**Do not include this cover page in the use of this Note.**

**Affordable Housing Program – AHP Homeownership Set-Aside Program: WISH**

**Promissory Note**

This form document has been prepared to address the minimum retention requirements of the AHP Regulations. The Federal Home Loan Bank of San Francisco makes no representation or warranty that a court will enforce these form documents in accordance with applicable state law. We strongly recommend that each member have its legal counsel review the documents to address any state law requirements, including but not limited to consumer credit laws, notary requirements, usury laws, recording procedures and requirements, and requirements for mortgage states. The final note and rider to the deed of trust must meet the requirements of your jurisdiction.

All subsidies disbursed by the member to an individual homebuyer must be secured by a deed restriction or other legally enforceable retention agreement or instrument consistent with the AHP regulations. Refer to the AHP retention, repayment, and recovery provisions described in the AHP Direct Subsidy Agreement – Homeownership Set-Aside Program. These documents address the minimum retention requirements of the AHP Regulation only.

**PROMISSORY NOTE**

(AHP Homeownership Set-Aside Program: WISH)

|  |  |
| --- | --- |
| $ | **, 20**, **California** |

FOR VALUE RECEIVED,  ("Owner" or “Borrower”), promises to pay to , a  or its successor as holder of this Note ("Lender"), or order, the principal sum of  Dollars ($), or so much thereof as may be advanced hereunder as provided below. The funds disbursed by Lender to Owner under this Promissory Note (“Note”) were made available based upon a conditional commitment by the Bank to disburse funds to Lender pursuant to the Regulations governing the AHP.

1. **Definitions**. As used in this Note, the following capitalized terms have the following meanings:

“**AHP**” means the Federal Home Loan Bank Affordable Housing Program Homeownership Set-Aside Program, as set forth in the Bank’s Policies and Procedures.

“**AHP Agreement**” means the agreement between Lender and the Bank which establishes the conditions under which the funds are to be disbursed by the Bank to Lender for the Subsidy, including certain Bank monitoring requirements that the Owner agrees to comply with.

“**AHP Application**” means the application submitted to the Bank describing the proposed use of Subsidy and setting forth commitments which obligate the Lender to the Bank regarding the funds obtained by Lender.

“**AHP-Assisted Unit**” means the real property commonly known as:  and more particularly described on Exhibit A of the Deed of Trust and the improvements now on or at any time constructed on such property.

“**AHP Regulation**” means the regulations set forth at 12 C.F.R. Part 1291, as amended from time to time, of the Federal Housing Finance Agency governing the AHP.

“**Deed of Trust**” means the deed of trust or similar security instrument dated on or about the date of this Note, in favor of Lender and encumbering the AHP-Assisted Unit.

“**Bank**” means the Federal Home Loan Bank of San Francisco.

“**Bank Policies and Procedures**” means the Bank’s AHP Implementation Plan, and other AHP policies and procedures, as amended from time to time.

**“Household Investment”** means the following, to the extent paid by the household and documented (in the Closing Disclosure or other settlement statement, if applicable, or elsewhere) to the Bank or its designee:

(a) Reasonable and customary costs paid by the household in connection with the purchase of the unit (including real estate broker’s commission, attorney’s fees, and title search fees);

(b) Any down payment paid in connection with the household’s purchase of the unit;

(c) The cost of any capital improvements made after the household’s purchase of the unit until the time of the subsequent sale, transfer, assignment of title or deed, or refinancing; and

(d) The amount of principal on any mortgage senior to the AHP subsidy lien or other legally enforceable AHP subsidy repayment obligation repaid by the household.

“**Lender**” means the member of the Bank that is the payee of this Note and identified above as “Lender”.

“**Loan**” means the advance of the AHP Subsidy evidenced by this Note.

"**Loan Documents**" means this Note, the Deed of Trust, the Retention Agreement and all other documents relating to or securing this Note (as renewed, amended, modified, restated and extended from time to time).

**“Net Proceeds”** means:

(a) In the case of a sale, transfer, or assignment of title or deed of an AHP-Assisted unit by a household during the AHP five-year retention period, the sales price minus reasonable and customary costs paid by the household in connection with the transaction (including real estate broker’s commission, attorney’s fees, and title search fees) and outstanding debt superior to the AHP subsidy lien or other legally enforceable AHP subsidy repayment obligation;

(b) In the case of a refinancing of an AHP-Assisted unit by a household during the AHP five-year retention period, the principal amount of the new mortgage minus reasonable and customary costs paid by the household in connection with the transaction (including attorney’s fees and title search fees) and the principal amount of the refinanced mortgage.

“**Owner**” means the recipient of the AHP Subsidy and defined above as “Owner” or “Borrower.”

“**Retention** **Agreement**” means the Rider to Deed of Trust - Affordable Housing Program Retention Agreement and Restrictive Covenants attached to and made a part of the Deed of Trust encumbering the AHP-Assisted Unit.

“**Retention** **Period**” means five years from closing for an AHP-Assisted owner-occupied unit where the AHP subsidy is used for purchase of the unit.

“**Subsidy**” means the original principal amount of this Note set forth above.

1. **The Loan**. The Parties acknowledge and agree that Lender has disbursed or is obligated to disburse Subsidy to Owner to be used in connection with the purchase of the AHP-Assisted Unit.
2. **Interest**. The indebtedness evidenced by this Note shall not bear any interest except as provided below.
3. **Repayment**. The Loan will not amortize. Subject to Section 7, below, and unless earlier prepayment is required under Section 6, payment of the principal balance of this Note will be due and payable in full at the end of the Retention Period, provided that Owner's liability on this Note shall be reduced on a pro rata basis as described in Section 6(a). Provided Owner has owned and occupied the AHP-Assisted Unit as Owner’s principal residence during the entire Retention Period and no default or breach has occurred and is continuing under this Note, the Deed of Trust, the Retention Agreement and the other Loan Documents and no misuse (as defined in Section 6(b) below) of the Subsidy has occurred, Owner shall be released from any obligation under this Note and Lender shall reconvey the Deed of Trust at the end of the Retention Period.
4. **Optional Prepayment**. Owner shall have the right to prepay all or a portion of the principal due under this Note without any charge or penalty being made therefore, provided that such prepayment shall not eliminate any obligation to pay interest if it is determined that Owner misused the Subsidy as set forth in section 6(b) of this note.
5. **Required Prepayment**.
   1. **Sale, Transfer, Assignment, or Refinancing**. In the case of a sale, transfer, assignment of title or deed, or refinancing of the AHP-Assisted Unit by the household during the Retention Period, the Bank shall be repaid the lesser of: (A) the amount of AHP subsidy reduced on a pro rata basis per month until the AHP-Assisted Unit is sold, transferred, or its title or deed transferred, or is refinanced; or (B) any net proceeds from the sale, transfer, or assignment of title or deed of the AHP-Assisted Unit, or the refinancing, as applicable, minus the AHP-Assisted household’s investment, unless one of the following exceptions applies:
      1. in the case of a sale, transfer or assignment of the AHP-assisted Unit, the subsequent purchaser, transferee, or assignee is a low- or moderate-income household as defined in the AHP Regulation, and as determined by the Bank pursuant to the Bank’s Policies and Procedures;
      2. in the case of a refinancing, following the refinancing, the AHP-Assisted Unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism as herein described incorporating the income eligibility, notice requirements and the obligations and restrictions described in the Retention Agreement and the AHP Regulation for the remainder of the Retention Period; or
      3. the amount of the AHP subsidy that would be required to be repaid in accordance with the calculation in this section is $2,500 or less.

Owner shall maintain documentation of their household investments and capital improvements in case the AHP-Assisted Unit is sold or refinanced during the Retention Period.

* 1. **Subsidy Repayment to the Bank.** Lender’s obligation to repay Subsidy to the Bank is governed by the Bank’s AHP Policies and Procedures.

1. **Effect of Foreclosure, Transfer by Deed-in-lieu, Assignment of First Mortgage,** **or Death of Owner**. The obligation to repay the Subsidy to Lender and to the Bank and the requirement that the AHP-Assisted property be occupied during the retention period shall terminate if title to the AHP-Assisted Unit is transferred by foreclosure or deed-in-lieu of foreclosure, if the first mortgage on the AHP- Assisted Unit is assigned to the Department of Housing and Urban Development (HUD), or after the death of the Owner.
2. **Monitoring.** Owneragrees to comply with all requests by Lender for information or documentation arising from Lender’s obligations to obtain information from the Owner under the AHP Regulation, AHP Application, AHP Agreement, or the Bank’s Policies and Procedures.
3. **Manner and Place of Payment**. All payments due under this Note shall be payable in lawful money of the United States of America at the office of Lender or at such other address as Lender may provide to Owner.
4. **No Offset**. Owner hereby waives any rights of offset it now has or may hereafter have against Lender, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.
5. **Waiver**. Owner and any endorsers or guarantors of this Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, dishonor and non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred.
6. **Attorneys' Fees**. If an action is instituted on this Note, the undersigned promises to pay, in addition to the costs and disbursements allowed by law, such sum as a court may adjudge reasonable as attorneys' fees in such action.
7. **Security**. This Note is secured by the Deed of Trust.
8. **Modifications and Waivers**. No provision of this Note may be waived, modified, discharged or canceled orally, but only in writing and signed by the party against whom enforcement of any waiver, modification, discharge or cancellation is sought. In case any one or more of the provisions contained in this Note shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Note shall be construed as if such invalid, illegal or unenforceable provision(s) had never been included.
9. **Governing Law**. The provisions of this Note shall be governed by the laws of the jurisdiction in which the real property which is subject to the Deed of Trust securing this Note is located except to the extent such law is contrary to or inconsistent with the laws, rules or regulations of the United States.
10. **Counterparts.** This Note may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute and be one and the same instrument.

|  |  |
| --- | --- |
|  | Owner |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |