



# Affordable Housing Program Direct Subsidy Agreement Owner-Occupied Project

This Affordable Housing Program Direct Subsidy Agreement - Owner-Occupied Project (this "**Agreement**"), effective as of the applicable date set forth in Paragraph 4, is made by and among the Federal Home Loan Bank of Pittsburgh (the "**Bank**"), \_\_\_\_\_ (the "**Member**") and \_\_\_\_\_, a \_\_\_\_\_ (the "**Project Sponsor**"), is entered into in connection with \_\_\_\_\_ (the "**Project**"), as the Project is more fully described in the Member's and the Project Sponsor's Application (as such term is defined below). The Application is incorporated in this Agreement by these references.

- A. Pursuant to Section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. § 1430(j)) (the "**Act**") and the regulations promulgated by the Federal Housing Finance Agency (including any successor thereto, the "**Finance Agency**") thereunder at 12 C.F.R. Part 1291, (together with the policies and procedures established by the Finance Agency in connection therewith, and including any modifications or replacements thereof, the "**AHP Regulations**"), the Bank has established an Affordable Housing Program (the "**Bank's AHP**" or the "**AHP**").
- B. The requirements of the Act and the provisions of the AHP Regulations are incorporated into this Agreement and the Related Documents (as defined in Paragraph 15 (c)). To the extent that the AHP Regulations are amended from time to time, this Agreement and the Related Documents are deemed to incorporate such amendments to conform to any new requirements of such amendments, provided, however, no such amendments shall affect the legality of actions taken prior to the effective date of such amendment.
- C. The Bank also has established an Affordable Housing Program Implementation Plan (the "**Implementation Plan**") and policies, procedures, guidelines and instructions covering, among other things, feasibility, funding, monitoring and modifying affordable housing projects participating in the Bank's AHP (collectively, the "**Bank's AHP Policies and Procedures**").
- D. The Member and the Project Sponsor desire to participate in the Bank's AHP and have submitted an application to the Bank through the Member, as the same may be amended and conditionally approved by the Bank, and modified pursuant to the provisions of Paragraph 11, the AHP Regulations and the Bank's AHP Policies and Procedures (the "**Application**"), to obtain a subsidy in an amount approved by the Bank (the "**Subsidy**") for use in the Project.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Bank, the Member and the Project Sponsor (sometimes referred to as individually, a "**Party**" or collectively, the "**Parties**") hereby agree as follows:

1. **Recitals.** The Recitals set forth in Paragraphs A through D are incorporated in this Agreement in their entirety.
2. **Definitions.** All terms not defined herein shall have the respective meanings set forth in the AHP Regulations, the Implementation Plan, and the Bank's AHP Policies and Procedures, as each may be modified or replaced from time to time.
3. **Rules of Construction.** In this Agreement,
  - (a) "Includes", "including", and similar terms are not limiting;
  - (b) "May not" and similar terms are prohibitive and not permissive;
  - (c) The singular includes the plural;
  - (d) "Or" is not exclusive;
  - (e) References in this Agreement to paragraphs are references to paragraphs in this Agreement unless otherwise specified; and

- (f) Any reference to a form, plan, policy, procedure, guideline, instruction, title, code, law, statute, ordinance, rule, regulation, order, or other governmental provision, or any part thereof, shall include the same as it may from time to time be modified or replaced.
4. **Effective Date.** This Agreement shall be effective upon execution by the Parties on the date the Application is approved by the Bank, as such date is set forth in the Bank's written notice to the Member.
5. **Acknowledgment and Compliance.** The Member acknowledges that it has been notified of the requirements of the AHP Regulations and the Bank's AHP Policies and Procedures relevant to the Member's Application for the Subsidy. The Member and the Project Sponsor each agree to comply with and be bound by the AHP Regulations in effect from time to time, the Bank's AHP Policies and Procedures as may be in effect from time to time and the commitments made in the Application.
6. **Approval of Application.** The Member and the Project Sponsor shall be bound by the terms and conditions governing the approval and funding of the Application, including any and all representations made in the Application. Approval of the Application by the Bank shall be conditional and shall be subject to the AHP Regulations and the Bank's AHP Policies and Procedures. Approval shall be effective only upon written notice from the Bank to the Member.
7. **Funding.** The Member may request disbursement of all or part of the Subsidy from the Bank at the time the Project is ready to receive all or part of the Subsidy, as the case may be. The Member and the Project Sponsor, as applicable, shall complete such forms and provide such information as is required by the Bank in order to disburse the Subsidy, as set forth in the Bank's funding and monitoring procedures and guidelines and the Bank's Request for Disbursement of Funds Form. Funding requests shall be processed in accordance with the AHP Regulations and the Bank's AHP Policies and Procedures. The Bank shall have the right, in its sole discretion, to withhold or deny disbursement of the Subsidy if, based on the information available to the Bank at the time of the Member's request for funding, the Bank is not satisfied as to (a) the Member's creditworthiness and compliance with the requirements of the AHP Regulations, the Bank's AHP Policies and Procedures, the Application, the Bank's Member Product Policy and the Advances, Collateral Pledge and Security Agreement by and between the Member and the Bank, and (b) the Project Sponsor's compliance with the requirements of the AHP Regulations, the Bank's AHP Policies and Procedures and the Application. Upon receipt of the Member's request for funding, in order to ensure that the approved level of Subsidy from the Bank is still warranted at the actual funding date in conformity with the requirements of the AHP Regulations, the Bank shall reevaluate the amount of the Subsidy consistent with the AHP Regulations and the Bank's AHP Policies and Procedures as of such funding date, and shall only fund the amount of the Subsidy, if any, as is deemed necessary by the Bank to fund the Project. In such reevaluation, the Bank shall principally consider pro-forma data, including, among other factors, the following:
- (a) All sources of funds including estimates of funds from all other sources, whether actually committed or not;
  - (b) An estimate of the market value of in-kind donations and volunteer professional labor and services but not the value of sweat equity; and
  - (c) Project costs, as reflected in the Project's budget, including whether such costs are reasonable and customary, in accordance with the Bank's project feasibility guidelines, in light of industry standards for the location of the Project and the long-term financial needs of the Project.

Before funding, the Bank shall determine whether the Project is operationally feasible, in accordance with the Bank's project feasibility guidelines, based on factors including applicable financial ratios, geographic location and other non-financial project characteristics. The approved Subsidy must be necessary for the financial feasibility of the Project. The rate of interest, points, fees, and any other charges for all loans financing the Project must not exceed a market rate of interest, points, fees and other charges for loans of similar maturity, terms and risk, nor may such loans be in violation of any applicable federal, state or local law, regulation or ordinance prohibiting anti-predatory lending or other similar credit-related consumer protection laws, regulations, ordinances, or orders designed to prevent or regulate abusive or deceptive lending practices and loan terms. In addition, the amount of the Subsidy funded by the Bank shall be subject to future adjustments to decrease the amount of the Subsidy where (a) the Subsidy is used to write down the principal or interest rate on a loan to the Project, and at closing of the loan, the debt

service cost for the loan has decreased due to a decrease in market interest rates between the time of the Bank's approval of the Application and the time the lender commits to the interest rate on the loan to finance the Project or (b) the Bank determines, based on the Bank's periodic review or monitoring of the Project, or a review conducted in connection with the transfer or modification of the Project, that the amount of the Subsidy is not, or was not, necessary for the Project. The Repayment and Recovery Provisions set forth in Paragraph 15 shall apply where an adjustment is made by the Bank to decrease the amount of the Subsidy already disbursed by the Bank for the Project.

8. **Timing of Subsidy.** The Project must begin to draw down and use the Subsidy, or secure other significant Project funding within 12 months of the Application's approval unless otherwise extended. If the Project has not begun to draw down and use the Subsidy or secure other significant Project funding within 12 months, the Member or Project Sponsor may request a six-month extension, with the submission of appropriate documentation as required by the Bank, the extension may be granted by the Bank in its sole discretion provided that the Project has made reasonable progress toward securing other funding and has a definite funding strategy as determined in the Bank's sole discretion. If the Project has not drawn down or used funds but has secured all other significant Project funding within 12 months, the Project must draw down and use the Subsidy within the next 12 months (up to 24 months from the Application's approval). If the Project also received a six-month extension to draw down and use funds, the Project must draw down and use funds within six months from the extension expiration date (up to 30 months from the Application's approval). Additional extensions to the above periods may be requested, and granted by the Bank, on a case-by-case basis, in its sole discretion, upon the submission of sufficient documentation indicating progress toward Project completion and funding. All sources of funding must be committed within a reasonable period of time from the Application's approval. If the Subsidy approved is not drawn down and used by the Project or an extension is not obtained as set forth above, the Bank shall cancel its approval, any funded Subsidy shall be returned to the Bank, and the Bank shall make such cancelled Subsidy available for other AHP-eligible projects. The Member and the Project Sponsor acknowledge that in the event that they fail to satisfy such timing requirements, the Repayment and Recovery Provisions set forth in Paragraph 15 shall apply with respect to any amount of the Subsidy already disbursed by the Bank for the Project.
9. **Subsidy Pass Through.** The Member shall pass on to the Project the full amount of the Subsidy, which was approved and funded to the Member by the Bank.
10. **Use of Subsidy.** The Member and the Project Sponsor shall use the Subsidy only as set forth in the Application, and consistent with the requirements of the AHP Regulations and the Bank's AHP Policies and Procedures.
11. **Modification.** The Member and the Project Sponsor agree that no modifications will be made to the Project's specifications, as set forth in the Application, without the prior written approval of the Bank. Neither the Member nor the Project Sponsor, without the prior written approval of the Bank, shall modify the Project in any way that will impact the original scoring or feasibility elements of the Project (based on the Bank's scoring and feasibility standards and guidelines for the funding period in which the Project was approved for the Subsidy), or that will change (a) the Member, or (b) the identity of the Project Sponsor or the general partner of the Project Sponsor. In the event that the Member or the Project Sponsor proposes to modify the Project in any way described in the immediately preceding sentence, the Member shall submit to the Bank a written request for approval to make the proposed modification. The written request shall describe the proposed modification in detail, and shall include all supporting documentation necessary as determined by the Bank in its sole discretion to evaluate the proposed modification.
12. **Monitoring.** During the period of construction or rehabilitation of the Project, the Project Sponsor must furnish a written report to the Member semi-annually on whether satisfactory progress is being made toward the completion of the Project. During such period, the Member must take the steps necessary to determine whether satisfactory progress is being made toward the completion of the Project and must furnish a written report to the Bank semi-annually on the status of the Project. Within six months of the Project completion, the Project Sponsor must certify in writing to the Bank that (i) the Subsidy has been used according to the commitments made in the Application, and (ii) the AHP-assisted units are subject to deed restrictions or other legally enforceable retention agreements or mechanisms as specified in Paragraph 14. The Member and the Project Sponsor each agree to perform their respective monitoring

requirements as set forth in the AHP Regulations. The Member and the Project Sponsor each further agree to perform such other monitoring as may be required by the Bank's AHP Policies and Procedures, or as may otherwise be required by the Bank in its sole discretion.

13. **Access to Information.** Each of the Member and the Project Sponsor expressly authorizes the Bank, and the Project Sponsor expressly authorizes the Member, to audit the Project, including loan documentation and books and records of account, and to conduct on-site inspections of the Project during normal business hours, and upon reasonable advance notice. The Member and the Project Sponsor agree to fully cooperate in and with the Bank's review of the Project, and to promptly provide to the Bank all documents and information reasonably requested by the Bank. The Project Sponsor agrees to fully cooperate in and with the Member's review of the Project, and to promptly provide to the Member all documents and information reasonably requested by the Member.

14. **Retention.**

- (a) "**Retention Period**" means five years from closing on an AHP-assisted for-sale owner-occupied unit that is part of the Project.
- (b) The Member shall ensure, and the Project Sponsor agrees, that each AHP-assisted for-sale owner-occupied unit that is part of the Project financed by the proceeds of a Subsidy (whether purchased, constructed or purchased in conjunction with rehabilitation) (the "**Property**") shall be subject to a deed restriction or other legally enforceable retention agreement or mechanism, consistent with the AHP Regulations and the Bank's AHP Policies and Procedures, and requiring at a minimum, that: (i) the Bank and the Member shall be given notice of any sale, transfer, assignment of title or deed, or refinancing of the AHP Property occurring during the Retention Period (each, a "**Transfer Event**"); (ii) in the case of a Transfer Event affecting the Property prior to the end of the Retention Period, an amount equal to the lesser of (A) the Subsidy reduced on a pro rata basis per month until the Transfer Event during the Retention Period; or (B) any net proceeds from the Transfer Event of the Property, as applicable, minus the Owner's investment (the "**Recapture Formula**") shall be repaid to the Bank unless (1) the Property was assisted with a permanent mortgage loan funded by an AHP subsidized advance; (2) the subsequent purchaser, transferee, or assignee is a low- or moderate-income household, as determined by the Bank; (3) the amount of the Subsidy that would be required to be repaid in accordance with the Recapture Formula is \$2,500 or less; or (4) in the case of a refinancing of the Property during the Retention Period, following the refinancing, the Property continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism, incorporating the requirements of clauses (i), and (ii) of this paragraph; and (iii) the obligation to repay the Subsidy to the Bank shall terminate after any event of foreclosure, transfer by deed-in-lieu of foreclosure, an assignment of a Federal Housing Administration first mortgage to HUD, or death of the Owner (all Owners if more than one) (each, a "**Foreclosure Event**").
- (c) In the event that a Transfer Event occurs on the Property prior to the end of the Retention Period and repayment of the Subsidy is required pursuant to this paragraph and the AHP Regulations, then the Repayment and Recovery Provisions set forth in Paragraph 15 shall apply.
- (d) Notwithstanding anything to the contrary, the obligation to repay the Subsidy through the Repayment and Recovery Provisions set forth in Paragraph 15 shall terminate after any Foreclosure Event.
- (e) If due to circumstances that are not a result of an action or omission of the Member, an AHP-assisted Owner-occupied unit in the Project goes into foreclosure or another form of noncompliance occurs prior to the end of the AHP-assisted Owner-occupied unit's Retention Period, the Member shall be required to recover and repay to the Bank only that amount of the Subsidy that the Member can recover through reasonable collection efforts. If an AHP-assisted Owner-occupied unit in the Project goes into foreclosure or another form of noncompliance occurs due to an action or omission of the Member, then the Repayment and Recovery Provisions of Paragraph 15 shall apply.
- (f) The Member, or the Project Sponsor if so designated by Member, shall notify the Bank in writing of a Transfer Event at least 30 calendar days prior to the anticipated happening of such an event.

## 15. **Repayment and Recovery Provisions.**

### (a) **Noncompliance by Member**

The Member shall repay that portion of the Subsidy to the Bank, plus interest as conclusively determined by the Bank consistent with the Bank's AHP Policies and Procedures that, as a result of the Member's actions or omissions, is not used in compliance with the terms of the Application or the requirements of the AHP Regulations, unless such noncompliance is cured by the Member within a reasonable period of time, as determined by the Bank in its sole discretion, or the circumstances of such noncompliance are eliminated through an approved modification of the Application, in accordance with the applicable provisions of the AHP Regulations and Paragraph 11.

### (b) **Noncompliance by Project Sponsor**

The Project Sponsor shall repay to the Bank that portion of the Subsidy, plus interest as conclusively determined by the Bank consistent with the Bank's AHP Policies and Procedures that, as a result of the Project Sponsor's actions or omissions, is not used in compliance with the terms of the Application or the requirements of the AHP Regulations, unless such noncompliance is cured by the Project Sponsor within a reasonable period of time, as determined by the Bank in its sole discretion, or the circumstances of such noncompliance are eliminated through an approved modification of the Application in accordance with the applicable provisions of the AHP Regulations and Paragraph 11. The Member agrees to make reasonable collection efforts to recover such repayment obligations from the Project Sponsor, if necessary. For purposes of this subparagraph, however, where the obligation to repay the Subsidy arises solely as a result of the Project Sponsor's actions or omissions, the Member shall not be obligated to the Bank for the return of the amount of the Subsidy that cannot be recovered from the Project Sponsor through reasonable collection efforts made by the Member. The Member agrees to report in writing to the Bank the reasonable collection efforts made by the Member.

### (c) **Repayment Obligations**

The repayment obligations, if any, of the Member or the Project Sponsor, as the case may be, under this Agreement shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement, the AHP Regulations and the Bank's AHP Policies and Procedures under all circumstances, including the following: (i) any lack of validity or enforceability of any of the loan documents or other agreements relating to the Project, including any other agreement between the Member and the Project Sponsor pertaining to the Project (the "**Related Documents**") or (ii) any amendment or waiver of or any consent to or departure from all or any of the Related Documents.

### (d) **Notices**

The Member and the Project Sponsor agree to promptly report and give written notice to the Bank of any material changes in the financial structure of the Project, including any new sources of funds, failure to receive other Project-related funds and compensated tax credit utilization, or any other material changes in the Project's scope and terms. The Bank retains the right to reevaluate the need for the Subsidy in light of any such material changes and may make such modifications thereto, including the amount of the Subsidy, as it deems appropriate in its sole discretion. The Member or the Project Sponsor, as the case may be, shall promptly give written notice to the Bank of an occurrence of noncompliance with the requirements of the AHP Regulations, the Bank's AHP Policies and Procedures or this Agreement at the earliest possible date after discovery of such noncompliance, and after said Party has had reasonable time to investigate and evaluate the occurrence which may constitute noncompliance, but in any event, notice shall be given no later than 15 calendar days following discovery of an occurrence that constitutes noncompliance.

## 16. **Finance Agency Compliance Determinations.**

- (a) The Member and the Project Sponsor acknowledge that the Bank and the Bank's AHP are subject to the regulatory, supervisory and examination authority of the Finance Agency. The Member and the Project Sponsor further acknowledge that pursuant to such authority, the Finance Agency may determine at any time, based on its review of the Bank's records for the Project, that the Subsidy has not been used in compliance with the terms of the Application or the requirements of the AHP Regulations, and that such noncompliance is the result of the Member's or the Project Sponsor's

actions or omissions. If the Finance Agency makes such a determination, the Bank shall notify the Member and the Project Sponsor in writing of the Finance Agency's determination and may require remedial action by the Member or the Project Sponsor, or both, in accordance with the terms of the AHP Regulations and this Agreement. The Member and the Project Sponsor agree that within 30 calendar days after receipt of such notice, or within such other period of time as the Bank may approve, the Member or the Project Sponsor, or both, as may be directed by the Bank pursuant to a supervisory determination of the Finance Agency, shall cure the noncompliance, eliminate the noncompliance through an approved modification of the Application in accordance with the applicable provisions of the AHP Regulations and Paragraph 11, or repay the Subsidy to the Bank, all in accordance with Paragraph 15.

(b) Upon the Bank's determination or pursuant to an order issued by the Finance Agency, the Bank may suspend or debar the Member or the Project Sponsor from further participation in the AHP due to (i) a pattern of noncompliance or (ii) a single instance of flagrant noncompliance with the AHP Regulations, the Bank's AHP Policies and Procedures, the Application or this Agreement.

17. **Transfer of Subsidy.** The Member shall use its best efforts to transfer its obligations under the Application and this Agreement to another member of the Bank in the event of the Member's loss of membership in the Bank prior to the Bank's final funding of the Subsidy. The Member shall promptly notify the Bank in the event that the Member becomes obligated pursuant to this paragraph to use its best efforts to transfer the Subsidy. If, after the final disbursement of the Subsidy to the Member, the Member undergoes an acquisition or consolidation resulting in a successor organization that is not a member of the Bank, the nonmember successor organization shall assume the Member's obligations under the Application.

18. **Lending of Subsidy.** In the event that the Member or the Project Sponsor lends the Subsidy to the Project, any repayments of principal and payments of interest received by the Member or the Project Sponsor shall be paid forthwith to the Bank.

19. **Project Sponsor's Representations and Warranties.**

The Project Sponsor represents and warrants to the Bank as of the effective date of this Agreement, on each funding date of the Subsidy, and as of the dates that the Project Sponsor provides monitoring information and certifications to the Bank as set forth in Paragraph 12 and the AHP Regulations, the following:

(a) **Existence**

The Project Sponsor is a Sponsor as such term is defined in the AHP Regulations, and is in good standing in the state of its organization. The Project Sponsor is duly qualified to do business in each state in which the ownership of its respective property or the nature of its respective business makes such qualification necessary and where the failure to so qualify would reasonably be expected to have a material adverse affect on the business and operations of the Project Sponsor. The Project Sponsor has all powers and all material governmental licenses, authorizations, consents and approvals required to carry on its respective business as now conducted, except for such matters, the failure of which to so maintain, would not reasonably be expected to have a material adverse effect on the operations or financial condition of the Project Sponsor.

(b) **Power and Authority**

The execution, delivery and performance by the Project Sponsor of this Agreement and the Related Documents to which the Project Sponsor is a party are within the corporate or other powers of the Project Sponsor, have been duly authorized by all necessary action, do not contravene or constitute a default under any provision of applicable law or regulation or of any judgment, injunction, order, or decree binding on the Project Sponsor, or its property.

(c) **Enforceability**

This Agreement and the Related Documents to which the Project Sponsor is a party have been or shall be duly executed and delivered and are, or upon execution shall be, the valid and legally binding obligations of the Project Sponsor, enforceable against the Project Sponsor in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws or equitable principles relating to or limiting creditors' rights generally or the availability of equitable remedies.

(d) **No Breach or Default**

The consummation of the transactions contemplated by this Agreement and the execution, delivery and performance of this Agreement and the Related Documents by the Project Sponsor will not violate or constitute or result in a material breach of or a default under any agreement, mortgage, deed of trust, lease, loan or security agreement, corporate charter, articles, or bylaws, as applicable, or any other instrument to which the Project Sponsor is a party or by which it may be bound or affected.

(e) **Statements**

The information given by the Project Sponsor in the Application, the Related Documents and in any other documents provided to the Bank, or in any oral statement made, in connection with the Application and the Project, is complete and accurate in all material respects.

(f) **Eligibility Standards; Use of Funds**

The Project meets the applicable minimum eligibility standards set forth in the AHP Regulations. The Subsidy shall be used only as set forth in the Application, and consistent with the requirements of the AHP Regulations and the Bank's AHP Policies and Procedures.

**20. Member's Representations and Warranties.**

The Member represents and warrants to the Bank as of the effective date of this Agreement, on each funding date of the Subsidy, and as of the dates the Member provides monitoring information and certifications to the Bank as set forth in Paragraph 12 and the AHP Regulations, the following:

(a) **Power and Authority**

The execution, delivery and performance by the Member of this Agreement and the Related Documents to which the Member is a party are within the corporate or other powers of the Member, have been duly authorized by all necessary action, do not contravene or constitute a default under any provision of applicable law or regulation or of any judgment, injunction, order, or decree binding on the Member, or its property.

(b) **Enforceability**

This Agreement and the Related Documents to which the Member is a party have been or shall be duly executed and delivered and are, or upon execution shall be, the valid and legally binding obligations of the Member, enforceable against the Member in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws or equitable principles relating to or limiting creditors' rights generally or the availability of equitable remedies.

(c) **No Breach or Default**

The consummation of the transactions contemplated by this Agreement and the execution, delivery and performance of this Agreement and the Related Documents by the Member shall not violate or constitute or result in a material breach of or a default under any agreement, mortgage, deed of trust, lease, loan or security agreement, corporate charter, articles, or bylaws, as applicable, or any other instrument to which the Member is a party or by which it may be bound or affected. To the best of the Member's knowledge, the Member is not in default under its Advances, Collateral Pledge and Security Agreement with the Bank, or any other agreement with the Bank.

(d) **Statements**

The information given by the Member in the Application, the Related Documents and in any other documents provided to the Bank, or in any oral statement made, in connection with the Application and the Project, is complete and accurate in all material respects.

(e) **Eligibility Standards; Use of Funds**

The Project meets the applicable minimum eligibility standards set forth in the AHP Regulations and the District Eligibility Requirements set forth in the Implementation Plan. The Subsidy shall be used only as set forth in the Application, and consistent with the requirements of the AHP Regulations and the Bank's AHP Policies and Procedures.

21. **Confidentiality.** Each of the Member and the Project Sponsor acknowledge that in connection with the Project, it will have access to and knowledge of certain confidential and proprietary information, including employment, income, assets, family characteristics and other non-public personal information as defined by Title V of the Gramm-Leach-Bliley Act (public Law No. 106-102) and its implementing regulations and guidelines (“**Confidential and Proprietary Information**”).

Each of the Member and the Project Sponsor agree to (i) use Confidential and Proprietary Information only for the purposes of administering the Project and ensuring that the Project meets the eligibility standards required by the AHP Regulations and the Bank’s AHP Policies and Procedures, (ii) use commercially reasonable controls to safeguard Confidential and Proprietary Information, and comply with all applicable statutes, regulations, rules and other laws and prevent any prohibited or unauthorized use of such information, (iii) promptly notify the Bank of any unauthorized disclosure of or access to Confidential and Proprietary Information, and (iv) in the event of any such unauthorized disclosure or access, take such actions as are necessary to remedy such unauthorized disclosure or access.

Notwithstanding the foregoing, each of the Member and the Project Sponsor will be required to release certain Confidential and Proprietary Information to the Bank provided that any such release is (i) necessary to ensure administration of the Project and its compliance with the AHP Regulations and the Bank’s AHP Policies and Procedures, and (ii) made in strict compliance with federal and state privacy laws.

22. **Assignment.** Neither the Member nor the Project Sponsor may, voluntarily or involuntarily, or by operation of law or otherwise, assign or transfer any of its rights or obligations under this Agreement without the express prior written consent of the Bank.
23. **Amendment; Waivers.** No modification, amendment, or waiver of any provision of this Agreement or consent to any departure therefrom shall be effective unless executed by all the Parties. Any forbearance, failure, or delay by a Party, in exercising any right, power, or remedy under this Agreement or under law or regulation shall not be deemed to be a waiver thereof, and any single or partial exercise by a Party of any right, power, or remedy shall not preclude the further exercise thereof. Every right, power, and remedy of a Party shall continue in full force and effect until specifically waived by the Party, in writing.
24. **Jurisdiction.** In any action or proceeding brought by the Bank, the Member or the Project Sponsor in order to enforce any right or remedy under this Agreement, the Related Documents or any transaction contemplated by this Agreement, the Parties hereby consent to, and agree that they shall submit to, the jurisdiction of the United States District Court for the Western District of Pennsylvania or, if such action or proceeding may not be brought in federal court, the jurisdiction of the appropriate state court for such action or proceeding located in Allegheny County, Pennsylvania to the exclusion of all other courts.
25. **Applicable Law; Severability.** This Agreement shall be governed by the statutory and common law of the United States and, to the extent federal law incorporates or defers to state law, or is not applicable, the laws of the Commonwealth of Pennsylvania, excluding, however, the conflict of laws rules of such Commonwealth. In the event that any portion of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement that can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable. To the extent the Finance Agency’s applicable regulations are inconsistent with any term or provision of this Agreement, said regulations shall govern the conduct and obligations of the Parties.
26. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Member, the Project Sponsor and the Bank.
27. **Notices.** All notices and other communications shall be mailed, sent by facsimile transmission (with confirmation copy), or served personally on a Party at the address indicated below, or at such other address as shall be designated by a Party by future written notice to the other parties. Notice sent by facsimile transmission shall be effective on the date transmitted; notice sent by personal service shall be effective on the date of delivery; and notice sent by U.S. mail shall be effective three days after such communication is deposited in the mail with first class postage prepaid, addressed as aforesaid.

If to the Bank:

**Federal Home Loan Bank of Pittsburgh**

601 Grant Street  
Pittsburgh, PA 15219  
Attn: Community Investment Department

If to the Member:

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If to the Project Sponsor:

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- 28. **Counterparts.** This Agreement may be executed by the Parties on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same Agreement.
- 29. **Headings.** Paragraph headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.
- 30. **Consents.** Any time the Bank’s consent or approval is required under this Agreement, such consent or approval shall be consistent with the applicable requirements of the AHP Regulations and the Bank’s AHP Policies and Procedures, and otherwise shall not be unreasonably withheld or delayed.
- 31. **Other Rights and Remedies.**
  - (a) Nothing in this Agreement shall be deemed in any way to limit the Bank’s rights and remedies under law, or prevent the Bank from taking any action pursuant to law in the event of the Member’s or the Project Sponsor’s failure, for whatever reason, to comply with any provision of this Agreement, or to perform any promise or obligation or to satisfy any condition or requirement contained in this Agreement, the AHP Regulations or the Bank’s AHP Policies and Procedures. Nothing in this Agreement shall be deemed in any way to limit the Member’s rights and remedies under law, or prevent the Member from taking any action pursuant to law in the event of the Project Sponsor’s failure, for whatever reason, to comply with any provision of this Agreement, or to perform any promise or obligation or to satisfy any condition or requirement contained in this Agreement, the AHP Regulations or the Bank’s AHP Policies and Procedures.
  - (b) In the event that the Member fails to fulfill any of its obligations under this Agreement for whatever reason, then in any such event, the Bank, at its option and in its sole discretion, may, but shall in no event be required to, fulfill such obligations of the Member; and in any such event, the Project Sponsor expressly agrees that it is obligated to the Bank as it would be to the Member and shall in all respects cooperate with the Bank in its fulfillment of the obligations of the Member.
- 32. **Entire Agreement.** This Agreement embodies the entire agreement and understanding among the Parties relating to the subject matter of this Agreement and supersedes all prior agreements among the Parties that relate to such subject matter, including all AHP subsidy agreements that may have been previously entered into by the Bank and the Member. The Member or the Project Sponsor, or both, may have entered into other agreements to which the Bank is not a party concerning the Project, and such other agreements are not subject to this paragraph.

[Signature page follows]

**Federal Home Loan Bank of Pittsburgh**

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

**Member**

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

**Project Sponsor**

\_\_\_\_\_

\_\_\_\_\_  
(Name of General Partner, if applicable)

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_

\_\_\_\_\_  
(Name of General Partner, if applicable)

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)