



## City of San Marcos HOMEBUYER ASSISTANCE PROGRAM

### Policies and Procedures Manual

#### 1. PURPOSE AND ADMINISTRATION

City of San Marcos provides financial assistance to help eligible low income, homebuyers to purchase a decent, safe and sanitary home in San Marcos. The funding source for the **Homebuyer Assistance Program** is the City's Community Development Block Grant (**CDBG**) Program.

The Homebuyer Assistance Program is administered by the City's Development Services Department. Minor exceptions to any provision of the Policy Guidelines may be approved by the Director of Development Services if he/she determines that to do so does not violate any Federal, State or local law or regulation, and is in the best interest of the City.

The Homebuyer Assistance Program can be combined with other funding assistance programs offered by the City or other private or government programs.

The Homebuyer Assistance Program cannot be used with a primary loan that includes funding for renovations / rehabilitation of the home to be purchased.

#### 2. AMOUNT OF ASSISTANCE

The maximum Homebuyer Assistance shall be **\$7,000 per applicant** and may be used to pay all of the allowed closing costs including pre-paid items as identified in this document and up to 50% of the required down payment. Eligible closing costs include:

- Origination/application fees (not to exceed 2% of sales price)
- Document preparation / attorney fee
- Title policy/insurance
- Appraisal and inspection fees
- Property survey
- Buyer's home inspection fee / termite inspection
- Recording fees
- Escrow fees



Pre-paid items that are eligible for funding include:

- Hazard insurance (maximum 12 months)
- Flood insurance (maximum 12 months) where required
- Property taxes (maximum 12 months)

The combined amount shall be provided as a **zero interest, deferred forgivable loan** for a home to be purchased under fee simple title provisions. The loan will be forgiven at a rate of twenty percent (20%) for each full year the buyer resides in the home calculated using the date of closing as the anniversary date.

The homebuyer must execute a promissory note and a deed of trust lien in favor of the City of San Marcos. The loan will be filed as a second position mortgage lien.

In any case, the minimum amount of assistance, which may be provided to any buyer, shall be **\$1,000.00**.

The **minimum buyer investment will be \$800.00**, which can be applied to items not payable by the Homebuyer Assistance Program. The buyer will also be responsible for all other costs above the maximum Homebuyer Assistance Program limits.

### **3. PERIOD OF AFFORDABILITY, PAYMENTS & RECAPTURE PROVISIONS**

- A. The **buyer must maintain, own and occupy** the home as his or her principal place of residency for a minimum period of **five (5) years** after the purchase date (affordability period). Failure to occupy the property as the participant's principal residence and/or defaults in payments on the first mortgage, property taxes and/or hazard insurance constitute a default and may result in foreclosure.
- B. No interest will be charged on the deferred principal unless there is a Default as defined in the Real Estate Lien Note. During the continuance of any Default, the Deferred Principal (unforgiven balance) shall bear interest at a rate of six percent (6%) per annum.
- C. No payment will accrue or be payable during the affordability period. The Note will mature and become finally due and payable upon the expiration of the Affordability Period, provided, however, that if no Default has occurred which remains uncured, the amount of the Deferred Principal will be forgiven at the expiration of the Affordability Period.
- D. In the event of any Default, the Deferred Principal will be immediately due and payable. In the event of first lien payoff or transfer of title, the Deferred Principal will be immediately due and payable. Provided the original borrower continues to occupy the residence as the borrower's homestead, the borrower may refinance the first mortgage. In this event, the City's original loan will not be released, but may be subordinated to the new first mortgage.
- E. If the assisted property is **sold before the end** of the affordability period, recapture provisions will apply. Homebuyer Assistance must be recaptured out of the **net proceeds**. "Net proceeds" means the sales price minus pay-off of primary mortgage lien and seller closing costs. Homebuyer assistance to be recaptured will be prorated based on the number of whole years the homeowner has owned and occupied the home. The amount subject to recapture will be reduced by 20% for each full year from the date of closing that the home is occupied in compliance with the terms of this program.
- F. The City will maintain the subordinate lien note and deed on file and will verify the residence requirement periodically. Verification steps may include on-site monitoring.

#### **4. APPLICANT ELIGIBILITY**

Applications will be accepted on a first-come, first-served basis until program funds are gone. City staff will review the applications for completeness and eligibility before the application is formally accepted.

Applicants must have obtained a valid, pre-approved conditional mortgage commitment letter from an accredited lender before applying for the program.

- A. The applicants' gross annual household income may not exceed eighty percent (80%) of the area median income adjusted for family size as established by the U. S. Department of Housing and Urban Development (HUD).
- B. The City will use the IRS Form 1040 Gross Adjusted method of calculating annual gross household income as defined by HUD. Income eligibility for beneficiaries will be determined using the HUD Income Calculator found on the HUD Exchange website:  
<https://www.hudexchange.info/incomecalculator/>
- C. In addition, the City will also use the applicant's current income data (bank statements, pay stubs, etc.) for the last 6 months to project annual income and support the HUD income eligibility calculation. Should a discrepancy arise during the qualification process, the applicants most current income data will be used to determine income eligibility.
- D. All residents of the home must be citizens or legal residents of the United States.
- E. Applicants must meet the loan underwriting standards of the proposed first lien mortgage lender.
- F. Applicants must meet one of the following criteria to be considered a "first-time homebuyer":
  - a. The applicant has not had an ownership interest in a residential property in the past three years. For couples, if one spouse has been a homeowner but the other spouse has never owned before, then, both spouses are considered first-time homebuyers.
  - b. A single parent who only owned a home with a former spouse while married.
  - c. An individual who is a displaced homemaker who only owned a home with a spouse. A "displaced homemaker" is defined as a person who has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment
  - d. An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
  - e. An individual who has only owned a property that was not in compliance with state, local or model building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.
- G. The total household liquid assets are limited to a verifiable total not to exceed \$8,000 above the amount to be invested for down-payment and closing costs in checking or savings or any other form of liquid account (i.e., certificate of deposit, money market funds, mutual funds, stocks, etc.)
- H. The applicant(s) must complete a Homebuyer Education Course approved by the City.
- I. No member of the San Marcos City Council and no other official, employee, or agent of the City who exercises any policy-decision making function in connection with the program shall directly or indirectly be eligible for assistance through the program. This prohibition shall also apply to immediate family members of those identified above.

#### **5. CALCULATION OF ANNUAL HOUSEHOLD INCOME**

The City utilizes the IRS Form 1040 Adjusted Gross Income method to determine income-eligibility. City staff must project the amount of income the household will receive during the next twelve months based on the current income from all of the following sources:

## IRS from 1040 Adjusted Gross Income Inclusions and Exclusions

Inclusions	Exclusions
1. Wages, salaries, tips, etc.	1. Child support.
2. Taxable interest.	2. Money or property that was inherited, willed or given as a gift.
3. Dividends.	3. Life insurance proceeds received as a result of someone's death.
4. Taxable refunds, credits or offsets of state and local income taxes. There are some exceptions – refer to Form 1040 instructions.	
4. Alimony (or separate maintenance payments) received.	
5. Business income (or loss).	
7. Capital gain (or loss). There are some exceptions – refer to Form 1040 instructions.	
8. Other gains (or losses) (i.e., assets used in a trade or business that were exchanged or sold).	
9. Taxable amount of individual retirement account (IRA) distributions. (Includes simplified employee pension [SEP] and savings incentive match plan for employees [SIMPLE] IRA.)	
10. Taxable amount of pension and annuity payments.	
11. Rental real estate, royalties, partnerships, S corporations, trusts, etc.	
12. Farm income (or loss).	
13. Unemployment compensation payments.	
14. Taxable amount of Social Security benefits.	
15. Other income, including prizes and awards; gambling, lottery or raffle winnings; jury duty fees; Alaska Permanent fund dividends; reimbursements for amounts deducted in previous years; income from the rental of property if not in the business of renting such property; and income from an activity not engaged in for profit.	

All income determinations must be made within twelve months of loan closing. The City's staff will require applicant to provide updated support data so that recertification of eligibility can be made should loan closing occur more than twelve months after the initial income determination date.

### 6. **PROPERTY ELIGIBILITY STANDARDS**

- A. Homes must be located inside the San Marcos city limits.
- B. The home must be a new or existing single-family dwelling as defined in the City's development codes. Manufactured housing is not an eligible form of housing for this program. Single-family

dwellings include town houses, condominiums, and patio homes, in addition to traditional detached dwellings on a single-lot.

- C. The purchase price for the home cannot exceed 95% of the median purchase price for the area as specified in Section 203 (b) of HUD's FHA single-family mortgage insurance program.
- D. The property must satisfactorily clear a HUD-required environmental review which will be performed by City staff.
- E. Homes located within the 100-year floodplain must be elevated so that the structure is at or above the established base flood elevation to be eligible for the program. Flood insurance must be maintained for the life of the Homebuyer Assistance loan. Documentation of acquisition of a one-year flood insurance policy and a flood elevation certificate must be submitted prior to closing as a part of the application process.
- F. Existing homes may be required to have a Housing Quality Standards (HQS) Evaluation. The City may schedule this inspection and will pay the evaluation fee.
- G. A Certificate of Occupancy must be submitted prior to closing for new construction.
- H. Homes constructed prior to 1978 must pass a lead-paint hazard inspection in compliance with 24 CFR Part 35 Lead Safe Housing requirements.
- I. The house may be vacant, occupied by the owner-seller, or occupied by the applicant(s). Houses that are occupied by legal tenants (renters) other than the applicant are not eligible for the Homebuyer Assistance Program.
- J. Owner-financed properties are not eligible for assistance. Lease-Purchase Agreements or Contracts for Sale are not eligible for assistance.

## **7. APPLICANT RESPONSIBILITIES**

- A. The applicant is responsible for providing all information that is necessary for the City to verify his or her program eligibility, including:
  - Documentation to allow the City to verify total household income. This documentation includes bank statements, pay stubs, and the two prior year's income tax forms and W2's. Additional employment verification documentation may also be needed.
  - Documentation of the value of liquid assets and real property owned by the applicants (if any).
  - A driver's license or other photo identification.
  - Proof of citizenship or legal residency.
  - Divorce decree and documentation of payment or receipt of child support, if applicable.
- B. The applicant must take a homebuyer's education program approved by the City and provide evidence of completion of the program prior to closing.
- C. By accepting a loan through the Homebuyer Assistance Program, the applicant agrees to:
  - occupy the home as the applicant's principal residence (homestead) for the entire 5-year affordability period;
  - maintain the use of the home as a residence in compliance with the City's zoning standards as contained in the Land Development Code;
  - keep the property in good repair and condition, free from gang or drug-related activities or from other criminal activity or public nuisance;

- secure and maintain home hazard insurance (and flood insurance where applicable) in an amount sufficient to cover the fair market value of the home during the entire affordability period.
- D. The homebuyer will notify the City within 30 days if the home ceases to be the applicant's principal homestead during the affordability period. The City will calculate the unforgiven balance which will be due and payable immediately.

## **8. LENDER / FIRST LIEN MORTGAGE REQUIREMENTS**

- A. The applicant must obtain his/her own mortgage financing for the purchase.
- B. Any accreditable lending institute may be used for the first-lien mortgage.
- C. The first-lien loan must be a fully amortized loan for up to 30 years with an interest rate that does not exceed the prevailing market rates for conforming loans.
- D. Adjustable rate mortgages (ARMS), sub-prime mortgages, balloon payments, wraparounds, negative amortization or other non-traditional financing is not allowed under this program.
- E. An FHA Graduated Mortgage Payment loan as permitted under Section 245 is an eligible form of first-lien mortgage, provided the annual amount of increase does not exceed 5% per year.
- F. The First Lien Mortgage cannot have a non-occupant co-signer as a party to the mortgage.
- G. The applicant will not be permitted to receive a reimbursement or cash back at closing.
- H. Lender will provide the City a copy of the Lender's Loan Estimate, signed by both the buyer and loan officer. The Loan Estimate must show the property address being purchased, interest rate, and type of loan.
- I. The Lender will ensure that no more than 50% of the required down-payment is paid by the Homebuyer Assistance Program.
- J. The Lender will also provide the following documents to the City:
- A copy of the lenders Uniform Loan Application that has been executed by the loan officer and the lender;
  - A copy of the Transmittal Summary signed by the underwriter;
  - A copy of the fully executed Sales Contract signed by both the buyer and seller.
  - A copy of the appraisal of the property;
  - A copy of any home inspection reports performed as a part of the sales process;
- K. The Lender will immediately report to the City any information which it may receive which indicates that a misrepresentation may have been made in applying for a loan or that may affect the applicant's continued eligibility for a Homebuyer Assistance loan.
- L. The Lender, working with the closing agent, will provide the final Closing Disclosure (settlement statement) to the City prior to the actual date of closing to allow time for the City's review. Closing agents must provide the City adequate time to review and confirm the assistance amount, which is based upon the final Closing Disclosure. Incomplete or inaccurate information will delay the process. Charges left out or incorrectly reported on the settlement statement are not the City's responsibility. If changes are necessary due to errors after the City approves the funding amount, the Homebuyer Assistance Program will not bear any additional charges. The Final Closing Disclosure must indicate the City's Homebuyer Assistance loan amount.
- M. The lender will calculate the amount of the Homebuyer Assistance loan based on the above criteria and the primary loan's requirements.

## **9. CITY'S RESPONSIBILITIES**

- A. The City will review the application and submitted documentation to verify eligibility for program assistance.
- B. The City will perform an Environmental Review in compliance with CDBG program regulations for each site under consideration.
- C. The City will provide funding on a first-come/first-serve basis; the receipt of the lender's Loan Estimate will be the triggering event for establishing applicant funding priority.
- D. The City will prepare all loan documents for the Homebuyer Assistance Program loan and will make them available to the closing agent.
- E. The City will periodically verify continued compliance with program requirements over the course of the five-year affordability period.
- F. After the City has verified that the borrower has successfully completed all requirements of the five-year affordability period, a release will be prepared and recorded to clear the City's lien against the property.

## 10. **AFFIRMATIVE MARKETING & FAIR HOUSING**

The City will affirmatively market the Homebuyer Assistance Program. Affirmative marketing shall include steps to ensure that all groups and individuals especially those "protected classes" are included in the marketing efforts.



The marketing efforts will include providing information regarding the program to area lenders, social service agencies, the San Marcos Public Housing Authority, the local Area Board of Realtors, and the San Marcos Council of Neighborhood Association members.

The City of San Marcos promotes Equal Housing Opportunities in accordance with the Federal Fair Housing Act. **FAIR HOUSING IS THE LAW.** Individuals who refuse to rent or sell homes to people based on race, color, national origin, religion, sex, familial status, or disability are violating federal law.

Complaints can be filed with the U. S. Department of Housing and Urban Development (HUD) toll free at 1-800-669-9777 (1-800-927-9275 -TDD) or by reporting the violation to the Texas Work Force Commission at 512-437-3850.

The City of San Marcos does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its services, programs, or activities. Individuals who require auxiliary aids for the viewing of this document should make a request at least 48 hours in advance, to the City of San Marcos at 805-2645 (voice) or 393-8229 (TDD), or call Relay Texas at 7-1-1. Requests can also be sent by e-mail to [cdbg@sanmarcostx.gov](mailto:cdbg@sanmarcostx.gov).

*Las personas que tengan dominio limitado del inglés pueden pedir ayuda llamando a la Ciudad al 393-8230.*

## 11. **APPLICATION PROCESS**

- A. Prospective applicants may contact the City to discuss their eligibility for program funding by calling 512-393-8230.
- B. Applicants find an eligible property and apply for mortgage financing at the lender of their choice. It is the applicants' responsibility to notify the lender of their intent to apply for a City of San Marcos Homebuyer Assistance Program loan.
- C. The Homebuyer Assistance Program application forms are available on-line on the City's

website at [www.sanmarcostx.gov](http://www.sanmarcostx.gov) , or from the city office located at 630 E Hopkins, San Marcos.

- D. After the lender provides applicants with a Loan Estimate, applicants may submit the completed application, along with a copy of all required documentation as specified on the Application Checklist form, to the city.



- E. The applicant may wish to include a clause in the sales contract to allow the applicant to withdraw from the contract with no penalty if the property is not approved for this Homebuyer Assistance Program.
- F. The City's date of receipt of a complete application and Loan Estimate will serve to establish the applicant's place in line for available funding.
- G. Once the City has verified that the application is substantially complete, it will prepare the environmental review for that location and may schedule an HQS inspection of the home (unless it is new construction).
- H. The City will review the application and calculate the projected household income for the next twelve months. City will notify applicant of any additional documentation that is needed to complete the eligibility review. Applicant will have ten working days from the date of notification to provide any additional requested information.
- I. All repairs identified as necessary through the HQS inspection must be completed before the date of closing as a condition of participation in this program. Follow up inspections may be required to assure that necessary repairs identified in the initial HQS inspection are completely satisfactory. The HQS inspection does not serve in lieu of a structural inspection of the property. The applicant is encouraged to obtain a separate inspection or report that addresses the structural integrity of the property.
- J. The applicant must complete a homebuyer's education program that is approved by the City. The applicant must obtain a letter or a certificate indicating completion of the class. This requirement must be completed prior to closing. **It is recommended that the applicant complete the training early in the home purchase process.**
- K. The Lender will determine the amount of funds eligible to be provided by the Homebuyer Assistance Program based on the program requirements established in this policy document. The City must receive the Final Closing Disclosure at least 48 hours in advance of the loan closing.
- L. The City will work with the lender and title company's representatives to prepare the appropriate legal documents for the Homebuyer Assistance Program loan. The City must complete a financial process to obtain the check that provides the City's funds for loan closing. Closing may be delayed if the Final Closing Disclosure is not provided to the City at least 48 hours in advance of closing.
- M. The City will accept a preliminary Closing Disclosure once the City's total funding amount has been established by the lender to initiate the check request process. The final Closing Disclosure must be provided prior to closing.

*NOTE: File your residential homestead exemption application between January 1 and April 30 to allow the Hays Central Appraisal District to process it before your tax statement is issued in the fall.*