

County of Monterey
State HOME Program
First Time Home Buyer Loan Agreement

THIS AGREEMENT, MADE THIS _____ day of _____, by and between the County of Monterey, hereinafter referred to as "COUNTY", and _____, hereinafter referred to as "BORROWER", is made subject to the following facts:

A. COUNTY has received funds pursuant to a Grant from the State of California to implement a First Time Home Buyer Program for the purpose of making homeownership financially viable for households whose income does not exceed 80% of the Area Median Income.

B. BORROWER has qualified to purchase the property located at _____ (the "Property") and has obtained a first mortgage for a portion of the purchase price.

C. BORROWER needs additional financial assistance to ensure that the Property is affordable to BORROWER consistent with the HOME program.

D. COUNTY is willing to provide additional financial assistance (the "Loan") in the amount set forth below in Paragraph 1.A., upon the terms and conditions described below, including the conditions that BORROWER occupy the Property as his/her/their principal residence and that BORROWER abide by the applicable financing restrictions.

E. The purpose of this Homebuyer Loan Agreement is to specify the terms and conditions by which COUNTY will provide the Loan to BORROWER with respect to the Property in order to implement COUNTY's First Time Home Buyer Program.

NOW, THEREFORE, it is mutually agreed as follows:

1. DESCRIPTION OF LOAN

- A. The Loan amount is determined to be: _____ Dollars (\$ _____) ("Loan Amount").
- B. The Loan will accrue simple interest at the rate of 3% (three percent) annually.
- C. Repayment of the Loan including principal and interest shall be deferred for thirty (30) years unless repayment is accelerated pursuant to Section 4. At the end of the loan term, the full amount of principal plus accrued interest shall be due and payable.
- D. Pursuant to State HOME Program rules, the Loan may not be assumed.

E. The Loan will be evidenced by a Promissory Note and a Buyer's Occupancy and Financing Restrictions Agreement executed by BORROWER and recorded against the Property, and will be secured by a Deed of Trust on the Property. The Promissory Note shall not exceed the face amount of the Loan amount approved by COUNTY.

2. OCCUPANCY, FINANCING, TITLE RESTRICTIONS, AND SUBORDINATION

A. BORROWER acknowledges that but for COUNTY's Loan, BORROWER could not afford to purchase the Property.

B. Pursuant to the terms of the First Time Home Buyer Program, BORROWER agrees to occupy the Property as his/her/their principal residence. BORROWER shall not rent the Property and shall actually live and occupy the Property as his/her residence. BORROWER shall comply with COUNTY's monitoring efforts and provide the documentation deemed necessary by COUNTY to prove owner-occupancy in a timely manner.

_____ [BORROWER(s) initials].

C. BORROWER shall not add another person or entity to title to the Property other than as allowed in Section 2. D below without the COUNTY's consent and pursuant to the County's First Time Home Buyer Program.

_____ [BORROWER(s) initials].

D. Notwithstanding Paragraph 2. C, BORROWER shall be allowed by COUNTY to add or delete spouses to title by reason of marriage, death or divorce. BORROWER shall notify COUNTY of any such proposed change to title and, if the change is to add a spouse to title, BORROWER's spouse shall execute an agreement to be bound by the terms of this Agreement prepared by COUNTY prior to the addition to title. The Property may be transferred into a trust, but only if the trust is a revocable living trust where the owner is the trustor. The disposition of the Property through such a trust is subject to the same terms and conditions as stated above, including restrictions on the occupancy and refinancing of the unit. Any transfer to a trust shall require County's prior approval, which approval shall not be unreasonably withheld, and may require additional documentation ensuring the integrity of the County's loan and this First Time Home Buyer Program. Children or potential heirs (other than spouses) may not be added to title during the pendency of these restrictions.

E. BORROWER acknowledges that, during the term of this Agreement, County will not subordinate its security position under this Agreement and the Promissory Note unless BORROWER refinances the first mortgage with no "cash out".

_____ [BORROWER(s) initials].

3. **PERMITTED SALE**

Borrower may sell the Property at any time to anybody at a price at whatever the market will bear, at which time the loan and any accrued interest shall be due and payable.

4. **ACCELERATION OF AMOUNTS DUE**

A. In addition to, and not in derogation of the provisions of the Promissory Note or the Deed of Trust, BORROWER agrees that the entire principal amount of the Note and accrued interest, together with any other amounts secured by the Deed of Trust, shall become immediately due and payable without notice of demand upon:

- i. The sale of the Property by Permitted Sale;
- ii. The transfer of the Property due to death of last remaining Buyer;
- iii. Any transfer, other than as described in Paragraph 2. D., which occurs before the date shown in Section 1. C. of this Agreement (30 years);
- iv. The appointment of a receiver of liquidation, whether voluntary or involuntary, for BORROWER concerning any part of property of BORROWER;
- v. The filing of a petition by or against BORROWER under the provisions of any state insolvency laws, or under the provisions of the Bankruptcy Act of 1898, as amended;
- vi. The making by BORROWER of an assignment for the benefit of BORROWER's creditors with respect to the Property, unless such assignment is approved by COUNTY; or
- vii. The complete divestiture or sale of BORROWER's interest in the Property which is the subject of the loan, whether voluntary or involuntary.

B. BORROWER further agrees that COUNTY is authorized to declare, at its option, any part of the entire amount of the Loan immediately due and payable upon the occurrence of any of the following events:

- i. Failure to comply with owner occupancy requirement in Section 2, including but not limited to, the lease of the Property to any person or entity.
- ii. The substantial destruction of the improvements on such Property by any means; and
- iii. Failure to maintain insurance on the Property according to the provisions of Section 5 of this Agreement.

COUNTY's failure to exercise any of its rights hereunder shall not constitute a waiver thereof.

5. **INSURANCE**

Borrower shall maintain a standard all risk property insurance policy equal to the replacement value of the Home (adjusted every five (5) years by appraisal, if requested

by COUNTY), naming COUNTY as an additional insured. Additional insurance requirements are set forth in Section 4 of the COUNTY Deed of Trust. Borrower shall provide COUNTY with evidence of required insurance coverage upon request of COUNTY. The homeowner policy of insurance must be in effect simultaneously with the funding of this Agreement through escrow to acquire the Property. Said insurance policy is to be purchased and maintained by BORROWER(s) and, by its terms, is to provide COUNTY with at least thirty (30) days actual notice of any modification or termination of coverage. BORROWER shall maintain such homeowners insurance throughout the period of COUNTY's Loan.

6. ATTORNEY'S FEES

BORROWER agrees that, in the event that any action, suit or proceeding be commenced by COUNTY to compel the performance of this Loan or to seek damages for breach thereof, BORROWER will pay reasonable attorney's fees for COUNTY to be awarded and fixed by the court and to be taxed as costs and to be included in the judgment therein rendered.

7. AMENDMENTS

Any amendments or modifications to this Loan Agreement must be in writing and signed by both parties.

COUNTY OF MONTEREY
LENDER

BORROWER