Real Estate Retention Agreement

Affordable Housing Program

Grant Award

**(****Lease/Purchase Project)**

AHP Project No.:

For purposes of this Agreement, the following terms shall have the meanings set forth below:

“FHLBI” or “the Bank” shall refer to the Federal Home Loan Bank of Indianapolis.

“Member” shall refer to , (The Bank’s Member institution) located at .

“Sponsor” shall refer to , (The not-for-profit sponsor) located at .

“Project Owner” shall refer to , (The entity which owns the property subject to this mortgage) located at  .

As a condition and in consideration of receipt of direct subsidy funds (the “Subsidy”) under the Affordable Housing Program (“AHP”) of the Bank through the Member, with respect to that certain real property located at , in the city/town of , County of , State of , which is more fully described as follows:

See “EXHIBIT A” attached hereto and made a part hereof

The Project Owner/Sponsor, for itself and all successors to the property, agrees with the Member that:

1. The lease/purchase units contained in  (“Project”), or applicable portion thereof, must remain occupied by and affordable for households with incomes as committed to in the AHP Application, or as modified and approved by the Bank, for a period of fifteen (15) years (“Lease Retention Period”) from the date of completion of the project;
2. Once the lease obligation is terminated with respect to any one or more units, and the unit is purchased by an AHP-eligible homebuyer, the Retention Period under paragraph (i) reverts to five (5) years from the date of completion of the project (“Purchase Retention Period”) with respect to such purchased units only, and the Lease Retention Period remains in effect for unsold units.

(iii) The Bank, whose mailing address is 8250 Woodfield Crossing, Indianapolis, Indiana 46240, Attention: Community Investment Division, is to be given immediate written notice of any sale or refinancing of any unit occurring prior to the end of the applicable Retention Period under Paragraphs (i) and (ii);

(iv) In the case of a sale or refinancing of any unit prior to the end of the Lease Retention Period under paragraph (i), an amount equal to the full amount of the direct Subsidy shall be repaid to the Member, for reimbursement to the Bank, unless the Project continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the requirements of clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) contained herein, or if authorized by the Bank, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another property that is made subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the remainder of the retention period;

(v) In the case of a sale, transfer, or assignment of a unit prior to the end of the Purchase Retention Period under Paragraph (ii), an amount equal to the lesser of: (a) the Subsidy, reduced on a pro rata basis per month until the unit is sold, transferred, or its title or deed transferred, during the Purchase Retention Period; or (b) any net proceeds from the sale of the unit, minus the AHP-assisted household’s investment, shall be repaid to the Member for reimbursement to the Bank, unless the purchaser is a very low, low- or moderate-income household which is defined as having not more than 80% of the area median income. For purposes of determining whether a subsequent sale, transfer or assignment of the unit is to a purchaser that qualifies as a very low, low-, or moderate-income household, the Bank shall determine the purchaser’s income using one or more proxies that are reliable indicators of the subsequent purchaser’s income, and which shall be selected by the Bank prior to such determination and stated in the Bank’s AHP Implementation Plan, unless documentation demonstrating that household’s actual income is made available to the Bank.; or

(vi) In the case of a refinancing of a unit prior to the end of the Purchase Retention Period under Paragraph (ii), an amount equal to the lesser of: (a) the Subsidy, reduced on a pro rata basis per month until the unit is refinanced, during the Purchase Retention Period; or (b) any net proceeds from the refinancing of the unit, minus the AHP-assisted household’s investment, as calculated by the Bank, shall be repaid to the Member for reimbursement to the Bank, unless the property continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism, incorporating the requirements of clauses (i), (ii), (iii), (iv), (v), (vi), and (vii) contained herein; and

(vii) The income-eligibility, affordability restrictions applicable to the project and obligation to repay the Subsidy to the Member terminate after foreclosure settlement, deed-in-lieu, or assignment of the first mortgage to the Secretary of HUD (assuming AHP funding is used in conjunction with FHA financing). Otherwise, the covenants contained herein shall continue until released by the Member in writing or the expiration of the Retention Period, whichever should first occur.

IN WITNESS WHEREOF, the Project Owner/Sponsor and the Member by its duly authorized representatives, have executed this Agreement as of this  day of  ,  .

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Project Owner/Sponsor)

Witness:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Witness:\_\_\_\_\_\_\_\_\_\_\_\_­­­­\_\_\_\_\_\_\_\_\_\_

(Printed Name and Title)

State of)

)SS:

County of)

          , the  (Project Owner/Sponsor), for and on behalf of such organization, personally appeared before me and acknowledged the foregoing instrument this            day of          .

My Commission Expires:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My County of Residence:

(Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Member)

Witness:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Printed Name and Title)

State of )

)SS:

County of)

The foregoing instrument was acknowledged before me this  day of

, by:  the  (Member), for and on behalf of such organization.

My Commission Expires:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My County of Residence:

(Printed)

|  |  |
| --- | --- |
| This Instrument prepared by  (Upon recording, to be returned to) |  |
| Attorney at Law |
|  |
| FHLBI Member Institution |
|  |
|  |
| (Preparer’s Mailing Address) |

|  |  |
| --- | --- |
| I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in the document, unless required by law.  (Required in Indiana only) |  |
| Member Representative |
|  |
| (Printed Name and Title) |

Rev. 9/2020