

# SECURED PROMISSORY NOTE

County of Yuba

First Time Homebuyer (Community Development Block Grant-funded)

Date: XXX

Loan Number: XXX

Loan Amount: \$XXX

For Property Located at XXX

FOR VALUE RECEIVED, the undersigned, \_\_\_\_\_, ("**Borrower**"), promises to pay to the **County of Yuba**, a municipal corporation ("**Lender**" or "**County**"), at 915 8th Street, Suite 123, Marysville, California 95901, or such other place as Lender may from time to time designate by written notice to Borrower, in lawful money of the United States, the principal sum of \_\_\_\_\_ (\$\_\_\_\_\_) plus accrued interest ("**Loan**").

1. **Loan Agreement.** This Loan is evidenced by this Secured Promissory Note ("Note") and that certain Loan Agreement (the "**Loan Agreement**") dated as of the date hereof, executed by Borrower and Lender, and recorded against the Property. This Note is secured by that certain Deed of Trust (the "**Deed of Trust**") dated as of the date hereof, executed by Borrower and recorded against the Property (as defined below) in the Official Records of Yuba County. In addition to securing Borrower's obligation to repay this Note, the Deed of Trust secures Borrower's obligations set forth in the Deed of Trust and in the Loan Agreement.
2. **Purpose of Loan.** Borrower desires to purchase the residential real property located at \_\_\_\_\_ in Yuba County, California (the "**Property**") as more particularly described in Exhibit A of the Deed of Trust. Lender has provided a loan in the principal amount of this Note (the "**Loan**") to Borrower pursuant to Lender's Homebuyer Assistance Program in conjunction with the Deed of Trust and the Loan Agreement. This Note evidences Borrower's obligation to repay the principal amount of the Loan, together with interest as set forth in this Note.
3. **Interest Rate and Forgiveness.** This Note evidences the obligation of Borrower(s) to the Lender for repayment of the funds loaned to Borrower(s) by the Lender together with accrued interest. Interest shall accrue at a rate of three percent (3.00%) per annum from the date of this Note (the "**Effective Date**"). The interest rate will be reduced to two-and-five percent (2.5%) per annum starting in year 6 through the end of year 10 following the Effective Date of the Promissory Note. The rate will further reduce to two percent (2.0%) per annum from year 11 through the end of year 15, then to one-and-five percent (1.5%) per annum from year 16 through the end of year 20, and to one percent (1.0%) per annum from year 21 through the end of year 25. The interest rate will decrease to zero-and-five percent (0.5%) per annum from year 26 through the end of year 30. Finally, upon repayment of the Program loan on or before the expiration of the original 30-year term, the County shall forgive all deferred accrued interest due.
4. **Deferred Payments.** The Loan shall be a deferred-payment loan, with payment due in accordance with Section 5 of this Note. Both principal and interest payments shall be deferred.
5. **Loan Repayment.** The entire outstanding principal balance of this Note, together with any accrued interest outstanding as set forth in this Note and all other sums due hereunder, shall be due and payable in full in one lump sum upon the earliest to occur of:
  - a) The Maturity Date of this Note, as defined in Paragraph 2.C. of the Loan Agreement, and which shall not be extended;
  - b) The sale, transfer, lease, or encumbrance of all or any interest in the Property without Lender's prior written consent (other than as permitted pursuant to the Deed of Trust and the Loan Agreement); or

c) The occurrence of an Event of Default.

6. **Voluntary Payments.** Loan payments prior to the Maturity Date are not required. Borrower may make voluntary payments at any time, such voluntary payments shall be applied to principal, unless any insurance or property tax payments have been made on behalf of the Borrower. All other loan payments shall be credited first to any insurance or property tax payments made on behalf of Borrower, then to accrued interest, and then to principal. Borrower may repay the loan balance at any time with no penalty.

Payments must be made during normal business hours at the Lender's address provided in accordance with Section 13 of this Note. Lender, in its sole discretion, may set a minimum payment amount and/or limit the frequency of payments to one per month.

7. **Due on Sale; Restrictions on Assumption.** This Note is payable in full upon sale of the Property, and may not be assumed.

8. **Events of Default; Acceleration of Payment.** An Event of Default permitting Lender to declare all sums due hereunder immediately due and payable shall arise upon the occurrence of any of the following:

- a) Failure to occupy the Property as Borrower's Principal Residence;
- b) Sale, conveyance, or other transfer of the Property (including a foreclosure sale or short sale);
- c) The conversion of the Property, or any portion thereof, to any commercial or non-residential use, or to a rental unit (except as provided in the Loan Agreement);
- d) Failure to maintain insurance in accordance with the terms and provisions of the Loan Agreement;
- e) Failure to pay property taxes and/or assessments;
- f) The occurrence of a default under the terms of a senior deed of trust, when said default is not cured within sixty (60) days following the recordation of a notice of default by the trustee under that senior deed of trust;
- g) Borrower refinances the Property's senior purchase loan without the Lender's written permission;
- h) Borrower fails to observe or to perform any covenant, condition, or agreement to be observed or performed by Borrower under this Note, the Loan Agreement, or the Deed of Trust, including but not limited to failure to pay indebtedness; or
- i) Failure to maintain the Property in a safe, sanitary, and decent manner, and/or in a manner consistent with the County's community standards.

9. **Default Rate of Interest.** Upon the occurrence of an Event of Default, the interest rate on the County's Loan will not increase. The accruing interest on the loan will not deviate from the terms described in this Note upon Event of Default.

10. **Attorney's Fees.** Borrower agrees to pay all costs and expenses, including reasonable attorney's fees, which Lender may incur in the collection or enforcement of this Note, whether or not suit is filed.

11. **Late Charges.** Lender reserves the right to take any and all actions necessary to collect any outstanding debt unpaid after the Maturity Date. Borrower will pay all costs of collection and reasonable attorneys' fees incurred by the Lender on account of such collection, whether or not suit is filed hereon.
12. **No Offset; Borrower's Waivers.** Borrower hereby waives any rights of offset it now has or may hereafter have against Lender, its successors and assigns, and agrees to make the payments called for hereunder in accordance with the terms of this Note. Borrower hereby waives diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of nonpayment of this Note, and expressly waives 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 waives the right to plead any and all statutes of limitation as a defense to any demand on this Note.
13. **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 shall 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.

Lender: County of Yuba  
915 8th Street, Suite 123  
Marysville, CA 95901  
Attn: First Time Homebuyer Program Administrator

Borrower: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. **Governing Law and Venue.** This Note shall be construed in accordance with and be governed by the laws of the State of California. Any action brought to enforce the terms of this Note shall be in the Superior Court of California, County of Yuba.
15. **Severability.** If any provision of this Note shall be held by a court of competent jurisdiction to 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.
16. **No Waiver by Lender; Remedies Cumulative.** No waiver of any breach, default or failure of condition under the Note, the Loan Agreement, or the Deed of Trust shall be implied from Lender's failure or delay in declaring a default or exercising any of Lender's rights or remedies with respect to such breach, default or failure, or from any previous waiver of any similar or unrelated breach, default or failure. Without limiting the generality of the foregoing, Lender's failure to declare any amount due hereunder shall not constitute a waiver of Lender's right to declare such sum due in the event of any subsequent event that triggers Borrower's payment obligations hereunder. Any waiver of any term or provision of the Note, the Loan Agreement, or the 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. The rights and remedies of the parties hereunder are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default.
17. **Joint and Several Obligations.** If this Note is executed by more than one person as Borrower, the obligations of each shall be joint and several.

18. **Assignment by Lender; Successors and Assigns.** Lender may assign its rights to receive the proceeds under this Note to any person, and upon notice to Borrower of such assignment, all payments shall be made to the assignee. 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; provided however, Borrower may not assign this Note without Lender's written consent except in accordance with the Loan Agreement and the Deed of Trust.
19. **Entire Agreement; Amendments in Writing.** This Note, together with the Loan Agreement and the Deed of Trust sets forth the entire understanding and agreement of Borrower and Lender with respect to the subject matter hereof. Any amendment to this Note must be in writing signed by both Lender and Borrower.
20. **Nonliability for Negligence, Loss or Damage.** Borrower acknowledges and agrees that the relationship between Borrower and Lender is solely that of borrower and lender, and that Lender neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on or inform Borrower of the quality, adequacy or suitability of the Property or any other matter. Lender owes no duty of care to protect Borrower against negligent, faulty, inadequate or defective building or construction, or any condition of the Property, and Borrower agrees that neither Borrower nor any of Borrower's heirs, successors or assigns shall ever claim, have or assert any right or action against Lender for any loss, damage or other matter arising out of or resulting from any condition of the Property.

BORROWER

BORROWER

By: \_\_\_\_\_  
TYPE NAME HERE

By: \_\_\_\_\_  
TYPE NAME HERE

Date: \_\_\_\_\_

Date: \_\_\_\_\_