



# City of San Marcos Texas State University Professor Homebuyer Incentive Program

## POLICIES AND PROCEDURES 2009

### 1. PURPOSE AND ADMINISTRATION

The City of San Marcos established an economic development program under Chapter 380 of the Texas Local Government Code for the purpose of encouraging eligible Texas State University-San Marcos employees to reside in the city limits as a means of increasing local spending and residential development. In conjunction with the Chapter 380 Program, the City of San Marcos entered into an agreement with Texas State University-San Marcos setting forth the eligibility requirements for the receipt of financial assistance.

The program provides funding for down payment and related closing cost assistance in the form of a forgivable loan to qualified full time tenured, tenure line and research professors who agree to purchase a home in the City of San Marcos and to maintain the home as their primary residence for at least five years. Financial assistance is subject to the appropriation of funding for the program during each fiscal year.

Program funds are administered by the City's Development Services Department. Eligibility for assistance under this program is not dependent upon the income level of the recipient. Recipients of financial assistance under the program may be eligible to apply for other forms of financial assistance available from the City of San Marcos or other sources. A determination of eligibility to participate in such other programs would be made on a case by case basis applying the applicable rules for such programs.

### 2. AMOUNT OF ASSISTANCE AND ELIGIBLE EXPENSES

Loans to qualified applicants shall be **\$5,000 per applicant**. Eligible expenses include:

- Down payment applied toward the sales price
- Origination/application fees
- Document preparation / attorney fee
- Title policy/insurance
- Appraisal
- 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)

### 3. FORGIVABLE LOAN

The loan shall be provided as a **zero interest, deferred forgivable loan** for a single family home to be purchased under fee simple title provisions. The loan will be forgiven at a rate of twenty percent (20%) or \$1,000.00 following each full year after the date of closing that the buyer complies with the loan terms. After the fifth full year of compliance, the loan will be deemed paid in full.

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.

### 4. LOAN TERM, PAYMENTS & REPAYMENT PROVISIONS

- A. The **professor must remain continuously employed in an eligible position with Texas State University-San Marcos and maintain and 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. The property purchased must be designated as "Homestead" for property tax purposes. The failure of the professor to remain continuously employed in an eligible position and to occupy the property as his or her principal residence, failure to comply with the terms of the note and deed of trust, 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. In the event of a default, the City may recover certain expenses incurred in enforcing the note and deed of trust as provided therein.
- C. No payment will accrue or be payable during the loan term provided there is no default. The note will mature and become finally due and payable upon the expiration of the five year term, 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 term.
- D. In the event of any default, the balance of the deferred principal will be immediately due and payable. The balance of the deferred principal at the time of default, including the sale, lease or transfer of the property shall be the total loan amount of \$5,000.00 less the amounts forgiven at the end of each full year of compliance. If a default occurs before the end of the second year following the purchase of the property, for example, \$1,000.00 will be forgiven for compliance during the first full year, but no amount is eligible to be forgiven for the second year (regardless of when during the second year the default occurs). Thus, the balance of the deferred principal due and payable would be \$4,000.00.
- E. The City will verify the residency and other requirements periodically. Verification steps may include checking Texas State University-San Marcos employment status

of the professor, property tax records and periodic fact finding investigations of compliance.

## 5. **APPLICANT ELIGIBILITY**

- A. The primary applicant must be employed by Texas State University-San Marcos as a full time tenured professor, tenure line professor or research professor at the time of applying.
- B. The primary applicant may not have owned a home in the City of San Marcos during the three year period immediately preceding the date of application.
- C. 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.
- D. Applications will be accepted on a first-come, first-served basis until program funds are exhausted. City staff will review the applications for completeness and eligibility before the application is formally accepted.
- E. The applicant must not owe any **outstanding taxes or debts** to the City prior to the award of the assistance and must have satisfied any prior City housing program requirements.

## 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 Land Development Code. .
- C. 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.
- D. A Certificate of Occupancy must be submitted prior to closing for new construction and the home must otherwise be habitable under applicable laws or City of San Marcos ordinances.
- E. Owner-financed sales of properties are subject to review by the City to determine whether the sale is a bona fide arm's length transaction. The City, in its sole discretion, may decline funding of any owner-financed sale. Lease-purchase agreements or contracts for deed/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, that may include:
  - Documentation to allow the City to verify the primary applicant's employment status with Texas State University-San Marcos.

- Contract for the purchase real property.
  - A driver's license or other photo identification.
  - Proof of citizenship or legal residency.
  - Documentation regarding the first lien holder.
  - Documentation regarding any title company, escrow or closing agent.
- B. By accepting a loan through the residency incentive program, the applicant agrees :
- to occupy the home as the applicant's principal (homestead for property tax purposes) residence for the entire five year term loan term;
  - the primary applicant shall remain continuously employed by Texas State University-San Marcos in a full time tenured, tenure line or research professor position during the five year term loan term;
  - to maintain the use of the home as a single family residence in compliance with the City's zoning, land use, and other applicable ordinances and laws;

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

- A. The applicant must obtain their own mortgage financing for the purchase.
- B. Any creditable lending institute may be used for the first-lien mortgage. The lender will provide to the City a copy of their appropriate approval letter based on the type of first-lien loan to be made (FHA, VA, Rural Housing, Conventional, etc.)
- 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. The applicant will not be permitted to receive a reimbursement or cash back at closing.
- E. The first lien lender will provide a pre-approval letter to applicants that wish to participate in the program.
- F. The first lien lender, title company, escrow agent or closing agent will provide the City a copy of the Good Faith Estimate of fees due at closing ("GFE"). The GFE must show the property address being purchased, interest rate, and type of loan. In addition it must show an itemized breakdown of the estimated closing costs and the total amount of down payment that will be required. The itemization should clearly show the items and amounts that will be funded through the residency incentive program.
- G. 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 residency incentive program loan or that may affect the applicant's continued eligibility for a residency incentive program loan.

- H. The first lien lender will provide all documents to the City as outlined in this section or as may reasonably be requested by the City at least 10 working days prior to the expected date of closing to allow time for the City to review the submittals and prepare loan documents and process the payment request.
- I. The Lender, working with the title company, escrow agent or closing agent, will provide the final HUD-1 form to the City prior to the actual date of closing to allow time for the City's review. Incomplete or inaccurate information will delay the process. Charges left out or incorrectly reported on the settlement statement, are not the City's responsibility.

## 8 CITY'S RESPONSIBILITIES

- A. The City will review the application and submitted documentation to verify eligibility for program assistance.
- B. The City will verify that the applicant owes no debts to the City of San Marcos.
- C. The City will provide funding on a first-come/first-serve basis; the receipt of the lender's GFE will be the triggering event for establishing applicant funding priority.
- D. The City will prepare all loan documents for the residency incentive 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 loan term.
- F. After the City has verified that the borrower has successfully completed all requirements of the five-year loan term, a release will be prepared and delivered to the borrower to clear the City's lien against the property.

## 9. AFFIRMATIVE MARKETING & FAIR HOUSING

The City will affirmatively market the residency incentive program. Affirmative marketing shall include steps to ensure that all groups and individuals are included in the marketing efforts.



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.

## 10. APPLICATION PROCESS

- A. Applicants should complete the Application & Eligibility Verification form when a home has been selected and an application for the primary loan has been submitted for processing.
- B. The applicant is free to select the lender of his/her choice for the primary mortgage loan.
- C. The applicant will take the completed form to the Personnel Department of Texas State University – San Marcos for eligibility verification.
- D. The applicant will turn in the completed application form along with a copy of the primary lender's Good Faith Estimate.
- E. The City will verify that the application is complete, that the University has verified the applicant's eligibility, and that the home to be purchased meets eligibility requirements.
- F. The City's date of receipt of a completed good faith estimate will serve to establish an eligible applicant's place in line for available funding.
- G. The City's Legal Department will work with the primary lender and title company to coordinate closing activities for the Homebuyer Incentive Loan.
- H. The City must receive and review the final HUD-1 closing statement prior to funding.