

AFTER RECORDING MAIL TO:

Name Washington Federal Bank
Address 425 Pike Street
City/State Seattle WA 98101
Attn: Caleb Stephens

Document Title(s): (or transactions contained herein)**1. Affordable Housing Program Retention and Repayment Agreement****Reference Number(s) of Documents assigned or released:**

N/A

Grantor(s): (Last name first, then first name and initials)**1. Swinomish Housing Authority****Grantee(s):** (Last name first, then first name and initials)

- 1. Washington Federal Bank**
- 2. Federal Home Loan Bank of Des Moines**

This instrument filed for record by
First American Title Insurance Company
As an accommodation only, it has not
Been examined as to its execution or
As to its effect upon the title

Abbreviated Legal Description as follows: (i.e. lot/block/plat or section/township/range/quarter/quarter)

Portions of Swinomish Tract 122-T1027: Lots 10 – 13, Tallawhale Phase I, located on
Squi Qui Lane, Swinomish Indian Reservation, La Conner, Washington, 98257

Assessor's Property Tax Parcel/Account Number(s):**P20911**

**I AM REQUESTING AN EMERGENCY NONSTANDARD RECORDING FOR AN
ADDITIONAL FEE AS PROVIDED IN RCW 36.18.010. I UNDERSTAND THAT
THE RECORDING PROCESSING REQUIREMENTS MAY COVER UP OR
OTHERWISE OBSCURE SOME PART OF THE TEXT OR THE ORIGINAL DOCUMENT.**

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 20 day of April, 2020, by Washington Federal Bank located at 425 Pike Street, Seattle, WA 98101 ("Member"); Swinomish Housing Authority located at 17547 1st Street, LaConner WA 98257 ("Sponsor"); and/or Swinomish Housing Authority, located at 17547 1st Street LaConner WA 98257 ("Owner"). The Member, Sponsor and/or 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 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 Tallawhatch Phase 3 (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 said direct subsidy, the Project or a portion thereof, be unused or improperly used.
- D. Whereas, in connection with the direct subsidy, on December 12, 2019, 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 by the Sponsor and/or Owner 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 Owner prior to the end of the Retention Period, the full amount of the AHP subsidy received by the 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:
 - 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 for the duration of the AHP 15-year Retention Period; or
 - II. 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
4. *Termination of income and rent restrictions.* The income-eligibility and affordability restrictions applicable to the Project shall terminate after any foreclosure.
5. *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.

6. *No Right to Foreclose.* The property, for which the AHP Subsidy funds are used, is located on land held in trust by the United States government for the Swinomish Indian Tribal Community, the Member, Sponsor and/or the Bank shall have no right to sell, foreclose, or occupy the AHP-Assisted Unit.
7. *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.
8. *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.
9. *No Other Agreements.* This Agreement is made pursuant to the AHP Subsidy Agreement and is not intended to modify the terms therein. The parties agree that there are no other agreements or understandings existing, written or otherwise, between them.

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]

Caleb Stephens 4/20/20 Caleb Stephens
CRA officer

[Acknowledgment]

Kerry Welliver 4/20/20

Lance Simons
Executive Director
Swinomish Housing Authority
[Sponsor's Signature Block]



Lance Simons 4/21/2020

[Acknowledgment]

[Owner's Signature Block]

instrument for and on its behalf, and that the seal affixed is the official seal of said company.

SUBSCRIBED AND SWORN TO before me by LS on this 27th day of April, 2020.

PRINTED NAME: Denise Bazan

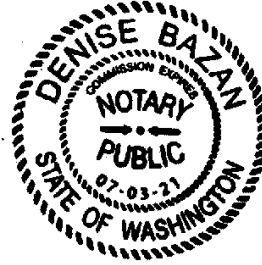
NOTARY PUBLIC

in and for the State of Washington.

Residing at: Mount Vernon, WA

My commission expires: 07-03-21

[Acknowledgment]



Lance Simons

Executive Director

Swinomish Housing Authority

[Owner's Signature Block]

Lance Simons

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT)

On this day personally appeared before me Lance Simons, to me known to be the Executive Director of the Sponsor, Swinomish Housing Authority, the company that executed the within and foregoing instrument, and acknowledged to me the said instrument was the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument for and on its behalf, and that the seal affixed is the official seal of said company.

SUBSCRIBED AND SWORN TO before me by LS on this 27th day of April, 2020.

PRINTED NAME: Denise Bazan

NOTARY PUBLIC

in and for the State of Washington.

Residing at: Mount Vernon, WA

My commission expires: 07-03-21

[Acknowledgment]



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

Exhibit A

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

Portions of Swinomish Tract 122-T1027: "Tallawhalt Lots 10, 11, 12, and 13", located on Squi Qui Lane, Swinomish Indian Reservation, La Conner, Washington, 98257, constituting approximately 2.98 acres, legally described as follows: Lots Number 10, 11, 12, and 13 shown on Record of Survey of the Plat of Tallawhalt Phase I, located in the Northwest Quarter of the Northwest Quarter and Government Lot 6 of Section 36, Township 34 North, Range 2 East, W.M., lying Westerly of Reservation Road, plat recorded September 20, 2007, under Skagit County Auditor's number 200709200143