

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:15-cv-01725-MHH
	)	
ALLAN RAPPUHN, ET AL.,	)	
	)	
Defendants.	)	
_____	)	

**CONSENT ORDER**

**A. INTRODUCTION**

1. The parties entered this Consent Order to resolve the allegations that the United States made in the Complaint it filed on September 30, 2015 to enforce provisions of the Fair Housing Act (“FHA”), 42 U.S.C. §§ 3601 - 3619, and the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181 - 12189. Specifically, the United States’ Complaint alleges that the defendants listed in paragraph B have engaged in a pattern or practice of discrimination against persons with disabilities and denied rights to a group of persons because of disability by failing to design and construct the following covered multifamily dwellings (the “Subject Properties”) with the features of accessible and adaptive design and construction required by subsections 804(f)(1), 804(f)(2) and 804(f)(3)(C) of the FHA, 42 U.S.C. §§ 3604(f)(1), (f)(2), and (f)(3)(C), and, with the exception of Ivy Pointe II Apartments and Shadowood Apartments, in a manner required by the ADA, 42 U.S.C. § 12183(a)(1):

1. Waterford Farms Apartments, Arab, AL
2. Stony Ridge Apartments, Hogansville, GA
3. Sterling Oaks Apartments, Spindale, NC
4. Pinewood Apartments, Pooler, GA
5. Palladian-Jubilee Apartments, Daphne, AL
6. Cedar Glades Apartments, Shelbyville, TN
7. Stoney Creek Apartments, Laurinburg, NC
8. Palladian-Fairhope Apartments, Fairhope, AL
9. Oakland Mill Apartments, Lincolnnton, NC
10. Heritage Vista Apartments, Milledgeville, GA
11. Sullivan Village Apartments, Tuscumbia, AL
12. Maple Square Apartments, Jefferson, GA
13. Woodlawn Terrace Apartments, Valdosta, GA
14. Powell Place Apartments, Barnesville, GA
15. Skyline Trace Apartments, Monroe, GA
16. Preston Place Apartments, Quitman, GA

17. Mallard Lake Apartments, LaGrange, GA
18. Brentwood Landing II Apartments, Prattville, AL
19. Villas on Forsyth Apartments, Barnesville, GA
20. Village at Wedgewood Apartments, Cairo, GA
21. Sheppard Station Apartments, Pooler, GA
22. Brookstone Village Apartments, Jacksonville, AL
23. Shellbrooke Pointe Apartments, Fairhope, AL
24. Heron Lake II Apartments, Valdosta, GA
25. Palladian II Apartments, Mobile, AL
26. Kirby Creek Apartments, Cairo, GA
27. Hamilton Place Apartments, Millbrook, AL
28. Belle Isle Apartments, Robertsdale, AL
29. Oleander Park Apartments, Mobile, AL
30. Bradbury Apartments, Newton, NC
31. Canebreak Apartments, Wilmington, NC
32. Valley Ridge Apartments, LaGrange, GA
33. The Park at Rocky Ridge Apartments, Birmingham, AL
34. Palladian Apartments, Mobile, AL
35. Heron Lake Apartments, Valdosta, GA
36. Blue Springs Apartments, Jacksonville, NC
37. Brentwood Landing Apartments, Prattville, AL
38. Bailey Springs Apartments, Lincolnton, NC
39. Orchard Park Apartments, Hayneville, AL
40. Lakeshore Crossing Apartments, Huntsville, AL
41. Cherry Ridge Independent Living Apartments, Birmingham, AL
42. Waring II Apartments, Waycross, GA
43. Liberty Square Apartments, Montgomery, AL
44. Lenox Station Apartments, Rockingham, NC
45. Kirkwood Trail Apartments, Cedartown, GA
46. Cottage Hill Pointe Apartments, Mobile, AL
47. Autumn Ridge Apartments, Jacksonville, NC
48. Windcliff Apartments, Gainesville, GA
49. Ivy Pointe II Apartments, Tuscumbia, AL
50. Hickory Run II Apartments, Jacksonville, AL
51. Eagle Pointe Apartments, Madison, AL
52. Double Creek Apartments, Florence, AL
53. Pebble Creek Apartments, Butler, AL
54. Highland Park Senior Village, Douglasville, GA
55. Glencoe Trace Apartments, Griffin, GA
56. Waring Apartments, Waycross, GA
57. Timberfalls Apartments, Thomaston, GA
58. Evergreen Village Apartments, Cedartown, GA
59. Charleston Square Apartments, Troy, AL
60. Americus Gardens Apartments, Americus, GA
61. Alexander Terrace Apartments, Moulton, AL
62. Parkwood Apartments, Pell City, AL
63. Ivy Pointe Apartments, Tuscumbia, AL

64. Hickory Run Apartments, Jacksonville, AL
65. Harbor Square Apartments, Decatur, AL
66. Westfork Apartments, Jasper, AL
67. Hunter Pointe Apartments, Centreville, AL
68. Meadowview Apartments, Greenville, AL
69. Heatherwood Apartments, Alexander City, AL
70. Applegate Apartments, Florence, AL
71. Shadowood Apartments, Stevenson, AL

For purposes of this Consent Order, the United States and the defendants agree that the Subject Properties are subject to the accessible design and construction requirements of the FHA, 42 U.S.C. §§ 3604(f)(1), (f)(2), and (f)(3)(C), and, with the exception of Ivy Pointe II Apartments and Shadowood Apartments, the ADA, 42 U.S.C. § 12183(a)(1).

## **B. Defendants**

2. As outlined in Appendix A, Defendants Allan Rappuhn; Gateway Construction Corporation; Gateway Development Corporation; Gateway Construction, LLC (a/k/a Gateway Construction Company, LLC); Gateway Properties, L.L.C.; Americus Garden Apartments, LP; Applegate Apartments, LTD; Autumn Ridge, LLC; Bailey Springs Apartments, LP; Blue Springs Apartments, LP; Bradbury Apartments, LP; Brentwood Landing Apartments, LTD; Brookstone Village Apartments, LTD; Canebreak Apartments, LP; Cedar Glades Apartments, LP; Cottage Hill Pointe Apartments, LTD; Eagle Pointe Apartments, LTD; Evergreen Village Investments, LLLP; Glencoe Trace, LP; Harbor Square Apartments, LTD; Heatherwood Apartments, LTD; Heritage Vista Apartments, LP; Heron Lake Apartments, LP; Heron Lake II Apartments, LP; Hickory Run Apartments, LTD; Highland Park Senior Village, LP; Hunter Pointe Apartments, LTD; Ivy Pointe Apartments, LTD; Ivy Pointe II Apartments, LTD; Kirby Creek Apartments, LP; Kirkwood Trail Apartments, LP; Lakeshore Crossing Apartments, LTD; Lenox Station Apartments, LTD; Liberty Square Apartments, LTD; Mallard Lake Apartments; LP; Maple Square Apartments, LP; Meadowview Apartments, LTD; Oakland Mill Apartments, LP; Palladian Apartments, LTD; Fairhope Ridge, LLC; Jubilee Ridge, LLC; Park Hill Apartments, LTD; Pebble Creek Apartments, LTD; Pinewood Village Apartments, LP; Powell Place Apartments, LP; Preston Place Apartments, LP; Shadowood Apartments, LTD; Shellbrooke Pointe Apartments, LTD; Sheppard Station Apartments, LP; Skyline Trace Apartments, LP; Sterling Oaks Apartments, LP; Stoney Creek Apartments, LP; Stony Ridge Apartments; Sullivan Village Apartments, LTD; The Park at Rocky Ridge, LTD; Timberfalls, LLLP; Valley Ridge Apartments, LP; The Village at Wedgewood, LP; Village on Forsyth, LP; Waring, LLLP; Waring II, LP; Westfork Apartments, LTD; Windcliff Apartments, LLC; and Woodlawn Terrace Apartments (hereafter “Defendants”) are associated with the design and construction of the Subject Properties.

## **C. Relevant Requirements of the Fair Housing Act**

3. The FHA provides that, for residential buildings with an elevator and four or more dwelling units, all units that are designed and constructed for first occupancy after March 13, 1991, are “covered multifamily dwellings” and must include certain basic features of accessible and adaptive design to make such units accessible to or adaptable for use by a person who has or develops a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(A).

4. The FHA provides that, for non-elevator residential buildings with four or more dwelling units, all ground-floor units that are designed and constructed for first occupancy after March 13, 1991, are “covered multifamily dwellings” and must include certain basic features of accessible and adaptive design to make such units accessible to or adaptable for use by a person who has or develops a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(B).

5. The accessible and adaptive design provisions of the FHA require that for covered multifamily dwellings: (i) the public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability; (ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability using wheelchairs; (iii) all premises within such dwellings contain the following features of adaptive design: (I) an accessible route into and through the dwelling; (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (III) reinforcements in bathroom walls to allow later installation of grab bars; and (IV) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space. 42 U.S.C. § 3604(f)(3)(C). These features are referred to herein as the “Accessible Design Requirements.”

6. For the purposes of this Consent Order, the parties agree that the Subject Properties were designed and constructed for first occupancy after March 13, 1991, and therefore all the units in buildings with elevators and the ground-floor units in non-elevator buildings at the Subject Properties are “covered multifamily dwellings” within the meaning of the FHA, 42 U.S.C. § 3604(f)(7)(A) and (B). As such, those units and the public and common use areas at the Subject Properties must comply with the Accessible Design Requirements.

#### **D. Relevant Requirements of the Americans with Disabilities Act**

7. The ADA, and the ADA Standards for Accessible Design, ADA Accessibility Guidelines for Buildings and Facilities, 28 C.F.R. pt. 36, app. A (“ADA Standards”), that have been issued by the U.S. Department of Justice to implement the design and construction requirements of Title III of the ADA, also require that all “public accommodations” designed and constructed for first occupancy after January 26, 1993, and the goods, services, facilities, privileges, advantages, or accommodations of those public accommodations, be readily accessible to and usable by persons with disabilities in accordance with certain accessibility standards promulgated under that Act. 42 U.S.C. §§ 12182(a) and 12183(a)(1). A rental or sales office for an apartment, condominium, or patio home complex is a “public accommodation” under the ADA. 42 U.S.C. § 12181(7)(E).

8. For the purposes of this Consent Order, the parties agree that the rental offices for the Subject Properties, with the exception of Ivy Pointe II Apartments and Shadowood Apartments, were designed and constructed for first occupancy after January 26, 1993, and therefore the rental offices and the facilities and privileges provided at those offices such as public parking are required to be designed and constructed in accordance with the standards promulgated under the ADA.

#### **E. Relevant Requirements of the Rehabilitation Act of 1973**

9. The Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, requires that minimal guidelines for accessibility be met at federally owned and federally assisted properties. The

Uniform Federal Accessibility Standards (UFAS) establish the technical requirements of the Rehabilitation Act. Under UFAS, five percent of the total number of units at newly constructed and substantially altered federally assisted multifamily housing projects must comply with UFAS.

**F. Subject Properties Fully Surveyed by the United States**

**i. Americus-Type Properties Fully Surveyed**

10. “Americus Type Properties” consist of two-level, eight-unit exterior-stairway buildings with one- two- and three- bedroom units, such as the building types at Americus Garden Apartments (see para. 37, below). There are 15 Americus-Type Properties (four of which are properties with both Americus- Type and Applegate-Type buildings and units) that were designed and constructed for first occupancy between 1993 and 2000. The United States has fully surveyed the following four Americus-Type properties: Heatherwood Apartments (constr. 1993); Meadowview Apartments (constr. 1994); Hickory Run Apartments (constr. 1997); Ivy Pointe Apartments (constr. 1997).

**a. Heatherwood Apartments (HA)**

11. HA is located at 1621 Heatherwood Drive, Alexander City, AL. It is an apartment rental property with four two-level eight-unit exterior-stairway buildings and one single-level four-unit building. It has 36 total units, 20 of which are FHA-covered ground-level units. It has a community building with a leasing office, bathroom, and laundry room, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1994. HA was developed using Low-Income Housing Tax Credits and the United States Department of Housing and Urban Development’s HOME Investment Partnership Program (“HOME”) funds.

**b. Meadowview Apartments (MA)**

12. MA is located at 809 Cedar Street, Greenville, AL. It is an apartment rental property with three two-level, eight-unit exterior stairway buildings. It has 24 total units, 12 of which are FHA-covered ground-level units. It has a community building with a leasing office, bathroom, and laundry room, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1994. It was developed using Low-Income Housing Tax Credits and HOME funds.

**c. Hickory Run Apartments (HRA)**

13. HRA is located at 720 Lynn Drive SE, Jacksonville, AL. It is an apartment rental property with two two-level, eight-unit exterior-stairway buildings, three single-level, six-unit buildings, and two single-level, four-unit buildings. HRA is a property with both Americus- Type and Applegate-Type buildings (see para. 15, below, for discussion of Applegate Types). It has 42 total units, 34 of which are FHA-covered ground-level units. It has a community building with a community room, social service room, kitchen, bathrooms, and laundry room, a playground, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1997. It was developed using Low Income Housing Tax Credits and HOME funds.

**d. Ivy Pointe Apartments (IPA)**

14. IPA is located at 400 John Aldridge Drive, Tuscumbia, AL. It is an apartment rental property with four single-level, six-unit buildings and four two-level, eight-unit exterior-stairway buildings. IPA is a property with both Americus-Type and Applegate-Type buildings. It has 56 total units, 40 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, social service room, kitchen, bathrooms, and laundry room, a playground, a pavilion, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1997. It was developed using Low-Income Housing Tax Credits and HOME funds.

**ii. Applegate-Type Properties Fully Surveyed**

15. “Applegate-Type Properties” are properties that consist of single-level, four- and six-unit buildings with one- and two-bedroom units, such as the building and unit types at Applegate Apartments (see para. 17, below). There were 26 Applegate-Type properties (four of which are properties with both Americus-Type and Applegate-Type buildings and units) designed and constructed for first occupancy between 1991 and the present, with two currently under construction. The United States has surveyed the following five Applegate-Type properties: Shadowood Apartments (constr. 1991); Applegate Apartments (constr. 1993); Harbor Square Apartments (constr. 1997); Villas on Forsyth (constr. 2009); and Sullivan Village Apartments (constr. 2011).

**a. Shadowood Apartments (SA)**

16. SA is located at 256 Old Mount Carmel Road, Stevenson, AL. It is an apartment rental property with four single-level, six-unit buildings. It has 24 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathroom, and laundry room, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1991. It was developed using Low-Income Housing Tax Credits.

**b. Applegate Apartments (AA)**

17. AA is located at 162 Rose Drive, Florence, AL. It is an apartment rental property with five single-level, six-unit buildings, one single-level, five-unit building, and a community building with a manager’s unit attached. It has 36 total units, 35 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a picnic pavilion, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1993. AA was developed using Low-Income Housing Tax Credits and HOME funds.

**c. Harbor Square Apartments (HSA)**

18. HSA is located at 3201 Sumac Road SW, Decatur, AL. It is an apartment rental property with nine single-level, six-unit buildings. It has 54 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, social service office, bathrooms, and laundry room, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1997. HSA was developed using Low-Income Housing Tax Credits and HOME funds.

**d. Villas on Forsyth Apartments (VFA)**

19. VFA is located at 101 Virginia Avenue, Barnesville, GA. It is an apartment rental property with seven single-level, six-unit buildings. It has 42 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer lab, exercise room, kitchen, and bathrooms, a horseshoes pit, a shuffleboard court, a picnic pavilion, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2009. It was developed using Low-Income Housing Tax Credits and HOME funds.

**e. Sullivan Village Apartments (SVA)**

20. SVA is located at 104 Carrie Lane, Tuscumbia, AL. It is an apartment rental property with eight single-level, six-unit buildings and two single-level, four-unit buildings. It has 56 total units, all of which are ground-level units. It has a community building with a leasing office, community room, computer room, kitchen, bathrooms, and laundry room, a gazebo, a playground, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2011. It was constructed for first occupancy in 2012. It was developed using Low-Income Housing Tax Credits and HOME funds.

**iii. Blue-Type Properties Fully Surveyed**

21. “Blue-Type Properties” are properties with two-level and three-level, eight-unit breezeway- style buildings with one- two- and three-bedroom units, such as the building and unit types as the Blue Springs Apartments (see para. 64, below). There were 24 Blue-Type properties designed and constructed for first occupancy between 2002 and the present, with four currently under construction. The United States has surveyed the following four Blue-Type properties: Liberty Square Apartments (constr. 2002); The Park at Rocky Ridge Apartments (const. 2004); Lakeshore Crossing Apartments (constr. 2004); Shellbrooke Pointe Apartments (constr. 2007).

**a. Liberty Square Apartments (LSA)**

22. LSA is located at 3899 Liberty Square Drive, Montgomery, AL. It is an apartment rental property with 14 three-level, 12-unit breezeway-style buildings. It has 168 total units, 56 of which are FHA-covered ground-level units. It has a community building with a leasing office, clubroom, conference/computer room, exercise room, work room, kitchen, bathrooms, laundry room, and pool, a playground, sport court, gazebo, car wash, mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2002. It was constructed for first occupancy in 2003. It was developed using Low-Income Housing Tax Credits.

**b. The Park at Rocky Ridge Apartments (PRRA)**

23. PRRA is located at 3400 Chestnut Ridge Lane, Birmingham, AL. It is an apartment rental property with four three-level, 24-unit breezeway-style buildings, two three- level, 28-unit breezeway-style buildings, and one two-and-three level, 16-unit breezeway style building. It has 168 total units, 54 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, computer room, exercise room, workroom, kitchen, bathrooms, laundry room, pool, a playground, a play court, a mail center, and a trash dumpster facility. It was designed

and constructed for first occupancy in 2004. It was developed using Low-Income Housing Tax Credits.

**c. Lakeshore Crossing Apartments (LCA)**

24. LCA is located at 6300 Rime Village Drive NW, Huntsville, AL. It is an apartment rental property with nine two-level, 16-unit breezeway-style buildings and two one-level, eight-unit breezeway-style buildings. It has 160 total units, 80 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, community room, conference/computer room, exercise room, work room, mail room, kitchen, bathrooms, laundry room, and pool, a gazebo, a sport court, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2004. It was developed using Low-Income Housing Tax Credits.

**d. Shellbrooke Pointe Apartments (SPA)**

25. SPA is located at 7684 Twin Beach Road, Fairhope, AL. It is an apartment rental property with 12 two-level, eight-unit breezeway-style buildings. It has 96 total units, 48 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, exercise room, computer lab, workroom, kitchen, bathrooms, laundry room, and pool, a playground, a gazebo, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2007. It was developed using Low-Income Housing Tax Credits.

**iv. Eagle-Type Properties Fully Surveyed**

26. “Eagle-Type Properties” are properties that consist of two-level, eight-unit breezeway-style buildings with two- and three-bedroom units, such as the building and unit types at Eagle Pointe Apartments (see para. 27, below). There was one Eagle-Type property designed and constructed for first occupancy in 2000. The United States has surveyed Eagle Pointe Apartments (constr. 2000).

**Eagle Pointe Apartments (EPA)**

27. EPA is located at 140 Royal Drive, Madison, AL. It is an apartment rental property with six two-level, eight-unit breezeway-style buildings. Other properties referenced in this Complaint have buildings with similar exterior and interior layouts as the EPA buildings, and they are referred to as “Eagle-Type” properties. It has 48 total units, 24 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, computer room, laundry room, bathrooms, and pool, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2000. Eagle Pointe Apartments was developed using Low-Income Housing Tax Credits.

**v. Glencoe-Type Properties Fully Surveyed**

28. “Glencoe-Type Properties” are properties that consist of single-level, four- and six-unit buildings with one- and two-bedroom units, such as the building and unit types at Glencoe Trace Apartments (see para. 29, below). There were two Glencoe-Type properties designed and constructed for first occupancy in 2000. The United States has surveyed Glencoe Trace Apartments.



### **Glencoe Trace Apartments (GTA)**

29. GTA is located at 1624 Hallmark Drive, Griffin, GA. It is an apartment rental property with ten single-level, six-unit buildings, two single-level, four-unit buildings, and one single-level combined four-unit and community building. It has 74 total units, all of which are FHA-covered ground-level units. It has a community building area with a leasing office, community room, kitchen, bathroom, and laundry room, a shuffleboard court, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2000. Glencoe Trace Apartments was developed using Low-Income Housing Tax Credits and HOME funds.

#### **vi. Hamilton-Type Properties Fully Surveyed**

30. “Hamilton-Type Properties” are properties that consist of two-level, 20- 32-unit elevator buildings with one- and two-bedroom units, such as the building and unit types at Hamilton Place Apartments (see para. 31, below). There were five Hamilton-Type properties designed and constructed for first occupancy between 2004 and 2010. The United States has surveyed Hamilton Place Apartments (constr. 2007).

### **Hamilton Place Apartments (HPA)**

31. HPA is located at 111 Todd Trail, Millbrook, AL. It is an apartment rental property with one two-level, 24-unit elevator building and one three-level, 32-unit elevator building. It has 56 total units, all of which are FHA-covered units. It has an office building with a leasing office and bathroom, community rooms, community kitchens and bathrooms, a gazebo, a picnic area, a mail center and trash dumpster facilities. It was designed and constructed for first occupancy in 2007. HPA was developed using Low-Income Housing Tax Credits and HOME funds.

#### **vii. Other Properties Fully Surveyed**

32. In addition to the Property Types discussed above, Palladian Fairhope Apartments was designed and constructed for first occupancy in 2013 and Palladian-Jubilee Apartments is currently under construction. The United States has surveyed Palladian Fairhope Apartments.

### **Palladian Fairhope Apartments (PFA)**

33. PFA is located at 8132 Gayfer Avenue, Fairhope, AL. It is an apartment rental property with fourteen single-level, four-unit buildings and three single-level, two-unit buildings. It has 62 total units, 56 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, multipurpose room, bathrooms, laundry room, and pool. It was designed and constructed for first occupancy in 2013.

34. The Subject Properties identified in paras. 11 – 14, 17 –20, 29, and 31, above, were built with the assistance of the United States Department of Housing and Urban Development’s HOME Program. The HOME Investment Partnership Program provides formula grants to States and certain localities that communities use to fund a wide range of activities including building affordable housing for rent. HUD regulations require developers of new construction of multifamily projects receiving HOME funds to make five percent of the units at the project (but not less than one unit) accessible to individuals with mobility impairments and an additional two

percent of the units (but not less than one unit) accessible to individuals with sensory impairments in accordance with the Uniform Federal Accessibility Standards (UFAS). See Title 24 CFR, part 8, Subpart E, Sections 8.20, 8.22, and 8.32.

35. The United States alleges that the failure of designated UFAS units at the Subject Properties identified in paras. 11 – 14, 17 –20, 29, and 31 to comply with the accessibility requirements of UFAS include, but are not limited to, lack of required accessible signage at unit entries, entry doors with vertical level changes exceeding 1/4"; primary entry doors that lack required clear maneuvering space at the push- or pull-side approaches; lack of 30" x 48" clear floor space with required knee and toe space at lavatory bowls for a forward approach; bathroom sinks without required pipe insulation; medicine cabinets and mirrors mounted too high above the finished floor for use by a person in a wheelchair; bathtubs that lack the required clear floor space because the lavatory is not mounted on the control wall side of the bathtub; bathtubs that lack required permanent seat mounted at head of the tub; grab bars at the bathtub mounted in inaccessible locations; kitchens that lack required work surface with 30" clear wide space for a forward approach; kitchen sinks that lack minimum 30" wide space and required knee and toe space for forward approach; kitchen sinks that lack required pipe insulation; and required emergency visual alarms not provided in bedrooms.

## **G. Properties Not Surveyed by the United States**

### **i. Americus-Type Properties Not Surveyed**

#### **a. Alexander Terrace Apartments (ATA)**

36. Alexander Terrace Apartments (ATA) is located at 1155 Pickens Street, Moulton, AL. It is an apartment rental property with three, two level, eight-unit exterior-stairway buildings. It has 24 total units, 12 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1998. ATA was developed using Low-Income Housing Tax Credits and HOME funds.

#### **b. Americus Garden Apartments (AGA)**

37. AGA is located at 730 South Martin Luther King Jr. Boulevard, Americus, GA. It is an apartment rental property with five two level, eight-unit exterior-stairway buildings and one single-level, four-unit building. AGA has 44 total units, 24 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a playground, a gazebo, trash dumpster facilities, and a mail center. It was designed and constructed for first occupancy in 1998. AGA was developed using Low-Income Housing Tax Credits and HOME funds.

#### **c. Charleston Square Apartments (CSA)**

38. CSA (also known as Deer Run Apartments) is located at 150 West Pike Street, Troy, AL. It is an apartment rental property with five two-level, eight-unit exterior-stairway buildings and one single-level, four-unit building. It has 44 total units, 24 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room,

kitchen, bathrooms, and laundry room, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1999. CSA was developed using Low-Income Housing Tax Credits and HOME funds.

**d. Evergreen Village Apartments (EVA)**

39. Evergreen Village Apartments is located at 110 Evergreen Lane, Cedartown, GA. It is an apartment rental property with seven two-level, eight-unit exterior-stairway buildings. It has 56 total units, 28 of which are FHA-covered ground-level units. It has a community building with a leasing office, social services room, community room, kitchen, bathrooms, and laundry room, a playground, a pavilion, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1999.

**e. Hickory Run II Apartments (HR2A)**

40. HR2A is located at 710 Lynn Drive SE, Jacksonville, AL. It is an apartment rental property with four two-level, eight-unit exterior-stairway buildings and two single-level, four-unit buildings. HR2A is a property with both Americus-Type and Applegate-Type buildings. It has 40 total units, 24 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer room, kitchen, bathrooms, and laundry room, a playground, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2001. It was developed using Low-Income Housing Tax Credits and HOME funds.

**f. Hunter Pointe Apartments (HPA)**

41. HPA is located at 463 Alexander Avenue, Centreville, AL. It is an apartment rental property with three two-level, eight-unit exterior-stairway buildings. It has 24 total units, 12 of which are FHA-covered ground-level units. It has a community building with a leasing office, bathroom, and laundry room, a playground, a mail center, and a trash dumpster facility. It was designed and constructed for first occupancy in 1996. It was developed using Low-Income Housing Tax Credits and HOME funds.

**g. Ivy Pointe II Apartments (IP2A)**

42. IP2A is located at 400 John Aldridge Drive, Tuscumbia, AL. It is an apartment rental property with six two-level, eight-unit exterior-stairway buildings. It has 48 total units, 24 of which are FHA-covered ground-level units. It has a playground, gazebo, and trash dumpster facilities. It was designed and constructed for first occupancy in 2001. It was developed using Low-Income Housing Tax Credits and HOME funds.

**h. Parkwood Apartments (PKA)**

43. PKA is located at 550 Wood Drive, Pell City, AL. It is an apartment rental property with four single-level, six-unit buildings and three two-level, eight-unit exterior-stairway buildings. PKA is a property with both Applegate-Type and Americus-Type buildings. It has 48 total units, 36 of which are FHA-covered ground-level units. It has a community building with a leasing office, community building, social service room, kitchen, bathrooms, and laundry room, a playground, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed

for first occupancy 1997. It was developed using Low-Income Housing Tax Credits and HOME funds.

**i. Pebble Creek Apartments (PCA)**

44. PCA is located at 803 Vanity Fair Avenue, Butler, AL. It is an apartment rental property with three two-level, eight-unit exterior-stairway buildings. It has 24 total units, 12 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathroom, and laundry room, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2000. It was developed using Low- Income Housing Tax Credits and HOME funds.

**j. Timberfalls Apartments (TA)**

45. TA is located at 700 Timberfalls Court, Thomaston, GA. It is an apartment rental property with six two-level, eight-unit exterior-stairway buildings. It has 48 total units, 24 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, social service room, kitchen, bathroom, and laundry room, a gazebo, a playground, a basketball court, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1999. It was developed using HOME funds.

**k. Westfork Apartments (WFA)**

46. WFA is located at 1406 8<sup>th</sup> Street NW, Jasper, AL. It is an apartment rental property with five two-level, eight-unit exterior-stairway buildings. It has 40 total units, 20 of which are FHA-covered ground-level units. It has an office with a leasing office, bathroom, and laundry room, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1996. It was developed using Low-Income Housing Tax Credits and HOME funds.

**ii. Applegate-Type Properties Not Surveyed**

**a. Autumn Ridge Apartments (ARA)**

47. ARA is located at 300 Autumn Ridge Drive, Jacksonville, NC. It is an apartment rental property with eight single-level, six-unit buildings. It has 48 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer room, kitchen, bathrooms, and laundry room, a gazebo, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2002. Autumn Ridge was developed using Low-Income Housing Tax Credits and HOME funds.

**b. Bailey Springs Apartments (BSA)**

48. BSA is located at 940 Bailey Springs, Lincolnton, NC. It is an apartment rental property with four single-level, six-unit buildings, and one single-level four-unit building. It has 28 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a playground, a gazebo, a horseshoes pit, a shuffleboard court, a community garden, a walking trail, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2005. Bailey Springs

was developed using Low-Income Housing Tax Credits and HOME funds.

**c. Belle Isle Apartments (BIA)**

49. BIA is located at 18720 US Highway 90, Robertsdale, AL. It is an apartment rental property two single-level, six-unit buildings, and four single-level four-unit buildings. It has 28 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, business office, bathrooms, and exercise room, a gazebo, a picnic area, a shuffleboard court, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2007. Belle Isle Apartments was developed using Low- Income Housing Tax Credits and HOME funds.

**d. Brookstone Village Apartments (BVA)**

50. BVA is located at 705 Gardner Drive SE, Jacksonville, AL. It is an apartment rental property with seven single-level, six-unit buildings and one single-level, four-unit building. It has 46 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, computer center, bathrooms, and laundry room, a gazebo, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2009. BVA was developed using Low- Income Housing Tax Credits and HOME funds.

**e. Canebreak Apartments (CA)**

51. CA is located at 4901 Amy Drive, Wilmington, NC. It is an apartment rental property with two single-level, six-unit buildings and five single-level, four-unit buildings. It has 32 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, computer lab, bathrooms, and laundry room, a gazebo, a horseshoes pit, a shuffleboard court, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2006. Canebreak Apartments was developed using Low-Income Housing Tax Credits and HOME funds.

**f. Double Creek Apartments (DCA)**

52. DCA is located at 4704 Chisholm Road, Florence, AL. It is an apartment rental property with eight single-level, six-unit buildings. It has 48 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, computer room, laundry room, and bathrooms, a gazebo, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2001. DCA was developed using Low-Income Housing Tax Credits and HOME funds.

**g. Kirkwood Trail Apartments (KTA)**

53. KTA is located at 133 Cason Road, Cedartown, GA. It is an apartment rental property with eight single-level, six-unit buildings and one single-level, four-unit building. It has 52 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a gazebo, a horseshoes pit, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2003. It was developed using Low-Income Housing Tax

Credits and HOME funds.

**h. Lenox Station Apartments (LXSA)**

54. LXSA is located at 510 South Caroline Street, Rockingham, NC. It is an apartment rental property with six single-level, six-unit buildings and one single-level, five-unit building. It has 41 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer lab, kitchen, bathrooms, and laundry room, a playground, a gazebo, a community garden, shuffleboard court, horseshoes pit, mail center, and trash dumpster facilities. It was constructed for first occupancy in 2003. It was developed using Low-Income Housing Tax Credits and HOME funds.

**i. Maple Square Apartments (MSA)**

55. MSA is located at 50 Nelson Drive, Jefferson, GA. It is an apartment rental property with eight single-level, six-unit buildings and two single-level four-unit buildings. It has 56 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer room, kitchen, bathroom, and laundry room, a picnic pavilion, walking trails, and trash dumpster facilities. It was designed and constructed for first occupancy in 2012. It was developed using Low-Income Housing Tax Credits and HOME funds.

**j. Oakland Mill Apartments (OMA)**

56. OMA is located at 440 Salem Church Road, Lincolnton, NC. It is an apartment rental property with seven single-level, six-unit buildings. It has 42 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer center, kitchen, bathrooms, and laundry room, a picnic shelter, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2013. It was developed using Low-Income Housing Tax Credits and HOME funds.

**k. Orchard Park Apartments (OPA)**

57. OPA is located at 629 State Highway 21 South, Hayneville, AL. It is an apartment rental property with one single-level, six-unit building and one single-level four-unit and community-center building. It has ten total units, all of which are FHA-covered ground-level units. It has a community room, bathroom, and laundry room, a gazebo, mail center, and trash dumpster facility. It was designed and constructed for first occupancy in 2004. It was developed using HOME funds.

**l. Pinewood Apartments (PWA)**

58. PWA is located at 755 South Rogers Street, Pooler, GA. It is an apartment rental property under construction with ten single-level, six-unit buildings and one single-level, four-unit building. It has 64 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer lab, kitchen, bathrooms, and laundry room, a picnic pavilion, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2014. It was developed using Low-Income Housing Tax Credits and HOME funds.

**m. Stoney Creek Apartments (SCA)**

59. SCA is located at 321 Plaza Road, Laurinburg, NC. It is an apartment rental property with six single-level, six-unit buildings, and two single-level, four-unit buildings. It has 44 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer room, kitchen, bathrooms, and laundry room, a picnic shelter, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2013. It was developed using Low-Income Housing Tax Credits and HOME funds.

**n. Village at Wedgewood Apartments (VWA)**

60. VWA is located at 307 17<sup>th</sup> Avenue NW, Cairo, GA. It is an apartment rental property with seven single-level, six-unit buildings. It has 42 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer room, exercise room, kitchen, and bathrooms, a picnic pavilion, a horseshoes pit, a shuffleboard court, a community garden, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2009. It was developed using Low Income Housing Tax Credits and HOME funds.

**o. Waring Apartments (WA)**

61. WA is located at 812 East Waring Street, Waycross, GA. It is an apartment rental property with six single-level, six-unit buildings and one single-level, four-unit building. It has 40 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, social service room, kitchen, bathroom, and laundry room, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 1999. It was developed with Low-Income Housing Tax Credits and HOME funds.

**p. Waring II Apartments (W2A)**

62. W2A is located at 812 East Waring Street, Waycross, GA. It is an apartment rental property with four single-level, six-unit buildings and three single-level, four-unit buildings. It has 36 total units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, social service office, kitchen, and bathrooms, a gazebo, a horseshoes pit, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2003. It was developed using Low-Income Housing Tax Credits and HOME funds.

**q. Windcliff Apartments (WCA)**

63. WCA is located at 150 Gabriel Circle, Gainesville, GA. It is an apartment rental property with eight single-level, six-unit buildings and two single-level, four-unit buildings. It has 56 units, all of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a gazebo, a horseshoes pit, a shuffleboard court, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2001. It was developed using Low-Income Housing Tax Credits and HOME funds.

**iii. Blue-Type Properties Not Surveyed**

**a. Blue Springs Apartments (BSA)**

64. BSA is located at 460 McDaniel Drive, Jacksonville, NC. It is an apartment rental property with five two-level, eight-unit breezeway-style buildings. It has 40 total units, 20 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a gazebo, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2005. BSA was developed using Low-Income Housing Tax Credits and HOME funds.

**b. Bradbury Apartments (BBA)**

65. BBA is located at 2901 Old Conover Startown Road, Newton, NC. It is an apartment rental property with five two-level, eight-unit breezeway-style buildings. It has 40 total units, 20 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, business office, kitchen, bathrooms, and laundry room, a gazebo, a playground, a picnic area, a horseshoes pit, a shuffleboard court, walking trails, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2006. BBA was developed using Low-Income Housing Tax Credits and HOME funds.

**c. Brentwood Landing Apartments (BLA)**

66. BLA is located at 597 Covered Bridge Parkway, Prattville, AL. It is an apartment rental property with ten two-level, eight-unit breezeway-style buildings. It has 80 total units, 40 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, workroom, kitchen, laundry room, bathrooms, and pool, a playground, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2005. BLA was developed with Low-Income Housing Tax Credits and HOME funds.

**d. Brentwood Landing II Apartments (BL2A)**

67. BL2A is located at 549 Covered Bridge Parkway, Prattville, AL. It is an apartment rental property with twelve two-level, eight-unit breezeway-style buildings. It has 96 total units, 48 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, exercise room, computer lab, kitchen, laundry room, bathrooms, and pool, a picnic area, a car wash, a gazebo, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2010. BL2A was developed using Low-Income Housing Tax Credits.

**e. Cedar Glades Apartments (CGA)**

68. CGA is located at 500 Cedar Glade Circle, Shelbyville, TN. It is an apartment rental property under construction with two three-level, 20-unit breezeway-style buildings and one three-level, 24-unit breezeway style building. It has 64 total units, 24 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, computer lab, workroom, kitchen, laundry room, bathrooms, and pool, a gazebo, a playground, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2015. CGA was developed using Low-Income Housing tax Credits.



**f. Cottage Hill Pointe Apartments (CHPA)**

69. CHPA is located at 7959 Cottage Hill Road, Mobile, AL. It is an apartment rental property with thirteen three-level, 12-unit breezeway-style buildings. It has 156 total units, 52 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, exercise room, conference/computer room, workroom, kitchen, laundry room, bathrooms, and pool, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2002. CHPA was developed using Low-Income Housing Tax Credits.

**g. Heritage Vista Apartments (HVA)**

70. HVA is located at 3029 Heritage Place, Milledgeville, GA. It is an apartment rental property with eight two-level, eight-unit breezeway-style buildings. It has 64 total units, 32 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, kitchen, computer lab, workroom, bathrooms, laundry room, and pool, a gazebo, a playground, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2013. HVA was developed using Low-Income Housing Tax Credits and HOME funds.

**h. Heron Lake Apartments (HLA)**

71. HLA is located at 1800 Eastwind Road, Valdosta, GA. It is an apartment rental property with 11 two-level, eight-unit breezeway-style buildings. Heron Lake Apartments is a Blue Type property. It has 88 total units, 44 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, exercise room, computer lab, workroom, kitchen, bathrooms, laundry room, and pool, a play court, a playground, a pavilion, a walking path, a mail center, and a trash dumpster facility. It was designed and constructed for first occupancy in 2005. It was constructed for first occupancy in 2005. It was developed using Low-Income Housing Tax Credits and HOME funds.

**i. Heron Lake II Apartments (HL2A)**

72. HL2A is located at 1800 Eastwind Road, Valdosta, GA. It is an apartment rental property with eight two-level, eight-unit breezeway-style buildings. It has 64 total units, 32 of which are FHA-covered ground-level units. It has a community building with a leasing office, computer room, kitchen, and bathrooms, a playground, a picnic pavilion, a volleyball court, a car wash, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2008. It was developed using Low-Income Housing Tax Credits and HOME funds.

**j. Kirby Creek Apartments (KCA)**

73. KCA is located at 104 Joyner Road, Cairo, GA. It is an apartment rental property with seven two-level, eight-unit breezeway-style buildings. It has 56 total units, 28 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a playground, a play court, a playing field, a pavilion, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2007. It was developed using Low-Income Housing Tax

Credits and HOME funds.

**k. Mallard Lake Apartments (MLA)**

74. MLA is located at 120 Old Airport Road, LaGrange, GA. It is an apartment rental property with nine two-level, eight-unit breezeway-style buildings. It has 72 total units, 36 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, exercise room, computer lab, workroom, kitchen, bathrooms, laundry room, and pool, a playground, a picnic pavilion, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2010. It was developed using Low-Income Housing Tax Credits and HOME funds.

**l. Palladian Apartments (PLA)**

75. PLA is located at 2225 Leroy Stevens Road, Mobile, AL. It is an apartment rental property with ten two-level, eight-unit breezeway-style buildings. It has 80 total units, 40 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, computer lab, exercise room, workroom, kitchen, bathrooms, laundry room, and pool, a playground, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2005. It was developed using Low-Income Housing Tax Credits and HOME funds.

**m. Palladian II Apartments (PL2A)**

76. PL2A is located at 2135 Leroy Stevens Drive, Mobile, AL. It is an apartment rental property with four two-level, eight unit breezeway-style buildings. It has 32 total units, 16 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer room, and bathroom, a playground, a gazebo, a basketball court, a picnic area, a mail center, a shuffleboard court, and trash dumpster facilities. It was designed and constructed for first occupancy in 2007. It was developed using Low-Income Housing Tax Credits.

**n. Powell Place Apartments (PPA)**

77. PPA is located at 120 Trojan Way, Barnesville, GA. It is an apartment rental property with eight two-level, eight-unit breezeway-style buildings. It has 64 total units, 32 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer lab, kitchen, bathrooms, and laundry room, a playground, a picnic pavilion, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2011. It was developed using HOME funds.

**o. Preston Place Apartments (PPLA)**

78. PPLA is located at 100 Phillips Drive, Quitman, GA. It is an apartment rental property with five two-level, eight-unit breezeway-style buildings. It has 40 total units, 20 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, exercise room, computer room, library, kitchen, bathrooms, and laundry room, a picnic pavilion, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2010. It was developed using Low-Income Housing Tax Credits.

**p. Skyline Trace Apartments (STA)**

79. STA is located at 600 Ridge Road, Monroe, GA. It is an apartment rental property with eight two-level, eight-unit breezeway-style buildings. It has 64 total units, 32 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, library, computer room, exercise room, kitchen, bathrooms, laundry room, and pool, a cabana, a picnic pavilion, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2010. It was developed using Low-Income Housing Tax Credits.

**q. Sterling Oaks Apartments (SOA)**

80. SOA is located at 114 St. Helena Drive, Spindale, NC. It is an apartment rental property under construction with seven two-level, eight-unit breezeway-style buildings. It has 56 total units, 28 of which are FHA-covered ground-level units. It has a community building with a leasing office, community room, computer center, kitchen, bathrooms, and laundry room, a picnic pavilion, a gazebo, a playground, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2015. It was developed using Low-Income Housing Tax Credits and HOME funds.

**r. Stony Ridge Apartments (SRA)**

81. SRA is located at 108 Lincoln Street, Hogansville, GA. It is an apartment rental property under construction with seven two level, eight unit breezeway-style buildings. It has 56 total units, 28 of which are FHA covered ground floor units. It has a community building with a leasing office, community room, kitchen, bathrooms, and laundry room, a gazebo, a playground, a picnic area, a mail center, and trash dumpster facilities. It was developed using Low-Income Housing Tax Credits and HOME funds.

**s. Valley Ridge Apartments (VRA)**

82. VRA is located at 950 Mooty Bridge Road, LaGrange, GA. It is an apartment rental property with ten two-level, eight-unit breezeway-style buildings. It has 80 total units, 40 of which are FHA-covered ground-level units. It has a clubhouse with a leasing office, clubroom, computer room, exercise room, workroom, kitchen, bathroom, laundry room, and pool, a playground, a basketball court, a sports field, a picnic pavilion, a picnic area, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2005. It was developed using Low-Income Housing Tax Credits.

**t. Waterford Farms Apartments (WFA)**

83. WFA is located at 644 Cullman Road, Arab, AL. It is an apartment rental property under construction with three two-level, 16-unit breezeway-style buildings. It has 48 total units, 24 of which are ground-level units. It has a clubhouse with a leasing office, clubroom, workroom, computer center, exercise room, kitchen, bathrooms, laundry room, and pool, a playground, a bus stop, a picnic center, a mail center, and trash dumpster facilities. It is planned for first occupancy in 2015. It is being developed using Low-Income Housing Tax Credits and HOME funds.

**iv. Glencoe-Type Properties Not Surveyed Highland Park Senior Village (HPSV)**

84. HPSV is located at 6785 Selman Drive, Douglasville, GA. It is an apartment rental property with two single-level, four-unit buildings, one single-level, six-unit building, three two-level, 12-unit breezeway-style buildings, and one single-level, combined community and four-unit building. It has 50 total units, 36 of which are FHA-covered ground-level units. It has a community room, community kitchen and bathrooms, and laundry room, a gazebo, a horseshoes pit, a shuffleboard court, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2000. It was developed using Low-Income Housing Tax Credits and HOME funds.

**v. Hamilton-Type Properties Not Surveyed**

**a. Cherry Ridge Independent Living Apartments (CRILA)**

85. CRILA is located at 1100 Jeff Germany Parkway, Birmingham, AL. It is an apartment rental property with one three-level, 30-unit elevator building and one three-level, 26-unit elevator building. It has 56 total units, all of which are FHA-covered units. It has a community room, a kitchen, an office building with a leasing office, bathrooms, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2004. CRILA was developed using Low-Income Housing Tax Credits and HOME funds.

**b. Oleander Park Apartments (OPA)**

86. OPA is located at 7646 Cottage Hill Road, Mobile, AL. It is an apartment rental property with one 30-unit elevator building and one 26-unit and community-center elevator building. It has 56 total units, all of which are FHA-covered units. It has a community space with bathrooms and a kitchen, a gazebo, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2006. It was developed using Low-Income Housing Tax Credits and HOME funds.

**c. Sheppard Station Apartments (SSA)**

87. SSA is located at 215 Brighton Woods Drive, Pooler, GA. It is an apartment rental property with two three-level, 30-unit elevator buildings and one single-level, five-unit building. It has 65 total units, all of which are FHA-covered units. It has a community building with a leasing office, community room, computer lab, exercise room, kitchen, and bathrooms, a picnic pavilion, a picnic area, a shuffleboard court, a horseshoes pit, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2009. It was developed using Low-Income Housing Tax Credits and HOME funds.

**d. Woodlawn Terrace Apartments (WTA)**

88. WTA is located at 1211 North Forrest Street, Valdosta, GA. It is an apartment rental property with two two-level, 30-unit elevator buildings. It has 60 total units, all of which are FHA-covered units. It has a community building with a leasing office, community room, computer lab, library, kitchen, and bathrooms, a gazebo, shuffleboard courts, a community garden, a mail center, and trash dumpster facilities. It was designed and constructed for first occupancy in 2011. It was constructed for first occupancy in 2011. It was developed using Low-Income Housing Tax Credits.

**vi. Other Properties Not Surveyed**

**Palladian-Jubilee Apartments (PJA)**

89. Palladian-Jubilee Apartments is located at 1701 County Road 64, Daphne, AL, is an apartment rental property with 23 single-level, four-unit buildings and seven single-level, two-unit buildings containing one- and two-story units. It has 114 total units, with 58 one-story two bedroom FHA-covered ground floor units and 34 two-story three bedroom units. It has a clubhouse with a leasing office, community room, exercise room, conference room, kitchen, bathrooms, and pool. It was designed and constructed for first occupancy in 2014.

**H. Consent of the Parties to this Order**

90. Defendants agree to address the elements that the United States alleges are not in compliance with the Accessible Design Requirements of the FHA and, where applicable, the ADA and UFAS, as set forth herein.

91. The parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a) and 12188(b)(1)(B). The parties further agree that this controversy should be resolved without further proceedings and without an evidentiary hearing or a trial.

92. The Defendants deny that they violated the FHA, ADA, or any other federal, state, or local statute or regulation that prohibits discrimination. The Defendants also deny any and all allegations made by the United States in the Complaint and this Consent Order. Defendants agree to the terms of this Consent Order resolving this action filed by the United States solely to avoid the time and significant cost of litigation. Nothing herein shall be construed as a finding of any noncompliance with the FHA, ADA, UFAS, or any other federal, state, or local statute or regulation. The terms of this Consent Order, upon the effectiveness hereof, are intended to fully resolve all allegations of the United States made herein and under the Complaint.

93. As indicated by the signatures appearing below, the parties have agreed to the entry of this Consent Order.

Based on the Court's review of the record and with the agreement of the parties, the Court orders as follows:

**I. GENERAL INJUNCTION**

94. Defendants and each of their officers, employees, agents, successors and assigns, and all other persons in active concert or participation with them are enjoined from discriminating on the basis of disability as prohibited by the Fair Housing Act, 42 U.S.C. §§ 3604(f)(1) – (3), and the Americans with Disabilities Act, 42 U.S.C. §§ 12182(a) and 12183(a)(1).

95. Defendants and each of their officers, employees, agents, successors and assigns, and all other persons in active concert or participation with them are enjoined from interfering or preventing the retrofitting ordered herein or the implementation or completion of this Consent Order. Defendants agree to allow access to the public and common use areas of the Subject Properties, and, to the extent practical, access to unit interiors at the Subject Properties, that they

own and operate for the purpose of planning, evaluating, and performing any action required under this Order to retrofit elements in the public and common use areas and the unit interiors as required herein. Defendants do not currently own or operate the following properties: Alexander Terrace Apartments, Belle Isle Apartments, Brentwood Landing II Apartments, Charleston Square Apartments, Cherry Ridge Independent Living Apartments, Double Creek Apartments, Hamilton Place Apartments, Hickory Run II Apartments, Oleander Park Apartments, Orchard Park Apartments, Palladian-Fairhope Apartments, and Waterford Farms Apartments (“Third Party Properties”). Defendants will make their best effort to secure access to the public and common use areas and unit interiors of the Third Party Properties for the purpose of planning, evaluating, and performing any action required under this Order to retrofit elements in the public and common use areas and the unit interiors as required herein. To that end, the Defendants will present to the owners of the Third Party Properties an agreement in a form similar to Appendix AA. If an owner of a Third Party Property refuses to allow Defendants access to a Third Party Property, the United States may seek an order from the Court requiring the owner to allow such access. Defendants agree to fully cooperate with the United States in this process.

## **II. RETROFITS AT FULLY SURVEYED SUBJECT PROPERTIES**

96. The United States, as set forth herein and in its Complaint, alleges that the Subject Properties identified in paras. 10-33 (hereafter “the Fully Surveyed Subject Properties”) do not meet the accessibility requirements of the FHA, the Fair Housing Accessibility Guidelines (“FHA Guidelines”) (56 Fed. Reg. 9472 et seq. (1991)), the ADA, and the ADA Standards. To address the United States’ allegations, Defendants shall complete the actions and retrofits described in this section and in Appendices B.1 – S.1, Appendices B.2 – S.2, Appendices B.3 – S.3, and in accordance with the Route and Inspection General Protocol, the Interior Retrofit Inspection Protocol separately agreed to by the United States and Defendants. Defendants further agree to complete actions and retrofits necessary to bring units out of the alleged noncompliance with UFAS, where applicable, as set forth in this Order. The United States agrees that if the Defendants complete the actions and retrofits described herein, that the Fully Surveyed Subject Properties shall be deemed compliant with the FHA, the Fair Housing Accessibility Guidelines (“FHA Guidelines”) (56 Fed. Reg. 9472 et seq. (1991)), the ADA, the ADA Standards, and UFAS. The financial responsibility for effecting any and all retrofits required under this Consent Order to the Fully Surveyed Subject Properties, and the cost of surveys and inspections associated therewith, shall, in the first instance be solely that of the owner of the Fully Surveyed Subject Property and no other direct owner of a Subject Property shall have liability or obligation for the cost or expense of retrofits at any other Subject Property; provided that the foregoing shall not be deemed to release Defendants Allan Rappuhn, Gateway Construction Corporation and Gateway Properties, LLC, from performing surveys, inspections, retrofits, or any other obligations under this Consent Order.

### **A. General Retrofits to Accessible Routes at Fully Surveyed Subject Properties**

97. As soon as reasonably possible, but by no later than thirty (30) months from the entry of this Consent Order, Defendants will complete the retrofits to the Accessible Routes identified in Appendices B.1- S.1 compliant with the FHA and FHA Guidelines, and where applicable, the ADA and ADA Standards, in accordance with the Route and Inspection General Protocol.

### **B. Specific Retrofits to the Public and Common Use Areas at Fully Surveyed Subject Properties**

98. As soon as reasonably possible, but by no later than thirty (30) months from the entry of this Order, Defendants will complete retrofits to the public and common use areas listed in Appendices B.2-S.2, to bring the public and common use areas into compliance with the FHA and FHA Guidelines, and where applicable, the ADA and ADA Standards.

**C. Retrofits to Covered Multifamily Dwelling Unit Interiors at Fully Surveyed Subject Properties**

99. As soon as reasonably possible, but by no later than thirty (30) months from the entry of this Order, Defendants shall complete all retrofits as described in Appendices B.3 – S.3 and in the Interior Retrofit Inspection Protocol (“Interior Inspection Protocol”) separately agreed to by the United States and Defendants to the interiors of the covered multifamily dwellings to bring unit interiors into compliance with the FHA and the FHA Guidelines, and where applicable, UFAS.

100. Within forty-five (45) days from the date of the entry of this Order, Defendants will provide a notice that is substantially equivalent to Appendix T to residents of the covered dwelling units at the Fully Surveyed Subject Properties. The notice will inform residents in covered dwelling units that (1) the United States alleges that the covered dwelling unit and public and common use areas do not meet the requirements of the FHA and the FHA Guidelines, and that to resolve these allegations, Defendants have agreed to perform certain retrofits to the covered dwelling units; (2) the covered dwelling unit must be retrofitted within thirty (30) months of the date of the entry of the Consent Order; (3) the Defendants will provide resident with a schedule of when the retrofits will be performed; (4) the retrofits will be performed at no cost to the resident; and (5) if temporary relocation for more than twenty-four (24) hours consecutively is required as deemed by the Defendants, the Defendants will pay the resident the equivalent to the U.S. General Services Administration rate for temporary relocation expenses incurred by the resident, as required by Section IV of this Order, infra.

101. If a resident desires to have the retrofits completed to the interior of his/her covered dwelling unit before the retrofits are scheduled to be performed by Defendants, he or she may request the retrofits in writing, and the requests will be granted by Defendants on a first-come, first-served basis. Defendants must complete the retrofits as promptly as practical, but no later than forty-five (45) days from the date on which the retrofits were requested by a resident on a first-come, first-served basis, with such deadline being subject to para. 154 below, of this Consent Order.

**III. INCONVENIENCE AND OVERNIGHT STAYS FOR RETROFITTING UNIT INTERIORS AT FULLY SURVEYED SUBJECT PROPERTIES**

102. Defendants shall endeavor to minimize inconvenience to residents in scheduling and performing retrofits required by this Consent Order to covered multifamily dwelling unit interiors at the Fully Surveyed Subject Properties and do not anticipate the need for a resident to relocate from his/her unit to complete retrofits.

103. However, if the Defendants determine that retrofits to a covered dwelling unit require the resident’s temporary absence from such unit for more than twenty-four (24) hours consecutively, the Defendants shall pay the resident the applicable government per diem rate for food and lodging for the local area (as available at [www.gsa.gov](http://www.gsa.gov) – click on “per diem rates” under

travel) for each day of the resident's absence from the unit caused by performing the retrofits. Such payment shall be made prior to the commencement of any retrofit work on the resident's unit, so that the resident or owner may use the money to obtain alternative living accommodations and obtain food while absent from the unit.

#### **IV. NOTICE OF RETROFITS TO PUBLIC AND COMMON USE AREAS AT FULLY SURVEYED SUBJECT PROPERTIES**

104. Within thirty (30) days of the date of entry of this Consent Order, the Defendants shall provide written notice to all residents at the Fully Surveyed Subject Properties stating that the retrofits required by this Consent Order will be performed to the public and common use areas of the Fully Surveyed Subject Properties, which include unit entrances and accessible routes. Such notice shall conform to Appendix Y. Defendants shall certify to the United States in writing that the notices have been distributed and the manner in which they were distributed within ten (10) days after such distribution.

#### **V. SURVEYING OF NON-SURVEYED SUBJECT PROPERTIES**

105. Defendants agree to take the following actions with regard to the surveying of the Non-Surveyed Subject Properties identified in paras. 36-89 above:

- a. Within ninety (90) days of the entry of the Order, Defendants shall contract with one or more qualified professionals, hereinafter the "Properties Surveyors," approved by the United States, to conduct an on-site survey in accordance with this Section, and specifically the next paragraph, at each of the Non-Surveyed Subject Properties to identify alleged violations, if any, of the Fair Housing Act, the ADA, and UFAS, where applicable. The Properties Surveyors will have expertise in the Accessible Design Requirements of the FHA and the accessibility requirements of the Guidelines, the ADA, the ADA Standards, ANSI A117.1- 1986, UFAS, and the Site Analysis Test in the HUD Design Manual, and UFAS.
- b. All surveys are to be completed within one (1) year of the date of the entry of this Consent Order.<sup>1</sup>
- c. The surveys are to be conducted in accord with a written protocol separately agreed to by Defendants and the United States, which shall be provided to the Properties Surveyor(s).

106. The Properties Surveyor(s) will prepare a written Property Survey Report for each Non-Surveyed Subject Property. Each Property Survey Report will comply with the following Provisions:

- a. The Property Survey Report will specify the scope and methodology of the survey.
- b. The Property Survey Report will set forth the elements which the Surveyor identifies, based upon the separately agreed upon Interior Retrofit Protocol and Remediation Protocol, which are not in compliance with the FHA, ANSI A117.1-

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<sup>1</sup> Defendants shall give the United States written notice of the survey at least twenty-one (21) days prior to each survey and shall give the United States an opportunity to have its representatives present for each survey.



- 1986, or another HUD-recognized safe harbor used in its entirety, and the ADA Standards and UFAS, where applicable.
- c. The Properties Surveyors will take digital photographs of the measurements taken of the elements the Surveyor identifies, based upon the Interior Retrofit Protocol and Remediation Protocol, which are not in compliance with the FHA, ANSI A117.1-1986, or another HUD-recognized safe harbor used in its entirety, and the ADA Standards and UFAS, where applicable. These photographs shall be included in the report and made a part of each Property Survey Report and made available in electronic digital form as an appendix to the Property Survey Report.
  - d. The Property Survey Report will set forth whether the elements the Surveyor identifies, based upon the Interior Retrofit Protocol and Remediation Protocol, which do not satisfy the requirements of the FHA, ANSI A117.1-1986, or another HUD-recognized safe harbor used in its entirety, and the ADA Standards and UFAS, where applicable, are in compliance with FHA, ANSI A117.1-1986, or another HUD-recognized safe harbor used in its entirety, and the ADA Standards and UFAS, where applicable. No such identification by the Properties Surveyor shall be deemed to be a finding of noncompliance with applicable accessibility provisions for any purpose other than to effectuate the terms of this Consent Order.
  - e. The Properties Surveyor will send the Property Survey Report of each Non-Surveyed Subject Property to counsel for the United States and Defendants as soon as practicable following each survey, but in any event no later than sixty (60) days after the date of the survey.
  - f. Neither the United States nor the Defendants shall disclose the Property Survey Reports to any other person except Defendants may disclose to their respective lenders, owners, contractors who make the retrofits, or as specifically required by Court order, and that the United States may disclose the Property Survey Reports to any agent or consultant retained by the United States.

107. Nothing in the Properties Surveyor's findings or reports shall be construed as an admission of wrongdoing or liability on the part of the Defendants or a finding of any noncompliance with the FHA, ADA, UFAS, or any other federal, state, or local statute or regulation.

## **VI. RETROFITS AT NON-SURVEYED SUBJECT PROPERTIES**

108. For each Non-Surveyed Subject Property at which a Properties Surveyor has identified elements, based upon the Interior Retrofit Protocol and Remediation Protocol, that are deemed, under the terms of this Consent Order, not in compliance with the FHA, ANSI A117.1-1986, or another HUD-recognized safe harbor used in its entirety, and the ADA Standards and UFAS, where applicable, the provisions in Sections VII-X shall apply. The financial responsibility for effecting any and all retrofits required under this Consent Order to the Non-Surveyed Subject Properties, and the cost of surveys and inspections associated therewith, shall, in the first instance be solely that of the owner of the Non-Surveyed Subject Property and no other direct owner of a Subject Property shall have liability or obligation for the cost or expense of retrofits at any other Subject Property; provided that the foregoing shall not be deemed to release Defendants Allan Rappuhn, Gateway Construction Corporation and Gateway Properties, LLC, from performing surveys, inspections, retrofits, or any other obligations under this Order.

### **A. Access to Non-Surveyed Subject Properties**

109. Where a Non-Surveyed Subject Property is owned by a Defendant or an entity related or affiliated to a Defendant, Defendants agree to allow access to the public and common use areas of the Non-Surveyed Subject Property and access to the Non-Surveyed Subject Property covered multifamily dwelling unit interiors, for the purpose of performing any retrofitting required under this Consent Order and for the purpose of interviewing or meeting with residents at an Non-Surveyed Subject Property to aid in the implementation or completion of this Consent Order.

110. Where a Non-Surveyed Subject Property is not owned by a Defendant or an entity related or affiliated to a Defendant, Defendants, shall use good faith efforts to obtain consent to access the public and common use areas of the Non-Surveyed Subject Property and access to the Non-Surveyed Subject Property covered multifamily dwelling unit interiors, for the purpose of preparing a written Property Survey Report and performing any retrofitting required under this Consent Order and for the purpose of interviewing or meeting with residents at an Non-Surveyed Subject Property to aid in the implementation or completion of this Consent Order.

**B. Agreement on Retrofits at Non-Surveyed Subject Properties**

111. The United States and the Defendants shall, within ninety (90) days of receiving the Initial Property Survey Report, provide a list of objections to the Initial Property Survey Report to the Properties Surveyor. If both parties fail to provide notice of objections to the Initial Property Survey Report, the Initial Property Survey Report will be deemed accepted by all Parties and will become the Final Property Survey Report and the Defendants need only retrofit the elements included in the Final Property Survey Report. If either party or both parties provide notice of objections, the Properties Surveyor shall respond with a Final Property Survey Report within thirty (30) days. The parties agree to abide by the conclusions of the Properties Surveyor in the Final Property Survey Report.

**C. General Retrofits to Accessible Routes at Non-Surveyed Subject Properties**

112. No later than thirty-six (36) months from date of the applicable Final Property Survey Report on retrofits to the accessible routes at each Non-Surveyed Subject Property as set forth in para. 111, Defendants will complete the agreed retrofits of the accessible routes at that Non-Surveyed Subject Property.

**D. Retrofits to Public and Common Use Areas of Non-Surveyed Subject Properties**

113. No later than thirty-six (36) months from date of the applicable Final Property Survey Report on retrofits to public and common use areas at each Non-Surveyed Subject Property as set forth in para. 111, above, Defendants will complete the agreed retrofits of the public and common use area of that Non-Surveyed Subject Property.

**E. Retrofits to Covered Multifamily Dwelling Unit Interiors at Non-Surveyed Subject Properties**

114. No later than thirty-six (36) months from the date of the applicable Final Property Survey Report on retrofits to covered multifamily dwelling unit interiors of a Non-Surveyed Subject Property as set forth in para. 111, above, Defendants shall finish all agreed retrofits to the covered multifamily dwelling unit interiors at the Non-Surveyed Subject Property.

115. Within thirty (30) days from the date of the applicable Final Property Survey Report, Defendants shall provide a notice that is substantially equivalent to Appendix T to the residents in covered multifamily dwelling units at the Non-Surveyed Subject Property. The notice shall inform Non-Surveyed Subject Property residents that (1) to settle the United States' allegations, Defendants have agreed to perform certain retrofits to the ground-floor covered units; (2) the unit must be retrofitted within three (3) years; (3) the Defendants will provide resident with a schedule of when the retrofits will be performed; (4) the retrofits will be performed at no cost to the resident; and (5) if temporary relocation for more than twenty-four (24) hours consecutively is required as deemed by the Defendants, the Defendants will pay the resident the equivalent to the U.S. General Services Administration rate for temporary relocation expenses incurred by the resident, as required by Section VIII of this Order, *infra*.

116. If a resident of a Non-Surveyed Subject Property desires to have the retrofits completed to the interior of his/her covered dwelling unit before the retrofits are scheduled to be performed by Defendants, he or she may request the retrofits in writing, and the requests will be granted by Defendants on a first-come, first-served basis. Defendants must complete the retrofits as promptly as practical, but no later than ninety (90) days from date of the request, with such deadline being subject to para. 154, below, of this Consent Order.

117. The United States agrees that if the Defendants complete the actions and retrofits described herein, the Non-Surveyed Subject Properties are deemed compliant with the FHA, the Fair Housing Accessibility Guidelines ("FHA Guidelines") (56 Fed. Reg. 9472 et seq. (1991)), the ADA, the ADA Standards, and UFAS.

**VII. INCONVENIENCE AND OVERNIGHT STAYS FOR RETROFITTING  
COVERED MULTIFAMILY DWELLING UNIT INTERIORS  
AT NON-SURVEYED SUBJECT PROPERTIES**

118. Defendants shall endeavor to minimize inconvenience to residents in scheduling and performing retrofits required by this Consent Order to covered multifamily dwelling unit interiors at the Non-Surveyed Subject Properties and do not anticipate the need for a resident to relocate from his/her unit to complete retrofits.

119. However, if the Defendants determine that retrofits to a covered dwelling unit require the resident's temporary absence from such unit for more than twenty-four (24) hours consecutively, the Defendants shall pay the resident the applicable government per diem rate for food and lodging for the local area (as available at [www.gsa.gov](http://www.gsa.gov) – click on "per diem rates" under travel) for each day of the resident's absence from the unit caused by performing the retrofits. Such payment shall be made prior to the commencement of any retrofit work on the resident's unit, so that the resident or owner may use the money to obtain alternative living accommodations and obtain food while absent from the unit.

**VIII. NOTICE OF RETROFITS TO PUBLIC AND COMMON USE AREAS AT NON-SURVEYED SUBJECT PROPERTIES**

120. Within thirty (30) days from date of the applicable Final Property Survey Report, the Defendants shall provide written notice to all residents at each Non-Surveyed Subject Property stating that the retrofits required by this Consent Order will be performed to the public and

common use areas of the Non-Surveyed Subject Property, which include unit entrances and accessible routes. Such notice shall conform to Appendix Y. Defendants shall certify to the United States in writing that the notices have been distributed and the manner in which they were distributed within ten (10) days after such distribution.

## **IX. NEUTRAL INSPECTOR AT FULLY SURVEYED AND AT NON-SURVEYED SUBJECT PROPERTIES**

### **A. Neutral Inspector for Fully Surveyed Properties**

121. Defendants will enter into a contract with one or more neutral inspector(s) approved by the United States (“Inspector”) to conduct on-site inspections of the retrofits that have been performed under this Order to determine whether the retrofits have been completed in accord with the specifications in this Order’s Appendices B.1 –R.3, the Interior Retrofit Protocol, Remediation Protocol, and the Route and General Inspection Protocol that describe the retrofits for the properties. The Inspector(s) will have expertise in the Accessible Design Requirements of the FHA, and the requirements of the FHA Guidelines, ADA, ADA Standards, ANSI A117.1-1986, and UFAS.

122. An inspection of a Fully Surveyed Subject Property will take place within forty-five (45) days of the completion of all of the retrofits to the covered multifamily dwelling as set forth in the relevant Appendix, or as soon thereafter as practicable for each. Defendants will give the United States at least three (3) weeks’ notice of the inspection and will give the United States an opportunity to have its representative present for the inspection.

123. The inspections of Accessible Pedestrian Routes, Public and Common Use Areas and dwelling units will be conducted by the Inspector in accordance this Consent Order and the relevant Appendices. The inspections of the Accessible Pedestrian Routes will also be conducted by the Inspector in accordance with the written Route Inspection Protocol separately agreed to by Defendants and the United States which will be provided to the Inspector. The inspections of the dwelling units will also be conducted by the Inspector in accordance with the written Interior Inspection Protocol separately agreed to by Defendants and the United States which will be provided to the Inspector.

124. The Inspector will set out the results of each inspection of the Fully Surveyed Subject Property, including deficits if any, in writing and will send that report to counsel for Defendants and for the United States. The Inspector will take digital photographs of any deficiencies identified at each Subject Property. If the inspection indicates that not all the required retrofits have been made as specified in the Appendices, Interior Inspection Protocol or the Route Inspection Protocol that apply to the Fully Surveyed Subject Property, Defendants who were involved in the design and construction of that specific Fully Surveyed Subject Property, as set forth above, will correct any deficiencies within 60 days and will pay for another inspection by the same Inspector to certify such deficiencies have been corrected. This process will continue until the Inspector certifies that all the retrofits required under this Order have been made. Defendants involved in the design and construction of that specific property will pay all of the Inspector’s reasonable costs associated with these inspections of the Subject Property, and such payments will be made without regard to the Inspector’s findings. Upon reasonable notice to Defendants, representatives of the United States will be permitted to inspect the retrofits made by Defendants

in accordance with this Consent Order or the third-party inspection reports provided for in this Order, to ensure compliance; provided, however, that the United States will endeavor to minimize any inconvenience caused by such inspections.

#### **B. Neutral Inspector At Non-Surveyed Subject Properties**

125. Defendants involved in the design and construction of a Non-Surveyed Subject Property shall enter into a contract with one or more neutral inspector(s) approved by the United States (“Non-Surveyed Properties Inspector”) to conduct on-site inspections of the retrofits at the Non-Surveyed Properties that have been performed under this Consent Order to determine whether the retrofits have been completed in accord with the specifications in this Consent Order and the Interior Retrofit Inspection Protocol and Remediation Protocol. The Non-Surveyed Properties Inspector shall have expertise in the Accessible Design Requirements of the FHA and the accessibility and adaptability requirements of the Guidelines, the ADA, the ADA Standards, ANSI A117.1-1986, and UFAS.

126. An inspection of a Non-Surveyed Subject Property shall take place within forty-five (45) days of the completion of all of the retrofits to covered multifamily dwelling unit interiors and the public and common use areas at that Non-Surveyed Subject Properties, or as soon thereafter as practicable for each. Defendants shall give the United States at least three (3) weeks’ notice of the inspection and shall give the United States an opportunity to have its representatives present for the inspection.

127. The Non-Surveyed Properties Inspector shall set out the results of each inspection of the Non-Surveyed Subject Property, including deficits if any, in writing and shall send that report to counsel for Defendants and counsel for the United States. If the inspection indicates that not all of the required retrofits agreed upon by the parties have been made at the Non-Surveyed Subject Property, Defendants who were involved in the design and construction of that Non-Surveyed Subject Property shall correct any deficiencies within 60 days, and Defendants shall pay for another inspection by the same Non-Surveyed Properties Inspector to certify that the deficiencies have been corrected. This process shall continue until the Non-Surveyed Properties Inspector certifies that all the necessary retrofits have been made at each Non-Surveyed Subject Property. Defendants shall pay all the Non-Surveyed Properties Inspector’s reasonable costs associated with these inspections of the Non-Surveyed Subject Property, and such payments shall be made without regard to the Non-Surveyed Properties Inspector’s findings. Upon reasonable notice to Defendants, representatives of the United States shall be permitted to inspect the retrofits made by Defendants in accordance with this Consent Order and the Non-Surveyed Properties Inspector’s inspection reports provided for in this Consent Order, to ensure compliance; provided, however, that the United States shall endeavor to minimize any inconvenience caused by such inspections.

#### **X. TRANSFER OF INTEREST IN SUBJECT PROPERTIES**

128. The sale, foreclosure, or any other transfer of ownership, in whole or in part, whether voluntary or involuntary, of any of the Subject Properties (i.e., Fully Surveyed Subject Properties as well as Non-Surveyed Subject Properties) shall not affect Defendants’ continuing obligation to retrofit any Fully Surveyed Subject Property or Non-Surveyed Subject Property as specified in this Order. Should a Defendant sell or transfer ownership of any Fully Surveyed Subject Property or Non-Surveyed Subject Property, in whole or in part, or any portion thereof,

prior to the completion of the retrofits specified in Sections III and Section VI of this Order, the Defendant will at least thirty (30) days prior to completion of the sale or transfer: (a) provide to each prospective buyer written notice that the Subject Property is subject to this Order, including specifically the Defendant's obligations to complete required retrofit work and to allow inspections, along with a copy of this Order; and (b) provide to the United States, by e-mail and first-class mail, written notice of the intent to sell or transfer ownership, along with a copy of the notice sent to each buyer or transferee, and each buyer's or transferee's name, address and telephone number.

## **XI. NO RAISING RENT PRICES**

128. Defendants with an ownership or management interest in a Fully Surveyed Subject Property or a Non-Surveyed Subject Property, their agents and affiliated companies, may not raise the rent price of any dwelling unit, or demand any deposit or other fee for a dwelling unit at any Fully Surveyed Subject Property or Non-Surveyed Subject Property inconsistent with past practice and solely because of contemplated or completed retrofits in a dwelling unit.

## **XII. NON-DISCRIMINATION IN FUTURE DESIGN AND CONSTRUCTION**

129. During the term of this Order, Defendant Allan Rappuhn will maintain the following information and statements regarding multifamily dwellings with buildings containing four or more dwelling units currently under construction which are intended to be, or which actually are, developed, built, designed, constructed, or engineered in whole or in part, by any Defendant or by any entities in which they have a position of control by virtue of being a general partner, limited liability company manager, trustee, executive officer or constituting one-third or more of the directorate, or owner or holder beneficially of more than 25% of the capital accounts in the case of pass-through entities or voting power in the case of capital stock, whether directly or indirectly through a chain of such relationships, provided, however, that such information and statements need to be maintained and/or provided only on properties in which a Defendant is actually involved, not on those properties in which a Defendant bids or expresses an interest, but does not become finally involved:

- a. the name and address of the property;
- b. a description of the property and the individual units;
- c. the name, address, and telephone number of the civil engineer(s) involved with the project;
- d. prior to commencement of construction or promptly thereafter, a statement from the civil engineer(s) involved with the property acknowledging and describing his/her knowledge of and training in the requirements of the Fair Housing Act and the ADA and in the field of accessible site design and certifying that he/she has reviewed the engineering documents for the project and that the design specifications therein comply, in a manner consistent with then prevailing professional practice, with the applicable requirements of the Fair Housing Act, the FHA Guidelines, the ADA, the ADA Standards, and ANSI A117.1- 1986;
- e. The name, address and telephone number of the architect(s) involved with the property;
- f. Prior to commencement of construction, a statement from all architect(s) involved with the property, acknowledging and describing his/her knowledge of and training in the Accessible Design Requirements of the FHA, 42 U.S.C. §

3406(f)(1), (f)(2), and (f)(3)(C), the requirements of the FHA Guidelines, the ADA, 42 U.S.C. § 12183(a)(1), the ADA Standards, and in the field of accessible site design and certifying that he/she has reviewed the architectural plans for the property and that the design specifications therein comply, in a manner consistent with then prevailing professional practice, with the applicable requirements of the Act, the FHA Guidelines, the ADA, the ADA Standards, ANSI A117.1-1986, and UFAS, where applicable.

- g. If the engineering documents or architectural plans are revised, and the revisions are likely to have a material impact on the accessibility of the dwellings or property, the related Defendant will obtain, maintain, and provide to the United States upon request, an updated statement from the civil engineer(s) or architect(s) making such revisions that such revisions to the engineering documents or architectural plans, as pertinent, comply, in a manner consistent with the prevailing professional practice, with the applicable requirements of the FHA, the FHA Guidelines, the ADA, the ADA Standards, ANSI A117.1-1986, and UFAS where applicable.

130. Each applicable Defendant will take all actions to make the construction of any future construction within the meaning of para. 129, above, compliant with applicable requirements of the FHA, the FHA Guidelines, the ADA, and the ADA Standards. During the term of this Order, upon reasonable notice, the United States will be permitted full access, to the extent within the control of the defendants, to such properties to inspect for compliance with applicable requirements of the FHA, FHA Guidelines, ADA, ADA Standards, and UFAS, where applicable.

### **XIII. SETTLEMENT FUND AND PAYMENTS TO AGGRIEVED PERSONS**

131. Within sixty (60) days after the date of this Consent Order, Defendants shall deposit in an interest-bearing account the total sum of **THREE HUNDRED THOUSAND DOLLARS and 00/100 (\$300,000.00)** for the purpose of compensating any aggrieved persons who may have suffered as a result of the alleged discriminatory housing practices by Defendants. This money shall be referred to as the “Settlement Fund,” and shall be for the purpose of compensating any aggrieved persons who may have suffered as a result of the alleged discriminatory housing practices by Defendants. The funds deposited into the “Settlement Fund” shall be deemed to have been paid by Gateway Construction, LLC (a/k/a Gateway Construction Company, LLC).

132. If a Subject Property is located in a community with a newspaper of general circulation, within sixty (60) days of the entry of this Consent Order, Defendants shall publish the Notice to Potential Victims of Alleged Housing Discrimination (“Notice”) at Appendix U informing readers of the availability of compensatory funds. The Notice shall be no smaller than three columns by six inches and shall be published on three occasions in newspapers of general circulation serving each locality in which a Subject Property is located. The publication dates shall be separated from one another by twenty-one (21) days, and at least two of the publication dates shall be on a Sunday, Defendants shall provide a copy of the Notice to counsel for the United States within thirty (30) days after the final publication.

133. Within sixty (60) days of the entry of this Order, Defendants shall send a copy of the Notice to each of the organizations listed in Appendix Z.

134. Within six (6) months of the entry of this Order, Defendants shall send, by first-class mail, postage pre-paid, a copy of the Notice to each past or present tenant at the Subject Properties, for whom they have records. For past tenants, Defendants will have complied with the requirements of this paragraph by mailing such notice to the forwarding address provided to the owners or managers of the Subject Properties or their agents by the former tenant at the time the former tenant moved out. Within seven (7) months of entry of this Order, Defendants shall provide to counsel for the United States an affidavit attesting to the fact that the Notices have been sent.

135. Allegedly aggrieved persons shall have twelve (12) months from the date of the entry of this Order to contact the United States. The United States shall investigate the claims of allegedly aggrieved persons and make a preliminary determination of which persons are aggrieved and whether any amount of damages should be paid to each such person. The determinations of the appropriate amount of damages shall total no more than **THREE HUNDRED THOUSAND DOLLARS and 00/100 (\$300,000.00)**, and the interest accrued on that amount after deposit into an account as set forth in para. 131, above. The United States will inform Defendants, in writing, of its determinations, together with a copy of a sworn declaration from each alleged aggrieved person setting forth the factual basis of the claim, the amount that the United States has determined Defendants should pay to each alleged aggrieved person, and a completed W-9 from each alleged aggrieved person. The United States shall seek approval from the Court to distribute such funds. Within thirty (30) days after notice of Court approval, Defendants shall deliver to the United States checks payable to the alleged aggrieved persons in the amounts designated by the United States, plus a proportionate share of the interest that has accrued in the Settlement Fund as of the day before the checks are sent to the United States. In no event shall the aggregate of all such checks exceed the sum of the Settlement Fund of **THREE HUNDRED THOUSAND DOLLARS and 00/100 (\$300,000.00)** plus any accrued interest. No allegedly aggrieved person shall be paid until he/she has executed and delivered to counsel for the United States the release at Appendix V.

136. After the satisfaction of paras. 131-135, above, and the expiration of the corresponding time periods, any money remaining in the Settlement Fund, including interest, shall be distributed to a qualified organization(s) for the purpose of conducting enforcement or educational activities related to the Fair Housing Act in Alabama, Georgia, and North Carolina, with an emphasis on the protection of the rights of persons of with disabilities. Before selecting the qualified organization(s), the Defendants will obtain a proposal from the organization(s) on how the funds will be used consistent with the above-stated purpose, submit such proposal to the United States, and consult with and obtain the non-objection of the United States. The United States and the Defendants may request modification of the proposal before approving the organization(s). The parties shall thereafter seek approval from the Court to distribute the remaining funds to the qualified organization(s).

137. The Defendants shall also require that the qualified organization(s) receiving funds submit to the Defendants and the United States a detailed report on how the funds are utilized within one year of receipt of funds, and every year thereafter until the funds are exhausted.

138. Defendants shall permit the United States, upon reasonable notice, to review any records that may reasonably facilitate its determinations regarding the claims of alleged aggrieved persons.

139. Nothing in this Consent Order shall preclude the United States from making its own efforts to locate and provide notice to potential aggrieved persons.



#### XIV. CIVIL PENALTY

140. Within fifteen (15) days of the date of this order, Defendants will pay a civil penalty of **FIFTY THOUSAND DOLLARS and 00/100 (\$50,000.00)** to resolve the United States' allegation that it is entitled to a civil penalty pursuant 42 U.S.C. § 3614(d)(1)(C) and 42 U.S.C. § 12188(b)(2)(C)(i) to vindicate the public interest. This payment shall be in the form of an electronic funds transfer pursuant to written instructions to be provided by the United States. The civil penalty is deemed a debt for a fine, penalty, or forfeiture payable to and for the benefit of the United States within the meaning of 11 U.S.C. § 523(a)(7), and is not compensation for actual pecuniary loss. No Defendant shall seek to discharge any part of the amount paid under this paragraph in bankruptcy. The civil penalty shall be deemed paid 100% by Defendant Gateway Construction Corporation.

#### XV. EDUCATIONAL PROGRAM

141. Within thirty (30) days of the entry of this Order, Defendants will provide a summary of this Order ("Summary") to all their agents and employees involved in the design or construction of the Subject Properties and secure a signed Acknowledgement from each agent or employee acknowledging that he or she has received and read the Summary, and has had an opportunity to have questions about the Order answered. The Summary and Acknowledgement will be substantially similar to the form of Appendix W.

142. During the term of this Order, within thirty (30) days after the date he or she commences an agency or employment relationship with a Defendant, each new agent or employee involved in the design and construction of any Subject Property or other covered multifamily dwelling property will be given a copy of the Summary and be required to sign the Acknowledgement that he or she has received and read the Summary, and has had an opportunity to have questions about the Order answered. The Summary will be substantially similar to the form of Appendix W.

143. Defendants will also ensure that they and their employees and agents who have primary management authority over the design and/or construction of covered multifamily dwellings have a copy of, are familiar with, and personally review, the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act, (August 1996, Rev. April 1998).

144. Within ninety (90) days of the date of entry of this Consent Order, Defendants and all their employees and agents whose duties, in whole or in part, involve or will involve primary management authority over the development, design and/or construction of covered multifamily dwellings will undergo training on the design and construction requirements of the Fair Housing Act and the ADA. The training will be conducted by a qualified individual unconnected to the Defendants or the Defendants' attorneys who has been previously approved by the Department of Justice, and any expenses associated with this training will be borne by Defendants. The training may be delivered live or by Webinar. Defendants will provide to the United States, within thirty (30) days after the training, the name(s), address(es) and telephone number(s) of the trainer(s); copies of the training outlines and any materials distributed by the trainers; and certifications executed by all Defendants and covered employees and agents who attended the training confirming

their attendance, in a form substantially equivalent to Appendix X.

## **XVI. NOTICE OF DEFENDANTS' NON-DISCRIMINATION POLICY**

145. Within ten (10) days of the date of entry of this Consent Order, Defendants with an ownership or management interest in a covered multifamily dwelling property will post and prominently display in the sales or rental offices of all covered multifamily dwellings owned or operated by them a sign no smaller than 10 by 14 inches indicating that all dwellings are available for rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.

146. For the duration of this Consent Order, in all future advertising in newspapers, electronic media, pamphlets, brochures and other promotional literature regarding the Subject Properties or any new covered multifamily dwelling properties that any Defendant may develop or construct, such Defendant will place, in a conspicuous location, a statement or the universal symbol of accessibility showing that the dwelling units include features for persons with disabilities required by the federal Fair Housing Act.

## **XVII. NOTIFICATION AND DOCUMENT RETENTION REQUIREMENTS**

147. In addition to all other reporting required herein, 180 days after the entry of this Consent Order, Defendants will submit to the United States an initial report containing the reporting required by paras. 141-146, and containing the signed statements of Defendants and their employees and agents who have completed the training program specified in para. 144 of this Order. Thereafter during the term of this Order, Defendants will, May 15<sup>th</sup> and November 15<sup>th</sup> of each year for the duration of this Consent Order, submit to the United States a compliance report detailing the retrofitting and inspections of the retrofits at the Subject Properties, with the last report submitted 60 days before the scheduled expiration of the Consent Order, consistent with para. 150, below. In addition, on the anniversary of the entry of this order, the Defendants will submit to the United States a report for the reporting required by paras. 129 – 130 on the current and future design and construction, and containing the signed statements of new employees and agents that, in accordance with para. 142 of this Consent Order, they have received and read the Summary, and had an opportunity to have questions about the Order answered, except that the last compliance report will be due sixty (60) days prior to the anniversary.

148. For the duration of this Consent Order, Defendants will advise the United States in writing within fifteen (15) days of receipt of any written administrative complaint alleging housing discrimination filed with a governmental agency or fair housing complaint filed in court against any property owned or managed by them, or against any employees or agents of Defendants working at or for any such property, regarding discrimination on the basis of disability in housing. Upon reasonable notice, Defendants will also provide the United States all information it may reasonably request concerning any such complaint. Defendants will also advise counsel for the United States, in writing, within fifteen (15) days after the resolution of any complaint.

149. Not in derogation of paragraph 155, for the duration of this Consent Order, Defendants are required to preserve all records related to this Consent Order, related to the Subject Properties and related to any other covered multifamily dwellings designed, constructed, owned, operated, or acquired by them during the duration of this Consent Order. Upon reasonable notice to Defendants, representatives of the United States will be permitted to inspect and copy any records

of Defendants or inspect any properties or dwelling units under the control of Defendants bearing on compliance with this Consent Order at any and all reasonable times, provided, however, that the United States will endeavor to minimize any inconvenience to Defendants and residents from such inspections. The United States shall be solely responsible for the costs of inspecting and copying records and inspecting properties of any inspection conducted pursuant to this paragraph.

**XVIII. DURATION OF CONSENT ORDER, TERMINATION OF LEGAL ACTION, AND  
NOTICE TO STATE HOUSING FINANCE AGENCIES OF CORRECTION OF  
NONCOMPLIANCE**

150. This Consent Order will remain in effect for four (4) years after the date of its entry unless all of the actions required of the Defendants herein are not completed within that period. In that event, the Defendants shall submit on that date a report to the Court and the United States describing the unmet obligations and their projected completion date(s). The Defendants shall submit a similar report to the Court and the United States every six (6) months thereafter until all unmet obligations are completed, at which point the Defendants shall submit a report certifying that all obligations have been fulfilled. The Consent Order will expire sixty (60) days after the final report is filed with the Court. By consenting to entry of this Order, the parties agree that in the event that a Defendant engages in any future conduct occurring after entry of this Order that leads to a determination of a violation of the Fair Housing Act, such conduct will constitute a “subsequent violation” pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii). By consenting to entry of this Consent Order, the United States and parties agree that in the event that a Defendant engages in any future violation(s) of the ADA, such violation(s) will constitute a “subsequent violation” pursuant to 42 U.S.C. § 12188(b)(2)(C)(ii).

151. The Court will retain jurisdiction for the duration of this Order to enforce the terms of the Order. If, after the completion of the four-year term of the Order, there are unmet obligations and the Order continues to remain in effect as set forth in Paragraph 150, above, then any individual defendant may file, and the United States will not oppose, a motion to dismiss with prejudice that individual defendant, provided that the individual defendant has completed all its obligations under this Order, including but not limited to the retrofitting and inspection of the subject property or properties owned by that defendant. The United States may move the Court to extend the duration of the Order in the interests of justice.

152. Upon entry of this Consent Order, the United States, pursuant to the Memorandum of Understanding among the United States Department of Justice, United States Department of Housing and Urban Development, and the Internal Revenue Service, shall inform the state housing finance agencies for Alabama, Georgia, North Carolina, and Tennessee that the United States and Defendants have entered into this Consent Order resolving the United States’ allegations in the Notice separately agreed to by the United States and the Defendants.

153. All parties will endeavor, in good faith, to resolve informally any differences regarding interpretation of and compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event of a failure by a Defendant to perform, in a timely manner, any act required by this Order or otherwise for their failure to act in conformance with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorney’s fees which may have been occasioned by the violation or failure to perform.

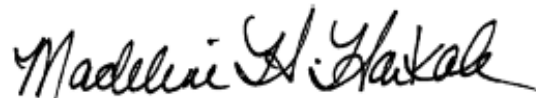
**XIX. TIME FOR PERFORMANCE**

154. Any time limits for performance imposed by this Consent Order may be extended by the mutual written agreement of the United States and the relevant Defendants.

**XX. RELEASE OF LITIGATION HOLDS**

155. The parties agree that, as of the date of entry of this Consent Order, litigation is not “reasonably foreseeable” concerning the subject matter of the United States’ complaint. To the extent that any of the parties previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described herein, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves the parties of any other obligation imposed by this Order.

**DONE and ORDERED** this March 8, 2016.



**MADELINE HUGHES HAIKALA**  
UNITED STATES DISTRICT JUDGE

*FOR THE UNITED STATES:*

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Northern District of Alabama

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