**Document prepared by:      ,      ,      ,      ,       ~**

AFFORDABLE HOUSING PROGRAM

**RETENTION AND REPAYMENT AGREEMENT**

*(For Rental Project on Native American Tribal Trust Land)*

This Affordable Housing Program Retention and Repayment Agreement (“Agreement”) is entered into as of the       day of      , 20     , by       located at       (“Member”);       located at       (“Sponsor”); and/or       located at       (“Owner”). The Member, Sponsor and/or Owner are jointly referred to as the “Parties”.

RECITALS:

1. Whereas, pursuant to section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j), the Federal Housing Finance Agency (“FHFA”) 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 moderate income households.

B. Whereas, the Member is a member of the Federal Home Loan Bank of Des Moines (the “Bank”) and submitted an application for an AHP direct subsidy to finance in whole or in part a housing project known as       (the “Project”). The Project’s legal description(s) is (are) attached as Exhibit A.

C. Whereas, pursuant to regulations (including, without limitation, those contained in 12 CFR Part 1291) promulgated by the FHFA pursuant to FIRREA (“AHP Regulations”), the Member is required to provide for the repayment of any direct subsidy should the direct subsidy, the Project or a portion thereof, be unused or improperly used.

D. Whereas, in connection with the direct subsidy, the Member entered into an Affordable Housing Program Subsidy Agreement (“AHP Subsidy Agreement”) with the Bank and Sponsor and/or Owner, pursuant to which the Member and Sponsor and/or Owner agreed to be bound by AHP Regulations and perform certain monitoring functions with respect to the direct subsidy.

E. Whereas, the Parties desire to set forth those circumstances under which the Bank shall be entitled to the repayment of the funds granted under the direct subsidy.

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. *Income and rent commitments*. The Project’s rental units or applicable portion thereof, must remain occupied by and affordable for households with incomes at or below the levels committed to be served in the approved AHP application for 15 years from the date the Project is completed (the “Retention Period”).
2. *Notice*. The Bank and the Member shall be given notice of any sale, transfer, assignment of title or deed, or refinancing of the Project by the project owner occurring prior to the end of the Retention Period.
3. *Repayment of subsidy; exceptions*. In the case of a sale, transfer, assignment of title or deed, or refinancing of the Project by the project owner prior to the end of the Retention Period, the full amount of the AHP subsidy received by the project owner (Sponsor and Owner shall have joint and several liability for said repayment) shall be repaid to Bank, unless one of the following exceptions applies:
4. 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 approved AHP Application for the duration of the AHP 15-year Retention Period; or
5. If authorized by the Bank, in its discretion, the households are relocated, due to the exercise of eminent domain, or for the 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 AHP 15-year retention period; and
6. *Termination of income and rent restrictions*. The income-eligibility and affordability restrictions applicable to the Project shall terminate after any foreclosure.
7. *Recording of the Agreement.* The Owner shall record this Retention Agreement in the appropriate office(s)/jurisdiction(s) that will enhance the likelihood that the Bank and Member will receive the notice as called for herein.
8. *No Right to Foreclose.* If the property, for which the AHP Subsidy funds are used, is located on land held in trust by the United States government for a Native American Tribe, is located on Native land in the State of Alaska conveyed by the Alaska Native Claims Settlement Act (as amended), or is located on Hawaiian Home Lands created under the Hawaiian Homes Commission Act, 1920 (as amended), the Member, Sponsor and/or the Bank shall have no right to sell, foreclose, or occupy the AHP-Assisted Unit.
9. *Successors and Assigns.* All of the rights and obligations set forth herein shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
10. *Termination of Restrictions.* The income-eligibility and affordability restrictions applicable to the Project shall terminate upon the expiration of the Retention Period or 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.

[Member’s Signature Block]

[Acknowledgment]

[Sponsor’s Signature Block]

[Acknowledgment]

[Owner’s Signature Block]

[Acknowledgment]

**Please insert above a separate signature block and acknowledgment for the Member, Sponsor and Owner.**

# Attachment A

**Provide legal description of the assisted unit(s) in the project.**