

2018 ADDENDUM TO THE MORTGAGE ORIGINATION AGREEMENT

REGARDING THE ARIZONA INDUSTRIAL DEVELOPMENT AUTHORITY HOME PLUS HOME LOAN PROGRAM

This Addendum to the Mortgage Origination Agreement (this “Addendum”) supplements the April 11, 2018 Revised and Updated Mortgage Origination Agreement (the “MOA”), by and among the Arizona Industrial Development Authority (the “Authority”) and the lending institution executing the MOA (the “Lender”) in connection with the IDA’s “HOME PLUS” Mortgage Loan Program and/or any other program sponsored by the Authority (collectively, the “Program”). Capitalized terms used herein and not otherwise defined have the meaning set forth in the MOA.

RECITALS

WHEREAS, the IDA has been duly created and organized pursuant to the laws of the State of Arizona, including Arizona Revised Statute Sections 35-702, et. seq., (the “Act”), and succeeded to the duties and obligations of the Arizona Housing Finance Authority on August 6, 2016 (“AzHFA”); and;

WHEREAS, Program funds are made available to finance mortgage loans to qualified borrowers within the Program Area, through the purchase by the Servicer of mortgage-backed securities guaranteed as to timely payment of principal and interest by the Federal Home Loan Mortgage Corporation (“FHLMC”); the Program will be modified to add a performance based-forgivable second mortgage loan to replace the current grant structure with out-sourced funding described below;

WHEREAS, the Authority entered into a Down Payment Assistance Program Service Agreement with the Arizona Home Foreclosure Prevention Funding Corporation (the “Corporation”), administered by the Arizona Department of Housing (“ADOH”) to authorize the Authority to perform services in support of ADOH’s Pathway to Purchase Single Family Loan Program within the Program Area for purposes of funding the performance based-forgivable second mortgage loan (“P2P Program”);

NOW, THEREFORE, in consideration of the promises set forth herein, the parties mutually agree as follows:

COVENANTS

Section 1. Modification of the Program. The parties hereto agree to add performance based-forgivable 2nd mortgage loans under the P2P Program, on the properties in the Program, so they can be made anywhere in the Program Area.

Section 2. Removal of Lenders. The Authority may remove any Lender from the Program and terminate its participation in the Program with or without cause, upon 30 days written notice to the Lender.

Section 3. Special Limited Liability. All obligations of the Authority incurred hereunder shall be special limited obligations of the Authority, payable solely from the revenues and other amounts derived from the sale of the Program. All monetary obligations of the Authority incurred hereunder, and any remedies arising against the Authority by reason of any default, shall be payable solely out of, and all liability of the Authority shall be limited to, revenues and receipts derived from the transactions contemplated and performed pursuant to the Program Documents. Nothing contained herein shall be construed as obligating the Authority (except as a special limited obligation as specified above) or as incurring a charge upon the general credit of the Authority.

Nothing herein, or in any of the Program Documents, shall obligate the Authority to purchase any Mortgage Loan from any Lender. In order for a Mortgage Loan to be purchased by the Servicer under this Program, the Lender must comply with the requirements of the Servicer under the Program Documents. If a Mortgage Loan is rejected by the Servicer, the Authority shall have no responsibility to purchase any Mortgage Loan. In addition, the Lender hereby acknowledges that neither the Servicer shall have any obligation to purchase the Mortgage Loan unless the Mortgage Loan conforms to the standards required by the Servicer.

Section 4. Indemnity. The Lender shall pay, defend, protect, indemnify and hold the Authority and ADOH, and their directors, officers, counsel, advisors and agents (each, an “Authority’s Indemnified Party”) harmless for, from and against any and all Liabilities directly or indirectly arising from or relating to any material failure on the part of the Lender to perform its services, duties and obligations under the terms and provisions of this Agreement and the Program Documents.

The Paragraph above intends to provide indemnification to Authority’s Indemnified Party for his or her active or passive negligence or misconduct; provided, however, that nothing in the above Paragraph shall be deemed to provide indemnification to any Authority’s Indemnified Party with respect to any liabilities arising from the negligence or willful misconduct of such Authority’s Indemnified Party.

Any party entitled to indemnification hereunder shall notify the Lender of the existence of any claim, demand or other matter to which the Lender’s indemnification obligation applies, and shall give the Lender a reasonable opportunity to defend the same at its own expense and with counsel satisfactory to the Authority’s Indemnified Party, provided that the Authority Indemnified Party shall at all times also have the right to participate fully in the defense. If the Authority’s Indemnified Party is advised in an opinion of counsel that there may be legal defenses available to it which are different from or in addition to those available to the Lender or if the Lender shall, after receiving notice of the Lender’s indemnification obligation and within a period of time necessary to preserve any and all defenses to any claim asserted, fails to assume the defense or to employ counsel for that purpose satisfactory to the Authority’s Indemnified Party, the Authority’s Indemnified Party shall have the right, but not the obligation, to undertake the defense of, and to

compromise or settle the claim or other matter on behalf of, for the account of and at the risk of, the Lender. The Lender shall be responsible for the reasonable counsel fees, costs and expenses of the Authority's Indemnified Party in conducting its defense.

Other than the Authority, the Authority's Indemnified Parties shall be considered to be intended third-party beneficiaries of this Addendum and the Program Documents for purposes of this Section. The provisions of this Section shall be in addition to all liability which the Lender may otherwise have and shall survive any termination of this Addendum and the Program Documents.

Section 5. No Indemnity by the Authority. Notwithstanding any provision of the Addendum to the contrary, the Authority is not authorized to indemnify Lender.

Section 6. Availability of Funds. Every payment obligation of the Authority under this Addendum is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Addendum, this Addendum may be terminated by the Authority any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to the Authority or any other agency of the State of Arizona in the event this provision is exercised, and neither the Authority nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Section 7. Record Retention. Pursuant to A.R.S. §§ 35-214 and 35-215, Lender shall retain all records relating to this Addendum for a period of five years after completion of the Addendum. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, Lender shall produce the original of any or all such records at the offices of the Authority.

Section 8. Notice of A.R.S. Section 38-511 Cancellation. Notice is hereby given of the provisions of Arizona Revised Statutes Section 38-511, as amended. By this reference, the provisions of said statute are incorporated herein to the extent of their applicability to contracts of the nature of this Addendum under the law of the State.

Section 9. Non-discrimination. Lender shall comply with Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, or national origin shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

Section 10. E-Verify. Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

a. Lender warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That

subsection reads in part: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program.”)

b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of this Addendum and Lender may be subject to penalties up to and including termination of the MOA.

c. The Authority retains the legal right to inspect the papers of any employee who works on the MOA to ensure that Lender or subcontractor is complying with the warranty under Section 10(a).

Section 11. Overcharges. Lender assigns to the Authority any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Contractor toward fulfillment of the MOA.

Section 12. Arizona Law. 8. This Agreement shall be construed in accordance the laws of the State of Arizona.

Section 13. Dispute Resolution. 9. The parties to MOA agree to resolve all disputes arising out of or relating to this Addendum through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

Section 14. No Boycott. Lender warrants it is not engaged in a boycott of Israel as defined by A.R.S. §35-393.01.

Section 15. Counterparts. This Addendum may be executed in counterparts by the parties hereto, and each such counterpart and/or copy shall be considered an original and all such counterparts shall constitute one and the same instrument.

Section 16. Terms of Participating Lender Agreement Unchanged. All the terms, conditions, and provisions of the Participating Lender Agreement shall in all respects, except as herein supplemented, remain unchanged and in full force and effect and this Addendum shall in no manner effect or impair the Participating Lender Agreement other than as set forth herein. In all other respects, the parties hereto affirm (or reaffirm, as appropriate) the terms of the Participating Lender Agreement, as supplemented hereby.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Authority and the Lender have caused this Addendum to be executed by their respective duly authorized officers, all as of the date and year first above written.

THE ARIZONA INDUSTRIAL DEVELOPMENT
AUTHORITY

By: _____ *(signature)*

Print Name _____

Title _____

LENDER:

By: _____ *(signature)*

Print Name _____

Title _____