

**DISCLOSURE STATEMENT REGARDING THE CITY OF CONCORD  
FIRST TIME HOMEBUYER PROGRAM AND  
SHARED APPRECIATION LOAN**

**THIS IS AN IMPORTANT DOCUMENT. EVERY BORROWER THAT RECEIVES A LOAN FROM THE CITY OF CONCORD PURSUANT TO ITS FIRST TIME HOMEBUYER PROGRAM MUST SIGN THIS STATEMENT UNDER "ACKNOWLEDGMENT OF RECEIPT OF DISCLOSURE" AS AN INDICATION THAT THE BORROWER HAS RECEIVED AND READ THIS ENTIRE DISCLOSURE**

You have applied for and been approved to receive a loan from the City of Concord (the "City") through the City's First Time Homebuyer Program (the "First Time Homebuyer Program"). Under the First Time Homebuyer Program, the City makes loans to qualified first time homebuyers of low or moderate income to assist in the purchase of a home. The loans offered by the City are intended to supplement the primary mortgage on the home (the "First Loan"), and help to make the homes affordable to low and moderate income households.

The loan being offered to you by the City (the "City Loan") to assist in the purchase of your new home (the "Property") is a "shared appreciation" loan that contains many provisions that are different from those of a typical home loan. A "shared appreciation loan" does not accrue interest like a typical loan. Instead, when the loan is due for repayment, the Borrower is required to pay to the lender a share of the increase in value (the "appreciation") in the home. The terms of the shared appreciation loan are described in this Disclosure Statement. This Disclosure Statement summarizes some of the requirements imposed as conditions of receiving the City Loan. It is very important that you carefully review not only this Disclosure Statement, but also the Promissory Note, Deed of Trust, and Regulatory Agreement that are described below. These documents specifically describe the terms of the City Loan and the restrictions that are placed on your property as a condition of making the loan.

In order to receive the City Loan for the purchase of the Property, you will be required to execute (1) a Promissory Note in favor of the City evidencing the Shared Appreciation Loan (the "Promissory Note"); (2) a Deed of Trust with Assignment of Rents in favor of the City securing the obligations under the Shared Appreciation Loan (the "Deed of Trust"); and (3) an Owner Occupancy and Regulatory Agreement between you and the City (the "Regulatory Agreement"). Generally, as summarized in more detail in this Disclosure Statement, the Promissory Note, Deed of Trust, and Regulatory Agreement impose the following requirements:

- You must occupy the Property as your principal residence;
- You may not refinance your existing loans or take out additional loans secured by the Property without prior written approval from the City;
- You are not required to make monthly or periodic repayments of the City Loan, but, if you sell or transfer the Property, default under the City Loan, or at the

expiration of the term of the City Loan, you must pay the City the full principal amount of the City Loan, plus a share of the increase in value of the home between the date you purchase the home and the date the loan comes due.

These requirements are described in greater detail below:

## **I. OWNER OCCUPANCY RESTRICTIONS**

### **A. The Property Must be Your Primary Residence**

The property you purchase must be your primary place of residence. This means that you must live on the Property for at least ten (10) months out of each calendar year. Each year, until the time that you have paid off the City Loan in full, you must certify to the City in writing that you met this requirement for the previous calendar year by submitting to the City an Owner Occupancy and Insurance Certification no later than February 1<sup>st</sup>. The form of the Owner Occupancy and Insurance Certification is attached to this Disclosure Statement as Exhibit A.

### **B. No Lease or Rental of the Property**

You are not allowed to lease or rent the Property to anyone. The Property must be your primary place of residence. If you violate these requirements, you will be in default under the Regulatory Agreement and the Promissory Note. The City can then either sue to force you to comply with the owner occupancy restrictions, or require you to pay the full amount due under the City Loan, including the City's share of the appreciation in the Property's value. Additionally, if you do rent or lease the Property, you will be obligated under the Promissory Note and the Regulatory Agreement to pay the rent that you receive to the City.

## **II. MAINTAINING YOUR HOME/PROPERTY INSURANCE/INSPECTIONS**

The Regulatory Agreement and Deed of Trust require that you keep the Property in good repair and in neat, clean, and orderly condition and to prevent deterioration of the Property. You also may not use or dispose of any hazardous substances on the Property, except those commonly used on residential properties. You also must keep a standard homeowner's insurance policy, with the City named as an additional insured and loss payee. The insurance policy shall be in an amount equal to the replacement value of the home on the Property. Every five (5) years, the replacement value will be reviewed and adjusted as needed, if requested by the City. The City may inspect the Property with two (2) business days advance notice. Each year, as part of the Owner Occupancy and Insurance Certification described above, you will also have to submit evidence that you are maintaining a valid insurance policy in compliance with the Regulatory Agreement and Deed of Trust. A copy of your insurance policy must be submitted to the City with the Owner Occupancy and Insurance Certification.

## **III. REFINANCING EXISTING LOANS/OBTAINING NEW LOANS**

The Regulatory Agreement requires that you obtain written City approval prior to refinancing any existing loan or obtaining a new loan that will be secured by the Property. The

form of the request for refinance of an existing loan is attached to this Disclosure Statement as Exhibit B. The City will only approve the refinancing if the proposed refinanced loan meets certain standards established for participation in the First Time Homebuyer Program, including combined loan-to-value ratios for the home, and debt-to-income ratios for the homebuyer. In order to receive City consent for the refinancing of a loan, or for a new loan, you must demonstrate to the City that you will continue to meet the standards established by the First Time Homebuyer Program if you complete the refinance or receive the new loan. You will be subject to the standards in effect at the time you make a written request to the City. Additionally, you are not permitted, under any circumstances, to obtain a new loan, mortgage or equity line of credit that includes negative amortization (such as an interest-only loan).

#### **IV. TERMS OF THE SHARED APPRECIATION LOAN**

The City Loan is a "Shared Appreciation Loan" that is being made to you as a low or moderate income homebuyer in accordance with California Civil Code section 1917.006. As stated above, the City Loan is evidenced by the Promissory Note that you must execute in favor of the City, and your obligation to repay the Promissory Note will be secured by the Deed of Trust that will be recorded against the Property.

##### **A. Repayment of City Loan**

You do not have to make any monthly or periodic payments under the City Loan until one of the following events occurs: (1) You default under any provision of the Promissory Note, the Deed of Trust, or the Regulatory Agreement; (2) you sell or transfer the Property to a third party, as described in more detail below; or (3) the Term of the City Loan expires.

At the time of a default, transfer, or expiration of the Term, the full principal amount of the City Loan will be due and payable plus you must pay the City an amount equal to the City's proportionate share of appreciation in value of your Property between the date that you purchased the Property and the date that the City Loan becomes due and payable. The method of calculating the City's Shared Appreciation is described below.

A "transfer" that will trigger repayment of the City Loan includes any sale, assignment, or transfer of any interest in the Property, whether voluntary or involuntary, except for the following: (1) A transfer to an existing spouse or domestic partner who is also obligated under the Promissory Note; (2) to a spouse or domestic partner where your spouse or domestic partner becomes the co-owner of the Property; (3) between spouses as part of a marriage dissolution proceeding; (4) by devise or inheritance following death; (5) into an inter vivos trust where you are the beneficiary; (6) by deed of trust or imposition of a lien subordinate to the Deed of Trust, provided that you received written City approval of the lien, as described above; or (7) the refinance of an existing loan, provided that you received written City approval as set forth above.

##### **B. City's Shared Appreciation**

The Promissory Note requires that at the time the City Loan is due, you pay to the City not only the principal amount due, but also a proportionate share of the appreciation in the value of the Property between the date that you originally purchased the Property and the date that the

loan comes due. The City's proportionate share of the appreciation is a percentage of the total appreciation in the value of the Property. That percentage is equal to the percentage of the total purchase price of the Property that is paid for with the City Loan. For example, if the City Loan is equal to 20% of the total purchase price of the Property, then when the loan comes due, you will be required to pay the City, in addition to the principal on the City Loan, 20% of the appreciation in the value over the original purchase price for the Property. If your Property does not appreciate in value, or if the Property decreases in value, you will not be required to pay the City any shared appreciation, but you will still be required to repay the principal amount of the City Loan.

### **C. Determining Property Value when the City Loan Comes Due.**

For purposes of calculating the City's Shared Appreciation, the value of the Property at the time the Promissory Note comes due will be determined in one of two ways: If repayment is triggered by the sale of the Property, whether voluntary or involuntary, then the appreciation in value will be based on the actual sales price for the Property. If the note comes due for any other reason, including a Transfer of the Property other than a sale, a default under the Promissory Note, Deed of Trust or Regulatory Agreement, or the expiration of the Term, then the value of the Property will be determined by an appraisal completed by a certified appraiser, who can be selected by you but must be approved by the City. You will be responsible to pay the cost of the appraisal. The appraisal will determine the fair market value of the Property, and the City's Shared Appreciation will be calculated as a percentage of the difference between the original purchase price and the appraised fair market value of the Property.

### **D. Your Right to Retain Your Equity in the Property**

Under state law, you have a right to retain, at a minimum, the cash equity that you have invested in the Property, plus interest, before the City can be paid the City's Shared Appreciation. In other words, after you pay the City Loan but before the City may receive the City's Shared Appreciation, you are entitled to retain at least the cash equity you invested in the Property with interest. Therefore, you will be entitled to retain equity in the Property, or receive proceeds from the sale of the Property in an amount equal to at least: (i) the actual cash amount you paid towards your down payment, (ii) any additional principal payments on the First Loan, (iii) the amount of any escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs you actually incurred when you purchased the Property and that you can substantiate, (iv) the amount of money you spent for approved capital improvements to the Property, and (v) the amount equal to the legal rate of interest at the rate stipulated in the Promissory Note on all cash payments by you of the items identified in (i) through (iv) above.

You will be required to provide the City with written documentation of the amounts you have paid, as listed above. For purposes of documenting any amounts paid for the down payment, payments of principal on the First Loans or escrow fees, transfer taxes, recording fees, brokerage fees or similar costs, you can submit your original closing statements, bank statements and copies of cancelled checks to document payments that you have made as described above. You will only receive credit for eligible capital improvements that have been approved by the City. "Eligible capital improvements" only include those improvements that are installed by a licensed contractor and cost at least \$2,000 at the time they were installed. In order to receive

approval of the improvements as "eligible capital improvements," you must submit a "Request of City Approval of Capital Improvements." A form of the Request is attached to this Disclosure as Exhibit C.

If the proceeds of the sale of the Property that you receive after payment of the First Loan, the City Loan and any other debt approved by the City, or the total equity that you retain in the Property, based on the appraised fair market value of the Property, less the outstanding debt secured by the Property, at the time the City Loan comes due, is not sufficient to cover the cash payments and interest described above, then the City's Shared Appreciation will be reduced as necessary to ensure that you retain the cash payments described above. The City will only include documented cash payments. It is therefore very important for you to retain your records documenting the types of payments described above.

## **V. TAX CONSEQUENCES.**

Repayment of the City Loan including the requirement to pay the City's Shared Appreciation may have income tax or estate planning consequences which will depend upon your own financial and tax situation. **FOR FURTHER INFORMATION, YOU ARE URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY, OR OTHER FINANCIAL ADVISER.**

## **VI. OTHER IMPORTANT INFORMATION.**

This Disclosure Statement is a general description of the Promissory Note, Deed of Trust, and Regulatory Agreement that is intended to alert you to some of the key provisions in those documents that differ from a typical mortgage loan. However, this Disclosure Statement does not fully or completely restate all of the terms and conditions of the Promissory Note, Deed of Trust or the Regulatory Agreement. You should carefully read and understand the Promissory Note, Deed of Trust and Regulatory Agreement before you sign any loan document.

**FURTHER, BEFORE YOU EXECUTE THE PROMISSORY NOTE, DEED OF TRUST, AND REGULATORY AGREEMENT, WE STRONGLY RECOMMEND THAT YOU AND YOUR ATTORNEY OR TAX ACCOUNTANT REVIEW ALL OF THE LOAN DOCUMENTS DESCRIBED IN THIS DISCLOSURE STATEMENT FOR THE FULL TEXT OF ALL OF THE TERMS AND CONDITIONS WHICH WILL GOVERN THE CITY LOAN.**

**THERE IS NO GUARANTEE THAT YOUR PROPERTY WILL APPRECIATE IN VALUE OR THAT THERE WILL BE SUFFICIENT PROCEEDS FROM THE SALE OF YOUR PROPERTY FOR YOU TO RECEIVE BACK YOUR DOWN PAYMENT OR CLOSING COSTS.**

**IN THE EVENT OF FORECLOSURE, IT IS HIGHLY UNLIKELY THAT YOU WILL RECEIVE YOUR DOWN PAYMENT OR CLOSING COSTS.**

## **ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE AND INFORMATION**

The undersigned acknowledges it has received and reviewed this Disclosure about the City of Concord Shared Appreciation Loan.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FORM OF OWNER OCCUPANCY AND INSURANCE CERTIFICATION**

To: City of Concord ("City")  
Community Development Department  
1950 Parkside Drive, MS/01B  
Concord, CA 94519  
Attention: Redevelopment and Housing Manager

From: \_\_\_\_\_ [name of owner(s)] ("Owner(s)")

Address of Property: \_\_\_\_\_ ("Home")

Date: \_\_\_\_\_

By signature below, I \_\_\_\_\_ **[insert name or names of Owner]** hereby certify to the City under penalty of perjury that I/we occupy the home located at \_\_\_\_\_ **[insert address]** (the "Property") as my/our principal place of residence and that I/we have occupied the Property for \_\_\_\_\_(\_\_\_\_) **[insert number]** months of the calendar year \_\_\_\_\_ **[insert previous calendar year]**. Attached to this letter is a copy of \_\_\_\_\_ **[insert utility, phone or internet bill dated within the past three months]** showing my place of residence.

I further certify that I have a valid and current insurance policy insuring the Property in compliance with all requirements of the Owner Occupancy and Regulatory Agreement that I entered into with the City. My insurance policy is Policy # \_\_\_\_\_, maintained with \_\_\_\_\_ **[insert name of Insurance Company]**. A copy of my insurance policy is attached to this certification.

This Owner Occupancy and Insurance Certification is signed on \_\_\_\_\_, 20\_\_\_\_, under penalty of perjury.

By: \_\_\_\_\_  
Owner **[type name]**

By: \_\_\_\_\_  
Owner **[type name]**

Due Date: February 1 of each calendar year.

Attach copy of bill for utilities, phone, or internet showing owner's name and mailing address.

Attach copy of Insurance Policy

**EXHIBIT B**  
**FORM OF REFINANCE OR NEW LOAN REQUEST NOTICE**  
(First Time Homebuyer Program)

To: City of Concord ("City")  
Community Development Department  
1950 Parkside Drive, MS/01B  
Concord, CA 94519  
Attention: Redevelopment and Housing Manager

From: \_\_\_\_\_ ("Owner")  
Property Address: \_\_\_\_\_ ("Property")  
Date: \_\_\_\_\_

**A. FOR PROPOSED REFINANCE OF FIRST MORTGAGE LOAN**

The Owner requests the City to approve the Owner's refinance of the existing first mortgage on the Property.

1. Original purchase price of Property: \$ \_\_\_\_\_
2. Date of purchase of Property: \_\_\_\_\_
3. Original principal balance of existing First Lender Loan: \$ \_\_\_\_\_
4. Interest rate of existing First Lender Loan: \_\_\_\_\_%
5. Current outstanding principal balance of all loans secured by Property:  
(attach recent statements within the past thirty (30) days) \$ \_\_\_\_\_
  - a. First Lender Loan \$ \_\_\_\_\_
  - b. City Loan \$ \_\_\_\_\_
  - c. Junior Loan(s) or home equity lines of credit \$ \_\_\_\_\_
6. Principal amount of proposed First Lender Loan after refinance \$ \_\_\_\_\_
7. Interest rate of proposed First Lender Loan after refinance \_\_\_\_\_%
8. Term of proposed First Lender Loan: \_\_\_\_\_
9. Is proposed new First Lender Loan fully amortized? Yes/No \_\_\_\_\_
10. Appraised Fair Market Value of the Property \$ \_\_\_\_\_

**B. FOR PROPOSED JUNIOR LOAN**

The Owner requests the City to approve a new junior loan to be secured by the Property.

1. Original purchase price of Property: \$ \_\_\_\_\_
2. Date of purchase of Property: \_\_\_\_\_
3. Outstanding principal balance of all Loans secured by Property: \$ \_\_\_\_\_
  - a. First Lender Loan \$ \_\_\_\_\_

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**Disclosure Statement – Exhibit ‘B’**

- b. City Loan \$ \_\_\_\_\_
- c. Junior Loan(s) \$ \_\_\_\_\_
- 4. Terms of proposed new junior loan
  - Principal amount \$ \_\_\_\_\_
  - Term \_\_\_\_\_
  - Interest rate \_\_\_\_\_%
- 5. Appraised Fair Market Value of the Property \$ \_\_\_\_\_

The Owner hereby certifies the above information is true and correct and this Owner Request is executed under penalty of perjury on \_\_\_\_\_ **[insert date]**.

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

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

**EXHIBIT C**

**FORM OF REQUEST FOR CITY APPROVAL OF IMPROVEMENTS TO THE HOME  
(First Time Homebuyer Program)**

To: City of Concord ("City")  
Community Development Department  
1950 Parkside Drive, MS/01B  
Concord, CA 94519  
Attention: Redevelopment and Housing Manager

From: \_\_\_\_\_ ("Owner")

Property Address: \_\_\_\_\_ ("Property")

Date: \_\_\_\_\_

I hereby request City approval of the following capital improvements I intend to make to my Home:

Description of Improvements: \_\_\_\_\_  
\_\_\_\_\_

Estimated Cost: \_\_\_\_\_

Original Purchase Price for Property: \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

A copy of the building permit (if required) is attached.

The City will respond in writing to this request.

**NOTE: Owner should retain copies of contracts, invoices, and receipts for all completed capital improvements. These documents will be necessary to establish the resale restricted price of the Home upon subsequent transfer.**

\*Notice: Proposed Improvements must cost at least Two Thousand Dollars (\$2,000) and must be approved by the City in writing prior to construction.

