Meeting Date:9/23/2008

ACTION	TYPE OF ITEM
☐ Approved Recommendation	■ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Carrie Sabatini _____ Agenda Item No. I-7

Reviewed By: City Manager _____ City Attorney _____ Finance _____ Other _____

DATE: September 8, 2008

TO: Housing Authority Board of Commissioners

FROM: Ernest Whitaker, Interim Housing Director
Housing Authority

SUBJECT: **Housing Authority General Depository Agreement**

RECOMMENDATION

That the Board of Commissioners of the Housing Authority of the City of Oxnard approve and authorize the Chairman to execute a general depository agreement (form HUD-51999) with Bank of America.

DISCUSSION

Under Section 13 of the Consolidated Annual Contributions Contract ("CACC") for the Section 8 Housing Choice Voucher program and Section 9 of the CACC for the low-rent public housing program, the Housing Authority of the City of Oxnard ("OHA") is required to execute a General Depository Agreement (form HUD-51999) with all financial institutions in which it deposits Department of Housing and Urban Development ("HUD") funds.

Bank of America is the institution with which the OHA deposits program funds, therefore a General Depository Agreement between the OHA and Bank of America is required to be filed with HUD. The agreement requires the deposits to be insured by the Federal Depository Insurance Corporation and any portion not FDIC insured to be fully and continuously collateralized with specific and identifiable U.S. Government or Agency securities prescribed by HUD. Additionally, the agreement requires that HUD be a third party beneficiary of the agreement.

FINANCIAL IMPACT

None

Attachment: General Depository Agreement

General Depository Agreement

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

This Agreement, entered into this 24TH day of APRIL, 2008 by and between HOUSING AUTHORITY OF THE CITY OF OXNARD (herein called the "PHA/IHA"), a duly organized and existing public body corporate and politic of the _____ of _____ and BANK OF AMERICA (herein called the "Depository"), located at 517 E MAIN STREET, VENTURA, CA. 93001

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 PHA/IHA for the purpose of providing financial assistance to develop and operate lower income housing projects, as authorized by the United States Housing Act of 1937, as amended (42 USC 1437, et seq.); and

Whereas, under the terms of the Contract the PHA/IHA is required to select as depositories of its funds financial institutions whose deposits or accounts are insured by either — the Federal Deposit Insurance Corporation 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 or the National Credit Union Share Insurance Fund.

2. All monies deposited by the PHA/IHA with the Depository shall be credited to the PHA/IHA in a separate interest bearing deposit or interest bearing accounts, designated

HOUSING AUTHORITY OF THE CITY OF OXNARD
09125-05419
09124-15220

Accounts" (herein the "Accounts"). Any portion of PHA/IHA 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 PHA/IHA shall have possession of the securities (or the PHA/IHA will take possession of the securities) or an independent custodian (or an independent third party) holds the securities on behalf of the PHA/IHA as a bailee (evidenced by safe keeping receipt and a written bailment for hire contract) and will be maintained for the full term of deposit. The Depository may substitute other securities as collateral to equal or increase the value. If PHA/IHA is an agency of an Indian tribe, the collateral shall be in United States bonds and otherwise as may be prescribed for public funds by the United States Secretary of the Treasury.

3. Except as stated in Paragraph 5, the Depository shall honor any **(a)** check or other order to pay from the Accounts, or **(b)** directive to purchase investment securities with monies from the Accounts or to sell securities, if such order or directive is in writing and signed on behalf of the PHA/IHA by an officer or member designated by resolution of the Board of Directors of the PHA/IHA to have such authority. To assist the Depository in its obligation, the PHA/IHA shall furnish the Depository with a certified copy of the resolution.

4. Any securities received from the PHA/IHA or purchased by the Depository with monies from the Accounts shall be considered to be a part of the Accounts and shall be held by the Depository in safe-keeping for the PHA/IHA 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 PHA/IHA from the Accounts are to be permitted, the Depository shall not honor any check or other order to pay from the Accounts or directive to purchase or sell securities, or permit any withdrawals by the PHA/IHA from said Accounts 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 PHA/IHA or HUD in respect of the Accounts are consistent with or are authorized by the Contract or whether either PHA/IHA 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 PHA/IHA 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 Accounts 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 PHA/IHA of crediting or depositing of any monies in the Accounts.

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

11. Previous General Depository or Savings Depository Agreements, if any, entered into between the Depository and the PHA/IHA are hereby terminated and all monies and securities of the PHA/IHA on deposit with or held by the Depositories pursuant to the terms of said Agreement shall continue to be held for account of the PHA/IHA pursuant to and in accordance with the provisions of this Agreement.

12. At no time shall the PHA/IHA Funds in the Accounts be permitted to exceed the amount insured by Federal deposit insurance (herein the "Insured Amount"). At any such time as the amount of funds in the Accounts reach the Insured Amount, whether by the accrual of interest or otherwise, the Depository shall promptly, as directed by the PHA/IHA, and in an amount sufficient to limit the funds in the Accounts to the Insured Amount, either: (a) remit payment to the PHA/IHA or, (b) on behalf of the PHA/IHA, purchase securities approved for investment by the PHA/IHA. Such securities shall not be considered to be a part of the Account pursuant to Paragraph 4 hereof but shall be held by the Depository as custodian or trustee for the PHA/IHA in a separate account established for that purpose by the Depository (herein the "Securities Account"). The Securities Account shall be designated:

Income or other proceeds from securities held in the Securities Account shall, as directed by the PHA/IHA, upon receipt, be paid to or on behalf of the PHA/IHA; provided, however, that such proceeds shall, to the extent consistent otherwise with the provisions of this Paragraph, be deposited in the Accounts. If the Depository receives written notice from HUD pursuant to Paragraph 5 hereof that no withdrawals by the PHA/IHA from the Accounts are to be permitted, the Depository shall not honor any directive from the PHA/IHA to sell securities, or permit any withdraws by the PHA/IHA, from the Securities Account until the Depository is authorized to do so by written notice from HUD. During the pendency of such restrictions on the Accounts and the Securities Account, the Depository, except as directed in writing by HUD, shall not remit any payment to the PHA/IHA for the purpose of limiting the amount of funds in the Account to the Insured Amount but shall instead purchase securities approved for investment by the PHA/IHA and hold such securities in the Securities Account.

(For use only in certain States that have statutes that prohibit Public Housing Agencies and Indian Housing Authorities from implementing paragraph 2.)

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

PHA/IHA

(SEAL)
ATTEST:
By_____

Chairman

Secretary

BANK OF AMERICA
Depository

By [signature]
LYNN LUNA, VP, CLIENT MANAGER
507 E. MAIN ST., VENTURA, CA. 93001

(SEAL)
ATTEST:

SUSAN OBERTO, DEPOSIT SUPPORT
FIFTH AVENUE PLAZA
800 5TH AVE, SEATTLE, WA. 98104

Note: Strike paragraphs 11 and 12 if not applicable.