

**AFFORDABLE HOUSING PROGRAM  
RETENTION AND REPAYMENT AGREEMENT**

(For Owner-Occupied Project in Set Aside Program)

This Affordable Housing Program Retention and Repayment Agreement (“Agreement”) entered into as of the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and among the Federal Home Loan Bank of Des Moines (“FHLB”) Member Bank \_\_\_\_\_ located at \_\_\_\_\_, \_\_\_\_\_ (“Bank”); and homebuyer(s) \_\_\_\_\_ located at \_\_\_\_\_, \_\_\_\_\_ (“Owner”). The Bank and Owner are jointly referred to as the “Parties.”

**RECITALS:**

- A. Whereas, pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), the Federal Housing Finance Board (“Board”) is required to cause each Federal Home Loan Bank to establish an affordable housing program (“AHP”) to assist members of each Federal Home Loan Bank to finance affordable housing for very low, low, and/or moderate income households.
- B. Whereas, the Bank, a member of Federal Home Loan Bank of Des Moines (“FHLB”), submitted an application to the FHLB, dated \_\_\_\_\_, 200\_\_\_\_, (the Native American Homeownership Initiative Application), for an AHP subsidy (defined below) in connection with a housing project (“Project”) administered by Bank.
- C. Whereas, pursuant to regulations (including, without limitation, those contained in 12 CFR Part 951 ) promulgated by the Board pursuant to FIRREA (the “AHP Regulations”), members of each Federal Home Loan Bank are required to provide for the repayment of any direct subsidy should said direct subsidy or the Project, be unused or improperly used.
- D. Whereas, in connection with the AHP subsidy, the Bank entered into an Affordable Housing Program Agreement (“Subsidy Agreement”) dated \_\_\_\_\_, 200\_\_\_\_, with the FHLB, pursuant to which the Bank agreed to be bound by the AHP Regulations and perform certain monitoring functions with respect to the AHP subsidy.
- E. Whereas, the Parties desire to set forth those circumstances under which the Bank and/or FHLB shall be entitled to the repayment of the AHP subsidy from the Owner in connection with the grant to Owner.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and for other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. Retention Period. The Parties acknowledge and agree that Bank has, on even date herewith (“Closing Date”), disbursed or is obligated to disburse the sum of \_\_\_\_\_ (the “AHP Subsidy”) to the Owner to be used in connection with

the purchase, construction, or rehabilitation of the unit described in Attachment A (the "AHP-Assisted Unit"). The period (the "Retention Period") during which the Owner must comply with the AHP provisions of FIRREA to qualify and maintain the AHP Subsidy is 5 years from the Closing Date.

2. Principal Residence Requirement; Notice of Sale or Refinancing, and Repayment: Owner shall own and occupy the AHP-Assisted Unit as the Owner's principal residence during the Retention Period; and Owner shall give to the Bank and FHLB notice of any sale or refinancing of the AHP-Assisted Unit occurring prior to the end of the Retention Period. In the case of: (i) a sale of the AHP-Assisted Unit prior to the end of the Retention Period, an amount equal to the full amount of the AHP-Subsidy that financed the purchase, construction or rehabilitation of the AHP-Assisted Unit, reduced by 1/60<sup>th</sup> for each 30-day period, during the Retention Period, in which the Owner owned and occupied the AHP-Assisted Unit as Owner's principal residence, shall be repaid to FHLB from any net gain realized upon the sale of the AHP-Assisted Unit after deduction for sales expenses, unless the purchaser is an eligible household, as defined in the AHP Regulations and set forth in the Bank's AHP Application; or (ii) a refinancing of the AHP-Assisted Unit prior to the end of the Retention Period, an amount equal to the full amount of the AHP-Subsidy that financed the purchase, construction or rehabilitation of the AHP-Assisted Unit, reduced by 1/60<sup>th</sup> for each 30-day period, during the Retention Period, in which the Owner owned and occupied the AHP-Assisted Unit as Owner's principal residence, shall be repaid to FHLB from any net gain realized upon the refinancing, unless the AHP-Assisted Unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions, and notice requirement as set forth in the Subsidy Agreement for, the duration of the Retention Period.
3. Impact on Real Property. All of the covenants and restrictions herein shall run with and encumber the real property and the improvements thereon for the AHP-Assisted Unit and shall bind the Owner and Bank and their respective successors or assigns, during the Retention Period.
4. Recording of the Agreement. The Bank shall record this Retention Agreement in the appropriate office(s)/jurisdiction(s) that will enhance the likelihood that the Bank and the FHLB will receive the notice as called for herein.
5. No Right to Foreclose/Tribal Lands. If the property for which the AHP Subsidy funds are used is held in trust by the United States government for \_\_\_\_\_ ("Tribe") in a Native American Service Area, or is otherwise restricted by federal statute or treaty, the Bank and/or the FHLB shall have no right to sell, foreclose, or occupy the AHP-Assisted Unit.
6. Termination of Restrictions. The obligation to repay the AHP Subsidy to the FHLB shall terminate after any foreclosure.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on their own authority or by their duly authorized officer(s), as the case may be, all as of the effective date first above written.

[Bank's Signature Block]

[Acknowledgment]

[Owner's Signature Block]

[Acknowledgment]

**Please insert above a separate signature block and acknowledgment for the Bank and Owner.**

### **Attachment A**

**Please Insert Legal Description of Property**