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INTRODUCTION TO SAMPLE DEED WITH TWO SAMPLE RELATED RESTRICTIONS

Deed restrictions designed to preserve affordability can be included in the language of a deed conveying property or can be outlined in an accompanying document. Deed restrictions included in a separate document provide more flexibility, for example, allowing for adjustment of the affordability restrictions in light of changed circumstances. The sample documents are designed to establish the affordability restrictions in a separate document that is recorded before the first sale, with a reference to the restrictions in the deed. The sample deed also gives the nonprofit a right to repurchase the property for a designated low price if the affordability restrictions are violated by any of the subsequent owners.

The sample deed (APP Exhibit 1) conveys the property with the condition that (a) the purchaser is subject to the identified affordability restrictions, and (b) the nonprofit can repurchase the property for the specified price if the purchase does not comply. Also included are two samples of affordability restrictions. The Declaration of Affordability Restrictions (APP Exhibit 2) is based on the restrictions typically included by a community land trust (CLT) nonprofit in its ground lease. The Declaration restricts resale to income-qualified homeowners and limits the resale price in order to maintain an affordable purchase price.

The Michigan State Housing Development Authority (MSHDA) Use Agreement (APP Exhibit 3) outlines the type of restrictions typically used with a homeowner purchasing a CLT home with the assistance of Home Investment Partnership Program (HOME) funds. The Use Agreement preserves affordability by requiring the homeowner household income not exceed eighty percent (80%) of the Area Median Income, and mandates that the restriction remain in place for a minimum of fifteen (15) years.