



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING—

FEDERAL HOUSING COMMISSIONER

Special Attention of:  
Multifamily Regional Center Directors  
Multifamily Asset Management Division  
Directors  
Multifamily Operations Officers  
Multifamily Field Counsel  
Contract Administrators  
Multifamily Project Owners

Notice H-2024-##  
Issued: ##/##/2024  
Expires: This Notice remains in effect until amended, superseded, or rescinded  
Supersedes:  
Notice H 2011-10  
Chapter 7 of HUD Handbook 4350.1  
*Multifamily Asset Management and Project Servicing*  
Cross references:  
Notice H 2011-07  
Notice H-2015-04  
Notice H 2023-09  
Chapters 4 and 21 of HUD Handbook 4350.1 *Multifamily Asset Management and Project Servicing*

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**SUBJECT: Solar, Cell Tower, and Rooftop Leases**

**I. Purpose**

Multifamily Housing (MFH) business agreements contain language that require owners to obtain HUD approval before entering into encumbrances such as commercial lease agreements.<sup>1</sup> Examples of commercial lease agreements include those pertaining to on-site solar systems, cell towers, and rooftop commercial leases. This Notice outlines MFH's requirements specific to such rooftop leases and leases for ground-mounted solar electric systems. It also describes the process MFH staff will follow when reviewing requests from owners to enter into such leases. See Section V for a discussion of how this Notice relates to the superseded and cross-referenced HUD guidance identified above.

**II. Terminology**

The following terms are used in this Notice:

- A. Commercial Lease. A formal agreement to rent a building, vehicle, land, or property that will be used for business purposes.

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<sup>1</sup> See, for example, [Form HUD-92466-CA](#) (202/811 Capital Advance Regulatory Agreement – see Provision 7), [Form HUD-92466-EH](#) (202 Direct Loan Regulatory Agreement – see Provision 7), and [Form HUD-92466M](#) (Regulatory Agreement for Multifamily Projects – see Sections 27 and 35).

- B. Project. The HUD-assisted or HUD-insured residential property where the on-site solar system, cell tower, or other rooftop equipment would be installed.
- C. Owner. The owner of the Project.
- D. Solar Lease. A financial arrangement in which a project owner agrees to lease project space (usually on the rooftop) to a third-party solar vendor that, in exchange, agrees to finance, install, own, and maintain a solar electric system on the project. The vendor may make a fixed monthly lease payment to the owner for a predetermined period to host the solar system on the owner's project. Solar leases frequently also include a Power Purchase Agreement, where the owner agrees to purchase the power produced by the system.<sup>2</sup>
- E. Solar Power Purchase Agreement (PPA). A financial arrangement in which a project owner purchases a solar electric system's electric output from a solar vendor for a predetermined period. The owner agrees to purchase the power generated by the system at a set price per kilowatt-hour (kWh) (e.g., \$0.15 per kWh). In this arrangement, payments are tied directly to the solar electric system's production and the project's consumption. Solar PPAs can be for electricity produced on or off site, but this Notice only covers PPA arrangements where the project owner agrees to host the solar electric system at the project.
- F. Subordination, Non-Disturbance, and Attornment Agreement (SNDA). A three-party agreement among:
1. A lender who has a security interest in real property encumbered by a mortgage or other security instrument, and the real property is subject to one or more commercial leases;
  2. A property owner that is a borrower under a mortgage and landlord under a commercial property lease; and
  3. A commercial tenant with leasehold rights to space located on the mortgaged property under a written lease agreement.
- The tenant agrees to subordinate its leasehold interest to the mortgaged property in exchange for the lender agreeing not to disturb the tenant's leasehold interest if the lender forecloses its superior security interest in the real property. Without the protection of a non-disturbance agreement, a subordinate lease is potentially terminable in foreclosure.
- G. Third-Party Vendor (Vendor). A company that installs, owns, and maintains a solar electric system, cell tower, or other equipment on a project. The vendor is also referred to as the lessee.
- H. Rooftop Lease. A commercial lease agreement where the commercial tenant rents space on the rooftop of a project. The tenant will install, own, and operate rooftop

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<sup>2</sup> In some instances, instead of making fixed lease payments to the project owner, the lessee agrees to sell electricity at below-market rates to the owner through the PPA.

equipment such as solar panels or a cell tower located on the leased space.

### III. Background

Solar energy presents an opportunity to reduce electricity costs and greenhouse gas and other pollutant emissions. It can also increase project resiliency during electricity outages, particularly when solar is paired with energy storage. Through the Inflation Reduction Act of 2022,<sup>3</sup> Congress provided significant financial incentives in the form of direct assistance or tax incentives to facilitate adoption of clean energy technologies such as on-site solar systems on multifamily projects.

Solar leases may be particularly appealing to owners, in that they are a way to generate rental income and electricity to the owner for the lessee's use of the roof. Solar leases can also include a power purchase agreement (PPA) which features no upfront costs and can result in significant energy cost savings for the project and residential tenants over the term of the lease (typically PPAs offer electricity for purchase at a rate lower than the retail rate).

In a solar lease arrangement, an owner agrees to lease project space (usually on the rooftop) to a third-party solar vendor that, in exchange, agrees to finance, install, and maintain a solar system on the project. The vendor owns the solar electric system and can then likely receive tax credits and subsidies such as the federal Section 48 Investment Tax Credit,<sup>4</sup> net metering credits,<sup>5</sup> and renewable energy certificates,<sup>6</sup> in addition to any PPA payments from the project owner.

HUD considers third-party solar lease agreements to be a form of encumbrance, a commercial lease in the same general category as cell tower and cable television leases. In these arrangements, an owner leases a portion of the project rooftop to a third-party vendor, providing rental income to the project. These leases provide a financial benefit to the project while neither imposing additional operating costs, affecting tenants or the marketability of units, nor impairing HUD's recovery value in the event of default on an FHA-insured mortgage.

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<sup>3</sup> Public Law 117-169, enacted August 16, 2022.

<sup>4</sup> The Section 48 Investment Tax Credit (ITC) is a dollar-for-dollar credit for expenses invested in renewable energy properties, most often solar developments. The Inflation Reduction Act expanded and extended the ITC. Among other changes, it established [the Low-Income Communities Bonus Credit Program](#), which provides additional credits for solar and wind facilities installed in particular areas, including on qualified low-income residential building projects. The Inflation Reduction Act of 2022 added new features to the ITC including [transferability and elective pay \(often called "direct pay"\)](#), where tax-exempt and governmental entities, normally unable to access tax credits, can receive a payment equal to the ITC's full value.

<sup>5</sup> Net metering is a solar incentive where owners of on-site solar receive electricity bill credits for the excess power that their solar panels produce.

<sup>6</sup> A Renewable Energy Certificate (REC) is a market-based instrument that represents the property rights to the environmental, social, and other non-power attributes of renewable electricity generation. RECs are issued when one megawatt-hour (MWh) of electricity is generated and delivered to the electricity grid from a renewable energy resource. Depending on the market, RECs are sometimes referred to as Solar Renewable Energy Certificates (SRECs).

#### IV. Applicability

Any owner of a HUD-insured or HUD-subsidized multifamily project that is subject to a MFH business agreement [which may include, but is not limited to a Regulatory Agreement, Housing Assistance Payment (HAP) Contract, or Project Rental Assistance Contract (PRAC)] that requires HUD approval prior to entering into an encumbrance, including a commercial lease, is subject to this Notice. HUD staff must follow this Notice when reviewing such a request. This Notice does not apply to projects applying for FHA mortgage insurance that have not achieved final endorsement and are not actively serviced in HUD's Office of Asset Management.

With respect to solar electric systems, this Notice covers lease arrangements only. Owners who wish to purchase a solar electric system and HUD staff receiving requests from such owners are advised to contact the Office of Asset Management Program Administration Office at [AssetManagementPolicy@hud.gov](mailto:AssetManagementPolicy@hud.gov). This Notice also applies to lease arrangements for ground-mounted solar electric systems located on multifamily rental projects subject to this Notice. The project must be in a jurisdiction that has pre-installation permitting and post-installation inspection processes in place for the rooftop equipment for HUD to approve the request.

#### V. Previous Guidance

Four previous MFH notices and three chapters of HUD Handbook 4350.1 *Multifamily Asset Management and Project Servicing* are relevant to the topic addressed in this Notice.

- A. [Notice H 2011-07 "Subordination, Non-Disturbance and Attornment Agreements"](#) provides guidance on the use of SNDAs for commercial leases. Notice H 2011-07 is applicable to existing HUD-insured projects (including projects that are also HUD-assisted) and projects assisted under the Section 202/811 Capital Advance programs.<sup>7</sup> Note that Section C.1 of Notice H 2011-07 provides guidance on SNDAs for Rooftop, Cell Phone Tower, Cable Television, and Internet Access Leases for certain applicable projects. HUD considers solar leases an example of a rooftop lease covered by Section C.1 of Notice H 2011-07. Owners and vendors are encouraged to review Notice H 2011-07 if they wish to enter into an SNDA, which this Notice cross-references but does not supersede.
1. HUD does not restrict owners of projects that receive Section 8 Project-Based Rental Assistance and are not FHA-insured from entering into SNDAs.
  2. A template SNDA is attached to Notice H 2011-07 that may be used in conjunction with solar, cell tower, and other rooftop lease agreements.
- B. [Notice H 2011-10 "Requirements for Documenting the Review and Setting of Rents](#)

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<sup>7</sup> Notice H 2011-07's applicability language is unclear regarding the 202/811 Capital Advance programs. It states "Section C.1 only is applicable to FHA insured projects that are subsidized under Section 202/811, 236, 221(d)(3) BMIR, or FHA insured projects with Project Based Rental Assistance." However, Section 202/811 Capital Advance projects are not FHA insured.

- [for Commercial Space in HUD Properties at Appropriate Levels as Approved by HUD](#)” provides guidance for the review and approval of rent for commercial space. Notice H 2011-10 is applicable to projects subject to a Regulatory Agreement stipulating that commercial facilities shall be rented for such use and upon such terms as approved by the Secretary and HUD-assisted projects subject to a budget-based rent increase. This Notice supersedes Notice H 2011-10 in its entirety for only rooftop commercial leases and leases for ground-mounted solar electric systems.
1. Note: The Office of Multifamily Production does not apply the requirements of Notice H 2011-10 to commercial leases for FHA-insured Multifamily loan closings involving projects that are not assisted by HUD via a HAP Contract or PRAC. Commercial lease guidance for such FHA-insured Multifamily loan closings can be found in the current version of the Multifamily Accelerated Processing (MAP) Guide.
- C. [Notice H 2023-09 “Treatment of Financial Benefits to HUD-Assisted Tenants Resulting from Participation in Solar Programs”](#) provides guidance on the treatment of financial benefits realized by tenants in HUD-assisted projects resulting from either participation in a community solar program or the presence of an on-site solar facility. Notice H 2023-09 is only applicable to HUD-assisted projects. Notice H 2023-09 is still in effect. It is cross-referenced and not superseded by this Notice.
- D. [Notice H-2015-04 “Methodology for Completing a Multifamily Housing Utility Analysis”](#) provides instructions on completing the utility analysis that informs annual utility allowance adjustments required during the annual adjustment of contract rents. Notice H-2015-04 is applicable to both HUD-assisted and HUD-insured projects. This Notice establishes new requirements for completing a utility analysis after a solar installation. Notice H-2015-04 is still in effect. It is cross-referenced and not superseded by this Notice.
- E. [HUD Handbook 4350.1, Chapter 4 “Reserve Fund for Replacements”](#) describes how projects’ Reserve Funds for Replacements are administered and used. Chapter 4 is applicable to both HUD-assisted and HUD-insured projects. It is still in effect. It is cross-referenced and not superseded by this Notice.
- F. [HUD Handbook 4350.1, Chapter 7, Section 8 “Charges for Commercial Facilities”](#) requires HUD to analyze commercial lease rents and space (square footage) for certain projects seeking a budget-based rent adjustment. Chapter 7 is only applicable to HUD-assisted projects. This Notice supersedes Chapter 7, Section 8 of HUD Handbook 4350.1 for all rooftop commercial leases and leases for ground-mounted solar electric systems. Chapter 7, Section 8 of HUD Handbook 4350.1 is still in effect for all other commercial leases.
- G. [HUD Handbook 4350.1, Chapter 21 “Insurance and Loss Drafts”](#) provides guidance on projects’ insurance coverage, both required and optional, and procedures for HUD monitoring of compliance with insurance requirements. Chapter 21 is applicable to both HUD-assisted and HUD-insured projects. It is still in effect. It is cross-referenced and not superseded by this Notice.

## VI. Required Contents of Owner Requests for HUD Approval

The Owner must submit a package to their HUD Account Executive (AE) to request HUD's approval of a solar, cell tower, and other rooftop lease agreement.

HUD is not requiring owners to provide records related to the Project's roof condition for ground-mounted solar electric systems; however, they should ensure that they are considering siting risks that exist for these systems such as flooding or shade.

This package must include the following items:

- A. Lease Agreement. An unexecuted copy of the proposed solar, cell tower, or other rooftop lease (and other related agreements, such as a Solar PPA or SNDA, if applicable).
- B. Lease Payments. If not already included in the submitted lease or services agreements, estimates of the annual lease payments.
- C. Signed Appendix A. A signed copy of the HUD Multifamily Rooftop Lease Owner Self-Certification.
  1. This certification includes the requirement that the Owner must increase the Project's Reserve Fund for Replacements deposits, if such a Fund has been established and the Owner is responsible for financing the removal and reinstallation of the rooftop equipment necessary for an anticipated roof replacement during the lease term.
  2. The Owner must include a financing plan for the removal and reinstallation of the rooftop equipment, regardless of if the Project has a Reserve Fund for Replacements.
  3. HUD is requiring this step as removal and reinstallation of rooftop equipment for roof replacement or repairs is considered by HUD to be a component of "Major roof repairs" described as eligible for draws from the Reserve Fund for Replacements in Section 4-9 of HUD Handbook 4350.1 (or successor guidance).
- D. Unsigned Appendix B. The HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider (as a lease addendum) or an unexecuted lease containing provisions legally equivalent to the HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider.

Please note that Provisions #4 and #5 of the HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider do not apply to ground-mounted solar electric systems and may be removed from lease agreements for those systems.
- E. [*Rooftop Systems Only*] Roof Inspection and Documentation of Related Improvements. Records describing the Project's most recent roof inspection, either of the entire roof or the area affected by the proposed rooftop equipment. The inspection must be completed by a third-party roofing contractor unaffiliated with the Vendor and describe the following items:
  1. The roof's general condition;
  2. The roof's estimated remaining useful life; and

3. The roof's capacity to support the proposed rooftop equipment.

The third-party roofing contractor may collaborate with the Vendor to evaluate the roof's capacity to support the proposed rooftop equipment. If the roof requires improvements because of the inspection findings and the Owner will be making those improvements in advance or the Project will receive them as part of the rooftop equipment installation, the Owner must submit documentation detailing that these improvements were made prior to or will be made as part of the rooftop equipment installation scope.

- F. [*FHA-Insured Only*] Mortgagee Approval. Records indicating the mortgagee's approval of the rooftop lease.
- G. [*Solar Only*] Electricity Cost Savings. If not already included in the submitted lease or services agreements, estimates of the annual productivity of the proposed system (e.g. solar output), estimates of electricity cost savings and any other financial benefits the Project and/or residential tenants would receive.
- H. [*Optional*] Additional Information. Other pertinent information the Vendor may have provided to the Owner about the proposed rooftop equipment:
  - 1. Maps or diagrams indicating the physical location of the system on the property; and
  - 2. Information on whether the contractor has received other Federal, state, or local subsidies for the Project.

## **VII. HUD Review**

The AE will review the package for completeness and will notify the Owner of any missing required items. The application is complete as of the date on which all required materials have been submitted.

- A. The AE will review that the Owner is in good standing. This means that the Owner does not have business agreement compliance issues, including:
  - 1. An outstanding failing Real Estate Assessment Center (REAC) score, using either the National Standards for the Physical Inspection of Real Estate (NSPIRE) or its predecessor standards, as applicable;
  - 2. Most recent below satisfactory Management and Occupancy Review (MOR) rating;
  - 3. Unfiled Annual Financial Statements (AFS);
  - 4. Unresolved or open flags in APPS/2530; or
  - 5. Unresolved substantive Financial Assessment Subsystem findings.

Where the Owner has submitted an acceptable plan to address the compliance issue, the Asset Management Division Director may provide HUD's approval to the request.

The AE will submit the lease, the SNDA, if applicable, and the unsigned HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider or equivalent document to local

HUD counsel for review. The HUD closing attorney will review and indicate if there are any legal objections with the submitted documents. Then, HUD will determine if it approves the lease and financing plan, if applicable (see Paragraph VI.C.2.). If so, then HUD will send a letter, signed by the Multifamily Asset Management Division Director, to the Owner indicating HUD's approval.

### **VIII. Owner and HUD Actions Following HUD Approval**

Owners must comply with the following requirements after receiving HUD approval:

- A. Signed Appendix B. The HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider must be fully executed by all parties, and the signed rooftop lease and Rider package must be submitted to the AE. This must be completed prior to the installation of the solar electric system, cell tower system, or other equipment.
- B. Property Insurance Coverage. The Owner must ensure that the rooftop equipment has adequate insurance coverage over the life of the lease and that there is adequate insurance coverage during the installation or removal by the Lessee, in accordance with Chapter 21 of HUD Handbook 4350.1 (or successor or other applicable HUD guidance or business agreements regarding insurance coverage). HUD or Performance-Based Contract Administrator (PBCA) staff will confirm this requirement has been met during the Property's next Management and Occupancy Review (MOR).
- C. *[Projects with a Reserve Fund for Replacements Where HUD Approval for Disbursements Is Required Only]* Reserve Fund for Replacements. If the Owner is responsible for financing the removal and reinstallation of the rooftop equipment necessary for an anticipated roof replacement during the lease term, the Owner must contact their AE and complete [Form HUD-9250 Funds Authorizations](#) in order to request HUD's approval to increase the rate of deposits to the Reserve Fund for Replacements with commercial lease income.
  1. Alternatively, this step can be performed in tandem with the original submission for approval of the lease rather than after HUD approval has been received.
  2. The Owner must identify this additional, anticipated capital expense in future updates to the Project's Capital Needs Assessment (CNA).
    - a. The Owner may be subject to CNA update requirements by a Regulatory Agreement with HUD.
    - b. See Chapter 4 of HUD Handbook 4350.1 (or successor guidance) for guidance on the Reserve Fund for Replacements.
- D. *[Solar on HUD-Assisted Projects Only]* Benchmarking. If any of the electricity generated by the solar electric system will be consumed on-site (as opposed to all electricity produced being exported to the grid), then the Owner must perform initial utility consumption and emissions benchmarking at the Project and submit this information to HUD within eighteen months of when the solar system is placed into service. Through 2027, HUD is providing this service at no cost through [the Green and Resilient Retrofit Program Benchmarking Initiative \(Benchmarking Initiative\)](#). If



the Owner is ineligible to participate under the Benchmarking Initiative, HUD is no longer providing this service under this initiative or a successor program, or the Owner opts to not participate, the Owner must independently perform this initial benchmarking at the Project to understand its baseline performance.

1. To enroll in the Benchmarking Initiative, the Owner or their Agent must email [mfbenchmarking@hud.gov](mailto:mfbenchmarking@hud.gov) indicating their interest in benchmarking and the ID of the Project they would like benchmarked.
  2. If they are not participating in the Benchmarking Initiative, the Owner must submit information through EPA's ENERGY STAR Portfolio Manager Tool and must ensure the Project benchmarking information is included on its dashboard in HUD's Integrated Real Estate Management System (IREMS), using the process outlined in this [Instruction Guide](#).
- E. *[Solar on HUD-Assisted Projects Only]* Utility Allowance Adjustments. If assisted tenants at the Project receive a utility allowance for electricity expenses, Owners must complete and submit a new baseline utility analysis, in accordance with Notice H-2015-04 (or successor guidance), to adjust tenant utility allowances if the solar electric system will reduce the cost of energy consumption by lowering actual electricity rates.
1. Owners must follow the process outlined in Section V. of Notice H 2023-09 (or successor guidance) to determine if a baseline utility analysis is required outside of the regular triannual cycle described in Notice H-2015-04.
    - a. If an Owner enters into a Power Purchase Agreement with the Vendor, the Owner is likely purchasing electricity from the Project's solar electric system at a cheaper rate than they otherwise would from the electric utility. If this reduces the rate at which assisted tenants purchase electricity, then the PPA will reduce the cost of energy consumption. Therefore, a new baseline utility analysis would be required.
  2. The baseline utility analysis must be completed by the next utility allowance adjustment after at least twelve months have passed since the placement in service of the solar electric system. The purpose of this timeline is to ensure the new utility allowances capture the full seasonal fluctuation in solar output.
    - a. If, under the regular triannual cycle, a baseline utility analysis is required to be submitted to HUD before twelve months has passed since the placement in service of the system, the Owner must, instead, complete the factor-based utility analysis described in Notice H-2015-04 Subsection IV.B. "Factor-Based Utility Analysis."
    - b. The Project's triannual cycle is reset after the Owner completes the post-solar baseline utility analysis.

## **IX. Information Collection Requirements**

The information collection requirements contained in this document are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of

1995 (44 U.S.C. 3501–3520) and assigned OMB control number: XXXX-XXXX. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

**X. Further Information**

For further questions and feedback related to this Notice, please email [AssetManagementPolicy@hud.gov](mailto:AssetManagementPolicy@hud.gov).

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Julia R. Gordon  
Assistant Secretary for Housing — FHA  
Commissioner

## Appendix A: HUD Multifamily Rooftop Lease Owner Self-Certification

This HUD Multifamily Rooftop Lease Self-Certification (this “**Self-Certification**”) is entered into by \_\_\_\_\_ (“**Project Owner**”) as of the last date set forth on the signature page below. This Self-Certification is entered into in connection with the [Rooftop Lease Agreement (*insert title*)] (the “**Agreement**”) between Lessee and Project Owner. The Project Owner must complete this Self-Certification to receive the U.S. Department of Housing and Urban Development’s (“**HUD**”) approval of the Agreement.

I/we hereby certify to HUD as to the following:

1. Accurate Records. The Project Owner has provided records describing the Project’s most recent roof inspection, and the records accurately describe the affected Project roof’s general condition, estimated remaining useful life, and capacity to support the rooftop equipment.
2. Condition of Property. The Project has the capacity to support the proposed rooftop equipment. If repairs or replacements are still needed at the signing of this certification, they will be completed prior to the installation of the rooftop equipment.
3. Roof Estimated Remaining Useful Life. The estimated remaining useful life of the affected Project’s roof is equivalent to (or exceeds) the duration of the rooftop lease (“lease”) term, or at least one of the below conditions apply:
  - a. The Agreement states that the Lessee will, on at least one occasion during the lease term, finance or complete the removal and reinstallation of the rooftop equipment when the Project Owner completes necessary repairs or replaces the Project roof.
  - b. The Lessee or the Project Owner will complete repairs that will extend the lifespan of the roof (e.g. silicone coating) so that, after the repairs are completed, the estimated remaining useful life is equivalent to (or exceeds) the lease term. These repairs will be completed prior to the installation of the rooftop equipment.
  - c. The Lessee has provided the Project Owner with the estimated cost to remove and re-install the rooftop equipment during the lease term. The Project Owner has provided and will execute a plan to finance the removal and reinstallation of the rooftop lease equipment necessary for an anticipated roof replacement during the lease term. They will provide a plan to HUD’s satisfaction prior to the execution of the Agreement. Consistent with the applicable statutory, regulatory, and business agreement requirements, if the Project possesses a Reserve Fund for Replacements, the Project Owner may use the Fund to complete this plan and may make increased deposits to the Fund with commercial lease income and [seek HUD’s approval to] draw from the Fund at the time of the anticipated roof replacement.
4. Property Insurance Coverage. The Project Owner confirms that any damage to the roof or building structures caused by the installation, operation, or casualty event regarding the rooftop equipment will be covered by the Project Owner’s and Lessee’s property and casualty insurance.

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. **WARNING:** Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and

civil and administrative penalties. (18 U.S.C §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §§ 3729, 3802).

**Signature Page X of X**  
Self-Certification

The signatory below certifies that all of the information provided in this Self-Certification 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 Self-Certification or on any accompanying documents may result in criminal, civil, and/or administrative sanctions, including fines, penalties, and/or imprisonment under applicable federal law.

**PROJECT OWNER**

\_\_\_\_\_

(Print or Type)

By: \_\_\_\_\_

Signature of authorized representative

\_\_\_\_\_

Name and official title of signatory (Print or Type)

## **Appendix B: HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider**

This HUD Multifamily Solar, Cell Tower, and Rooftop Lease Rider (this “**Rider**”) is entered into by and between \_\_\_\_\_ (“**Project Owner**”) and \_\_\_\_\_ (“**Lessee**”), as of the last date set forth on the signature page below. For valuable consideration, including mutual promises and other obligations, the sufficiency of which is agreed to and acknowledged by the parties hereto, the parties agree as follows:

This Rider is entered into in connection with the [Solar, Cell Tower, or Other Rooftop Lease Agreement (*insert title*)] dated as of \_\_\_\_\_, (the “**Agreement**”), between Lessee and Project Owner. It is a condition of the U.S. Department of Housing and Urban Development’s (“**HUD**”) approval of the Agreement that Lessee and Project Owner enter into this Rider.

- 1.Reasonable Intended Use. Lessee shall not install or cause to be installed by any third party, employee, contractor or other agent of Lessee, any equipment, parts or materials on the Project that significantly or substantially alters any structural or other major element or component of the Project (including, but not limited to, re-wiring of the Project) without HUD’s prior written approval.
- 2.Permitting. Lessee agrees that it will obtain all applicable governmental approvals, including approval related to building permits, licenses, utility interconnection, building codes and fire safety, and others required by law.
- 3.Repair and Maintenance. During the lease term, Lessee shall, at its sole cost and expense, perform all routine maintenance and emergency repairs of its solar, cell tower, and other rooftop equipment, except in the case of damage resulting from the Project Owner’s negligent or wrongful acts.
- 4.Temporary Equipment Removal. During the term of the Agreement, in the event the Project roof needs repair work requiring temporary removal or disconnection of the rooftop equipment, Lessee agrees to cooperate as necessary with Project Owner to promptly remove and replace the rooftop equipment. The Project Owner and the Lessee have identified in the Agreement who shall be responsible for the costs of this work.
- 5.Roof Integrity. In the event of termination of the Agreement for any reason, Lessee agrees to return the Project to its prior condition (excluding wear and tear). In no case shall Lessee’s installation, maintenance, or removal of the system harm the integrity of the Project roof.
- 6.Subordination to HUD Documents. The Agreement and the access, grants, promises, obligations, covenants, conditions and restrictions contained therein are and shall continue to be, subordinate to any HUD deed of trust or mortgage, any HUD regulatory agreement or any other instruments between Project Owner and HUD, and, if applicable, any other instruments between Project Owner and the FHA Lender for the HUD-insured loan encumbering the Project (the “**HUD Documents**”).
- 7.Monetary Liability. In enforcing any monetary claim arising from the Agreement against the Project Owner (including claims for any recapture of tax credits), Lessee will not file

any claim or lien against the Project or any reserve or deposit required by HUD in connection with the HUD Documents, or the rents or other income from the property other than a claim against:

- a. Available surplus cash;
- b. Available distributions and residual receipts authorized for release by HUD; or
- c. Available insurance proceeds.

8. HUD Indemnification. Notwithstanding anything to the contrary in the Agreement or this Rider, in no event shall HUD indemnify the Lessee, Project Owner, or any third party in connection with the Agreement.

9. HUD Financial Responsibility. HUD shall not be responsible for any claims, demands, losses, costs, damages, liabilities, injuries or expenses incurred by or attributable to the Project Owner in connection with the Agreement. However, if HUD were to assume ownership of the site property, and Project Owner and Lessee had previously agreed to a Subordination, Non-Disclosure, and Attornment Agreement approved by HUD, HUD shall adhere to the SNDA.

10. Mediation and Arbitration. Project Owner and Lessee agree that HUD shall not be bound by any mediation or arbitration provisions contained in the Agreement.

11. Project Owner Assignment. During the term of the HUD Documents, to the extent Lessee has any right of approval of any assignment or transfer of all or a part of the Project, any transfer, or partial transfer, by Project Owner (or Project Owner's successors) of the Project that is made to HUD, or any other transfer of the Project that is otherwise approved in writing by HUD, shall be deemed approved by Lessee.

12. [Solar Only] Solar Lessee Assignment. During the term of the HUD Documents, to the extent Lessee has any assignment rights under the Agreement, Lessee will obtain HUD's prior approval for any assignments of its interests in the Agreement to any financing party and for any other assignments of the Agreement (except to an affiliate or solar company with comparable PV system operating experience). The Parties acknowledge that HUD has pre-approved assignment of the Agreement to [an affiliate of Lessee] for purposes of financing the solar electric system [*use if tax credit structure requires assignment*].

13. HUD Consent to Changes. No material change to the Agreement or this Rider shall have any force or effect without the express written consent of HUD.

14. Controlling Documents. During the term of the HUD Documents, if any definitions, terms or provisions or portion of the Agreement conflict with any definitions, terms or provisions or portions of this Rider, the terms and provisions of this Rider shall control. In the event of a conflict between the Agreement and the HUD Documents, the HUD Documents shall control.

15. Term Meaning. Capitalized terms used and not defined herein shall have the meaning provided in the Agreement or HUD Documents, as applicable.

16. Counterparts and Facsimile. This Rider may be executed in multiple original counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The parties hereto agree that a facsimile or PDF of this Rider, including signatures of the parties, is the equivalent of an original signed copy of this Rider.

**Signature Page X of X**  
Lease Rider

The signatory below certifies that all of the information provided in this Lease 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 Lease 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.

**PROJECT OWNER**

\_\_\_\_\_  
(Print or Type)

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and official title of signatory (Print or Type)

The signatory below certifies that all of the information provided in this Lease 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 Lease 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.

**LESSEE**

\_\_\_\_\_  
(Print or Type)

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Name and official title of signatory (Print or Type)