

INDUCEMENT AND INDEMNITY AGREEMENT LETTER

(Date)

Ohio Housing Finance Agency  
57 E. Main Street  
Columbus, OH 43215-5135

RE: (Project Name)

Colleagues:

We have this day filed with the Ohio Housing Finance Agency (OHFA) an Application for financing pursuant to Chapter 175 of the Ohio Revised Code, and in accordance with your guidelines and requirements in effect on the date hereof.

As an inducement to OHFA to accept, review and favorably consider and approve said Application and to issue the bonds therein contemplated, and whether or not all or any part thereof are ever actually approved or issued by you, we hereby irrevocably agree that we will:

(a) Pay all OHFA fees as and when they become due.

(b) At all times indemnify and hold harmless OHFA and its members, officers, and employees and the State of Ohio against all losses, costs, damages, expenses and liabilities whatsoever nature or kind (including, but not limited to attorney's fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgment) directly or indirectly resulting from, arising out of or related to the acceptance, consideration and approval or disapproval of such Application or the issuance, offering, sale, delivery or payment of any such bonds and interest thereon, or the design, construction, installation, operation, use, occupancy, maintenance or ownership of the referenced project.

It is understood and agreed that this Inducement and Indemnity Agreement shall be continuing and shall survive and continue to be effective after any approval or disapproval of said Application and the issuance or failure to issue any such obligations and the construction and operation of the project. It is also understood that additional indemnity agreements may be required by you from others such as guarantors, prior to the final approval of such Application.

This Inducement and Indemnity Agreement shall be effective upon execution by you where indicated below as of the date hereof.

Sincerely,

(Name of Ownership Entity)

By: \_\_\_\_\_  
Authorized Representative

Approved, accepted and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, Ohio Housing Finance Agency.

By: \_\_\_\_\_  
Executive Director

# ACQUISITION, RELOCATION AND DEMOLITION SECTION

## INSTRUCTIONS (3 PAGES)

Since much of OHFA funds are from federal sources, any project involving (A) acquisition of real property or easements, (B) rehabilitation, (C) displacement of occupants, and (D) demolition may activate the regulations found in the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (URA). In addition, Section 104(d) of the Housing and Community Development Act (the Barney Frank Amendment) may apply to your project if CDBG or HOME funds are used and funded activities include demolition or conversion that reduces the supply of low/moderate income dwelling units (those renting below Section 8 Fair Market Value).

To comply with requirements of the URA and Section 104(d), you must begin to document any acquisition and/or relocation activity once you begin planning to apply for state/federal funds. Be aware early in the process that acquisition of real property, including permanent easements must be done in compliance with the URA. Also, intentional or unintentional displacement of any tenant (individual, family, non-profit, business, or farm) without the URA, and possibly 104(d) procedures being followed may result in displacement, adding a financial liability to your project.

The following is a brief explanation of each attachment in the Acquisition and Relocation Section of this application:

### ATTACHMENT 1: QUESTIONNAIRE ON ACQUISITION, RELOCATION, AND DEMOLITION

This questionnaire is designed to assist us in reviewing your project for acquisition, relocation, and demolition activities and in making a determination if you have adequately planned and budgeted for these activities.

#### **Section 1: Scope of Activities**

Check the acquisition, rehabilitation, relocation, and demolition activities contained within the entire scope of the project (including activities funded from other funding sources that are part of this project). Check the appropriate boxes.

#### **Section 2: Acquisition Activities**

Any real property, including permanent easements, acquired or to be acquired, must be acquired in compliance with the URA whether the property is acquired on a voluntary, involuntary, or donated basis.

- A. There is no acquisition issue if real property was not acquired for this project in the past, nor is to be acquired in the future. If ALL real property was previously owned, and not acquired for this project, enter date(s) property to be used for this project was acquired and proceed to the Section 3.
- B. Enter the number of sites acquired or to be acquired of each category.
- C. Enter the number of sites under control for each category and the date(s) obtained. The total number for C should equal the total number for B above.
- D. For secured sites:
  - 1. Check who secured the site.
  - 2. Check how the site(s) was secured and attach requested documentation for donations and voluntary acquisitions.

- E. For sites not yet secured:
1. Check who will secure the site(s).
  2. Check how site(s) will be secured.
- F. Programs assisting homebuyers with down payment assistance, closing costs, or principal reduction payments are acquisition activities, and are covered by the URA. Timely disclosure needs to be made to the seller, in writing, to exempt the purchase from full URA regulations (see Sample Voluntary Acquisition Form, attached). Also, tenants residing in the home may be eligible for relocation benefits unless they (a) are fully informed of their rights under the URA and (b) waive those rights in a written consent document. You may want to design your program to avoid displacing tenants and avoid the costs associated with tenant displacement. If your program does call for tenant displacement, enter the number of displacements and the amount budgeted to cover the costs of displacement.

### Section 3: **Relocation Activities**

This section covers the two basic relocation options for tenant occupied units. They are:

TENANTS WHO ARE INVOLUNTARILY DISPLACED because they are required to move off site permanently as a direct result of the project, including a permanent move that was done prior to the date of the application in anticipation of the project.

TENANTS WHO REMAIN ON SITE since a significant relocation obligation remains with non-displaced tenants. Relocation files must be established and each tenant offered a suitable, affordable, Decent, Safe and Sanitary unit (DS&S) on site. Tenants may be required (a) to move from one unit to another or (b) to move off site temporarily to permit construction if they are provided an appropriate unit during the move and paid all reasonable out-of-pocket expenses. The failure to provide proper notices or benefits can result in tenants becoming displaced persons, eligible for permanent relocation benefits, even if it was not intended for them to be displaced.

- A. Briefly describe each proposed activity involving rehabilitation, demolition or conversion to another use (conversion also includes increasing rents to the point that tenants are economically displaced).
- B. Enter date vacant property was last occupied.
- C. Check whether tenants were previously displaced to make the property available for this project. If so, past tenants must be located and offered relocation assistance.
- D. Check whether property is currently occupied by tenants.
- E. If Yes is checked in D above, complete the three questions.
1. Check if tenants are required to move permanently from the site.' If YES, enter the number of residential and nonresidential tenant units (Displacement).
  2. Check whether remaining tenants will be required to move temporarily or to move permanently from one unit to another within the project. If YES, enter the number of residential and nonresidential tenant units (Non-displacement).
  3. If answer to 1 or 2 above is YES, show amount budgeted and describe how relocation benefits will be provided (include notices, advisory services and financial reimbursements) and identify staff that will implement the relocation activity. if needed, use back of page or attach additional sheets.

#### Section 4: **Demolition Activities**

CDBG and HOME funds are covered by Section 104(d) of the Housing and Community Development Act of 1974, as amended, (Barney Frank Amendment) which (1) protects the supply of affordable housing units and (2) outlines benefits to low- and moderate-income residents who are permanently displaced. Section 104(d) has two distinct components:

UNITS: 104(d) requires one-for-one replacement of low and moderate dwelling units that are demolished or converted to another use.

PEOPLE: 104(d) specifies relocation assistance for displaced low-income families. (It does not provide protection or assistance for families with incomes above the Section 8 Lower Income Limit. However, those families are covered under URA relocation requirements).

- A. Check whether your project will reduce the supply of low and moderate dwelling units (defined as a dwelling unit with a market rent, including average utility costs, that does not exceed the Fair Market Rent for Section 8 existing housing). The term does not include any unit that is owned and occupied by the same person before and after the assisted rehabilitation. A housing project that has a before rehab value of less than \$5,000 per unit and has been documented to be dilapidated will be considered not suitable for rehabilitation; thus, the one-for-one replacement rule will not apply. If YES is checked, describe a plan for replacing the demolished or converted units.
  
- B. Check whether your project will permanently displace low/moderate income persons. If YES is checked, explain the method of providing relocation benefits.

#### ATTACHMENT 2: REAL PROPERTY ACQUISITION AND RELOCATION CERTIFICATIONS

This is a letter of understanding whereby applicant agrees to be responsible for any payments or costs that occur as a result of non-compliance with the Federal Regulations regarding the acquisition of property and displacement of tenants.

1. Sign Number 1 if all real property needed for the project is not yet acquired or was recently acquired for use in the project, or
2. Sign Number 2 if all real property to be used in this project was already owned by the applicant and was not acquired for this project.
3. All applicants are to sign Number 3.

#### ATTACHMENT 3: SAMPLE VOLUNTARY ACQUISITION FORM - THIRD PARTY

A sample form, revised February, 1996, for use by Non-Profits and Private Developers when acquiring real property.

ATTACHMENT 1

QUESTIONNAIRE ON ACQUISITION, RELOCATION AND DEMOLITION

SECTION 1 - SCOPE OF ACTIVITIES

Check the acquisition, rehabilitation, relocation, and demolition activities contained within the entire scope of the project (including activities funded from other funding sources that are part of this project)

- \_\_\_ purchase of permanent easement
\_\_\_ purchase of vacant land
\_\_\_ purchase of land and buildings
\_\_\_ donation of real property or permanent easements
\_\_\_ new construction
\_\_\_ rehabilitation [ ] residential [ ] nonresidential
\_\_\_ relocation of tenants [ ] residential [ ] nonresidential [ ] permanent [ ] temporary
\_\_\_ demolition [ ] residential [ ] nonresidential
\_\_\_ other (explain)
\_\_\_ none of the above

Comments/clarifications:

SECTION 2 - ACQUISITION ACTIVITIES

- A. If all parcels (or easements) were previously owned (title actually transferred to the applicant and not acquired for the purpose of this project, indicate dates acquired \_\_\_\_\_ ,proceed to Section 4.
B. Number of sites acquired or to be acquired: Easements \_\_\_\_\_ Residential \_\_\_\_\_
Nonresidential \_\_\_\_\_ Homebuyer Assistance \_\_\_\_\_

C. The control of the site(s) is in the form of:

Number

- \_\_\_ Deed, acquired for this project (date \_\_\_\_\_ )
\_\_\_ Purchase agreement (date \_\_\_\_\_ )
\_\_\_ Option (expiration date \_\_\_\_\_ )
\_\_\_ Easement agreement (date obtained \_\_\_\_\_ )
\_\_\_ Other (Explain) \_\_\_\_\_ )
\_\_\_ Site(s) not yet acquired

D. If the site(s) has been secured:

- 1 Who secured the site(s)
[ ] Government Entity
[ ] Third party
2. How was site(s) secured
[ ] Eminent domain
[ ] Donation - attach Donation of Parcel/Easement Form
[ ] Voluntary acquisition - attach Voluntary Acquisition Form with either (1) seller's signature or (2) other documentation -showing receipt by seller such as a certified mail of FedEx receipt.

E. If all sites have not yet been secured:

1 Who **will** secure the site(s)

- Government Entity  
 Third party

2. How will site(s) be secured

- Eminent domain  
 Donation  
 Voluntary acquisition  
 Not sure (Explain) \_\_\_\_\_

### SECTION 3 - RELOCATION ACTIVITIES

A. Briefly describe each activity involving rehabilitation, demolition, or conversion.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. If vacant, date property was last occupied: \_\_\_\_\_

C. Were occupants previously displaced to make the property available for this project?

- YES       NO

D. Is the property occupied by tenants (residential or nonresidential)?

- YES       NO

E. If YES, complete the following three questions:

1 Will project activities require tenants to move permanently from the site (Displacement)

- YES       NO

If YES, please indicate the number of

\_\_\_\_\_ Residential tenant units  
\_\_\_\_\_ Nonresidential tenant units

2. Of those remaining on site, **will** any tenant units be required to move temporarily OR move permanently from one unit to another at the project site (Non-displacement)?

- YES       NO

If YES, please indicate the number of

\_\_\_\_\_ Residential tenant units  
\_\_\_\_\_ Nonresidential tenant units

3. If applicable, show total monies budgeted for 1 and 2 above \$ \_\_\_\_\_ and include a brief plan that outlines how relocation benefits **will** be provided.

**SECTION 4 - PRESERVATION OF LOW AND MODERATE INCOME HOUSING UNITS**

**(Complete only if CDBG or HOME dollars are used anywhere in your project and residential units are to be demolished or converted to a use other than low- and moderate-income housing)**

- A. **UNITS:** Will your project reduce the supply of low and moderate income dwelling units (those renting below Fair Market Rent; or if owner occupied, would have a market rent below the Fair Market Rent for the area)?

YES       NO

If yes, explain in the space below the provision for replacing units within a four-year timeframe (beginning one year prior to the funding agreement and terminating three years after the demolition activity).

- B. **PEOPLE:** Will your project permanently displace low- and moderate-income persons?

YES       NO

If yes, explain in the space below a method of providing relocation benefits for any resident displaced (including economic displacement).

**ATTACHMENT 2**

**REAL PROPERTY ACQUISITION AND RELOCATION CERTIFICATIONS**  
(FOR NON-PROFITS, PRIVATE ENTITIES, AND LOCAL GOVERNMENTS)

**A. ACQUISITION CERTIFICATION**

All applicants must sign #1 or #2, as applicable, and sign the Relocation Certification below:

1. I certify that I **will** follow the federal regulations when acquiring property (including permanent easements) either on an involuntary or a voluntary basis, including the Uniform Relocation and Real Property Acquisition Policies Act of 1970 as amended (the Uniform Relocation Act), the Acquisition and Relocation requirements in the HUD Handbook 1378, and the OHCP acquisition and relocation requirements.
  - A. Involuntary acquisition: I will follow the procedures described in Chapter 5 of HUD Handbook 1378,
  - B. Voluntary acquisition: I will follow the procedures described in Chapter 5 of HUD Handbook 1378. I understand that federal regulations require that for **real property acquired voluntarily**, I must inform the seller in writing:
    - i. That this is a voluntary, arm's length transaction and the power of eminent domain will **not** be used; that the property **will** only be acquired by a mutual agreement between the buyer and seller; and
    - ii. Of the property's estimated fair market value.

Should I fail to provide timely notices to sellers, **I will be responsible for any future claims made by such sellers for increased acquisition costs.**

---

(Signature of Applicant and Date)

2. All of the real property that will be used in this project is already owned and was not acquired for the purpose of this project. There will be no further acquisition of real property.

---

(Signature of Applicant and Date)

---

---

**B. URA RELOCATION CERTIFICATION**

I certify that I will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the Uniform Relocation Act), the Acquisition and Relocation requirements in the HUD Handbook 1378, and the OHCP acquisition and relocation requirements.

I understand that any tenant (individual, family, non-profit, business, or farm) that has been or will be permanently or temporarily displaced by this project may be entitled to receive benefits as prescribed by the above regulations. I have determined the number of actual and potential tenants to be displaced (If any) and their expenses have been adequately covered in the attached budget.

Should I fail to report tenants that have been or **will** be displaced by this project and included the costs in the approved budget, I will be responsible for any future claims made by such tenants.

---

(Signature of Applicant and Date)

**ATTACHMENT 3**

**SAMPLE VOLUNTARY ACQUISITION FORM - THIRD PARTY**

Note: The Uniform Relocation Act (URA) acquisition requirements for non-profit and private developers are found in Chapter 5 of HUD Handbook 1378, and must be followed if real property is to be acquired as part of a project receiving federal assistance. This is a sample form to be used on your letterhead, and can be revised, as appropriate for your project, and presented to the seller. The form should either be signed by the seller or sent certified mail, return receipt requested, with a copy maintained in your files to document the seller receiving this document.

---

NAME  
ADDRESS  
CITY, STATE, ZIP

Dear (Name):

Financial assistance through the Ohio Housing Finance Agency (OHFA) is being sought for this proposed transaction that includes the purchase of real estate known as

\_\_\_\_\_. **Federal funds used in this project require my informing you of the following:**

1. As a private sector entity proposing acquisition of your property, we have no legal means to acquire your property except a mutual agreement between the buyer and the seller. This is a voluntary, arm's length transaction and there is no threat of Eminent Domain.
2. We have estimated the fair market value of your property to be \$\_\_\_\_\_. This amount was established by **(check one)**:
  - \_\_\_\_\_ the value derived by the County Auditor's most recent records.
  - \_\_\_\_\_ a third party who is familiar with property values in the area (such as a Realtor).
  - \_\_\_\_\_ an appraisal of the property conducted by \_\_\_\_\_, copy attached.

The URA regulation states: Whenever feasible, this information shall be provided before making the purchase offer. In those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement after this information is provided. Therefore, if federal funds remain in the project and this information is being provided to you prior to closing. but after an option or purchase agreement exists, you have the choice of continuing with the contract, renegotiating the contract, or declaring it null and void.

In addition, since this is a voluntary sale, you will not be eligible for relocation assistance as a consequence of this transaction. Also, if any tenants have been displaced for this sale to occur or if tenants currently rent or occupy space on the property, please provide us with that information at this time so we can plan accordingly.

If you have any questions, please contact \_\_\_\_\_ at \_\_\_\_\_  
(name) (phone)

Sincerely,

\_\_\_\_\_

Received by \_\_\_\_\_ Date \_\_\_\_\_  
Seller(s)

**(Obtain seller's signature or send certified mail with return receipt placed in the file)**

ATTACHMENT 4

TAX INFORMATION DISCLOSURE AUTHORIZATION

\_\_\_\_\_ (the "Applicant") hereby irrevocably authorizes the Tax Commissioner of the Ohio Department of Taxation or any agent designated by the Tax Commissioner of the Ohio Department of Taxation from the date below until disclose to the Director of the Ohio Department of Development or any designated employee of the Director the amounts of any or all outstanding liabilities for corporation franchise tax, individual income tax, employer withholding tax, sales, use tax or excise tax which are currently unpaid and certified to the Attorney General of the State of Ohio for collection.

The Applicant expressly waives notice of the disclosure(s) to the Ohio Department of Development by either the Tax Commissioner of the Ohio Department of Taxation or by any agent designated by the Tax Commissioner of the Ohio Department of Taxation. The applicant expressly **waives the confidentiality provisions of the Ohio law that would otherwise prohibit disclosure and agrees to hold the Department of Taxation** and its employees harmless with respect to the limited disclosure authorized herein.

This authorization is to be liberally interpreted and construed; any ambiguity shall be resolved in favor of the Tax Commissioner or the Ohio Department of Taxation

This authorization is binding on any and all heirs, beneficiaries, survivors, assigns, executors, administrators, successors, receivers, trustees, or other fiduciaries.

A photocopy of this authorization is as valid as the original.

\_\_\_\_\_  
Name of Applicant (including any DBA)

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

Title: \_\_\_\_\_  
(Officer or Director)

\_\_\_\_\_  
Date

(Instructions to Applicant: Please fill in the Tax Identification Numbers on page 2 of this form.)

## TAX IDENTIFICATION NUMBERS

Applicant Full Legal Name and Address	
Names and Addresses of any Affiliates  (If necessary, attach a separate form for each affiliate listing each of the numbers set forth below.)	
Federal Tax Identification Number	
State Issue Tax Identification Number(s)	
Ohio Charter Number	
Ohio Franchise Tax I.D. Number	
Vendor's License Number	
Consumer's Use Tax Account Number	
Direct Pay Permit Number	
Seller's Use Tax Account Number	
Service, Transient, Delivery, or, Master, Vendor's License Number	

July 1, 1997