

## **Project-based Section 8 Contract Administration**

### **DEPOSITORY AGREEMENT**

#### **1 Purpose of depository agreement**

This is a “Depository Agreement” (Agreement) between the Public Housing Agency (PHA) and the Depository (see Agreement signature page for names of the PHA and the Depository). The PHA is a “public housing agency” as defined in Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)). The Depository is a federally insured financial institution.

The Department of Housing and Urban Development (HUD) has entered into one or more annual contributions contracts (ACC) with the PHA for the purpose of providing rental assistance for residents of housing projects assisted under Section 8 of the United States Housing Act of 1937 (42 USC 1437f).

Under the terms of the ACC, the PHA is required to select as depository of Section 8 program funds a federally insured depository institution selected by the PHA in accordance with HUD requirements. The depository must be a financial institution whose deposits or accounts are insured, so long as this Agreement is in force, by either the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF).

#### **2 Deposits and accounts**

- a The deposits and accounts of the Depository shall be insured by either the FDIC or the NCUSIF.
- b All monies deposited by the PHA with the Depository shall be credited to the PHA in interest bearing accounts (Accounts).
- c The Depository shall promptly notify the PHA of any monies credited or deposited in the Accounts.

### **3 Collateralization of non-insured program funds**

- a Any portion of PHA funds not insured by a Federal insurance organization shall be fully (100%) and continuously collateralized with specific and identifiable U.S. Government or Agency securities prescribed by HUD. Such securities shall be pledged and set aside in accordance with applicable law or Federal regulations.
- b. For the full term of deposit, the PHA shall have possession of the securities (or the PHA shall take possession of the securities), or an independent custodian (or an independent third party) shall hold the securities on behalf of the PHA as a bailee (evidenced by a safe-keeping receipt and a written bailment for hire contract). The Depository may substitute other securities as collateral to equal or increase the value.

### **4 PHA order or directive to depository**

- a Except as stated in Paragraph 5, the Depository shall honor any:
  - (1) PHA check or other order to pay from the Accounts, or
  - (2) PHA directive to purchase investment securities with monies from the Accounts or to sell securities
- b. Such PHA order or directive shall be signed on behalf of the PHA by the person or persons designated by the PHA to have such authority. The PHA shall furnish the Depository with a copy of the Board resolution or other appropriate evidence of authorization to issue such order or directive.

### **5 HUD freeze notice**

If the Depository receives written notice from HUD that withdrawals by the PHA from the Accounts are not to be permitted (“freeze notice”):

- The Depository shall not permit any withdrawals by the PHA of any monies or securities in the Accounts, and shall not honor any PHA check or other order to pay from the Accounts or PHA directive to purchase or sell securities, unless withdrawals by the

PHA are expressly authorized by written notice from HUD to the Depository, and only to the extent authorized by such HUD notice.

- The Depository shall permit withdrawals by HUD from the Accounts, including withdrawals of any monies or securities in the Accounts.

## **6 Depository obligations**

- a The Depository is not obligated to be familiar with, and is not charged with knowledge of, the provisions of the ACC. The Depository has no duty to investigate or determine whether any actions taken by either the PHA or HUD in respect of the Accounts are consistent with or authorized by the ACC, or whether either the PHA or HUD is in default under the provisions of the ACC.
- b The Depository may accept and act on, without investigation, any certificate or notice furnished to it pursuant to the provisions of this Agreement, and which the Depository shall in good faith believe to have been duly authorized and executed on behalf of the party in whose name the same purports to have been made or executed.

## **7 TRANSFER OR TERMINATION OF AGREEMENT BY DEPOSITORY**

- a The rights and duties of the Depository under the Agreement shall not be transferred or assigned by the Depository without the prior written approval of the PHA and HUD.
- b The Agreement may be terminated by the Depository or the PHA upon thirty days' written notice to the other party and HUD.
- c The rights and duties of the Depository under the Agreement shall not be transferred or assigned, nor shall this Agreement be terminated, during any period in which the Depository is required to refuse to permit PHA withdrawals from the Accounts as provided in Paragraph 5.

## **8 Rights of HUD; Modification of Agreement**

- a HUD is a third party beneficiary of the Agreement. HUD may enforce any provision of the Agreement, and may sue to enforce its provisions or to recover damages for breach of the Agreement.
- b The provisions of the Agreement may not be modified by either Party without the prior written approval of HUD.

**PUBLIC HOUSING AGENCY**

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\_\_\_\_\_  
Name of PHA (print)

\_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and official title (print)

\_\_\_\_\_  
Date

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**DEPOSITORY**

\_\_\_\_\_  
Name of depository financial institution

\_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and official title (print)

\_\_\_\_\_  
Date