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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 10/05/2015 02:11 PM Pg: 1 of 12

Property of Cook County Clerk's Office

RETENTION/REPAYMENT AGREEMENT
FOR RENTAL PROJECTS
USING LOW INCOME HOUSING TAX CREDITS (LIHTCs)

FIDELITY NATIONAL TITLE

999101934

16 of 22

Upon recording, please return to:
Albert, Whitehead, P.C.
10 North Dearborn, Suite 600
Chicago, Illinois 60602
Attn: Patricia Holland

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RETENTION / REPAYMENT AGREEMENT FOR RENTAL PROJECTS USING LOW INCOME HOUSING TAX CREDITS (LIHTCs)

AFFORDABLE HOUSING PROGRAM REPAYMENT AGREEMENT

THIS AGREEMENT is entered into this 29th day of September, 2015, by and between **VILLAGE BANK & TRUST**, an Illinois banking corporation ("Bank"), **KENNETH YOUNG CENTER**, an Illinois not-for-profit corporation ("Sponsor") and **DDG PHILHAVEN, LP**, an Illinois limited partnership ("Owner"). The Bank, Owner and Sponsor are jointly referred to as the "parties."

RECITALS:

- A. Pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), the Federal Housing Finance Board ("Board") is required to cause each Federal Home Loan Bank ("FHLBank") to establish an affordable housing program ("AHP") to assist members of each FHLBank to finance affordable housing for very-low, low and moderate income households.
- B. The Bank is a member of the Federal Home Loan Bank of Chicago ("Chicago Bank") and submitted an application to the Chicago Bank ("the Application") for an AHP subsidy in connection with the purchase, construction and/or rehabilitation of the property commonly known as PhilHaven located in Wheeling, Illinois as legally described on Exhibit A attached hereto and incorporated herein by reference (the "Property"). Sponsor has formed Owner for the purpose of acquiring, constructing or rehabilitating the Property to be rented to Low Income Households and Very-Low Income Households (each as defined herein). Sponsor is one of Owner's General Partners.
- C. Pursuant to regulations (including, without limitation, those contained in 12 CFR Part 1291) promulgated by the Board pursuant to FIRREA ("AHP Regulations"), members of each FHLBank are required to provide for the recapture of any subsidized advances or other subsidized assistance in connection with unused or improperly used AHP subsidies.
- D. In connection with the AHP Subsidy, Bank entered into that certain Affordable Housing Program Agreement ("Subsidy Agreement") with an effective date of November 17, 2014 with Chicago Bank and Sponsor for project no. 2014A07018 pursuant to which Bank and Sponsor agreed to be bound by AHP Regulations and perform certain monitoring functions with respect to the AHP Subsidy (defined in paragraph 1 below).

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E. The parties desire to set forth those circumstances under which the Bank shall be entitled to repayment of the AHP Subsidy proceeds from the Owner or Sponsor in connection with its AHP Subsidy to Sponsor for the purchase, construction or rehabilitation of the Property.

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:

AGREEMENTS

1. Subsidy Amount. The parties acknowledge and agree that, subject to the approval of the Chicago Bank, Bank shall disburse the sum of **Eight Hundred Fifty Thousand and No/ Dollars (\$850,000.00)** ("AHP Subsidy") to the Sponsor, which Sponsor has agreed to loan to Owner for use in connection with the purchase, construction or rehabilitation of the Property in accordance with the Application. The term during which the Owner and Sponsor must comply with the AHP Regulations to qualify for and maintain the AHP Subsidy is fifteen (15) years from the date of Project completion (the "Retention Period"), at which time this Agreement shall terminate.
2. Affordability Requirements. Owner and Sponsor agree, during the term of this Agreement to manage and operate the Property as rental housing for very low, low, and/or moderate income households. For purposes of this Agreement, "Very-Low Income Households" shall mean households whose annual income is 50% or less of area median income, "Low Income Households" shall mean households whose annual income is 60% or less of area median income, and "Moderate Income Households" shall mean households whose annual income is 80% or less of area median income, as determined from time to time by HUD or as further provided in federal regulations. During the term of this Agreement, the Owner agrees to make **Twenty Seven (27)** units affordable for and occupied by Very-Low Income Households and **Twenty Three (23)** units affordable for and occupied by Low Income Households. In addition, Owner shall reserve Ten (10) units for homeless households in accordance with the "Summary of AHP Project Commitments as of 11/17/2014" appended to the Chicago Bank letter dated November 20, 2014.
3. Notice of Sale or Refinancing. The Sponsor and Owner shall give written notice to the Bank and Chicago Bank at least five days prior to any sale or refinancing of the Property occurring prior to the end of the Retention Period.
4. Sale or Refinancing of the Property. If the Property is sold or refinanced prior to the end of the Retention Period, Sponsor and/or Owner must repay an amount equal to the full amount of the AHP Subsidy, unless the Project continues to be subject to a deed restriction, this Agreement or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the Application for the duration of the Retention Period.

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5. Foreclosure. Upon any foreclosure resulting from any event of default under any senior mortgage on the Property securing the financing for the Project described in the Application, the income-eligibility and affordability restrictions applicable to the Project shall terminate.
6. Compliance Documentation. Owner and Sponsor shall provide to the Bank and Chicago Bank any information regarding the project and use of the AHP Subsidy pursuant to the AHP Regulations as amended from time to time and as required by the Chicago Bank.
7. Compliance. Owner and Sponsor shall at all times comply with all laws, rules and regulations (including without limitation AHP Regulations) and with the provisions contained in the Application and those provisions contained in the Subsidy Agreement as they relate to the construction, ownership, management and operation of the Property.
8. Breach of Affordability or Reporting Requirements; Breach by Owner.
- (a) In the event the Owner or Sponsor, at any time during the term of the AHP Subsidy, defaults in its obligation to manage and operate the Property and provide compliance information as required pursuant to paragraph 6, above, or otherwise fails to comply with the terms of this Agreement, and such default continues for a period of 60 days after written notice to Owner from Bank or such shorter period of time required to avoid a default by Bank under the Subsidy Agreement, it shall be an "Event of Default" of this Agreement and Sponsor or Owner shall immediately pay Bank that portion of the AHP Subsidy which may be recaptured from Bank by Chicago Bank.
- (b) Owner shall repay to Bank that portion of the AHP Subsidy, including interest, if appropriate, that as a result of Owner's actions or omission, is not used in compliance with the terms of the Application or the requirements of the AHP Regulations, unless such noncompliance is cured by Owner within a reasonable period of time or the circumstances of noncompliance are eliminated through a modification of the Application, pursuant to AHP Regulations.
9. Indemnification and Survival. Sponsor and Owner hereby agree to fully and unconditionally indemnify, defend and hold harmless the Bank from and against any judgments, losses, recapture, liabilities, damages (including consequential damages), costs, expenses of whatsoever kind or nature, including without limitation attorney's fees, expert witness fees, and any other professional fees and litigation expenses or other obligations incurred by the Bank that may arise in any manner out of actions or omissions which result from the Sponsor and Owner's performance or failure to perform pursuant to the terms of this Agreement. The representations, warranties, obligations and indemnification of and by the Sponsor and Owner shall survive the expiration or termination of this Agreement.
10. Notices. All notices relating to this Agreement or required by the AHP Regulations shall be in writing and shall be delivered by hand or by prepaid courier (including, without limitation, Federal Express or other express mail service) or sent by registered or certified mail, postage prepaid, return receipt requested, through the United States Postal Service. Alternatively,

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notices, requests and demands may be served by facsimile transmission, provided that the same shall not be effective unless or until receipt of a complete, legible copy has been confirmed telephonically by, or by return facsimile from, the recipient. Such notices, requests and demands shall be deemed served when delivery is received or refused. Notices, requests and demands shall be addressed as follows:

If to Owner:	DDG PhilHaven, LP 900 West Jackson Blvd, 2W Chicago, Illinois 60607 Attention: Cullen Davis
	with courtesy copies to:
	NEF Assignment Corporation 10 South Riverside Plaza Suite 1700 Chicago, Illinois 60606 Attn: _____
If to Sponsor:	Kenneth Young Center 1001 Rohlwing Road Elk Grove Village, Illinois 60001 Attention: Cullen Davis
If to Bank:	Village Bank & Trust 234 West Northwest Highway Arlington Heights, Illinois 60004 Attention: Stephanie Molster
With a courtesy copy to:	Albert Whitehead PC 10 N. Dearborn Street Suite 600 Chicago, IL 60602 Attention: Patricia C. Holland
If to Chicago Bank:	Federal Home Loan Bank of Chicago 200 E. Randolph Drive Chicago, Illinois 60601 Attention: Community Investment Department

11. Certifications. Owner and Sponsor hereby certify to Bank as follows:

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(a) all the units in this Project will be open to income-qualified households without regard to sex, race, creed, religion, sexual orientation, or type or degree of disability.

(b) the AHP Subsidy shall only be for uses authorized under Part 1291 of the Affordable Housing Regulations.

12. Joint and Several. The obligations of Owner and Sponsor hereunder are joint and several.
13. Successors and Assigns. The rights and obligations of the parties to this Agreement shall inure to the benefit of, and shall be binding upon, their respective successors and assigns.
14. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
15. Execution of Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
16. Modification, Waiver and Termination. This Agreement and each provision hereof may be modified, amended, changed, altered, waived, terminated or discharged only by a written instrument signed by the parties hereto.
17. Governing Law. This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Illinois.
18. Headings. The headings of sections and paragraphs in this Agreement are for convenience only and shall not be construed to limit or define the content, scope or intent of the provisions hereof. As used in this Agreement, the singular shall include plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires.
19. Nature of Remedies. Bank's remedies under this Agreement and any other document executed in connection with the AHP Subsidy shall be cumulative and concurrent and may be pursued singly, successively, or together against any or all of Sponsor, Owner and any other Obligors, and Bank may resort to every other right or remedy available at law or in equity without first exhausting the rights and remedies contained herein. Failure of Bank, for any period of time or on more than one occasion, to exercise any option hereunder shall not constitute a waiver of the right to exercise the same at any time during the continued existence of the Event of Default or in the event of any subsequent Event of Default. Bank shall not by any other omission or act be deemed to waive any of its rights or remedies hereunder unless such waiver is in writing and signed by Bank, and then only to the extent specifically set forth therein. A waiver in connection with one event shall not be construed as continuing or as a bar to or as a waiver of any right or remedy in connection with a subsequent event.

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IN WITNESS WHEREOF, the parties have executed this Affordable Housing Program Repayment Agreement as of the date first written above.

OWNER:

DDG PHILHAVEN LP,
an Illinois limited partnership

By: DDG PhilHaven, LLC,
An Illinois limited liability company,
Its managing general partner

By: 
Cullen J. Davis its manager


BANK:

VILLAGE BANK & TRUST,
an Illinois banking corporation

By: _____
Printed Name: _____
Title: _____

SPONSOR:

KENNETH YOUNG CENTER,
an Illinois not-for-profit corporation

By: 
Susan Cowen, President/CEO

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IN WITNESS WHEREOF, the parties have executed this Affordable Housing Program Repayment Agreement as of the date first written above.

OWNER:

DDG PHILHAVEN LP,
an Illinois limited partnership

By: DDG PhilHaven, LLC,
an Illinois limited liability company,
Its managing general partner

By: _____
Cullen J. Davis, its manager

BANK:

VILLAGE BANK & TRUST,
an Illinois banking corporation

By: Stephanie Molster
Printed Name: Stephanie Molster
Title: Vice President

SPONSOR
KENNETH YOUNG CENTER,
an Illinois not-for-profit corporation

By: _____,
_____, President

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

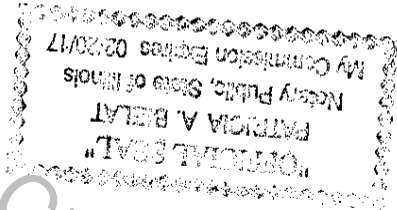
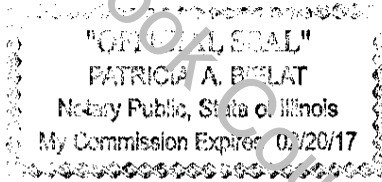
I, PATRICIA BIELAT, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Stephano Molster personally known to me and known by me to be an Authorized Signer for **VILLAGE BANK & TRUST** ("Bank") and the same person in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act, and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 15th day of Sept 2015.

Carsten Buer
Notary Public

My Commission Expires:

2/20/17



STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, _____, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cullen J. Davis, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Manager of DDG PhilHaven, LLC, managing general partner of **DDG PHILHAVEN, LP**, an Illinois limited partnership, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein.

Given under my hand and notarial seal this _____ day of _____, 2015.

Notary Public

My Commission Expires:

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT _____ personally known to me and known by me to be an Authorized Signer for **VILLAGE BANK & TRUST** ("Bank") and the same person in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act, and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____ 2015

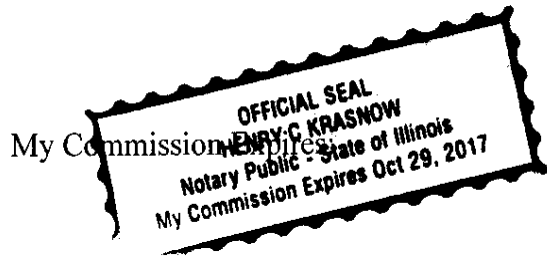
Notary Public

My Commission Expires:

STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

I, Henry Krasnow, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cullen J. Davis, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Manager of DDG PhilHaven, LLC, managing general partner of **DDG PHILHAVEN, LP**, an Illinois limited partnership, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein.

Given under my hand and notarial seal this 25 day of September, 2015.



[Signature]
Notary Public

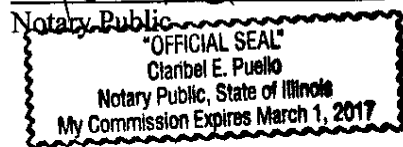
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STATE OF ILLINOIS)
)
COUNTY OF Lake) SS

I, Claribel Puella, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Susan Cowen, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as the President/CEO of KENNETH YOUNG CENTER, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein.

Given under my hand and notarial seal this 24~~th~~ day of August, 2015.

Claribel Puella



My Commission Expires:

March 1, 2017

CLERK'S OFFICE OF COOK COUNTY

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Exhibit A
Legal Description

LOT 1 OF KATIE'S SUBDIVISION, A PART OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS RECORDED JULY 12, 2006 AS DOCUMENT NO. 0619310024.

Property Address: 2418-2422 Hintz Road, Wheeling, Illinois 60090

Property Index Nos.: 03-09-402-023-0000 and 03-09-402-024-0000

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