

Loan No. _____

RIDER TO LENDER'S DEED OF TRUST [or MORTGAGE]

For value received, the undersigned all agree that the following provisions shall be incorporated into that certain deed of trust [or mortgage] ("Deed of Trust" [or "Mortgage"]) of even date executed by _____ ("Borrower"), in favor of _____ ("Lender" or "Beneficiary"), as Beneficiary, to which Deed of Trust [or Mortgage] this Rider is attached, as well as the promissory note which said Deed of Trust [or Mortgage] secures (the "Note"). In addition, and to the extent that this Rider, and, consequently the Deed of Trust [or Mortgage], affect the rights and responsibilities of the United States Department of Housing and Urban Development ("HUD") under the HUD Section 202 Supportive Housing for the Elderly program (12 U.S.C. § 1701q) ("Section 202 program"), or the HUD Section 811 Supportive Housing for Persons with Disabilities program (42 U.S.C. § 8013) ("Section 811 program"), HUD agrees to have a duly authorized official approve this document by execution on the signature line set forth below. To the extent that the provisions of this Rider are inconsistent with the provisions of the Note, Deed of Trust [or Mortgage], or any other HUD capital advance documentation, including but not limited to Paragraph 21 of the HUD Capital Advance Program Regulatory Agreement ("HUD Regulatory Agreement"), required to be executed pursuant to the HUD Section 202 or Section 811 programs, the provisions of this Rider shall prevail and shall supersede any such inconsistent provisions of the Note, Deed of Trust [or Mortgage], or HUD capital advance documentation.

1. Transfer of the Property or a Beneficial Interest in Borrower. With respect to [insert: number of Paragraph in this Deed of Trust [or Mortgage] pertaining to the acceleration of payment in the event of sale or transfer of all or any part of the Property, or any interest therein] of this Deed of Trust [or Mortgage], such Paragraph is amended as follows:
 - a. Excluded from the provisions of this Paragraph shall be a transfer to HUD or to a transferee of HUD, provided that in the event of such transfer by Borrower (other than in the event of foreclosure), HUD or such transferee notifies Lender of its intent to acquire Borrower's interest in the subject Property, and HUD or such transferee expressly agrees to assume Borrower's obligations under the Loan documents, including compliance with the Affordable Housing Program ("AHP") Covenants.
 - b. This Deed of Trust [or Mortgage] is subordinate to a first Deed of Trust made by Trustor in favor of the Secretary of HUD ("Secretary") to be recorded securing a Capital Advance made by the Secretary pursuant to [Insert: the Section 202 program, or Insert: the Section 811 program, as applicable,] ("HUD Deed of Trust"), and to a HUD Regulatory Agreement and HUD Capital Advance Program Use Agreement ("HUD Use Agreement") between Trustor and the Secretary, and to [Insert any other

agreements applicable to, or required by, other priority lienholders] with respect to the Property referred to herein.

- c. During the period the HUD Deed of Trust, HUD Regulatory Agreement and HUD Use Agreement are in effect, except as otherwise provided in this Rider, no default under this Deed of Trust [or Mortgage] may be declared without prior or written approval of the Secretary, as applicable including, but not limited to, Lender's rights in the event of Borrower's default set forth in [Insert number(s) of Paragraph(s) in this Deed of Trust [or Mortgage] pertaining to acceleration of payment in the event of Borrower's default] of this Deed of Trust [or Mortgage] (which approval shall not be unreasonably withheld).
- d. In the event that during the period the HUD Deed of Trust, HUD Regulatory Agreement and HUD Use Agreement are in effect, the Secretary acquires title to the Property by foreclosure, the lien of this Deed of Trust [or Mortgage] shall automatically terminate.
- e. In the event Borrower defaults under the HUD Deed of Trust, HUD Regulatory Agreement or HUD Use Agreement, HUD shall give written notice thereof to Lender at the following address: [Insert Lender's address]. The notice shall specify the nature of the violation and the agreement violated.
- f. This Deed of Trust [or Mortgage] shall not be modified during the period the HUD Deed of Trust, HUD Regulatory Agreement, HUD Use Agreement, or [Insert applicable agreements of other subordinate financing sources, including the Federal Home Loan Bank of Chicago] are in effect without the prior written approval of the Secretary, and the [Insert any other subordinate sources other than the Federal Home Loan Bank of Chicago] or the Federal Home Loan Bank of Chicago, as applicable.
- g. During the period the HUD Deed of Trust, HUD Regulatory Agreement and HUD Use Agreement are in effect, in the event of any conflict between any provisions of his Deed of Trust [or Mortgage] and [Insert: 12 U.S.C. § 1701q (if a Section 202 program); or Insert: 42 U.S.C § 8013 (if a Section 811 program)], HUD regulations, or the HUD Regulatory Agreement, this Deed of Trust [or Mortgage] shall be deemed amended to comply with said statute, HUD regulations and HUD Regulatory Agreement, except as follows:
 - (i) Notwithstanding any term or condition to the contrary in this Rider, neither Lender nor Trustee shall declare a default hereunder, or foreclose this Deed of Trust [or Mortgage], either by judicial action or under the power of sale herein granted, without the prior written approval of the Secretary (which approval shall not be reasonably withheld) for so long as the HUD Capital Advance evidenced by a first deed of trust remains outstanding; **provided, however,** that in the event the Loan secured hereby is not used in compliance with the AHP Application or the AHP Covenants, due to an action or omission of Borrower, which Borrower has failed to cure, then Lender may, after ten (10) days prior written notice to

HUD and Borrower, declare all amounts due hereunder due and payable. In such event, and pursuant to Paragraph 5 (c) of the HUD Regulatory Agreement by and between HUD and Borrower, dated _____, HUD shall approve payments to be made by Borrower to Lender from Residual Receipts (as such term is defined in Paragraph 17(g) of the HUD Regulatory Agreement) of the Project, if and to the extent Residual Receipts are available as determined by the HUD Multifamily Hub or Multifamily Program Center Director. As used in Paragraph 17(g)(1)(ii) of the HUD Regulatory Agreement, the term “obligations” shall not include any non-HUD sources of financing.

- (ii) Borrower shall comply with the AHP Covenants and all other requirements of the Federal Home Loan Bank of Chicago and the Federal Housing Finance Board relating to the AHP, and shall also comply with the requirements of HUD with respect to the development and operation of the Project. Notwithstanding Borrower’s compliance with the requirements of HUD, in the event that Borrower’s acts or omissions result in noncompliance with the AHP Application or the AHP Covenants, then Borrower shall, to the extent possible, eliminate the circumstances of noncompliance by requesting a modification of the terms of the AHP Application pursuant to 12 C.F.R. §§ 951.7 or 951.9, as applicable. If the circumstances of any noncompliance by Borrower with the AHP Application or the AHP Covenants cannot be, or are not, eliminated by a modification or cured within a reasonable period of time, then the provisions hereof, including notice of noncompliance and repayment of the Loan secured by this Deed of Trust [or Mortgage], shall apply. All capitalized terms used in this Paragraph __ and not defined in this Rider or the Note shall be as defined in the [Federal Home Loan Bank of Chicago Subsidy Agreement] by and among the Federal Home Loan Bank of Chicago, Lender and Borrower, dated _____.

- h. Approval by the Secretary of a Transfer of Physical Assets (“TPA”) of the Project referred to in the Note secured by this Deed of Trust [or Mortgage] shall constitute approval of the TPA by Lender, provided that prior written notice of the TPA is given to Lender and the transferee expressly assumes all of Borrower’s obligations under the Loan documents and AHP Covenants.

2. Retention Agreement. Borrower agrees as follows:

- (i) The Property’s rental units, or applicable portion thereof, must remain occupied by and affordable for households with incomes at or below the levels committed to be served in the AHP Application for the duration of the retention period (as defined in the AHP Covenants).
- (ii) Lender will be given notice of any transfer or refinancing of the Property occurring prior to the end of the retention period.
- (iii) In the case of a transfer or refinancing of the Property prior to the end of the retention period, an amount equal to the Loan Amount shall be repaid to the Federal Home Loan Bank of Chicago, unless the Property continues to be subject to a deed

restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the AHP Application for the duration of the retention period.

- (iv) The income-eligibility and affordability restrictions applicable to the Property pursuant to the AHP Covenants terminate after any foreclosure.

IN WITNESS WHEREOF, Borrower and Lender (and HUD by indicating its approval) have executed this Rider as follows:

[Insert: NAME OF BORROWER]

By: _____

Its: _____

Date: _____

[Insert: NAME OF LENDER]

By: _____

Its: _____

Date: _____

Approved:

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By: _____

Its: _____

Date: _____