

# UNOFFICIAL COPY

Doc#. 1923949091 Fee: \$98.00  
Edward M. Moody  
Cook County Recorder of Deeds  
Date: 08/27/2019 11:31 AM Pg: 1 of 8

**PREPARED BY AND WHEN  
RECORDED RETURN TO:**

Midwest Community Bank  
510 Park Crest Dr.  
Freeport, IL 61032  
P.O. Box 689

**OWNER-OCCUPIED  
RETENTION AGREEMENT**

STATE OF Illinois

**THIS RETENTION AGREEMENT** ("Agreement") is made this 16th day of August, 2019 (the "Effective Date"), between Filemon Ontiveros Gracian,

(hereinafter "Owner," whether one or multiple individuals are named), having an address of 1178 Pegwood Dr. Elgin, IL 60120,

and Midwest Community Bank ("Member"), having an address of 510 Park Crest Dr, Freeport, IL 61032.

**RECITALS:**

WHEREAS, the Federal Home Loan Bank of Chicago (the "Bank"), pursuant to regulations, including, without limitation, those contained in 12 CFR Part 1291 (the "AHP Regulations") promulgated by the Federal Housing Finance Agency, has established its Affordable Housing Program, including a set-aside program consisting of the Downpayment Plus<sup>®</sup> Program and the Downpayment Plus Advantage<sup>®</sup> Program (collectively "DPA"), which provides grants (or subsidies) to income-eligible home buyers for use as down payment, closing cost, counseling, or rehabilitation assistance in connection with the household's purchase or rehabilitation of an owner-occupied unit to be used as the household's primary residence, and the Competitive AHP ("Competitive"), which provides subsidies to competitively awarded projects, for use in the purchase, construction, or rehabilitation of an owner-occupied project by or for very low-, low-, or moderate-income households.

WHEREAS, each member of the Bank that participates in the Affordable Housing Program is required to provide for the repayment of any grants or other subsidized assistance in connection with unused or improperly used subsidies.



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WHEREAS, the Bank, through Member, is providing a Subsidy (as hereinafter defined) in connection with the purchase or rehabilitation of that certain real property as described on Exhibit A, attached hereto, and made a part hereof (the "Property") in accordance with its Affordable Housing Program.

WHEREAS, the parties desire to, among other things, set forth those conditions and circumstances whereby the Bank shall be entitled to the repayment of funds in connection with the Bank's provision, through Member, of the Subsidy (as hereinafter defined) to Owner.

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 hereby agree as follows:

1. The Subsidy. As of the Effective Date of this Agreement, the parties acknowledge and agree that Member has caused the disbursement of the proceeds of a subsidy to Owner in the amount of Six Thousand dollars and no/100----- Dollars (\$6000.00 ) (the "Subsidy") in connection with the acquisition and/or rehabilitation of the Property.

2. Retention/Retention Period. Owner hereby acknowledges and agrees that Owner's receipt of the Subsidy is hereby conditioned upon Owner's acceptance of those restrictions with respect to the sale or refinancing of the Property in order to ensure that the Subsidy is used for the [acquisition/rehabilitation] of housing that is defined as affordable housing by 12 C.F.R. Part 1291. In order to qualify and maintain the Subsidy, Owner shall comply with the terms and provisions set forth in this Agreement for a period of five (5) years from the Effective Date of this Agreement (the "Retention Period").

3. Owner's Representations and Warranties. Owner hereby represents and warrants to Bank and Member the following:

- (a) Use of Subsidy. Owner shall use the Subsidy to fund the costs of [acquiring/rehabilitating] the Property in compliance with (i) the AHP Regulations and (ii) the Affordable Housing Program Implementation Plan, guidelines, policies, procedures, and requirements of the Bank, or any successor in interest to the Bank, as may be in effect from time to time (collectively, the "AHP Policies"). Except as specifically set forth in this Agreement, the Subsidy may be retained by Owner without any obligation of repayment; and
- (b) Notice of Sale or Refinance Prior to Expiration of Retention Period. Owner hereby acknowledges and agrees that, in the event of any sale (including transfer or assignments) or refinancing of the Property occurring prior to the end of the Retention Period, Owner shall provide notice to Member, in writing, at the address set forth above, or to such other address as otherwise directed by Member.



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4. **Bank's Right to Repayment.** Owner hereby acknowledges that if, prior to the expiration of the Retention Period, the Property is sold to a third-party purchaser or the Property is refinanced, in either case the sale or refinancing resulting in a net gain, Owner shall repay to the Bank the *pro rata* share of the Subsidy from any net gain on the sale or refinancing, with repayment of the unforgiven Subsidy as follows: 1/60<sup>th</sup> of the Subsidy awarded to Owner is to be repaid for each full month remaining in the Retention Period. No credit will be given for partial months of ownership. The amount of the Subsidy to be repaid shall not exceed the net gain on the sale or refinancing, as defined by the Bank's repayment policy at the time of the sale or refinancing of the Property, as the case may be. Net gain shall be computed by the Bank (or its agent or servicer) based upon its review of the HUD Settlement Statement (or equivalent) applicable to such sale or refinancing transaction. Reimbursement payments shall be made to the Federal Home Loan Bank of Chicago, 200 E. Randolph Drive, Chicago, IL 60601.

5. **Events of Non-Repayment.** Owner hereby acknowledges the following:

(a) **Sale of Property to an Eligible Third Party.** If Owner sells the Property, prior to the end of the Retention Period, to a person or family whose income meets the eligibility requirements for participation in the Affordable Housing Program, then Owner shall not be required to repay any portion of the Subsidy.

(b) **Refinancing during the Retention Period.** In the event that Owner refinances prior to the end of the Retention Period, and the Property remains subject to the encumbrance created by this Agreement, or another legally enforceable retention agreement or mechanism as permitted under the AHP Policies, then Owner shall not be required to repay any portion of the Subsidy.

(c) **Affordable Housing Program Advance.** In the event that Owner sells or refinances the Property prior to the end of the Retention Period, and such Property was assisted with a permanent mortgage loan funded by an Affordable Housing Program subsidy advance, then Owner shall not be required to repay any portion of the Subsidy.

6. **Senior Loan/Subordination.** Member hereby agrees that, during the Retention Period, this Agreement and the terms and provisions herein are and shall be subordinate and junior to any lien or security interest of any existing or subsequent mortgage or encumbrance (including, without limitation, any and all renewals, extensions, increases, supplements, amendments, modifications, or replacements thereof) recorded against the Property in the county where the Property is located.

7. **Termination Events.** The parties hereby acknowledge and agree that the following events shall constitute a Termination Event, which shall be evidenced by a recorded release, pursuant to Section 8:

(a) In the event the Property is foreclosed upon or conveyed by deed in lieu of foreclosure; or



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- (b) In the event that the FHA-insured first mortgage is assigned to the Secretary of the U.S. Department of Housing and Urban Development ("HUD"); or
- (c) Upon the death of Owner prior to the end of the Retention Period, even if the property is transferred to the heirs of the deceased Owner, by sale, assignment, or otherwise.
- (d) Upon the expiration of the Retention Period.

8. Release Caused by Termination Event. In common with the commencement of a Termination Event, and after confirming that no repayment is owed by Owner pursuant to the terms of this Agreement, Member shall record a release of this Agreement with the register of deeds of the county in which the Property is located.

9. Request for Additional or Required Information. Within fifteen (15) days of Member's request, Owner agrees to provide Member with any and all information that Member deems to be necessary to release Owner from its repayment obligations under this Agreement.

10. Notices. All notices shall be in writing. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal service evidenced by a signed receipt (or refusal to accept delivery) or sent by registered or certified mail, return receipt requested, or via overnight courier, and shall be effective upon proof of delivery (or refusal to accept delivery) or via email followed by U.S. mail. Such written notices shall be addressed to the addresses as set forth above for each respective party, unless otherwise directed to another address by such party.

11. Definitions.

"Owner" shall mean and include all Owners, whether one or more.

12. Recording. This Agreement shall be recorded against the Property in the county of which the Property is located.

13. Counterparts. This Agreement may be executed by the parties in counterparts, each of which shall be deemed an original, and when taken together, shall constitute one agreement.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE AND  
ACKNOWLEDEMENT PAGES TO FOLLOW]*



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IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the above date.

Name of Owner(s): Filemon Ontiveros Gracian

Signed: Filemon Ontiveros Gracian

Name: Filemon Ontiveros Gracian

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name of Member: Midwest Community Bank

Signed: Jennifer Frisbie Victor Ortiz

Name: Jennifer Frisbie Victor Ortiz

Title: Senior Closer Loan Officer

Property of Cook County Clerk's Office



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## OWNER ACKNOWLEDGMENT

STATE OF Illinois )  
 : SS.  
KANE COUNTY)

Personally came before me this 16<sup>th</sup> day of August, 2019, the above named Filemon Ontiveros Gracian and to me known to be the person who executed the foregoing instrument and acknowledged the same.

Suzanne Benner  
Notary Public



KANE County, ILLINOIS  
My commission expires: 04.21.22

## OWNER ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 : SS.  
\_\_\_\_\_ COUNTY)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above named \_\_\_\_\_ and to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
County, \_\_\_\_\_  
My commission expires: \_\_\_\_\_



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## EXHIBIT A

### Legal Description of the Property

P.I.N.: 06-18-207-022-0000

Common Address: 1178 Pegwood Dr. Elgin, IL 60120

Legal Description: See attached Exhibit A

Property of Cook County Clerk's Office



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## EXHIBIT "A" LEGAL DESCRIPTION

**Permanent Index Number:**  
Property ID: 06-18-207-022-0000

**Property Address:**  
1178 Pegwood Dr.  
Elgin, IL 60120

**Legal Description:**  
LOT 233 IN PARKWOOD UNIT NO. 3, BEING A SUBDIVISION OF PART OF THE NORTH EAST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office