14. **RESTRICTIONS:** No Member of Congress or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of the benefits of the Use Agreement, but this provision shall not be construed to extend to this Agreement if the Agreement is made with a corporation for its general benefit.
15. **CONTRADICTORY AGREEMENTS:** The Grantee certifies that it has not, and agrees that it 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 requirements of this Agreement are paramount and controlling as to the rights and obligations set forth herein and supersede any other provisions or requirements in conflict with this Agreement.
16. **SEPARABILITY:** The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions hereof.
17. **AMENDMENT:** This Agreement may be amended by the mutual written consent of the parties, except those provisions required by statute.
18. **RIDERS TO THE USE AGREEMENT:** The Riders listed below and initialed by the parties are attached to and incorporated into this Use Agreement and will be placed in the Use Agreement to run with the land. Capitalized terms used but not defined in a Rider shall have the meaning ascribed to such term in this Agreement. The use of the term Grantee in a Rider shall be deemed to mean the Purchaser.
  - Enforcement
  - Demolition
  - Redevelopment
  - Redevelopment Plan
  - Affordability of Units
  - Nondiscrimination Against Section 8 Certificate Holders and Voucher Holders
  - Environmental Hazards with Demolition
19. **PRIORITY:** This Agreement shall be recorded against the Project in a superior position to any post foreclosure liens or mortgage debts.

IN WITNESS WHEREOF:

The Grantee has executed this Use Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESS:

\_\_\_\_\_  
 \_\_\_\_\_

GRANTEE:

\_\_\_\_\_  
 By: Signature

\_\_\_\_\_  
 Typed Name of Grantee

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City, State, Zip Code

Signatures continue on next page

The U.S. Department of Housing and Urban Development (HUD) has executed this Use Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

FOR: THE SECRETARY OF HOUSING AND URBAN  
DEVELOPMENT

BY: \_\_\_\_\_

\_\_\_\_\_  
Official's Typed Name

\_\_\_\_\_  
Title

**Exhibit A**  
**Legal Description**

Parcel A in the subdivision known as "GLENARDEN APARTMENTS" as per plat thereof recorded among the Land Records of Prince George's County, Maryland in Plat Book WWW67 at Plat 1.

LEGAL DESCRIPTIONS ARE PROVIDED AS INFORMATION ONLY. INTERESTED PARTIES MUST ASCERTAIN LEGAL DESCRIPTIONS THROUGH THEIR OWN DUE DILIGENCE.

**RIDER 1 OF 7  
ENFORCEMENT**

The Use Agreement shall contain the following Enforcement provisions:

1. The restrictive covenants set forth in this Use Agreement, unless otherwise stated, shall run with the land hereby conveyed and, to the fullest extent permitted by law and equity, shall be binding for the benefit and in favor of and enforceable by HUD and any/all successors in office.
2. Without limiting any other rights and remedies available to HUD, HUD shall be entitled to:
  - a. institute legal action to enforce performance and observance of these covenants,
  - b. enjoin any acts which violate these covenants,
  - c. exercise any other legal or equitable right or remedy with respect to these covenants.
3. In addition, the restrictive covenants, if any, set forth in this Use Agreement relating to Section 8 assistance shall be enforceable by any tenant or applicant eligible for assistance under the Section 8 program.

By initialing hereunder the parties acknowledge that this Enforcement Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_



**RIDER 2 OF 7  
REDEVELOPMENT**

The Use Agreement shall contain the following Redevelopment provisions:

1. REDEVELOPMENT:

- a. Grantee must complete all Redevelopment in a manner that is consistent with all federal, state and local codes, ordinances, regulations, Grantee's HUD-approved Redevelopment Plan, the requirements in this Covenant and the Environmental Hazards with Demolition Covenant (collectively the "Redevelopment").
- b. The Redevelopment Period begins 12 months from the date of this Use Agreement, and expires 60 months from the date of this Use Agreement.

2. EXTENSION OF REDEVELOPMENT PERIOD: If the Grantee cannot complete the work within the above-prescribed Redevelopment Period, Grantee shall submit a written request for an extension to HUD stating the reason(s) for Grantee's inability to complete the applicable work. Grantee's request must be received not less than 30 calendar days prior to the expiration of the Redevelopment Period.

- a. In the event an extension for completion of work is granted, the Grantee shall extend expiration of any/all Payment and Performance Bonds,
- b. Extensions of time to complete the work are within HUD's sole and absolute discretion, and
- c. The granting of one or more extensions shall not obligate HUD to grant additional extensions.

3. REDEVELOPMENT ESCROW:

To ensure completion of the Redevelopment is completed by the Grantee, before redevelopment begins the Grantee shall deliver to HUD a Payment and Performance Bond that meets the following conditions:

- a. Grantee must use HUD Form-92452 for the payment bond and a form for the performance bond that is acceptable to HUD. Evidence of the existence of payment and performance bonds each in the amount of the total cost of Redevelopment must be provided to HUD.
- b. Provide HUD with a fully executed copy of the approved Plans and Specifications and Construction Contract which specifically address items, quantities and timelines specified in paragraphs 1 and 2 of this Covenant and this Use Agreement as applicable to this sale of the Project prior to the release of the Letter of Credit held as the Demolition escrow.
- c. Grantee must ensure the bonds comply with the following requirements:
  - i. The surety entity issuing the bonds must be included on the accredited U.S. Treasury list, Circular 570, published annually in the Federal Register on or about July 1 of each year;
  - ii. The payment and performance bonds must not exceed limits listed in the Circular;
  - iii. The payment and performance bonds must show HUD as a Payee or Obligee, along with Grantee's mortgagee, at the mortgagee's request.
- d. This "Redevelopment" Covenant and the approved Redevelopment Plan must be attached to and referenced in article 9.1.7 of the construction contract (AIA A101).

5. REPORTING: HUD will monitor the progress of the Redevelopment using reports from the Grantee and inspections performed by HUD or a designee.

- a. Quarterly Reports: Grantee must submit quarterly reports (Post-Closing Demolition and Redevelopment Report, Exhibit C) to HUD on the status of Redevelopment. The first report is due 90 days after the Demolition (as defined in the Demolition Covenant) is completed, inspected and accepted by HUD and must include:
  - i. The number and type of units completed,
  - ii. A list of the major Redevelopment percentage completed,
  - iii. A narrative describing:
    - (a) The status of the planned redevelopment, i.e. is redevelopment ahead of, on schedule, or behind on the original redevelopment schedule,
    - (b) Any special circumstances which may, or have delayed the redevelopment.
- b. Additional Reports: Upon request, Grantee must submit reports, in addition to the Quarterly Reports, to HUD. The frequency and content of these reports will be provided to the Grantee by HUD.

HUD may perform periodic inspections to ascertain the status of the work. If, at any time, HUD determines the Grantee is failing to make adequate progress toward completion of the required Redevelopment or that the Redevelopment completed is not acceptable to HUD, Grantee may be required to provide a plan with milestones to show that acceptable Redevelopment can be completed within the Redevelopment Period. Failure to meet milestones without adequate justification is a reason for Noncompliance as explained below.

6. NONCOMPLIANCE: If Grantee fails to complete the required Redevelopment within the Redevelopment Period and no extension by written agreement has been granted by HUD, HUD and any/all successors in office, in its sole discretion, shall be entitled to:
  - a. Enter and terminate the estate hereby conveyed, or
  - b. Request performance under any Payment and/or Performance Bond, and seek remedies provided in the Enforcement Covenant of this Use Agreement, as HUD deems appropriate.These rights and remedies may be exercised separately or in combination with the rights and remedies set forth in the Enforcement Covenant of this Use Agreement.
7. LENDER OR SECURITY INTEREST: If the Grantee fails to complete the Redevelopment in accordance with this Use Agreement, HUD will not exercise the remedies as described in Paragraph 6 above, if any lender holding a lien or security interest on the Property:
  - a. Gives written notice to HUD within the applicable Redevelopment Period, that it intends to complete the Redevelopment, and
  - b. Completes such Redevelopment or within 30 calendar days of the notice or within such longer periods as HUD may approve in writing.

By initialing hereunder the parties acknowledge that this Repair or Demolition and Redevelopment Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_

**RIDER 3 OF 7  
DEMOLITION**

The Use Agreement shall contain the following Demolition provisions:

1. DEMOLITION:

- a. Grantee must complete all demolition in a manner that is consistent with all federal, state and local codes, ordinances, regulations, the requirements in this Covenant and the Environmental Hazards with Demolition Covenant (collectively the "Demolition"),
- b. The Demolition Period begins at Closing and expires 12 months from the date of this Use Agreement,
- c. Demolition includes:
  - Removal of all footings, foundations, buildings, equipment and fixtures from site,
  - Removal and proper disposal of all environmental hazards from site,
  - Capping utilities that will be salvaged and removal of utilities that will not be reused,
  - Removal of all sidewalks, drives, and parking areas (curbs, gutters, and asphalt),
  - Backfill of excavated buildings and foundations,
  - Rough grading of site for positive drainage, and
  - Temporary erosion and storm water pollution controls, and
- d. Demolition will not be considered complete until such time as HUD or its designee has inspected and HUD has accepted the Demolition.

2. EXTENSION OF THE DEMOLITION PERIOD: If the Grantee cannot complete the work within the above-prescribed Demolition Period, Grantee shall submit a written request for an extension to HUD stating the reason(s) for Grantee's inability to complete the applicable work. Grantee's request must be received not less than 30 calendar days prior to the expiration of the Demolition Period.

- a. In the event the Grantee does not request an extension, Grantor shall exercise its rights under paragraph 5, noncompliance.
- b. Extensions of time to complete the work are within HUD's sole and absolute discretion, and
- c. The granting of one or more extensions shall not obligate HUD to grant additional extensions.

3. DEMOLITION ESCROW:

To ensure completion of the Demolition, at Closing the Grantee shall deliver to HUD, an unconditional, irrevocable and non-documentary Letter of Credit (LOC) in the amount of **\$330,000** which shall remain in effect and may be drawn by HUD for at least **eighteen (18) months** from the date of closing.

The LOC will be returned to the Grantee upon (1) completion and HUD's acceptance of the Demolition, (2) HUD's approval of the Grantee's Redevelopment Plan, and (3) HUD's receipt and acceptance of the Payment and Performance Bond covering the redevelopment.

4. REPORTING: HUD will monitor the progress of the Demolition using reports from the Grantee and inspections performed by HUD or a designee.

- a. Quarterly Reports: Grantee must submit quarterly reports (Post-Closing Demolition and Redevelopment Report, Exhibit C) to HUD on the status of Demolition. The first report is due 90 days after Closing and must include:
  - i. The number and type of units completed or demolished,
  - ii. A list of the major Demolition percentage completed,
  - iii. A narrative describing:
    - (a) The status of the planned and demolition, i.e. is /demolition ahead of, on schedule, or behind on the original demolition schedule,
    - (b) Any special circumstances which may, or have delayed the demolition.
- b. Additional Reports: Upon request, Grantee must submit reports, in addition to the Quarterly Reports, to HUD. The frequency and content of these reports will be provided to the Grantee by HUD.

HUD may perform periodic inspections to ascertain the status of the work. If, at any time, HUD determines the Grantee is failing to make adequate progress toward completion of the required Demolition or that the Demolition completed is not acceptable to HUD, Grantee may be required to provide a plan with milestones to show that acceptable Demolition can be completed within the Demolition Period. Failure to meet milestones without adequate justification is a reason for Noncompliance as explained below.

5. NONCOMPLIANCE: If Grantee fails to complete the required Demolition within the Demolition Period and no extension by written agreement has been granted by HUD, HUD and any/all successors in office, in its sole discretion, shall be entitled to enter and terminate the estate hereby conveyed or cash any LOC and seek

remedies provided in the Enforcement provision of this Use Agreement, as HUD deems appropriate.

If HUD cashes the Grantee's LOC(s), HUD will not apply the funds to complete the Demolition or Redevelopment as required in this Use Agreement. HUD will retain the funds as liquidated damages or for any other purposes as HUD deems appropriate. In the event that HUD cashes the Grantee's LOC(s) for failure to successfully complete the Demolition, Redevelopment and/or submit the Redevelopment Plan, the Grantee is still responsible for completion of all Demolition, Redevelopment and submission of the Redevelopment Plan in order to prevent HUD from taking further sanctions.

These rights and remedies may be exercised separately or in combination with the rights and remedies set forth in the Enforcement Covenant of this Use Agreement.

6. LENDER OR SECURITY INTEREST: If the Grantee fails to complete the Demolition in accordance with this Deed, HUD will not exercise the remedies as described in Paragraph 5 above, if any lender holding a lien or security interest on the Property:
  - a. Gives written notice to HUD within the applicable Demolition Period, that it intends to complete the Demolition, and
  - b. Completes such Demolition or within 30 calendar days of the notice or within such longer periods as HUD may approve in writing.

By initialing hereunder the parties acknowledge that this Repair or Demolition and Redevelopment Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_

**RIDER 4 OF 7  
REDEVELOPMENT PLAN**

The Use Agreement shall contain the following Redevelopment Plan provisions:

The Grantee shall submit its final Redevelopment and Financing Plan (Redevelopment Plan) for the Property, to HUD within 12 months of Closing. HUD must approve the Grantee's Redevelopment Plan prior to its implementation.

The Grantee covenants that the Property will be Demolished and Redeveloped in accordance with the approved Redevelopment Plan, which includes elements of the Approved Landover Gateway Sector Plan and Sectional Map Amendment. This will include rezoning from the present R-18 (Multifamily Medium Density Residential) to an M-X-T (Mixed Use-Transportation Oriented community) which provides for a variety of residential, commercial, and employment uses. The Demolition and Redevelopment will be completed as provided in the Use Agreement.

If Grantee's Redevelopment Plan is substantially changed following HUD's approval, HUD must approve the revised Plan prior to its implementation.

HUD shall have free access to the Property during normal business hours to inspect any work completed to ensure that it complies with the Redevelopment Plan and all applicable state and local laws, codes, ordinances and regulations.

Grantee's Redevelopment Plan must provide for the following conditions/requirements:

- Construction of 100 units of affordable active senior rental housing, with income restrictions targeting very low-income families/individuals (50% of the Area/Family Median Income as published by HUD), with age restrictions in compliance with Fair Housing laws (individuals and head of household aged 55+).
- Construction of 100 units of affordable rental housing, with income restrictions targeting low-income families/individuals (80% of the Area/Family Median Income as published by HUD).
- Provide a final Sources and Uses of Funds.
- Provide a detailed cost estimate of the Redevelopment.
- Identify any assistance provided by or through a federal, state or unit of local government or from any agency of instrumentality thereof that is available or expected to be available with respect to the redeveloped units. Assistance includes, but is not limited to any loan, grant, guidance, insurance, payment, rebate, subsidy, credit or tax benefit, or any other form of direct or indirect assistance.
- Identify the exact number of units rental or homeownership to be constructed at the site.
- Demolition must be completed within 12 months from the date of this Use Agreement.
- Redevelopment of the affordable rental units must be completed within 60 months from the date of this Use Agreement.
- The Redevelopment includes 25,000 square feet of commercial/retail space and is in accordance with the Approved Landover Gateway Sector Plan and Sectional Map Amendment which includes rezoning to M-X-T (Mixed Use-Transportation Oriented Community). There is no completion deadline for any commercial retail space or any market rate units.

The Redevelopment may include any number of market rate dwelling units as allowed by the Approved Landover Gateway Sector Plan and Sectional Map Amendment which includes rezoning to M-X-T (Mixed Use-Transportation Oriented Community).

By initialing hereunder the parties acknowledge that this Redevelopment Plan Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_

**RIDER 5 OF 7**  
**AFFORDABILITY OF UNITS**

The Use Agreement shall contain the following Affordability provisions:

**Use Restriction**

During the Restricted Period Grantee shall maintain 100 senior rental units (the "Affordable Active Senior Units") and 100 affordable multifamily rental units at (the "Affordable Family Units") within redeveloped parcels or portions of the Property.

Grantee covenants that the units shall be maintained as affordable rental housing for residents who satisfy the conditions of this Rider.

Grantee shall submit a written request to HUD for any change to the number or configuration of residential units required to be maintained as affordable rental housing.

The Grantee (Owner) shall not unreasonably refuse to lease units to, or otherwise discriminate against, very low-income families.

**Income Eligibility/Rent Restriction for Rental Units**

The Grantee (Owner) shall affirmatively market and rent the Affordable Active Senior Units to age qualifying individuals and families (individuals and head of household aged 55+), with adjusted gross annual incomes that do not exceed 50% of the Family/Area Median Income ("AMI"), adjusted for family size. The rent for such unit shall not exceed 30% of 50% of the individual/families' income of the applicant as adjusted for family size.

The Grantee (Owner) shall affirmatively market and rent the Affordable Family Units to individuals/families with adjusted gross annual incomes that do not exceed 80% of AMI, adjusted for family size. The rent for such unit shall not exceed 30% of 80% of the individual/families' income of the applicant as adjusted for family size.

**Annual certification**

The Grantee (Owner) shall certify to HUD annually, in a manner acceptable to HUD, that the requirements in the above paragraphs have been fulfilled.

By initialing hereunder the parties acknowledge that this Affordability of Units Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_

**RIDER 6 OF 7**  
**NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS**

The Use Agreement shall contain the following Nondiscrimination Against Section 8 provisions:

1. In order to comply with Section 204 of the Housing and Community Development Amendments of 1978, 12 USC §1701z-12, as amended, the Grantee, for self, successors and assigns, shall not unreasonably refuse to lease a dwelling unit offered for rent, refuse to offer or sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is the holder of a Certificate of Family Participation or a Voucher under Section 8 of the United States Housing Act of 1937 (42 USC §1437f), or any successor legislation hereinafter referred to as "Section 8". This provision is limited in application, for tenants or applicants with Section 8 Certificates or Vouchers, to those units, which rent for an amount not greater than 120% of the Section 8 fair market rent for a comparable unit in the area as determined by HUD.
2. This restriction shall bind the Grantee, any/all successors, assigns and Grantees for value, for a period equal to the Restricted Period as defined in this Use Agreement.
3. In the event of a breach or a threatened breach of this covenant, HUD, any/all successors in office and/or one or more third-party beneficiaries, shall be entitled to institute legal action to enforce performance and observance of such covenant and to enjoin any acts which are in violation of such covenant. For the purposes of this restriction, a third-party beneficiary shall be any person who holds a Certificate of Family Participation or a Voucher under Section 8 or any equivalent document under successor legislation.

By initialing hereunder the parties acknowledge that this Nondiscrimination Against Section 8 Certificate and Voucher Holders Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_



**RIDER 7 OF 7**  
**ENVIRONMENTAL HAZARDS WITH DEMOLITION**

The Use Agreement shall contain the following Environmental Hazards with Demolition provisions:

**Grantee covenants to:**

1. Investigate and test the Property for substances, chemicals and waste (collectively "Hazardous Substances") and perform cleanup, remedial, removal or restoration work required by any governmental authority ("Inspect and Remediate Requirements").
2. Certify to HUD (in a form acceptable to HUD) that the Inspect and Remediate Requirements have been performed in accordance with this Covenant.
3. Indemnify, defend, and hold HUD harmless from any liability arising from Grantee's failure to satisfactorily perform the Inspect and Remediate Requirements. Grantee acknowledges that HUD's acceptance of the work is not a warranty that all Hazardous Substances have been eliminated from the Property and does not relieve Grantee of its ongoing responsibility to comply with appropriate governmental authorities.

**Grantee shall comply with Inspect and Remediate Requirements checked and any additional Hazardous Substances it becomes aware of concerning:**

- ASBESTOS: 29 CFR 1926 and any subsequent regulations(s) including, but not limited to, all federal, state and local laws regarding detection, abatement, containment and removal of asbestos containing materials.
- LEAD-BASED PAINT: 42 USC 4821-4886 and the regulations thereunder, 24 CFR Part 35. Grantee shall inspect, test and abate any lead-based paint. Grantee shall comply with Section 35.88 "Disclosure Requirements for Sellers and Lessors" and Section 35.92 "Certification and Acknowledgment of Disclosure" of 24 CFR, *Lead Based Paint Poisoning Prevention in Certain Residential Structures*.
- RADON: All federal, state and local laws, and EPA guidelines regarding detection and abatement.
- MOLD: All federal, state and local laws, and EPA guidelines regarding detection and abatement of mold.
- TOXIC AND HAZARDOUS SUBSTANCES: 29 CFR 1926 subpart Z (where a list of applicable substances can be found).

**Demolition:**

1. DEMOLITION WHERE LEAD-BASED PAINT MAY BE PRESENT. Grantee agrees to test for lead-based paint prior to any demolition and to apply the EPA Toxicity Characteristic Leaching Procedure (TCLP) to those architectural components with leaded paint to determine if they must be disposed of as hazardous waste under the provisions of EPA's Resource Conservation and Recovery Act (RCRA). The latest revision of those EPA regulations, sometimes referred to as the "toxic characteristic (TC) rules", shall be applied to determine if the waste generated will be classified as hazardous waste. The latest information on the "TC Rules" is available by contacting EPA, RCRA Section, at (800) 424-9346. The routine application of the "TC rules" could document that the project will contain no hazardous waste for disposal. Grantee agrees to comply with all applicable EPA regulations pertaining to hazardous waste disposal in effect at the time of demolition.
2. DEMOLITION WHERE ASBESTOS-CONTAINING-MATERIALS (ACMs) MAY BE PRESENT. Grantee agrees to test for and remove all asbestos containing materials prior to any demolition. EPA's Clean Air Act requires that each ACM be removed and disposed of properly before demolition activities commence. Grantee agrees to comply with all applicable EPA, state, and OSHA regulations concerning ACM removal.
3. DEMOLITION WHERE PCB TRANSFORMERS MAY BE PRESENT. Where there are visibly obvious electrical transformers serving the project to be demolished, that may contain dielectric oil which is contaminated with polychlorinated biphenyls (PCB), the owner shall contact the local utility. A PCB transformer is any transformer with at least 500 PPM PCB content. Grantee agrees to notify the local utility of intentions to demolish the structure(s) and request EPA regulations (40 CFR, Part 761) be applied by the utility as electrical transformers are removed from service at the site as a part of the demolition process.
4. DEMOLITION WHERE CFCS MAY BE PRESENT. Grantee agrees to apply EPA regulations in section 608, Clean Air Act, 1990, which require the capturing and recycling of the refrigerant (latest revision). Grantee agrees to have chlorofluorocarbons (CFCs) contractually purged and captured from any and all air conditioning (AC) units present on the site before commencing demolition activities.

5. DEMOLITION WHERE HARMFUL CHEMICAL HAZARDS MAY BE PRESENT. Grantee covenants that any potential Harmful Chemical Hazards will be remediated in accordance with applicable federal, state, and local laws, regulatory standards and guidelines, including without limitation the Environmental Protection Agency (EPA) Guidelines.

By initialing hereunder the parties acknowledge that this Environmental Hazards with Demolition Covenant is incorporated into and is part of the Use Agreement.

Grantee\_\_\_\_\_

HUD\_\_\_\_\_

**ATTACHMENT D**  
LETTER OF CREDIT (LOC) SAMPLE

(ISSUING BANK'S LETTERHEAD)

IRREVOCABLE UNCONDITIONAL LETTER OF CREDIT NO. \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_

U.S. Department of Housing and Urban Development  
801 Cherry Street, Unit #45, Ste. 2500  
Ft. Worth, TX 76102

Attention: **Mr. Jack Stark**  
**6AC - 28<sup>th</sup> Floor**

Dear Sir:

For the account of \_\_\_\_\_  
(name of account party/customer)  
we hereby authorize you to draw on us at sight up to an aggregate amount of U.S. \$ \_\_\_\_\_,  
effective immediately and expiring on \_\_\_\_\_, 20\_\_\_\_.

This Letter of Credit is irrevocable and unconditional.

Funds under this Credit are available to you against your sight draft(s) on us, substantially in the form attached as Exhibit A, for all or any part of this Credit.

This Letter of Credit sets forth in full the terms of our obligations to you, and such undertaking shall not in any way be modified or amplified by any agreement in which this letter is referred to or to which this letter of credit relates, and any such reference shall not be deemed to incorporate herein by reference any agreement.

We will promptly honor all drafts in compliance with the terms of this credit if received on or before the expiration date at

\_\_\_\_\_  
(bank's address)

This Credit is governed by the laws of \_\_\_\_\_.

Sincerely,

(Issuing Bank)

By: \_\_\_\_\_

**SAMPLE SIGHT DRAFT**

(HUD LETTERHEAD)

(Name and address of bank) \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_  
(City, State)

Pay to the order of the U.S. Department of Housing and Urban Development the sum of  
\$\_\_\_\_\_. This draft is drawn under your Irrevocable Letter of  
Credit NO.\_\_\_\_\_.

U.S. Department of Housing and Urban Development

By:\_\_\_\_\_



Schedule A: All projects owned by \_\_\_\_\_ or affiliates.

<b>List each project name</b>	<b>List name of principal or affiliate with ownership of project.</b>	<b>List project address</b>

