



Directions for Preparation of Retention Mechanism

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, Project Owner, or Owner Occupant 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**, pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), 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 pursuant to FIRREA (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 or refinancing of the project prior to the end of the 15-year AHP Retention Period, (a) with respect to a direct subsidy, an amount equal to the full amount of the direct subsidy shall be repaid to FHLBank Atlanta, and (b) with respect to a subsidized advance, the full amount of the interest rate subsidy received by the project owner, based upon a pro rata portion of the interest rate subsidy imputed to the subsidized advance during the period the project owner owned the property prior to the sale or refinancing, shall be repaid to FHLBank Atlanta, in each case unless the Project continues to be subject to a retention mechanism agreement incorporating the income-eligibility and affordability restrictions committed to in the AHP Application for the duration of the 15-year AHP Retention Period, and
- 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.
- 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.

Borrower/Trustor

Witness (unofficial)

_____, a
[state] [form of entity]
By _____ [if applicable] _____,
Its _____ [capacity] _____

Notary Public

By: _____
Name: _____
Title: _____

RIDER TO SECURITY INSTRUMENT -

FEDERAL HOME LOAN BANK OF ATLANTA AFFORDABLE HOUSING PROGRAM RETENTION AGREEMENT (Owner-Occupied Project)

This Rider to Security Instrument – Federal Home Loan Bank of Atlanta Affordable Housing Program, Retention Agreement (Owner-Occupied Project) (this “Rider”) is attached to and made part of the foregoing Security Instrument or similar security instrument (“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.

I. RECITALS:

- A. Whereas**, pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), 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 Bank 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 a housing project (hereinafter “Project”) in which the real property described in the Security Instrument (the “AHP-Assisted Unit”) is located.
- D. Whereas**, pursuant to applicable regulations (including, without limitation, those contained in 12 CFR Part 1291) promulgated by the Finance Agency pursuant to FIRREA (the “AHP Regulation”), members of each Federal Home Loan Bank are required to provide for the repayment of any direct subsidy should said direct subsidy be unused or improperly used.
- E. Whereas**, in connection with the Project, the sponsor of the Project (“Sponsor”) entered into an Affordable Housing Program Agreement (Owner-Occupied Project) (“AHP Agreement”) with FHLBank Atlanta and Lender, pursuant to which Sponsor and Lender agreed to be bound by the AHP Regulation, and the policies, procedures, guidelines and instructions covering, among other things, the use of FHLBank Atlanta’s AHP funds under the AHP Requirements (as defined in the AHP Agreement), and perform certain monitoring functions with respect to the Project and related Subsidies.
- F. Whereas**, Lender has disbursed or agreed to disburse the AHP Subsidy (defined below) to Owner or to Sponsor for the benefit of Owner in connection with Owner’s purchase, construction and/or rehabilitation of the AHP-Assisted Unit, and in connection with the AHP Subsidy, Owner has executed the Security Instrument, which includes this Rider.

G. Whereas, the Parties desire to set forth those circumstances under which Lender shall be entitled to the repayment by Owner of the Subsidy.

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

1. Project Information

| | |
|----------------------------------|--|
| Name of the Owner | |
| Address of the AHP-Assisted Unit | |
| 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 AHP-Assisted Unit.

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

“**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.

“**Retention Period**” means five years from the date of Owner’s closing on the AHP-Assisted Unit or, in the case of rehabilitation of a unit currently occupied by Owner where there is no closing, five years from the date on which the Owner executes and delivers this Retention Mechanism. Owner agrees to comply with the terms and conditions of this Retention Agreement during the Retention Period.

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

4. Notice Requirements. Each of FHLBank Atlanta and the Lender is to be given notice of any sale or refinancing of the AHP-Assisted Unit occurring prior to the end of the Retention Period. Notices under this Rider shall be sent to the Lender at the address shown in the main body of the Security Instrument, and to FHLBank Atlanta at **1475 Peachtree Street, Atlanta, Georgia 30309, Attention: Community Investment Services.**

5. Sale of AHP-Assisted Unit during Retention Period. In the case of a sale of the AHP-Assisted Unit prior to the end of the Retention Period, (a) with respect to a direct subsidy, an amount equal to a pro rata share of the AHP direct subsidy that financed the purchase, construction, or rehabilitation of the AHP-Assisted Unit, reduced for every year the Owner owned the unit; and (b) with respect to a subsidized advance the proceeds

of which were used to finance construction or rehabilitation of (and not permanent financing for) the AHP-Assisted Unit, an amount equal to the pro rata portion of the interest-rate subsidy imputed to the subsidized advance that financed the construction or rehabilitation loan for the AHP-Assisted Unit, reduced for every year the seller owned the unit, shall be repaid to FHLBank Atlanta from any net gain realized upon the sale of the AHP-Assisted Unit unless the unit is sold to a very low-, low- or moderate-income household, as defined in the AHP Regulations.

- 6. Refinancing of AHP-Assisted Unit during Retention Period.** In the case of a refinancing of the AHP-Assisted Unit prior to the end of the Retention Period, (a) with respect to a direct subsidy, an amount equal to a pro rata share of the direct subsidy, reduced for every year the occupying household has owned the AHP-Assisted Unit, and (b) with respect to a subsidized advance the proceeds of which were used to finance construction or rehabilitation of (and not permanent financing for) the AHP-Assisted Unit, an amount equal to the pro rata portion of the interest-rate subsidy imputed to the subsidized advance that financed the construction or rehabilitation loan for the AHP-Assisted Unit, reduced for every year the Owner owned the unit, shall be repaid to FHLBank Atlanta from any net gain realized upon the refinancing, unless the unit continues to be subject to a Retention Mechanism Agreement, as described in the AHP Agreement.
- 7. Effect of Foreclosure.** The obligation to repay the AHP Subsidy to FHLBank Atlanta shall 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.
- 8. Receipt of Additional AHP Subsidy during Retention Period.** The AHP-Assisted Unit may not receive funds from multiple AHP competitive or set-aside product(s) offered by FHLBank Atlanta during the Retention Period.
- 9. Noncompliance by Owner.** Owner shall be required promptly to repay that portion of the AHP Subsidy, plus interest in an amount determined by FHLBank Atlanta, that as a result of the Owner's actions or omissions is not used in compliance with the terms of the AHP Application, the AHP Agreement, FHLBank Atlanta's AHP Implementation Plan or the requirements of the AHP Regulation, unless (i) Owner cures such misuse or noncompliance within a reasonable time or (ii) the circumstances of noncompliance are eliminated through a modification of the terms of the approved application for the Subsidy pursuant to the AHP Regulation. Noncompliance by Owner includes a misrepresentation by Owner at any time of Owner's eligibility to receive the Subsidy or the benefit of the Subsidy or of any facts on which such eligibility is based and any other noncompliance with the AHP Regulation resulting from an action or omission by Owner.
- 10. Monitoring.** Owner agrees to comply with all requests by Lender for information or documentation arising from Lender's obligations to obtain information from the Owner under the AHP Requirements. The Owner's failure to respond to a request by Lender shall constitute noncompliance, as described in Section 9 of this Rider.
- 11. Joint and Several Obligations.** If more than one person is the Owner of the AHP-Assisted Unit, their obligations under this Rider shall be joint and several, and references in this Agreement to "Owner" shall be deemed to refer to each of such persons.

12. 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, Owner has caused this instrument to be executed and sealed the day and year first above written.

Witness (unofficial)

Owner

Notary Public

Owner