

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

**MEMORANDUM OF AGREEMENT FOR PARTICIPATION IN THE
HOUSE CHARLOTTE LOAN PROGRAMS**

THIS MEMORANDUM OF AGREEMENT, made and entered into this ____ day of _____, 20__, by and between THE CITY OF CHARLOTTE, a municipal corporation of the State of North Carolina, hereinafter referred to as the City, and _____ (*insert company name*), hereinafter referred to as Lender;

WITNESSETH:

The parties wish to collaborate in creating middle income neighborhoods and attracting residents with a diversity of incomes to reside in the Housing and Neighborhood Development area (hereinafter H&ND) of the City of Charlotte, North Carolina, specifically those H&ND neighborhoods classified as challenging and transitioning in the City's Neighborhood Assessment, attached hereto as EXHIBIT A and incorporated herein by reference.

The parties wish to increase home ownership opportunities for low, moderate and middle-income families and persons in the H&ND area by providing funds for the purchase of residential housing (hereinafter referred to as the Project).

On January 16, 1996, amended March 24, 1997, amended April 9, 2001 the City Council of the City of Charlotte approved the participation in the Project of the City's Neighborhood & Business Services utilizing Community Development Block Grant (CDBG), HOME and Innovative Housing funds, subject to the terms and conditions hereinafter set forth. The Innovative Housing Funds will be used for assistance to persons or families earning between 80% and 110% of median income.

Lender is registered with the state of North Carolina Banking Commission and provides to the City's Neighborhood & Business Services a copy of the current Mortgage Bankers License or certification of EXEMPT status prior to approval for participation. Upon notification by the City's Neighborhood & Business Services, Lender will submit, every two (2) years a copy of the current Mortgage Bankers License or certification of EXEMPT status for review and re-approval for participation.

Lender is willing to participate in the Project by originating the loans, handling applications and underwriting according to the City's guidelines and packaging the loans.

All homes purchased with this assistance will be located in the eighty-seven (87) H&ND neighborhoods classified as challenged or transitioning in the City's Neighborhood Assessment, attached hereto as EXHIBIT A and incorporated herein by reference. Program 2, providing the deepest subsidy (and specifically referred to hereinafter), is further restricted to the City's Action Plan neighborhoods.

The City's funds will be specifically allocated to the four (4) programs designated in the Overview of HouseCharlotte Programs, February 19, 1997 - HouseCharlotte Programs 1-A, 1-B, 2 and 5, included in EXHIBIT B. These include three (3) Down Payment Programs and a Police Officer Home Purchase Incentive Program.

The City's Down Payment Assistance is a forgivable deferred-payment, interest-free, ten-year loan. The loan is deferred for year's one through five and then forgiven at the rate of twenty percent (20%) of the original principal amount per year for years six through ten. No payments are due in any given year unless the subject property is sold; title is transferred by death or gift; a change in owner-occupancy status occurs; or a cash-out refinance transaction takes place. In either of the foregoing events, the entire outstanding balance of the loan, plus interest at the rate of three percent (3%) from the date of its inception to date of payment in full shall become immediately due and payable. The loan will be secured by a Promissory Note and a second-lien Deed of Trust encumbering the subject property.

NOW, THEREFORE, in order to accomplish the intentions and purposes of this AGREEMENT, The City and the Lender agree as follows:

ARTICLE I

THE LOANS TO PURCHASER(S)

- A. The City shall lend to the qualified Purchaser(s) a sum equal to the dollar amounts reflected on Overview of HouseCharlotte Programs included in EXHIBIT B.
 1. The loan is a deferred payment loan, without interest, due and payable upon:
 - (a) the death of the mortgagor(s); or
 - (b) the sale, transfer, conveyance, devise, gift, rental or other disposition of the security property; or
 - (c) the refinancing of any mortgage superior to the lien of the Deed of Trust securing this loan resulting in cash back to the borrower; whichever of these events shall occur first.
 2. Barring any of the foregoing events, there shall be no payments due on the City's loan for the first five (5) years of its term, and in the following five (5) years (six through ten) the loan shall be forgiven at the rate of twenty percent (20%) of the original principal balance per year.
 3. The Purchaser(s) shall use the proceeds of the City's loan only in connection with the purchase of one of the properties included in the Project. The proceeds of the loan shall be paid by The City directly to or for the transaction.
 4. The loan shall be evidenced by a Promissory Note, with the Purchaser(s) as maker and the City as payee, for the amount calculated in accordance with the terms and conditions specified herein.

5. The loan shall be secured by a Deed of Trust constituting a second lien on the real property being purchased.
- B. Lender shall loan to a qualified Purchaser(s) (in accordance with the lender's and the City's requirements) a sum equal to the percentage specified under the applicable Program appearing on Overview of HouseCharlotte Programs included in EXHIBIT B as first-mortgage loans on said premises.
1. The first mortgage loans shall be for such term and shall bear interest at a rate not more than two percent (2%) above the prevailing FHA/VA interest rate at the time of approval and shall be payable in monthly installments of principal and interest, to which is added a monthly escrow deposit for taxes and insurance premiums, which monthly payment is referred to as PITI.
 2. The Purchaser(s) shall use the proceeds of the first- mortgage loans only in connection with the purchase of a qualified property included in the Project.
 3. The first-mortgage loan shall be evidenced by a First Promissory Note, with the Purchaser(s) as maker and the Lender as payee, for the amount represented by the percentage specified under the applicable program.
 4. The loan shall be secured by a First Deed of Trust constituting a first lien on the real property being purchased.

ARTICLE II

CONDITIONS PRECEDENT

The City's obligations under this AGREEMENT shall not become binding until this AGREEMENT is approved and executed on behalf of The City as required by law. Until that time, the City retains the absolute right to refuse to be bound by any part of this AGREEMENT, and no expenditure of funds or any other act on the part of the other parties hereto or any other entity shall constitute reliance or consideration sufficient for The City to lose that right.

ARTICLE III

THE CITYS CERTIFICATIONS, REPRESENTATIONS, AND WARRANTIES

The City represents and warrants to the Lenders that it has the full right and authority to enter into this AGREEMENT and to perform each and every one of the terms and provisions hereof as herein set forth. The City further represents and warrants that it has or will take all action necessary for it to comply with all of the terms and provisions of the AGREEMENT and that entry into this AGREEMENT and performance by The City hereunder will not constitute a violation of any agreement, law, or ordinance by which The City is bound.

The City further represents and warrants that the source of funds for the herein-described loans will be CDBG and HOME programs, the source of funds for which is the Federal government, and Innovative Housing (local) Funds.

ARTICLE IV

MUTUAL COVENANTS

- A. This AGREEMENT shall be binding upon all parties hereto and their heirs, representatives, successors and assigns.
- B. No party to this AGREEMENT shall sell, bargain, assign or otherwise transfer any of his/her/their/its rights or obligations hereunder without the written consent of the other parties.
- C. This AGREEMENT may not be altered or amended except by written agreement of all parties.
- D. This AGREEMENT supersedes all prior oral and written agreements, if any, between the parties with respect to the loan and the Project.
- E. Nothing contained in this AGREEMENT, nor any act of the City relating to this AGREEMENT, shall be construed by either or both of the other parties to create any benefits on behalf of any third party or to create any relationship between the City and the other parties of principal and agent, a limited or general partnership, or joint venture.

ARTICLE V

NOTICES, DEMANDS, APPROVALS, AND VERIFICATIONS

- A. Any notice, demand or other communication required or authorized by this AGREEMENT shall be considered given or delivered if it is delivered personally to, or dispatched by regular or certified mail, postage prepaid, to:

In the case of the City:

Key Business Executive
Neighborhood & Business Services
The City of Charlotte
600 East Trade Street
Charlotte, North Carolina 28202-2859;

In the case of the Lender: *(insert information)*

Company Name:
Address:
City/State/Zip:
Local Contact Person:
Contact's Phone #:

or to such other persons and such other addresses as a party may designate in writing delivered to the other parties as provided above.

- B. Except as otherwise required by law or regulations, the Key Business Executive of the City's Neighborhood & Business Services is hereby designated to act on behalf of the City for purposes of issuing all necessary or permitted notices and demands, issuing all necessary or permitted approvals and verifications, and granting extensions of time for the performance of any obligation authorized hereunder.

ARTICLE VI

GENERAL PROVISIONS

- A. The term of the HOUSECHARLOTTE LOAN AGREEMENT shall begin on the date hereof.
- B. The servicing and fiscal management procedures of the first-loan shall be conducted in accordance with industry standards.
- C. Refinance shall mean to secure a loan, from any source, with Project security property as collateral, in an amount sufficient to pay all of the then unpaid principal due on the loan from the City, except for a loan which is by its terms subordinate to both the first- and second-mortgage loans.

IN WITNESS WHEREOF, the parties hereto have executed, and/or have caused this AGREEMENT to be executed by their duly-authorized officials, the day and year first above written.

THE CITY OF CHARLOTTE

By: _____
Housing Services Manager

[CORPORATE SEAL]

LENDER: _____

By: _____

Title: _____

[CORPORATE SEAL]

ATTEST:
