



City of Livermore

Mortgage Assistance

Program Guidelines

(Non-CalHome)

City of Livermore
Community and Economic Development Department
Housing and Human Services Division
1052 S. Livermore Avenue
Livermore, CA 94550

Phone: (925) 960-4580
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Revised July 2015

City of Livermore Mortgage Assistance Program

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City Mortgage Assistance Program Guidelines

The City's Mortgage Assistance Program (MAP) provides secondary down payment and closing cost assistance to income eligible, first-time home buyers purchasing homes in the City of Livermore. These guidelines shall describe the application process, criteria for determining Applicant eligibility, and loan monitoring requirements through the Program. These guidelines are subject to final interpretation by the Housing and Human Services Division Manager.

ELIGIBLE USES OF LOAN FUNDS

MAP funds may be used only to purchase a house and to pay for any non-recurring closing costs (not to exceed 2% of the purchase price) associated with purchasing the home. Borrower shall not use loan funds to finance repairs, room additions, or to purchase any non-real property. No cash out at Close of Escrow is allowed.

LOAN TERMS & REQUIREMENTS

Maximum Loan Amount

Maximum assistance to be provided through a homebuyer loan is 20% of the purchase price, up to \$60,000. MAP Funds are intended to be used as gap funding; therefore actual loan amounts provided will be based on a total Backend Debt to Income Ratio (DTI) of no less than 30%.

Term

The term of the MAP loan shall be 20 years.

Interest

Simple interest of three percent (3%) over the Term of the Loan.

Payments

Principal and interest payments are due monthly. There shall be no prepayment penalty. Payments made shall be applied first toward accrued interest and then toward outstanding principal on the loan.

Loan Structure

The total loan amount will be divided equally between two promissory notes for the purpose of affordability.

Example: \$60,000 MAP Loan

	Promissory Note #1 \$30,000	Promissory Note #2 \$30,000
Years 1-10	Amortized, with equal monthly payments.	Deferred principal and interest payments.
Payment Amount:	\$289.68	\$0
Years 11 – 20	Note paid in full.	Accrued interest for years 1-10 is forgiven. Amortized, with equal monthly payments
Payment Amount:	\$0	\$289.68

Required Down-Payment

The Borrower must provide Seasoned Funds in an amount equal to a minimum of 3% of the purchase price for use as a down payment (not including closing costs). Seasoned Funds must be deposited into escrow and verification must be provided to the City prior to execution of loan documents.

Gifted Funds

The Borrower may be gifted funds towards the purchase, evidenced by a “gift letter” which must be submitted with the Program Application. Gifted funds are subject to the secondary assistance limit.

Secondary Assistance Limit

The total of Borrower’s down-payment, gifted funds, and all assistance from secondary financing sources (including MAP funds) may not exceed 22% of the purchase price. At the discretion of the Program Administrator, this limit may be waived to increase affordability for lower income applicants and meet Backend Debt to Income Ratio limits.

Security

Borrowers shall execute a promissory note (“Note”) for the amount of the MAP loan secured by a deed of trust to the property with the City of Livermore as beneficiary. (Attachments 1&2)

Repayment, Assumption & Transfer of Interest Exceptions

Loans are due upon circumstances that include sale, lease, transfer or failure of the Borrower to occupy the property as their Primary Residence, as more thoroughly described in the City’s Note. Transfer of interest exceptions which do not require repayment are described in the City’s Note. Assumption of the Note is restricted to eligible borrowers; refer to Attachment 1.

Owner Occupancy Requirement

Borrowers must promise to occupy the Unit as their Primary Residence during the term of the MAP loan. Borrowers shall certify owner occupancy annually by submitting an Annual Compliance Report as defined in the Loan Servicing Guidelines (Attachment 3, Exhibit 1). Failure to maintain the owner occupancy requirement shall be a default of the terms of the City’s Note.

Homebuyer Education Requirement

Borrowers must complete 8-hours of homebuyer education from a City-approved homebuyer education provider. The curriculum shall be “HUD-approved” and will include: preparing for homeownership; available financing and credit analysis; loan closing and homebuyer responsibilities; home maintenance; and, loan servicing.

Successful completion of the training must be evidenced by a Certificate of Completion which shall be presented as a condition of and prior to issuance of final loan approval by the City.

APPLICANT QUALIFICATIONS

Citizenship

Applicant must be a U.S. citizen or lawfully permitted for permanent residence.

First Time Homebuyer

Applicant must be a First Time Homebuyer which shall be verified through a review of the Applicant’s tax returns and credit report.

Income Limits

Gross Household Income must not exceed 120% of the Area Median Income, (adjusted by household size), which shall be updated annually by the City.

Asset Limits

Applicants may have no more than twenty percent of the purchase price of the Unit in total liquid assets, excluding pensions and federally approved pre-tax savings accounts.

In addition, assets in excess of \$5,000 (excluding the amount to be contributed as a down payment and closing costs) shall be subject to an asset income test formula

Income Determination

Gross Household Income shall be determined based on a 12-month projection of income from the date of Application. Applicants must provide sufficient documentation of income for use in determining the Applicant's income level. Final determination of an Applicant's income and program eligibility shall be made by the City.

Initial income qualification will be verified for accuracy based on two or more of the following sources:

- a. Pay stubs for two (2) most recent months;
- b. Income tax return for the three (3) most recent tax years;
- c. Bank statements for the three (3) most recent;;
- d. Credit report*;
- e. Verification form from current employers; and/or
- f. Income (or unemployment) verification from the Social Security Administration and/or the California Department of Social Services if the household receives assistance from either of such agencies, or State EDD; or, another form of independent verification.

The Program Administrator will conduct a final credit and income eligibility verification based on a review of information received from the Applicant's first lender. Final loan approval will be subject to that review.

Creditworthiness

Applicants must have a minimum FICO score of 660*, have no open delinquent or collection accounts, and may not have filed bankruptcy within the last three (3) years.

* Equal Credit Opportunity Act. Under the Equal Credit Opportunity Act (ECOA), Lenders normally are prohibited from requesting disclosure of certain information from an applicant. Under Section 202.5(b0 and 202.89a)(1) and (d) of the ECOA regulations, income information such as child support and alimony, and other information such as marital status, residence status, etc., can be requested in order to allow the lender to determine whether an applicant meets the income and other eligibility requirements of federal and state law relating to the loan.

DEFINITIONS

Applicant shall mean an applicant to the City's Mortgage Assistance Program.

Area Median Income shall mean the Median Income adjusted by actual household size as published annually by State Department of Housing and Community Development

("HCD") for the County of Alameda, which Median Income levels shall be adjusted concurrently with their publication by HCD.

Backend Debt to Income Ratio shall mean monthly housing expenses (e.g. principal, interest, taxes, insurance, and HOA dues), plus other monthly secured and unsecured debt (e.g. auto, credit cards, etc.) divided by the family's gross monthly income.

Borrower shall mean a recipient of a Mortgage Assistance Loan.

City shall mean City of Livermore as lender.

Eligible Household shall mean a household that meets the eligibility criteria set forth in these Guidelines.

First Time Homebuyer shall mean a purchaser who has not previously owned a home, condominium or mobile home, whether as sole owner, tenant-in-common, joint tenant or in other form of ownership within the past three (3) years. The City at its discretion may consider displaced persons (dissolution of marriage, legal separation) as eligible to participate under this definition.

Gross Household Income shall mean all income, from whatever source derived, of all adult household members over 18 years of age (non-dependents) who will be living in the Unit, which is anticipated for a 12 month period following the date of the Application.

Income shall include the following:

- a. Gross amount of wages and salaries before any payroll deductions, including over-time pay, compensation for services, commissions, fees, tips and bonuses;
- b. The net income of operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
- c. Interest, dividends and royalties;
- d. Partnership distributions;
- e. Income from an interest in an estate or trust;
- f. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pension, disability, or death benefits and other similar types of periodic receipts;
- g. Payments in lieu of earnings, such as unemployment and disability compensation, workers compensation and severance pay;
- h. Public Assistance including but not limited to TANF, SSI, disability income (temporary disability payments may be excluded);
- i. Periodic and determinable allowances such as alimony and child support

payments, and regular contributions or gifts received from persons not residing in the dwelling;

- j. All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the household or spouse.
- k. Asset income based on the cash value of assets as determined through the asset income test methodology.

Home/Unit may be used interchangeably when describing the qualified residence to be purchased through the program as further described in the Eligible Properties section of these guidelines.

HUD shall mean the United States Department of Housing and Urban Development.

HCD shall mean the State of California Housing and Community Development Department.

Household shall mean all members who are documented to be currently living together at the time of Application to the MAP Program and intend on occupying the Home.

Loan shall mean a loan or any other form of financial assistance provided by the City to assist a Borrower through this Program.

Primary Residence shall be defined as the Borrower's place of residence for a minimum of 10 months in a calendar year.

Program shall mean the City's Mortgage Assistance Program.

Program Administrator shall mean the City of Livermore Housing and Human Services Manager or his/her designee.

Seasoned Funds shall mean the Applicant's own monies that have been verified as held in an account with a financial institution in the Applicant's name for a minimum of three (3) months.

HOME QUALIFICATIONS & REQUIREMENTS

Eligible Properties

Eligible properties are limited to existing single-family residences within the jurisdictional limits of the City of Livermore. Homes purchased in other cities and areas outside the participating jurisdictions, including unincorporated areas within and surrounding the participating jurisdictions, do not qualify for the program.

Eligible Single-Family Residences include: condominiums, townhouses, and single units including those that are part of a couplet or duet. Multi-unit structures (Duplexes, triplexes etc.) where more than one unit is being purchased are not eligible.

Maximum Sales Price

The maximum sales price for a qualified residence purchased through the Program shall be 100% of the median sales price of a single family home in Alameda County (data source: California Association of Realtors). Maximum sales prices shall be updated annually at a minimum.

Appraisal Requirements

To verify the market value of the Unit, a residential appraisal report from a licensed real estate appraiser must be provided to the City either through the Applicant's first lender or from the Applicant prior to the City's disbursement of loan funds.

Inspections

Termite and Roof Inspections: Termite and roof clearances must be obtained prior to the close of escrow.

Home Inspection Report: Homes must meet a code and habitability standards review and be deemed acceptable to the Program. A home inspection report conducted by a licensed home inspector must be submitted to the Program Administrator for review prior to final loan approval. If code, building permit, or habitability deficiencies are found, the Program Administrator may condition final loan approval upon remediation and clearance of those deficiencies.

Insurance

The City of Livermore will require a CLTA Title Insurance policy in the amount of the MAP loan.

The City of Livermore will require a copy of Evidence of Insurance for hazard and/or flood insurance policies in an amount at least equal to the replacement value of the improvements and showing the City of Livermore, its successors and assigns, as an additional loss payee.

Loan Service Fees

There is a one-time loan set up fee and tax service fee due at the close of escrow payable to the City (or its Loan Servicing designee) to monitor loans and collect payments. There is a monthly service fee. Fee information is available upon request. Loan Servicing policies and procedures are described in Attachment 3.

MORTGAGE QUALIFICATIONS

First Mortgage

The first mortgage obtained for the purchase of the Unit must have a term of 30 years, be of a fixed interest rate, and require fixed payments over the life of the loan with no negative amortization, balloon payments, or adjustable rate features. A permanent loan buy-down is permitted as long as it does not cost more than 1% of the loan amount.

Combined Loan-to-Value (CLTV) Limits

Combined loan-to-value limits shall be calculated based on the lesser of the following: (1) appraised value; or (2) purchase price. Appraised value must be confirmed prior to the City’s submittal of documents to escrow through an appraisal report prepared by a licensed real estate appraiser. The appraisal must have been completed within six months prior to the close of escrow.

CLTV Limits based on total Secondary Assistance:

Maximum CLTV	Secondary Loan Sources and Uses
97%	MAP Loan for Down Payment only
99%	MAP Loan for Down Payment and Maximum 2% Closing Costs
102%	MAP Loan for Down Payment; 2% Closing Cost Assistance, and State CHDAP Loan assistance or other DPA program

Backend Debt-to-Income (DTI) Ratio

The Applicant’s total monthly debt obligations (Backend DTI ratio) may not exceed 40%. At the sole discretion of the City’s Program Administrator, this ratio may be increased to no greater than 45% if the Applicant’s down payment exceeds the minimum requirement and the Applicant’s FICO score exceeds 720. Balances on unsecured credit card debt will be a consideration in determining creditworthiness of the Applicant.

Co-signers

Applicants may use a cosigner when qualifying for the first mortgage. However, the cosigner’s income shall be included as part of the Applicant’s Gross Household Income when determining the Applicant’s income eligibility.

Subordinate Financing Concurrent with the MAP Loan

Financing subordinate to the MAP Loan must be deferred for the term of the MAP Loan and may not have a balloon payment due before the maturity date of the MAP loan.

SUBORDINATION TERMS

The MAP loan may be subordinated to a refinanced loan as long as the loan amount to be refinanced does not exceed the current outstanding balance of the first mortgage plus reasonable closing costs (2%).

The new first mortgage must adhere to the First Mortgage Guidelines. The term of the new senior loan must mature concurrently or after the MAP loan.

The new first mortgage must collect impounds to ensure that taxes and insurance will be paid in a timely manner.

APPLICATION PROCESS

1. **Application:** Applicants must submit a complete application to the City's Housing and Human Services Division at the address 1052 S. Livermore Avenue, Livermore, CA 94550 at least four weeks prior to their scheduled close of escrow. Faxed or emailed applications will not be accepted.
2. **Program Eligibility Letter:** Upon determination of eligibility for the Program, Applicant shall receive a Program Eligibility letter from the City. ***This letter provides initial program eligibility only. Funding will not be reserved until the Applicant has also provided all of the documents listed on the Application and Loan Disbursement Checklist under "Reservation of Funds for 60 Days."***

Since funding is limited and is available on a first come first served basis, a Program Eligibility letter is not a guarantee that funds will be available to the Applicant when requested.

3. **Conditional Approval Letter:** To receive a reservation of funds for 60 days ("Conditional Approval Letter"), the Applicant must submit the necessary documents outlined on the Application and Loan Disbursement Checklist under "Eligibility" and "Reservation of Funds for 60 Days."

Applicants may request an additional 30-day extension, however extension requests shall be deemed lower priority than new applicants and approval shall be on a case-by-case basis based on funding availability. Approval shall be granted at the sole discretion of the Program manager. In any case, extensions shall not be granted for an Application for longer than 6 months, after which the Applicant must reapply for funds.

4. **Final Approval Letter:** First lender documents shall be reviewed to verify eligibility for final approval and disbursement of funds to escrow, at which time a "Final Approval Letter" shall be issued to the lender. All documents and

conditions outlined on the Application and Loan Disbursement Checklist must be provided and or met prior to disbursement of funds from the Program Administrator.

Fulfilling the requirements of the Program is the sole responsibility of the Applicant. Failure to fully satisfy the Program guidelines/requirements as determined by the Program Administrator may result in the denial of loan approval. Falsification of information provided through the Application shall result in the Applicant's disqualification from the Program.

**Attachment 1:
Form of Mortgage Assistance Promissory Note
Amortized Payment**

City of Livermore Loan # MAP2015 - _____

NOTICE TO BORROWER:

THIS DOCUMENT CONTAINS PROVISIONS
RESTRICTING TRANSFERS AND ASSUMPTIONS

PROMISSORY NOTE
Secured by a Deed of Trust
(Amortized Payment)

Principal Amount \$ _____

(property address)
Livermore, California

FOR VALUE RECEIVED, the undersigned _____ ("Borrower") whose address is _____, Livermore, California 9455_____, hereby promise(s) to pay to the order of the City of Livermore, a municipal corporation ("City"), at 1052 South Livermore Avenue, Livermore, California 94550, the principal amount of _____ dollars (\$_____), together with interest accrued thereon, as set forth in this Promissory Note ("Note").

This Note is made through the Mortgage Assistance Program for the purchase of that certain real property commonly known as _____, (APN _____) more fully described in the Deed of Trust ("Property"). The City's Mortgage Assistance Program provides loans to assist low and moderate income first time homebuyers purchase homes to occupy as their primary personal residences. The Borrower's obligations with respect to this Note are secured by that certain Deed of Trust ("Deed of Trust") executed by the Borrower concurrently herewith.

1. Borrower's Obligation. This Note evidences the Borrowers' obligation to pay the City the Principal Amount loaned to the Borrower by the City to finance the Property's purchase. As a condition of receiving the Principal Amount, the Borrower promises and agrees to comply will all terms and conditions of this Note.

2. Occupancy. At all times during the term of this Note, the Borrower shall occupy the Property as the Borrower's primary place of residence which is defined as occupying the Property for a minimum period of ten (10) months out of a calendar year. The Borrower shall not transfer the Property in violation of section 13 below.

3. Principal. The principal amount of this Note is \$ _____ ("Principal Amount") for the funds loaned to the Borrower by the City to finance acquisition of the Property.

4. Interest. Simple interest shall accrue on the unpaid and outstanding balance of the Principal Amount at the rate of three percent (3%) per annum, commencing upon the close of escrow and continuing thereafter until the repayment of this Note in full.

5. Term. The Borrower shall repay the Principal Amount, and all interest accrued thereon, in equal installment payments as provided in section 6 below. The entire indebtedness evidenced by this Note shall be repaid to the City within ten (10) years from the close of escrow.

6. Repayment. All payments by the Borrower shall be paid to the City in currency of the United States of America, which at the time of the payment is lawful for the payment of public and private debts. Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on _____. Any principal and interest remaining on the first day of _____, 20_____, will be due on that date. The Borrower shall make monthly payments to the City in the amount of \$_____.

All payments on this Note shall be made payable to the City of Livermore, and shall be delivered to the City at 1052 South Livermore Avenue, Livermore, California, 94550, or to such other place as the City may from time-to-time designate.

All payments on this Note shall be without expense to the City, and the Borrower agrees to pay all costs and expenses incurred in connection with the Loan and payment.

The City shall apply each monthly payment to its scheduled due date and will apply the payment to interest before principal.

7. Late Payments - Penalties. In the event the City does not receive the full amount of the monthly payment due under this Note within seven (7) days of its due date, the Borrower will be assessed a late payment penalty ("Late Penalty") in an amount which is the greater of five percent (5%) of the overdue monthly payment or fifty dollars (\$50.00). In the event the Borrower fails to pay the overdue payment and Late Penalty prior to the date when the next regular monthly payment is due under this Note, the Borrower shall be assessed an additional Late Penalty on the overdue amount. Penalties for late payment will continue to accrue in this manner until the City receives the full amount of the overdue payment and all related penalties from the Borrower in accordance with section 13 below.

8. Prepayment. Borrower has the option, without any premium or penalty, to pay all or a portion of the outstanding Principal Amount prior to the amount becoming due. The Borrower may make such prepayments at any time, or from time-to-time, before the prepaid amount is due. However, to exercise the prepayment option, the installment payments must be current and all outstanding penalties must have been paid. All prepayments shall be applied by the City to reduce the amount of the outstanding Principal Amount owed under this Note. If the Borrower makes a partial prepayment (that is prepayment that is less than the full amount of the payment coming due), there will be no change in the due date.

9. Encumbrances. The Borrower shall not encumber the Property, permit the conveyance, transfer, or encumbrance of the Property, allow the placement of any liens, notes or deeds on the Property, or use the Property as security for any note or loan, without the City's prior written approval. The City shall not approve any encumbrances to the Property other than to allow the Borrower to refinance a first mortgage previously approved by the City, and shall only approve refinancing when the loan amount of such refinancing does not exceed the then outstanding balance of the first mortgage previously approved by the City. Furthermore, the City shall not approve any refinancing of a first mortgage with a loan that contains any provisions for a reverse

mortgage, negative amortization, or balloon payments. Any written approval by the City shall be consistent with the requirements of section 15 below.

10. No Criminal Activity. Owner agrees that no resident residing on the Property, their guests or persons under their control shall permit, engage in, or facilitate criminal activity on the Property, in any building on the Property, or in the streets bordering the Property. This includes, without limitation the foregoing: (i) the illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute or use a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802); (ii) the unlawful discharge of firearms; and (iii) all acts or threats of violence, harming, or intending to harm a person or property.

11. Payment Acceleration. The Principal Amount of this Note, together with all accrued interest and other outstanding payments and penalties, shall become immediately due and payable upon the occurrence of any of the following events:

- A. The Borrower fails to occupy the Property as his or her primary place of residence;
- B. The Borrower engages in or allows another on the Property to engage in criminal activity in violation of Section 10 of this Note;
- C. The Borrower fails to cure a default consistent with the requirements of section 13 below;
- D. The transfer of the Property or this Note in violation of section 14 below, and without the City's written approval consistent with the requirements of sections 15, 16, and 25 below;
- E. The encumbrance of the Property in violation of section 9 above, without the City's written approval consistent with the requirements of sections 9 and 15 below; or
- F. The satisfaction or payment in full of the first mortgage for the Property secured by a lien or deed of trust that is senior to the Deed of Trust for this Note, without the City's prior written approval consistent with the requirements of section 15 below.

12. Monitoring. Borrower agrees to certify owner occupancy annually to the City and provide sufficient documentation as requested by City to demonstrate compliance under the terms of the Note.

13. Default – Notice & Opportunity to Cure. If, in the City's sole discretion, the Borrower fails to observe or perform any condition contained herein for a period of thirty (30) days after written notice from the City specifying such failure and requesting that it be cured, such event shall be deemed a default and the City shall be entitled, and in addition to all other remedies provided by law or in equity, to compel specific performance by the Borrower of its obligations under this Note. The accumulation of more than three (3) late payment penalties for a single overdue monthly payment, and the Borrower's outstanding obligation to pay more than four (4) late payment penalties related to two or more monthly payments during any six (6) month period, shall each constitute a separate and independent default event.

14. Prohibited Transfers. The Borrower is prohibited from transferring by sale, lease, trade, exchange, rental, gift, assignment, conveyance, the Property or any part thereof, or any trust or power, or any transfer in any other mode or form, of the Property or any part thereof or any interest therein.

15. Permitted Transfers. Under the following limited circumstances, the City may give its prior written approval for the transfer of the Property: _

- A. The Property is to be transferred to another qualified borrower under the City of Livermore's Mortgage Assistance Program, and the other qualified borrower agrees to assume the Borrower's rights and obligations under the Deed of Trust, this Note, and any related Loan Agreement.
- B. Upon the Borrower's death or demise:
 - 1. The Property is transferred to a surviving co-Borrower under this Note by will, probate, or operation of the law;
 - 2. The Property is transferred to the Borrower's spouse or domestic partner, provided that status was established prior to the Borrower's death or demise by will, probate, or operation of law; or,
 - 3. The Property is transferred to a Borrower's child, whether adopted or direct issue.
- C. The Property is transferred involuntarily, or by operation of law, as a result of a property dissolution order or decree of dissolution of marriage, to the Borrower's former spouse or domestic partner, provided the beneficiary of the transfer takes the Property subject to the terms and conditions of this Note.

16. Prior Written Approval. The City shall not unreasonably withhold its written approval of permitted transfers, encumbrances and refinancing by the Borrower. However, the City may only give written approval of those transfers, encumbrances, and refinancing authorized by this Note. The Borrower must request the City's written approval prior to pursuing any transfer, encumbrance, or refinancing. If not approved, or in violation of this Note, any unapproved transfer, encumbrance, or refinancing shall be null and void and the Borrower must deliver to the City any profits or benefit received from the transaction consistent with the requirements of section 26.

17. Certification. Upon the City's written request, the Borrower shall execute a certification under penalty of perjury, and deliver same to the City, certifying that the Borrower has not allowed or placed any encumbrances on the Property, is currently occupying the Property as the Borrower's principal place of residence, has not leased the Property or any or portion thereof, and is not otherwise in violation of any term or condition of this Note.

18. Audit and Inspection. To the extent permissible under laws and regulations protecting individual confidentiality, the City shall have access to, and is hereby authorized by the Borrower to inspect, make copies or photographs of, the Property, books, utility accounts, and records of the Borrower pertaining to this Note and the Borrower's occupancy of the Property.

19. Notices. Any demand or notice which either party desires to deliver to the other, shall be in writing and shall be delivered by hand, sent by a recognized overnight courier, deposited in the United States mail with a first class prepaid postage and a return receipt requested, to ensure timely and complete delivery to the other party at the addresses noted above.

20. Attorney Fees and Costs. Borrower agrees that if any amounts due under this Note are not paid when due, to pay all costs and expenses of collection and reasonable attorney fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

21. Severability. Every provision of this Note is intended to be severable. If any provision is held by a court of competent jurisdiction to be invalid, illegal, and unenforceable, the validity, legality, and enforceability, of the remaining provisions shall not in any way be affected or impaired.

22. Interpretation. The provisions of this Note have been arrived at through negotiation and each party had a full and fair opportunity to revise the provisions and have them reviewed by legal counsel. The parties agree that any ambiguities in construing or interpreting this Note shall not be resolved against either party as the drafting party. In the event of an inconsistency or conflict between the language of this Note and a written loan agreement for the Borrower's acquisition of the Property through the City's Mortgage Assistance Program, the language of the Loan Agreement shall control.

23. Joint and Several Obligations. This Note is the joint and several obligations of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

24. Negotiability. This Note is non-negotiable and not transferable by the Borrower. The City, in its sole discretion, may negotiate a transfer, assignment, or assumption of this Note to any person and upon notice to the Borrower by the City.

25. Binding Upon Successors. All provisions of this Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of the Borrower and the City, respectively.

26. Restrictions on Foreclosure Proceeds. If a creditor acquires title to the Property through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, the Borrower shall not be entitled to the proceeds of sale to the extent that such proceeds, when added to the amount paid or credited to the creditor, exceed the amount the Borrower would have received by a sale in accordance with the Mortgage Assistance Program Guidelines. The Borrower hereby agrees and acknowledges that the Borrower forfeits such funds and shall instruct the holder of such excess proceeds to them to the City as repayment for, and in consideration of, the assistance provided by the City in the acquisition of the Property.

DATE:

BORROWER

DATE:

CO-BORROWER:

Form of Mortgage Assistance Promissory Note Partially Deferred Payment

City of Livermore Loan # MAP2015 - _____

NOTICE TO BORROWER:

THIS DOCUMENT CONTAINS PROVISIONS
RESTRICTING TRANSFERS AND ASSUMPTIONS

PROMISSORY NOTE Secured by a Deed of Trust (Partially Deferred Payment)

Principal Amount \$ _____

(address of property)

Livermore, California

FOR VALUE RECEIVED, the undersigned _____ ("Borrower") whose address is _____, Livermore, California 9455_____, hereby promise(s) to pay to the order of the City of Livermore, a municipal corporation ("City"), at 1052 South Livermore Avenue, Livermore, California 94550, the principal amount of _____ dollars (\$_____), together with interest accrued thereon, as set forth in this Promissory Note ("Note").

This Note is made through the Mortgage Assistance Program for the purchase of that certain real property commonly known as _____, (APN _____) more fully described in the Deed of Trust ("Property"). The City's Mortgage Assistance Program provides loans to assist low and moderate income first time homebuyers purchase homes to occupy as their primary personal residences.

The Borrower's obligations with respect to this Note are secured by that certain Deed of Trust ("Deed of Trust") executed by the Borrower concurrently herewith.

1. Borrower's Obligation. This Note evidences the Borrowers' obligation to pay the City the Principal Amount loaned to the Borrower by the City to finance the Property's purchase. As a condition of receiving the Principal Amount, the Borrower promises and agrees to comply will all terms and conditions of this Note.

2. Occupancy. At all times during the term of this Note, the Borrower shall occupy the Property as the Borrower's primary place of residence which is defined as occupying the Property for a minimum period of ten (10) months out of a calendar year. The Borrower shall not transfer the Property in violation of section 13 below.

3. Principal. The principal amount of this Note is \$_____ ("Principal Amount") for the funds loaned to the Borrower by the City to finance acquisition of the Property.

4. Interest. Simple interest shall accrue on the unpaid and outstanding balance of the Principal Amount at the rate of three percent (3%) per annum, commencing upon the close of escrow and continuing thereafter until the repayment of this Note in full.

If all terms and conditions of this Note are satisfied upon the completion of the tenth (10th) year of this Note, the accrued interest due under this Note until that date shall be forgiven. Commencing in the eleventh (11th) year of this Note and continuing thereafter, interest shall continue to accrue and shall be due and payable according to section 6.

5. Term. The Borrower shall repay the Principal Amount, and all interest accrued thereon, in equal installment payments as provided in section 6 below. The entire indebtedness evidenced by this Note shall be repaid to the City within twenty (20) years from the close of escrow.

6. Repayment. All payments by the Borrower shall be paid to the City in currency of the United States of America, which at the time of the payment is lawful for the payment of public and private debts. Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on (insert the date - ten years after the first payment is due on amortized note). Any principal and interest remaining on the first day of _____, 20_____, will be due on that date. The Borrower shall make monthly payments to the City in the amount of \$_____.

All payments on this Note shall be made payable to the City of Livermore, and shall be delivered to the City at 1052 South Livermore Avenue, Livermore, California, 94550, or to such other place as the City may from time-to-time designate.

All payments on this Note shall be without expense to the City, and the Borrower agrees to pay all costs and expenses incurred in connection with the Loan and payment.

The City shall apply each monthly payment to its scheduled due date and will apply the payment to interest before principal.

7. Late Payments - Penalties. In the event the City does not receive the full amount of the monthly payment due under this Note within seven (7) days of its due date, the Borrower will be assessed a late payment penalty ("Late Penalty") in an amount which is the greater of five percent (5%) of the overdue monthly payment or fifty dollars (\$50.00). In the event the Borrower fails to pay the overdue payment and Late Penalty prior to the date when the next regular monthly payment is due under this Note, the Borrower shall be assessed an additional Late Penalty on the overdue amount. Penalties for late payment will continue to accrue in this manner until the City receives the full amount of the overdue payment and all related penalties from the Borrower in accordance with section 13 below.

8. Prepayment. Borrower has the option, without any premium or penalty, to pay all or a portion of the outstanding Principal Amount prior to the amount becoming due. The Borrower may make such prepayments at any time, or from time-to-time, before the prepaid amount is due. However, to exercise the prepayment option, the installment payments must be current and all outstanding penalties must have been paid. All prepayments shall be applied by the City to reduce the amount of the outstanding Principal Amount owed under this Note. If the Borrower makes a partial prepayment (that is prepayment that is less than the full amount of the payment coming due), there will be no change in the due date.

9. Encumbrances. The Borrower shall not encumber the Property, permit the conveyance, transfer, or encumbrance of the Property, allow the placement of any liens, notes or deeds on the Property, or use the Property as security for any note or loan, without the City's prior written approval. The City shall not approve any encumbrances to the Property other than to allow the Borrower to refinance a first mortgage previously approved by the City, and shall only approve refinancing when the loan amount of such refinancing does not exceed the then outstanding balance of the first mortgage previously approved by the City. Furthermore, the City shall not

approve any refinancing of a first mortgage with a loan that contains any provisions for a reverse mortgage, negative amortization, or balloon payments. Any written approval by the City shall be consistent with the requirements of section 15 below.

10. No Criminal Activity. Owner agrees that no resident residing on the Property, their guests or persons under their control shall permit, engage in, or facilitate criminal activity on the Property, in any building on the Property, or in the streets bordering the Property. This includes, without limitation the foregoing: (i) the illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute or use a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802); (ii) the unlawful discharge of firearms; and (iii) all acts or threats of violence, harming, or intending to harm a person or property.

11. Payment Acceleration. The Principal Amount of this Note, together with all accrued interest and other outstanding payments and penalties, shall become immediately due and payable upon the occurrence of any of the following events:

- A. The Borrower fails to occupy the Property as his or her primary place of residence;
- B. The Borrower engages in or allows another on the Property to engage in criminal activity in violation of Section 10 of this Note;
- C. The Borrower fails to cure a default of any lien or deed of trust for the Property that is senior to the Deed of Trust for this Note.
- D. The Borrower fails to cure a default consistent with the requirements of section 13 below;
- E. The transfer of the Property or this Note in violation of section 14 below, and without the City's written approval consistent with the requirements of sections 15, 16, and 25 below;
- F. The encumbrance of the Property in violation of section 9 above, without the City's written approval consistent with the requirements of sections 9 and 15 below; or
- F. The satisfaction or payment in full of the first mortgage for the Property secured by a lien or deed of trust that is senior to the Deed of Trust for this Note, without the City's prior written approval consistent with the requirements of section 15 below.

12. Monitoring. Borrower agrees to certify owner occupancy annually to the City and provide sufficient documentation as requested by City to demonstrate compliance under the terms of the Note.

13. Default – Notice & Opportunity to Cure. If, in the City's sole discretion, the Borrower fails to observe or perform any condition contained herein for a period of thirty (30) days after written notice from the City specifying such failure and requesting that it be cured, such event shall be deemed a default and the City shall be entitled, and in addition to all other remedies provided by law or in equity, to compel specific performance by the Borrower of its obligations under this Note. The accumulation of more than three (3) late payment penalties for a single overdue monthly payment, and the Borrower's outstanding obligation to pay more than four (4) late payment penalties related to two or more monthly payments during any six (6) month period, shall each constitute a separate and independent default event.

14. Prohibited Transfers. The Borrower is prohibited from transferring by sale, lease, trade, exchange, rental, gift, assignment, conveyance, the Property or any part thereof, or any trust or

power, or any transfer in any other mode or form, of the Property or any part thereof or any interest therein.

15. Permitted Transfers. Under the following limited circumstances, the City may give its prior written approval for the transfer of the Property:—

- A. The Property is to be transferred to another qualified borrower under the City of Livermore’s Mortgage Assistance Program, and the other qualified borrower agrees to assume the Borrower’s rights and obligations under the Deed of Trust, this Note, and any related Loan Agreement.
- B. Upon the Borrower’s death or demise:
 - 1. The Property is transferred to a surviving co-Borrower under this Note by will, probate, or operation of the law;
 - 2. The Property is transferred to the Borrower’s spouse or domestic partner, provided that status was established prior to the Borrower’s death or demise by will, probate, or operation of law; or,
 - 3. The Property is transferred to a Borrower’s child, whether adopted or direct issue.
- C. The Property is transferred involuntarily, or by operation of law, as a result of a property dissolution order or decree of dissolution of marriage, to the Borrower’s former spouse or domestic partner, provided the beneficiary of the transfer takes the Property subject to the terms and conditions of this Note.

16. Prior Written Approval. The City shall not unreasonably withhold its written approval of permitted transfers, encumbrances and refinancing by the Borrower. However, the City may only give written approval of those transfers, encumbrances, and refinancing authorized by this Note. The Borrower must request the City’s written approval prior to pursuing any transfer, encumbrance, or refinancing. If not approved, or in violation of this Note, any unapproved transfer, encumbrance, or refinancing shall be null and void and the Borrower must deliver to the City any profits or benefit received from the transaction consistent with the requirements of section 26.

17. Certification. Upon the City’s written request, the Borrower shall execute a certification under penalty of perjury, and deliver same to the City, certifying that the Borrower has not allowed or placed any encumbrances on the Property, is currently occupying the Property as the Borrower’s principal place of residence, has not leased the Property or any or portion thereof, and is not otherwise in violation of any term or condition of this Note.

18. Audit and Inspection. To the extent permissible under laws and regulations protecting individual confidentiality, the City shall have access to, and is hereby authorized by the Borrower to inspect, make copies or photographs of, the Property, books, utility accounts, and records of the Borrower pertaining to this Note and the Borrower’s occupancy of the Property.

19. Notices. Any demand or notice which either party desires to deliver to the other, shall be in writing and shall be delivered by hand, sent by a recognized overnight courier, deposited in the United States mail with a first class prepaid postage and a return receipt requested, to ensure timely and complete delivery to the other party at the addresses noted above.

20. Attorney Fees and Costs. Borrower agrees that if any amounts due under this Note are not paid when due, to pay all costs and expenses of collection and reasonable attorney fees paid

or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

21. Severability. Every provision of this Note is intended to be severable. If any provision is held by a court of competent jurisdiction to be invalid, illegal, and unenforceable, the validity, legality, and enforceability, of the remaining provisions shall not in any way be affected or impaired.

22. Interpretation. The provisions of this Note have been arrived at through negotiation and each party had a full and fair opportunity to revise the provisions and have them reviewed by legal counsel. The parties agree that any ambiguities in construing or interpreting this Note shall not be resolved against either party as the drafting party. In the event of an inconsistency or conflict between the language of this Note and a written loan agreement for the Borrower's acquisition of the Property through the City's Mortgage Assistance Program, the language of the Loan Agreement shall control.

23. Joint and Several Obligations. This Note is the joint and several obligations of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

24. Negotiability. This Note is non-negotiable and not transferable by the Borrower. The City, in its sole discretion, may negotiate a transfer, assignment, or assumption of this Note to any person and upon notice to the Borrower by the City.

25. Binding Upon Successors. All provisions of this Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of the Borrower and the City, respectively.

26. Restrictions on Foreclosure Proceeds. If a creditor acquires title to the Property through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, the Borrower shall not be entitled to the proceeds of sale to the extent that such proceeds, when added to the amount paid or credited to the creditor, exceed the amount the Borrower would have received by a sale in accordance with the Mortgage Assistance Program Guidelines. The Borrower hereby agrees and acknowledges that the Borrower forfeits such funds and shall instruct the holder of such excess proceeds to them to the City as repayment for, and in consideration of, the assistance provided by the City in the acquisition of the Property.

DATE:

BORROWER

DATE:

CO-BORROWER:

**Attachment 2:
Form of Mortgage Assistance Program Deed of Trust**

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

City of Livermore
1052 S. Livermore Avenue
Livermore, Ca. 94550-4899
Loan No.:

Space Above This Line for Recorder's Use Only
File No.:

A.P.N.:

**DEED OF TRUST AND ASSIGNMENT OF RENTS
(Short Form)**

THIS DEED OF TRUST, made this _____ between _____

TRUSTOR:

whose address is _____

TRUSTEE: AmeriNational Community Services, Inc., a California corporation

and BENEFICIARY: City of Livermore, a Municipal Corporation

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the City of Livermore, Alameda County, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The lien of this Deed of Trust is inferior and subordinate to the lien of that certain Trust Deed executed by Trustors named above for the benefit of _____ dated _____ securing an original amount of \$_____, which is recorded concurrently herewith.

If the Trustor/Grantor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

TOGETHER WITH the rents, issues, and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph 10 of the provisions, incorporated by reference, to collect and apply such rents, issues and profits.

FOR THE PURPOSE OF SECURING: 1. Performance of each agreement of Trustor, incorporated by reference or contained herein. 2. Payment of the indebtedness evidenced by one Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of \$_____, executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the then record Owner of said property hereafter may borrow from Beneficiary, when evidenced by another Note (or Notes) reciting it is so secured

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES: By the execution and delivery of this Deed of Trust and the Note secured hereby, that provisions (1) to (14), inclusive, of the fictitious deed of trust recorded in Santa Barbara County and Sonoma County on October 18, 1961, and in all other counties on October 23, 1961, in the book and page of the Official Records in the office of the county recorder of the county where said property is located, noted below and opposite the name of such county, viz:

and Assignment of Rents (Short Form) - continued

<u>County</u>	<u>Book</u>	<u>Page</u>	<u>County</u>	<u>Book</u>	<u>Page</u>	<u>County</u>	<u>Book</u>	<u>Page</u>	<u>County</u>	<u>Book</u>	<u>Page</u>	<u>County</u>	<u>Book</u>	<u>Page</u>
Alameda	435	684	Imperial	1091	501	Merced	1547	538	San Benito	271	383	Siskiyou	468	181
Alpine	1	250	Inyo	147	598	Modoc	184	851	San Bernadino	5567	61	Solano	1105	182
Amador	104	348	Kern	3427	60	Mono	52	429	San Francisco	A332	905	Sonoma	1851	689
Butte	1145	1	Kings	792	833	Monterey	2194	538	San Joaquin	2470	311	Stanislaus	1715	456
Calaveras	145	152	Lake	362	39	Napa	639	86	San Luis Obispo	1151	12	Sutter	572	297
Colusa	296	617	Lassen	171	471	Nevada	305	320	San Mateo	4078	420	Tehama	401	289
Contra Costa	3978	47	Los Angeles	T2055	899	Orange	5889	611	Santa Barbara	1878	860	Trinity	93	366
Del Norte	78	414	Madera	810	170	Placer	895	301	Santa Clara	5336	01	Tulare	2294	275
El Dorado	568	456	Marin	1508	339	Plumas	151	5	Santa Cruz	1431	494	Tuolumne	135	47
Fresno	4626	572	Mariposa	77	292	Riverside	3005	523	Shasta	684	528	Venutra	2062	386
Glenn	422	184	Mendocino	579	530	Sacramento	4331	62	Sierra	29	335	Yolo	653	245
Humboldt	657	527				San Diego Series 2 Book 1961, Page 183887						Yuba	334	486

which provisions, identical in all counties, are printed below) hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that he will observe and perform said provisions; and that the references to property, obligations, and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale be mailed to Trustor at Trustor's address hereinbefore set forth, or if none shown, to Trustor at property address.

FURTHERMORE, in the event of foreclosure or deed in lieu of foreclosure, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate-income households or otherwise restricting the Trustor's ability to sell the Property shall have no further force or effect. Any person (including successors or assigns thereto) receiving title to the Property through a foreclosure or deed in lieu of foreclosure shall receive title to the Property free and clear from such restrictions.

NOTICE: A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE WILL BE SENT TO THE ADDRESS CONTAINED IN THIS RECORDED REQUEST. IF YOUR ADDRESS CHANGES, A NEW REQUEST MUST BE RECORDED.

Signature of Trustor(s)

Dated: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California }
 }ss.
 COUNTY OF Alameda }

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ (Seal)

Signature of Notary Public

Deed of Trust
and Assignment of Rents (Short Form) - continued

DO NOT RECORD

The following is a copy of provisions (1) to (14), inclusive, of the fictitious Deed of Trust, recorded in each county In California, as stated in the foregoing Deed of Trust and incorporated by reference In said **Deed** of Trust as being a part thereof as if set forth at length therein.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary fire Insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

(4) To pay: at least ten days before delinquency, all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay Immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the rate called for in the note secured hereby, or at the amount allowed by law at date of expenditure, whichever is greater, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in this same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee is such reconveyance may be described as "the person or persons legally entitled thereto.. Five years after issuance of such full reconveyance, Trustee may destroy said Note and this Deed of Trust (unless directed in such request to retain them.)

(10) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, Issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act pursuant to such notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said Note(s) and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and In such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the persons or persons legally entitled thereto . . .

(12) Beneficiary, or any successor in ownership of any Indebtedness secured hereby may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties, must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.

(13) That this Deed of Trust applies to, insures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so required, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(14) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be party unless brought by Trustee.

-----DO NOT RECORD-----

REQUEST FOR FULL RECONVEYANCE

To be used only when note has been paid.

To: Trustee _____

Dated: _

The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured by said Deed of Trust have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel all evidences of indebtedness, secured by said Deed of Trust, delivered to you herewith together with said Deed of Trust, to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, the estate now held by you under the same.

Mail Reconveyance to:

By _____

By _____

**Do not lose or destroy this Deed of Trust OR THE NOTE which it secures.
Both must be delivered to the Trustee for cancellation before reconveyance will be made.**

**Short Form
DEED OF TRUST
WITH POWER OF SALE
INDIVIDUAL**

TITLE COMPANY, A CALIFORNIA CORPORATION

Attachment 3: Mortgage Assistance Program Loan Servicing Policies and Procedures

The City of Livermore, here after called “City” has adopted these policies and procedures in order to secure its financial interest in properties who’s “Borrowers” were assisted with public funds. The City will, to the greatest extent possible, follow these policies and procedures; however, each loan is evaluated on a case-by-case basis. The City has formulated this document to comply with state and federal regulations regarding the use of these public funds and any property restrictions, which are associated with them.

Loan Tracking

All loans will be referenced with a prefix to identify the funding source followed by the year funded, and a sequential tracking number (e.g., MAP2013-001). Tracking information will include the Borrower name, loan/reference number and grant year. The City and Loan Servicer shall maintain separate entries to account for principal and interest accrued to each loan.

Loan Service Fees

Borrowers shall be charged an initial service fee for loan set-up. Loan servicing fees for amortized payment loans will be paid for by the borrower. The CalHome MAP program shall pay for loan servicing through the administrative service fee, the total of which shall be no more than 5% of the loan amount.

Payment on Loan

The Loan Servicer will collect monthly payments from those Borrowers with amortized Notes. Late fees will be charged for payments received after the assigned monthly date.

For Notes which are deferred payment loans, the Loan Servicer will accept voluntary payments on the loan. Loan payments will be accrued interest first and then to principal. The Borrower may repay the loan balance at any time with no penalty.

At Loan Maturity of a deferred payment loan, Loan Servicer will collect the total amount due.

Demand/Pay-off

- 1) Upon receiving a Demand for Payoff Request, the Loan Servicer shall calculate the amount of principal and interest due and submit to the City for approval. Upon approval, the City will transmit the payoff amount to the requesting party.

- 2) Upon receipt of all due principal and interest, the Loan Servicer will reconvey the Deed of Trust.

Owner-Occupancy Monitoring

The Borrower shall submit to the City an Annual Compliance Report (**Exhibit 1**). Such report shall include the following:

- Certification of owner occupancy by the Borrower
- Third party documentation showing the Borrower's residency such as a PG&E or other utility statement verifying the Borrower's residency address.
- Other information reasonably required by the City to demonstrate Borrower's owner occupancy of the Property as his/her principal place of residence.

Property Taxes and Insurance Monitoring

An Impound account for taxes and hazard insurance is required.

Property taxes must be kept current during the term of the loan. If the Borrower fails to maintain payment of property taxes, the City may obtain a judgment for any amounts expended by City under this section, and shall record a judgment lien against the property; or the City may pay the taxes current and add the balance of the tax payment plus any penalties to the balance of the loan.

Borrower is required to carry hazard insurance (including flood insurance if the property is located within a 100-year floodplain) for the term of the loan. A certificate of insurance for hazard and flood (if applicable) with the City named as 'Loss Payee' will be required at close of escrow. The City will verify the insurance on an annual basis through its Loan Servicer.

If the Borrower fails to maintain proper hazard and flood insurance, the City may take out a "forced place" insurance policy to cover the property. The City shall obtain a judgment for any amounts expended by City under this section, and shall record a judgment lien against the property.

Default/Foreclosure

Upon receipt of a Notice of Default, the City shall determine the feasibility of bringing the defaulted loan current as outlined below.

A) Foreclosure by Senior Lien Holder

In case of a foreclosure action brought by a senior lien holder, the City may elect to cancel the foreclosure proceedings by reinstating the senior lien holder if the City determines that the Borrower can, upon the City making the senior

lien holder current, resume making future payments on the senior lien. All costs to bring the senior lien current shall be added to the outstanding principal of the City loan.

If the City determines that the Borrower does not have the capacity or resources to continue to make future payments on the senior lien, the City may;

- Pay off the senior lien in full and restructure the Borrowers' debt such that the Borrower's housing costs are affordable; or
- Reinstatement the senior lien holder (pay all of Borrower's delinquent payments, late charges and fees to date) and institute foreclosure proceedings on its own behalf.
- All such proceedings, at the direction of the City and on the City's behalf, shall either be performed by the City or by the Trustee so named on the Borrowers' promissory note.

B) Foreclosure by City upon Default of Borrower under City lien.

In the event of a default by Borrower under any term of the Borrower's City promissory note or deed of trust, all principal and interest will become immediately due and payable.

Short Sales

In instances of a short sale in which the value of the MAP assisted property is insufficient to pay the existing lien(s) senior to the MAP loan plus the full amount of principal and interest due on the MAP loan, the Program will allow for forgiveness of all or a portion of interest accrued on the MAP loan. At the City's sole discretion, the City may choose to address options for repayment of any of the outstanding principal amount of the loan in accordance with other governing laws which may apply to short sales.

Refinancing/Subordination

- 1) If the Borrower wishes to refinance any superior loans, the Borrower must submit to the City, a signed written request for subordination and other documentation as outlined in the Subordination Terms and Conditions. Subordinations will be granted only under the following conditions:
 - The loan amount of the refinancing does not exceed the outstanding balance of the first lender's loan plus non-reoccurring closing costs; and
 - No cash out over \$100; any cash in excess of that amount shall be used to pay down the MAP Loan; and,
 - The loan terms of the refinancing must be of a fixed interest rate, fully amortized over the life of the loan and may not contain any provisions for

negative amortization, pre-payment penalty, balloon payment or changes in payments; and,

- The loan cannot contain provisions requiring Borrower to finance mortgage insurance; and
 - The loan must be at least for the period of time remaining on the MAP loan; and,
 - The loan must have an Impound Account for taxes and insurance; and,
 - The City must be named as additional Loss Payee on the hazard insurance.
- 2) Upon receiving the proper documentation from the refinance lender, the request will be considered by the City who will review the request. Upon approval, the escrow company will provide the proper subordination documents to the City for execution.
 - 3) The title company shall record a Request for Notice of Default for each lien senior to the City's loan.

Use of Third Party Agent

MAP loan servicing shall be performed by City or at City's option shall be performed by a third party under contract with City. The City has contracted with a third party loan servicing agency, AmeriNational Community Services, Inc. (Loan Servicer) to perform loan servicing.

Assumptions/Transfers

Loan Assumptions and Transfers are permitted under limited circumstances and upon written approval by the City. See Section 14 of MAP Promissory Note for description.

Exhibit 1:



**Annual Compliance Report
Certificate of Owner Occupancy**

Due by May 31st Annually

Address: _____, Livermore CA

I/We hereby certify that I/we have continuously occupied the unit located at the above named address as our Primary Residence as defined according to the City's loan documents. I/We understand that failure to occupy the unit as our Primary Residence shall be cause for default under the City's loan agreements.

Signature(s):

Date:

Copy of the most current _____ statement/bill included (first page only).

Changes to phone or email contact? Please update here:

For concerns about providing this information, changes in property owner status or other questions, please contact the City's Housing and Human Services Division at (925)960-4580.

Mail or deliver completed form and documents to:

City of Livermore
Housing and Human Services Division
1052 S. Livermore Avenue
Livermore, CA 94550