

PROMISSORY NOTE

(County of Placer WHPP)

ADMINISTRATIVE COVER SHEET

(Remove Upon Completion)

BLANK LINES: CHECKLIST

- _____ Amount of County Loan, p. 1, upper left
- _____ Date of Document, p. 1, upper right
- _____ Declarant's Name, p. 1, first paragraph
- _____ Amount of County Loan, p. 1 first paragraph
- _____ Purchase Price of Home, p. 1, Section 1(a)
- _____ Amount of County Loan, p. 2, Section 1(c)
- _____ Amount of First Mortgage Loan, p. 3, Section 1(k)
- _____ Signatures, p. 9

NOTICE TO DECLARANT:

THIS DOCUMENT CONTAINS PROVISIONS PROHIBITING ASSUMPTIONS

Promissory Note
Secured By Deed Of Trust
(County of Placer WHPP)

§

Auburn, California

Dated: _____

FOR VALUE RECEIVED, the undersigned ("Declarant(s)") promise to pay to the order of County of Placer ("County") at 3091 County Center Drive, Suite 140, Auburn, California 95603, or such other place as the County may designate in writing, the principal sum of _____ **dollars (\$)**, In addition, any amount due and owing to the County shall bear interest at the rate of three (3) percent (%) per month compounded annually until paid in full. Principal and interest will only be due in the event of violation, non-performance, default or breach of any term of the Use Deed Restriction by the Owner, County shall have the right to enforce Owner's obligations herein by an action for any equitable remedy, including injunction or specific performance, as well as pursue an action to recover damages.

This Note shall not bear a principal or interest repayment unless a default, as herein defined below, has occurred. If a default occurs, the outstanding principal balance shall bear interest until paid at the rate charged by County as described above.

The term, as defined in the Use Deed Restriction, shall be Fifty-five (55) years which begins on the date of the recordation of the Deed of Trust securing the Property, or the date of the certificate of occupancy for the unit being constructed on the property, whichever occurs later. The Loan will become immediately due and payable, and interest will accrue on the outstanding principal balance if, during the term of the Use Deed Restriction, a default occurs.

In the event that a default of the Use Deed Restriction does not occur during the 55-year period, this Note shall be cancelled and the Deed of Trust encumbering the Property shall be reconveyed. If the Property is acquired by the holder of a prior encumbrance upon the Property through foreclosure, this Note shall be cancelled.

Declarant shall give written notice to County of any sale or refinancing of the Property occurring within the 55-Year Period.

1. Definitions. The terms set forth in this section shall have the following meanings in this Note.

(a) "County Loan" or "Loan" shall mean the loan of WHPP Program funds in the principal amount of **00/100 DOLLARS (\$)** provided by the County to the Declarant pursuant to the County Loan Documents.

(b) "County Loan Documents" shall mean, collectively, this Note, the Deed of Trust, and the Use Deed Restriction Agreement.

(c) "Deed of Trust" shall mean that certain deed of trust of same date herewith securing the County Loan to be executed by the Declarant and to be recorded against the Home.

(d) "First Deed of Trust" shall mean that certain deed of trust dated _____, 202__, executed by Declarant in favor of (first County) and to be recorded in the official records of the County as a first lien against the Home.

(e) "First County Loan" shall mean the loan secured by the First Deed of Trust.

(f) "Home" shall have the same meaning as the term "Security" as used in the Deed of Trust.

(g) "Use Deed Restriction " shall mean that certain Use Deed Restriction entered into by the Declarant and the County on date herewith to be recorded against the Home.

(h) "Transfer" shall mean any sale, assignment or transfer, voluntary or involuntary, of any interest in the Home, including, but not limited to, a fee simple interest, a joint tenancy interest, a tenancy in common interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Home is transferred and Declarant retains title. A transfer: (i) to an existing spouse or domestic partner who is also an obligor under the Note; (ii) by a Declarant to a spouse or domestic partner where the spouse becomes the co-owner of the Home; (iii) between spouses as part of a marriage dissolution proceeding; (iv) to an existing spouse, domestic partner, or child of the Declarant by devise or inheritance following death of the Declarant; (v) by the Declarant into an inter vivos trust in which the Declarant is the beneficiary; (iv) by refinance of the First County Loan provided that following such refinance, the principal amount of the refinanced First County Loan will not exceed the then outstanding balance (plus refinancing and closing costs) of the existing First County Loan and the County making the refinanced First County Loan is a bank, credit union or savings and loan association approved in advance by the County as to rate and term; or (v) by deed of trust or imposition of a lien subordinate to the Deed of Trust, shall not be considered a Transfer for the purposes of this Note; provided, however, that the Declarant or the transferee, if appropriate, shall continue to occupy the Home as his or her principal place of residence and the Declarant shall provide written notice of such transfer to the County in the manner provided in Section 19 below.

2. Security. This promissory note (the "Note") is secured by the Deed of Trust. Declarant acknowledges that this Note is given in connection with the use of funds to assist in the purchase of homes by income eligible homebuyers. Said property, including both the real property and all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and all fixtures now or hereafter attached to the property shall be referred

to in this Note as the Home. The term "Home," as used herein, shall have the same meaning as the term "Security" as used in the Deed of Trust.

3. Interest.

(a) The principal sum outstanding from time to time under this Note shall bear simple interest at the rate of three (3) percent per month, compounded annually, computed from the date of this Note.

(b) All principal and interest accrued on this note, shall be forgiven provided the terms of the Use Deed Restriction are met.

4. Repayment.

Deferral. Repayment of the amount due under this Note shall be deferred pursuant to the terms of the Use Deed Restriction and Deed of Trust.

Repayment in Full. Subject to the terms of the Use Deed Restriction and Deed of Trust, the total amount of the principal and interest owed under this Note shall be repaid pursuant to the terms of the Use Deed Restriction and Deed of Trust in the event of default.

5. Maintenance; Taxes; Insurance. Declarant shall maintain the Home in good repair and in a neat, clean and orderly condition (and as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other government agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus and officials. Declarant shall not commit waste or permit deterioration of the Home and shall make all repairs and replacements necessary to keep the Home in good condition and repair.

6. Attorneys' Fees; Non-Discrimination. The Declarant covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Home, nor shall the Declarant or any person claiming under or through the Declarant establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, occupancy or transfer of the Home. The foregoing covenant shall run with the land.

7. Default. Any of the following shall constitute an Event of Default under this Note:

(a) Any failure to pay, in full, any payment required under this Note within ten (10) days of written notice that such payment is due;

(b) Any failure in the performance by the Declarant of any term, condition, provision or covenant set forth in this Note;

(c) The occurrence of any event of default under the Deed of Trust, or other instrument securing the obligations of the Declarant under this Note or under any other promissory notes hereafter issued by the Declarant to the County pursuant to the Deed of Trust, subject to notice and cure periods, if any, set forth therein;

(d) The occurrence of any event of default under the Use Deed Restriction, subject to the notice and cure periods, if any, set forth therein; and

(e) The occurrence of any event of default under the First Deed of Trust, any other deeds of trust secured by the Home or any covenant recorded against the Home, subject to notice and cure periods, if any, set forth therein.

8. Acceleration. Upon the declaration by the County of an Event of Default pursuant to Section 7, the entire unpaid principal balance, together with all interest, and together with all other sums then payable under this Note and the Deed of Trust shall at the option of the County become immediately due and payable upon written notice by the County to the Declarant without further demand. The failure to exercise the remedy set forth above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by the County hereof of any payment which is less than the total of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of the County, except as and to the extent otherwise provided by law.

9. No Offset. Declarant hereby waives any rights of offset it now has or may hereafter have against the County, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

10. Waiver. Declarant and any endorsers or guarantors of this Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys' fees.

11. Right of Entry by County. Declarant hereby grants to the County and its duly authorized representatives the right to enter the Home at reasonable times and in a reasonable manner for purposes of inspecting the Home to determine compliance with the County Loan Documents.

12. Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 12(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to the County Loan Documents or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activities, or have any interest in any contract, subcontract or agreement with respect to such activities, or the proceeds under the contract, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. The Declarant shall exercise due diligence to ensure that the prohibition in this Section 12(a) is followed.

(b) The conflict of interest provisions of Section 12(a) above apply to any person who is any employee, agent, consultant, or officer of the County, or any immediate family member of such person, or any elected or appointed official of the County, or any person related within the third (3rd) degree of such person.

13. Notices. Notices to the County or the Declarant required hereunder shall be given in the manner described in Section 12 of the Deed of Trust.

14. Nonliability for Negligence, Loss, or Damage. Declarant acknowledges, understands and agrees that the relationship between Declarant and the County is solely that of Declarant and County, and that County neither undertakes nor assumes any responsibility for or duty to Declarant to select, review, inspect, supervise, pass judgment on, or inform Declarant of the quality adequacy or suitability of the Home or any other matter. County owes no duty of care to protect Declarant against negligent, faulty, inadequate or defective building or construction or any condition of the Home and Declarant agrees that neither Declarant, nor Declarant heirs, successors or assigns shall ever claim, have or assert any right or action against County for any loss, damage or other matter arising out of or resulting from any condition of the Security and will hold County harmless from any liability, loss or damage for these things.

15. Indemnity. Declarant agrees to defend, indemnify, and hold County harmless from all losses, damages, liabilities, claims, actions, judgements, costs, and reasonable attorneys fees that County may incur as a direct or indirect consequence of:

(a) the making of the Loan evidenced by the Note to Declarant;

(b) Declarant's failure to perform any obligations as and when required by the County Loan Documents; or

(c) the failure at any time of any of Declarant's certifications, representations, or warranties to be true and correct.

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 County. No waiver of any breach, default or failure of condition under the terms of this Note shall be implied from any failure of the County to take, or any delay by the County 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 must be made in writing and shall be limited to the express written terms of such waiver.

18. Foreclosure by First Mortgage Lender. In the event the First Mortgage Lender forecloses on the Home, the Declarant shall use the proceeds of any sale related to such foreclosure to repay the County Loan.

19. Rights Of Beneficiaries Under Deeds of Trusts

This Agreement shall not diminish or affect the rights of the County under the Deed of Trust. Notwithstanding any other provision in this Agreement to the contrary, this Agreement shall not diminish or affect the rights of HUD or the Veterans Administration ("VA") under the First County Deed of Trust or any subsequent First County deeds of trust hereafter recorded against the Home in compliance with this Agreement. Notwithstanding any other provisions in this Agreement to the contrary, all of the provisions of this Agreement shall terminate and have no further force in the event title is acquired by HUD or VA or another party upon foreclosure of a deed of trust insured by HUD or guaranteed by VA.

20. Release of Deed Restriction in Event of Foreclosure or Deed in Lieu

(a) An Owner shall notify the County, in writing, of any notification received from a lender of past due payments or defaults in payments or other obligations within five (5) days of receipt of such notification.

(b) An Owner shall immediately notify the County, in writing, of any notice of foreclosure under the first deed of trust or any other subordinate security interest in the Property, or when any payment on any indebtedness encumbering the Property is required to avoid foreclosure of the first deed of trust or other subordinate security interest in the Property.

(c) Within sixty (60) days after receipt of any notice described herein, the County may (but shall not be obligated) to proceed to make any payment required to avoid foreclosure. Upon making any such payment, the County shall place a lien on the Property in the amount paid to cure the default and avoid foreclosure, including all fees and costs resulting from such foreclosure.

(d) Notwithstanding any other provision of this Deed Restriction, (but subject to Section 11(g) of the Use Deed Restriction), in the event of a foreclosure, acceptance of a deed-in-lieu of foreclosure, or assignment, this Deed Restriction shall remain in full force and effect, including without limitation Section 4 hereof, restricting Transfer of the Property.

(e) The County shall have thirty (30) days after issuance of the public trustee's deed or the acceptance of a deed in lieu of foreclosure by the holder in which to purchase by tendering to the holder, in cash or certified funds, an amount equal to the bid price or the redemption price paid by the holder, interest in the amount of three (3%) percent per annum from

the date of the issuance of the public trustee's deed or the recording of a deed in lieu of foreclosure through the date of the County's purchase.

(f) Notwithstanding Section 20(d) above, in the event that the Property is encumbered by a mortgage or deed of trust insured by the U.S. Department of Housing and Urban Development ("HUD") and representing a purchase money first priority mortgage or deed of trust, this Deed Restriction shall automatically and permanently terminate upon foreclosure of such mortgage or deed of trust, upon acceptance of a deed in lieu of foreclosure of such mortgage or deed of trust or upon assignment of such mortgage or deed of trust to HUD.

DECLARANT(s)

DECLARANT(s)

EXHIBIT A

Form of Owner Occupancy Certification

To: The County of Placer ("County")

From: _____ **[name of owner(s)]** ("Owner(s)")

Address of Home: _____ ("Property")

Mailing Address: _____

Phone Number: _____

Email Address: _____

Date: _____

By signature below, I/We _____ **[insert name or names of Owner]** hereby certify to the County of Placer under penalty of perjury that I/we occupy the home located at

_____ **[insert address]** (the "Home") as my/our principal place of residence and that I/we have occupied the Home for _____ **[insert number]** months of the calendar year _____ **[insert previous calendar year]**. Attached to this letter is a copy of my **utility bill** showing my place of residence.

This Owner Occupancy Certification is signed on _____, 20__, under penalty of perjury.

By: _____
Owner

By: _____
Owner

Attach copy of utility bill showing address of Home.