

Project Name: Delta Apartments  
Project Number: 065-35066  
Location: Leflore County, MS

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
PROPERTY DISPOSITION PROGRAM

CONTRACT OF SALE

THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, is between the SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ("Seller"), and Leflore County, Mississippi, ("Purchaser").

WITNESSETH THAT

The parties acknowledge that the Seller does not presently own title to the property which is the subject matter of this contract, that Seller intends to acquire such title prior to Seller's obligation to perform and that Seller's performance of the contract is strictly contingent upon Seller's obtaining title to said property.

1. PURCHASE AND SALE

In consideration of the covenants and agreements of the respective parties, as hereinafter set forth, Seller agrees to sell and Purchaser agrees to purchase all of Seller's right, title and interest in and to the real estate situated in the County of Leflore, State of Mississippi, and more particularly described in the attached Exhibit entitled "Property Description," together with all improvements thereon and appurtenances thereto and the articles of equipment and other personal property owned by Seller and used in connection therewith, hereinafter referred to as the "Property".

2. PURCHASE PRICE

a. The purchase price of the Property is \$1.00 (One Dollar) to be paid at Closing.

b. Unless payment and performance bonds are provided to the Seller in accordance with the Rider 3 of 11 entitled "Post-Closing Repair Requirements", Purchaser shall provide at Closing a \$1,074,562 unconditional, irrevocable and non-documentary letter of credit (LC) satisfactory to Seller, or a cash escrow in the amount of \$1,074,562, to assure completion of the rehabilitation required by the Rider entitled "Post-Closing Repair Escrow Requirements."

c. If the Purchaser is unable to provide an LC satisfactory to the Seller, or a cash escrow in the amount of \$1,074,562, or a performance bond pursuant to the terms of Rider 3 of 11 "Post-Closing Repair Requirements" attached hereto, Purchaser shall provide Seller with a No Warranty Deed that will be in effect until the earlier of (1) Purchaser's submission of a performance bond or LC or (2) the satisfactory completion of required repairs.

d. In addition to the purchase price, Purchaser will be required to deposit at Closing **\$100,000** into a Reserve Fund for Replacements account. Commencing the first day of the first month following completion of all repairs as set out in "the Contract of Sale" Rider 3 of 11 "Post-Closing Repair Escrow Requirements", Purchaser will be required to deposit **\$30,000** annually into the Reserve Fund for Replacements Account, payable in monthly installments of **\$2,500**.

3. PROJECT BASED SECTION 8 HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

The Purchaser and HUD will execute a Project-Based Section 8 Housing Assistance Payments Contract ("HAP Contract") for one-hundred (100) units at Closing. HUD will provide funding for the HAP Contract subject to the availability of funds. The HAP Contract initially will be funded for a minimum of one (1) month and a maximum of twelve (12) months.

4. CLOSING, CLOSING EXPENSES AND TRANSFER OF POSSESSION

a. The sale shall be effective upon Closing.

b. Purchaser shall pay all closing costs and expenses,

irrespective of local custom.

c. Transfer of title to and possession of the Property, subject to the leases and tenancies herein referred, shall become effective as of the Closing.

5. PRORATIONS AND SECURITY DEPOSITS

a. Prorations

As between Seller and Purchaser, there will be no prorations of any type at Closing including, but not limited to, income, expenses, real estate taxes, water & sewer charges, etc., whether collected or uncollected, paid or unpaid. In addition, Seller assumes no liability for any liens, whether known or unknown, or expenses incurred but not billed or received as of the day of closing.

b. Security Deposits

Notwithstanding State or local law, Seller assumes no liability with respect to the collection or transfer of security deposits.

6. FORM OF CONVEYANCE, INSPECTION, OBJECTIONS TO TITLE AND RIGHTS OF RESCISSION

a. The Property shall be conveyed to the Purchaser by quitclaim deed in the form customarily used by Seller in the jurisdiction in which the Property is located. Title to the Property shall be good and marketable subject to existing tenancies, easements, zoning, covenants, restrictions and reservations of record. However, Seller shall not warrant those items deemed acceptable to Purchaser pursuant to subsection (e) below.

b. Any title evidence or survey desired by Purchaser shall be obtained at the sole expense of the Purchaser.

c. If any defect in title renders the Property unmarketable, or if litigation is pending challenging the sale and/or the sale is enjoined and Seller does not cure the defect, settle the litigation or cause the

injunction to be removed within a reasonable time, or Seller notifies Purchaser in writing that it is unable or unwilling to cure the defect, settle the litigation or remove the injunction,

i. Purchaser shall have the right to terminate this Contract by delivering to Seller written notice prior to the Closing. If such right is exercised, Seller shall return any earnest money deposit paid under Section 2 and extension fees paid under Section 10; and

ii. Seller reserves the right to rescind this Contract and to return any earnest money deposit paid under Section 2 and extension fees paid under Section 10 of this Contract.

The return or tender of any earnest money deposit or extension fees shall release Seller from all obligations and liability to Purchaser.

d. The Property shall not be deemed unmarketable solely by reason of the existence of:

i. covenants, conditions and restrictions of record;

ii. private, public and utility easements, roads and highways;

iii. party wall rights and agreements;

iv. pending local building code violation proceedings;

v. existing leases and tenancies; and

vi. special taxes or assessments.

e. Purchaser shall have twenty-one (21) days from the date of execution of this Contract by Seller to notify Seller in writing of all defects in title appearing as of the date Purchaser executes this Contract. If Purchaser does notify the Seller in writing of any alleged defects within twenty-one (21) days after

execution of this Contract by Seller, only those items in the notification will be addressed by Seller. All other title matters will be deemed acceptable to Purchaser.

f. Seller shall deliver to Purchaser a duly executed deed conveying Seller's right, title and interest in the Property at Closing which Purchaser immediately will present for recordation in the appropriate recorder's office, a copy of which will be provided to Seller.

7. AS-IS SALE; NO REPRESENTATIONS

a. Purchaser shall accept the Property "as is." Seller makes no representations or warranties concerning the physical condition of the Property. In addition, Seller does not represent or warrant the number and occupancy of revenue producing units, or any factor bearing upon the value of the Property. It is Purchaser's responsibility to assess the actual condition of the Property.

b. Purchaser acknowledges that the purchase price set forth in Section 2 of this Contract is based on Purchaser's valuation of the Project and not upon any representations by Seller. Purchaser'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 Seller under this Contract, nor be a basis for termination of this Contract or for the return of any extension fees paid pursuant to Section 10.

8. RISK OF LOSS AND RIGHTS OF RESCISSION

Until the Closing, Seller assumes the risk of loss from damage to the Property by any cause (including but not limited to fire, flood, earthquake, tornado and vandalism) other than willful acts of the Purchaser, and in the event of such damage will provide for the restoration of the property to its condition immediately prior thereto, except that, if Seller determines that such damage is so extensive that Seller is unwilling to restore the Property, Seller may rescind this Contract and return to Purchaser any earnest money deposit paid to Seller. The sending of the notice of

rescission and the return of any earnest money deposit or tender thereof, shall release Seller from any and all claims by Purchaser arising under this Contract. If offered by Seller and agreed to by Purchaser, the cash due at Closing may be reduced by the estimated cost of restoration of the Property because of such damage.

Such damage shall be added to the rehabilitation requirements provided for in Rider 3 of 11 entitled "Post-Closing Repair Escrow Requirements"

9. TIME IS OF THE ESSENCE - LIQUIDATED DAMAGES

Time is of the essence in the performance of this Contract. The sale shall be closed at Seller's offices, or at such other place as may be agreed on by the parties in writing, immediately following acquisition of title by Seller at the foreclosure sale, unless this Contract is extended pursuant to Section 10. Should Purchaser fail or refuse to perform its obligations under this Contract (including, but not limited to, the failure to establish the legal entity that is to take title), any earnest money deposit paid to the Seller and any extension fees paid under Section 10 shall be retained by Seller as liquidated damages. However, Seller shall not retain said amounts as liquidated damages if Purchaser is unable to perform due to unmarketable title.

10. EXTENSIONS

Extensions of time to close the sale are within Seller's sole and absolute discretion. Any extensions, if granted, will be on the following condition

a. A written request for an extension must be received by Seller, at Seller's office where the Closing is to be held, within thirty (30) days following the execution of this Contract by Seller, or within any extension period and must be accompanied by the payment of the required extension fee. The request must state the reason for Purchaser's inability to close the sale within the initial 30 day period or any extended period.

b. Extensions shall be for 30 days.

c. For each 30 day period requested by Purchaser and

approved by Seller, extension fees shall be equal to \$31.17, per unit, per day.

d. These fees shall be retained by Seller and shall not be credited to the amount due from Purchaser at Closing. However, if Purchaser closes prior to the expiration of an extension period, the prorated amount of the extension fee, for the unused portion of the extension period, shall be credited toward the amount due from Purchaser at Closing.

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

f. If any form or instrument required by Seller is not submitted within sufficient and reasonable time for Seller's review or processing and such delay necessitates an extension of the Closing deadline, an extension fee must be paid for this period.

g. Extension fee(s) must be transmitted pursuant to the wire transfer procedure set forth in the attached Exhibit entitled "Wire Transfer Instructions", or by money order, certified, cashier's or other bank check acceptable to HUD. If wire transfer is used, Purchaser shall present to Seller, at the time the extension is requested, confirmation of the wire transfer.

#### 11. Purchaser RESTRICTIONS

a. No Member of/or Delegate to Congress, or resident commissioner or local elected official, shall be admitted to any share or part of this Contract, or to any benefit arising from it. However, this provision does not apply to this Contract to the extent that this Contract is made with a corporation for the corporation's general benefit.

b. If Purchaser is or becomes suspended, debarred or temporarily denied from participating in HUD programs prior to closing, this Contract shall be terminated. Any earnest money deposit paid under Section 2 or extension fees paid under Section 10 shall be retained by Seller as liquidated damages.

C. Pursuant to 24 CFR Part 27 Section 20 (f), the defaulting mortgagor, or any principal, successor, affiliate, or assignee thereof, on the mortgage on the property at the time of the default resulting in acquisition of the property by HUD shall not be eligible to purchase the property. A "principal" and an "affiliate" are defined as provided at 24 CFR 24.105.

12. CONTRACT BINDING - RESTRICTIONS ON ASSIGNMENT OF CONTRACT

This Contract shall be binding upon Purchaser, its respective heirs, executors, administrators, successors and assigns.

13. LIMITATION OF LIABILITY

Notwithstanding any other provisions of this Contract, Seller's liability for damage to the Property or for any breach of this Contract shall not exceed the amount of funds paid by Purchaser to Seller hereunder.

14. CONTRACT EXECUTION

If this Contract is executed on behalf of a corporation, partnership or other entity not as yet legally formed, such corporation, partnership or entity must be validly organized and legally capable of performing its obligations under this Contract prior to the Closing. If the entity is unable to become legally formed and, therefore, cannot accomplish the Closing, the earnest money deposit and all extension fees will be retained by Seller.

15. FORMS

All forms and instruments referred to in this Contract shall be the standard HUD forms and instruments prepared by Seller and used by Seller in the jurisdiction in which the Property is located and shall contain such additional covenants and conditions required by this Contract, Prospectus and/or Request for Proposals.



16. ACKNOWLEDGMENT OF TERMS AND CONDITIONS OF SALE

Purchaser affirms that it has full knowledge of the terms, conditions, and requirements contained in this Contract.

17. COMPLETE AGREEMENT

This Contract supersedes all prior agreements and understandings related to the subject matter hereof, and may be changed, waived, discharged or terminated only by a written document, signed by the party against whom such change, waiver, discharge or termination is sought, except as otherwise provided herein.

18. GENDER AND NUMBER

Whenever the sense of this Contract so requires, the use of (1) the singular shall be deemed to include the plural, (2) the masculine gender shall be deemed to include the feminine or neuter gender, and (3) the neuter gender shall be deemed to include the masculine or feminine gender.

19. SEVERABILITY

If for any reason one or more of the provisions contained in this Contract shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Contract, but this Contract shall be construed as if such invalid, illegal or unenforceable provision never had been included in this Contract.

20. NOTICE

Any notice, request, information or other document to be given hereunder to any of the parties by any other party, shall be in writing and delivered personally or sent by an overnight or express mail service, with a return receipt, postage prepaid to the person and address set forth below. Any party may change the person or address to which notices are to be sent to it by giving written notice of such change to the other party in the manner herein provided for giving notice. The person, address and telephone number for the Department of Housing and Urban Development are William H.

Melvin, Director, Atlanta Multifamily Property Disposition Center, U.S. Department of Housing and Urban Development, Five Points Plaza, 40 Marietta Street, Atlanta, GA 30303-2860, Telephone: 678-732-2187.

The person, address and telephone number for the Purchaser are as provided below Purchaser's signature on this Contract.

21. EXHIBITS

All exhibits described herein and attached hereto are fully incorporated into this Contract by this reference.

22. PARAGRAPH HEADINGS

The paragraph headings contained in this Contract are for convenience only and shall in no way enlarge or limit the scope of the paragraphs hereof.

23. LEAD-BASED PAINT HAZARD

Seller has provided Purchaser with a 10-Day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Purchaser acknowledges receipt of the following:

1. *Protect Your Family From Lead in Your Home*
2. *Disclosure of Information on Lead-Based Paint Hazards for Rentals and Leases of Delta Apartments*
3. *Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards for Target Housing Sales*

24. MISCELLANEOUS PROVISIONS

- a. When the consent or approval of either party is required under the terms of this Contract, such consent or approval must be in writing.
- b. Purchaser agrees that any restrictions to be placed in the Deed referred to in this Contract will run with the land.
- c. Whenever a number of days is referred to in this Contract, days shall mean calendar days. If any period of time expires on a non-Federal business day, Purchaser

or Seller shall have until the close of business of the next Federal business day to take whatever action is to be taken within the time period.

25. RIDERS TO THIS CONTRACT

The Riders checked and initialed by the parties are attached to and incorporated into this Contract and will be placed in the Deed to run with the land.

- Enforcement
- Affordability of Units
- Post-Closing Repair Escrow Requirements
- Relocation
- Asbestos Hazards
- Lead-Based Paint Hazards
- Equity Participation (Other than Homeownership)
- Conveyance to a Non-Public Entity
- Reserve Account
- Project Based Section 8 Assistance
- Redevelopment Plan*



IN WITNESS WHEREOF:

The Purchaser has executed this Contract in triplicate the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

WITNESS:

\_\_\_\_\_  
Purchaser

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

\_\_\_\_\_  
Typed Name of Signatory

\_\_\_\_\_  
Title of Signatory

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

Seller has executed this Contract in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
(This line to be executed by Seller)

WITNESS:

SECRETARY OF HOUSING AND URBAN  
DEVELOPMENT

\_\_\_\_\_  
By \_\_\_\_\_  
\_\_\_\_\_

## LIST OF EXHIBITS

1. Legal Description
2. Wire Transfer Instructions
3. Post Closing Repair Requirements

EXHIBIT1  
TO THE CONTRACT OF SALE

Legal Description

Beginning at a point 979.0 feet North and 807.0 feet West of the Southeast Corner of Section 12, Township 19 North, Range 1 East, said point being on the North side of Browning Road. Run thence North 29 degree 07 inches West 751.09 feet; run thence North 57 degree 57 inches East 579.30 feet; run thence South 29 degree 07 inches East 748.30 feet to the North side of Browning Road. Run thence South 52 degree 31 inches West 73.8 feet along the North side of Browning Road; run thence South 58 degree 25 inches West 506.0 feet along the North side of Browning Road to the point of beginning containing 10.00 acres in the Southeast Quarter of section 12, Township 19 North, Range 1 East, Leflore County, Mississippi.