Federal Home Loan Bank of New York

ID: AHP-114

AFFORDABLE HOUSING PROGRAM
PROMISSORY NOTE FOR RENTAL PROJECTS

_____, _____ _____, _____
(DATE) (CITY) (STATE)

FOR VALUE RECEIVED, _____ (hereinafter referred to as the "Sponsor") promises to pay to the order of _____ (hereinafter referred to as the "Lender"), and all who succeed to the Lender's responsibilities (such as successors and assigns), a banking organization, organized and existing under the laws of the State or Commonwealth of _____, maintaining its principal office at _____ the Principal sum of _____ DOLLARS ($_____) (hereafter referred to as the "Principal") in lawful money of the United States of America in the event of the occurrence of certain circumstances as provided herein.

SUBORDINATE MORTGAGE

As security for the payment of amounts that may be due under this Note and the performance of all promises contained in this Note, the Sponsor is giving the Lender a Subordinate Mortgage ("Mortgage"), of even date herewith. The Mortgage encumbers a certain parcel of real estate which is owned by the Sponsor, the legal description of such real estate being contained in the Mortgage, which has an address of _____. A more detailed Legal Description of the aforementioned parcel of real estate is attached hereto as Exhibit A.

SPONSOR'S OBLIGATIONS

1. This Note implements requirements applicable to assistance that the Lender furnished the Sponsor under the Affordable Housing Program ("AHP") of the Federal Home Loan Bank of New York ("FHLB-NY") in connection with a certain affordable housing initiative known as _____ (the "Project").

2. This Note, the Mortgage, and any other agreements related to the AHP (hereinafter collectively referred to as the "Related Documents") to which the Sponsor is a party and has executed or will duly execute in connection with the Project are, or upon execution will be, the valid and legally binding obligation of the Sponsor, enforceable against the Sponsor in accordance with their respective terms and conditions.

3. The consummation of the transactions contemplated hereby and the execution, delivery and performance of this Note, the Mortgage, and the Related Documents by the Sponsor will not violate or constitute or result in a material breach of or a default under any agreement, mortgage, deed of trust, lease, loan or security agreement, or any other instrument to which the Sponsor is a party or by which it may be bound or affected.

4. Pursuant to the regulation of the Federal Housing Finance Agency that governs the operation of the AHP ("AHP Regulation"), as amended from time to time, 12 CFR Part 1291, and except as otherwise provided therein, the Project must be occupied by and affordable to income-eligible households in accordance with the income-eligibility and affordability restrictions of the AHP Regulation and the commitments made in the

Lender's approved application to the AHP, for a period of fifteen years (15) years ("Retention Period") from its completion date, which commences with the issuance of a Certificate of Occupancy or Certificate of Substantial Completion. All other definitions of terms shall be in accordance with the definitions set forth in the AHP Regulation.

5. The Sponsor hereby acknowledges receipt of the Principal. No Principal shall be collected under this Note from the Sponsor except as otherwise provided herein. No interest shall be charged on the Principal under this Note in the event of a sale or refinancing of the Project that initiates repayment of the Principal as provided herein. This Note shall be deemed satisfied and the Borrower shall be entitled to a release of the Mortgage which secures this Note upon the expiration of fifteen (15) years as set forth above in Paragraph 4 and the AHP Regulation.

6. Any repayment(s) of Principal and/or any payments of interest pursuant to § 11 (below) that are received by the Lender or Sponsor must be paid forthwith to the FHLB-NY, as specified in the AHP Regulation.

7. The Sponsor hereby agrees that the residential units that comprise the Project are to be reserved for occupancy by households whose incomes conform to the AHP Regulation and satisfy the income targeting commitments set forth in the Lender's approved application to the AHP. Income eligibility shall be determined upon initial occupancy of the Project. If the Project involved the purchase or rehabilitation of rental housing that was already occupied, income eligibility shall be determined at the time that the Lender's application to the AHP was submitted to the FHLB-NY for approval.

8. The Sponsor hereby agrees to maintain an affordable rent structure, which means:

a) The rent charged to a household for a unit that is to be reserved for occupancy by a household with an income at or below 80 percent of the median income for the area, does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the Lender's approved application to the AHP, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 persons per unit without a separate bedroom); or
b) The rent charged to a household, for rental units subsidized with Section 8 assistance under 42 U.S.C. 14379(f) or subsidized under another assistance program where the rents are charged in the same way as under the Section 8 program, if the rent complied with the AHP Regulation at the time of the household's initial occupancy in the Project and the household continues to be assisted through the Section 8 or another assistance program, respectively.

9. By executing this Note, the Sponsor hereby agrees that the Lender and the FHLB-NY, or its designee, shall be given thirty (30) days written notice of a sale, refinancing, foreclosure or transfer in lieu of foreclosure of the Project occurring prior to the end of the Retention Period. In the case of a sale or refinancing of the Project prior to the end of the Retention Period, an amount equal to 100 percent of the Principal shall be repaid to the Lender, for subsequent transfer to the FHLB-NY, unless:

a) The Project continues to be subject to this Note, the Mortgage, a deed restriction, or other legally enforceable retention agreement or mechanism that incorporates the income eligibility and affordability restrictions committed to in the Lender's approved application to the AHP for the duration of the Retention Period; or

b) If authorized by the FHLB-NY, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another party 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 Lender's approved application to the AHP for the remainder of the Retention Period.

10. The income eligibility and affordability restrictions applicable to the Project shall terminate after any foreclosure proceedings.

11. If the Principal is not used or the Project is not operated in conformity with the terms of the Lender's approved application to the AHP and the requirements of the AHP Regulation, and such misuse is the result of the Sponsor's actions or omissions, then the Lender shall recover from the Sponsor and repay to the FHLB-NY that portion of the Principal, plus interest as may be required by the FHLB-NY, which is not properly used as a result of the Sponsor's actions or omissions, unless such noncompliance is cured by the Sponsor within a reasonable period of time, as determined by the FHLB-NY.

AMENDMENT AND WAIVERS

12. No modification, amendment, or waiver of any provision of this Note or consent to any departure therefrom shall be effective unless an agreement in writing is executed by the parties to this Note. Any forbearance, failure, or delay by a party, in exercising any right, power, or remedy hereunder or under law or regulation shall not be deemed to be a waiver thereof, and any single or partial exercise by a party of any right, power, or remedy shall not preclude the exercise of any right or remedy hereunder. Every right, power, and remedy of a party shall continue in full force and effect until specifically waived by the party, in writing.

JURISDICTION AND DEFAULT INTEREST AND FEES

13. If an event of noncompliance as a result of the Sponsor's actions or omissions has been declared by either the Lender or the FHLB-NY, a default rate of interest may be charged thereafter on the Principal, as required by the Lender or determined by local legal default rate limits, until the required amount of Principal is either repaid by the Sponsor or until the Project is restored to conformity with the Lender's approved application to the AHP and the AHP Regulation. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Sponsor is interpreted so that any charge provided for in this Note or the Mortgage, whether considered separately or together with other charges levied in connection with this Note or the Mortgage, violates such law, and Sponsor is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The Lender shall be entitled to recover reasonable legal fees and expenses from the Sponsor in the event that it becomes necessary to refer the collection of the Principal to an attorney.

14. In any action or proceeding brought by the FHLB-NY, the Lender, or the Sponsor in order to enforce any right or remedy under this Note, the parties hereby consent to, and agree that they will submit to, the jurisdiction of the United States District Court for the Southern District of New York or, if such action or proceeding may not be brought in federal court, the jurisdiction of the New York State courts located in the City and County of New York, Borough of Manhattan to the exclusion of all other courts, unless it is determined that such action or proceeding must be held in the jurisdiction where the Project is located.

APPLICABLE LAW AND SEVERABILITY

15. This Note shall be governed by the laws of the United States and, to the extent federal law incorporates or defers to state law, the laws of the State of New York (excluding, however, the conflict of laws rules of such State). In the event that any portion of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Note that can be given effect without the conflicting provision, and to this end the provisions of this Note are declared to be severable.

SUCCESSORS AND ASSIGNS

16. This Agreement shall be binding upon the successors and permitted assigns of the Sponsor or Owner, and the FHLB-NY.

IN WITNESS WHEREOF, the undersigned authorized representative of the Sponsor executes this Note on the day and year first above written:

WITNESS:

_____ _____
(Sponsor name)

_____
(Signed)

_____
(Printed name of authorized representative)

_____
(Title)

STATE/COMMONWEALTH OF _____:
ss.
COUNTY OF _____:

BE IT REMEMBERED that on this _____ day of _____ in the year _____, before me personally appeared _____ who, being by me duly sworn deposes and makes proof to my satisfaction that he/she is the _____ of the Sponsor, the corporation named within the Note; that this is the Note for the described Project; that the execution, as well as the making of this instrument, have been duly authorized by virtue of authority from its Board of Directors (or Trustees) and are the voluntary acts and deeds of the Sponsor; that deponent well knows the corporate seal of the Sponsor; and that the seal affixed to the Note is the proper corporate seal and was thereto affixed.

Sworn to and subscribed before me, the undersigned, the date aforesaid.

_____
Notary Public