

General Depository Agreement [§202/811]

This Agreement, entered into this _____ day of 200__ by and between _____ (herein called the “Mortgagor”), a duly organized and existing corporation of the state of _____ and _____ (herein called the “Depository”), located at _____.

Witnesseth:

Whereas, the Department of Housing and Urban Development (herein called “HUD”) has entered into one or more contracts (herein called the “Contract” with the Mortgagor for the purpose of providing financial assistance to develop and operate lower income housing for the elderly and persons with disabilities, as authorized by Section 202 of the Housing Act of 1959 as amended by Section 811 of the Cranston Gonzalez National Affordable Housing Act, (12 U.S.C. § 1701 *q et seq.*); and

Whereas, under the terms of the Contract the Mortgagor is required to select as depositories of its funds financial institutions whose deposits or accounts are insured by either - the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund as long as this Agreement is in force and effect.

Now Therefore, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. The deposits and accounts of the Depository shall continue to be insured by either - the Federal Deposit Insurance Corporation, Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund.
2. All monies deposited by the Mortgagor with the Depository shall be credited to the Mortgagor in a separate interest bearing deposit or interest bearing account, designated _____ Account (herein the “Account”). Any portion of Mortgagor 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. The Mortgagor shall have possession of the securities (or the Mortgagor will take Possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the Mortgagor as a bailee (evidenced by a safe keeping receipt and a written bailment for hire contract) and will be maintained for the full term of deposit. The Depository will not substitute other securities as collateral except to increase the value.
3. Except as stated in Paragraph 5, the Depository shall honor any (a) check or other order to pay from the Account or (b) directive to purchase investment securities with monies from the Account or to sell securities, if such order or directive is in writing and signed on behalf of the Mortgagor by an officer or member designated by resolution of the Board of Directors of the Mortgagor to have such authority. To assist the Depository in its obligation, the Mortgagor shall furnish the Depository with a certified copy of the resolution.
4. Any securities received from the Mortgagor or purchased by the Depository with monies from the Account shall be considered to be a part of the Account and shall be held by the Depository in safekeeping for the Mortgagor until sold. Interest on such securities and the proceeds from the sale thereof shall be deposited in the Account upon receipt.
5. If the Depository received written notice from HUD that no withdrawals by the Mortgagor from the Account are to be permitted, the Depository shall not honor any check or other order to pay from the Account or directive to purchase or sell securities, or permit any withdrawals by the Mortgagor from said Account until the Depository is authorized to do so by written notice from HUD.
6. The Depository is not obligated to be familiar, and shall not be charged, with knowledge of the provisions of the Contract, and shall be under no duty to investigate or determine whether any action taken by either the Mortgagor or HUD in respect of the Account is consistent with or is authorized by the Contract or whether either Mortgagor or HUD is in default under the provisions of the Contract. The Depository shall be fully justified in accepting and acting 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. The rights and duties of the Depository under this Agreement shall not be transferred or assigned by the Depository without the prior written approval of the Mortgagor and HUD. This Agreement may be terminated by either party hereto upon thirty days' written notice to the other party, and HUD. The rights and duties of the Depository hereunder 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 withdrawals from the Account as provided in Paragraph 5.

8. HUD is intended to be a third party beneficiary of this Agreement and may sue to enforce its provisions and to recover damages for failure to carry out its terms.

9. The Depository shall promptly notify the Mortgagor of crediting or depositing of any monies in the Account.

10. The provisions of this Agreement may not be modified by either Party without the prior written approval of HUD.

In Witness Whereof, the Mortgagor and the Depository have caused this Agreement to be executed in their respective names and their respective seals to be impressed hereon and attested as of the date and year first above written.

[Mortgagor]: _____

Public Reporting Burden for this collection is estimated to average 2 hours per response, including the time for reviewing, searching existing data sources, gathering and maintaining the data needed, and compiling and reviewing the collection of information. This information is required to obtain benefits and voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information collection is necessary to ensure that viable projects are developed. It is important to obtain information from applicants to assist HUD in determining if nonprofit organizations initially funded continue to have the financial and administrative capacity needed to develop a project and that the project design meets the needs of the residents. The Department will use this information to determine if the projects meet statutory requirements, ensuring the continued marketability of the projects. This information is required in order to obtain benefits. This information is considered non-sensitive and no assurance of confidentiality is provided.

By: _____
President

(SEAL)
ATTEST: _____
Secretary

[Depository]: _____

By: _____
[title]:

(SEAL)
ATTEST: _____