

THIS DOCUMENT IS PROVIDED AS A COURTESY AND IS MERELY AN EXAMPLE. CONSULT LEGAL COUNSEL TO ENSURE COMPLIANCE WITH REGULATORY RETENTION REQUIREMENTS AND RECORDING REQUIREMENTS. BY PROVIDING THIS EXAMPLE, FEDERAL HOME LOAN BANK OF TOPEKA IS IN NO WAY PROVIDING LEGAL ADVICE OR MAKING PRESENTATION AS TO EFFECTIVENESS OF THIS DOCUMENT. CONTACT HOUSING AND COMMUNITY DEVELOPMENT IF THIS REAL ESTATE RETENTION AGREEMENT WILL NOT BE UTILIZED.

REAL ESTATE RETENTION AGREEMENT AFFORDABLE HOUSING PROGRAM RENTAL PROJECT

AHP Project Number: _____

AHP Project Name: _____

This Real Estate Retention Agreement (“Agreement”) is by and between:

_____ (“Member”), located at
_____;

_____ (“Sponsor”), located at
_____;

_____ (“Owner”), located at
_____;

and is effective as of _____.

Member, Sponsor, and Owner are jointly referred to herein as the “Parties”.

WHEREAS, Member submitted an application (“AHP Application”) to the Federal Home Loan Bank of Topeka (“FHLBank”) for direct subsidy funds to be used in connection with the purchase, construction or rehabilitation of the Project (defined herein) under the Affordable Housing Program (“AHP”); and

WHEREAS, the Parties and FHLBank have executed an Affordable Housing Program Agreement for Rental Project, effective _____ (“AHP Agreement”), which may be amended from time to time, and which sets forth the respective duties and obligations of FHLBank and the Parties with regard to the approval and funding of Member’s AHP Application.

NOW THEREFORE, in consideration of the receipt of direct subsidy funds, in an amount not to exceed the AHP subsidy award of \$_____ (“Subsidy”), under the AHP, in accordance with 12 U.S.C. 1430(j), 12 CFR Part 1291, and the AHP Implementation Plan, and for other valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. _____ is situated on certain real property located at _____, in the City/Town of _____, County of _____, State of _____, and is more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (“Project”).
2. 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 AHP Application, or as modified and approved by FHLBank, for a period of fifteen (15) years from the date of the completion of the Project (“Retention Period”) (unless otherwise extended in a modification agreement due to unforeseen circumstances).
3. FHLBank, whose notice address is P.O. Box 176, Topeka, KS 66601-0176, Attention: Housing and Community Development, shall be given immediate written notice of any sale, refinancing, foreclosure or other transfer of the Project occurring before the end of the Retention Period.
4. 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 Subsidy shall be repaid to the Member, for reimbursement to FHLBank, unless: (i) 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, or as modified and approved by FHLBank for the duration of the Retention Period, or (ii) if authorized by FHLBank, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing 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 AHP Application, or as modified and approved by FHLBank for the remainder of the retention period.
5. The income eligibility and affordability restrictions applicable to the Project terminate after any foreclosure. Otherwise, the covenants contained herein shall continue until authorized by FHLBank and released by Member in writing, or the expiration of the Retention Period, whichever should first occur.
6. All the rights and obligations set forth herein and in the AHP Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns during the Retention Period or until authorized by FHLBank and released by Member in writing, whichever should occur first.
7. If any part of this Agreement is or shall be deemed violative of any applicable laws, rules or regulations, such legal invalidity shall not void this Agreement, or affect the remaining terms and provisions of this Agreement, and this Agreement shall be construed and interpreted to comport with all such laws, rules or regulations to the maximum extent possible.
8. The Parties shall ensure this Agreement is properly recorded in the appropriate office(s)/jurisdiction(s) at Owner’s expense.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers.

Member:

Project Number: _____

Signature: _____

Printed Name: _____

Date: _____

Printed Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____ the Member, for and on behalf of such organization.

Signature (Notary Public)

(seal)

Typed or Printed Name

My Commission Expires: _____

Sponsor:

Project Number: _____

Signature: _____

Date: _____

Printed Name: _____

Printed Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of _____,
20____,

by _____.

Signature (Notary Public)

(seal)

Typed or Printed Name

My Commission Expires: _____

Owner:

Project Number: _____

Signature: _____

Printed Name: _____

Date: _____

Printed Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of _____,
20____,

by _____.

Signature (Notary Public)

(seal)

Typed or Printed Name

My Commission Expires: _____

Exhibit A