



**FIRST HOME CLUBSM & HOMEBUYER DREAM PROGRAMTM
AFFORDABLE HOUSING PROGRAM
RETENTION DOCUMENTS**

The following documents, in form fillable pdf format, are required to be executed at the closing of a loan receiving a Federal Home Loan Bank of New York Affordable Housing Program set-aside subsidy:

1. Subordinate Mortgage
2. Certification of Intent to Record

PARTICIPATING MEMBER INSTITUTIONS ARE REQUIRED TO COMPLETE AND RECORD THE ATTACHED SUBORDINATE MORTGAGE.

BY PROVIDING MEMBER INSTITUTIONS WITH THE ATTACHED SUBORDINATE MORTGAGE, THE FEDERAL HOME LOAN BANK OF NEW YORK IS NOT PROVIDING LEGAL ADVICE TO PARTICIPATING MEMBER INSTITUTIONS. THE FEDERAL HOME LOAN BANK OF NEW YORK STRONGLY SUGGESTS THAT MEMBER INSTITUTIONS CONSULT LEGAL COUNSEL TO ENSURE FULL COMPLIANCE WITH RECORDING REQUIREMENTS AND ALL OTHER APPLICABLE LAWS.

NO MODIFICATIONS TO THE SUBORDINATE MORTGAGE ARE PERMITTED WITHOUT THE PRIOR WRITTEN CONSENT OF THE FEDERAL HOME LOAN BANK OF NEW YORK.

**FEDERAL HOME LOAN BANK OF NEW YORK
FIRST HOME CLUBSM & HOMEBUYER DREAM PROGRAMTM
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SUBORDINATE MORTGAGE

NMLS ID #: _____

NMLS Name: _____

THIS SUBORDINATE MORTGAGE for the Federal Home Loan Bank of New York FHLBNY") Affordable Housing Set-aside Program funds is made on _____ (the "Closing Date") between _____ (the "Borrower") residing at _____ and _____ (the "Member"), and all legal successors, a banking organization, organized and existing under the laws of _____, with principal offices at _____.

WHEREAS, Borrower is a participant in one of the FHLBNY Affordable Housing Set-aside Programs ("AHP"), the First Home ClubSM ("FHC") or the Homebuyer Dream ProgramTM ("HDP"), whereby the FHLBNY provides, through its Members, a subsidy for down payment and closing cost assistance to an eligible first-time homebuyer purchasing a home;

WHEREAS, the FHLBNY is providing AHP funds to the Borrower through the Member for the purchase of a home by the Borrower, which shall be used as the Borrower's primary residence;

WHEREAS, the Borrower is indebted to the Member in the amount of \$_____, which are subsidy funds (the "Subsidy") under the FHLBNY AHP Set-aside Program provided through the Member, for the purchase of certain real property located at _____, in the city/town of _____, County of _____, State of _____, Zip Code _____ (the "Property"), as more particularly described in the Legal Description, attached hereto as Exhibit A and made a part hereof.

WHEREAS, the FHLBNY has agreed to provide the Subsidy to the Borrower through the Member pursuant to the AHP Implementation Plan, AHP policies, procedures, guidelines, and instructions, and the Federal Housing Finance Agency's Affordable Housing Program Regulations (12 CFR Part 1291), as may be amended from time to time (the "AHP Regulations," and collectively, the "AHP Requirements");

WHEREAS, the Member has determined that the Borrower meets the requirements of an eligible homebuyer as provided for by the AHP Requirements.

NOW THEREFORE, Borrower agrees to maintain ownership and reside at the Property as a primary residence for a period of five (5) years ("Retention Period") from the Closing Date and further agrees as follows:

1. The FHLBNY and the Member shall be given prompt written notice of a sale, refinancing, or transfer of the Property during the Retention Period.
 - a. Notice to the FHLBNY shall be provided by first-class mail to the following address:
Federal Home Loan Bank of New York
Attention: General Counsel
101 Park Avenue
New York, New York 10178

- b. Notice to the Member shall be provided by first-class mail to the following address:

- 2. If the Property is sold or refinanced prior to the expiration of the five-year Retention Period or there is an otherwise breach of this Subordinate Mortgage, a pro rata portion of the Subsidy may need to be repaid from any *net gain* realized upon the sale or refinancing (the "Repayment Obligation"), unless:
 - a. The Property was assisted with a permanent mortgage loan funded by an AHP subsidized advance;
 - b. The Property was sold to a very low-, or low-or-moderate-income household as provided for in the AHP Requirements. The new purchaser is not subject to the Subordinate Mortgage and would not have any Repayment Obligation;
 - c. Following a refinancing, the Property continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism;
 - d. In the absence of a net gain (e.g., rate and term), the Repayment Obligation hereunder is terminated at the time of the first refinancing by the Borrower;
 - e. In the case of a foreclosure or deed-in-lieu of foreclosure of the Property, or an assignment of the first mortgage with respect to the Property to the Secretary of HUD, the Borrower's Repayment Obligation hereunder is terminated; or
 - f. In the case of an inheritance of the Property to the heir(s) of the Borrower, the Repayment Obligation hereunder is terminated.
- 3. The Borrower and the Member each agree that the FHLBNY is an intended third party beneficiary of this Subordinate Mortgage and is entitled to rely upon all rights, representations, warranties, and covenants made by Borrower herein to the same extent as if FHLBNY were the Member hereunder.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date and year above set forth.

By: _____
(Borrower)

(Print Name)

By: _____
(Borrower)

(Print Name)

STATE/Commonwealth of _____

ss.:

County of _____

On the _____ day of _____ in the year _____ before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

WITNESS my hand and official seal,

Notary Expires:

State of _____ County of _____

Exhibit A
LEGAL DESCRIPTION

NMLS ID #: _____

NMLS NAME: _____

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**CERTIFICATION OF INTENTION TO RECORD
SUBORDINATE MORTGAGE**

LENDER: _____

BORROWER: _____ **FHC or HDP #** _____

PREMISES: _____

Title Number: _____

Title Company: _____

Attached is a copy of a Subordinate Mortgage that encumbers the above-referenced premises.

The original of this Subordinate Mortgage is being taken from the closing for public recording on

Date

**Name of Title Company, Law Firm or
Federal Home Loan Bank of New York Member**

Signature of Authorized Representative

Printed Name

Date