



INVITATION TO BID AT FORECLOSURE SALE

Holy Comforter House
745 Walnut St
Gadsden, Alabama 35091
A 185 Unit Multifamily Community

❖ This is an "all-cash", "as-is" sale. HUD is not offering financing with this sale.



Oral bids will be accepted on:
May 24, 2019
at: 11:00 a.m. (local time)

Sale Location:
Etowah County Courthouse
(Main Entrance)
800 Forrest Avenue
Gadsden, AL 35091

Open House:
Date: May 16, 2019
Time: 10:00am – 12:00pm Local
Time



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

BIDDERS SHOULD PERFORM DUE DILIGENCE IN ADVANCE OF SUBMITTING A BID. WHILE HUD HAS EXERCISED CARE TO ENSURE ACCURACY, ALL INFORMATION PROVIDED IS SOLELY FOR THE PURPOSE OF ASSISTING INTERESTED PARTIES WITH DETERMINING 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 INFORMATION CONTAINED HEREIN.

DEFINITIONS

The following definitions apply to capitalized terms in this Invitation.

1. **APPS:** The Active Partners Performance System is a secure systems website that allows HUD's business partners to manage their entity and individual participation information and submit Previous Participation Certification requests directly to HUD for processing. More information can be found at: https://www.hud.gov/program_offices/housing/mfh/apps/appsmfhm.
2. **Acknowledgment:** The document executed at the Foreclosure Sale by the High Bidder, obligating the High Bidder to the terms and conditions of the Foreclosure Sale. The form is attached to this Invitation as Attachment B.
3. **Act:** Multifamily Mortgage Foreclosure Act, 12 U.S.C. § 3701-15.
4. **Affiliate:** Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. The ways HUD may determine control include, but are not limited to (a) Interlocking management or ownership; (b) Identity of interests among family members; (c) Shared facilities and equipment; (d) Common use of employees; or (e) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person. (2 C.F.R. § 180.905 - Affiliate.)
5. **Approved High Bidder:** The High Bidder HUD determines, following a review of the Post-Bid Document Submittals, is qualified to purchase and own the Property.
6. **Business Partners Registration (BPR):** Registration in this System is required for access to HUD's secure systems (TRACS, Inspection retrieval, Financial Reporting) for companies that have never done business with HUD.
7. **Cash Due at Closing:** The bid price less the Earnest Money Deposit plus all initial deposits to escrow and/or reserve accounts HUD may require less any prorations and any outstanding encumbrance that survived the Foreclosure Sale. Funds shall be paid in the form of a money order, certified funds or a cashier's check made payable to: The U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.
8. **Certification of Substantial Compliance:** A certification by High Bidder that its other properties in the jurisdiction of the Property are in substantial compliance with state and local laws. Attachment G of this Invitation.
9. **Closing:** Date when legal title to the Property is transferred to the Approved High Bidder.
10. **Days:** Federal government business days, unless otherwise stated as calendar days.
11. **Earnest Money Deposit:** The amount of the deposit identified in the Property at a Glance that must be submitted at the Foreclosure Sale.
12. **Extension Fees:** Fee HUD assesses when the High Bidder requests an Extension Period for Closing. If authorized, the Approved High Bidder must pay for the entire Extension Period, the amount of which HUD determines, consistent with current policies and procedures.
13. **Extension Period:** A additional thirty (30) calendar day period that HUD may give for the Closing to occur.
14. **Foreclosure Commissioner:** An individual or entity HUD designates to conduct the Foreclosure Sale, pursuant to 12 U.S.C. § 3704 and 24 C.F.R. § 27.10.
15. **Foreclosure Deed:** The deed that transfers title of the Property to the Approved High Bidder. It will not contain any warranties of title.
16. **Foreclosure Sale:** Sale of the Property pursuant to 12 U.S.C. § 3710.
17. **High Bidder:** The bidder at Foreclosure Sale that submits the highest responsive bid amount to the Foreclosure Commissioner
18. **Invitation:** This Invitation to Bid including all the accompanying exhibits, which sets forth the terms and conditions of the sale of the Property at the Foreclosure Sale and includes information about the documents and actions necessary to submit a complete and responsive bid and for HUD to approve a bidder as qualified.
19. **Letter of Credit (LOC):** An unconditional, irrevocable, and documentary assurance to HUD, issued from a recognized FDIC-insured lending institution, that serves as an incentive for the Approved High Bidder/Owner to satisfactorily complete the Post-Closing Repairs. The required amount is identified in the Property at a Glance.
20. **Owner:** The Approved High Bidder that completes the Closing and takes title to the Property through the execution and recordation of the Foreclosure Deed.
21. **Payment and Performance Bonds:** An assurance of completion of the Post-Closing Repairs. Form HUD-92452A should be used for payment bonds and any form for the performance bond acceptable to HUD. Each bond must equal 100% of HUD's estimated amount of the Post-Closing Repairs.
22. **Physical Condition Standards (PCS):** The Department's minimum physical condition standards required for either the units receiving Project-based Section 8 assistance or units occupied by tenants receiving Section 8 assistance at the Property. (24 C.F.R. § 5.703) These standards must be met within a specified number of calendar days after Closing and maintained thereafter subject to periodic HUD inspections.
23. **Post-Bid Document Submittals:** All documents, statements, and forms listed in the Invitation that must be submitted by the High Bidder and its principals and management company, if any, in order to be considered for HUD-approval to purchase and/or manage the Property.

24. Post-Closing Repairs: All HUD-required repair and/or rehabilitation work that the Approved High Bidder/Owner must perform after Closing in a workmanlike manner and compliant with state and local codes, laws, ordinances, regulations, and HUD's Physical Condition Standards. A list of HUD-required repairs is provided on Form HUD-9552 as Attachment E to this Invitation. HUD has estimated the cost of these repairs. Actual costs ultimately incurred by the Approved High Bidder/Owner may be more or less than the estimates
25. Previous Participation Certification: Form HUD-2530 and required supporting documentation submitted by the High Bidder and principals after the Foreclosure Sale, containing information about the High Bidder's and principals' previous participation in HUD programs and, if applicable, other federal, state, or local housing programs. HUD uses the Previous Participation Certification, in combination with other factors, as a prerequisite to determine whether the High Bidder and its affiliates can participate in owning and/or operating the Property.
26. Principal: (a) an officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or (b) a consultant or other person, whether or not employed by the participant or paid with Federal funds, who (1) is in a position to handle Federal funds; (2) is in a position to influence or control the use of those funds; or, (3) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction; or (c) a person who has a critical influence on, or substantive control over, a covered transaction, whether or not employed by the participant. (For complete definition see 2 C.F.R. § 180.995 – Principal, as supplemented by 2 C.F.R. § 2424.995.)
27. Property: The multifamily housing project for sale in this Invitation and all real and personal property appurtenant thereto.
28. Property at a Glance: Attachment A to the Invitation that contains information about the Property and contact information for the Realty Specialist.
29. Realty Specialist: HUD staff member identified in the Property at a Glance who can be contacted for additional information concerning the Property or the Foreclosure Sale.
30. Second Highest Bidder: The bidder at the Foreclosure Sale that submits the second highest bid amount to the Foreclosure Commissioner. Bidders who submit a bid in an amount less than the second highest amount could ultimately be deemed Second Highest Bidder should HUD not approve the High Bidder or a higher bidder withdraws its higher bid.
31. Section 8: Section 8 of the United States Housing Act of 1937 and applicable regulations within Title 24 of the Code of Federal Regulations.
32. Statement of Experience: A written statement in the Post-Bid Document Submittals the High Bidder provides for HUD to determine whether to grant approval as Approved High Bidder of the Property.
33. Use Agreement: The Foreclosure Sale Use Agreement in the form attached as Attachment C to this Invitation, which the Approved High Bidder will execute at Closing and which will run with the land to bind the Owner and any permitted successors and assigns.

SECTION 1 - INTRODUCTION AND GENERAL INFORMATION

1. **BID RESPONSIVENESS:** A bid must meet all the terms of the Foreclosure Sale to be responsive. Each bid shall be firm, unconditional, fixed in an amount certain, and not in the alternative. Special conditions, alterations, or deletions will render a bid non-responsive. The terms of the Foreclosure Sale are those set out in this Invitation. Lack of the Earnest Money Deposit will be cause for bid rejection.
2. **SALE TO HIGHEST QUALIFIED BIDDER:** Sale of the Property will be awarded to the highest bidder that HUD determines is qualified to purchase the Property. **Pursuant to 24 CFR 27.20, the defaulting owner of the Property, or any Principal, successor, Affiliate, or assignee thereof is not eligible to bid, or otherwise acquire, the Property.**
3. **NO REDEMPTION PERIOD:** This Foreclosure Sale is not subject to redemption by the defaulting owner of the Property.
4. **BID ACCEPTANCE OR REJECTION:** At any time prior to Closing, HUD reserves the right to reject any and all bids, to waive any informality in any received bid, and to reject the bid of any bidder HUD determines lacks the eligibility to bid, experience, ability, or financial responsibility necessary to own and manage the property in a manner acceptable to HUD.
5. **CANCELLATION OF SALE:** HUD reserves the unconditional right to cancel this Invitation and reject any and all bids at any time prior to the Closing of the Foreclosure Sale.
6. **BIDDER'S DUE DILIGENCE:** Bidders, their agents, and advisors should carefully review the information in this Invitation and any additional information made available by HUD and should undertake their own investigation of the Property to evaluate the benefits and risks associated with purchasing the Property.
7. **POST-CLOSING REQUIRED REPAIRS:** The Post-Closing Repairs that the Owner must complete are included in Rider 6 of the Use Agreement and Attachment E to this Invitation. The Owner's obligation to complete all Post-Closing Repairs listed in Attachment E will survive the Closing and will be recorded as part of the Use Agreement and with the Foreclosure Deed.
8. **OUTSTANDING ENCUMBRANCES THAT SURVIVE FORECLOSURE:** By entering its bid, the High Bidder agrees to assume all responsibility for paying all outstanding encumbrances and expenses, including, but not limited to, taxes, assessments, utility bills and any liens not extinguished by the Foreclosure Sale. Bidders are advised to determine outstanding expenses, taxes, utilities, assessments, and liens as part of their due diligence and consideration when bidding.
9. **RECORDATION OF CERTAIN DOCUMENTS:** The Use Agreement, any and all riders thereto and the Post-Closing Repairs will be recorded with the Foreclosure Deed.
10. **ADDITIONAL INFORMATION:** For additional information, please contact the Realty Specialist.

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

1. **GENERAL:** The High Bidder, any management agent and any other participants HUD requires must file a Previous Participation Certification in either electronic or paper format. The High Bidder must comply with all Previous Participation Certification requirements as outlined in the Acknowledgment.
2. **ELECTRONIC FILING:** The High Bidder can use APPS to electronically file the Previous Participation Certification. Prior registration in APPS is not mandatory in order to bid at the Foreclosure Sale but is recommended. If the Organization/entity has not conducted business with HUD previously, access to HUD's secure systems will be required and the entity must first register with BPR. Click on the "Business Partner Registration HUD Multifamily" link on the APPS Home Page at the following URL to start the registration process. http://www.hud.gov/program_offices/housing/mfh/apps/appsmfhtm. After completing this registration process, wait at least 24 hours before registering for your Coordinator or User ID. Then allow approximately two (2) weeks to receive the User/Coordinator ID. Instructions for registering for both Secure Systems and APPS are located on the [Active Partners Performance System \(APPS\) web site](#), accessible using the above cited URL. Once the Coordinator ID is received, details on requesting access key codes and other relevant information is provided in APPS Quick Tips available on APPS web site.
3. **PAPER FILING:** A High Bidder using paper format must submit the Previous Participation Certification and an organizational chart, in accordance with HUD NOTICE H 2016-15, of the proposed ownership entity to the Realty Specialist within the time limits outlined in Section 4 below. Applicants must identify controlling participants in compliance with 24 CFR Part 200, Subpart H, published on Friday, October 14, 2016.

4. **UPDATES:** If the High Bidder expects a management agent to participate in the management of the Property, or if the High Bidder is changing principals, adding principals, changing the name of the purchasing entity, or changing tax identification from information already recorded in the Previous Participation Certification, **it is the High Bidder's responsibility to ensure that all necessary changes are made to the Previous Participation Certification within the prescribed time frames.**
 - **Failure of any participant to submit a Previous Participation Certification or other required document(s) within the time frame specified in Section 4 below may be grounds for HUD to reject the bid.**
 - **HUD must approve the High Bidder's experience, qualifications and capacity in order for the High Bidder to purchase the Property. This includes, but is not limited to, Previous Participation Certification approval.**

SECTION 3 - FORECLOSURE SALE PROCEDURES AND SUBMISSION OF BIDS

1. **GENERAL:** The Foreclosure Sale is an oral, open bid sale that takes place at the date, time and place indicated on the cover of this Invitation. HUD has designated a Foreclosure Commissioner to conduct the sale of this Property.
2. **BIDDING AT THE FORECLOSURE SALE:**

A bidder must either:

 - i. State a bid price orally at the sale, or
 - ii. Submit a sealed written bid with Earnest Money Deposit to the Foreclosure Commissioner at least two (2) days before the published date of the Foreclosure Sale. Written bids, if received, will be read aloud before oral bids are accepted. Please contact the Realty Specialist for details on how to submit a written bid.
3. **CORRECTIONS:** Any changes or erasures made to a written bid must be completed and initialed by the bidder or bidder's agent at least 24 hours prior to the published start time for the Foreclosure Sale.
4. **E-MAILED OR FACSIMILE BIDS:** E-mailed or facsimile bids and/or bid modifications will not be considered.
5. **ITEMS THAT MUST BE SUBMITTED AT THE FORECLOSURE SALE:**
 - a. **Earnest Money Deposit:**
 - i. The Earnest Money Deposit in the amount specified in the Property at a Glance must be submitted directly to the Foreclosure Commissioner or his designee before the start of the Foreclosure Sale and prior to presenting an oral bid or simultaneously with a written bid.
 - ii. The Earnest Money Deposit must be in the form of a money order, certified funds, or cashier's check payable to: **THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.** No other method of payment is acceptable.
 - iii. A financial organization submitting a bid on its own behalf must have the Earnest Money Deposit drawn on another financial organization.
 - iv. A bidder's lack of proper Earnest Money Deposit is cause for HUD to reject any bid.
 - b. **Evidence of bidder eligibility,** if applicable
6. **NOTIFICATION TO THE HIGH AND SECOND HIGH BIDDER:** After reviewing all the written and oral bids, the Foreclosure Commissioner will orally notify the High Bidder and Second High Bidder of their bidding positions immediately after the Foreclosure Sale.
7. **ACKNOWLEDGMENT BY BIDDER:** Immediately after the Foreclosure Sale, the High Bidder must submit a signed copy of the Acknowledgment to the Foreclosure Commissioner.

SECTION 4 - POST-FORECLOSURE SALE PROCEDURES

1. **CONTINUANCE OF OFFERS:** All bids shall be deemed to be continuing offers from the time of the Foreclosure Sale until bid-rejection by HUD or until Closing.
2. **POST-BID DOCUMENTS SUBMITTALS:** The High Bidder must submit the following items to the Realty Specialist as stated below:
 - a. **Within Five (5) Days After Foreclosure Sale:**
 - i. Previous Participation Certification
 - a) **Electronic filing:**

Electronic filers already registered in Secure Systems and APPS, submit e-2530 using Active Partners Performance System (APPS) and provide submission ID to the Realty Specialist. Note: If not registered in BPR previously, required deadlines will not allow sufficient time to file electronically.
 - b) **Paper filing:**

- (i) **If not already registered in BPR, High Bidder must register and notify HUD of the registration by providing the TIN of the proposed purchasing entity to the Realty Specialist.** Register by clicking on the Business Partner Registration HUD Multifamily Link on the APPS Web Page at http://www.hud.gov/program_offices/housing/mfh/apps/appsmfhm.
- (ii) **Form HUD-2530:** A completed paper form, with original signatures, for the High Bidder and any and all controlling principals. Proposed ownership must have an established tax identification or social security number; **and**
- (iii) **Organizational Chart:** A flow chart reflecting all Principals of the High Bidder and each principal's percentage of ownership.
- ii. **Certification of Substantial Compliance:** A completed and original certification found as Attachment G to this Invitation. If HUD determines that properties disclosed by the High Bidder are not in substantial compliance with federal regulations and state and local codes, HUD may determine the High Bidder is not qualified to purchase the Property. The Earnest Money Deposit may be forfeited.
- iii. **Written Statement of Experience:** The High Bidder must submit a written Statement of Experience. Instructions for preparing the written Statement of Experience are provided in the Acknowledgment.
- b. **Within Ten (10) Days After Foreclosure Sale:** The High Bidder must submit the documents checked below:
 - Affirmative Fair Housing Marketing Plan (Form HUD-935.2A)
 - Previous Participation Certification (Form HUD 2530) for Approved High Bidder, if different from High Bidder
 - Previous Participation Certification (Form HUD 2530) for the Management Agent, if applicable
 - Personal Financial and Credit Statement (Form HUD 92417), for each proposed principal
 - Management Entity Profile (Form HUD-9832)
 - Project Owner's Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839A),
 - Project Owner's/Management Agent's Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents (Form HUD-9839B)
- c. **Within Fifteen (15) Days After Foreclosure Sale:** Previous Participation Certification for the management agent or the High Bidder's ownership entity must be completed and a signed copy provided to the Realty Specialist.

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

3. **QUALIFICATION, ACCEPTANCE, REJECTION OF BID:**

- a. **Required Bidder Qualifications to Purchase Property:**
 - i. The objective of HUD's multifamily foreclosure process to transform troubled and distressed multifamily properties into viable, long-term affordable rental housing resources. To accomplish this, HUD will only sell the Property to a High Bidder that is eligible to bid, has the financial capacity and demonstrated experience (approximately five (5) years) of successfully owning, managing and transforming distressed and troubled multifamily properties into viable, low-income housing resources.
 - ii. HUD has the sole and absolute discretion to evaluate bidders, starting with the High Bidder and proceeding in descending order, if necessary, on the bidder's eligibility to bid, demonstrated experience, qualifications and capacity to purchase and successfully transform the Property into a long-term, viable housing resource. HUD will base its determination on a review of the Post-Bid Document Submittals and information HUD independently obtains and verifies. A bidder must demonstrate that he owns (or has owned) and is successfully managing and operating (or has successfully managed and operated) properties of similar size and characteristics as the Property.
 - iii. HUD may, in its sole discretion, accept or reject any bid submitted for the purchase of the Property. HUD's review and approval of the Previous Participation Certification is a requirement for the High Bidder to purchase of the Property. However, Previous Participation Certification review is only one aspect of HUD's approval process concerning the bidder's qualifications.
 - iv. If HUD determines that the High Bidder is not eligible to bid, does not have the experience, qualifications and/or financial capacity to purchase the Property, HUD will reject the bid and proceed to the Second Highest bidder pursuant to the terms of the Invitation.
 - v. In the event that HUD rejects a bid, HUD will return the bidder's Earnest Money Deposit, provided the High Bidder has not failed to meet time limits required to submit documentation, or made any misrepresentation or material omission(s) in the Post-Bid Document Submittals. If the High Bidder fails to properly submit all required documentation within the required time limit or HUD determines that the High Bidder misrepresented his or her eligibility to bid, experience, qualifications, or financial capacity, the Earnest Money Deposit will be forfeited and retained as liquidated damages. HUD may seek any and all additional remedies.
 - vi. HUD may require the High Bidder to obtain the services of a qualified multifamily management firm. HUD (see paragraph 5 below) must approve any management agent prior to Closing.

- b. **Bidder Approval:**
 - i. Upon HUD's determination that the High Bidder is qualified, the High Bidder will be confirmed as and identified as the Approved High Bidder;
 - ii. Upon HUD's determination that the High Bidder is not qualified, HUD will notify the High Bidder in writing;
 - iii. If HUD rejects the High Bidder, HUD may in its sole discretion elect to contact the Second Highest Bidder, which may include succeeding bidders as bidders withdraw or do not qualify, to purchase the Property. If contacted, the Second Highest bidder or succeeding bidder will be offered the opportunity to purchase the Property and will be given twenty-four (24) hours to submit evidence of eligibility to bid, the Earnest Money Deposit and execute the Acknowledgment, and thereby will become the High Bidder. HUD will then review the Post-Bid Document Submittals, which must be submitted within the same timeframes detailed in Section 4 of this Invitation beginning from the date the Acknowledgment is executed, in order to determine if the new High Bidder is qualified to purchase the Property;
 - iv. HUD's notification of rejection due to lack of eligibility and/or qualifications, if applicable, shall be given when mailed to the individual or entity that executed the Acknowledgment; and
 - v. HUD's rejection of a bid will be made as promptly as possible and generally within thirty (30) days after the date of the Foreclosure Sale.
4. **EARNEST MONEY DEPOSIT:** Immediately following the Foreclosure Sale, the Earnest Money Deposit will be returned to all bidders except the High Bidder. HUD will not pay interest on Earnest Money Deposits.
 - a. If HUD determines that the High Bidder is qualified, the Earnest Money Deposit will be credited toward the Cash Due at Closing.
 - b. If HUD rejects the bid because the amount is unacceptable, the bidder's Earnest Money Deposit will be refunded.
 - c. If HUD determines the High Bidder is not qualified to purchase the Property and the High Bidder has complied with the requirements of this Invitation, the Earnest Money Deposit will be refunded.
 - d. If, during the review of the High Bidder, HUD finds that the High Bidder has made any misrepresentation or material omission(s) in its submission of evidence of eligibility and/or documentation, the Earnest Money Deposit will be forfeited
 - e. If the High Bidder fails to comply with the provisions of the Invitation, the Earnest Money Deposit will be forfeited.
5. **REVIEW OF PROPERTY MANAGEMENT:** HUD will review the Post-Bid Document Submittals to determine if the proposed management entity has the necessary qualifications to operate, manage, and/or administer the type of subsidy and characteristics of the Property. HUD may elect to discuss property management plans of the Property after High Bidder provides the Post-Bid Document Submittals. HUD reserves the right to reject the bid of any bidder and retain the Earnest Money Deposit if the High Bidder does not provide management acceptable to HUD.
6. **CLOSING DATE:** The date and place for Closing will be determined by HUD and the Foreclosure Commissioner and occur within the time period specified in the Acknowledgment. HUD reserves the right to extend the Closing as set forth in the Acknowledgment.

SECTION 5 – CLOSING

1. **EXECUTION OF USE AGREEMENT:** The Approved High Bidder and HUD will execute the Use Agreement at Closing. HUD will record the Foreclosure Deed and the Use Agreement, with all riders.
2. **CASH DUE AT CLOSING:** At Closing, the Approved High Bidder will pay all Cash Due at Closing. Cash Due at Closing is the bid price less the Earnest Money Deposit received, less any prorations, plus all initial deposits to escrows and/or reserve accounts, if applicable. Any outstanding encumbrance amount that survives the Foreclosure Sale is also due.
3. **PRORATIONS:**
 - a. Approved High Bidder is responsible for paying all taxes, assessments, liens, and utility bills including but not limited to, water, sewer, gas and electric, and any other encumbrances not extinguished by the Foreclosure Sale. These amounts will not be prorated.
 - b. If Extension Fees were paid, and the Closing occurs prior to the expiration of an Extension Period, the prorated amount of the Extension Fees for the unused portion of the Extension Period will be credited toward the Cash Due at Closing.
4. **CLOSING EXPENSES:** HUD will pay all recordation fees for the Foreclosure Deed and Use Agreement. Irrespective of local custom, the Approved High Bidder shall pay all remaining Closing expenses, including, but not limited to, all documentary stamp taxes, and any costs in connection with a review of title or title insurance.
5. **METHOD OF PAYMENT:** Cash Due at Closing shall be paid only in the form of a money order, certified funds, or cashier's check made payable to:

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

- 6. **POST-CLOSING REPAIR ESCROW:** If Post-Closing Repairs are required as a condition of Closing, Approved High Bidder shall provide a Letter of Credit or Payment and Performance Bonds in the required amounts as assurance that the Approved High Bidder will complete the Post-Closing Repairs.
- 7. **CONVEYANCE:** Conveyance of the Property shall be by Foreclosure Deed at Closing. The Foreclosure Deed will not contain any warranties of title.
- 8. **DOCUMENTS TO BE FURNISHED OR EXECUTED AT CLOSING:**
 Foreclosure Sale Use Agreement **Letter(s) of Credit** **Closing Statement**

SECTION 6 DISCLAIMERS

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

ATTACHMENTS

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

THESE FORMS ARE AVAILABLE AT
https://www.hud.gov/program_offices/administration/hudclips/forms
OR USE THE URL PROVIDED BELOW TO OBTAIN THE FORM

<input checked="" type="checkbox"/>	Previous Participation Certification (Form HUD-2530) https://www.hud.gov/sites/documents/2530.PDF
<input checked="" type="checkbox"/>	Personal Financial and Credit Statement (Form HUD-92417) for each proposed principal and/or partner https://www.hud.gov/sites/documents/92417.PDF
<input checked="" type="checkbox"/>	Management Entity Profile (Form HUD-9832) https://www.hud.gov/sites/documents/9832.PDF
OR <input checked="" type="checkbox"/>	Project Owners Certification for Owner-Managed Multifamily Housing Properties (Form HUD-9839 A) https://www.hud.gov/sites/documents/9839-A.PDF
<input checked="" type="checkbox"/>	Project Owner's/Borrower's Certification (Form HUD-9839 C) - For elderly housing properties managed by Administrators only https://www.hud.gov/sites/documents/9839-C.PDF

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 HIGH BIDDER'S EARNEST MONEY DEPOSIT.



**Attachment A
PROPERTY AT A GLANCE**

Holy Comforter House FHA #: 062-SH005

ADDRESS: **745 Walnut St** EARNEST MONEY: **\$75,000** SALES PRICE: **Unstated Minimum**
Gadsden, Alabama TERMS **"All-Cash, As-Is"; 30 calendar days to close**
 COUNTY: **Etowah** LETTER OF CREDIT: **\$1,000,000** SALE **Foreclosure**

PROPERTY INFORMATION

Total Units 185	Residential Revenue 185	Commercial 0	Foundation: Concrete
	Non-Revenue 0		Roof: Membrane
Building/Site Type High-rise			Exterior: Masonry/EIFS
			Floors/Finish: Concrete/VCT/Vinyl/Carpet/Ceramic Tile

Number of Buildings 1	Stories 15	Year Built 1971	Rehab Year N/A	Approximate Site Acreage 2.41	Approximate Net Rentable Area 83,621
--	-----------------------------	----------------------------------	---------------------------------	--	---

Mechanical Systems

Heating:

Fuel **Electric**
System **Central**

Air

Conditioning **Central**
Windows **Single pane/Screen**

Hot Water:

Fuel
System

Utilities

Public Water
Gas Main
Electric
Sanitary Sewer
Storm Sewer
Septic Tank

Parking

Street **Asphalt**
Curb **Concrete**
Sidewalk **Concrete**
Parking Lot **Asphalt**
Parking **1**
Spaces **160**

Apartment Features

- Air Conditioning
- Dishwasher
- Microwave
- Garbage Disposal
- Refrigerator
- Elec** Range/Oven
- Drapes/Blinds

Community Features

- Garage
- Covered Parking
- Laundry Facility
- Cable/Sat Hookup
- Playground
- Pool
- Community Space

Owner Expense

Cold Water
Gas
Hot Water
Electricity
Parking

Tenant Expense

N/A

RECENT OCCUPANCY

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018				45%	45%	45%	44%	41%	41%	40%	40%	39%
2019	38%	36%										

ESTIMATED ANNUAL RENTAL INCOME and EXPENSE:

# of Units	Type (# of Bdrs)	Approx Square Feet	Current Gross Rent	After Sale Rent	Total After Sale Rent
89	0 bdrs/1 bth	371	\$317	\$325	\$347,100
81	1bdrs/1 bth	492	\$417	\$425	\$413,100
12	1 bdrs/2 bth	863	\$504	\$525	\$75,600
3	2 bdrs/2 bths	984	\$655	\$675	\$24,300
Estimated/Possible Monthly Total					\$860,100

Total Estimated/Possible Annual Income	
Rent	\$860,100
Commercial	0
Parking	0
TOTAL	\$860,100
Estimated Annual Expenses	
Administrative	\$173,814
Utilities	\$183,516
Operating	\$116,255
Taxes/Insurance	\$62,401
Total	\$535,986

COMMENTS CONCERNING PROPERTY INFORMATION:

Project-Based Section 8 and/or Tenant Based Section 8 Rental Assistance is not being offered with this foreclosure sale.

USE RESTRICTIONS

20 Years affordable rental housing.

Two-year rent protection for eligible residents.

TENANT BASED SECTION 8

There are/may be Section 8 voucher holders at the Property. Housing Choice Vouchers (HCVs) are a tenant-based assistance subsidy, meaning that the subsidy follows the tenant and is not attached or connected to a specific property or unit, as is Project-based Section 8. Therefore, bidders should not consider HCVs as a guaranteed rental subsidy for the Property. There will be no project-based subsidy at this property.

TERMS OF SALE

- This is an "All-cash, As-is" sale. HUD is not providing financing for this sale. Payment of the full bid price must be presented at Closing.
- No consideration will be given to a bid submitted by any party currently suspended or debarred from participating in HUD programs. As provided for in 24 C.F.R. § 27.20(f), the defaulting mortgagor, or any Principal, successor, Affiliate, or assignee on the mortgage at the time of default shall not be eligible to bid on or otherwise purchase this Property.
- Bids for this Property will only be acceptable if properly submitted according to the Invitation which includes but is not limited to submitting evidence of bidding eligibility, the Earnest Money Deposit, and other forms and statements as required. The High Bidder will be reviewed to determine if eligible to bid, and qualified to purchase, own and manage the Property.
- The High Bidder must certify to HUD that any and all properties that the High Bidder or its Affiliates owns, located in the same city or town of the Property are in substantial compliance with applicable state and local housing statutes, regulations, ordinances and codes. See Attachment G, Certification of Substantial Compliance.
- High Bidder has the option to file the required Previous Participation Certification in electronic or paper format. **For questions concerning APPS, contact the Multifamily Housing Systems Help Desk at 1-800-767-7588. For questions concerning Secure Systems contact the REAC Help Desk at 1-888-245-4860.**
- Post-Closing Repairs estimated at \$4,203,620 must be completed to HUD's satisfaction within 24 months of Closing. Refer to the Use Agreement, Rider 6, and Attachment E for more information.
- Closing is to be held within thirty (30) calendar days after HUD notifies the High Bidder that they are qualified to purchase the Property.
- If HUD approves an extension of the Closing, the Approved High Bidder must pay a fee which is the greater of 1.5% of the bid price or HUD's holding costs of \$3.31 per unit per calendar day for each thirty (30) calendar day period.
- The Use Agreement will include the following Riders:
 - Enforcement
 - Affordability of Units
 - Two-Year Rent Protection for Pre-Existing Very Low-Income Tenants
 - Nondiscrimination Against Section 8 Certificate and Voucher Holders
 - Occupancy: Elderly and Persons with Disabilities
 - Required Rehabilitation
 - Environmental Hazards
 - Relocation

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

INFORMATION AND INVITATION

INFORMATION and INVITATION may be viewed or printed at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/pd/mfplist.

You may also sign up for our electronic mailing list at

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

Bids for Holy Comforter House:

MUST BE PRESENTED ON: May 24, 2019

At: 11:00 a.m. (local time)

Location of Foreclosure Sale:

Etowah County Courthouse

(Main Entrance)

800 Forrest Avenue

Gadsden, AL 35091

HUD Office and Contact Information for submission of documents:

Fort Worth HUD Office

Multifamily Property Disposition, 6AHMLAT

801 Cherry Street, Unit #45, Ste. 2500

Fort Worth, TX 76102

Realty Specialist: Lori L. Gregg

Phone: (817) 978-5801

Fax: (817) 978-6018

Email: Lori.L.Gregg@hud.gov

Bidders should perform due diligence in advance of submitting a bid. While HUD has exercised care to ensure accuracy, all information provided is solely for the purpose of assisting parties with determining whether or not the Property is of such type and general character as to interest them. HUD makes no warranty as to the accuracy of such information.

INSPECTION OF PROPERTY

HUD does not own or operate this facility and cannot grant access for viewing. Viewing is at the discretion of the current owner.

OPEN HOUSE:

Date: May 16, 2019

Time: 10:00am – 12:00pm Local Time

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 (\$ _____)(the, "Bid") at the Foreclosure Sale of Holy Comforter House (the "Property"), the legal description of which is included as Exhibit A, to be paid as follows:

1. **EARNEST MONEY:** \$ 75,000 in the form of a money order, certified funds, or cashier's check, as the Earnest Money Deposit, which has been submitted at the Foreclosure Sale to the Foreclosure Commissioner, and which shall not earn interest, **and**
2. **BALANCE OF THE BID:** \$_____, to be paid by the High Bidder at Closing, in the form of a money order, certified funds, or cashier's check in accordance with the Acknowledgment. The Closing will be held at a place, date and time established in accordance with Part II, paragraph 4 below.
3. **CLOSING COSTS, DEPOSITS, REPAIR ESCROW:** In addition to the above, the High Bidder will be required to pay all Closing costs at Closing, regardless of local custom, and, where applicable, deposits to reserve accounts, and/or Letters of Credit as described in the Invitation, the Use Agreement , and Riders incorporated herein.
4. **PRORATIONS:**
 - a. High Bidder is responsible for paying all taxes, assessments, liens, and utility bills including, but not limited to, water/sewer, gas and electric, and any other encumbrances not extinguished by the foreclosure. These amounts will not be prorated.
 - b. If Extension Fees were paid, and the Closing occurs prior to the expiration of the Extension Period, the prorated amount of the Extension Fees for the unused portion of the Extension Period shall be credited against the amount owed by the High Bidder at Closing.

PART II

The High Bidder, by executing this Acknowledgment, accepts the following requirements as conditions of purchasing the Property:

1. **ACKNOWLEDGMENT OF TERMS:** High Bidder affirms to have full knowledge of all the terms, conditions and requirements of the Foreclosure Sale contained herein, including the Use Agreement and Invitation, which are incorporated by reference in this Acknowledgment.
2. **EXECUTION OF USE AGREEMENT:** Without limiting the foregoing, at Closing High Bidder will, in addition to any other related documents, execute the Use Agreement and required Exhibits as contained in the Invitation. Such documents will control the use of the Property for a specified period, be recorded with the Foreclosure Deed, and run with the land.

3. SUBMISSION OF POST-BID DOCUMENTS BY HIGH BIDDER:

a. Five (5) Days After Foreclosure Sale:

i. **Previous Participation Certification:**

(a) Electronic Filers:

- (i) Bidders not registered in BPR, APPS and Secure Systems: Submit certification and evidence of BPR, Secure Systems and APPS Registrations. (Copies of the Participant Successfully Registered page from the APPS System and the Multifamily Coordinator and User Registration page or the Participant Detail Page.)
- (ii) Electronic Filers registered in APPS and Secure Systems: Submit evidence of filing Previous Participation Certification.

(b) Paper Filers:

- (i) Form HUD-2530: The completed paper form, with original signatures, for the High Bidder and all principals. Proposed ownership must have established tax identification or social security number; an entity "to be formed" will not be accepted, and
- (ii) Organizational Chart: an organizational chart, reflecting all principals of the purchasing entity and each principal's percentage or ownership must accompany the completed Form HUD-2530.

- ii. **Certification of Substantial Compliance:** Complete, original certification (Attachment G). The High Bidder must certify to HUD that any/all properties that are owned by the High Bidder or its Affiliates and are located in the same jurisdiction (city or town) where the Property is located are in substantial compliance with applicable state and local housing statutes, regulations, ordinances and codes.

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

- iii. **Written Statement of Experience:** The High Bidder must submit a written Statement of Experience demonstrating approximately five (5) years of experience in successfully owning and managing properties similar to the Property. The Statement of Experience shall provide the following information for all properties similar to the Property, not to exceed three (3) specific examples. The Statement of Experience should not exceed five (5) pages per property:

- The location of other owned multifamily properties.
- The number of units and construction type (garden, walk-up, hi-rise) for each property.
- Identify type of management.
- Identify properties that have government assistance and type of assistance, i.e., project-based assistance, tenant-based voucher assistance, etc.
- Identify the initial physical needs of each property and how they were addressed.
- Identify the social needs of each property and how they were addressed.
- Identify the economic needs of each property and how they were addressed.

In addition, for the Property, describe how you will:

- Satisfy conditions of the sale, i.e., Post-Closing Repairs, income and rent limitations, etc.
- Implement a sound financial and physical management program for the Property.
- Respond to the needs of the tenants and work cooperatively with resident organizations.
- Provide adequate organizational staff and financial resources to the Property.
- Provide services, maintenance and utilities to the Property.

Use other government assistance, if applicable.

This Invitation is for for an unsubsidized property. HUD is not providing Project-based or additional tenant-based Section 8 rental assistance with this Foreclosure Sale.

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

b. Within Ten (10) Days of Foreclosure Sale: The High Bidder must submit the following documents

- Affirmative Fair Housing Marketing Plan (Form HUD-935.2A)
- Previous Participation Certification for Approved High Bidder, if different from High Bidder
- Previous Participation Certification for the Management Agent, if applicable
- Personal Financial and Credit Statement (Form HUD-92417), for each proposed Principal
- Management Entity Profile (Form HUD-9832)
- Property Owner's Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839A)

c. Within Fifteen (15) Days of Foreclosure Sale: If the management agent or the High Bidder's ownership entity changes, the individual or entity must subsequently resubmit a corrected Previous Participation Certification.

NOTICE: It is the High Bidder's responsibility to ensure compliance with form and document submission as required in this Invitation and Acknowledgment. Failure to comply with all requirements of the Invitation or Acknowledgment may result in High Bidder being declared ineligible to purchase the Property. 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 prepared by HUD, used by HUD in the Property's jurisdiction, and contain additional covenants and conditions required by the Invitation.

4. ESTABLISHMENT OF CLOSING DATE, TIME AND PLACE:
 - a. Time is of the essence.
 - b. If HUD finds the High Bidder qualified based on all required Post-Bid Document Submittals, the High Bidder will be identified as the Approved High Bidder and notified in writing. The Closing **shall be within thirty (30) calendar days of such notification**, unless extended pursuant to paragraph 9 below.
 - c. The Closing date and place will be determined by the Foreclosure Commissioner and/or HUD and will take place within the time period specified above. The Approved High Bidder will be notified of said date and place by HUD and/or the Foreclosure Commissioner.
5. CLOSING, CLOSING EXPENSES AND TRANSFER OF POSSESSION:
 - a. The sale and transfer of title and possession of the Property shall be effective upon Closing.
 - b. Notwithstanding any local custom, Approved High Bidder shall pay all Closing costs and expenses, excluding fees for recording the Foreclosure Deed and Use Agreement. Recording fees for the Foreclosure Deed and Use Agreement shall be paid by HUD.
6. PAYMENTS DUE AT CLOSING: The Approved High Bidder shall pay any remaining balance of the Bid at Closing in the form of a money order, certified funds, or cashier's check made payable to: **THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**. If necessary, the Approved High Bidder shall also make the appropriate deposits to escrow and reserve accounts.
7. POST-CLOSING REPAIR ESCROW: At Closing, the Approved High Bidder shall submit to HUD a minimum of two (2), and a maximum of four (4) unconditional, irrevocable and documentary Letters of Credit that:
 - i. total \$1,000,000, and
 - ii. shall remain in effect and may be drawn on by HUD for at least twenty-four (24) months past the later of the deadline or actual date for the completion of repairs.

Each Letter of Credit must expire at least six (6) months beyond HUD's repair completion deadline. Letters of Credit may be returned as the Owner completes Post-Closing Repairs and HUD inspects and accepts them, with the exception of the final Letter of Credit, which will be held for six (6) months past the completion deadline to ensure the integrity of Post-Closing Repairs.

8. LIQUIDATED DAMAGES: Should the Approved High Bidder fail to perform all obligations hereunder for any reason including, but not limited to, failure to establish the legal entity to take title in a timely manner, HUD reserves the right to retain the Earnest Money Deposit.
9. EXTENSION FEES: HUD has the sole and absolute discretion to grant extensions allowing more time for Closing to occur. Any extension, will be on the following conditions:
 - a. A written request, which clearly states the reason for the Approved High Bidder's inability to close the sale on or before Closing, or any Extension Period, must be received within ten (10) days prior to Closing, or within any Extension Period. The request **must be accompanied by the payment** of the required Extension Fees and sent to the following address:

Multifamily Property Disposition
Attn: Jovanna M. Morales, Director
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102
 - b. Approved High Bidder will be notified in writing of all granted Extension Periods.
 - c. For each Extension Period Approved High Bidder requests and HUD approves, Extension Fees shall be equal to;
 - i. \$ 3.31, per unit, per calendar day, which is \$ 612.35 daily, a cost of \$ **18,370.50**, which covers the Extension Period, **or**
 - ii. one and one-half percent (1.5%) of the bid price, whichever is greater.
 - d. Extension Fees are not credited against the Cash Due at Closing. However, if the Closing is held 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 Cash Due at Closing.
 - e. HUD shall not be obligated to grant an additional Extension Period because it has previously granted one or more Extension Period.
 - f. If Approved High Bidder does not submit any HUD-required form within sufficient time for HUD's review and such delay necessitates an Extension Period, Extension Fees shall be paid for this period.
 - g. Extension Fees must be submitted by money order, certified funds or cashier's check made payable to: **THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

10. BIDDER RESTRICTIONS:

- a. No member of/or delegate to Congress, resident commissioner of the Property, or local elected official, shall be allowed to share in any part of this Foreclosure Sale, or to any benefit arising from it. However, this provision does not apply to the Foreclosure Sale to the extent that Approved High Bidder is a corporation and the Foreclosure Sale is for the corporation's general benefit.
 - b. If the High Bidder is, or becomes suspended, debarred, or temporarily denied from participating in HUD programs prior to Closing, this Foreclosure Sale may be terminated. In addition, if such suspension, debarment or temporary denial of participation occurs either before or after High Bidder's execution of this Acknowledgment, any Extension Fees paid under paragraph 9 shall be retained by HUD as liquidated damages.
 - c. Pursuant to 24 C.F.R. Part 27.20(f), the defaulting mortgagor, or any Principal, successor, Affiliate, or assignee thereof, on the multifamily mortgage being foreclosed, shall not be eligible to bid on, or otherwise acquire, the Property .
11. AS-IS SALE; NO REPRESENTATIONS:
- a. Approved High Bidder shall accept the Property "as is." HUD makes no representations or warranties concerning the physical condition of the Property. 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 Property or otherwise.
 - b. High Bidder acknowledges that the Bid is based on its own evaluation of the Property and not upon any representations by HUD. High Bidder's failure to inspect, or to be fully informed as to any factor bearing upon the valuation of the Property, shall not affect the liabilities, obligations or duties of HUD, nor be a basis for termination of this Foreclosure Sale or for the return of any Earnest Money Deposit or Extension Fees paid to HUD.
12. RISK OF LOSS AND RIGHTS OF RESCISSION: In the event of any substantial damage to the Property 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 High Bidder for a reduction in the Bid corresponding to the estimated amount of damages. *Such amount shall be added to the Post-Closing Repair amount, if applicable.* If the Bid reduction cannot be negotiated or if the High Bidder and HUD are unable to agree on the amount by which the Bid should be reduced or on the amendment to the Post-Closing Repair requirements, High Bidder may withdraw the bid. In such case, the Earnest Money Deposit and any Extension Fees paid will be returned, *unless* there is cause to retain the Earnest Money Deposit based on breach of the Invitation and/or Acknowledgment.
13. SECURITY DEPOSITS: Any security deposits collected from tenants and paid to HUD prior to Closing shall be assigned to Approved High Bidder within fifteen (15) days of 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 Approved High Bidder. HUD has no other liability under state and local law with respect to security deposits. Approved High Bidder agrees to assume all responsibility and liability under state and local law with respect to the collection, application and return of security deposits.
14. LIMITATION OF LIABILITY: In no event shall HUD's liability exceed the portion of the Bid paid to HUD.
15. ANTI-COLLUSION CERTIFICATION:
- a. The High Bidder certifies that:
 - i. The Bid was arrived at independently, without 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.
 - ii. The Bid has not been and will not be knowingly disclosed, directly or indirectly, to any other bidder or competitor before or during the actual time of the bid event, unless otherwise required by law; **and**
 - iii. No attempt has been made or will be made to induce any other bidder to submit or not to submit a bid for the purpose of restricting competition.
 - b. If the Foreclosure Sale requires or permits written bids, each signature on the Bid is considered to be certification by the signatory that the signatory:
 - i. Is the person in the High Bidder's organization with authority to 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 bid: _____

- (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.

16. **FAILURE TO COMPLY:** Upon the failure or refusal of the High Bidder to comply with any of the requirements listed above or elsewhere in this Invitation, HUD may declare the High Bidder ineligible to purchase the Property. In which case the High Bidder shall forfeit the Earnest Money Deposit and any Extension Fees paid. **HUD reserves the right to approve or reject the proposed management.** If HUD determines that the High Bidder is not qualified to operate the Property, HUD, in its sole discretion, may either reject the Bid or require the High Bidder to obtain the services of a property management firm satisfactory to HUD. If HUD chooses the latter, the High Bidder must provide HUD with evidence prior to Closing that a qualified property management firm has been retained. HUD must approve management prior to Closing and throughout the term of the Use Agreement. If the High Bidder does not meet this obligation, HUD reserves the right to reject the Bid and retain the High Bidder's Earnest Money Deposit and any Extension Fees paid.
17. **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.
18. **ASSIGNMENT:** The High Bidder may not assign its rights and responsibilities under this Acknowledgment without the prior written approval of HUD.
19. **CONFLICTING TERMS:** In the event that there are terms or conditions herein that conflict with terms or conditions contained in the Invitation incorporated herein by reference, the terms or conditions of this Acknowledgment shall control.
20. **REQUIRED STATEMENTS AND FORMS:** The High Bidder acknowledges the receipt of the Use Agreement applicable to this Property's Foreclosure Sale and the inclusion of the following Riders to that Use Agreement:
- Enforcement
 - Affordability of Units
 - Two-Year Rent Protection for Pre-Existing Very Low-Income Tenants
 - NonDiscrimination Against Section 8 Certification Holders and Voucher Holders
 - Occupancy: Elderly & Persons with Disabilities
 - Required Rehabilitation
 - Environmental Hazards
 - Relocation
21. **EXECUTION**
- a. By signature below, High Bidder acknowledges and agrees to the terms and conditions of this Foreclosure Sale.
 - b. In the case where an agent or representative of the High Bidder submitted the Bid, 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 Foreclosure 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 Use Agreement (the "Agreement") is entered into by _____ ("Owner") 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. § 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, with respect to _____, HUD Project No. _____, (the "Property") and land upon which the Property sits, a legal description of which is attached as Exhibit A; **and**

WHEREAS, pursuant to the Act and to provisions of 12 U.S.C. Section 1715z-11a, the Secretary has authority to impose certain use restrictions, as set forth in this Agreement, on the 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 ___[Foreclosure Commissioner]_____, the Property has been conveyed to the Owner; **and**

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

1. **TERM OF AGREEMENT:** This Agreement shall be in effect for twenty (20) years from the date of this Agreement (the "Restricted Period".) During the Restricted Period the Property must be maintained as affordable rental housing.
2. **CONVEYANCE:** During the Restricted Period, any Conveyance of the Property must have the prior written approval of HUD, or such Conveyance will be deemed to be null and void, and a default will exist under this Agreement. "Conveyance" is defined as any sale, assignment, transfer, creation of a leasehold estate in excess of one (1) year, or any other legal or equitable conveyance or transfer of the Property or an interest therein, including but not limited to a merger, conversion, share exchange, or exchange of corporate or partnership interests, or any legal or equitable transfer of an interest in the Owner or any entities that may comprise the Owner.

The preceding provision shall be applicable and in full force and effect notwithstanding any applicable statutory law or case decision stating any such merger, conversion, share, interest exchange, or leasehold estate creation or other type of Conveyance does not constitute an occurrence of a transfer or assignment of the Property, any of the assets related thereto, or an interest in the Owner

All requests for HUD to approve a Conveyance must include the new entity and all Principals obtaining Previous Participation Certification approval, submission of a signed Certification of Substantial Compliance, and a signed Agreement to Abide by Deed Restrictions. HUD will approve a Conveyance based on satisfactory information the Owner or any subsequent owner will provide in a written statement of how the Owner, or any subsequent owner, in consideration of any and all existing use restrictions, will:

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

HUD has the sole discretion to approve any Conveyance.

3. **CONDITION OF UNITS FOR RENTAL HOUSING:** The Owner shall comply with the Physical Condition Standards and inspection requirements of 24 CFR Part 5, Subpart G, including any changes in the regulation and related directives. In addition, the Owner shall comply with HUD's Physical Condition Standards of Multifamily Property of 24 CFR Part 200, Subpart P, including any changes in the regulation and related directives.
4. **RENTAL RATES:** The rent rates and tenant eligibility will be controlled by, Rider 2 of 8.
5. **PROPERTY MANAGEMENT:** HUD reserves the right to approve management for the Property during the Restricted Period. Any proposed property manager must demonstrate a minimum of five (5) years' experience managing multifamily properties of similar size and complexity.

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

- Management Entity Profile (Form HUD-9832),
- Project Owner's Certification for Owner-Managed Multifamily Housing Projects (Form HUD-9839A) **or**
- Project Owner's/Management Agents Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents (Form HUD-9839B),
(Only one of the forms 9839 A or B will be required for management certification.)
- Project Owner's/Borrower's Certification - for Elderly Housing Properties Managed by Administrators (Form HUD-9839C).

"Previous Participation Certification" is defined as Form HUD-2530, submitted by an entity wishing to participate in HUD programs that contains information about an entity's previous participation in HUD programs and, if applicable, other federal, state, or local housing programs. HUD uses this certification as a prerequisite to determine whether an entity can participate in HUD programs.

6. **SUBJECT TO EXAMINATION:** The Property 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 Restricted Period,
 - d. Be subjected to periodic HUD inspections or inspections under REAC protocol (24 C.F.R. §§ 5 and 200).

The Owner will be obligated to provide audited annual financial statements to HUD (24 C.F.R. § 5, Subpart H).

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

7. **UNIT NUMBER OR USE CHANGE:** Changes to the use, number, size, or configuration of residential units in the Property, including changes beds in a care facility, that differ from the use of the Property as of the date of this Agreement, must receive the written prior approval of HUD.
8. **NON-DISCRIMINATION REQUIREMENTS:** The Owner will comply with the provisions of all federal, state, or local laws prohibiting discrimination in housing.
9. **HAZARD INSURANCE:** Hazard insurance shall be maintained in an amount to ensure that the Owner is able to restore the Property so that it meets the rental housing requirements described in this Agreement after restoration.
10. **DESTRUCTION OF PROPERTY:** In the event that any, or all, of the Property is destroyed or damaged by fire or other casualty, the money derived from any insurance on the Property 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.
11. **DEMOLITION OF PROPERTY:** The Owner will not demolish any part of the Property or withdraw any part of the Property from use (except as temporarily necessary for routine repairs), without the prior written approval of HUD.
12. **REMEDIES FOR NONCOMPLIANCE:** Upon any violation of any provision of this Agreement by the Owner, HUD may give written notice thereof to the Owner by registered or certified mail, to the address stated in this Agreement, or such other address as subsequently designated by the Owner as its legal business address. If such violation is not corrected to the satisfaction of the Secretary within thirty (30) calendar days after the date such notice is mailed or within such further time as HUD reasonably determines is necessary to correct the violation, without further notice, HUD may declare a default under this Agreement and may apply to any court, state or federal, for specific performance of this Agreement, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, and/or such other relief as may be appropriate, since the injury to the Secretary arising from a default of the terms of the Agreement would be irreparable and the amount of damage would be difficult to ascertain. The availability of any remedy under the Agreement shall not preclude the exercise of any other remedy available under any provision of the law, nor shall any action taken in the exercise of any remedy be

considered a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not be construed as a waiver of the right to exercise that or any other right or remedy at any time.

- 13. **SUCCESSORS AND ASSIGNS:** This Agreement is binding upon the Owner's heirs, successors and assigns. If HUD approves a Conveyance during the Restricted Period, it shall be conditioned upon, among other things, the new owner assuming in writing the obligations under this Agreement.
- 14. **RESTRICTIONS:** No member of or delegate to Congress or resident commissioner of the Property shall be allowed to share in any part of the benefits of the Use Agreement, but this provision shall not extend to this Agreement if the Agreement is made with a corporation and the benefits of the Agreement are for its general benefit.
- 15. **CONTRADICTORY AGREEMENTS:** The Owner certifies that it has not, and agrees that it will not, execute any other Agreement with provisions contradictory to the provisions of this agreement, and that, in any event, the requirements of this Agreement are controlling as to the rights and obligations set forth herein and supersede any other provisions or requirements in conflict with this Agreement.
- 16. **SEPARABILITY:** The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions hereof.
- 17. **AMENDMENT:** This Agreement may be amended by the mutual written consent of the parties, except those provisions required by statute. Such amendment will be recorded in the land records in the jurisdiction of the Property.
- 18. **RIDERS TO THE USE AGREEMENT:** The Riders listed below and initialed by the Owner and HUD are attached to and incorporated into this Agreement and will be recorded in the land records to run with the land. Capitalized terms used but not defined in a Rider shall have the meaning given in this Agreement.
 - o Enforcement
 - o Affordability of Units
 - o Two-Year Rent Protection For Pre-Existing Very Low-Income Tenants
 - o Nondiscrimination Against Section 8 Certificate and Voucher Holders
 - o Occupancy: Elderly and Persons with Disabilities
 - o Required Rehabilitation
 - o Environmental Hazards
 - o Relocation
- 19. **PRIORITY:** This Agreement shall be recorded against the Project in a superior position to any post foreclosure liens or mortgage debts.

IN WITNESS WHEREOF:

The Owner has executed this Use Agreement this _____ day of _____, 20_____.

WITNESS:

OWNER:

By: Signature

Typed Name of Owner

Street Address

City, State, Zip Code

The U.S. Department of Housing and Urban Development has executed this Use Agreement this _____ day of _____, 20_____.

WITNESS:

DEVELOPMENT

FOR: THE SECRETARY OF HOUSING AND URBAN

BY: _____

Official's Typed Name

Title

Exhibit A
Legal Description

To reach a point of beginning for the hereinafter described tract of land, commence at a point of where the east line of South Eighth Street intersects the north line of Walnut Street; thence run North 88° 34' East, along said north line of Walnut Street, 99.9 feet to a point, which is the point of beginning of the tract of land herein described; thence from said point of beginning, continue North 88° 34' East, along said North line of Walnut Street, 389010 feet to a point; thence run North 70° 36' East, 269.50 feet to a point; thence run South 88° 34' West, 343.00 feet to a point; thence run South 06° 45' West, 99.78 feet to a point; thence South 88° 34' West, 147.50 feet to a point in the aforementioned east line of South Eighth Street; thence run South 07° 36' West, along said east line of South Eighth Street, 60.00 feet to a point; thence run North 88° 34' East, 98.29 feet to a point; thence run South 06° 46' West 109.26 feet to the point of beginning, containing 2.409 acres, embracing portions of the Southeast Quarter (SE ¼), in Section (4), Township Twelve (12), South, Range Six (6), East of Huntsville Meridian, Gadsden, Etowah County, Alabama, and being the lands described in Miscellaneous Record 62, pages 25, 9, 21, 17 and 13, respectively, Probate office, Etowah County, Alabama, exclusive of those portions of said lands lying within the right of way of aforementioned South Eighth and Walnut Streets.

LEGAL DESCRIPTIONS ARE PROVIDED AS INFORMATION ONLY.

RIDER 1 OF 8
ENFORCEMENT

The Use Agreement shall contain the following provision:

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

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

Owner_____

HUD_____

RIDER 2 OF 8
AFFORDABILITY OF UNITS

The Use Agreement shall contain the following provision:

Use Restriction

1. Owner shall maintain the property as affordable rental housing for a period of twenty (20) years after the date of this Use Agreement or such earlier time as HUD may specify in writing ("Restricted Period").
2. Owner shall submit a written request to HUD for any change to the number or configuration of residential units required to be affordable rental housing.
3. Owner shall not unreasonably refuse to lease units to, or otherwise discriminate against, very low-income families.

Initial Income Eligibility Requirement

- Owner shall affirmatively market 92 dwelling units to low-income families with adjusted gross annual income that does not exceed **eighty** percent (**80** %) of the area median income, adjusted for family size.
- Owner shall affirmatively market 93 dwelling units to very low-income families with adjusted gross annual income that does not exceed **fifty** percent (**50** %) of the area median income, adjusted for family size.

If Owner is temporarily unable to lease all of the specified number of dwelling units to very low-income families, one or more units may be leased to low-income families but not very low-income, only with HUD's prior written approval. In its request, Owner must demonstrate that it:

1. has taken reasonable steps to attract very-low income families, including using marketing activities most likely to attract such eligible applicants, and
2. has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families, and
3. has not rejected any very-low income applicants except for reasons acceptable to HUD.

Affordability

1. **Maintenance of Rents at Affordable Levels**
Affordable means the least of:
 - a. for the 93 dwelling units occupied by a very-low income family, the unit rent does not exceed thirty percent (30%) of fifty percent (50%) of the area median income, not necessarily the income of the family, as determined by HUD, with adjustments for family size, less a reasonable utility allowance for utilities paid by the tenant; or
 - b. for the 92 dwelling units occupied by a low-income family that is not a very low-income family, the unit rent does not exceed thirty percent (30%) of eighty percent (80%) of the area median income, (not necessarily the income of the family, as determined by HUD, with adjustments for family size, less a reasonable utility allowance for utilities paid by the tenant; or
 - c. the Section 8 Voucher Payment Standard less the utility allowance established by the voucher provider; or
 - d. Market Rent in the immediate area established by a rent comparability study prepared, at the Grantee's (Owner's) expense, in accordance with HUD requirements.

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

Owner _____ HUD _____

TWO-YEAR RENT PROTECTION FOR PRE-EXISTING VERY LOW-INCOME TENANTS

The Use Agreement shall contain the following provision:

1. Owner agrees that, for any very low-income family (as defined in 24 CFR § 5.603) that is an existing tenant of the Property, not receiving assistance, and who, after Closing, would be required to pay rent in an amount in excess of thirty percent (30%) of the adjusted income (as defined in 24 C.F.R. § 5.611) of the family, the Owner shall not increase the family's rent above the rent charged immediately before Closing. Rent protection will be enforceable for a period of two (2) years beginning at Closing.
2. On the date of Closing, Owner must provide notice to all tenants in unassisted units that they may qualify for the two-year rent protection.
3. Owner shall conduct an initial income certification for all tenants within thirty (30) calendar days of the acquisition.
4. For all tenants covered by these provisions, Owner must include in the lease(s) the terms and conditions of the two (2) year rent protection including a provision for an initial tenant income certification and not more than one (1) tenant income certification a year, except upon reduction of tenant income or upon tenant request.
5. Owner shall provide to HUD a list of all tenants who are covered by this provision within sixty (60) calendar days of this Agreement. The list should include the name of the lease holder, unit type, number of family members residing in the unit, and the amount of rent paid by the tenant. If the income certification is not complete within the sixty (60) calendar days, Owner must report the progress of the certifications and provide a completion date. Upon completion of the income certifications, Owner must submit the report in the required format and continue to submit this report quarterly, for a period of two (2) years from the date of this Agreement.

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

Owner_____

HUD_____

NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS

The Use Agreement shall contain the following provision:

1. To comply with Section 204 of the Housing and Community Development Amendments of 1978, 12 USC § 1701z-12, as amended, Owner, for itself, successors and assigns, shall not unreasonably refuse to lease a dwelling unit offered for rent, refuse to offer or sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is the holder of a Certificate of Family Participation or a Voucher under Section 8 of the United States Housing Act of 1937 (42 USC § 1437f), or any successor legislation hereinafter referred to as "Section 8". This Rider is limited in application to those units, as determined by HUD, which rent for an amount not greater than one-hundred and twenty percent (120%) of the Section 8 fair market rent for a comparable unit in the area.
2. This Rider shall bind the Owner, any/all successors, assigns and purchasers for value, for a period equal to the Restricted Period, which is twenty (20) years from the date of this Use Agreement. In the event of a breach or a threatened breach of this covenant, HUD, any/all successors in office and/or one or more third-party beneficiaries, shall be entitled to institute legal action to enforce performance and observance of such covenant and to enjoin any acts which are in violation of such covenant. For the purposes of this Rider, 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 part of the Use Agreement.

Owner_____

HUD_____

OCCUPANCY: ELDERLY & PERSONS WITH DISABILITIES

The Use Agreement shall contain the following provision:

The Owner shall give preference for occupancy of the Property to elderly families and individuals over the age of 62 or to persons with disabilities for a period of twenty (20) years after the date of the Agreement or such earlier time as HUD may specify in writing ("Restricted Period"). Any change in the number of units for the elderly or disabled must receive the prior written approval of HUD.

Owner covenants that it will affirmatively market one hundred percent (100%) of the units in the Property to families whose head, spouse, or sole member is 62 or older or persons with disabilities.

If Owner has made reasonable efforts to lease units to eligible families and is unable to achieve or maintain an adequate level of occupancy sufficient to operate the Property, the Owner may request a waiver to allow tenants who are age 55 or older by submitting the request to, and obtaining written approval from, the HUD field office with jurisdiction where the property is located.

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

Owner_____

HUD_____

RIDER 6 OF 8
REQUIRED REHABILITATION

The Use Agreement shall contain the following provision:

1. **REPAIRS:** All property and property improvements must meet or surpass, at a minimum:
 - All state and local codes and ordinances,
 - Physical Condition Standards (pursuant to 24CFR Part 5),
 - General Repair and Property Standards (listed below),
 - Additional Required Repairs (Attachment E) (if included in the bid kit),
 - Environmental Hazards Rider (if included in the bid kit), and
 - Project Based Section 8 Assistance provision (if included in the bid kit) (collectively the "Repairs").
 - a. General Repair and Property Standards
 - i. Exterior:
 - (a) Any trip hazards (deviations of ½ in or greater) on all surfaces of the property must be mitigated.
 - (b) Repair and/or replace any loose, damaged or deteriorated facade, trim, posts, and cornice.
 - (c) All exterior paint must be fully intact, mold and rust free.
 - (d) All drainage, water diversion, roofing, and water proofing systems must be performing as originally intended to ensure positive drainage and minimize pooling.
 - (e) All windows and exterior doors must be operable, lockable, draft free and water tight.
 - ii. Interior/MEPs:
 - (a) All mechanical, plumbing, plumbing fixtures, electrical fixtures, electrical devices, appliances and HVAC must be in "Good" operating condition and hazard free.
 - (b) All fire protection devices and systems must be working as originally intended.
 - (c) All ventilation systems must be working as originally intended.
 - (d) All interior painted surfaces and millwork must be fully intact, free of excessive grease and dirt.
 - (e) All floor coverings must be fully attached, free of holes, chips, frays and excessive dirt.
 - (f) All interior doors, locks, closures and stops must be operating as originally intended.
 - iii. Workmanship and Materials:
 - (a) All work shall be performed in a workmanlike manner and in accordance with generally accepted practices and procedures.
 - (b) Materials installed shall be of such kind and quality to ensure that the dwelling will provide acceptable durability for the duration of the Restricted Period.
 - (c) All repair/rehabilitation work must be performed in a manner compliant with the essential and material requirements of all state codes, local codes, laws, ordinances, regulations, Physical Conditions Standards pursuant to 24 CFR Part 5.
 - (d) All long and short lived building components must be performing as originally designed or intended.
 - b. Additional Required Repairs (Attachment E) (if attached) describes additional, specific required Repairs. It is probable that not all units were surveyed. However, units not surveyed must also be rehabilitated to the same level as those units that were surveyed.
 - c. All Repairs, required by this provision, will not be considered complete until such time as HUD or its designee has inspected the Repairs and HUD has accepted the Repairs.
2. **REPAIR PERIOD:** The Repair Period begins at closing and expires **twenty-four (24) months** from the date of the Use Agreement. The Grantee covenants that the Repairs will be completed within the Repair Period.
3. **EXTENSION OF THE REPAIR PERIOD:** If the Grantee cannot complete the Repairs within the Repair Period, Grantee shall submit a written request for an extension to HUD stating the reason(s) for Grantee's inability to complete the Repairs. Grantee's request must be received not less than thirty (30) calendar days prior to the expiration of the Repair Period.
 - a. In the event an extension for completion of Repairs is granted, the Grantee shall extend the expiration of the LOCs, or Payment and Performance Bond(s) accordingly;
 - b. Extensions of time to complete Repairs are within HUD's sole and absolute discretion; and
 - c. The granting of one or more extensions shall not obligate HUD to grant additional extensions.
4. **REPAIR ESCROW:** To ensure completion of the Repairs by the Grantee, at Closing the Grantee shall deliver to HUD an unconditional, irrevocable and non-documentary **Letter of Credit (LOC) in the**

amount of \$1,000,000 (one million US dollars) which shall be for a one-year term with automatic one-year renewals until all project repairs specified in paragraph 1 have been satisfactorily completed and accepted by HUD (sample acceptable LOC is included in bid kit).

5. **PAYMENT AND PERFORMANCE BONDS:** After Closing and after production of plans, specifications, and securing a contractor, with prior approval by HUD, the Letter of Credit (LOC) may be replaced with a 100% Payment and Performance Bond. The Plans, Specifications, and/or Construction Contract must include all items, quantities and timelines addressed in paragraphs 1 and 2 of this provision.
 - i. Grantee must use HUD Form-92452 for the payment bond and a form for the performance bond that is acceptable to HUD. Evidence of the existence of payment and performance bonds each in the amount of the Post Closing Repair Requirements total (form HUD-9552) must be provided to HUD.
 - ii. Provide HUD a copy of the approved Plans and Specifications, Construction Contract which specifically address items, quantities and timelines specified in paragraphs 1 and 2 of this provision, and the Use Agreement or Deed, as applicable to the sale of the Project.
 - iii. Grantee must ensure the bonds comply with the following requirements:
 - (a) The surety entity issuing the bonds must be included on the accredited U.S. Treasury list, Circular 570, published annually in the Federal Register on or about July 1 of each year;
 - (b) The payment and performance bonds must not exceed limits listed in the Circular;
 - (c) The payment and performance bonds must show HUD as an Obligee;
 - iv. This "Required Rehabilitation Rider" and Attachment E must be attached to and referenced in article 9.1.7 of the construction contract (AIA A101).
6. **REPORTING:** HUD will monitor the progress of the Repairs using reports from the Grantee and inspections performed by HUD or a designee.
 - a. Quarterly Reports: Grantee must submit quarterly reports to HUD describing the status of Repairs. The first report is due 90 days after closing. All reports must include the number and type of units completed, a list of major repairs and percentage completed, a narrative describing the status of the planned rehabilitation (i.e. are Repairs ahead of, on schedule, or behind on the original rehabilitation schedule) and any special circumstances which may or have delayed the Repairs.
 - b. Additional Reports: Upon request, Grantee must submit reports, in addition to the Quarterly Reports, to HUD. The frequency and content of these reports will be provided to the Grantee by HUD.

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

7. **RENTS:** The Grantee covenants not to increase the rent for any unit, from the rent HUD is requiring a tenant to pay on the Closing date, until such unit meets all the requirements set forth in paragraph 1, above. Rents for units to be covered by a Housing Assistance Payment Contract may be increased only pursuant to and following execution of such Contract.
8. **RELOCATION:** If temporary or permanent relocation is necessary because of Repairs required under this provision, Grantee covenants to comply with the Relocation provision of this Use Agreement.
9. **NONCOMPLIANCE:** If Grantee fails to complete the required Repairs within the Repair Period and no extension by written agreement has been granted by HUD, HUD and any/all successors in office, in its sole discretion, shall be entitled to:
 - a. Enter and terminate the estate hereby conveyed, or
 - b. Cash any Repair Escrow or request performance under any payment and/or performance bond, and seek remedies provided in the Enforcement provision of this Use Agreement, as HUD deems appropriate.

If HUD cashes the Grantee's Repair Escrow, HUD will NOT apply the funds to complete the Repairs. HUD will retain the funds as liquidated damages or for any other purposes as HUD deems appropriate. In the event that HUD cashes the Grantee's Repair Escrow, the Grantee is still responsible for completion of the Repairs and HUD may initiate sanctions to prevent the Grantee from doing business with the U.S. Government in the future.

These rights and remedies may be exercised separately or in combination with the rights and remedies set

forth in the Enforcement provision of this Use Agreement.

10. **LENDER OR SECURITY INTEREST:** If the Grantee fails to repair the Property in accordance with this Use Agreement, HUD will not exercise the remedies as described in paragraph 8 above, if any lender holding a lien or security interest on the Property:
- a. Gives written notice to HUD within the period provided for Repairs, that it intends to complete the Repairs, and
 - b. Completes such Repairs within thirty (30) calendar days of the notice or within such longer periods as HUD may approve in writing.

However, HUD is under no obligation to notify any lender or security interest of its intent to cash any Repair Escrow.

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

Grantee_____

HUD_____

RIDER 7 OF 8
ENVIRONMENTAL HAZARDS

The Use Agreement shall contain the following provision:

Owner covenants to:

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

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

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

Operations and Maintenance Plan:

1. Owner shall develop and maintain on the site at all times an Operations and Maintenance Plan (O&M Plan) that complies with EPA guidelines for Operations and Maintenance Programs. The O&M Plan shall:
 - a. identify areas where Hazards exist;
 - b. establish guidelines for maintenance work and repairs and employee training;
 - c. establish tenant notification systems; and
 - d. monitoring, job-site controls, work practices, record keeping, and worker protection.
2. Owner shall submit a copy of the O&M Plan for HUD review and approval within thirty (30) calendar days after the date of this Use Agreement.

Remedies:

1. If Owner fails to comply with this provision, HUD may exercise one or more of the remedies listed below:
 - a. Enter and terminate the estate hereby conveyed,
 - b. Cash Owner's LOC(s),
 - c. Request payment and performance under any Payment and Performance Bonds provided to HUD.
2. If HUD cashes the Owner's LOC(s) or files a claim with the surety company as a remedy for the Owner's default under this provision, HUD may apply the funds to perform the Inspect and Remediate Requirements, retain the funds as liquidated damages, or for such other project purposes as HUD deems appropriate.
3. HUD shall not exercise its available remedies if any lender holding a lien or security interest on the Property:
 - a. Gives written notice to HUD within the period provided for repairs, that it intends to complete the Inspect and Remediate Requirements, and
 - b. Completes the Inspect and Remediate Requirements within thirty (30) calendar days of the notice or within such extended period that HUD may approve in writing.

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

Owner_____

HUD_____

RIDER 8 OF 8
RELOCATION

The Use Agreement shall contain the following provision:

1. Owner covenants that it shall comply with Section 203(f) of the Housing and Community Development Amendments of 1978, as amended, 12 USC §1701z-11(j), and any subsequent legislation affecting relocation of tenants. Additionally, Owner covenants it will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC §4601, and the regulations thereunder, 49 C.F.R. Part 24, when project-based Section 8 assistance is provided by HUD (collectively the "Act and Regulations"). Owner shall comply with the Act and Regulations, notwithstanding any contractual obligations with third parties to comply with the Act and Regulations. Owner shall provide a report on a quarterly basis to HUD which demonstrates compliance with the Acts and Regulations throughout the Repair Period.
2. Owner covenants that any required rehabilitation or hazard remediation, shall be performed in accordance with all applicable federal, state and local laws, codes, ordinances and regulations, and HUD's Physical Condition Standards.
3. If temporary or permanent relocation is necessary because of required rehabilitation and/or hazard remediation, Owner covenants that it will provide advance written notice of the expected displacement to the tenants. The notice shall be provided as soon as feasible, describe the assistance and the procedures for obtaining relocation assistance, and contain the name, address and phone number of an official responsible for providing the assistance.
4. If temporary or permanent relocation is necessary because of required rehabilitation and/or hazard remediation, Owner covenants that it will assist 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 from the Property and any net increase in monthly housing cost (rent and reasonable utility costs) during the temporary displacement period; and
 - b. Expenses of returning to a repaired unit at the Property.

HUD will not provide Owner with any funds or subsidy with which to make the payments required by this paragraph.

5. If temporary or permanent relocation is necessary because of required rehabilitation and/or hazard remediation, Owner covenants that it will 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; and
 - 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.

HUD will not provide Owner with any funds or subsidy with which to make the payments required by this paragraph.

6. Owner covenants not to increase the rent for any unit, from the rent the tenant pays on the Closing date, until Owner completes all the rehabilitation and/or hazard remediation requirements of this Use Agreement and HUD inspects and accepts them. In addition, rents for units to be covered by a Housing Assistance Payment (HAP) Contract may be increased only pursuant to and following execution of such HAP Contract.

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

Owner _____

HUD _____

ATTACHMENT D
LETTER OF CREDIT 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. Taylor Hawes**
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 all or any part of this Letter of Credit are available to you against your sight draft(s) on us, substantially in the form attached as Exhibit A.

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 Letter of Credit is governed by the laws of _____.

Sincerely,

(Issuing Bank)

By: _____

SAMPLE SIGHT DRAFT

(HUD LETTERHEAD)

(Name and address of bank) _____
_____, 20____
(City, State)

Pay to the order of the U.S. Department of Housing and Urban Development the sum of
\$_____. This draft is drawn under your 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 Name Holy Comforter House	Project Number 062-SH005	Location Gadsden, Alabama
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The Owner 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 – Acknowledgement by Bidder:

- Applicable state and local codes Physical Condition Standards (set forth in 24 CRF Part 5) Additional repairs required by HUD

HUD will monitor to ensure compliance. Repairs shall be considered complete only after: (1) Owner provides written certification that repairs are completed; (2) Owner 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 exhibits to this form. Unless checked as **Mandatory** on this form, repairs may begin upon conveyance. For repair items checked on this form as **Mandatory**, the Owner, prior to beginning work, must submit specifications for approval to the HUD office with jurisdiction over this Property.

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 requirement other than HUD’s. HUD does not warrant that the list is either comprehensive or sufficient. The Owner accepts responsibility for: (1) developing independent 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	Estimated Cost	Item	Mandatory	Estimated Cost
Repairs to Residential Structures (including commercial areas)					
1 Concrete	<input type="checkbox"/>	\$3,000	17 Wood Flooring	<input type="checkbox"/>	
2 Masonry	<input type="checkbox"/>	\$5,000	18 Resilient Flooring	<input type="checkbox"/>	\$24,463
3 Metals	<input type="checkbox"/>	\$43,500	19 Painting and Decorating	<input type="checkbox"/>	\$318,300
4 Rough Carpentry	<input type="checkbox"/>		20 Specialties	<input type="checkbox"/>	
5 Finish Carpentry	<input type="checkbox"/>		21 Special Equipment	<input type="checkbox"/>	
6 Waterproofing	<input type="checkbox"/>		22 Cabinets	<input type="checkbox"/>	\$512,500
7 Insulation	<input type="checkbox"/>		23 Appliances	<input type="checkbox"/>	\$173,600
8 Roofing	<input type="checkbox"/>	\$225,000	24 Blinds and Shades	<input type="checkbox"/>	
9 Sheet Metal	<input type="checkbox"/>		25 Carpets	<input type="checkbox"/>	\$28,800
10 Doors	<input type="checkbox"/>	\$111,500	26 Special Construction	<input type="checkbox"/>	\$138,600
11 Windows	<input type="checkbox"/>	\$406,600	27 Elevators	<input type="checkbox"/>	\$150,000
12 Glass	<input type="checkbox"/>		28 Plumbing and Hot Water	<input type="checkbox"/>	\$640,650
13 Lath and Plaster	<input type="checkbox"/>		29 Heat and Ventilation	<input type="checkbox"/>	\$549,525
14 Drywall	<input type="checkbox"/>	\$7,000	30 Air Conditioning	<input type="checkbox"/>	\$13,000
15 Tile Work	<input type="checkbox"/>	\$375	31 Electrical	<input type="checkbox"/>	\$266,125
16 Acoustical	<input type="checkbox"/>	\$300	Residential Structures Subtotal		\$3,617,838
Repairs to Accessory Structures (community, maintenance, mechanical, garages, carports, etc.)					
32 Accessory Structure	<input type="checkbox"/>		34	<input type="checkbox"/>	
33	<input type="checkbox"/>		Accessory Structures Subtotal		
Site Work					
35 Earth Work	<input type="checkbox"/>		39 Lawns and Plantings	<input type="checkbox"/>	
36 Site Work	<input type="checkbox"/>		40 Unusual Site Conditions	<input type="checkbox"/>	
37 Roads and Walks	<input type="checkbox"/>	\$45,000	41 Demolition	<input type="checkbox"/>	\$4,000
38 Site Improvements	<input type="checkbox"/>	\$6,050	Site Work Subtotal		
Environmental Mitigation					
42 Lead Based Paint	<input type="checkbox"/>		44	<input type="checkbox"/>	
43	<input type="checkbox"/>		Environmental Mitigation Subtotal		
Totals					
Estimated Total Hard Cost					\$3,672,888
Overhead/General Requirements (9%)					\$330,560
Subtotal					\$4,003,448
Profit (5%)					\$200,172
Estimated Total Repair Cost					\$4,203,620

ADDITIONAL REQUIRED REPAIRS

In addition to the repairs required in the "General Repair and Property Standards" (enumerated on the Required Rehabilitation Rider), the following specific repairs/replacements/improvements are required of the purchaser:

02000E* Remove old antennas on bulkhead roof

Several old TV antennae remain on the elevator bulkhead roof that are no longer used. All need to be removed when the roofs are replaced.

02500E* Repair, resurface, and restripe asphalt

The asphalt parking areas are in relatively good condition. However, several areas need the base repaired prior to being resurfaced. The largest of these areas are due to damage by trash trucks approaching the trash dumpster. The parking spaces will need to be restriped after resurfacing including spaces for the handicap accessible which will be increased when additional accessible units are provided.

02800E* Repair, prepare, and paint light poles in parking areas

The portion of the property exposed to vehicular and pedestrian traffic has decorative light poles which appear to be in good condition. However, the light poles illuminating the rear areas of the site have rusted and need to be refinished to ensure their longevity.

02801E* Provide parking signage for parking spaces designated as accessible

The existing parking spaces designated as accessible are striped with the appropriate loading zones. However, they do not have the appropriate signs designating them as accessible. The development also needs additional accessible apartments which will require additional parking spaces. The appropriate number of spaces will need to be designated after the parking areas are resurfaced. Refer to HANDICAP ACCESSIBILITY for additional information.

03300E* Provide concrete dumpster pad and approach

The trash dumpster located at the rear of the property sits directly on the asphalt surface. The approach to the dumpster has been damaged by the weight of the trash trucks. The asphalt is indicated to be repaired under other line items; however, a concrete pad is needed for the dumpster of a size to support the front wheels of the trash trucks as the dumpster is being raised for disposal.

04400E* Repair minor areas of spalling brick

Overall, the condition of the exterior brick masonry is good considering the age of the structure. Minor spalling has occurred at the shelf angles supporting the brick at each floor. These areas need to be inspected when the brick is sealed as indicated in other line items with any open areas being sealed to prevent water infiltration.

05500I* Provide additional intermediate members in stair rails

Current codes require that handrails and guardrails have intermediate members such that a 4" sphere cannot pass in between. The stair handrails do not meet this requirement. Refer to CODE REVIEW for additional information.

05501E* Modify handrails at rear handicap ramp for compliance

The handrails at the rear entrance ramp do not meet the requirement of the Uniform Federal Accessibility Standards (UFAS). The current handrail needs to be modified and an additional rails installed. See HANDICAP ACCESSIBILITY within this report for additional information.

07500E* Replace roof membrane, insulation, and accessories

The existing roof membrane was installed in 1985 and has outlived its useful life. Water also ponds away from roof drains and the insulation below is becoming detached from the roof structure. A new roof system that slopes towards the existing roof drains is necessary. Emergency scuppers exist as required in the parapet walls around the perimeter of the structure.

08200A* Replace apartment entry doors and hardware with new fire-rated doors

Apartment entry doors are required to be fire-rated when opening into a common corridor. None of the entry doors inspected had the appropriate labels and therefore need to be replaced. Refer to CODE REVIEW for additional information.

08300A* Replace bifold closet doors

The apartment foyer closets have metal bifold door. A portion of the bedroom closets in the one-bedroom units have doors while others do not. Most were found to be in good condition. Minimal replacement is required.

08500A* Replace windows in apartments

08501I* Replace windows in common areas

08502I* Replace windows in stairwells and elevator lobbies

All windows witnessed were original to the structure being nearly 50 years old. All had single pane glass. While the windows in the units inspected operated properly, new windows are needed to extend the life of the building for many more years. New windows with double pane insulating glass are recommended.

08700A* Provide closers on apartment entry doors

Apartment entry doors that open into a common corridor are required to be self-closing. None of the apartment entry doors witnessed met this requirement. Refer to CODE REVIEW for additional information.

09250A* Repair/replace gypsum board walls in apartments

09251I* Repair/replace gypsum board walls in common areas

09252A* Repair stipple ceiling finish and flaking paint in apartments

Overall, the walls and ceiling in the apartments were in very good condition with minimal repairs required. Only one ceiling needed attention in the apartments inspected. The amounts of repair indicated for the common areas does not include needed repairs at common corridors on the upper floors where walls have been opened to access repairs of the sanitary and water risers. Costs for the repair of the corridor walls have been included under line items for the replacement of the vertical risers. However, if the vertical risers are not replaced on the near future, these walls need to be repaired to maintain the integrity of the fire-rated corridor walls.

09300A* Repair ceramic tile wainscots at tubs

The condition of the ceramic tile wainscots in the apartments inspected was very good considering the age of the structure. Very minimal attention is needed.

09510I* Replace acoustical lay-in tile ceilings in common areas and apartments

The first floor common areas and the four handicap accessible units on the first floor have lay-in tile acoustical ceilings. For the most part all ceilings panels were in good condition with minimal areas needing to be replaced.

09650A* Replace VCT flooring in apartments

09651A* Replace resilient wall base in apartments

09680A* Replace carpet in apartments

The flooring in the apartments was in good condition in many units only needing to be replaced due to normal wear and tear. All floor finishes are replaced as needed during normal resident turn-over.

09900A* Paint apartment interiors

The majority of the apartment walls and ceilings were in good condition. Very few needed painting in the near future. Maintenance has routinely painted apartments when needed at the time of resident turnover.

09901I* General interior common area painting allowance

The common areas are in good condition. The majority of the cost indicated for this line item are for the wall removal and replacement for plumbing repairs in the main upper floor corridors.

09902E* Exterior façade repairs, painting of all previously painted areas, & masonry sealing

The exterior insulation finish system (EIFS) and the brick masonry have weathered well for their age. Minor areas of the EIFS need to be reattached. All have been previously painted and need to be refinished. All other previously painted areas need to be cleaned and repainted as well including the concrete spandrels. Water infiltration has been witnessed in a few of the apartments and in limited areas of the common stairs on the ends of the structure. All brick masonry needs to be sealed.

11450A* Replace stove

11451A* Replace refrigerator

The stoves in most apartments are the original drop-in type and have out-lived their useful life. A few have been replaced with newer floor mounted units but most need to be replaced. The age of the refrigerators varies with many having been replaced over time.

11170I* Replace inoperable trash compactor

According to maintenance personnel, the trash compactor has not operated for years. A new compactor is needed for proper trash disposal.

12300A* Replace kitchen cabinets and countertops

The majority of the kitchen cabinets remain serviceable even though they are nearly 50 years old. All are recommended to be replaced in the near future to extend the useful life of the property.

12301A* Remove second kitchen in 2BR/2BA units and convert kitchen to a walk-in closet

A few of the original efficiency and one-bedroom apartments were combined into larger units. Both of the two kitchens remain which takes up space that could better be used for storage. The second kitchen needs to be removed and the space utilized for a walk-in closet.

13001A* Modify existing apts. designated for handicap accessibility to comply with UFAS

13002A* Modify additional apts. to comply w/ UFAS

13003A* Modify apartments for the hearing and vision impaired to comply w/ UFAS

Four units are currently designated as handicap accessible. All need modifications to meet the current requirements of the Uniform Federal Accessibility Standards (UFAS). Six additional units are required to be modified to meet the requirements to provide five percent of the units available for those with physical disabilities. Two percent of the units also need to be provided for the hearing and vision impaired. See HANDICAP ACCESSIBILITY for additional information.

- 13004I*** **Modify public restrooms for handicap accessibility to comply with UFAS**
- 13005I*** **Modify Office for handicap accessibility to comply with UFAS**
- 13006I*** **Modify Common Laundry for handicap accessibility to comply with UFAS**
- 13007I*** **Modify Comm. Room for handicap accessibility to comply w/ UFAS**

The common spaces listed above need modifications to meet the requirements of UFAS. See HANDICAP ACCESSIBILITY for additional information.

14001I* **Elevator upgrades**

One of the two existing elevators were upgraded in 2011 with new control panels in the cab and at the elevator lobbies. The motor was also replaced according to maintenance personnel. The second elevator has been decommissioned by the local authorities until such time it is upgraded. The second elevator also need to be provided with controls accessible to the physically impaired.

15400I* **Replace cast iron sanitary sewer vertical risers**

15401I* **Replace galvanized steel water piping vertical risers**

Multiple sections of wall removal were witnessed in most of the upper floor corridors. The wall removal was necessary to repair the existing cast iron sewer risers and galvanized water piping. It is anticipated that all vertical sanitary sewer and water risers will need to be replaced due to the numerous repairs that have been required. The walls also need to be repaired to maintain the integrity of the fire-rated corridor walls.

15402A* **Replace lavatory and fittings**

15403A* **Replace water closet**

15404A* **Replace tub and fittings**

15405A* **Replace kitchen sink and fittings**

The majority of the plumbing fixtures appear to be in serviceable condition; however based on their age, significant replacement in the next several years should be anticipated. An allowance of 20% replacement for bath fixtures has been included in the Cost Estimate Summary. All sinks are recommended to be replaced because new cabinets are also recommended.

15550I* **Replace gas-fired water heaters**

Two 65-gallon gas-fired water heaters provide for domestic hot water for the apartments and common areas. Both are approximately 12 years old; therefore, replacement should be anticipated within the next few years.

15670I* **Provide fresh air ventilation for corridors**

Code requires occupied buildings to be ventilated with fresh air to maintain indoor air quality. A neutral or positive air balance will minimize air infiltration. Therefore, a new system providing air to the corridors would allow the exhaust systems within each apartment to draw fresh air into the dwelling units.

15680I* **Clean exhaust duct system**

15681I* **Provide fire dampers and access panels in ventilation duct**

The existing ducted exhaust system needs to be cleaned because it has been in operation for nearly 50 years. The exhaust fans on the roof were replaced within the past 10 years and are operating properly according to maintenance personnel. Fire dampers are needed to prevent fire and smoke from traveling between floors.

15830I* **Replace PTAC's in common areas**

15831A* **Replace PTAC's in apartments**

15832A* Remove electric baseboard heaters in bedrooms of one-bedroom apartments

The PTAC's in most apartments are over 10 years old nearing the end of their useful life. Management had already received priced for their replacement. Baseboard heaters exist in the bedrooms of the one-bedroom apartments that are no longer in use and need to be removed.

15833A* Remove supplemental electric wall heaters in apartments

15834I* Remove supplemental electric wall heaters in corridors and elevator lobbies

Electric wall heaters exist in the apartment bathrooms and on each end of the common upper floor corridors and the elevator lobbies. According to maintenance they have not been used in years. Therefore, they are recommended to be removed to prevent any electrical concerns due to their age.

15850I* Replace common area HVAC systems

The common areas on the first floor are conditioned by two air-handlers with condensing units located on the roof of the single-story portion of the building at the rear. Both are operating properly according to maintenance personnel but will need to be replaced in the near future because they are nearing the end of their life expectancy.

16000I* Inspect, clean, and adjust service switchgear and distribution breakers

Given the age of the building, an electrical inspection is recommended to determine the needs of the existing system.

16131A* Add dedicated kitchen GFI receptacles and circuit

16132A* Add a dedicated bathroom GFI receptacle and circuit

The proper protected receptacles do not exist at the bathrooms or kitchens. New dedicated circuits need to be provided at all locations.

16200I* General upgrades and repairs to emergency generator

The emergency generator is original to the building. Costs have been provided for servicing and upgrading parts as needed for continued operation. Maintenance personnel stated that the generator is tested monthly and continues to operate properly.

16516A* Allowance to replace apartment light fixtures

Most apartment light fixtures were in good condition. A minor allowance has been provided to change out fixtures on a selective basis.

16700I* Replace existing intercom system

The intercom main control panel was removed years ago according to maintenance staff. An upgraded system is recommended.

16721I* Upgrade fire alarm system for current code compliance including SD's in LR's

The existing fire alarm system is original to the building. The existing fire alarm system needs to be replaced and expanded to include smoke detectors in the living rooms of the one-bedroom units in accordance with NFPA 101 and 72. Additional audio/visual devices are recommended due to the number of seniors living in the building. The help alarms located next to the apartment toilets need to be separated from the notification panel in the main office.

PROPERTY INSPECTION RESULTS
June 11, 2018

A. GENERAL INFORMATION:

Holy Comforter Apartments, constructed in 1971, is located at 745 Walnut Street, Gadsden, Alabama and consists of 185 dwellings in a single 15-story structure. The property originally has 200 zero and one-bedroom apartments; however since the original construction, several apartments were combined to make larger units.

All of the apartments are located on floors 2-15 with the exception of four handicap accessible designated units on the first floor. The first floor also has a main lobby, the main administrative office with service window, a library, fitness/media room, beauty salon, public restrooms, a community space, and gang mailboxes. A one-story wing off of the rear of the building has ancillary maintenance and storage spaces.

Mail is received at gang mailboxes located in the lobby. Each floor has a trash chute with a compactor located on the first floor. A large trash dumpster exists in the rear parking area just off of the service door at the compactor. All floors have a small laundry including the first floor which has an accessible washer and dryer to service the accessible apartments. Two elevators provide access to the upper floors. Each floor has an small elevator lobby with sitting area.

On-site parking is provided on the sides and rear of the structure with an access drive at the front of the building for drop-off and pick-up of residents and visitors. The sides and rear of the property are bordered by a chainlink perimeter fence. A small garden for the residents is located on the rear of the development. Additional maintenance storage is provided next to the garden in a small metal building. The rear parking areas are illuminated with standard light poles with decorative light provided where visible from the front of the development.

The building is constructed of concrete foundations and slabs with upper floors of concrete construction. Exterior walls are clad with brick and an exterior insulation finish system (EIFS) with a membrane roof. A lightning protection system is located around the perimeter of the building mounted on the parapet walls. Emergency scuppers are located in the parapet walls in case of heavy rains of roof drain stoppages. T-Mobile has an antennae system mounted on the roof of the elevator bulkhead.

Common area walls and most apartments walls are drywall. A portion of the walls in the apartment living spaces are wood paneling. Ceilings are lay-in acoustical tile on the first floor and stippled concrete and drywall on upper floors. Common area floors are predominately carpet with VCT at elevator lobbies. Quarry tile exists at portions of the main lobby. The apartments have VCT at the entry foyers and kitchens with carpet in the living and sleeping spaces. A few of the kitchen floors have been covered with quarry tile. Bathrooms have ceramic tile flooring and bath wainscots at the tubs.

Windows within the apartments have single pane glass with a center fixed section and sliders on either side. Interior window sills are terra cotta tile. Apartment entry doors are solid core wood with metal frames. Apartment interior doors are hollow core wood with metal frames with closet doors, where they exist, being metal bi-folds.

The apartments are heated and cooled with through-wall PTAC units. The bedrooms of the one-bedroom units have electric baseboard heaters which are no longer operable or needed. Apartment bathrooms have a supplemental electric wall heater, which according to maintenance staff, are never used. Kitchens and baths are ventilated with roof mounted fans. Each unit has an intercom system that is no longer operable. A help alarm switch is located at all apartment toilets with a signal light located in the corridors outside the unit door. A signal panel for the alarms, which is also connected to the fire alarms, is also located in the main office. The panel, when signaling, does not differentiate between the fire alarm and help alarm.

The bulk of the first floor common spaces are conditioned with two split systems with air-handlers above the first floor ceiling and condensing units located on the roof of the one-story section on the building's rear. The upper floor common corridors are not ventilated. Electric wall heaters exist at the end of each upper floor corridor and in each upper floor elevator lobby. Domestic hot water is provided by two 65-gallon gas-fired water heaters located in the

roof bulkhead and continuously circulated by an electric pump. Water piping is galvanized steel with the sanitary sewer piping of cast iron. All utilities are master metered. There is no sprinkler system within the structure.

At the time of this report 50% of the apartments were occupied. This survey consisted of the interiors of 30 apartments (16.2%) and 100% of the exterior and common areas.

B. GENERAL CONDITIONS:

BUILDING EXTERIORS: Given that the structure is nearly 50 years old, the exterior is in relatively good condition. Brick masonry has minor spalled areas at shelf angles. The EIFS sections need minor reattachment. Concrete spandrels need cleaning. All previously painted surfaces need to be repainted. Due to water infiltration through the brick in the stairs and selective apartment areas, all masonry surfaces need to be sealed.

The membrane roof has outlived its life expectancy being replaced in 1985. Portions of the insulation below the membrane have become detached. The existing roof is improperly sloped with water ponding away from roof drains. Perimeter parapet walls are in good condition with its coping needing minor attention. Roof mounted exhaust fans were installed in 2008 and have been properly operational according to maintenance staff. Exhaust ductwork from the kitchen and baths to the roof fans need to be cleaned with fire dampers installed. The old antennas on the bulkhead roof that are no longer in use need to be removed.

COMMON SPACES: The common areas have been well maintained. The carpet, quarry tile, and VCT is in good condition with no immediate concerns. Lay-in acoustical ceilings at the first floor need minor replacement.

First floor common wall surfaces are also in good condition. Multiple sections of drywall at the upper floor corridors have been removed to conduct water and sewer pipe repairs. Only a small portion of these have been properly replaced. Most have been covered with wood panels with many being covered with metal louvers. The wood and louvers do not maintain the integrity of the fire-rated wall. Consideration should be given to replacing the vertical risers for all water and sewer piping due to the high number of previous repairs. Costs have not been included herein for corridor wall repairs because repairs will again be required when the piping is replaced.

The two HVAC systems conditioning the common spaces are nearing the end of their useful life; therefore, replacement should be anticipated in the next few years. The one PTAC unit providing air for the fitness/media space also need to be changed out. Supplemental electric wall heaters in the elevator lobbies and at the end of each corridor are no longer used according to maintenance staff and need to be removed. The gas-fired water heaters were replaced in 2006. Maintenance staff stated that they have had no problems with the water heaters; however, it should be anticipated that they will need to be replaced in the next few years based on age.

The emergency generator, which is original to the building, continues to operate properly and is regularly tested according to maintenance personnel. A major servicing should be anticipated in the near future. The trash compactor has not been operational for years and needs to be replaced. All common area windows are also original and need to be replaced. The interior common stairs need additional intermediate members at the handrails to meet current codes.

One of the elevators was upgraded in 2011. The motor was replaced and new push button panels were provided in the cab and at the elevator lobbies. It was last inspected on 11/29/17. The other elevator needs a complete upgrade haven been taken out of service by the local authorities. The fire alarm system is outdated and needs to be upgraded. A notification panel in the main office ties the emergency call switches at the apartment toilets and smoke detectors in the apartments together. These systems need to be separated.

APARTMENT INTERIORS: The apartment interiors are in good condition given the age of the property. Several components will need to be replaced in the near future to extend the life of the structure. These components, in many cases, are not indicated on the individual inspection reports because they remain operational and serviceable. However, since they are nearly 50 years old, replacement should be anticipated in the near future.

Many of the single pane glass windows in the units have been covered with a plastic film. The film has dulled over time obscuring the resident's view. Sliding end section still operate; however, the windows have outlived their useful life and need to be replaced with new double pane insulated glass units. Apartment entry doors are not fire-rated and do not self-close as required; therefore, new doors with closers or spring hinges need to be provided. Most apartment interior doors are in good condition with selective replacement of metal bifold closet doors needed.

Most of the apartment flooring has been replaced over time. Carpet needed to be replaced in approximately 40% of the units inspected with resilient flooring needing to be changed out in 30% of the apartments. Minimal wall and ceiling repair was found to be required in the apartments inspected.

Kitchen cabinets, while serviceable, are original and should be replaced in the near future. Most ranges are original drop-in type and are outdated and well past their useful life. The condition of the refrigerators varies with many of those having been replaced over time. The original cast iron sinks need to be replaced when the cabinets are upgraded. It appears that a few of the bathroom plumbing fixtures have been replaced overtime. Allowances have been provided for a percentage of additional fixtures that should be anticipated in the near future.

PTAC units were found operational in the occupied units inspected. Management stated that they were anticipating complete replacement in that all were past or nearing their expected life. Costs have been included herein for complete replacement. The unit costs are slightly higher in that the wall sleeves are not of a standard size for current models being manufactured. The electric baseboard heaters in the bedrooms of the one-bedroom apartments are no longer in use and need to be removed.

GFI receptacles do not exist in the kitchens and baths as required by current codes. Smoke detectors are also required at the area leading to the sleeping rooms and in the bedrooms. New detectors are needed in many of the living rooms of the one-bedroom apartments. The intercom system is also not operation with the main control panel on the first floor having been removed years ago.

SITE CONDITIONS: Asphalt parking and drives need minor base repair. Cracks need to be sealed with a new seal coat applied. All parking spaces will need to be restriped with proper accessible spaces being provided. A new concrete pad is needed under the trash dumpster located at the rear of the building. Concrete sidewalks were found to be in good condition.

The perimeter chainlink fence was in good condition. The standard light poles at the rear parking areas need to be prepared and painted with minor repairs required. The decorative light at the front of the property appeared to be in good condition.

C. HAZARDOUS MATERIAL TESTING:

Asbestos and lead testing were not conducted at the subject property as part of this report.

D. PHASE ONE ENVIRONMENTAL SITE ASSESSMENT:

A Phase One Environmental Site Assessment was not performed as part of this report.

E. CODE REVIEW:

Several items were found during the on-site survey which may require modifications to meet current code. Examples are:

- Provisions for dedicated circuits in the kitchens and bathrooms and provisions for GFI receptacles where they do not exist.
- Upgrades to the fire alarm system including smoke detectors in living rooms.
- Additional intermediate members in interior stair handrails.
- Replacement of apartment entry doors with fire-rated doors that self-close
- Provisions for ventilation systems to maintain indoor air quality in common corridors

F. HANDICAP ACCESSIBILITY:

Holy Comforter Apartments, has four dwelling units designated for those with physical disabilities all of which are located on the first floor. All four of the apartments need modifications to meet the requirements of the Uniform Federal Accessibility Standards (UFAS). UFAS requires that 5% of the units be available to the handicap; therefore six additional designated units are required. There are no additional units available on the first floor; therefore, units on the upper floors will require alterations. Common areas also require attention for compliance. Four apartments (2%) are required to be upgraded for the hearing and vision impaired. See HANDICAP ACCESSIBILITY section for more information.

G. HEALTH AND SAFETY ITEMS:

The following list represents health and safety concerns at the subject development.

- Additional intermediate members in interior stair handrails
- Modifications to handrails at existing handicap ramp
- Replacement of apartment entry doors with fire-rated doors
- Provisions for apartment entry doors to self-close
- Upgrades to elevators
- Replacement of water and sanitary sewer risers
- Cleaning of ventilation ducts from kitchens and baths to roof
- Installation of fire dampers in ventilation ducts
- Inspection and servicing of electrical switchgear and distribution breakers
- Provisions for GFI receptacles and dedicated circuits in the kitchens where they do not exist
- Provisions for dedicated circuits for GFI receptacles in the bathrooms
- General upgrades to emergency generator
- Upgrades to fire alarm system including installation of additional detectors in living rooms of the one-bedroom u

Certification of Substantial Compliance

TO: The United States Department of Housing and Urban Development

FROM: _____

I Certify to HUD that any and all properties that are owned by _____, or its affiliates, and located in _____ (City or Town where the Property 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: _____
Owner Name

Title

Address

Telephone Number

Date

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

Schedule A: All properties owned by _____ or affiliates.

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

PROTECTING TENANTS AT FORECLOSURE ACT

Applicable to all foreclosure sales:

In the case of foreclosure involving any multifamily residential dwelling, the purchaser at foreclosure shall be subject to the following:

1. Any bona fide tenant occupying a unit as of the date of the notice of foreclosure must be given 90 calendar days prior notice to vacate the unit; and
2. All tenants retain all of their rights as of the date of the notice of foreclosure. These rights include:
 - (A) Any tenant who, on or after the date of the notice of foreclosure, is under a lease agreement entitling the tenant to occupy the premises until the end of the remaining term of the lease, will continue to maintain his/her rights under the lease agreement, except that a purchaser at foreclosure *who will occupy a unit as a primary residence* may terminate a tenant's lease for that unit, effective on the date of sale, by issuing notice of the termination of tenancy to the tenant at least 90 calendar days prior to the effective date of the notice.
 - (B) Any tenant who is a tenant at will under state law or occupies the unit without a lease retains all of its rights regarding occupancy of the unit, except such tenant may be required by a purchaser at foreclosure to vacate the unit provided that the tenant is given 90 calendar days prior notice by the purchaser at foreclosure.
 - (C) Nothing contained in paragraphs 1 and 2 herein shall affect the requirements for termination of any federal or state subsidized tenancy or of any state or local law that provides longer time periods or additional protections for tenants, those rights will be retained by the tenant.
3. If the tenant holds a Section 8 voucher and has a lease agreement, the purchaser at foreclosure may terminate the tenancy effective as of the date of the transfer of ownership to the purchaser if (1) the purchaser will occupy the unit as a primary residence and (2) provides the tenant with a notice to vacate at least 90 calendar days before the effective date of the notice.
4. The purchaser at foreclosure will assume its interest in the property subject to: (1) the existing leases between the prior owner and the current tenants; and (2) the existing Housing Assistance Payments contract between the prior owner and the public housing agency for any occupied unit, except that requirements contained in this paragraph 4 and in paragraph 3 shall not affect any state or local law that provides longer time periods or other additional protections for tenants.

Attachment K

Post Closing Repair Report

Property:		Repair Expenditures to Date: \$
Address:		Date Repairs Began:

Number of HAP Units: _____ Number of HAP Units repaired/meeting PCS: _____

Number of Units: _____ Number of Units repaired/meeting PCS: _____

List major repairs as required by Form HUD-9552 and provide status of those repairs:

Major Repair (EX: replace roofs for 5 buildings)	Work Completed (EX: roofs replaced for 3 buildings: 60%)

Provide narrative describing any special circumstances beyond your control which may, or has delayed the repairs:

Provide narrative describing the status of the planned rehabilitation. Your narrative should include whether you are ahead of, on, or behind on your original rehabilitation schedule:

Date of Report: _____

Report completed by: _____ Title _____

Please fax a completed version of this report to the Property Disposition Construction Analyst, at (817) 978-6018. Reports are due quarterly and to be continued until the Repairs are complete.

Attachments:

1. Attach a minimum of 4 photographs depicting repaired conditions.
2. Attach additional pages as necessary to provide a thorough explanation of status of repairs.