

CASE NUMBER enter number
(office use only)

**CITY OF PASSAIC
DEPARTMENT OF COMMUNITY DEVELOPMENT
330 PASSAIC STREET
PASSAIC, NEW JERSEY 07055**

**FIRST TIME HOMEBUYER ASSISTANCE PROGRAM
AGREEMENT**

HUD #

APPLICANT’S NAME(S): _____

CURRENT ADDRESS: _____

PROPERTY LOCATION: _____, Passaic, NJ 07055

All applicants shall understand that they may be eligible to receive First Time Homebuyer Program funding under the City of Passaic’s First Time Homebuyer Assistance Program and that the terms and conditions for receipt of the funding are as set forth in the City of Passaic’s program guidelines and Federal regulations. It is also understood by all applicants that if assistance is received the following must be agreed to:

1. OVERVIEW AND DEFINITION

The City of Passaic’s First Time Homebuyer Program will provide qualified low-income households with Homebuyer Assistance in the form of a forgivable deferred payment second mortgage. Resale restrictions will conform to 24 CFR 92.254.

Only the homeowner-occupied unit will be assisted, even if the property is a multi-family dwelling. The assisted unit will be restricted to a household that, at the time of occupancy, qualifies as a low-income household. The assisted household must use the property as their principal residence. Affordable housing shall be restricted for no less than five years for existing property, and the length of affordability will be determined by the dollar amount of assistance.

In providing this assistance, the City of Passaic will apply the following definitions set forth in the HOME Program Federal Regulations:

“HOME” - shall mean the Home Investment Partnership Program as detailed in 24 CFR part 92.

AGREEMENT/NOTE- shall mean the written First Time Homebuyer Assistance Program Agreement between the City of Passaic and the applicant.

MORTGAGEE - shall mean the qualified low-income owner.

MORTGAGOR - shall mean the City of Passaic or its assignee.

MORTGAGE - the instrument filed at the County Clerk's office, to show evidence of a lien on residence, or the secured property location.

CLOSING COSTS - shall mean the costs of a real estate sale or transaction that are incurred by the buyer and seller or owner, (if a refinance of existing mortgage loan) at the time of sale or transaction, including, but not limited to: attorney's fees, mortgage points, real estate transfer fee, and applicable real estate broker fees.

OWNER - shall mean the title holder of record, (by indenture or deed), as same is reflected in the most recently dated and recorded deed for the particular unit and/or Affordable Housing unit for purposes of the initial sales of any Affordable Housing unit.

ELIGIBLE HOUSEHOLD - Shall mean, a household as defined as specified in Federal Regulation at 24 CFR 570.3 which states, "Household means all the persons who may occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements."

CERTIFIED HOUSEHOLD - shall mean any eligible Household, whose estimated total Gross Annual Income has been verified, whose financial references have been approved and who has received certification as a Low or Very Low Income Eligible Household.

HOME FUNDS – shall mean HUD funds provided to eligible Homebuyer Program applicants under agreement with the City of Passaic's Community Development Department.

HUD – shall mean, the Government Agency of the United States of America, is an acronym meaning the Department of Housing and Urban Development.

PRINCIPAL RESIDENCE – shall mean Housing units assisted under the homebuyer's assistance program that must be the principal residence of the owners. The assisted unit must be occupied by the assisted applicant household and that household must maintain continuing residence in the unit for a period of more than 50% (percent) of each calendar year. The deed or deed covenant and the loan documents between the purchaser or homeowner, if existing, and the City of Passaic shall incorporate this requirement. (Also referred to as principal/primary living residence)

NEWLY CONSTRUCTED UNIT – shall mean, for the purposes of the First Time Homebuyer Assistance Program, a newly constructed unit and shall be a housing unit which received an initial certificate of occupancy or equivalent document within a (1) one year period before the City of Passaic commits HOME funds to the project and not previously occupied by a permanent legal resident.

PURCHASER – shall mean a certified Household who has signed a contract to purchase an Affordable Housing unit subject to a mortgage commitment and closing.

RESTRICTED PERIOD – shall mean the length of time that affordability controls will remain in effect. Such a period shall begin on the day of the sale of the property.

2. HOUSEHOLD ELIGIBILITY PROVISIONS AND DEFINITIONS

INCOME - shall mean Gross Annual Income, and adjusted gross income shall be as defined in Federal Regulations at 24 CFR Part 813.

LOW INCOME HOUSEHOLD – shall mean, a household whose Gross Annual Income is equal to, or less than 80% of median income for households of that particular size, as published by HUD for the area comprising the City of Passaic, shall be a low-income household for the purposes of the First Time Homebuyer Assistance Program. The purchasing household must be low income at either the time the household initially occupies the property or at the time the HOME funds are invested, whichever is later. However, income will be verified at the time of applicant processing. That verification of income will be valid for a six-month period. An update of applicant income will be required only if more than six months has transpired from the initial verification to occupancy of the property.

VERY LOW INCOME HOUSEHOLD – shall mean, a household named in the application, who's total Gross Annual Income may not exceed 50% of the median gross income figure established by geographic region and household size using the income guideline approved for use by HUD.

QUALIFYING HOUSEHOLD – To qualify for First Time Homebuyers assistance, the applicant household must first be either 1. a first time homebuyer household; 2. a single person or a household headed by a single parent, defined as follows:

1. A first time homebuyer is defined as household that HAS NOT owned a house during the three-year period immediately prior to the purchase with HOME funds.
2. A single person, (male or female) is (1) one sole individual. A single parent is an individual who
 - A. is unmarried or legally separated from the spouse, and
 - B. have one or more minor children from whom the individual has custody or joint custody or is pregnant (at the point that the applicant occupies the property.)

PRINCIPAL RESIDENCE – shall mean the, Purchasing household must use the property as its principal or primary residence, as defined above. The deed or deed covenant and the loan documents between the purchaser and homeowner, if existing and the City of Passaic shall incorporate this requirement.

3. ELIGIBLE PROPERTIES

The assisted home buyer household must use the City of Passaic’s First Time Homebuyer funds for the purpose of purchasing a property which is a newly constructed or existing dwelling, including: A) a 1-4 family property (one to 4 units); B) a condominium or townhouse unit; C) a manufactured home, or; D) Cooperative unit. A multi-family unit is a dwelling with 2 or more units.

4. FORM OF OWNERSHIP

Homeownership shall mean ownership in fee simple or a 99-year leasehold interest in a cooperative, or equivalent form of ownership approved by HUD and, is generally evidenced by a recorded deed which is on file at the registrar’s office at the County Clerk’s office.

The Ownership interest shall be subject to the following: 1. Mortgages, deeds of Trust or other debt instruments approved by the City; and 2. any other encumbrances or restrictions that do not impair the marketability of the ownership interest, other than the HOME program restrictions on resale.

5. HOMEBUYER ASSISTANCE TO BE PROVIDED USE OF FUNDS AND SECURITY AGREEMENT

Type of Assistance:

- A. Up to \$39,500 in HOME program funds will be provided in the form of a forgivable loan towards down payment for first time homebuyers.
- B. Subsidy Limits: Minimum HOME Investment in the amount of \$1,000 in the project. The Maximum HOME Investment is not to exceed \$39,500 in the project.
- C. At the time of purchase, a deed restriction regarding the recapture of HOME Program loan funds during the applicable affordability period will be placed on each property and recorded.
- D. Recapture provisions will be applied and the **entire amount** of HOME funds will be recaptured.
- E. In cases where net proceeds are insufficient to recapture the full HOME investment plus enable the homeowner to recover their entire investment (down payment and capital improvements made by the owner), the City will use recapture provisions as set forth in 24 CRF Part 92.254(a) (5) (ii) A (3) – Shared Net Proceeds. Net proceeds are

the sales price minus loan repayment (other than HOME funds) and closing costs. Net proceeds will be divided as set forth in the following mathematical formula:

- F. $(\text{Home Investment} / (\text{Home Investment} + \text{homeowner investment})) \times \text{Net Proceeds} = \text{HOME amount to be recaptured}$
- G. $(\text{Homeowner Investment} / (\text{Home Investment} + \text{homeowner investment})) \times \text{Net Proceeds} = \text{amount to homeowner}$
- H. Recaptured funds will be made available to the First Time Homebuyers Program. The loan carries no repayment penalty and can be repaid at any time. If the original first-time homebuyer retains ownership of the property and continues to reside there for the full affordability period, no recapture restrictions will apply.
- I. Property Value at Time of Purchase – All first time homebuyers' projects require an appraisal. The appraised value of the HOME-assisted property (not the purchase price) must not exceed the HUD's published HOME Homeownership Value Limit FY 2014 for the area. If the rehabilitation is required, the appraised value of the property after rehabilitation cannot exceed the HUD's published HOME Homeownership Value Limit FY 2014.

Loan Payments - The loan balance will be due in full (or called) upon: 1) Title Transfer 2) Sale 3) Death of the Owner or 4) The date the owner ceases to use the assisted unit as the principle (or primary living) residence OR otherwise fails to comply with program rights as set forth above.

Amount of Assistance - The amount of homebuyer assistance to be provided to an applicant household shall be a maximum amount of \$39,500.00. The HOME assistance amount provided is \$.00.

SECURITY AGREEMENT

The provision of First Time Homebuyer funds to the applicant will require the execution of a mortgage and note on the property being purchased as security for the assistance provided.

5.1. Use Of Funds

The funds to be given shall be a ZERO INTEREST forgivable loan, as a second mortgage, as stated above, on the purchase of the unit. The second mortgage lien shall be placed on the unit at closing, as stated prior in this agreement, and shall be subordinate the first mortgage and shall be held by the City of Passaic.

Subordination of mortgage will be granted based on the following requirements:

- A. The owner must maintain a loan to value ratio of **80 percent**. The ratio will be calculated based on **ALL** open mortgages as of the date of the request.
- B. Refinancing terms will not result in cash out to the owner in excess of \$5,000.
- C. Refinancing terms will result in homeowner obtaining a rate better than the current rate or better than the national average interest rate.

Applicant Obligations – The applicant shall be obligated to comply with ALL program provisions stated herein.

5.2. Acquisition Time Period

The applicant will be initially allowed a period of six months in which to close on a property. Upon request and prior to the expiration of the initial six-month period, an applicant may request an additional six-month period to close on a property subject to approval by the City of Passaic for the purposes of complying with this section. No further extensions will be granted after approval of the six-month extension.

6. PROPERTY STANDARDS

The assistance to be provided as specified in this agreement herein is to assist in the financing of only the acquisition of the unit. Therefore, the assisted unit must meet Federal Housing Quality Standards (HQS), as published in Federal Regulations 24 CFR Part 882.109, and all applicable State and Local codes and shall have been the subject of a current Certificate of Occupancy or equivalent document issued by the City of Passaic. For certain manufactured homes, Federal Regulations under 24 CFR Part 3280, may be in effect.

A First Time Homebuyer Program inspector will determine property qualification through property inspection. If property doesn't meet HQS then it will not qualify for the program..

The homeowner will be required to maintain the property up to City codes for the remainder of affordability period. Therefore, the property will not be permitted to participate in any other federally funded program for purposes of rehabilitation during the affordability period.

7. PROPERTY VALUE

The appraised value of the assisted property to be acquired by the First Time Homebuyer shall not exceed the **HOME Homeownership Value Limit FY 2014**, as published by HUD (www.hud.gov), for the type of housing being purchased. An appraisal is required FOR ALL First Time Homebuyer projects. Said appraisal shall be completed prior to approval of funds from the City of Passaic.

8. AFFORDABILITY REQUIREMENTS/ CONTROLS AND RESALE RESTRICTIONS

8.1. Definition of Affordable

For the purposes of the Homebuyer assistance program, “affordable” is achieved if the monthly payments for: principal, interest and escrow items (i.e., property taxes, property insurance and mortgage insurance if needed/or required) do not exceed 30% (thirty-percent) of the gross income of a household.

8.2. Affordable Housing Term

The assisted unit must remain affordable for the duration of affordability period established based on the amount of total assistance provided. After the applicable affordability period, the assisted unit may be sold at any price to any homebuyer.

Amount of HOME funds provided	Affordability Period
\$1,000 < \$14,999	5 years
\$15,000 - \$40,000	10 years

9. RECAPTURE OF HOME SUBSIDY

The City of Passaic may, at its sole option, allow the affordability controls to extinguish subject to recapture the full amount of the funding provided by the HOME program, or if the net proceeds are less than the full amount of such HOME subsidy, it may recapture the net proceeds. Such recaptured net proceeds will be used to assist other first time homebuyers. Net proceeds means, the sales prices minus (-) repayment of the first mortgage, owner equity investment, eligible owner return or investment as specified in paragraph 11 below and closing costs.

10. REPAYMENT PROVISIONS/ AND REMEDIES

10.1. In General – In the event of any default or violation to this agreement contained herein of said contract, homebuyer shall, upon notice from the City of Passaic, proceed to immediately remedy the default or violation, in thirty (30) days, after receipt of such notice.

10.2. Immediate Repayment – If after the 30 (thirty) day period of notice of violation, homebuyer does not notify the City of Passaic of action taken to correct the violations/default, the City of Passaic shall require immediate repayment of the full mortgage amount.

11. SALE OF PROPERTY

If the homeowner sells the property, recapture provisions will be applied, and the entire amount of HOME funds will be recaptured from the sale.

Excess Proceeds upon Foreclosure: In the event of a foreclosure sale, the owner of the affordable housing unit shall be personally obligated to pay to the City of Passaic any surplus funds. In cases where net proceeds are insufficient to recapture the full HOME

investment plus enable the homeowner to recover their entire investment (down payment and capital improvements made by the owner), the City will use recapture provisions as set forth in 24 CFR Part 92.254(a) (5) (ii) A (3) – Shared Net Proceeds. Net proceeds are the sales price minus loan repayment (other than HOME funds) and closing costs. Net proceeds will be divided as set forth in the following mathematical formula:

$$\frac{\text{HOME investment}}{\text{HOME investment} + \text{Homeowner investment}} \times \text{Net proceeds} = \text{HOME amount to be recaptured}$$

$$\frac{\text{homeowner investment}}{\text{HOME investment} + \text{Homeowner investment}} \times \text{Net proceeds} = \text{amount to homeowner}$$

12. ENFORCEMENT OF PROVISIONS

A deed covenant will be used by the City of Passaic to ensure that the First Time Homebuyer retains the property as the principal/primary living residence. The deed will also include covenants regarding the resale requirements and affordability controls specified in Sections 8, 9, 10 and 11 captioned above in the agreement/note.

A promissory Note/Agreement and Mortgage Note shall be used by the City of Passaic to ensure that all provisions of the loan assistance terms, restrictions and conditions and controls are met.

13. SEVERABILITY

If any portion of this contract shall be determined to be invalid or unenforceable under applicable Federal, State, or Local laws, such determination shall not affect the remaining provisions of this contract. All such provisions shall remain in full force and effect.

14. COVENANTS RUNNING WITH LAND

The covenants contained herein shall run with the land and be construed as running with the land, and the same shall be binding upon the parties hereto, their assigns and successors in title or in interest for the duration of the restricted period.

15. LEAD AND LEAD BASED PAINT

Additional notices and/or disclosures will be given to the applicant household during processing and at closing, as to Lead and Lead Based Paint described in the Lead Based Paint Poisoning Act of 1971 and under Federal Regulations 24 CFR Part 35.

16. DEFAULT

Default of this agreement as stated in prior sections, including Section 5 and moving forward to Section 17 will have a serious adverse effect on your credit rating with present and future creditors.

17. OTHER PROVISIONS

In addition to the provisions outlined and specified in this agreement/note captioned above, the assistance to be provided by the City of Passaic shall require the applicant's compliance with the following provisions:

A. The applicant shall comply with all of the terms of this Agreement, Mortgage and Mortgage Note to be executed, with this HOME Assistance transaction.

B. The applicant shall own and have the right to mortgage the Property to the City of Passaic at the time of loan closing. The applicant shall defend the ownership against all claims.

C. The applicant shall pay all real estate taxes, assessments, water and sewer charges, and other charges against the property when due, and shall not permit any liens or encumbrances against the property.

D. The applicant shall maintain hazard insurance on the Property. This insurance must cover all mortgage liens on the property and cover loss or damage caused by fire and other hazards, normally included under "extended coverage" insurance. It must also include other hazard coverage as the City of Passaic may reasonably require. If the property is deemed to be in a "Flood Zone", then Flood Insurance will also be a requirement to provide the property with insurance against the loss of property due to flooding. The insurance company, agent or broker, amounts of coverage, and forms of all policies, must be acceptable to the City of Passaic. As evidence of this insurance coverage, copies of these policies must be provided to the City of Passaic. The City of Passaic shall be listed as Mortgagee /Loss Payee as follows:

The City of Passaic
Department of Community Development
330 Passaic Street Passaic, New Jersey 07055
Its Successors and/or Assigns

E. The applicant shall keep the property in good repair and shall not damage, destroy, or abandon the Property, or do anything that will reduce the value of the property.

F. The applicant shall pay all payments due on all liens on the property and not violate any terms of any other Mortgage.

G. The applicant shall, without exception, allow the inspection of the assisted property by the City of Passaic during the applicable term of affordability to enable verification of compliance with property maintenance requirements related to the provision of this assistance.

I/We certify that, I/We have read the above agreement/note and completely understand the contents, and I/We will comply with all requirements and provisions contained in hereto, with the agreement.

This agreement signed and dated in the City of Passaic, County of Passaic, and State of New Jersey on _____.

Signatures:

Applicant

Date _____

Co-Applicant

Date _____

Co-Applicant

Date _____

Witness to the above

Date

ATTEST:

CITY OF PASSAIC IN THE
COUNTY OF PASSAIC:

Amada D. Curling, City Clerk

Dr. Alex Blanco, Mayor

STATE OF NEW JERSEY)
 |) SS:
COUNTY OF PASSAIC)

I CERTIFY that on _____, 201█, Amada D. Curling personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Municipal Clerk of THE CITY OF PASSAIC IN THE COUNTY OF PASSAIC, the Municipal Corporation named in the attached document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Dr. Alex Blanco, Mayor of the Municipal Corporation;
- (c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Municipal Council;
- (d) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me
the date aforesaid

Notary Public

Amada D. Curling