



## Directions for Preparation of Retention Mechanism

### REQUIREMENTS LISTED HEREIN ARE FOR RENTAL UNITS CLOSED WITH FHLBANK ATLANTA AHP GENERAL FUNDS.

Unless otherwise approved in advance and in writing by FHLBank Atlanta, the Member shall ensure that an Affordable Housing Program (AHP) project financed by the proceeds of a direct subsidy and/or a subsidized advance is subject to a promissory note and a real property security instrument (e.g. a mortgage, deed of trust, a deed to secure debt, or other appropriate security instrument under applicable law) between the Project Sponsor, or Project Owner as mortgagor (as applicable based on the structure of the specific AHP project) and the Member as mortgagee, of a type that is customarily used by the Member in the jurisdiction where the real property is located.

- There must be a separate note and security instrument securing solely the AHP subsidy in connection with the Project.
- Member should use the form of note and security instrument that they would normally use to document a similar loan for their own account in the same jurisdiction where the AHP project is located. The Rider is a document designed to be attached to the Member's security instrument and recorded with such instrument.
- The minimum retention requirements of the AHP Regulations must be incorporated under a rider to the member's security instrument and must be recorded with such instrument. FHLBank Atlanta provides a sample AHP Rider only as a guide when preparing a project-specific rider to the security instrument. FHLBank Atlanta makes no representation or warranty that a court will enforce these form documents in accordance with applicable state law. We strongly recommend that each member have its counsel review the documents to address suitability and any state law requirements, including but not limited to consumer credit laws, notary requirements, usury laws, recording procedures and requirements, and requirements for mortgage states. The final note, security instrument and rider to the security instrument must meet the requirements of the Project's jurisdiction.
- Member should incorporate the Rider into the security instrument by adding the following provision to the member's form of security instrument:

**“Federal Home Loan Bank of Atlanta Affordable Housing Program Retention Mechanism Requirements.** The Rider to Security Instrument – Federal Home Loan Bank of Atlanta Affordable Housing Program Retention Agreement (“Rider”) is attached hereto and by this reference made a part hereof. The provisions set forth in the Rider shall supersede any conflicting provision contained in this agreement, but only to the extent of such inconsistency.”

## RIDER TO SECURITY INSTRUMENT

### FEDERAL HOME LOAN BANK OF ATLANTA AFFORDABLE HOUSING PROGRAM RETENTION MECHANISM AGREEMENT (Rental Project)

This Rider to Security Instrument – Federal Home Loan Bank of Atlanta Affordable Housing Program Retention Agreement (Rental Project) (this “Rider”) is attached to and made part of the foregoing security instrument (the “Security Instrument”). In this Rider, the beneficiary of the Security Instrument is referred to as the “Lender” and the trustor or grantor under the Security Instrument is referred to as the “Owner” or “Borrower.” This Rider is a form of “retention mechanism agreement” referred to below.

#### RECITALS:

- A** **Whereas**, the Federal Housing Finance Agency (“Finance Agency”) is required to cause each Federal Home Loan Bank to establish an affordable housing program (“AHP”) to assist members of each Federal Home Loan Bank to finance affordable housing for very low-, low-, or moderate-income households.
- B** **Whereas**, the Federal Home Loan Bank of Atlanta (“FHLBank Atlanta”) has also established an Affordable Housing Program Implementation Plan (as the same may be modified from time to time, the “Implementation Plan”), and AHP policies, procedures, guidelines, and instructions covering, among other things, feasibility, funding, monitoring and modifying affordable housing projects participating in the Bank’s AHP (together with the Implementation Plan, collectively, as the same may be modified from time to time, the “Bank’s AHP Policies and Procedures”); and together with the AHP Regulations, collectively, “AHP Requirements”);
- C** **Whereas**, Lender, a member of FHLBank Atlanta, submitted an application to FHLBank Atlanta (the “AHP Application”) for an AHP subsidy (defined below) in connection with the real property identified in the AHP Application and the improvements and tangible and intangible personal property associated or connected therewith, all of which is encumbered by the Security Instrument (the “Project”).
- D** **Whereas**, pursuant to applicable regulations (including, without limitation, those contained in 12 CFR Part 1291) promulgated by the Finance Agency (the “AHP Regulations”), members of each Federal Home Loan Bank are required to provide for the repayment of any direct subsidy should said direct subsidy or the Project or a portion of the Project be unused or improperly used.
- E** **Whereas**, in connection with the Project, Borrower as “Project Owner” entered into an Affordable Housing Program Agreement (Rental Project) (the “AHP Agreement”) with FHLBank Atlanta and Lender, pursuant to which Borrower and Lender agreed to be bound by the AHP Regulations and perform certain monitoring functions with respect to the Project and related AHP Subsidy (defined below).
- F** **Whereas**, Lender has advanced or agreed to advance the AHP Subsidy to Borrower in connection with Borrower’s purchase, construction and/or rehabilitation of real property described in the Security

Instrument, and in connection with the AHP Subsidy, Borrower has executed the Security Instrument, which includes this Rider.

- G** **Whereas**, the Parties desire to cause the Income and Affordability Restrictions and related covenants and restrictions required by the AHP Agreement to become recorded restrictions burdening the Project as defined below.

By signing the Security Instrument, Borrower hereby agrees as follows:

**1. Project Information**

Name and address of the Project Owner	
Name and address of the Project	
AHP Project Number	
Amount of the AHP Subsidy	

- 2. AHP Subsidy.** The secured obligation described in and secured by the Security Instrument represents the “AHP Subsidy” used or to be used in connection with the purchase, construction or rehabilitation of the Project.

- 3. Definitions.** As used in this Rider, the following capitalized terms have the following meanings:

“**Income and Affordability Restrictions**” means income limitations as amended or modified or adjusted annually according to the current applicable median income data from time to time with the approval of FHLBank Atlanta and rent limitations such that the Project units are affordable for households with incomes at or below the levels committed to be served in the AHP Application.

“**Loan**” means the advance of funds evidenced by the Note.

“**Loan Documents**” means the Note, the AHP Agreement, the Security Instrument, and all other documents relating to or securing the Note, each as renewed, amended, modified, restated and extended from time to time.

“**Note**” means the promissory note secured by the Security Instrument.

All other capitalized terms not otherwise defined herein or in the Security Instrument shall be as defined in the AHP Agreement.

**4. Covenants**

- a. The Project's rental units, or applicable portion thereof, must remain occupied by and affordable for households with incomes at or below the levels committed to be served in the AHP Application, for the duration of the 15-year AHP Retention Period, which ends 15 years from the date of project completion (as defined in the AHP Implementation Plan).
- b. Each of FHLBank Atlanta and the Lender is to be given notice of any sale or refinancing of the project occurring prior to the end of the 15-year AHP Retention Period.

c. In the case of a sale, transfer, assignment of title or deed, or refinancing of the project by the Project Owner during the retention period the full amount of the direct AHP Subsidy received by the Project Owner shall be repaid to FHLBank Atlanta, unless one of the following exceptions applies:

(1) The Project continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP Application for the duration of the AHP 15-year retention period; or

(2) If authorized by FHLBank Atlanta, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another property that is made subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the remainder of the AHP 15-year retention period.

d. The income-eligibility and affordability restrictions applicable to the Project terminate after any foreclosure, conveyance by deed in lieu of foreclosure or any assignment of the first mortgage to the Secretary of HUD. However, any obligation to repay the AHP subsidy for any period of noncompliance arising prior to the foreclosure, deed in lieu, or assignment to the Secretary of HUD shall not be extinguished by such actions. The obligation to repay AHP subsidy to FHLBank Atlanta shall not terminate after any foreclosure, deed in lieu of foreclosure, or assignment to the Secretary of HUD, and is subject to reasonable collection efforts.

e. In the event that the AHP Subsidy is disbursed to the Project Owner prior to completion of construction of the Project, then at all times prior to completion, (a) any sale of the property (or any portion thereof) to any person or entity shall be prohibited without the prior written consent of the Lender; and (b) any failure to develop the property in accordance with the AHP Agreement for the Project, or any other failure by the Project Sponsor to comply with said AHP Agreement, the Retention Mechanism agreement, or any AHP Regulation, shall result in a default requiring repayment of the subsidy to FHLBank Atlanta.

f. The Project may not receive funds from multiple AHP competitive or set-aside product(s) offered by FHLBank Atlanta during the 15-year AHP retention period.

**5. Inconsistent Provisions.** The provisions of this Rider shall supersede any conflicting provision contained in the Security Instrument, but only to the extent of such inconsistency. No provision herein shall impair any obligation of Borrower under the AHP Requirements.

IN WITNESS WHEREOF, Borrower has caused this instrument to be executed and sealed the day and year first above written

\_\_\_\_\_  
Witness

Borrower/Trustor

\_\_\_\_\_, a  
[state] [form of entity]

By \_\_\_\_\_[if applicable]\_\_\_\_\_  
Its \_\_\_\_\_[capacity]\_\_\_\_\_

\_\_\_\_\_ Notary  
Public

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FHLBank Atlanta AHP Rider – General Fund .  
Rental  
Projects