



AFFORDABLE HOUSING PROGRAM

FEDERAL HOME LOAN BANK OF NEW YORK

RIDER TO SUBORDINATE MORTGAGE
For Projects Using Low Income Housing Tax Credits

Article 1.0

For purposes of this Rider the following terms are defined as follows:

- Bank** shall refer to the Federal Home Loan Bank of New York
- Lender** shall refer to _____
(the Bank’s member institution’s name)
- Sponsor** shall refer to _____
(the not-for-profit sponsor’s name)
- Owner** shall mean _____
(the entity’s name who owns the property subject to this subordinate mortgage)

Article 2.0

The Owner and/or Sponsor agree that the Property subject to this subordinate mortgage is a rental project (“Project”) subject to the regulations that govern the Bank’s administration of the Affordable Housing Program (“AHP”) as promulgated by the Federal Housing Finance Agency in 12 CFR Part 1291 (“AHP Regulations”), and any amendments made thereto:

- (i) The Project’s rental units will remain occupied by and affordable for households with incomes at or below the levels committed to be served in the AHP application, as submitted and, if applicable, subsequently modified, for the duration of the retention period, as defined below in Subparagraph ii. These income levels, as committed to be served in the AHP application (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank), are established at initial income qualification for the household desiring eligibility to rent. Future household “increases” in income will not affect eligibility for tenant and/or Owner and/or Sponsor. As units turn over, Owner and/or Sponsor shall continue to comply with AHP application commitments regarding initial household income qualification levels;
- (ii) The Bank and Lender (at Lender’s designated address or such other place as Owner and/or Sponsor is/are notified in writing) or its designee shall be given notice of any sale or refinancing of the Project occurring prior to the end of the retention period, defined as fifteen years from the date of issuance of a permanent Certificate of Occupancy at the conclusion of the rehabilitation defined by the application to the AHP program referenced above;
- (iii) In the case of a sale or refinancing of the Project prior to the end of the retention period, an amount equal to the full amount of the loan as specified in this subordinate mortgage shall be repaid to the Bank (“the Loan Amount”), unless the Project 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 (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank) for the duration of the retention period; and

- (iv) The income eligibility and affordability restrictions applicable to the Project will terminate upon foreclosure or upon transfer in lieu of foreclosure.

Article 3.0

The Lender and Owner and/or Sponsor agree to comply with the monitoring requirements as follows:

- (i) During the period of construction or rehabilitation, the Owner and/or Sponsor shall report to the Bank and Lender semi-annually on whether reasonable progress is being made towards completion of the project;
- (ii) Within the first year after project completion, the Owner and/or Sponsor shall:
 - A. Certify to the Lender and the Bank that the services and activities committed to in the AHP application (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank) have been provided in connection with the Project;
 - B. Provide a list of actual tenant rents and incomes to the Lender and the Bank and certify that:
 - 1. That tenant rents and incomes are accurate and in compliance with the rent and income targeting commitments made in the AHP application (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank); and
 - 2. The Project is habitable.
 - C. Maintain documentation regarding tenant rents and incomes and Project habitability available for review by the Bank and/or the Lender, to support such certifications.

Article 4.0

In the second year after completion of the Project and annually thereafter until the end of the Project's retention period, the Owner and/or Sponsor shall:

- (i) Certify to the Bank and Lender that:
 - A. The tenant rents and incomes are in compliance with the rent and income targeting commitments made in the AHP application (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank); and
 - B. The Project is habitable.
- (ii) Maintain documentation regarding tenant rents and incomes and Project habitability available for review by the Bank and/or Lender, to support such certifications.

Article 5.0

The Owner and/or Sponsor agree to use the Loan Amount in accordance with the terms of the Lender's application to the Bank's AHP for the Loan Amount, (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank), and the requirements of AHP Regulations.

Article 6.0

The Owner and/or Sponsor agree to repay the Loan Amount (plus interest, if appropriate) in accordance with the following requirements:

- (i) In the event of a sale, transfer of title, or refinancing of the property, the Owner and/or Sponsor must repay the Lender in accordance with the AHP Regulations. The Lender, in turn, must remit the proceeds of the Loan Amount to the Bank forthwith;
- (ii) The Lender shall, through foreclosure and other reasonable collection efforts, recover from the Owner and/or Sponsor (100%) of the Loan Amount (plus interest, if appropriate) or an amount, as determined by the Bank, that, as a result of the Owner's and/or Sponsor's actions or omissions, is not used in compliance with the AHP Regulations and/or the terms of the application for the Loan Amount. The Lender, in turn, must remit the proceeds of the Loan Amount to the Bank forthwith approved by the Bank, and the requirements of this part;
- (iii) In the event the property is not used in compliance with the terms of the application for the Loan Amount (as approved by the Bank and, if applicable, subsequently modified with the consent of the Bank) and consistent with the requirements of AHP Regulations, the Owner and/or Sponsor may be obligated to repay the Lender an amount equal to (100%) of the Loan Amount (plus interest, if appropriate) or an amount, as determined by the Bank, unless:
 - A. The Owner and/or Sponsor cures the non-compliance within a reasonable period of time as determined by the Bank; or
 - B. The circumstances of non-compliance are eliminated through a modification of the terms of the application for the Loan Amount, subject to the consent of the Bank.

Owner

By: _____