



# CalHome

## Mortgage Assistance Program Guidelines

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

Phone: (925) 960-4580  
Web site: [www.cityoflivermore.net](http://www.cityoflivermore.net)

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# CalHome Mortgage Assistance Program

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## **CalHome Mortgage Assistance Program Guidelines**

The CalHome 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 in accordance with the CalHome Program Regulations established by the State of California Housing and Community Development Department.

### **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 CalHome assistance to be provided through a homebuyer loan is 20% of the purchase price, up to \$55,000. CalHome 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 CalHome loan shall be 30 years.

#### ***Interest***

Simple interest of three percent (3%) shall accrue annually on the loan amount. Very low income households (less than 50% AMI) may qualify for an interest rate lower than three percent.

### ***Payments***

Principal and interest payments on the loan shall be deferred for 30 years. There shall be no prepayment penalty. Payments made shall be applied first toward accrued interest and then toward outstanding principal on the loan.

### ***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 plus escrow closing costs. At the discretion of the Program Administrator, this limit may be waived to increase affordability for very low income Applicants.

### ***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 3 & 4)**

### ***Repayment, Assumption & Transfer of Interest Exceptions***

CalHome MAP loans are not assumable. 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 promissory note. Transfer of interest exceptions which do not require repayment are described in the City’s Note.

### ***Owner Occupancy Requirement***

Borrowers must promise to occupy the Unit as their Primary Residence during the term of the CalHome MAP loan. Borrowers shall certify owner occupancy annually by submitting an Annual Compliance Report as defined in the Loan Servicing Guidelines **(Attachment 5)**. 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 CalHome pre-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.

The City’s CalHome approved homebuyer education provider shall provide the curriculum outlined in **Attachment 2**.

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**

### ***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 80% of the Area Median Income, (adjusted by household size), which shall be updated annually according to CalHome regulations.

### ***Asset Limits***

Applicants may have no more than fifty thousand dollars (\$50,000) of total liquid assets, excluding pensions and federally approved pre-tax savings accounts. Assets in excess of \$5,000 (excluding the amount to be contributed as a down payment) shall be subject to an asset income test formula according to the CalHome operating handbook.

### ***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 in accordance with the CalHome regulations, as outlined in **Attachment 1**.

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 CalHome 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 CalHome 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 year of age who will be living in the unit anticipated for a 12 month period following the date of determination of income, as defined in the California Code of Regulations (CCR), Title 25, Section 6914.

**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 who is the regulating agency overseeing the CalHome Program and implementation of the regulations.

**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 First Time Homebuyer to purchase a Home.

**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 CalHome 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.

**Simple Interest Rate** shall mean the rate of interest to be accrued annually on the outstanding principal balance of the Loan. The rate shall be subject to review and adjustment from time to time by the Program Administrator based on existing lending conditions.

## 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. This report 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. Contact Program staff for details.

### ***Insurance***

The City of Livermore will require an ALTA 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 loan servicing agency designated by the Program to service accounts and collect loan payments. Fee information is available upon request. Loan Servicing policies and procedures are described in **Attachment 5**.

**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, <b>and</b> State CHDAP Loan assistance or other DPA program

**Back-End Debt-to-Income (DTI) Ratio**

The Applicant’s total monthly debt obligations (Back-End DTI ratio) may not exceed 40%. At the sole discretion of the City’s Program Administrator, this ratio may be adjusted if the Applicant’s down payment exceeds the 3% minimum requirement and Applicant’s FICO score is 720 or greater.

**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 CalHome MAP**

Financing subordinate to the CalHome Loan must be deferred for the term of the CalHome loan and may not have a balloon payment due before the maturity date of the CalHome loan. The CalHome lien must be the first subsidy/deferred payment loan recorded behind any amortized loans. Exceptions to this may be considered on a case by case basis and must receive HCD approval.

**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 term of the new senior lien must be at least for the period of time remaining on the CalHome loan.

The new first mortgage must adhere to the First Mortgage Guidelines. The term of the new senior loan must mature concurrently with/or after the CalHome 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: CalHome Income Inclusions & Exclusions**

### **Title 25 Section 6914 Gross Income Inclusions**

“Gross income” shall mean the anticipated income of a person or family for the twelve-month period following the date of determination of income.

“Income” shall consist of the following:

(a) Except as provided in subdivision (b), “Exclusions”, all payments from all sources received by the family head (even if temporarily absent) and each additional member of the family household who is not a minor shall be included in the annual income a a family. Income shall include, but not be limited to:

- (1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
- (2) The net income from 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);
- (3) Interest and dividends;
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay
- (6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:
  - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus
  - (B) The maximum amount which the public assistance agency could in fact allow for the family for shelter and utilities,

- (7) Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

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 family or spouse.

**Title 25 Section 6914 Gross Income Exclusions**

- (8) The following items shall not be considered as income:
- (9) Casual, sporadic or irregular gifts;
- (10) Amounts which are specifically for or in reimbursement of the cost of medical expenses;
- (11) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- (12) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;
- (13) The special pay to a serviceman head of a family away from home and exposed to hostile fire;
- (14) Relocation payments made pursuant to federal, state, or local relocation law;
- (15) Foster child care payments;
- (16) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;
- (17) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:
- (18) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs.
- (19) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).



## Attachment 2: Homebuyer Education Curriculum

<b>Homebuyer Education Topic Outline</b>	
<p><b>1. Budgeting</b></p> <ul style="list-style-type: none"> <li>a. What is a budget</li> <li>b. Action plan</li> <li>c. What is your budget window</li> <li>d. Simple method for tracking spending</li> <li>e. Detailed budgeting for financial success</li> <li>f. Saving for a down payment</li> <li>g. Compound interest</li> <li>h. The American Dream of Home Ownership</li> <li>i. Rents vs. own. What is right for you</li> <li>j. Tax Benefits of owning a home</li> <li>k. Value Appreciation</li> </ul> <p><b>2. Borrowing</b></p> <ul style="list-style-type: none"> <li>a. A complex topic</li> <li>b. An emotional decision</li> <li>c. Saving for a home</li> <li>d. Find the right professionals to help</li> <li>e. How do I find a qualified Loan Originator</li> <li>f. What should I ask before hiring my real estate agent</li> <li>g. What is in a Payment</li> <li>h. Property taxes</li> <li>i. Proposition 13</li> <li>j. Mello-Roos Districts</li> <li>k. The loan Process</li> <li>l. Qualifying ratios</li> <li>m. Front end ratio</li> <li>n. Back end ration</li> <li>o. Do you understand your FICO scores?</li> <li>p. How can you raise for FICO score</li> <li>q. Check your available credit.</li> <li>r. Automated underwriting systems and qualifying for a loan</li> <li>s. Documentation</li> <li>t. Budgeting Letter</li> <li>u. Credit report</li> <li>v. Credit inquiries</li> <li>w. Down payment and Asset discrepancies</li> <li>x. Good Faith Estimate- how does it work</li> <li>y. Qualifying the property</li> <li>z. Appraised values</li> <li>aa. Types of loans</li> <li>bb. Mortgage Credit Certificate</li> <li>cc. Impound Account for Property Taxes and Hazard Insurance</li> </ul>	<p><b>3. Buying</b></p> <ul style="list-style-type: none"> <li>a. Read the document for signing</li> <li>b. More reasons to interview your professionals</li> <li>c. Fiduciary Responsibility</li> <li>d. Hire licensed and Ethical Professionals</li> <li>e. Identifying expectations</li> <li>f. A fun exercise before shopping for your home</li> <li>g. California Residential Purchase Agreement and Escrow instructions</li> <li>h. Agency disclosure</li> <li>i. Real Estate Transfer Statement</li> <li>j. Home Warranty</li> <li>k. For Your Protection – Get Inspection</li> <li>l. Escrow Process</li> <li>m. Title Insurance</li> <li>n. Trust Deeds</li> <li>o. Home Inspection</li> <li>p. Know Your Rights in an “AS IS” sales</li> <li>q. Know your neighborhood</li> <li>r. Make an escrow calendar</li> <li>s. How long does it take to fund the loan</li> <li>t. Making payments and what happens when you do not make them</li> <li>u. Ready set, time to close escrow</li> </ul> <p><b>4. Beyond</b></p> <ul style="list-style-type: none"> <li>a. Keep a maintenance budget</li> <li>b. Prioritize your maintenance</li> <li>c. Use only Insured Service Providers</li> <li>d. After close of escrow, what roles does your agent play</li> <li>e. Healthy homeowner checkup</li> <li>f. Growing communities and how they affect property values</li> <li>g. Compound interest</li> <li>h. Go Green</li> <li>i. Hazardous waste materials</li> <li>j. Becoming a real estate investor</li> <li>k. Get involved in your neighborhood</li> <li>l. You are not your neighbor</li> </ul> <p>Revised 1/1/2012</p>



## Attachment 3: Form of CalHome Promissory Note

### City of Livermore CALHOME PROGRAM

#### FIRST-TIME HOMEBUYER PROMISSORY NOTE

Notice to borrower: This document contains provisions restricting assumptions and is secured by a second deed of trust on residential property.

Loan No. CH

\$ \_\_\_\_\_, 20 \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned, \_\_\_\_\_ (the "Borrower") hereby promises to pay to the order of City of Livermore (the "Lender") at the following address 1052 S. Livermore Avenue, Livermore, CA 94550 or at such other place as the holder may from time to time designate by written notice to Borrower, in lawful money of the United States, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) with simple interest at the rate of three (3%) percent per annum on the unpaid principal balance from the date of this Note, until paid. The obligation of the Borrower with respect to this Note is secured by that certain CalHome Program First-Time Homebuyer Deed of Trust Loan No. CH (the "Deed of Trust"), and executed by the Borrower concurrently herewith.

- 1) **Borrower's Obligation.** This Note evidences the obligation of the Borrower to the Lender for the repayment of funds loaned (the "CalHome Loan") to finance the purchase of that certain real property (the "Property"), which has the address of \_\_\_\_\_ Livermore, California, 9455 more fully described in Exhibit A of the Deed of Trust.
- 2) **Borrower(s) Acknowledge(s) and Agrees:** that the CalHome Loan is subject to the terms, conditions, and restrictions of the State of California CalHome Program as set forth in Health and Safety Code section 50650 et seq. and implementing guidelines or regulations adopted by the California Department of Housing and Community Development, all of which are hereby incorporated by reference.
- 3) **Repayment of Loan Principal and Interest.** No periodic payments are required hereunder. Borrower agrees to pay the unpaid principal balance, unpaid accrued interest, and any other amounts due under this Note upon the earlier of:  
(a) 30 years from the date of this Note ("Maturity Date"); or

- (b) Upon sale, transfer, lease, or encumbrance of all or any interest in the Property without Lender's prior written consent, except for a transfer permitted in Paragraph 4; or
- (c) Upon the Maturity Date, or full repayment, of any debt that is secured by a lien on the Property that is senior to the Deed of Trust; or
- (d) Upon Borrower's failure to occupy the Property as Borrower's principal place of residence.

**4) Permitted Transfers.**

The CalHome Loan is not assumable except under the following limited circumstances:

- (a) The transfer of the Property to the surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant.
- (b) A transfer of the Property where the spouse becomes an owner of the property;
- (c) A transfer of the Property resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property.
- (d) A transfer to an inter vivos trust in which the Borrower is and remains the beneficiary and occupant of the property.

**5) Acceleration of Payment.** The principal amount of this loan, together with any then outstanding accrued interest thereon shall become immediately due and payable, at the option of the holder and without demand or notice, upon the occurrence of any of the following events:

- (a) In the event of a default under the terms of this Note or the Deed of Trust;
- (b) In the event that the Borrower shall cease to occupy the Property as Borrower's principal place of residence; or
- (c) In the event of any sale, transfer, lease, or encumbrance of the Property without Lender's prior written consent in violation of Paragraph 4 of this Note.

**6) Effect of Due-on Sale Clause.** Failure of the holder to exercise the option to accelerate payment as provided in Paragraph 5 of this Note will not constitute waiver of the right to exercise this option in the event of subsequent cause for acceleration. Failure by Borrower to occupy the Property as Borrower's principal place of residence, as defined in the CalHome Mortgage Assistance Program Guidelines, shall be considered an on-going event of default under this Note.

**7) Conversion of Note.** If it is requested by the Borrower and determined by the City that repayment of this Note at the Maturity Date causes an undue hardship to the homeowner; the City may provide the homeowner one of two options:

- (a) The outstanding principal, accrued interest and any other amounts due on this Note may be amended (“Amended Note”) to defer repayment of the amount due at the Maturity Date, that is the original principal and the accrued interest, for up to an additional thirty 30 years (at 0% additional interest) one time only; or,
- (b) The outstanding principal, accrued interest and any other amounts due on this Note may be converted (“Converted Note”) to an amortized loan, repayable in equal monthly payments over fifteen (15) years, starting immediately upon the Maturity Date, at zero percent (0%) additional interest.
- 8) **Place and Manner of Payment.** All amounts due and payable under this Note are payable at the principal office of the Lender set forth above, or at such other place or places as the Lender may designate to the Borrower in writing from time-to-time.
- 9) **Application of Payments.** All payments received on account of this Note shall be first applied to accrued interest, if any, and the remainder shall be applied to the reduction of principal.
- 10) **Attorney’s Fees.** The Borrower hereby agrees to pay all costs and expenses, including reasonable attorney’s fees, which may be incurred by the Lender in the enforcement of this Note.
- 11) **Default and Acceleration.** All covenants, conditions and agreements contained in the Deed of Trust are hereby made a part of this Note. The Borrower agrees that the unpaid balance of the then principal amount of this Note, together with all accrued interest thereon and charges owing, shall, at the option of the Lender or, if so provided in this Note and Deed of Trust executed by the Borrower, shall automatically, become immediately due and payable, and thereafter until paid bear interest at the rate of five percent (5%) per annum, upon the failure of the Borrower to make any payment hereunder as and when due; upon the failure of the Borrower to perform or observe any other term or provision of this Note, or upon the occurrence of any event (whether termed default, event of default or similar term) which under the terms of the Deed of Trust, shall entitle the Lender to exercise rights or remedies thereunder.
- 12) **Notices.** Except as may be otherwise specified herein, any approval, notice, direction, consent, request or other action by the Lender shall be in writing and must be communicated to the Borrower at the address of the Property, or at such other place or places as the Borrower shall designate to the Lender in writing, from time to

time, for the receipt of communications from the Lender. Mailed notices shall be deemed delivered and received five (5) working days after deposit in the United States mails in accordance with this provision

**13)Monitoring.** Borrower agrees to certify owner occupancy of the Property annually and provide sufficient documentation as requested by Lender to demonstrate compliance under the terms of the Note.

**14)Prepayment Policy:** Borrower may prepay this Note at any time without penalty.

**15)Governing Law.** This Note shall be construed in accordance with and be governed by the laws of the State of California.

**16)Severability.** If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

**17)No Waiver by the Lender.** No waiver of any breach, default or failure of condition under the terms of the Note or Deed of Trust shall thereby be implied from any failure of the Lender to take, or any delay by the Lender in taking action with respect to such breach, default or failure or from any previous waiver of any similar or unrelated breach, default or failure; and a waiver of any term of the Note, Deed of Trust, or any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

**18)Successors and Assigns.** The promises and agreements herein contained shall bind and inure to the benefit of, as applicable, the respective heirs, executors, administrators, successors and assigns of the parties.

Executed by as of the date set forth above at Livermore, California:

\_\_\_\_\_

\_\_\_\_\_

**Mailing Address for Notices:**

**Attachment 4: Form of CalHome Deed of Trust**

Recording requested by and

When recorded return to:

City Clerk

City of Livermore

1052 South Livermore Avenue

Livermore, CA 94550

APN:

CITY OF LIVERMORE  
**CALHOME PROGRAM**

Order No.:

**FIRST-TIME HOMEBUYER**

**DEED OF TRUST**

**NOTICE TO BORROWER: THIS DEED OF TRUST CONTAINS PROVISIONS  
RESTRICTING ASSUMPTIONS**

Loan No. \_\_\_\_\_

This Deed of Trust is made on \_\_\_\_\_, **20**\_\_\_\_, by \_\_\_\_\_ (the "Borrower") and **AmeriNational Community Services, Inc.** (the "Trustee"), whose business address is 8121 E. Florence Avenue, Downey, CA 90240 in favor of **City of Livermore, a municipal corporation** ("Lender") or Assignee, whose address is 1052 S. Livermore Avenue, Livermore, CA 94550.

**1. BORROWER, IN CONSIDERATION OF THE INDEBTEDNESS HEREIN RECITED AND THE TRUST HEREIN CREATED, HEREBY IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS** to Trustee in trust, with power of sale and right of entry and possession, all of Borrower's right, title and interest now held or hereafter acquired in and to the following: (a) all of that certain real property (the "Property") located at \_\_\_\_\_, **Livermore** in the County of Alameda, and the State of California, which is more particularly described in Exhibit A (attached) which is incorporated herein by this

reference; and (b) all buildings, improvements and fixtures now or hereafter erected thereon, and all appurtenances, easements, and articles of property now or hereafter affixed to, placed upon or used in connection with the Property, together with all additions to, substitutions for, changes in or replacements of the whole or any part of said articles of property; all of which are hereby pledged and assigned, transferred, and set over onto Trustee, and for purposes of this Deed of Trust declared to be part of the realty; provided, however, that furniture and other personal property of Borrower now or hereafter situated on said real property are not intended to be included as part of the Property.

**2. FOR THE PURPOSE OF SECURING:**

**2.1.** Repayment of the indebtedness evidenced by that certain Promissory Note of the Borrower **dated** , **20** , and entitled City of Livermore CalHome Program First-time Homebuyer Promissory Note **“Loan No.** ” (the “Note”) of the Borrower in the principal amount of **Dollars (\$** ), together with simple interest on such indebtedness according to the terms of the Note, and any and all amendments, modifications, extensions or renewals of the Note. The Note and this Deed of Trust are subject to the terms, conditions, and restrictions of the State of California CalHome Program as set for the in the Health and Safety Code section 50650 et seq. and implementing guidelines or regulations adopted by the California Department of Housing and Community Development, all of which are hereby incorporated by reference.

**2.2.** Payment of such additional sums, with interest thereon:

(a) As may hereafter be borrowed from Lender by the then-record owner of the Property and evidenced by a promissory note or notes reciting that it or they are so secured and all modifications, extensions, or renewals of the Note; and

(b) As may be incurred, paid, or advanced by Lender, or as may otherwise be due to Trustee or Lender, under any provision of this Deed of Trust and any modification, extension, or renewal of this Deed of Trust; and

(c) As may otherwise be paid or advanced by Lender to protect the security or priority of this Deed of Trust.

**2.3.** Performance of each obligation, covenant, and agreement of Borrower contained in this Deed of Trust, the Note, or any other document executed by Borrower in connection with the loan(s) secured by this Deed of Trust, and all amendments to



these documents whether set forth in this Deed of Trust or incorporated in this Deed of Trust by reference.

### **3. BORROWER COVENANTS:**

Borrower hereby covenants to maintain and protect the security of this Deed of Trust, to secure the full and timely performance by Borrower of each and every obligation, covenant, and agreement of Borrower under the Note and this Deed of Trust, and as additional consideration for the obligation(s) evidenced by the Note, Borrower covenants as follows:

**3.1. Title.** That Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that Borrower will warrant and defend generally the title of the Property against all claims and demands subject to any declarations, easements, or restrictions listed in the schedule of exemptions to coverage in any title insurance policy insuring Lender's interest in the Property.

**3.2. Payment of Principal and Interest.** That Borrower shall promptly pay, when due, the principal and interest on the Note, and such other charges as are provided in the Note, and such other amounts as are provided under this Deed of Trust.

**3.3. Maintenance of the Property.** (a) To keep the Property in a decent, safe, sanitary, tenantable condition and repair and permit no waste thereof; (b) not to commit or suffer to be done or exist on or about the Property any condition causing the Property to become less valuable; (c) remove, demolish or structurally alter any buildings and improvements now or hereinafter located on the Property; (d) to repair, restore or rebuild promptly any buildings or improvements on the Property that may become damaged or be destroyed while subject to the lien of this Deed of Trust; (e) to comply with all applicable laws, ordinances and governmental regulations affecting the Property or requiring any alteration or improvement thereof, and not to suffer or permit any violations of any such law, ordinance or governmental regulation, nor of any covenant, condition or restriction affecting the Property; (f) not to initiate or acquiesce in any change in any zoning or other land use or legal classification which affects any of the Property without the Lender's written consent; and (g) not to alter the use of all or any part of the Property without the prior written consent of the Lender.

**3.4. Appear and Defend.** Borrower shall appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Lender or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which the Lender or Trustee may appear, and in any suit brought by the Lender to foreclose this deed.

**3.5. Payment of Taxes and Utility Charges.** Borrower shall pay, at least ten (10) days before delinquency all taxes and assessments affecting the Property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, fines and impositions attributable to the Property, leasehold payments or ground rents, if any, and any interest on the Property or any part thereof; all costs, fees and expenses of this trust. Borrower shall make such payments when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph and Borrower shall promptly furnish to Lender receipts evidencing all such payments made.

**3.6. Insurance.** To keep the Property insured with loss payable to the Lender, against loss or damage by fire and such other hazards, casualties and contingencies and by such companies on such forms and in the amount of the replacement cost of the Property, and to deliver the original of all such policies to the Lender, together with receipts satisfactory to the Lender evidencing payment of the premiums. All such policies provide that the Lender shall be given thirty (30) days advance written notice of the cancellation, expiration or termination of any such policy or any material change in the coverage afforded by it. Renewal policies and any replacement policies, together with premium receipts satisfactory to the Lender, shall be delivered to the Lender at least thirty (30) days prior to the expiration of existing policies. Neither Trustee nor the Lender shall by reason of accepting, rejecting, approving or obtaining insurance incur any liability for the existence, nonexistence, form or legal sufficiency of such insurance, or solvency of any insurer for payment of losses. All insurance proceeds for such losses must be utilized for the repair or restoration of the insured property.

**3.7. Payments and Discharge of Liens.** Borrower will pay, when due, all claims of every kind and nature which might or could become a lien on the Property or any part thereof; provided, however, that the following are excepted from this prohibition: (a) liens for taxes and assessments which are not delinquent although by law are given the status of a lien, and (b) such of the above claims as are, and only during the time they are, being contested by Borrower in good faith and by appropriate legal proceedings, and Borrower shall post security for the payment of these contested claims as may be requested by the Lender. Borrower shall not default in the payment or performance of any obligation secured by a lien, mortgage or deed of trust which is superior to this Deed of Trust.

**4. IT IS MUTUALLY AGREED THAT:**

**4.1. Application of Payments.** All payments received by Lender under the Note and Section 2.1 shall be applied by Lender first to interest payable on the Note and then to the principal due on the Note, unless applicable law provides otherwise.

**4.2. Future Advances.** Upon request by Borrower, Lender, at Lender's option, may make future advances to Borrower. All such future advances, with interest thereon, shall be added to and become a part of the indebtedness secured by this Deed of Trust when evidenced by promissory note(s) reciting that such note(s) are secured by this Deed of Trust.

**4.3. Disbursements to Protect Lender's Security.** All sums disbursed by Lender to protect and preserve the Property, this Deed of Trust, or Lender's security for the performance of Borrower's obligations under the Note shall be and be deemed to be an indebtedness of Borrower secured by this Deed of Trust.

**4.4. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, arrangements or proceedings involving a bankrupt or decedent, foreclosure of any mortgage secured by the Property or sale of the Property under a power of sale of any instrument secured by the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearance, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this Section 4.4, with interest thereon, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. Nothing contained in this Section 4.4 shall require Lender to incur any expense or take any action hereunder.

**4.5. Inspection.** Lender or its agent may make or cause to be made reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to any such inspection specifying reasonable cause for the inspection

**4.6. Awards and Damages.** All judgments, awards of damages, settlements and compensation made in connection with or in lieu of (a) taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain, (b) any damage to or destruction of the Property or any part thereof by insured casualty, and (c) any other injury or damage to all or any part of the Property, are hereby assigned to and shall be paid to the Lender. The Lender is authorized and empowered (but not required) to collect and receive any such sums and is authorized to apply them

in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Lender shall determine at its option. The Lender shall be entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Lender may be released to Borrower upon such conditions as the Lender may impose for its disposition. Application of all or any part of the amounts collected and received by the Lender or the release thereof shall not cure or waive any default under this Deed of Trust. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sum secured by this Deed of Trust.

**4.7. Prohibition on Transfers of Interest.** With the exception of the transfers permitted in Section 4.11 below, if all or any part of the Property or an interest therein is sold, transferred, or divested in any manner or way, whether voluntarily or involuntarily by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Security Instrument to be immediately due and payable. If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with Section 6.9 hereof. Such notices shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by Section 5.2(a) hereof.

**4.8. Sale or Forbearance.** No sale of the Property, forbearances on the part of the Lender or extension of the time for payment of the indebtedness hereby secured shall operate to release, discharge, waive, modify, change or affect the liability of Borrower either in whole or in part.

**4.9. The Lender's Rights to Release.** Without affecting the liability of any person for payment of any indebtedness hereby secured (other than any person released pursuant hereto), including without limitation any one or more endorsers or guarantors, and without affecting the lien hereof upon any of the Property not released pursuant hereto, at any time and from time to time without notice: (a) The Lender may, at its sole discretion, (I) release any person now or hereafter liable for payment of any or all such indebtedness. (II) extend the time for or agree to alter the terms of payment of any or all of such indebtedness, and (III) release or accept additional security for such indebtedness, or subordinate the lien or charge hereof; and (b) Trustee, acting pursuant to the written request of the Lender, may reconvey all or any part of the Property,

consent to the making of any map or plot thereof, join in granting any assessment thereon, or join in any such agreement of extension or subordination.

**4.10. Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing indebtedness secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any. The recitals in the reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof.

**4.11. Requirement of Owner-occupancy and Permitted Transfers.** Borrower shall occupy the Property as Borrower's principal place of residence during the term of the Note. Notwithstanding any other provision of the Note or this Deed of Trust, the following transfers shall not be deemed to be a default under the Note or this Deed of Trust:

- (a) The transfer of the Property to the surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant.
- (b) A transfer of the Property where the spouse becomes an owner of the property;
- (c) A transfer of the Property resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property.
- (d) A transfer to an inter vivos trust in which the Borrower is and remains the beneficiary and occupant of the property.

## **5. EVENTS OF DEFAULT**

**5.1. Events of Default.** Any one or more of the following events shall constitute a default under this Deed of Trust (a) failure of the Borrower to pay the indebtedness secured hereby or any installment thereof, whether principal, interest or otherwise, when and as the same become due and payable, whether at maturity or by acceleration or otherwise; or (b) failure of Borrower to observe or to perform any covenant condition or agreement to be observed or performed by Borrower pursuant to the Note or this Deed of Trust including but not limited to the occupancy of property by Borrower provision; or (c) the occurrence of any event which, under the terms of the Note, shall entitle the Lender to exercise the rights or remedies thereunder; or (d) the occurrence of any event which, under the terms of the First Note and First Deed of Trust shall entitle the Lender to exercise the rights or remedies thereunder.

## 5.2. Acceleration and Sale.

(a) **Acceleration.** Except as provided in Section 4.7, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, upon Borrower's failure to make any payment or to perform any of its obligations, covenants and agreements pursuant to the Note, Lender shall mail notice to Borrower as provided in Section 6.9 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, no less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect from the Borrower, or sale proceeds, if any, all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorney's fees.

(b) **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust, Borrower will have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of the judgment enforcing this Deed of Trust if: (1) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note, had no acceleration occurred; (2) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, remedies including, but not limited to, reasonable attorneys' fees; and (3) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred.

(c) **Sale.** After delivery to Trustee of a Notice of Default and Demand for Sale and after the expiration of such time and the giving of such notice of default and sale as may then be required by law, and without demand on Borrower Trustee shall sell the Property at the time and place of sale fixed by it in said notice of sale, at public auction to the highest bidder for cash in lawful money of the United States of America, payable



at time of sale. Trustee may postpone sale of all or any portion of the 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 and place fixed by the preceding postponement. Any person, including Borrower, Trustee or the Lender, may purchase at such sale. Upon such sale by Trustee it shall deliver to such purchaser its deed conveying the Property so sold, but without any covenant or warranty expressed or implied. The recitals in such deed of any matters or facts shall be conclusive proof of their truthfulness. Upon sale by Trustee and after deducting all costs, expenses and fees of Trustee and of this Deed of Trust, Trustee shall apply the proceeds of sale to the payment of the principal indebtedness hereby secured, whether evidenced by the Note or otherwise, or representing advances made or costs or expenses paid or incurred by the Lender under this Deed of Trust, or the secured obligations or any other instrument evidencing or securing any indebtedness hereby secured and to the payment of all other sums then secured thereby, including interest as provided in this Deed of Trust, the secured obligations or any other such instrument, in such order as the Lender shall direct; and then the remainder, if any, shall be paid to the person or persons legally entitled thereto.

(d) **Assignment of Rents; Appointment of Receiver; Lender in Possession.** Upon acceleration under paragraph (a) of Section 5.2 hereof or abandonment of the Property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property (if any) including those past due. All rents collected by Lender or the Receiver shall be applied first to payment of the costs of management of the Property and collection of rents including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Security Instrument. Lender and the receiver shall be liable to account only for those rents actually received. The provisions of this paragraph and paragraph (a) of Section 5.2 shall operate subject to the claims of prior lien holders.

**5.3. Exercise of Remedies; Delay.** No exercise of any right or remedy by the Lender or Trustee hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law, and no delay by the Lender or Trustee in exercising any such right or remedy hereunder shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

**5.4. Trustee Substitution.** The irrevocable power to appoint a substitute trustee or trustees hereunder is hereby expressly granted to the Lender, to be exercised at any time hereafter, without specifying any reason therefore by filing for record in the office where this Deed of Trust is recorded a deed of appointment, and said power of appointment of successor trustee or trustees may be exercised as often as and whenever the Lender deems advisable. The exercise of said power of appointment, no

matter how often, shall not be deemed an exhaustion thereof, and upon recording of such deed or deeds of appointment, the trustee or trustees so appointed shall thereupon, without further act or deed of conveyance, succeed to and become fully vested with identically the same title and estate in and to the Property hereby conveyed and with all the rights, powers, trusts and duties of the predecessor in the trust hereunder, with the like effect as if originally names as trustee or as one of the trustees.

**5.5. Remedies Cumulative.** No remedy herein contained or conferred upon the Lender or Trustee is intended to be exclusive of any other remedy or remedies afforded by law or by the terms hereof to the Lender or Trustee but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

## **6. MISCELLANEOUS PROVISIONS**

**6.1. Successors, Assigns, Gender, Number.** The covenants and agreements contained in this Deed of Trust shall bind, and the benefit and advantages under it shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties. Wherever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

**6.2. Headings.** The headings are inserted only for convenience of reference and in no way define, limit, or describe the scope or intent of this Deed of Trust, or of any particular provision thereof, or the proper construction thereof.

**6.3. Actions on Behalf of the Lender.** Except as otherwise specifically provided herein, whenever any approval, notice, direction, consent, request or other action by the Lender is required or permitted under this Deed of Trust, such action shall be in writing.

**6.4. Terms.** The words “the Lender” means the present Lender, or any future owner or holder, including pledgee of the indebtedness secured hereby.

**6.5. Obligations of Borrower.** If more than one person has executed this Deed of Trust as “Borrower,” the obligations of all such persons hereunder shall be joint and several.

**6.6. Incorporation by References.** The provisions of the CalHome Program security instruments and the documents relating to that program are incorporated by reference as though set out verbatim.



**6.7. Severability.** If any provision of this Deed of Trust shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

**6.8. Indemnification.** Borrower will indemnify and hold the Lender, its officers and agents harmless against any and all losses, claims, demands, penalties and liabilities which the Lender, its officers or agents may sustain or suffer by reason of anything done or omitted in good faith pursuant to or in connection with this Deed of Trust and not assert any claim against the Lender, its officers or agents by reason of any action so taken or omitted. Borrower shall, at Borrower's expense, defend, indemnify, save and hold the Lender, its officers and agents harmless from any and all claims, demands, losses, expenses, damages (general, punitive or otherwise), causes of action (whether legal or equitable in nature) asserted by any person, firm, corporation or other entity arising out of this Deed of Trust and Borrower shall pay the Lender upon demand all claims, judgments, damages, losses or expenses (including reasonable legal expense) incurred by the Lender as a result of any legal action arising out of this Deed of Trust.

**6.9. Notice.** Except for any notice required under applicable law to be given in another manner (a) any notice to Borrower provided for in this Deed of Trust shall be given by mailing such notice by certified mail directed to the Property Address or any other address Borrower designates by notice to Lender as provided herein; and, (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's mailing address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall deem to have been given to Borrower or Lender when given in the manner designated herein.

**6.10. Beneficiary Statement.** Lender may collect a fee for furnishing the beneficiary statement in an amount not to exceed the amount as provided by Section 2943 of the Civil Code of California.

**6.11. Use of Property.** Borrower shall not permit or suffer the use of any of the Property for any purpose other than as a single family residential dwelling.

**IN WITNESS WHEREOF**, Borrower has executed this Deed of Trust on the day and year set forth above. By signing below, Borrower agrees to the terms and conditions as set forth above.

**MAILING ADDRESS FOR NOTICES:**

**SIGNATURE OF BORROWER(s):**

\_\_\_\_\_  
(Street)

\_\_\_\_\_

\_\_\_\_\_  
(City) (State) (Zip)

\_\_\_\_\_

**Acknowledgements**

State of California }

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

## **Attachment 5: CalHome 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 CalHome loans will be referenced according to a specific CalHome prefix to identify the funding source followed by the year funded, and a sequential tracking number (e.g., CH2012-001). 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 not be charged monthly service fees for loans. 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 Notes which are amortized promissory 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 or may seek other repayment options as outlined in the CalHome Promissory Note and approved by the City.

## **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 A**). 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 Cal Home assisted property is insufficient to pay the existing lien(s) senior to the CalHome loan plus the full amount of principal and interest due on the CalHome MAP loan, CalHome regulations will allow for forgiveness of all or a portion of interest accrued on the CalHome 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
  - 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.
  - The loan must be at least for the period of time remaining on the CalHome loan. It must mature concurrently with or after the CalHome loan; and,
  - The loan must have an Impound Account for taxes and insurance
  - 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 and with the written consent of the Department, 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**

CalHome First Time Homebuyer loans are not assumable.

The following transfers of interest shall not require the repayment of the loan:

1. transfer to a surviving joint tenant by devise, descent, or operation of law on the death of a joint tenant;
2. a transfer in which the transferee is a person who occupies or will occupy the property, which is:
  - (i) a transfer where the spouse becomes an owner of the property;
  - (ii) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property; or
  - (iii) a transfer into an inter-vivos, or living trust in which the homebuyer is and will remain the beneficiary and occupant of the property.

**Exhibit A:**



**Annual Compliance Report**

**Certificate of Owner Occupancy**

Due by May 31<sup>st</sup> 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 (April) PG&E 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)960-4582.

**Mail or deliver completed form and documents to:**

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





## **Attachment 6: CalHome Mortgage Assistance Program**

### **CALHOME REUSE PLAN**

These guidelines shall be used to assist in the administration of “Reuse” funds received to the City from the repayment of principal and interest paid on CalHome loans.

1. All repayments of loan principal and any loan interest accrued shall be deposited into a separately maintained CalHome Reuse Account with the City of Livermore as governed by this CalHome Reuse Plan approved by the State of California Housing and Community Development Department (HCD). The account will provide:
  - a. A tracking system to ensure funds are used for eligible CalHome activities
  - b. Reporting
  - c. Timely processing
  - d. An ability to track any accrued interest earned to the CalHome Reuse Account
2. Program Income (PI) is defined as the gross income which is received by the City that has been directly generated from the use of CalHome funds. Sources of program income shall include payments made on principal and interest for CalHome loans, interest earned on funds that have been placed in the Reuse Account.
3. For PI generating activities that are only partially funded with CalHome funds, such income shall be prorated to reflect the actual percentage of CalHome participation.
4. Funds in the Reuse Account shall only be used to assist the targeted CalHome income eligible households up to 80% of the Area Median Income as determined annually by HCD.
5. Eligible uses of CalHome Reuse funds shall include the following activities within the jurisdictional limits of the City of Livermore, as allowed pursuant to CalHome Program requirements:
  - Loans to individual homebuyers as mortgage assistance in accordance with the City’s CalHome Mortgage Assistance Program Guidelines;
  - Loans for home rehabilitation;
  - Loans for housing acquisition and rehabilitation for first-time homebuyers;

- Loans for self-help mortgage assistance;
  - The cost of homebuyer education and counseling in conjunction with CalHome loan assistance;
  - Loan processing or activity delivery fee, as applicable, in accordance with CalHome Program requirements;
  - Up to five percent (5%) of funds deposited may be used towards the costs of loan servicing by the City or the cost of third-party loan servicing.
6. Reuse Loan Tracking and Servicing: Loans to CalHome Borrowers shall be tracked and serviced in the manner outlined in the City's Loan Servicing Guidelines, however each Reuse loan shall be noted as such. In the case of Owner-Occupied Rehabilitation loans, the City's Housing Rehabilitation Program administrator shall reconcile the amount of CalHome Loan issued to the actual amounts drawn/used and shall convey the final loan balance to the City's Loan Servicer. Any unused funds shall be deposited into the Reuse Account in accordance with CalHome Program regulation and HCD Management Memo #08-01.