SAMPLE FORM DOCUMENT

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 as of the date set forth above at Livermore, California

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Mailing Address for Notices: