**Do not include this cover page in the use of this Rider to Deed of Trust.**

**Affordable Housing Program – Owner Projects**

**Rider to Deed of Trust**

This Rider to Deed of Trust is to be attached to a deed of trust prepared by the member that secures only the obligation evidenced by the AHP Promissory Note. The AHP Rider must not be attached to a deed of trust that secures loan(s) on the AHP project other than the obligation evidenced by the AHP Promissory Note.

This form document has been prepared to address the minimum retention requirements of the AHP Regulations. The Federal Home Loan Bank of San Francisco 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 legal counsel review the documents to address 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 and rider to the deed of trust must meet the requirements of your jurisdiction.

**RIDER TO** **DEED OF TRUST**

**AFFORDABLE HOUSING PROGRAM**

**RETENTION AGREEMENT**

**AND RESTRICTIVE COVENANTS**

(AHP Owner-Occupied Project)

This Rider to Deed of Trust - Affordable Housing Program, Retention Agreement and Restrictive Covenants is attached to and made part of the foregoing Deed of Trust or similar security instrument (“Deed of Trust”). In this Rider, the beneficiary of the Deed of Trust is referred to as the “Lender” and the trustor under the Deed of Trust is referred to as the “Owner” or “Borrower.” This Rider is sometimes referred to herein as the “Retention Agreement.”

1. **RECITALS:**
	1. **Whereas**, pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”), the Federal Housing Finance Board (“FHFB”) 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.
	2. **Whereas**, the Federal Home Loan Bank of San Francisco (“Bank”) has also established an Affordable Housing Program Implementation Plan, which includes policies, procedures, guidelines and instructions covering, among other things, the use of the Bank’s AHP funds under the AHP Program.
	3. **Whereas**, Lender, a member of the Bank, submitted an application to the Bank (the “AHP Application”) for an AHP Subsidy (defined below) in connection with a housing project (hereinafter “Project”) in which the AHP-Assisted Unit is located.
	4. **Whereas**, pursuant to regulations (including, without limitation, those contained in 12 CFR Part 1291) promulgated by the FHFB pursuant to FIRREA (the “AHP Regulation”), members of each Federal Home Loan Bank are required to provide for the repayment of any Subsidy should said Subsidy be unused or improperly used.
	5. **Whereas**, in connection with the Project, the sponsor of the Project (“Sponsor”) entered into an Affordable Housing Program Direct Subsidy Agreement Owner-Occupied Project (“Subsidy Agreement”) with the Bank 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 the Bank’s AHP funds under the AHP Program (collectively, along with the Implementation Plan, the Bank’s AHP Policies and Procedures), and perform certain monitoring functions with respect to the Project and related Subsidies.
	6. **Whereas**, Lender has disbursed or agreed to disburse the Subsidy to Owner or to Sponsor for the benefit of Owner in connection with Owner’s purchase, construction and/or rehabilitation of real property described in the Deed of Trust (the “AHP-Assisted Unit”), and in connection with the Subsidy, Owner has executed the Deed of Trust, which includes this Rider.
	7. **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 Deed of Trust, Owner hereby agrees as follows:

1. **Subsidy**. The secured obligation described in and secured by the Deed of Trust represents the “Subsidy” used or to be used in connection with the purchase, construction or rehabilitation of the AHP-Assisted Unit.

1. **Retention Period**. “Retention Period” means five years from closing for an AHP-Assisted owner-occupied unit where the AHP subsidy is used for purchase of the unit or for purchase in conjunction with rehabilitation of the unit. Owner agrees to comply with the terms and conditions of this Retention Agreement during the Retention Period.
2. **Principal Residence Requirement; Notice of Sale or Refinancing or Transfer**.
	1. **Residence**. Owner shall own and occupy the AHP-Assisted Unit as Owner’s principal residence during the Retention Period. In case of a sale described in Section 4(b)(i) below, the transferee shall own and occupy the AHP-Assisted Unit as transferee’s principal residence during the balance of the Retention Period.
	2. **Notice**. Owner shall give notice to Lender and Lender shall give notice to the Bank, of any proposed sale, transfer, assignment of title or deed, or refinancing of the AHP-Assisted Unit during the Retention Period, including a transfer by foreclosure or deed in lieu of foreclosure. Owner shall give such notice or cause such notice to be given at least 10 business days in advance of the anticipated completion of the sale, transfer, assignment, or refinancing. The notice shall include all information necessary for determining whether any repayment will be due and payable under Section 4 of this Retention Agreement or similar provisions of the Promissory Note secured by the Deed of Trust (“Note”) on account of the proposed transaction and, if any such payment will be due and payable, the amount of such payment and the basis for the determination of the amount.
3. **Repayment**.
	1. **General**. Subject to Section 5, below, and unless earlier prepayment is required under subsections (b) or (c) below, payment of the principal balance of this Note will be due and payable in full at the end of the Retention Period, provided that Owner's liability on this Note shall be reduced on a pro rata basis as described in Section 4(b). Provided Owner has owned and occupied the AHP-Assisted Unit as Owner’s principal residence during the entire Retention Period and no default or breach has occurred and is continuing under this Note, the Deed of Trust, the Retention Agreement and the other Loan Documents and no misuse (as defined in subsection 4(c)) of this Retention Agreement has occurred, Owner shall be released from any obligation under this Note and Lender shall reconvey the Deed of Trust at the end of the Retention Period.
	2. **Sale, Transfer, Assignment, or Refinancing**. In the case of a sale, transfer, assignment of title or deed, or refinancing of the AHP-Assisted Unit by the household during the Retention Period, the Bank shall be repaid the lesser of: (A) the amount of AHP subsidy reduced on a pro rata basis per month until the AHP-Assisted Unit is sold, transferred, or its title or deed transferred, or is refinanced; or (B) any net proceeds from the sale, transfer, or assignment of title or deed of the AHP-Assisted Unit, or the refinancing, as applicable, minus the AHP-Assisted household’s investment, unless one of the following exceptions applies:
		1. in the case of a sale, transfer or assignment of the AHP-Assisted Unit, the subsequent purchaser, transferee, or assignee is a low- or moderate-income household as defined in the AHP Regulation, and as determined by the Bank pursuant to the Bank’s Policies and Procedures;
		2. in the case of a refinancing, following the refinancing, the AHP-Assisted Unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism as herein described incorporating the income eligibility, notice requirements and the obligations and restrictions described in the Retention Agreement and the AHP Regulation for the remainder of the Retention Period; or
		3. the amount of the AHP subsidy that would be required to be repaid in accordance with the calculation in

this section is $2,500 or less.

Owner shall maintain documentation of their household investments and capital improvements in case the AHP-Assisted Unit is sold or refinanced during the Retention Period.

* 1. **Subsidy Repayment to the Bank**. Lender’s obligation to repay Subsidy to the Bank is governed by the Bank’s AHP Policies and Procedures.
1. **Effect of Foreclosure, Transfer by Deed-in-lieu, Assignment of First Mortgage, or Death of Owner**. The obligation to repay the Subsidy to Lender and to the Bank and the requirement that the AHP-Assisted property be occupied during the retention period shall terminate if title to the AHP-Assisted Unit is transferred by foreclosure or deed-in-lieu of foreclosure, if the first mortgage on the AHP- Assisted Unit is assigned to the Department of Housing and Urban Development (HUD), or after the death of the Owner.
2. **Restrictions Burden the Real Property**. Subject to Section 5, regarding the effect of foreclosure, or deed-in-lieu of foreclosure or assignment of the first mortgage on the AHP-Assisted Unit to the Secretary of HUD, this Retention Agreement requires that the AHP-Assisted Unit be owned and occupied during the Retention Period by a low- or moderate-income household, as defined in 12 CFR 1291.1 or other applicable section of the AHP Regulation. All of the covenants and restrictions herein shall run with and encumber the AHP-Assisted Unit and the improvements thereon, and shall bind Owner and Lender during the Retention Period.
3. **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 Regulation, AHP Application, AHP Agreement or the Bank’s AHP Policies and Procedures.
4. **Secured Obligations**. In addition to any secured obligations described in the main body of the Deed of Trust, the Deed of Trust secures (a) Owner’s obligation to repay the Subsidy under the terms and conditions of this Retention Agreement and the Note executed by Owner and (b) performance of Owner’s other obligations under this Retention Agreement.
5. **Address for Notices**. Notices under this Retention Agreement shall be sent to the addresses shown in the main body of the Deed of Trust.
6. **Recording of the Agreement**. This Retention Agreement shall be attached to and made a part of the Deed of Trust and the Deed of Trust shall be recorded in the official records of the county where the AHP-Assisted Unit is located.
7. **Joint and Several Obligations**. If more than one person is the Owner of the AHP-Assisted Unit, their obligations under this Retention Agreement shall be joint and several, and references in this Agreement to “Owner” shall be deemed to refer to each of such persons.
8. **Counterparts.** This Rider may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute and be one and the same instrument.

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| --- | --- |
|  | Owner:     \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

ACKNOWLEDGMENTS

STATE OF

 ss.

COUNTY OF

**[INSERT APPROPRIATE NOTARY LANGUAGE FOR APPLICABLE STATE]**