

AGREEMENT BETWEEN THE CITY OF PEORIA, ILLINOIS
AND
PEORIA PORTFOLIO I – IV APARTMENTS, L.P., AN OHIO LIMITED PARTNERSHIP,
FOR
HOME PROGRAM FUNDS

REHABILITATION OF RENTAL HOUSING – SCHLARMAN HOUSE
707 NE MADISON AVE (18-03-351-001)

PROJECT # 14SH01
IDIS # 4461
Affordable Units to be Rehabilitated: 9
Total Project Funding: \$225,000

Approved by the Peoria City Council on February 25, 2014
Council Agenda Item #- 14-068

This Agreement entered into by and between The City of Peoria ("City"), an Illinois municipal corporation and PEORIA PORTFOLIO I – IV APARTMENTS, L.P. ("Peoria Portfolio Apartments"), an Ohio limited partnership, on this 2nd day of June, 2014.

WHEREAS, the City is a recipient of funds from the United States Department of Housing and Urban Development ("HUD"), as administrator of the HOME Investment Partnerships Program ("HOME Program") pursuant to which HUD has agreed to make a grant to the City, the funds (as hereinafter defined) of which are used to create and preserve affordable housing for low-income individuals in the community;

WHEREAS, Peoria Portfolio Apartments is an Ohio limited partnership and an affiliate of Wallick-Hendy Development Company, LLC, an Ohio limited liability company. Of which, Wallick-Hendy Development Company, LLC is an affiliate of The Wallick Companies LLC, an Ohio limited liability company;

WHEREAS, Peoria Portfolio Apartments is the owner of the property at 707 NE Madison ("Schlarman House") a three-story, 75 one-bedroom congregate living facility for low-income seniors;

WHEREAS, Wallick-Hendy Development Company, LLC on behalf of Peoria Portfolio Apartments made application to the City for HOME funds in connection with the rehabilitation of Schlarman House; and

WHEREAS, Peoria Portfolio Apartments will serve as the Owner and Developer for the rehabilitation of nine (9) HOME assisted units in the Schlarman House project;

NOW THEREFORE, in consideration of the recitals set forth above and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

- I. **RECITALS.** The foregoing recitals are made a part of this Agreement.

II. **PURPOSE.** The purpose of this Agreement is to reimburse Peoria Portfolio Apartments for eligible project expenses it incurs in order to rehabilitate nine (9) units in the Schlarman House project. This Agreement and funds shall be subject to the terms and conditions of the HOME Investment Partnership Act [42 U.S.C. § 12701 *et seq*] and the Code of Federal Regulations Title 24, Volume 1 [24CFR92.1 *et seq*]; Code of Federal Domestic Assistance 14.239.

III. **TERMS AND SECURITY.**

A. For the purposes of this Agreement, the "HOME Affordability Period" shall mean ten (10) years from date of completion of Activity #2 described in Section IV.; the date the Project is identified as "completed" in HUD's Integrated Disbursement Information System.

B. The term "units" shall mean the one-bedroom, nine (9) HOME assisted units located at Schlarman House, with at least one (1) of the units meeting the accessibility standards of the Americans with Disabilities Act of 1990 (ADA).

C. The term "tenants", as defined by HUD, is an individual whose household has a gross annual income, as adjusted for family size, that is less than or equal to eighty percent (80%) of the median income for the metropolitan statistical area or county.

D. The term "funds" shall mean the Two Hundred and Twenty Five Thousand Dollars (\$225,000.00) of HOME Program funds awarded to Peoria Portfolio Apartments.

IV. **SCOPE OF SERVICE.**

A. **Activities**

Peoria Portfolio Apartments shall rehabilitate nine (9) units, in a manner satisfactory to the City and consistent with any standards required by HUD as a condition of providing these funds. Such funds will include reimbursement for the following eligible activities under the HOME Program:

Activity #1: The rehabilitation of nine (9) units for the purpose of providing affordable housing units for low-and moderate-income individuals and/or families. This should occur within eighteen (18) months from the execution of this Agreement. Please reference Exhibit A – "Schlarman House Apartment Remodel Schedule".

Activity #2: The occupancy of tenants of nine (9) units to low- and moderate-income individuals/families according to all applicable HUD laws, regulations, and rules. This should occur within six (6) months from the completion of Activity #1 described above.

Activity #3: The furnishing of information regarding the nine (9) units upon City's request to ensure monitoring compliance with the applicable HUD laws, regulations, and rules concerning the HOME Affordability Period and guidelines.

B. **Performance Monitoring**

The City will monitor the performance of Peoria Portfolio Apartments according to the goals and performance standards contained in this Agreement. During the HOME Affordability Period, the

City will certify annual income of tenants to document eligibility and inspect units for property code compliance. Substandard performance as determined by the City will constitute non-compliance with this Agreement.

Participation in any prohibited activities as defined in 24 CFR 92.214 (a-b) shall constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Peoria Portfolio Apartments within 60 days after being notified by the City, termination of the Agreement will be initiated and all funds must be returned to the City.

C. Construction Rehabilitation Monitoring

The City will monitor the performance of Peoria Portfolio Apartments regarding the rehabilitation of nine (9) units. The City reserves the right to review and approve all general contractors and sub-contractors that shall participate. Funds cannot be used to directly or indirect employ, award contracts to or otherwise engage the services of any contractor, subrecipient or sub-contractors during any period of debarment, suspension or placement of ineligibility status on the Federal System for Award Management lists.

Peoria Portfolio Apartments will meet with City staff to review construction site plans. No construction can proceed without a prior review by the City Rehabilitation staff and written authorization from the Community Development Director or his/her designee.

Peoria Portfolio Apartments will secure all appropriate building permits, zoning permits, and all required approvals from the City. All plans must utilize new construction materials or equivalent grade materials as authorized by City Rehabilitation and/or Building Inspection staff.

During the construction phase of the project, Peoria Portfolio Apartments agrees to allow City Rehabilitation Staff access to the project at all reasonable times for the purpose of inspection. The primary purpose of the inspection will be to ensure that the rehabilitation meets all applicable City, State of Illinois, and HUD property standards, codes, regulations, and laws. Moreover, Peoria Portfolio Apartments agrees to allow City Building Inspectors access for required building inspections such as, but not limited to plumbing and electrical inspections.

D. Labor Provisions

- i. *Davis-Bacon Federal Labor Act (40 U.S.C. 276a-276a-5)*: The rehabilitation of the nine (9) units in Schlarman House does not trigger the requirements of the Davis-Bacon Act. However, in accordance with the other financing sources for the Schlarman House project, Peoria Portfolio Apartments has agreed to comply with the State of Illinois Prevailing Wage Act (820 ILCS 130/0.01) (from Ch. 48, par. 39s-0.01). Peoria Portfolio Apartments agrees to include the provisions of the State of Illinois Prevailing Wage Act in all contracts for rehabilitation of Schlarman House. Additionally, Peoria Portfolio Apartments agrees to provide records and reports of the prevailing wage compliance to the City upon request.
- ii. *Contract Work Hours and Safety Standards Act (CWHSSA), as amended (40 USC 327-333)*: The CWHSSA will apply to the rehabilitation of the nine (9) units in Schlarman House, as the project is considered a "federally assisted construction contract over \$100,000". Peoria Portfolio Apartments agrees to require contractors and subcontractors to pay laborers and mechanics employed in performance of the rehabilitation of Schlarman House one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. In order to

document compliance, the City will accept the State of Illinois Department of Labor Certified Transcript of Payroll (form IL452CM02). Additionally, in compliance with CWHSSA, Peoria Portfolio Apartments agrees to prohibit any unsanitary, hazardous, or dangerous working conditions at the Schlarman House project in accordance to the Federal Department of Labor's Occupational Safety and Health Administration (OSHA).

- iii. *Copeland (Anti-Kickback) Act (40 USC 276c)*: The Copeland Act will apply to the rehabilitation of the nine (9) units in Schlarman House, as the project is considered a "federally assisted contract in excess of \$2,000". Peoria Portfolio Apartments agrees to prohibit contractors and subcontractors from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment in performance of the rehabilitation of Schlarman House. In order to document compliance, the City will accept the State of Illinois Department of Labor Certified Transcript of Payroll (form IL452CM02).
- iv. *Fair Labor Standards Act (FLSA) of 1938, as amended (29 USC 201, et.seq.)*: The FLSA will apply to the rehabilitation of the nine (9) units in Schlarman House. Peoria Portfolio Apartments agrees to require contractors and subcontractors to pay Federal minimum wage for all workers and provide at least one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. Additionally, Peoria Portfolio Apartments agrees to prohibit contractors and subcontractors from employing youth under the age of 18 for performance of the rehabilitation of Schlarman House.

V. **PAYMENT.**

A. **Budget**

Please reference Exhibit B – "Schlarman House Scope Line Item and Unit Costs"

TOTAL BUDGET	
Construction Materials and Labor, exclusive of general requirements and contractors profit (approx. \$26,335 per unit)*	\$225,000
TOTAL AWARD	\$225,000

**Total funds per unit shall not exceed the per unit subsidy limits based on the Section 221(d)(3) limits for elevator-type projects. The 2012 published Section 221(d)(3) limits will remain in effect until further notice is issued from HUD.*

B. **Reimbursement Procedures**

It is expressly agreed and understood that the total amount to be reimbursed by the City under this Agreement shall not exceed Two Hundred and Twenty Five Thousand Dollars (\$225,000.00).

The City will reimburse Peoria Portfolio Apartments for eligible activity expenses as defined by 24 CFR Part 92.206, based upon program and budget information submitted by Peoria Portfolio Apartments, and consistent to City policy and procedures concerning reimbursement. The City will make reimbursements to Peoria Portfolio Apartments **after** satisfactory completion of the environmental assessment according to 24 CFR Part 92.352 (a-b).

Peoria Portfolio Apartments may not request the reimbursement of funds under this Agreement until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Peoria Portfolio Apartments shall also secure all lien waivers prior to reimbursement for all suppliers and all trades. Such lien waivers may be subject to City review prior to reimbursement.

All reimbursements must be accompanied by corresponding documentation that shows amounts, items, descriptions and any other necessary information to demonstrate eligibility. Appropriate documentation includes, but is not limited to, a contractor's affidavit or bill and proof of payment by Peoria Portfolio Apartments if already paid.

Specific questions regarding reimbursement documentation may be directed to the Community Development Director or his/her designee.

VI. **HOME AFFORDABILITY PERIOD REQUIREMENTS.**

A. **General Requirements**

At time of project completion, the City and Peoria Portfolio Apartments will execute a "Notice of Restriction on Use of Property" to be recorded on the property to secure the HOME Affordability Period. The HOME Affordability Period shall mean ten (10) years from the date Schlarman House project is identified as "completed" in HUD's Integrated Disbursement Information System. For the purposes of the HOME Affordability Period, the nine (9) units will be designated as "floating" in accordance with 24 CFR 92.252(j). A "floating" unit is a unit that is initially designated as a HOME assisted unit, but the designation may change at some point during the HOME Affordability Period. Peoria Portfolio Apartments agrees to maintain the total number of HOME assisted units (9) throughout the HOME Affordability Period and will ensure whatever unit carries the designation of "assisted" meets the affordability requirements. Peoria Portfolio Apartments agrees to repay the total amount of funds provided under this Agreement if the units do not meet the affordability requirements.

B. **Rent and Occupancy**

Throughout the duration of the HOME Affordability Period, Peoria Portfolio Apartments agrees to lease at least 20 percent (2 units) at Schlarman House to households who have annual incomes that are 50 percent or less of area median income. The remaining 80 percent (7 units) can be occupied by households who have annual incomes that do not exceed 80 percent of the area median income.

Rent amounts for each unit at Schlarman House will be determined by HUD's HOME Program Rent Limits. Low HOME rent amounts will apply to the 20 percent (2 units) at Schlarman House that must be occupied by households who have annual incomes that are 50 percent or less of area median income. The remaining 80 percent (7 units) can be charged High HOME rent amounts. Utility allowances for tenant-paid utilities must be reduced from the applicable HOME rent limits. The City will provide utility allowances to Peoria Portfolio Apartments if tenants of Schlarman House are responsible for utility costs.

Both area median income limits and HOME program rent limits are published by HUD on an annual basis. The City will provide this information to Peoria Portfolio Apartments upon release from HUD. Further, the City uses the IRS definition of adjusted gross income included on the IRS

Form 1040 to determine income eligibility of a household. The City will provide the income calculation using this definition to Peoria Portfolio Apartments for the purposes of tenant eligibility.

If tenants should receive additional subsidy through rental assistance programs, such as Section 8, HOME rents can be raised to the rental assistance program limit only if (i) the tenant pays no more than 30 percent of adjusted income for monthly rent, (ii) the subsidy is project-based, not tenant based, and (iii) the tenant's income is less than 50 percent of the area median income.

Before a tenant occupies a unit, tenant eligibility must be documented with source documents, including but not limited wage statements, interest statements, and/or unemployment compensation statements. Peoria Portfolio Apartments will retain such source document throughout the duration of the tenant's lease.

Peoria Portfolio Apartments agrees to contact the City when the income of a tenant occupying HOME assisted units increases over the allowable HOME limits.

C. Property Standards

Throughout the duration of the HOME Affordability Period, Peoria Portfolio Apartments will ensure that Schlarman House meets the City's Property Maintenance Code. Additionally, Peoria Portfolio Apartments will allow the City to conduct on-site property inspections every two years beginning on the date of project completion. Peoria Portfolio Apartments may also conduct and document regular property inspections in the interim to ensure compliance with property standards.

D. Lease Provisions

Throughout the duration of the HOME Affordability Period, Peoria Portfolio Apartments will agree to execute a written lease, occupancy agreement or other comparable legal document for each tenant occupying a HOME assisted unit. The lease will include, but should not be limited to, the following provisions:

- a. Lease Length – Lease should be executed for at least one year, unless Peoria Portfolio Apartments and the tenant mutually agree to a shorter period. However, the term may not be for a period less than 30 days.
- b. Termination of Tenancy – Peoria Portfolio Apartments agrees to not terminate the tenancy or refuse to renew the lease of a tenant, except for allowable reasons:
 - i. Serious or repeated violation of the terms and conditions of the lease;
 - ii. Violating Federal, State or local law; or
 - iii. Other good cause
- c. HOME Rents – Peoria Portfolio Apartments agrees to specify the allowable HOME rents and procedures for providing a 30 day written notice to tenants prior to alterations of rent amounts.
- d. Compliance with State and Local Tenant-Landlord Laws – Peoria Portfolio Apartments agrees to comply with applicable State and local tenant-landlord laws.
- e. Prohibited clauses - Peoria Portfolio Apartments agrees to not include the Federally-prohibited lease clauses listed in 24 CFR 92.253(b):

- i. *Agreement to be sued.* Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
- ii. *Treatment of property.* Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
- iii. *Excusing owner from responsibility.* Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- iv. *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
- v. *Waiver of legal proceedings.* Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- vi. *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;
- vii. *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- viii. *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

E. Affirmative Marketing and Tenant Selection

Peoria Portfolio Apartments will have a written tenant selection plan for Schlarman House that states the procedures for taking applications, screening applications including determining household income and eligibility determinations, maintenance of waiting lists (if applicable) and the process for notifying applicants of eligibility or rejection.

Peoria Portfolio Apartments will also use equal opportunity language and fair housing logo in advertisements and literature regarding Schlarman House, and ensure that literature is understandable to clients with key information available in other languages.

Peoria Portfolio Apartments must incorporate affirmative marketing strategies to inform persons not likely to apply for housing without special outreach, maintain records to document actions taken to market HOME assisted units and to assess the marketing effectiveness and identify corrective action procedures that will be taken if the marketing is deemed ineffective.

VII. NOTICES.

Communication and details concerning this Agreement shall be directed to the following representatives:

CITY
Community Development Director
(or his/her designee)
City Hall
419 Fulton Street, Suite 300
Peoria, IL 61602
309-494-8656

PEORIA PORTFOLIO I – IV APARTMENTS, L.P.
Matthew A. Shoemaker
Vice President
6880 Tussing Road
Reynoldsburg, Ohio 43068
(312) 948-0503

With a Copy to:
Regions Bank
1900 5th Avenue N, 15th Floor
Birmingham, Alabama 35203
Attn: Brian Coffee

With a Copy to and marked as "Counsel for Regions Bank, the limited partner of Peoria Portfolio I – IV Apartments, L.P.":
Liles & Rushin, LLC
505 20th Street N, Suite 825
Birmingham, Alabama 35203
Attn: Curtis Liles & Kelly Rushin

VIII. **GENERAL CONDITIONS.**

A. Hold Harmless

Peoria Portfolio Apartments shall hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of Peoria Portfolio Apartments' performance or nonperformance of the services or subject matter called for in this Agreement.

B. Worker's Compensation

Peoria Portfolio Apartments shall provide Worker's Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

C. Insurance

1. General Coverage

Peoria Portfolio Apartments shall carry sufficient insurance coverage to protect contract assets, including but not limited to the property and the structure, from loss due to theft, fraud, and/or undue physical damage. Peoria Portfolio Apartments will ensure its contractors and other sub-contractors carry appropriate insurance. Minimum amounts of contractor's insurance are as follow:

COVERAGE	BODILY INJURY	PROPERTY DAMAGE
General Liability	\$300,000	\$100,000
Contractor's Liability	\$300,000	\$100,000
Automobile Liability	\$100,000/\$300,000	\$50,000

Workman's Compensation	Statutory Limits	-
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All insurance policies must remain in full coverage until City Rehabilitation Staff sign off that the project is completed. Upon request by the City, Peoria Portfolio Apartments will provide the City with all required certificates and/or proof of insurance.

D. Amendments

The City or Peoria Portfolio Apartments may amend this Agreement at any time and are executed in writing, signed by a duly authorized representative of both parties. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Peoria Portfolio Apartments from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state, and local governmental guidelines, policies, and available funding amounts, or for other similar reasons. If such amendments result in a change in funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by the City and Peoria Portfolio Apartments.

The Agreement cannot be assumed by or assigned to another entity without written authorization and approval from the City.

E. Suspension or Termination

The City may suspend or terminate this Agreement, in whole or in part, if Peoria Portfolio Apartments materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein; and the City may declare Peoria Portfolio Apartments ineligible for any further participation in the City's programs, in addition to other remedies as provided by law. In the event there is reason to believe Peoria Portfolio Apartments is in noncompliance with any applicable rules or regulations, the City will suspend ALL reimbursement of the said Agreement funds until such time as Peoria Portfolio Apartments is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

IX. ADMINISTRATIVE REQUIREMENTS.

A. Financial Management

Peoria Portfolio Apartments serving as the Owner and Developer agrees to have financial management systems that meet the standards of CFR Part 84.21

1. Internal Controls

Peoria Portfolio Apartments shall have the following internal controls within its financial management system:

- An organizational chart setting forth the actual lines of responsibility of personnel involved in financial transactions;
- Written definition and delineation of duties among key personnel involved in financial transactions;
- An accounting policy and procedures manual that includes specific approval authority for financial transactions and guidelines for controlling expenditures, a set of written procedures for recording of transactions, and utilizes a chart of accounts;

- Separation of duties is adequate so that no one individual has authority over a financial transaction from beginning to end. In other words, one person should not have responsibility for more than one of the following functions:
 - Authorization to execute a transaction;
 - Recording of the transaction;
 - Custody of the assets involved in the transaction
- Hiring policies ensuring that staff qualifications are commensurate with job responsibilities
- Control over assets, blank forms and confidential documents so that these types of documents are limited to authorized personnel only.
- Periodic reconciliation of financial records to actual assets and liabilities.

2. Budget Controls

Peoria Portfolio Apartments shall have the following budget control within its financial management system:

- Maintain accounting records (as defined in subsection 3 below) for the amounts budgeted for eligible activities;
- Periodically compare actual obligations and expenditures to date against planned obligations and expenditures, and against projected accomplishments for such outlays;
- Report deviations from budget and program plans, and request approval for budget and program plan revisions.

3. Accounting Records

Peoria Portfolio Apartments shall have the following accounting records within its financial management system:

- Chart of accounts- a list of account names and the numbers assigned to each of the account names;
- Cash receipts journal- documents, in chronological order, when funds were received, in what amounts and from what sources;
- Payroll journals
- General Ledger- summarizing, in chronological order, the activity and financial status of all the accounts.

B. Documentation and Record Keeping

1. Records to be Maintained

Peoria Portfolio Apartments shall maintain all records required by Federal regulations, specified in 24 CFR Part 92.508, that are pertinent to Schlarman House and the eligible costs to be funded under this Agreement. Such records shall include, but not be limited to:

- a. Records providing a full description of the project;
- b. Records required to document the eligibility of costs;
- c. Records required to document the eligibility of activities, specifically:
 - i. Records demonstrating that each individual/family is income eligible in accordance with 24 CFR Part 92.203;

- ii. Records demonstrating that each project meets the property standards of 24 CFR Part 92.251 and the lead-based paint requirements of 24 CFR Part 92.355;
- e. Records documenting compliance with Fair Housing and Equal Opportunity components of the HOME Program;
- f. Financial records as required by 24 CFR Part 84.21.

2. Retention

Peoria Portfolio Apartments shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the expiration of the HOME Affordability Period. If there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until the completion of the action and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3. Audits and Inspections

Peoria Portfolio Apartments records with respect to any matters covered by this Agreement shall be made available to the City and its designees, or HUD and its designees, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make copies of all relevant data. Any deficiencies noted in audit reports must be fully corrected by Peoria Portfolio Apartments within 30 days. Failure of Peoria Portfolio Apartments to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

In addition, Peoria Portfolio Apartments understands that all aspects of the sponsored activity(ies) or program will be open to inspection by employees or agents of the City, State and/or Federal governments.

4. Quarterly Reports

Peoria Portfolio Apartments shall submit a quarterly budget and report regarding the budget and expenditures of the Schlarman House project. Peoria Portfolio Apartments will also submit a quarterly program report regarding the accomplishments of project. The City will provide Peoria Portfolio Apartments with reporting forms or with the approval of the City, Peoria Portfolio Apartments may substitute an alternative report/format that contains the requested information. The reports shall be submitted to the Community Development Director (or his/her designee) no later than the 10th day following the end of each quarter as long as funds remain to be expended.

X. OTHER PROGRAM REQUIREMENTS.

A. Property Standards

The HOME assisted units must meet the property standards of 24 CFR 92.251, including compliance with all City of Peoria housing, budget and zoning codes. The units must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

B. Conflict of Interest

Peoria Portfolio Apartments understands and agrees that no person, who is an employee, agent, consultant, or officer of Peoria Portfolio Apartments may obtain an interest, financial or otherwise, or benefit from a HOME assisted activity or have any interest in any contract, subcontract, or agreement with respect to any HOME assisted activity pursuant to 24 CFR 92.356, except that the City agrees and approves the use of Wallick Construction LLC, an affiliate of Peoria Portfolio Apartments, as the general contractor for the rehabilitate nine (9) units in the Schlarman House project. This prohibition applies to employees, agents, consultants, or officers of Peoria Portfolio Apartments or those with whom they have family or business ties during their entire employment/business relationship with Peoria Portfolio Apartments and for one (1) year after the expiration of their employment/business relationship with Peoria Portfolio Apartments.

C. Nondiscrimination

Peoria Portfolio Apartments will not discriminate against anyone because of race, color, creed, religion, sexual orientation, ancestry, national origin, sex, disability, or other handicap, age, marital or familial status, or status with regard to public assistance. Peoria Portfolio Apartments will take affirmative action to insure that all practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Peoria Portfolio Apartments agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

Specifically, Peoria Portfolio Apartments must show proof of valid City Equal Employment Opportunity Certification prior to any request for the reimbursement of funds.

D. Religious Organization

Peoria Portfolio Apartments agrees that funds provided under this contract will not be used for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR Part 92.257.

E. Prohibition Against hiring City Employees

Peoria Portfolio Apartments agrees, as a condition of accepting this Agreement with the City, that for a period of one year following completion of this Agreement, that it shall be prohibited from hiring, directly or indirectly, any City employee or official who was involved, directly or indirectly in: (1) the selection and/or recommendation to select the Peoria Portfolio Apartments for performance of this Agreement; (2) coordinating the efforts of the Peoria Portfolio Apartments in the consummation or completion of this Agreement; or (3) monitoring or determining the performance of the Peoria Portfolio Apartments. Peoria Portfolio Apartments further acknowledges and agrees that upon the City's determination that a violation of this provision has occurred, the penalty imposed, at the sole discretion of the City, may include one or more of the following; (1) cancellation of any other contract(s) between the City and the Peoria Portfolio Apartments; (2) disqualification of the Peoria Portfolio Apartments from bidding or being awarded future contracts with the City for a period of 2 years; and/or (3) payment of liquidated damages to the City in the amount of \$25,000.

XI. **ENVIRONMENTAL REQUIREMENTS.**

A. **Environmental Assessment**

The City shall conduct an environmental assessment pursuant to 24 CFR, Part 58 prior to approving any requests for the release of funds by Peoria Portfolio Apartments. Peoria Portfolio Apartments understands and agrees that it may not receive any funds until the City has conducted an Environmental Assessment pursuant to 24 CFR Part 58 and approved accordingly.

B. **Lead-Based Paint Requirements**

Peoria Portfolio Apartments agrees to comply with the lead-based paint provision of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821, et seq. and the lead-based paint requirements in 24 CFR Part 92.355 and 24 CFR Part 35.

XII. **SEVERABILITY.**

If any provision of the Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. **ENFORCEMENT OF THIS AGREEMENT.**

If Peoria Portfolio Apartments fails to comply with the requirements and covenants contained herein, the same shall constitute a breach of this Agreement and the City shall be entitled to all remedies under Illinois law at the time of the breach.

XIV. **SURVIVAL OF OBLIGATIONS.**

The Peoria Portfolio Apartments obligations as set forth in this Agreement shall survive the disbursement of the HOME funds and shall expire upon the expiration of the HOME Affordability Period, and Peoria Portfolio Apartments shall continue to cooperate with the City and furnish any documents, exhibits or showings as required.

XV. **WAIVER OF JURY TRIAL.**

THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT OR THIS AGREEMENT.

XVI. **LIABILITY OF CITY.**

In no event shall the City be liable to Peoria Portfolio Apartments for consequential or incidental damages, including, without limitation, lost profits, whatever the nature of the breach by the City of its obligations under this Agreement or in connection with the Project, and Peoria Portfolio Apartments waives all claims for consequential and incidental damages and for all damages described in Paragraph XVII below.

XVII. **FUNDING.**

The parties acknowledge that the HOME funds are monies provided by HUD, and that the City is under no obligation to request such funds for any disbursement unless and until all necessary preconditions to disbursement have been satisfied to the City's satisfaction, and that significant time delays might result from the funding of such monies by HUD. Without limiting the generality of Paragraph XVI above, in no event shall the City be liable to Peoria Portfolio

Apartments for any damages whatsoever which might result in whole or in part from any delays in funding.

XVIII. **LIMITED PARTNER.**

The City acknowledges and agrees that: (i) Regions Bank, an Alabama banking corporation, the Limited Partner of Peoria Portfolio Apartments, may remove WAM Peoria Portfolio I – IV Apartments, LLC, an Ohio limited liability company, the General Partner of Peoria Portfolio Apartments, in accordance with the terms and conditions of its partnership agreement, without the consent of the City, but with notice provided to the City within 30 days after such transfer; and (ii) the Limited Partner may transfer its interest in Peoria Portfolio Apartments to another entity, without the consent of the City, but with notice provided to the City within 30 days after such transfer.

The City further acknowledges and agrees to give notice to the limited partner of any defaults under this Loan at the address set forth in Section VII hereof. The limited partner shall have the right, but not the obligation, to cure any defaults on the same terms as Peoria Portfolio Apartments, provided further, any defaults that are not curable shall be deemed cured by removal of the general partner under the terms of the partnership agreement.

[Signatures on Next Pages]

APPROVED AND EXECUTED AS OF THIS 2nd DAY OF June 2014.

PEORIA PORTFOLIO I – IV APARTMENTS, L.P.,
an Ohio limited partnership

By: WAM Peoria Portfolio I – IV Apartments, LLC,
an Ohio limited liability company,
its general partner

By: Wallick Asset Management LLC,
an Ohio limited liability company,
its sole member

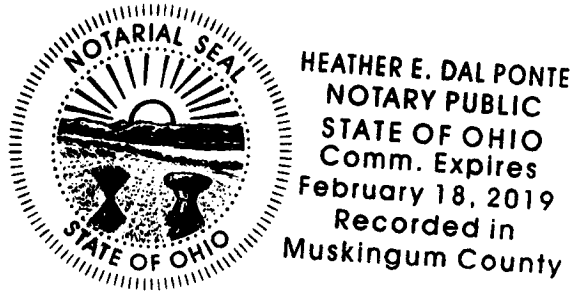
By: Amy R. Albery
Amy R. Albery, Vice President

STATE OF OHIO,
COUNTY OF FRANKLIN, SS:

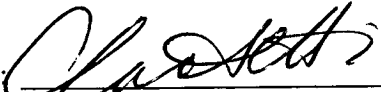
The foregoing instrument was acknowledged before me, a Notary Public, in and for said county and state, this JULY 31, 2014, by Amy R. Albery, the Vice President of Wallick Asset Management LLC, an Ohio limited liability company, the sole member of WAM Peoria Portfolio I – IV Apartments, LLC, an Ohio limited liability company, the general partner of Peoria Portfolio I – IV Apartments, L.P., an Ohio limited partnership, on behalf of said limited partnership.

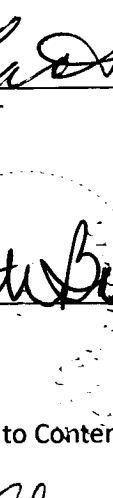
Heather E. Dal Ponte
Notary Public

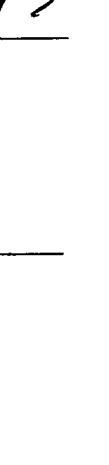
My Commission Expires: February 18, 2019




CITY OF PEORIA, ILLINOIS,
an Illinois Municipal Corporation

By: 
Acting City Manager

Attest:

City Clerk

Approved as to Content:

Asst. Corporation Counsel

Approved as to Form:

Community Development Department

Schlarman House Apartment Remodel Schedule

	DATE:	Apt. #'s	Floor #
Week #1	5/19/14	Common Area Work / Exterior	All Floors
	5/20/14	Common Area Work / Exterior	All Floors
	5/21/14	Common Area Work / Exterior	All Floors
	5/22/14	Common Area Work / Exterior	All Floors
	5/23/14	Common Area Work / Exterior	All Floors
Week #2	5/26/14	MEMORIAL DAY	No Work
	5/27/14	Common Area Work / Exterior	All Floors
	5/28/14	Common Area Work / Exterior	All Floors
	5/29/14	Common Area Work / Exterior	All Floors
	5/30/14	Common Area Work / Exterior	All Floors
Week #3	6/2/14	Common Area Work / Exterior	All Floors
	6/3/14	Common Area Work / Exterior	All Floors
	6/4/14	Common Area Work / Exterior	All Floors
	6/5/14	Common Area Work / Exterior	All Floors
	6/6/14	Common Area Work / Exterior	All Floors
Week #4	6/9/14	Common Area Work / Exterior	All Floors
	6/10/14	Common Area Work / Exterior	All Floors
	6/11/14	Common Area Work / Exterior	All Floors
	6/12/14	Common Area Work / Exterior	All Floors
	6/13/14	Common Area Work / Exterior	All Floors
Week #5	6/16/14	Common Area Work / Exterior	All Floors
	6/17/14	Common Area Work / Exterior	All Floors
	6/18/14	Common Area Work / Exterior	All Floors
	6/19/14	Common Area Work / Exterior	All Floors
	6/20/14	Common Area Work / Exterior	All Floors
Week #6 (Wing #1)	6/23/14	A-24 & A-22	1st Floor
	6/24/14	A-24 & A-22	1st Floor
	6/25/14	A-23 & A-21	1st Floor
	6/26/14	A-23 & A-21	1st Floor
	6/27/14	Common Area Work	
Week #7 (Wing #1)	6/30/14	A-20 & A-18	1st Floor
	7/1/14	A-20 & A-18	1st Floor
	7/2/14	A-19 & A-17 (ADA)	1st Floor
	7/3/14	A-19 & A-17 (ADA)	1st Floor
	7/4/14	INDEPENDENCE DAY	No Work

EXHIBIT A

Week #8 (Wing #2)	7/7/14	A-15 & A-13	1st Floor
	7/8/14	A-15 & A-13	1st Floor
	7/9/14	A-16 & A-14	1st Floor
	7/10/14	A-16 & A-14	1st Floor
	7/11/14	Common Area Work	
Week #9 (Wing #2)	7/14/14	A-11 & A-9	1st Floor
	7/15/14	A-11 & A-9	1st Floor
	7/16/14	A-12 & A-10 (ADA)	1st Floor
	7/17/14	A-12 & A-10 (ADA)	1st Floor
	7/18/14	Common Area Work	
Week #10 (Wing #3)	7/21/14	A-8 & A-6	1st Floor
	7/22/14	A-8 & A-6	1st Floor
	7/23/14	A-7 & A-5	1st Floor
	7/24/14	A-7 & A-5	1st Floor
	7/25/14	Common Area Work	
Week #11 (Wing #3)	7/28/14	A-4 & A-2 (Office)	1st Floor
	7/29/14	A-4 & A-2 (Office)	1st Floor
	7/30/14	A-3 & A-1 (ADA)	1st Floor
	7/31/14	A-3 & A-1 (ADA)	1st Floor
	8/1/14	Common Area	
Week #12 (Wing #1)	8/4/14	B-26 & B-24	2nd Floor
	8/5/14	B-26 & B-24	2nd Floor
	8/6/14	B-25 & B-23	2nd Floor
	8/7/14	B-25 & B-23	2nd Floor
	8/8/14	Common Area Work	
Week #13 (Wing #1)	8/11/14	B-22 & B-20	2nd Floor
	8/12/14	B-22 & B-20	2nd Floor
	8/13/14	B-21 & B-19	2nd Floor
	8/14/14	B-21 & B-19	2nd Floor
	8/15/14	Common Area Work	
Week #14 (Wing #2)	8/18/14	B-17 & B-15	2nd Floor
	8/19/14	B-17 & C-15	2nd Floor
	8/20/14	B-18 & C-16	2nd Floor
	8/21/14	B-18 & B-16	2nd Floor
	8/22/14	Common Area Work	
Week #15 (Wing #2)	8/25/14	B-13 & B-11	2nd Floor
	8/26/14	B-13 & B-11	2nd Floor
	8/27/14	B-14 & B-12 (ADA)	2nd Floor
	8/28/14	B-14 & B-12 (ADA)	2nd Floor
	8/29/14	Common Area Work	

EXHIBIT A

Week #16 (Wing #3)	9/1/14	Labor Day	No Work
	9/2/14	B-8 & B-6	2nd Floor
	9/3/14	B-8 & B-6	2nd Floor
	9/4/14	B-7 & B-5	2nd Floor
	9/5/14	B-7 & B-5	2nd Floor
Week #17 (Wing #3)	9/8/14	B4 & B-2	2nd Floor
	9/9/14	B4 & B-2	2nd Floor
	9/10/14	B-3 & B-1 (ADA)	2nd Floor
	9/11/14	B-3 & B-1 (ADA)	2nd Floor
	9/12/14	Common Area Work	
Week #18 (Wing #3)	9/15/14	B-9 & B-10	2nd Floor
	9/16/14	B-9 & B-10	2nd Floor
	9/17/14	C-9 & C-10	3rd Floor
	9/18/14	C-9 & C-10	3rd Floor
	9/19/14	Common Area Work	
Week #19 (Wing #1)	9/22/14	C-26 & C-24	3rd Floor
	9/23/14	C-26 & C-24	3rd Floor
	9/24/14	C-25 & C-23	3rd Floor
	9/25/14	C-25 & C-23	3rd Floor
	9/26/14	Common Area Work	
Week #20 (Wing #1)	9/29/14	C-22 & C-20	3rd Floor
	9/30/14	C-22 & C-20	3rd Floor
	10/1/14	C-21 & C-19	3rd Floor
	10/2/14	C-21 & C-19	3rd Floor
	10/3/14	Common Area Work	
Week #21 (wing #2)	10/6/14	C-17 & C-15	3rd Floor
	10/7/14	C-17 & C-15	3rd Floor
	10/8/14	C-18 & C-16	3rd Floor
	10/9/14	C-18 & C-16	3rd Floor
	10/10/14	Common Area Work	
Week #22 (Wing #2)	10/13/14	C-13 & C-11	3rd Floor
	10/14/14	C-13 & C-11	3rd Floor
	10/15/14	C-14 & C-12 (ADA)	3rd Floor
	10/16/14	C-14 & C-12 (ADA)	3rd Floor
	10/17/14	Common Area Work	
Week #23 (Wing #3)	10/20/14	C-8 & C-6	3rd Floor
	10/21/14	C-8 & C-6	3rd Floor
	10/22/14	C-7 & C-5	3rd Floor
	10/23/14	C-7 & C-5	3rd Floor
	10/24/14	Common Area Work	

EXHIBIT A

Week #24 (Wing #3)	10/27/14	C4 & C-2	3rd Floor
	10/28/14	C4 & C-2	3rd Floor
	10/29/14	C-3 & C-1 (ADA)	3rd Floor
	10/30/14	C-3 & C-1 (ADA)	3rd Floor
	10/31/14	Common Area Work	

EXHIBIT B

Schlarman House
 # of Buildings: 1
 # of Units: 75

		Scope Line Item
Unit Interiors		
1U	\$ 2,960	Review shower bases and tile surrounds. Cut out existing caulk and install new silicone caulk. Re-grout any tile as needed. Replace units that are defective or deteriorated with new three piece fiberglass or cultured marble surround.
2U	\$ 3,009	Install new base and wall cabinets. Additional wall cabinets will be provided on the wall above the ranges and refrigerator. Provide loop handle on all drawers. Provide new plastic-laminate countertop with 4" backsplash and contrasting counter edge band color. Repair damaged drywall and paint as needed to provide 60" clear turning radius in the handicapped unit.
3U	\$ 1,688	Install new windows. Units shall be vinyl, insulated low-e glass units with an energy star rating.
4U	\$ 680	Install new stainless steel kitchen sink with lever handle faucet with water conservation 1.5 GPM. Install new trap and stops.
5U	\$ 1,961	Install new "wood plank" look vinyl flooring. Existing tile (if sound & anchored) may remain. Rough-up finish and skim coat as needed. Install new vinyl base in bath and kitchen. In hallway area the wood base may be removed and replaced after flooring is installed on install shoe mold.
6U	\$ 901	Remove existing carpet and install new low pile green label carpet. Skim coat as needed. In recently carpeted units the carpet may remain.
7U	\$ 444	Provide new medicine cabinet and bath accessories. Upgrade grab bars in handicapped units.
8U	\$ 740	Install new 1.28 GPM toilet, 2.0 GPM showerhead and 2.0 GPM lever handle faucet. In handicapped unit additionally install a lever handle, anti-scald pressure balance shower valve.
9U	\$ 4,017	Replace thru-wall HVAC unit and sleeve. Install a new energy star heat pump. Unit shall be flush with the exterior wall with an architectural grille painted to match adjacent wall color.
10U	\$ 451	Demo existing bathroom ceiling tile and install new fire rated ceiling tile.
11U	\$ 977	Install new bath vanity cabinet with new cultured marble top with integral bowl or vitereous china bowl in a plastic laminate top. Install new lever handle faucet with 2.0 flow. Install new trap and stops. In handicapped unit install a vitereous china lavatory bowl in a plastic-laminate top with the wall brackets (open below).
12U	\$ 395	The kitchen and bath outlets appear to be GFI outlets at any locations where presently not installed.
13U	\$ 162	Replace the existing single station fire detection unit outside the bedroom with a new 120 volt unit with battery back-up. Install a new 10 year battery unit inside the bedroom.
14U	\$ 197	Install new horizontal slat blinds on all windows.
15U	\$ 1,480	Replace all unit light fixtures with energy efficient fixtures using compact florescent bulbs throughout.
16U	\$ 153	Drywall repairs from rehab work
17U	\$ 1,471	Repaint walls
18U	\$ 1,238	Install new 30" range and refrigerator. Refridgerator to be energy star rating. Any recently replaced appliances shall remain.
19U	\$ 90	Remove and replace bedroom baseboard heater.
20U	\$ 467	Remove and replace unity entry door with fire rated entry doors.
21U	\$ 306	Remove and replace unity entry door hardware, provide new dead bolt. Remove and replace all interior door hardware with lever handle hardware.
22U	\$ 2,550	Reconfiguration of Units
	\$ 26,335	Total Per Unit Cost w/State Prevailing Wage
	\$ 1,901	General Requirements/Unit
	\$ 1,901	Contractor Profit/Unit
	\$ 30,137	Total Unit Hard Cost