

Amended 07/06/11, Participation in this foreclosure sale will be restricted to established 501(c)(3) Non-profit Organizations and Governmental Entities



FORECLOSURE SALE

PARKSIDE VILLAGE APARTMENTS

1423 North 9th Street
Waco, Texas 76707
A 200 Unit Multifamily Community

Is offered for sale at foreclosure:



Oral bids will be accepted on:

July 8, 2011

at:10:00 AM (local time)



Sale Location:
McLennan County Courthouse
At the top of the steps above
the Washington Street entrance
501 Washington Ave.
Waco, Texas 76701



U. S. Department of Housing and Urban Development
Fort Worth Property Disposition Center
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

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ATTACHMENTS

- | | |
|---|---|
| <input type="checkbox"/> ATTACHMENT A - Property at a Glance | <input checked="" type="checkbox"/> ATTACHMENT E – 9552, Post Closing Repair and Phase I Environmental Executive Summary |
| <input checked="" type="checkbox"/> ATTACHMENT B - Terms and Requirements of Foreclosure Sale - Acknowledgment by Bidder | <input checked="" type="checkbox"/> ATTACHMENT F – Certification of Substantial Compliance |
| <input checked="" type="checkbox"/> ATTACHMENT C - Foreclosure Sale Use Agreement | <input type="checkbox"/> ATTACHMENT G - Protecting Tenants at Foreclosure Act |
| <input checked="" type="checkbox"/> ATTACHMENT D - Letter of Credit (LoC) Sample | |

THESE FORMS ARE AVAILABLE AT <http://www.hud.gov/offices/adm/hudclips/forms/> OR USE THE URL PROVIDED BELOW TO OBTAIN THE FORM

<input checked="" type="checkbox"/>	Previous Participation Certification (form HUD-2530) http://www.hud.gov/offices/adm/hudclips/forms/files/2530.pdf
<input checked="" type="checkbox"/>	Personal Financial and Credit Statement (form HUD-92417) for each proposed principal and/or partner http://www.hud.gov/offices/adm/hudclips/forms/files/92417.pdf
<input type="checkbox"/>	Affirmative Fair Housing Marketing Plan (Form HUD-935.2A) http://www.hud.gov/offices/adm/hudclips/forms/files/935-2a.pdf
<input type="checkbox"/>	Management Entity Profile (form HUD-9832) http://www.hud.gov/offices/adm/hudclips/forms/files/9832.pdf
<input type="checkbox"/>	Project Owners Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839 A) http://www.hud.gov/offices/adm/hudclips/forms/files/9839-a.pdf
OR <input 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) http://www.hud.gov/offices/adm/hudclips/forms/files/9839-b.pdf
OR <input type="checkbox"/>	Project Owner's/Borrower's Certification (form HUD-9839 C) - For elderly housing projects managed by Administrators only http://www.hud.gov/offices/adm/hudclips/forms/files/9839-c.pdf

(Only one of these forms, 9839A, B or C, will be required for management certification.)

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.

SECTION 1 - INTRODUCTION AND GENERAL INFORMATION

1. **DEFINITION OF INVITATION FOR BID:** This document, including attachments, exhibits, and any amendment thereto, constitutes the Invitation for Bid ("Invitation") for Parkside Village Apartments, FHA Number; 112-11115 ("Project" or "Property"). This Invitation also includes **information concerning Previous Participation Certification (form HUD-2530) requirements** and a list of the forms and statements necessary to complete a responsive bid. This Invitation does not terminate until the closing of the foreclosure sale has occurred.
2. **BID RESPONSIVENESS:** A bid must be responsive to the terms of the 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 the Invitation, primarily the Terms and Requirements of Foreclosure Sale - Acknowledgment by Bidder ("Acknowledgment") and the Foreclosure Sale Use Agreement ("Use Agreement"). Lack of an earnest money deposit, as required by this Invitation, will be cause for bid rejection.
3. **SALE TO HIGHEST QUALIFIED BIDDER:** Sale of this project will be made to the highest responsive, qualified Bidder. The defaulting owner of the property, or any affiliate thereof, will not be permitted to bid.
4. **NO REDEMPTION PERIOD:** This sale is not subject to redemption by the previous owner.
5. **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 experience, ability or financial responsibility needed to own the project and to provide management acceptable to HUD.
6. **CANCELLATION OF SALE:** HUD reserves the unconditional right to cancel this Invitation and/or reject any and all bids at any time prior to the closing of the foreclosure sale.
7. **BIDDER'S DUE DILIGENCE:** Bidders, their agents and advisors should review carefully the information set forth in this Invitation and any additional information made available by HUD, and should undertake their own investigations of the property and related collateral to evaluate the risks associated with purchasing the property.
8. **RECORDATION OF CERTAIN DOCUMENTS:** Attachment E, Post Closing Repair Requirements (form HUD-9552) and attachments, if provided herein, and Attachment C, Use Agreement, with any riders thereto, if provided herein, will be recorded with the Deed.
9. **SOURCE FOR ADDITIONAL INFORMATION:** For further information, please contact the Realty Specialist:

Fort Worth Multifamily PD Center
Attn: Gail Prater at (817) 978-5803, FAX: (817) 978-6019
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102

SECTION 2 - PREVIOUS PARTICIPATION CERTIFICATION

PREVIOUS PARTICIPATION FOR PARTICIPANTS IN THE MULTIFAMILY PROGRAMS- The Preservation Approval Process Improvement Act of 2007 allows a Bidder and/or Management Agent to file the required Previous Participation Certificate (form HUD-2530) in either electronic or paper format. If filing the paper format, the form HUD-2530 must be submitted to the Realty Specialist identified in Section 1, 9, above. If filing electronically, use HUD's Active Partners Performance System (APPS) to submit a 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, it is suggested that all potential bidders registering for the first time in APPS do so at least two weeks prior to the sale.** Instructions for registering for both "Secure Systems" and APPS are located on the [Active Partners Performance System \(APPS\) web site](#).

Be advised, 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 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 must be approved by HUD in order to close the purchase.

SECTION 3 - FORECLOSURE SALE PROCEDURES AND SUBMISSION OF BIDS

1. **GENERAL:** In order to submit a responsive bid to this Invitation, a Bidder must submit the items listed in this Section, and the additional documents/items, as indicated in Section 4, Paragraphs 2 and 3.
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 front page of this bid kit.
 - (b) The Bidder must either:
 - (i) State a bid price orally at the sale, **or**
 - (ii) Submit a written bid to the person that conducts the sale two (2) Federal Government business days before the date of sale. Written bids, if received, will be read aloud at the sale before oral bids are accepted. Only the person that submitted the written bid, or an agent thereof, may raise a written bid price. Please contact the Realty Specialist identified in Section 1, 9, above for details regarding submitting a written bid.

3. **ITEMS THAT MUST BE SUBMITTED AT THE FORECLOSURE SALE:**

(a) **Earnest Money Deposit:**

- (i) The Earnest Money Deposit, for not less than \$100,000, must be submitted to the Foreclosure Commissioner prior to presenting an oral or written bid.
- (ii) The deposit must be in the form of a money order, certified check, or cashier's check payable to:
THE SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
- (iii) No other method of payment for the Earnest Money Deposit is acceptable.
- (iv) A financial organization submitting a bid on its own behalf must have the Earnest Money Deposit drawn on a separate financial organization.
- (v) Lack of proper deposit will be cause for rejection of the bid by HUD.
- (vi) Immediately following the sale, Earnest Money Deposit will be returned to all but the High Bidder.

(b) **Terms and Requirements of Foreclosure Sale – Acknowledgment by Bidder:** Immediately after the foreclosure sale has been completed, the High Bidder must submit **ONE** signed copy of the Terms and Requirements of Foreclosure Sale - Acknowledgment by Bidder to the Foreclosure Commissioner.

- 4. **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 their agent.
- 5. **TELEGRAPHIC OR FACSIMILE BIDS:** Telegraphic or facsimile bids and/or bid modifications will not be considered for award.
- 6. **VERBAL NOTIFICATION TO THE HIGH AND SECOND HIGH BIDDER:** The highest Bidder ("High Bidder") and second highest Bidder ("Second High Bidder") will be notified orally of their bidding positions by the Foreclosure Commissioner immediately after the foreclosure sale. If the High Bidder and/or Second High Bidder are not present at the sale, they will be contacted by the Foreclosure Commissioner promptly after the foreclosure sale.

SECTION 4 - POST FORECLOSURE SALE PROCEDURES

- 1. **CONTINUANCE OF OFFERS:** The high bid shall be deemed to be a continuing offer from the time of the foreclosure sale until closing or bid rejection by HUD. The second high bid shall be deemed to be a continuing offer until execution of the Use Agreement or until thirty (30) days after the foreclosure sale, whichever occurs first, unless HUD and the Second High Bidder mutually agree to extend the offer. After the above activities have occurred, or the extension agreement has ended, the bid will be deemed to have expired.
- 2. **SUBMISSION OF POST-BID DOCUMENTS BY HIGH BIDDER:** The High Bidder must submit the following documents, statements and forms. These documents, statements and forms are required for submitting a complete bid. Complete instructions are provided in the Acknowledgment by Bidder. Contact information is provided in the Section 1, 9.

❖ **WITHIN TWO (2) FEDERAL GOVERNMENT BUSINESS DAYS AFTER FORECLOSURE SALE:**

(a) **Previous Participation Certification in either electronic or paper format:**

i. **Electronic filing: APPS and Secure Systems (e2530):**

- 1) **Bidders not registered in APPS and Secure Systems:** The High Bidder must register in the **Active Partners Performance System (APPS)**, and the HUD's Multifamily Secure Systems; **or**
- 2) **Bidders previously registered in APPS and Secure Systems:** The High Bidder must provide evidence of registration.

ii. **Paper Filing:**

- 1) **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; A "to be formed" entry will not be accepted, **and**
- 2) **Organizational Chart** –an organization chart, reflecting all principals of the purchasing entity and each principal's percentage of ownership must accompany the completed form HUD-2530.

(b) **Certification of Substantial Compliance:** The **complete and original** Certification of Substantial Compliance (Attachment F).

❖ **WITHIN FIVE (5) FEDERAL GOVERNMENT BUSINESS DAYS AFTER FORECLOSURE SALE:** The High Bidder must submit a Written Statement of Experience as required below in paragraph 3. Instructions for the content of the Written Statement of Experience are provided in the Terms and Requirement of Foreclosure Sale – Acknowledgment by Bidder, Part II, paragraph 5.

❖ **WITHIN TEN (10) FEDERAL GOVERNMENT BUSINESS DAYS AFTER FORECLOSURE SALE:** The High Bidder must, if checked below, submit the additional post-bid documents:

- Affirmative Fair Housing Marketing Plan (form HUD-935.2A)
- Previous Participation Certification (form HUD-2530) for Purchasing Entity, if different from bidding entity, See Sections 2 and 4 for more information
- Previous Participation Certification- paper form HUD-2530 for the Managing Agent, or submission of the "Participation Detail" page evidencing prior registration in APPS, or the "Participant Successfully Registered" page establishing the Management Agent's initial registration in APPS.
- 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):
- OR**
- Project Owner's/Borrower's Certification (form HUD-9839C-for elderly housing project managed by Administrators only)

(Only one of these forms A, B or C will be required for management certification.)

- ❖ **WITHIN FIFTEEN (15) FEDERAL GOVERNMENT BUSINESS DAYS AFTER FORECLOSURE SALE:** If the Management Agent or the High Bidder (owning entity) elected to file the required form HUD-2530 electronically (e2530) and did not submit the paper form HUD-2530 within the time frames specified above, the High Bidder and/or Management Agent must electronically file the e2530.

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 Property (Project):

The Department will only permit a bidder to acquire a property from HUD's foreclosure sale that demonstrated experience in successfully developing, owning, and managing housing.

HUD shall, in its sole discretion, accept or reject any bid submitted in the sale of the Property. The review and approval of the Previous Participation Certification (form HUD-2530) is required, for the purchase of the Property. However, Previous Participation Certification approval is only a threshold to HUD's review and potential approval of all other required documentation.

Based on the required documentation, as set forth in Part II, paragraph 5 of the Acknowledgment by Bidder, as well as any additional information independently obtained and verified by the Department, HUD will determine whether the Bidder has the requisite experience to purchase the Property. This determination is a matter within HUD's sole and absolute discretion. If HUD determines that the Bidder does not have the experience to purchase the Property, HUD will reject the bid and proceed to the next highest Bidder pursuant to the terms of the Invitation to Bid.

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 the bid and supporting 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 to successfully develop, own and operate the Property, or omitted a material fact(s), HUD will retain the Bidder's Earnest Money Deposit as liquidated damages and may seek any and all additional available remedies.

HUD may require the High Bidder to obtain the services of a qualified property management firm. Management acceptable to HUD (see paragraph 5 below) must be approved prior to closing.

(i) If HUD approves the High Bidder as being 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.

- (b) If HUD rejects the High Bidder, and HUD elects 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. HUD will review the Bidder's post bid document submissions to determine if the Bidder is qualified to purchase the Project.

(i) If HUD approves the Bidder as being qualified, the Bidder will be confirmed as and identified as the Purchaser.

(ii) If the bid is rejected due to HUD's determination that the Bidder is not qualified to purchase the project, HUD will notify the Bidder in writing.

- (c) HUD's notification of rejection due to lack of qualifications, if applicable, shall be deemed to be given when mailed to the individual indicated in the Terms and Requirements of Foreclosure Sale - Acknowledgment by Bidder.

- (d) 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. HANDLING OF THE EARNEST MONEY DEPOSIT: The Earnest Money Deposit will be submitted by all Bidders to the Foreclosure Commissioner. The High Bidder's deposit will be held by HUD:

- (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, HUD will apply the amount of the Earnest Money Deposit to the sales price at the closing of the foreclosure sale.

- (b) If the bid amount is unacceptable, the Bidder's Earnest Money Deposit will be refunded.

- (c) If the High Bidder is deemed unqualified to purchase the Project, and the High Bidder has complied with the requirements of this Invitation the Earnest Money Deposit will be refunded.

- (d) If the High Bidder has failed to comply with the provisions outlined in this Invitation, the Earnest Money Deposit will be retained by HUD.

- (e) Interest will not be paid on Earnest Money Deposits.

5. **REVIEW OF PROJECT MANAGEMENT:** HUD will review the statements and forms submitted as required in this Invitation, to determine, in its sole discretion, if the proposed management entity has the necessary qualifications to operate, manage, and/or administrate the property. HUD reserves the right to reject the bid of any Bidder and retain the Earnest Money Deposit, if the Bidder does not provide management acceptable to HUD.
6. **CLOSING DATE REQUIREMENT:** The closing date and place will be determined by the Foreclosure Commissioner and/or HUD and will take place within the time period specified in the Acknowledgment, (Attachment B). The purchaser will be notified of said date and place by the Foreclosure Commissioner.
7. **EXTENSION OF CLOSING:** The right to extend the sales closing is expressly reserved by HUD as set forth in the Acknowledgment (Attachment B).

SECTION 5 – CLOSING

1. **EXECUTION OF USE AGREEMENT:** The Bidder that is confirmed as Purchaser and HUD will execute Attachment C, "Foreclosure Sale Use Agreement," at closing. HUD will have the Foreclosure Commissioner's 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 prorations (see paragraph 3 below). Cash due at closing includes all initial deposits to reserve accounts, if applicable.
3. **PRORATIONS:** Purchaser is responsible for paying all outstanding assessments, real estate and property taxes, utility bills including, but not limited to, water/sewer, gas and electric, as well as any other liens/assessments encumbering the property not extinguished by the foreclosure sale action. These amounts will not be prorated. However, if Extension Fees were paid, and if the sale closes prior to the expiration of an extension period, the prorated amount of the Extension Fees for the unused portion of the extension period shall be credited toward the amount due from the Purchaser at closing.
4. **CLOSING EXPENSES:** Irrespective of local custom, the Purchaser shall pay all stipulated closing expenses, including, but not limited to, all documentary stamp taxes, and any costs in connection with a review of title or title insurance as may be requested by the Purchaser. HUD will pay recording fees for the transfer of title and recordation of the Use Agreement.
5. **METHOD OF PAYMENT:** Cash due at closing shall be paid in the form of a money order, certified check, or cashier's check made payable to:
THE SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
6. **REHABILITATION OR REDEVELOPMENT ESCROW:** At closing, the purchaser shall provide an unconditional, irrevocable and non-documentary Letters of Credit (LoCs) in the amount of \$550,000 which shall remain in effect and may be drawn on by the Secretary for at least forty-two (42) months from the date of closing or no earlier than six (6) months after completion of the stated required redevelopment.
7. **CONVEYANCE:** Conveyance of the project shall be by Foreclosure Deed ("Deed"). The Deed will not contain any warranty of title.
8. **RECORDATION OF DEED:** HUD shall record the Deed and all other recordable documents. All recordation costs for the transfer of title and the Use Agreement shall be at the expense of HUD.
9. **DOCUMENTS (TO BE) FURNISHED OR EXECUTED AT CLOSING**
 Foreclosure Sale Use Agreement Letter(s) of Credit Cash Escrow Closing Statement

SECTION 6 – DISCLAIMERS

1. **DISCLAIMER:**
 - (a) As stated in Section 1, paragraph 7, Bidders interested in purchasing this project are expected to perform due diligence to arrive at conclusions as to redevelopment costs, and any other factors bearing upon expenses 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 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.

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 Parkside Village Apartments (the "Project" or the "Property"), the legal description of which is included as Exhibit A, to be paid as follows:

1. \$ 100,000 in the form of a money order, certified check, or cashier's check, as the Earnest Money Deposit ("Earnest Money"), which has been submitted at the foreclosure sale to the Foreclosure Commissioner, and which shall not earn interest (the "Deposit"), **and**
2. \$ _____ the balance of the bid price ("sales price"), to be paid by the High Bidder at Closing, in the form of a money order, certified check, or cashier's check in accordance with this Terms and Requirements of Foreclosure Sale – Acknowledgment by Bidder ("Acknowledgment by Bidder"). The Closing will be held at a place, date and time established in accordance with Part II, paragraph 6 below (the "Closing").
3. 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, Cash Escrow, or Payments and Performance Bonds, as described in Riders incorporated herein, the Invitation for Bid ("Invitation"), and the Foreclosure Sale Use Agreement ("Use Agreement").

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 this Invitation, including this Acknowledgment by Bidder and documents referred to herein, the Invitation and attachments, the Use Agreement and Riders, and the Notice of Default and Foreclosure Sale. Bidder must execute this Acknowledgment by Bidder.
2. **EXECUTION OF USE AGREEMENT:** At Closing, High Bidder will, in addition to any other related documents, execute the Foreclosure Sale Use Agreement ("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. **CERTIFICATION OF SUBSTANTIAL COMPLIANCE (Attachment F):** The High Bidder must provide Certification to HUD (**within two (2) Federal Government business days after the foreclosure sale**) that any other Projects that are owned by the High Bidder or its affiliates and are located in the same jurisdiction (city or town) as the Project are in substantial compliance with applicable State and/or local housing statutes, regulations, ordinances and codes. HUD may, in its discretion, verify the accuracy of such certification and request supporting documentation from the High Bidder. The complete and original Attachment F must be received by the Realty Specialist identified in Section 1, 9. If HUD determines in its sole discretion that such other Projects are not in substantial compliance, HUD will have the right to refuse to sell the Project to the High Bidder and retain the Earnest Money Deposit.
4. **PREVIOUS PARTICIPATION CERTIFICATION:**
 - (a) **Within Two (2) Federal Government business days after the Foreclosure Sale:**

The High Bidder must submit the Previous Participation Certification in **either electronic or paper form:**

 - (i) **Paper form HUD-2530:**

High Bidder, if using paper form (submittal) of the Previous Participation Certification (form HUD 2530) , must submit the original and executed form, **complete with organizational chart**, to the Realty Specialist identified in Section 1, 9, **or**
 - (ii) **Electronic form HUD-2530:**
 - a. **High Bidder not registered in APPS and Secure Systems,** must submit certification that the Bidder has registered in APPS and Secure Systems. This certification must be submitted to the Realty Specialist identified in Section 1, 9, 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. The High Bidder is also responsible for submitting any changes necessary for principals, tax ID, and ownership in the APPS system, **or**
 - b. **High Bidder registered in APPS and Secure Systems,** must fax a copy of the Participant Detail page to the Realty Specialist identified in Section 1, 9.

(See APPS User Guide-Industry, Chapter 16 for printing instructions).
 - (b) **Within Ten (10) Federal Government business days after the Foreclosure Sale:**

If High Bidder is using a professional management company (Management Agent), the High Bidder is responsible for ensuring that the Management Agent submits the required Previous Participation Certification in **either electronic or paper form:**

 - (i) **Paper form HUD-2530:**

Management Agent, if using paper form (submittal) of the Previous Participation Certification

- (b) (form HUD 2530), must submit the original and executed form, **complete with organizational chart**, to the Realty Specialist identified in Section 1, 9, **or**
- (ii) **Electronic form HUD-2530:**
- a. **Management Agent not registered in APPS and Secure Systems** must submit certification that the Management Agent has registered in APPS and Secure Systems. This certification must be submitted to the Realty Specialist identified in Section 1, 9, 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). The High Bidder is also responsible for submitting any changes necessary for principals, tax ID, and ownership in the APPS system, **or**
 - b. **Management Agent registered in APPS and Secure Systems** must fax a copy of the Participant Detail page to the Realty Specialist identified in Section 1, 9.
(see APPS User Guide-Industry, Chapter 16 for printing instructions)
- (c) **Within Fifteen (15) Federal Government business days after the Foreclosure Sale: If High Bidder and/or Management Agent** elected to file the required form HUD-2530 electronically (e2530) and did not submit the paper Form HUD-2530s within the time frames specified above, the High Bidder and/or Management Agent must electronically file the e2530 within fifteen (15) days of the foreclosure sale and fax a printed copy of the 2530 Submission Package to the Realty Specialist identified in Section 1, 9. (See APPS User Guide-Industry, Chapter 16, for printing instructions).

5. WRITTEN STATEMENT OF EXPERIENCE:

All of the following required documentation must be submitted to HUD within five (5) Federal government business days of the date of the foreclosure sale.

Required Documentation: Bidder must submit a written statement, to the Realty Specialist identified in Section 1, 9, demonstrating experience in successfully redeveloping, owning and managing housing.

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 Bidder has the requisite experience to purchase the Property. This determination is a matter within HUD's sole and absolute discretion. If HUD determines that the Bidder does not have the experience to purchase the Property, HUD will reject the bid and proceed to the next highest Bidder pursuant to the terms of the Invitation to Bid.

6. ESTABLISHMENT OF CLOSING DATE, TIME AND PLACE:

- (a) Time is of the essence.
- (b) HUD will notify the High Bidder and the Foreclosure Commissioner in writing after HUD determines that the High Bidder has been approved to purchase the Property. Approval to purchase is subject to review and approval of Bidders' written statements and HUD forms as required for purchase in Section 4 (Post Foreclosure Sales Procedures) of the Invitation, and in Attachment B, Terms and Requirements of Foreclosure Sale – Acknowledgment by Bidder, specifically Part II, paragraph 20. The Closing **shall be within thirty (30) days of such notification**, unless extended pursuant to paragraph 11 below.
- (c) The Foreclosure Commissioner will establish a time and date for the Closing. The Closing will take place at a site agreed upon between HUD and the Commissioner.

7. CLOSING, CLOSING EXPENSES AND TRANSFER OF POSSESSION:

- (a) The sale shall be effective upon Closing.
- (b) High Bidder/Purchaser shall pay all closing costs and expenses, excluding fees for recording the Deed and Use Agreement, irrespective of local custom. Recording fees shall be paid by HUD.
- (c) Transfer of title and possession of the Project shall become effective as of the Closing date.

8. PAYMENT OF BID PRICE AT CLOSING: The High Bidder/Purchaser shall pay the balance of the bid price (sales price) at Closing in the form of a money order, certified check or cashier's check made payable to:

THE SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

9. REHABILITATION OR REDEVELOPMENT ESCROW: At Closing the High Bidder/Purchaser shall submit to HUD:

- An unconditional, irrevocable and non-documentary Letters of Credit (LoCs), in the amount of \$550,000, which shall remain in effect and may be drawn on by the Secretary for at least forty-two(42) months from the date of closing or until 6 months past the deadline for redevelopment as stated in Attachment C, Foreclosure Sale Use Agreement, Rider 2 of 5.
- A cash escrow in the amount of \$_____, to be held by HUD in a non-interest bearing escrow account. The cash escrow will be returned to the Purchaser after repairs have been satisfactorily completed, except for ten (10) percent which will be held for an additional six (6) months.

10. LIQUIDATED DAMAGES: Should the High Bidder/Purchaser fail or refuse to perform all obligations under the Invitation (which includes this Acknowledgement by Bidder) 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 6, the Earnest Money Deposit and any Extension Fees, paid under Section 11, shall be retained by HUD as liquidated damages.

11. EXTENSION FEES: The granting of extensions of time to close the sale is within HUD's sole and absolute discretion. Any extension, if granted, will be on the following conditions:

- (a) A written request for an extension must be received at the HUD office indicated below within ten (10) days prior to the prescribed Closing date, or within any extension period and **must be accompanied**

by the payment of the required extension fee. The request must state the reason for Bidder's inability to close the sale within the initial period or any extended period.

Fort Worth Multifamily PD Center
Attn: Ruth E. Pompa, Director
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102

- (b) Extensions shall be for thirty (30) days.
 - (c) For each thirty (30) day period requested by High Bidder/Purchaser and approved by HUD, extension fees shall be equal to;
 - (i) \$ 40.80, per unit, per day, which is \$ 8,160.00 daily, a cost of \$ 244,800.00 which covers the 30-day period (the holding cost for such period), **or**
 - (ii) one and one-half percent (1.5%) of the bid price, whichever is greater.
 - (d) The Extension Fees shall be retained by HUD and shall not be credited to the amount due from High Bidder/Purchaser at Closing. However, if the sale closes 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 High Bidder/Purchaser at Closing.
 - (e) The granting of one or more extensions shall not obligate HUD to grant additional extensions.
 - (f) 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.
 - (g) Extension Fees must be submitted by money order, certified check or cashier's check acceptable to HUD.
12. **BIDDER RESTRICTIONS:**
- (a) No Member of/or Delegate to Congress, resident commissioner, or local elected official, shall be admitted to any share or part of this 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.
 - (b) 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 11 shall be retained by HUD as liquidated damages.
 - (c) Pursuant to 24 CFR 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 CFR 24.105.
13. **AS-IS SALE; NO REPRESENTATIONS:**
- (a) High Bidder/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.
 - (b) Bidder acknowledges that the bid price (sales price) set forth in this Acknowledgment is based on Bidder's evaluation of the Project and not upon any representations by HUD. 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 sale or for the return of any Earnest Money Deposit or Extension Fees paid to HUD.
14. **RISK OF LOSS AND RIGHTS OF RESCISSION:** In the event of any substantial damage to the Project prior to Closing by any cause including, but not limited to, fire, flood, earthquake, tornado and significant vandalism other than willful acts or neglect, HUD, in its sole discretion, may negotiate with the Bidder for a reduction in the bid price corresponding to the estimated amount of damages. Such amount shall be added to the Post-Closing repair requirements, Form HUD - 9552, included in the Invitation. If HUD fails to negotiate a bid price reduction or if the High Bidder/Purchaser and HUD are unable to agree on the amount by which the bid price should be reduced or on the amendment to the repair requirements, High Bidder/Purchaser may withdraw the bid. In such case, HUD will return the Earnest Money Deposit and any Extension Fee(s) paid, *unless* there is cause to retain the Earnest Money Deposit based on breach of the Invitation and/or Acknowledgment by Bidder.
15. **PRORATIONS:**
- (a) High Bidder/Purchaser is responsible for paying all outstanding assessments, real estate and property taxes, utility bills including, but not limited to water/sewer, gas and electric which are not extinguished by the foreclosure. These costs will not be prorated. However, if Extension Fees were paid and if the sale closes prior to the expiration of an extension period, a prorated amount of the Extension Fees, for the unused portion of the extension period, shall be credited toward the amount due from High Bidder/Purchaser at Closing. The High Bidder/Purchaser will be responsible for expenses incurred by the Project after Closing. *Bidders are required to determine outstanding expenses/assessments/liens as part of its due diligence and take those outstanding expenses into consideration when submitting bids.*
 - (b) The High/Bidder/Purchaser is responsible for paying in full all taxes that come due after Closing. Taxes paid by the Purchaser after the Closing date will not be prorated, even if those taxes are for a period prior to Closing.

16. SECURITY DEPOSITS: APPLICATION AS CHECKED:
- Notwithstanding State of local law, the High Bidder/Purchaser will receive only those security deposits which are on hand at the Project on the date of Closing. The High Bidder/Purchaser will assume all liability under State and local law with respect to security deposits.
 - Any security deposits collected from tenants and paid to HUD prior to the Closing shall be assigned to High Bidder/Purchaser within fifteen (15) Federal Government business days after the Closing, with the exception of security deposits forfeited by the tenant in accordance with the terms of the tenant's lease. Notwithstanding State and local law, no other security deposits collected from tenants will be transferred by HUD to High Bidder/Purchaser. HUD has no other liability under State and local law with respect to security deposits. High Bidder/Purchaser agrees to assume all responsibility and liability under State and local law with respect to the collection, application and return of security deposits.
17. LIMITATION OF LIABILITY: In no event shall HUD's liability exceed the portion of the bid price that has been paid to HUD.

18. ANTI-COLLUSION CERTIFICATION:

- (a) The High Bidder/Purchaser certifies:
- (i) The bid price in this offer has been 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 High Bidder, directly or indirectly, to any other High 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 High 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 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.

19. 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 Bidder ineligible to purchase the Project. In which case 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 later, the High Bidder must provide HUD with evidence that a qualified property management firm has been retained. If 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.

20. REQUIRED STATEMENTS AND FORMS:

Not later than five (5) Federal Government business days after oral notification at the foreclosure sale of being the High Bidder, the Bidder must demonstrate the ability to meet HUD requirements for purchase of the Project by submitting the Written Statement as provided in Part II, paragraph 5 above, to the Realty Specialist identified in Section 1, 9.

Not later than ten (10) Federal Government business days after oral notification at the foreclosure sale of being the High Bidder, the Bidder must demonstrate the ability to meet HUD requirements for purchase of the Project by submitting the documents checked below to the Realty Specialist identified in Section 1, 9:

- Affirmative Fair Housing Marketing Plan (form HUD-935A)
- Previous Participation Certification (form HUD-2530) for purchasing entity, if different from the bidding entity (Refer to Invitation, Sections 2 and 4 and the Acknowledgment by Bidder, Part II, paragraph 4, "Previous Participation Certification" for more information)
- Previous Participation Certification (form HUD-2530) for the Management Agent, if applicable (Refer to Invitation, Sections 2 and 4 and the Acknowledgment by Bidder, Part II, paragraph 4, "Previous Participation

- Certification" for more information)
- 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)
- OR**
- Project Owner's/Borrower's Certification (form HUD-9839C) for elderly housing project managed by Administrators only

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

NOTICE: It is the High Bidder's responsibility to ensure compliance with form and document submission as required in Part II, paragraph(s) 3, 4, 5 and above in this paragraph. Failure to submit or comply with any requirements of the Invitation or Acknowledgement may result in 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.

21. 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.

22. RIDERS TO THE USE AGREEMENT:

The High Bidder acknowledges the receipt of the Use Agreement applicable to this Project's sale and the inclusion of the following Riders to that Use Agreement:

- | | |
|---|--|
| <input type="checkbox"/> Affordability of Units | <input checked="" type="checkbox"/> Asbestos Hazards |
| <input type="checkbox"/> Two-Year Rent Protection for Pre-Existing Very Low-Income Tenants | <input checked="" type="checkbox"/> Mold Hazards |
| <input checked="" type="checkbox"/> Nondiscrimination Against Multifamily Section 8 Certificate Holders and Voucher Holders | <input type="checkbox"/> Radon Hazards |
| <input checked="" type="checkbox"/> Required Rehabilitation or Redevelopment | <input type="checkbox"/> Harmful Chemical Hazards |
| <input type="checkbox"/> Post-Closing Repair to Local Codes and/or Demolition Escrow Requirements | <input type="checkbox"/> Existing Hazardous Substances-Demolition Activities |
| <input type="checkbox"/> Post-Closing Repair [Demolition] Escrow Requirements | <input type="checkbox"/> Historic Preservation |
| <input type="checkbox"/> Operating Deficit Escrow Account | <input type="checkbox"/> Right of First Refusal |
| <input type="checkbox"/> Relocation | <input type="checkbox"/> Mobile Home Parks |
| <input checked="" type="checkbox"/> Lead-Based Paint Hazards | <input type="checkbox"/> Retirement Service Centers |
| | <input type="checkbox"/> Notification of Facility Termination |
| | <input type="checkbox"/> Projects Primarily Occupied by the Elderly |

23. EXECUTION

- (a) By signature below, High Bidder indicates acknowledgment of and 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 _____ ("Purchaser") 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 Parkside Village Apartments, HUD Project No. 112-11115, (the "Project" or the "Property") 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(a), Management and Preservation of HUD-Owned Multifamily Housing Projects, and the Department of Housing and Urban Development regulations thereunder at 24 CFR Part 290, the Secretary has authority to impose certain use restrictions, as set forth in this Agreement, on the property subject to a mortgage held by the Secretary that is sold at foreclosure to a purchaser other than HUD; **and**

WHEREAS, by Deed executed this ___ day of _____, 20___, by _____, the Project has been conveyed to the Purchaser; **and**

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

1. **TERM OF AGREEMENT:** This Agreement shall be in effect,
 twenty years from the date of this Agreement **or** until
2. **SUBJECT TO EXAMINATION:** If used as rental housing, 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, and
 - (d) Be subjected to periodic HUD inspections or inspections under REAC protocol (24 CFR parts 5 and 200).At the request of the Secretary, Purchaser 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.
3. **NON-DISCRIMINATION REQUIREMENTS** - The Purchaser will comply with the provisions of all Federal, State, or local laws prohibiting discrimination in housing.
4. **HAZARD INSURANCE** - Hazard insurance shall be maintained in an amount to ensure that the Purchaser is able to meet the rental housing requirements described in this Agreement.
5. **DESTRUCTION OF PROJECT** - 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 property destroyed or damaged, unless the Secretary gives written approval to use insurance proceeds for other purposes.
6. **REMEDIES FOR NONCOMPLIANCE** - Upon any violation of any provision of this Agreement by the Purchaser, HUD may give written notice thereof to the Purchaser by registered or certified mail, addressed 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 Purchaser as its legal business address. If such violation is not corrected to the satisfaction of the Secretary within thirty (30) 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 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 construe a waiver of the right to exercise that or any other right or remedy at any time.

7. **SUCCESSORS AND ASSIGNS** -This Agreement is binding upon the Purchaser's heirs, successors and assigns. The Purchaser agrees that if title to the Project is conveyed during the term of this Agreement, the Purchaser will require its purchaser to assume in writing its obligations under this Agreement.
8. **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 Use Agreement if the Use Agreement is made with a corporation for its general benefit.
9. **CONTRADICTORY AGREEMENTS** - The Purchaser 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 requirements in conflict with this Agreement.
10. **SEPARABILITY** - The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions hereof.
11. **AMENDMENT** - This Agreement may be amended by the mutual written consent of the parties, except those provisions required by statute.
12. **RIDERS TO THE USE AGREEMENT** - The Riders checked and initialed by the parties are attached to and incorporated into this Use Agreement and will be placed in the Deed to run with the land.

<input type="checkbox"/> Affordability of Units <input type="checkbox"/> Two-Year Rent Protection for Pre-Existing Very Low-Income Tenants <input checked="" type="checkbox"/> Nondiscrimination against Multifamily Section 8 Certificate Holders and Voucher Holders <input checked="" type="checkbox"/> Required Rehabilitation or Redevelopment <input type="checkbox"/> Post-Closing Repair to Local Codes and/or Demolition Escrow Requirements <input type="checkbox"/> Post-Closing Repair [Demolition] Escrow Requirements <input type="checkbox"/> Operating Deficit Escrow Account <input type="checkbox"/> Relocation <input checked="" type="checkbox"/> Lead-Based Paint Hazards	<input checked="" type="checkbox"/> Asbestos Hazards <input checked="" type="checkbox"/> Mold Hazards <input type="checkbox"/> Radon Hazards <input type="checkbox"/> Harmful Chemical Hazards <input type="checkbox"/> Existing Hazardous Substances-Demolition Activities <input type="checkbox"/> Historic Preservation <input type="checkbox"/> Right of First Refusal <input type="checkbox"/> Mobile Home Parks <input type="checkbox"/> Retirement Service Centers <input type="checkbox"/> Notification of Facility Termination <input type="checkbox"/> Projects Primarily Occupied by the Elderly
--	---
13. **PRIORITY** – This foreclosure Use Agreement shall be recorded against the property in a superior position to any post foreclosure liens or mortgage debts.

IN WITNESS WHEREOF:

The Purchaser has executed this Use Agreement in triplicate this _____ day of _____, 20____.

WITNESS:

PURCHASER:

 By: Signature

 Typed Name of Purchaser

 Street Address

 City, State, Zip Code

The U.S. Department of Housing and Urban Development (HUD) has executed this Use Agreement in triplicate this _____ day of _____, 20____.

WITNESS:

FOR: THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BY: _____

 Official's Typed Name

 Title

Exhibit A

Legal Description

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

The land referred to is in McLennan County, Texas and is described as follows:

Lot One (1) in Block Two (2), Lot One (1) in Block Four (4), and Lot One (1) in Block Thirteen (13), all of the Dewey Addition, Part One (1) to the City of Waco, McLennan County, Texas, according to the plat of said addition recorded in Volume 1077, page 539 of the McLennan County Deed Records.

NONDISCRIMINATION AGAINST MULTIFAMILY SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS

(Applies to Redeveloped Rental Housing)

The Use Agreement includes the following provisions:

Nondiscrimination

In order to comply with Section 204 of the Housing and Community Development Amendments of 1978, 12 USC §1701z-12, as amended, the Purchaser, any/all successors and assigns, agrees not to unreasonably refuse to lease a dwelling unit offered for rent, 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 that rent for an amount not greater than the Section 8 fair market rent for a comparable unit in the area as determined by HUD.

If the Purchaser breaches this provision, HUD and/or one or more third - party beneficiaries, shall be entitled to institute legal action to enforce performance and observance of such provision and to enjoin any acts which are in violation of such provision. For the purposes of this provision, 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 Rider is incorporated into and is a part of the Use Agreement.

PURCHASER _____

SECRETARY OF HOUSING AND URBAN DEVELOPMENT _____

RIDER 2 OF 5
REQUIRED REHABILITATION OR REDEVELOPMENT

The Use Agreement includes the following provisions:

1. Required Rehabilitation or Redevelopment Time Schedules:

The Purchaser shall rehabilitate and/or redevelop the property consistent with the existing R-3E zoning and/or as permitted and approved by local jurisdiction, state and local codes, and accessibility standards within thirty-six (36) months from the date of this Use Agreement. Rehabilitation or Redevelopment plan may include a mixed use in accordance with the City R-3E and zoning. The Purchaser may demolish a portion or all of the existing property as part of the rehabilitation and/or redevelopment effort. **Demolition is not required.** The minimum amount of units under the redevelopment plan shall be 150 and a maximum of 200 units.

2. Rehabilitation requires the purchaser to conform with Paragraph 1 above and Attachment E. Redevelopment will be in compliance with Paragraph 1, stated above and the submission of a Redevelopment Plan to HUD within 60 days of closing.

3. HUD must approve Purchaser's Redevelopment Plan for the property prior to implementation.

4. If any structures are to be demolished, the Purchaser shall cause the existing structures to be demolished within twelve (12) months of the date of the Deed and the site shall be fully redeveloped within thirty-six (36) months from the date of the Deed.

5. If Purchaser's Redevelopment Plan is substantially changed subsequent to HUD approval, HUD reserves the right to approve the revised Redevelopment Plan prior to implementation,

6. The Purchaser may request an extension of the thirty-six (36) months to complete the redevelopment based upon acceptable performance and a justification for the extension. The Purchaser shall provide HUD with a monitoring plan for maintaining the property's security throughout the redevelopment period. The Purchaser is required to become a member of the Waco Crime Free Multifamily Housing Program.

If the Purchaser cannot complete redevelopment within the above time frames, thirty (30) days prior to the expiration of the time allowed, a written request for an extension must be delivered to HUD stating the reason for the Purchaser's inability to complete redevelopment.

The granting of one or more extensions shall not obligate HUD to grant additional extensions.

7. Required Letters of Credit (LoC):

To ensure completion of the property's rehabilitation or redevelopment that is to be completed by the Purchaser, the Purchaser has delivered to the Secretary an unconditional, irrevocable and non-documentary Letter of Credit in the amount of \$550,000. The LoC shall remain in effect and may be drawn on by the Secretary for at least forty-two (42) months, (6 months past the deadline for rehabilitation or redevelopment stated above), from the date of this Agreement. HUD's release of the LoC shall be based on the purchaser providing HUD with the City's final approval of redevelopment. In the event an extension for completion of redevelopment is granted, the LoC's will be extended accordingly. If the redevelopment is not completed to the satisfaction of HUD within the time period specified in this Section, HUD may, in its sole discretion, cash any LoC and seek remedies provided in the attached Use Agreement, as the Secretary deems appropriate. If HUD cashes the Purchaser's LoC as a remedy for the Purchaser's default under the redevelopment program, HUD may apply the funds so obtained to complete the redevelopment or for such other purposes as the Secretary deems appropriate.

Significant redevelopment programs may be staged. If redevelopment is staged, up to five (5) LoC's, which represents the full LoC requirement, may be permitted. The LoCs must have an expiration date that extends beyond HUD's redevelopment completion date by at least six (6) months. LoCs may be returned as the Bidder completes redevelopment in accordance with the redevelopment plan. The Purchaser shall coordinate with the City to establish work completion inspections by phases. The Purchaser shall provide the City's work completion certification to HUD for the release of LoCs by phases. HUD may cash LoC(s) and apply the funds to complete redevelopment or correct latent defects in the completed redevelopment or retain the funds as liquidated damages.

8. If the Purchaser fails to comply with paragraph 1 above, and no extension by written agreement has been granted by HUD, the Secretary and/or any and all successors in the office shall be entitled to exercise any available remedies including the right to enter and terminate the estate hereby conveyed.
9. If the Purchaser fails to redevelop the Project in accordance with this Agreement, the Secretary will not exercise the remedies as described in Section 3 above, if any lender holding a lien or security interest on the Project:
 - a. Gives written notice to HUD within the period provided for redevelopment, that it intends to complete the redevelopment, **and**
 - b. Redevelop within (30) days of the notice or within such longer periods as HUD may approve in writing.
10. HUD shall have free access to the Property during normal business hours to inspect any work completed to ensure that it complies with the existing R-3E zoning and/or as permitted and approved by local jurisdiction, accessibility standards, applicable State and local laws, codes, ordinances and regulations.

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

PURCHASER _____

SECRETARY OF HOUSING AND URBAN DEVELOPMENT _____

RIDER 3 OF 5
LEAD-BASED PAINT HAZARDS

The Use Agreement includes the following provisions:

1. In order to comply with 42 USC §§4821-4886 and the regulations thereunder, 24 CFR Part 35 (the "Regulations"):
 - Purchaser covenants that the Property will be inspected and tested for lead-based paint, and any hazards will be abated in accordance with the Regulations.
 - Purchaser covenants that any lead-based paint hazards will be abated in accordance with the Regulations.

Purchaser shall certify to the Secretary (in a form acceptable to the Secretary) and the Secretary shall determine, through inspection (or discretion, the inspection and certification of a local government official) that all lead-based paint hazards have been removed from the Property in accordance with the Regulations
2. Purchaser understands and agrees that the Secretary's inspection and finding of satisfactory performance is not intended to and does not constitute a guarantee that all lead-based paint and all potential lead-based paint hazards have been eliminated from the Property and does not relieve Purchaser of its ongoing responsibility for complying with all applicable State and local lead-based paint laws and regulations.
3. Purchaser agrees to indemnify, defend, and hold the Secretary harmless from any liability arising by reason of Purchaser's failure to perform Purchaser's obligations under this Deed with respect to the elimination of lead-based paint health hazards, the prohibition against the use of lead-based paint, and Purchaser's responsibility for complying with applicable state and local lead-based paint laws and regulations.
4. If temporary or permanent relocation is necessary because of such abatement, Purchaser covenants that it will comply with paragraphs 5 through 8, below. Additionally, the Purchaser covenants that it will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Act"), as amended, 42 USC §4601, and the regulations thereunder, 49 CFR Part 24. The Purchaser is responsible for ensuring compliance with the Act and regulations thereunder, notwithstanding any contractual obligations with third parties to comply with the Act and regulations. Purchaser covenants to provide advance written notice of the expected displacement to the residents. The notice shall be provided as soon as feasible, describe the assistance and the procedures for obtaining the assistance, and contain the name, address and phone number of an official responsible for providing the assistance.
5. If temporary relocation is necessary because of such abatement, Purchaser covenants to provide assistance to tenants in locating decent, safe and sanitary dwelling/housing unit, which to the extent feasible, shall be in a location not generally less desirable than the Project, and reimburse tenant for:
 - (a) Expenses of moving and any net increase in monthly housing cost (rent and reasonable utility costs) during the temporary displacement period.
 - (b) Expenses of returning to a repaired unit on the Property.
6. If permanent relocation is necessary because of such abatement, Purchaser covenants to provide assistance, as described below, to tenants, as may be appropriate:
 - (a) Advisory services, necessary to locate decent, safe and sanitary and affordable replacement Housing which, to the extent feasible, shall be in a location not generally less desirable than the Property.
 - (b) Reimbursement for reasonable moving expenses, which need not exceed an amount determined by The Secretary to be reasonable considering the size of the household and the circumstances surrounding the move.
7. The Purchaser covenants not to increase the rent for any units, from the rent the Secretary is requiring a tenant to pay on the Closing date, until such unit meets all the abatement requirements set forth in paragraph 1, above.
8. Purchaser agrees to comply with Section 35.88 "Disclosure Requirements for Sellers and Lessors" and Section 35.92 "Certification and Acknowledgement of Disclosure" of 24 CFR – *Lead-Based Paint Poisoning Prevention in Certain Residential Structures*.
9. If Purchaser fails to comply with paragraph 1, above, and no extension by written agreement has been granted by the Secretary, the Secretary and/all successors in office shall be entitled to:
 - (a) Enter and terminate the estate hereby conveyed, or
 - (b) Cash Purchaser's Loc(s) and apply the funds to perform or correct such work, or for such purposes as HUD deems appropriate.

These rights and remedies may be exercised separately or in combination.

10. Notwithstanding 9(a) through (b) above, the Secretary will not exercise those remedies, if any lender holding a lien or security interest on the Project:
- (a) Gives written notice to the Secretary within the period provided for repairs, that it intends to complete the repairs, and
 - (b) Completes such repairs within thirty (30) days of the notice or within such longer periods that HUD may approve in writing.

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

PURCHASER _____

SECRETARY OF HOUSING AND URBAN DEVELOPMENT _____

RIDER 4 OF 5
ASBESTOS HAZARDS

The Use Agreement includes the following provisions:

1. Purchaser agrees to indemnify defend, and hold HUD harmless from any liability arising by reason of Purchaser's failure to perform Purchaser's obligations under this Deed with respect to the elimination of asbestos health hazards, the prohibition against the use of asbestos and Purchaser's responsibility for complying with applicable State and local asbestos laws and regulations.
2. Purchaser shall develop and maintain on the site at all times an Operations and Maintenance Plan which will identify areas which involve asbestos hazards and establish work/repair guidelines.
3. If temporary or permanent relocation is necessary because of such redevelopment, Purchaser covenants to comply with Section 203(f)7 of the Housing and Community Development Amendments of 1978, as amended, 12 USC §1701z-11(j), and the regulations thereunder, 24 CFR §290.17, as explained in paragraphs 4 through 6, below. Additionally, the Purchaser covenants to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC §4601, and the regulations thereunder, 49 CFR Part 24. The Purchaser is responsible for ensuring compliance with the Act and Regulations, notwithstanding any contractual obligations with third parties to comply with the Act and Regulations. Purchaser covenants to provide advance written notice of the expected displacement. The notice shall be provided as soon as feasible, describe the assistance and the procedures for obtaining the assistance, and contain the name, address and phone number of an official responsible for providing the assistance.
4. If temporary relocation is necessary because of such redevelopment, Purchaser covenants to provide assistance to tenants in locating a decent, safe and sanitary dwelling/housing unit, which to the extent feasible, shall be in a location not generally less desirable than the Property, and reimburse tenants for:
 - (a) Expenses of moving and any net increase in monthly housing cost (rent and reasonable utility costs) during the temporary displacement period.
 - (b) Expenses of returning to a repaired unit on the Property.
5. If permanent relocation is necessary because of such redevelopment, Purchaser covenants to provide assistance, as described below, to tenants, as may be appropriate:
 - (a) Advisory services, necessary to locate decent, safe and sanitary and affordable replacement housing, which to the extent feasible, shall be in a location not generally less desirable than the Property.
 - (b) Reimbursement for reasonable moving expenses, which need not exceed an amount determined by HUD to be reasonable considering the size of the household and the circumstances surrounding the move.
6. The Purchaser covenants not to increase the rent for any units, from the rent HUD is requiring a tenant to pay on the Closing date, until such unit meets all the redevelopment requirements set forth in paragraph 1, above.
7. If Purchaser fails to comply with paragraph 1, above, and no extension by written agreement has been granted by HUD, HUD and/all successors in office shall be entitled to:
 - (a) Enter and terminate the estate hereby conveyed, or
 - (b) Cash Purchaser's Loc(s) and apply the funds to perform or correct such work, or for such purposes as HUD deems appropriate.These rights and remedies may be exercised separately or in a combination.
8. Notwithstanding 7(a) through (b) above, HUD will not exercise those remedies, if any lender holding a lien or security interest on the Project:
 - (a) Gives written notice to HUD within the period provided for repairs, that it intends to complete the repairs, and
 - (b) Completes such repairs

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

PURCHASER _____

SECRETARY OF HOUSING AND URBAN DEVELOPMENT _____

RIDER 5 OF 5
MOLD HAZARDS

The Deed shall include the following provisions:

1. Purchaser agrees to indemnify defend, and hold HUD harmless from any liability arising by reason of Purchaser's failure to perform Purchaser's obligations under this Deed with respect to the elimination of mold health hazards, and Purchaser's responsibility for complying with applicable Environmental Protection Agency's regulations and State and local laws and regulations.
 - (a) Purchaser covenants that the Property will be inspected and tested for mold and mold conditions, and any hazards will be remediated. The purchaser will remediate the mold or mold conditions in accordance with the relevant provisions of the Environmental Protection Agency regulatory standards and guidelines.
 - (b) Purchaser covenants that any mold 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.
2. If temporary or permanent relocation is necessary because of such redevelopment, Purchaser covenants to comply with Section 203(f) of the Housing and Community Development Amendments of 1978, as amended, 12 USC §1701z-11(f), and the regulations thereunder, 24 CFR §290.17, as explained in paragraphs 4 through 6, below. Additionally, the Purchaser covenants to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC §4601, and the regulations thereunder, 49 CFR Part 24, when Project-based Section 8 assistance is provided by HUD. The Purchaser is responsible for ensuring compliance with the Act and Regulations, notwithstanding any contractual obligations with third parties to comply with the Act and Regulations. Purchaser covenants to provide advance written notice of the expected displacement to the residents. The notice shall be provided as soon as feasible, describe the assistance and the procedures for obtaining the assistance, and contain the name, address and phone number of an official responsible for providing the assistance.
3. If temporary relocation is necessary because of such redevelopment, Purchaser covenants to provide assistance to tenants in locating a decent, safe and sanitary dwelling/housing unit, which to the extent feasible, shall be in a location not generally less desirable than the Property, and reimburse tenants for:
 - (a) Expenses of moving and any net increase in monthly housing cost (rent and reasonable utility costs) during the temporary displacement period.
 - (b) Expenses of returning to a repaired unit on the Property.
4. If permanent relocation is necessary because of such redevelopment, Purchaser covenants to provide assistance, as described below, to tenants, as may be appropriate:
 - (a) Advisory services, necessary to locate decent, safe and sanitary and affordable replacement housing, which to the extent feasible, shall be in a location not generally less desirable than the Property.
 - (b) Reimbursement for reasonable moving expenses, which need not exceed an amount determined by HUD to be reasonable considering the size of the household and the circumstances surrounding the move.
5. The Purchaser covenants not to increase the rent for any units, from the rent HUD is requiring a tenant to pay on the Closing date, until such unit meets all the redevelopment requirements set forth in paragraph 1, above. In addition, rent for units to be covered by a Housing Assistance Payments Contract may be increased only pursuant to and following execution of such Contract.
6. If Purchaser fails to comply with paragraph 1, above, and no extension by written agreement has been granted by HUD, HUD shall be entitled to enter and terminate the estate hereby conveyed. This right and remedy may be exercised separately or in combination with the rights and remedies set forth in the Enforcement provision of this Contract.

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

PURCHASER_____

SECRETARY OF HOUSING AND URBAN DEVELOPMENT_____

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 - 28th 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) _____

(City, State)
_____, 20____

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: _____

Post Closing Repair Requirements

U. S. Department of Housing and Urban Development

Office of Housing - Federal Housing Commissioner

Property: Parkside Village Apts

Project #: 112-11115

Location: Waco, Texas

The Purchaser must repair the property to meet the following requirements within the time frame noted in the Contract of Sale or Terms and Requirements of Foreclosure Sale - Acknowledgment by Bidder:

~~Applicable State and local Codes~~ ~~Additional repairs required by HUD~~ ~~Physical Conditions Standards as set forth in 24 CFR 886 Part 5~~

HUD will monitor repairs to assure compliance. Repairs shall be considered completed only after: (1) Purchaser provides written certification that repairs are completed; (2) Purchaser requests final inspection by HUD; and, (3) HUD verifies in writing completion and compliance with the requirements stated herein.

TRADE ITEM COST BREAKDOWN: HUD's estimate of repairs is broken out by trade item. Detailed descriptions of repairs are stated in this form's exhibits. Unless checked as MANDATORY on this form, repairs may begin upon conveyance. For repair items listed in this form as MANDATORY, the purchaser, prior to beginning work, must submit specifications for approval to the HUD office with jurisdiction over this project.

The repairs listed herein represent HUD's estimate of the property's repair needs. These repairs may not represent all repairs needed to satisfy HUD's requirements and/or requirements other than HUD's. HUD does NOT warrant that the list is either comprehensive or sufficient. The purchaser accepts responsibility for: (1) developing his/her own repair cost estimate, (2) determining what, if any, repairs are needed in excess of those listed herein, and (3) providing funding for such repairs.

Item	Mandatory	Est. Cost	Item	Mandatory	Est. Cost
Repairs to Residential Structures (including commercial areas)					
1	Concrete	\$3,032	17	Wood flooring	\$0
2	Masonry	\$10,880	18	Resilient Flooring	\$150,084
3	Metals	\$1,288	19	Painting & Decorating	\$231,346
4	Rough Carpentry	\$17,125	20	Specialties	\$18,880
5	Finish Carpentry	\$19,588	21	Special Equipment	\$0
6	Waterproofing	\$42,633	22	Cabinets	\$371,987
7	Insulation	\$7,375	23	Appliances	\$67,325
8	Roofing	\$0	24	Blinds & Shades	\$21,280
9	Sheet Metal	\$1,729	25	Carpets	\$0
10	Doors	\$90,190	26	Special Construction	\$84,632
11	Windows	\$218,600	27	Elevator	\$0
12	Glass	\$0	28	Plumbing & Hot Water	\$84,080
13	Lath & Plaster	\$0	29	Heat & Ventilation	\$128,928
14	Drywall	\$25,188	30	Air Conditioning	\$2,016
15	Tile Work	\$10,150	31	Electrical	\$25,868
16	Acoustical	\$0	Residential Structures Total		\$1,634,204
Repairs to Accessory Structures (community, maintenance, mechanical, garages, carports, etc.)					
32	Accessory Structures	\$0	34		
33			Accessory Structures Subtotal		\$0
Site Work					
35	Earth Work	\$6,570	39	Lawns & Planting	\$13,424
36	Site Utilities	\$0	40		\$0
37	Roads & Walks	\$25,752	41	Termite-Insect-Rodnt Trt	\$500
38	Site Improvements	\$55,439	Site Work Total		\$101,685
Enviromental Mitigation			Totals		
42	Lead Based Paint	\$0	Estimated Total Hard Cost		\$1,947,830
43	Asbestos	\$153,495	Est. Hard Costs(units not inspected)		127% \$2,479,057
44	Mold	\$54,146	Contingency		10% \$442,689
	O&M Plan for ACM & LBP	\$4,300	Ovrhd/Gen Req		15% \$664,033
Enviro/Mitigation-Other Subtotal		\$211,941	TOTAL		\$5,533,609

Previous Edition is obsolete w/CE for PD Cntr 02/07

Computerized form HUD-9552

1.0 Executive Summary

At the request and authorization of Mr. Hank Green of Leetex Construction LLC (Leetex), ATC Associates Inc. (ATC) performed a Phase I Environmental Site Assessment (ESA) of the Parkside Village Apartments (hereinafter, the property) located at 1423 North 9th Street in the City of Waco, McLennan County, Texas 76707. ATC performed this Phase I ESA to assess the environmental condition of the property in accordance with our proposal dated September 24, 2010 and in general conformance with the scope and limitation of ASTM Standard Practice E1527-05. Any exceptions to, or deletions from, this practice are described in Section 3.4 of this report. ATC identified no evidence of recognized environmental conditions in connection with the property.

The scope of work for this Phase I ESA included review of historical use information, review of federal and state regulatory databases, review of local government records, historical and on-site interviews, and a visual reconnaissance of the property and adjoining properties. Further details regarding the scope, objectives, extent and limitations of our services are detailed in the text of the report. Please note that this Executive Summary is only a brief summary of these Phase I ESA services and the entire report should be read for a comprehensive and accurate understanding of findings, conclusions, and recommendations.

1.1 Findings and Opinions

1.1.1 Site Description

The property consists of approximately 13.42 acres of land developed with twenty-six buildings, divided into three non-contiguous parcels. The property is currently vacant; two to four tenants were in the process of moving out during the 3-day site inspection. There are 200 total apartment units in twenty-five two-story buildings. A one-story leasing office building is located at the southeast corner of North 9th Street and Colcord Avenue and holds a street address at 1323 North 9th Street. The leasing office building includes community rooms and a laundry room. A metal one-story building located near the northeast portion of the property serves as a maintenance shop. Access is provided to the property via asphalt drives from several of the adjoining streets. Asphalt parking lots are located throughout the property. Landscaping is located along the buildings and property perimeters. The property slopes to the east-southeast toward the city storm drainage channel, which borders the property on the east side. The buildings are of wood frame construction with brick and hardboard siding exterior walls, composite shingle roofs, painted interior sheetrock walls, and vinyl floor tile floors.

1.1.2 Findings & Opinions (de minimus, suspect or known RECs)

This assessment has revealed no evidence of *recognized environmental conditions* in connection with the property.

1.1.3 Conclusions

ATC has performed this Phase I ESA in conformance with the scope and limitation of ASTM Standard Practice E 1527-05. Any exceptions to, or deletions from, this practice are described in Section 2.0 of this report. This assessment has revealed no evidence of *recognized environmental conditions* in connection with the property.

1.1.4 Other Services

Although this Phase I ESA should not be misconstrued as a formal compliance audit, ATC did not note any obvious issues of potential environmental (e.g., regulatory or material) non-compliance during the property inspection.

Asbestos Containing Materials (ACM) Sampling Program

ATC performed a limited asbestos sampling of the property. A total of twenty-eight samples were collected from various apartment units and common areas. Of the twenty-eight samples, twenty-three were considered to be positive for asbestos. The positive samples were identified as joint compound on walls and

ceilings, wall texture, floor tiles and mastic, and HVAC vibration dampener material. See section 8.2 for further discussion. Laboratory results are included in Appendix E.

Fungal Growth Sampling Program

ATC observed potential moisture intrusion in approximately seventeen of the twenty-six apartments inspected. Seven bulk tape samples were collected and submitted to an independent laboratory for analysis. The majority of the water/microbial damage observed was within the HVAC closets of the apartments. An exception to this commonality was where water damage was evident in areas which had been subjected to prolonged leaking water lines due to the failure to shut off the water supply to vacant apartments and/or vandalism. Tape sampling resulted in a very heavy presence of *Chaetomium*, *Stachybotrys*, *Penicillium/Aspergillus*, and/or Hyphal fragments. See Section 8.4 for further discussion and recommendations. Laboratory results are included in Appendix E.

Limited Lead Based Paint (LBP)

ATC took a number of readings from the interiors of various apartment units and various exterior surfaces utilizing an XRF meter. A total of 606 readings were collected at the property. One reading on an exterior component indicated a positive result (>1.0%) for lead based paint. See Section 8.3 for further discussion. A copy of the XRF inspection results is included in Appendix E.

Radon Sampling Program

ATC performed a limited radon screening at the site to check radon gas levels in the buildings. A total of twenty-three samples were collected from twenty-three first floor apartment units. The samples were collected on activated charcoal and were submitted to an independent laboratory for analysis. Radon analytical results were below the EPA recommended action guideline of 4.0 pCi/L. See Section 8.1 for further discussion. Laboratory results are contained in Appendix E.

The User did not request additional conditions for inclusion in the scope of this assessment.

1.2 Recommendations

The following recommendations apply to the findings listed above:

Asbestos Containing Materials (ACM) Sampling Program

ATC recommends that identified ACM be managed under an Operations & Maintenance (O&M) Plan until renovation or demolition requires the removal and/or abatement of these materials. Note that a limited survey was conducted which is not in compliance with Texas Department of State Health Services (TDSHS), and a comprehensive ACM inspection would be necessary to more fully evaluate the presence of ACM throughout the property buildings prior to any future renovation and/or demolition activities for the property. Such activities should be undertaken by licensed personnel in accordance with applicable federal, state, and local rules and regulations.

Limited Lead Based Paint (LBP) Survey

ATC has no further recommendations for LBP. Note that a limited survey was conducted, and a comprehensive LBP inspection would be necessary to more fully evaluate the presence of LBP throughout the property building prior to any future renovation and/or demolition activities for the property. Such activities should be undertaken by licensed personnel in accordance with applicable federal, state, and local rules and regulations.

Fungal Growth Sampling Program

ATC recommends that areas identified as containing fungal growth in amounts less than twenty-five contiguous square feet be removed and replaced under the guidelines of the apartment complex Operations and Maintenance Plan during renovation activities. All areas of fungal growth following all state rules and regulations. Although ATC attempted to observe reasonable accessible areas for moisture intrusion, please be advised that all areas could not be accessed during site reconnaissance.

2.0 Site Description

The approximately 13.42-acre property is located to the east of North 10th Street, to the south of Tennessee Avenue, to the north and south of Colcord Avenue, and to the west of the city storm drainage channel which borders the property on the east and northeast side. Access to the site is available off of multiple streets in the area. The physical property address is 1423 North 9th Street, Waco, McLennan County, Texas 76707. The leasing office holds an address at 1323 North 9th Street.

The site is divided into three non-contiguous parcels, which are addressed at 1500 North 10th Street, 1201 North 9th Street, and 1401 North 9th Street. The latitude at the leasing office is approximately 31 33' 42.41" N and the longitude is approximately 97 8' 41.88" W. A site vicinity map is located in Appendix A.

Information obtained from the McLennan County Appraisal District (MCAD) website indicated that the construction year for the property buildings was 1970. According to information obtained from MCAD and a property lien search report prepared by Ameristar Information Network, Ltd, (Ameristar) the property is composed of three parcels that are legally described as " Lot One (1) in Block Two (2), Lot One (1) in Block Four (4), and Lot One (1) in Block Thirteen (13), all of Dewey Addition, Part One (1) to the City of Waco, McLennan County, Texas." The MCAD property identification numbers are 171324 (1500 N. 10th Street), 171325 (1201 N. 9th Street), and 171329 (1401 N. 9th Street). The property owner is reported as American Housing Foundation. A copy of the Ameristar lien search report is included in Appendix C and copy of MCAD documentation is included in Appendix E.

According to the City of Waco Planning Department, the property is currently zoned for use as R-3E or Multiple Family Residence District. A copy of the zoning map is included in Appendix E.

Attachment F

Certification of Substantial Compliance

TO: The United States Department of Housing and Urban Development

FROM: _____

I Certify to HUD that any and all project(s) that are owned by _____, or its affiliates, and located in

_____ (City or Town where project being purchased is located) is/are in substantial compliance with

applicable State and/or local housing statutes, regulations, ordinances and codes and are listed on Schedule A attached hereto.

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.

By: _____
Purchaser Name

Title

Address

Telephone Number

Date

STATE OF: _____)
COUNTY OF: _____)
Came before me this _____ day of _____, 20___. Notary Seal

Schedule A: All projects owned by _____ or affiliates.

List each project name	List name of principal or affiliate with ownership of project.	List project address