

## SUBORDINATION OF CITY LOAN(S) TO A NEW SENIOR LOAN (REFINANCE)

The City of San José (“City”) will consider the request to subordinate its loan(s) to a new senior lien based on the conditions listed below.

- a) The City’s lien position is maintained or improved;
- b) Rate and Term Refinances are allowable at a lower interest rate or shorten loan term. Cash to borrower(s) does not exceed \$400 for rate/term refinances; and
- c) Out-of-state title companies must arrange and provide the name, address, and telephone number of the California title company branch handling the subordination transaction; and
- d) Cash-out Refinances are allowable for most programs once every five years; however, the CLTV cannot exceed 70%, and includes all proposed non-City mortgage debt plus outstanding principal of the City loan(s), accrued interest, if any, and equity share as applicable. In no event can a cash-out refinance be requested more than once every five years (cash-out refinancing includes paying-off consumer debts). In addition, a maximum of 35% debt-to-income ratio applies.
- e) City loans that were originally funded from CalHome funds do not allow for cash-out refinancing unless the CalHome loan is paid in full. However, a refinance that improves the interest rate and/or shortens the term of the first loan is acceptable.

*The subordination transaction fee is a \$322 payable to the City of San José. The fee is waived for loans funded using the HOME, CalHome, and BEGIN programs.*

The City **will not** subordinate its loan(s) under the following conditions:

- a) The City’s lien position is not maintained;
- b) The proposed new senior loan is anything other than a 30- or 15-year fixed rate loan; and
- c) The proposed new senior loan is a reverse mortgage loan; and
- d) The applicant has a history of delinquent payments with Asset Management on the City deed of trust.

## SUBMISSION OF THE SUBORDINATION PACKAGE

For First-time Homebuyer and Rehabilitation Borrowers and Loans, please submit the Subordination Requirements Letter along with the requested documents via e-mail PDF to [Asset.Subordination@sanjoseca.gov](mailto:Asset.Subordination@sanjoseca.gov) . Please include a cover letter that includes your business address, telephone number, and e-mail address. If you prefer overnight delivery, please address to:

City of San Jose Housing Department  
Attn: Asset Management Subordination Team  
200 East Santa Clara Street  
12<sup>th</sup> Floor Tower,  
San José, CA 95113

- Once City staff receives the subordination package, the documents will be organized for completeness. Staff will send an e-mail to the title company/broker of any missing documentation. The review and approval process will not proceed until all of the required subordination documents are submitted.
- Staff will review and summarize the subordination request and the file for review and approval or denial by the Asset Manager.
- Staff will relay approval or denial of the subordination to title company/broker.

If approved, staff will prepare the City's Subordination Agreement, Request for Notice of Default, subordination escrow instructions letter and the conditional subordination approval letter.

Staff will send the subordination conditional approval letter along with a copy of the Subordination Agreement to the title company/broker for the purpose of drawing the new first lender's loan documents.

The City's documents will not be released until a copy of the new first lender's dated Note and Deed is received for the purpose of finalizing the City's documents.

- Once a copy of the new lender's Note and Deed is received by the City, staff will finalize the City's documents and procure the Division Manager's notarized signature. This may take one to three days depending on the Managers and/or notary's calendar.
- Staff will prepare the City's executed documents for FedEx or courier pickup by the title company.

## COMPLIANCE DOCUMENTS REQUIRED BY THE TITLE COMPANY AFTER CLOSE OF ESCROW

- The title company within 72 hours from the close of escrow will submit the closing package for the purpose of auditing the file. The closing package documents are highlighted on page 2 of the subordination escrow instructions letter.
- The City will have the right to refuse any future business transactions with any title company that does not comply with the City's escrow instructions within the allotted time frame.



Asset Management

Date: \_\_\_\_\_ Escrow #: \_\_\_\_\_
Borrower Name: \_\_\_\_\_ Escrow Officer: \_\_\_\_\_
Property Address: \_\_\_\_\_ Escrow email: \_\_\_\_\_
City Loan #: \_\_\_\_\_ Escrow phone #: \_\_\_\_\_

This letter contains the information required for a subordination of the City of San José ("City") loan(s) now held by above Borrower at the above Property. The City's review and approval process of the subordination may require from 10-15 business days from the date all documents are received by the City.

The City will prepare and provide its own Subordination Agreement in accordance with the City Attorney's Instructions. The City's subordination conditions are as follows:

- a) OUT OF STATE TITLE COMPANIES are required to provide the name, address and telephone number of the California Title Company that will be handling this transaction prior to submission of the subordination package.
b) No subordination to Negative Amortization or Reverse Mortgage loans.
c) Cash Out is allowable once every five years (except no cash-out if City loan is funded from CalHome). CLTV cannot exceed 70% for cash out refinances, this amount includes all proposed non-City mortgage debt plus outstanding principal of City loan(s), accrued interest, if any, and equity share as applicable. In addition, a maximum of a 35% debt-to-income ratio applies.
d) The City's Subordination Agreement will require the Borrower and new lender's notarized signatures.

There is a \$322 subordination transaction fee payable to the City of San José. The fee is waived for HOME, CalHome, and BEGIN funded loans.

Below is a list of the documents required by the City for review. Please send copies as soon as possible.

Rate and Term only (items 1-10)

Cash-out (provide items 1-10, plus 11-15 below)

- 1. Transmittal Summary (1008)
2. Loan Application (1003)
3. New 1st Lender's Conditional Approval Letter
4. Estimated Closing Costs/Closing Disclosure
5. Authorization to Release Information
6. Current Prelim Title Report (3 months current)
7. Property Appraisal or current property valuation
8. Current mortgage statement for all non-City loans
9. New First Lender's dated deed of trust (1st two pages) (See below)
10. New First Lender's dated promissory note (See below)
11. VOE for past 2 years or current check stubs (2 consecutive mos.)
12. Federal tax returns for past 2 years
13. W2's for past 2 years
14. Bank Statements & 401(K), if required by new lender
15. Current Credit Report

Items #9 and #10 may not be available prior to review and approval by the City; however, they are required prior to the release of the original executed Subordination Agreement and Request for Notice of Default. Please email Asset.subordination@sanjoseca.gov if you have any questions.

Lender email/phone: \_\_\_\_\_ Company: \_\_\_\_\_

Print Name: \_\_\_\_\_ NMLS #: \_\_\_\_\_