

Rider to Regulatory Agreement for Residual Receipts

U.S. Department of Housing and Urban Development
Office of Housing

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The public reporting burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to U.S. Department of Housing and Urban Development, Office of the Chief Data Officer, 451 7th St SW, Room 8210, Washington, DC 20410-5000. Do not send completed forms to this address. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. HUD collects this information to obtain supportive documentation that must be submitted to HUD for approval. HUD uses this information to ensure that viable projects are developed and maintained. This information is required to obtain benefits derived from the National Housing Act Multifamily Mortgage Insurance Programs. This information collected is authorized under Title II of the National Housing Act (12 USC 1701 et seq.) and the regulations at 24 CFR 200 et seq., and no confidentiality is assured.

Warning: Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

{This Rider applies to projects subject to residual receipts requirements established through a Section 8 HAP contract. In the event residual receipts requirements are established through another program or document, such as the Section 202 program, revise this Rider as necessary to reflect deal specifics. This Rider is intended to amend the Regulatory Agreement related to the insured mortgage loan, not to alter specific program residual receipts requirements.}

This Rider to Regulatory Agreement for Residual Receipts Requirements (“**Rider**”) is attached to and amends the Regulatory Agreement for Multifamily Projects entered into between _____ (“**Borrower**”) and the United States Department of Housing and Urban Development, acting by and through the Secretary, his or her successors, assigns or designates (“**HUD**”), dated as of [**Date**] (“**Regulatory Agreement**”).

To the extent any provisions of this Rider conflict with any provisions in the Regulatory Agreement, the provisions of this Rider shall prevail. Any terms in the body of the Regulatory Agreement not in conflict with the provisions of this Rider remain in full force and effect.

Notwithstanding anything else in the Regulatory Agreement to which this Rider is attached, Borrower and HUD agree as follows:

1. Any capitalized term used herein and not defined has the meaning given to it in the Regulatory Agreement.
2. Borrower has entered into a [**Housing Assistance Payment Contract** (“**HAP Contract**”) identified by HAP Contract No. [**HAP Contract No.**], as amended, renewed and/or assigned from time to time].
3. While the Regulatory Agreement would otherwise allow Borrower to make Distributions of Surplus Cash in accordance with the provisions of the Regulatory Agreement, the HAP Contract further limits such Distributions and

- requires Borrower to maintain a Residual Receipts account, as Residual Receipts is defined in the HAP Contract.
4. Borrower shall establish and/or maintain a Residual Receipts account, and make required deposits into said Residual Receipts account, in accordance with the HAP Contract.
 5. Notwithstanding any provision of the HAP Contract, the Residual Receipts account shall be subject to the control of Lender and shall be maintained in accordance with any applicable requirements of Ginnie Mae, and withdrawals may be made only with the prior written approval of HUD. These funds shall be held in an interest-bearing account, whether in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America, or in such other investment as may be allowed by HUD, which shall be insured or guaranteed by a federal agency and in accordance with Program Obligations.
 6. Funds deposited in the Residual Receipts account shall be held in trust for the Project and shall continue to be held in trust for the benefit of the Project upon any sale or transfer of the Project, pursuant to the HAP Contract. Upon termination of the requirement to maintain a Residual Receipts account, any funds held in the Residual Receipts account shall be subject to HUD's direction.
 7. In the event that the HAP Contract is terminated or is otherwise no longer of any force or effect with respect to the Project, this Rider shall terminate and be of no further force or effect.

{The following statement must appear on the same page as the executed signature for the Borrower.}

The signatory below certifies that all of the information provided in this Rider and in any accompanying documentation is true, accurate, and complete, has been made, presented, and delivered for the purpose of influencing an official action of HUD, and may be relied upon by the HUD as a true statement of the facts contained therein. The signatory below acknowledges that the submission of any false, fictitious, or fraudulent statement, representation, or certification in this Rider or on any accompanying documents may result in criminal, civil, and/or administrative sanctions, including fines, penalties, and/or imprisonment under applicable federal law.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first herein above written.

BORROWER

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACTING BY AND THROUGH THE SECRETARY

(insert name)

BY: _____
Authorized Agent
Title

BY: _____
Authorized Agent

[ADD ADDITIONAL LINES IF MORE THAN TWO SIGNATORIES]

[HUD's SIGNATURE PAGE MUST INCLUDE PROJECT NAME, FHA PROJECT NUMBER ALONG WITH TITLE OF FORM]