Joplin – Homebuyer's Assistance Program (J-HAP)

Community Development Block Grant Disaster Recovery (CDBG-DR) Program
City of Joplin, Missouri

HOMEBUYER ASSISTANCE AGREEMENT

THIS AGREEMENT, entered into this **____ day of _____, 20__**, by and between **_____**, hereinafter reffered to as "Homebuyer", and the **City of Joplin, Missouri**, a Municipal Corporation, hereinafter reffered to as "City", is as follows:

WHEREAS, the City desires to make certain Community Development Block Grant Disaster Recovery funds available to Homebuyer; and

WHEREAS, in exchange for said funds, Homebuyer agrees to comply with certain documentation requirements of City as described herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth and contained, the Homebuyer and City hereby mutually agree as follows:

1. Statement of Work. Subject to this agreement, the Homebuyer will receive financial assistance (CDBG-DR funds) from the City to pay for closing costs of purchasing property at _____, Joplin, Missouri.
2. Schedule. The start date for this agreement shall be the date of this agreement and the completion date shall be sixty days from the start date. This may be extended upon agreement of both parties.
3. Budget. The City agrees to furnish funds not to exceed $30,000 to the Homebuyer. The amount of assistance will be determined by the addition of the lender required down-payment and the applicable buyer-paid closing costs. The use of CDBG-DR funds shall be restricted to the following activities unless otherwise approved by the City's Planning & Community Development Manager:
    a. Up to 100% of the Closing Costs that are required and/or requested by the lender and associated with purchasing the property.
    b. Up to 100% of the Down-payment that is required and/or requested by the lender and associated with purchasing the property.
4. Grant Recapture. The grant amount will be attached to the participating property as a Deed Restriction or 2nd Mortgage, which will expire according to the terms of the document and the chart below.

Homeownership Assistance Amount	Affordability Period
<$15,000	5 years
$15,000 - $30,000	10 years

Grants value will be forgiven at a pro-rated amount per year, figured on the anniversary date of the closing date of the property, for five or ten years depending on the level of assistance. At the end of the final year, the full value of the grant will be forgiven.

5. Rules and Restrictions. The rules and restrictions for this program are detailed on pages four through nine of this agreement.
6. Documents Required Prior to or At Closing. A checklist of documents required to be submitted by the Homebuyer prior to or at Closing is attached as Attachment A. This is not an exhaustive list and additional information may be required by the City.
7. Program Income. In the event the Homebuyer is required to repay all, or a portion of, the grant, the repaid grant funds will be considered program income. Any program income created from this project will be deposited in the City of Joplin's CDBG-DR account and added to the Homebuyers Assistance Program budget. The program income will also be the first funds spent on any CDBG project, before drawing down additional funds from HUD.
8. Availability of Records. Homebuyer agrees to cooperate with the City, and with lenders, to allow access to information that is necessary to document compliance with program rules and regulations.
9. Termination. This Agreement terminates after five (5) years have expired from its date of commencement. Termination of this agreement may occur prior to the completion of this Agreement in the following manner:
    a. Either party may at any time, with or without cause, upon twenty (20) days written notice terminate this contract; or
    b. Upon mutual agreement, when a homebuyer has demonstrated compliance with all requirements of City, and United States Department of Housing and Urban Development, for such period of time that further monitoring of Homebuyer's compliance is not required.

ATTEST:

_____

[Applicant Name]
Homebuyer

CITY OF JOPLIN, MISSOURI
A Municipal Corporation

_____

Troy Bolander
Planning & Community Development Manager

Attachment A

Documents Needed Before/at Closing:

Radon Clearance Test Results (City) -New Construction Only-	
Occupancy Certification (Applicant)	
Lead Pamphlet Acknowledgment (Applicant)	
Deed Restriction (Title Company)	

JOPLIN CDBG-DR
HOMEBUYER ASSISTANCE PROGAM (J-HAP)
GUIDELINES 2013



INTRODUCTION

The City of Joplin, Missouri will make CDBG-DR funds available to the Program Subrecipient for the purpose of developing and operating homeownership programs for low-income households. The government's primary objectives in using part of its CDBG-DR allocation for homeownership programs is to repopulate the tornado affected area, increase the number of affordable housing units in the City of Joplin, and to increase the opportunities for homeownership for low, moderate, and middle income (LMMI) families. In general, the City of Joplin, Missouri will provide CDBG-DR funds for the purpose of assisting qualified LMI homebuyers. All properties must be contained in the Tornado Area as described in the "Eligible Properties" section.

These guidelines will serve as operational parameters within which the Homebuyer can receive CDBG-DR funds. In addition to these guidelines, all projects funded under the Community Development Block Grant – Disaster Recovery are subject to the regulations codified at 24 CFR Part 570 and alternative requirements provided in Federal Register Notice FR-5628-N-01, dated April 16, 2012.

STATEMENT OF INTENT

The content of this document establishes the operating parameters for all City of Joplin, Missouri CDBG-DR funded homebuyers programs. As the City of Joplin, Missouri provides funds for the homebuyer program, it is the responsibility of the Homebuyer to attract other public and private funds and to minimize the use of CDBG-DR funds.

MARKETING/FAIR HOUSING/EQUAL OPPORTUNITY

The City will use Affirmative Fair Housing Marketing to ensure that all citizens within the City of Joplin, especially those who are least likely to apply, will hear about the program, and have an opportunity to apply.

The City will follow the Fair Housing Act which prohibits discrimination in housing sales or loans on the basis of race, religion, color, national origin, sex, familial status (having children under the age of 18), or handicap. The City will not discriminate in any aspect of a credit transaction on the basis or race, religion, age, color, national origin, receipt of public assistance, sex, marital status, or the exercise of any right under the Consumer Credit Protection Act.

In addition to the Fair Housing Act, the program will be required to comply with 24 CFR § 5.105 which includes, but is not limited to, equal access to HUD-assisted or insured housing without regard to actual or perceived sexual orientation, gender identity, or marital status.

ELIGIBLE HOMEBUYERS

The household annual gross income, as defined by the CDBG regulations, of the homebuyer may not exceed 120% of the area median. A homebuyer is also one who must occupy the property as his/her principal residence. The purchasing household must be low income at the time of application to qualify. Income will be verified using the Part 5 definition according to HUD's standards. This will require the collection of source documentation which could include, but is not limited to, the most recent IRS 1040 tax form from each source of income for the household.

Applications will be accepted on a "first come, first served" method to ensure that the process is fair and equitable. Applications will have to be separated based on those that qualify at the 80% AMI limits and those that qualify at the 120% AMI limits. Each pool will be considered separately based on availability of funds. A waiting list will be developed, if necessary, using the same "first come, first served" method.

The City and/or its contracted agent will review and approve all applications based on the requirements described in these guidelines. An appeal by a denied applicant may be made in writing to the City and/or its contracted agent and the City and/or its contracted agent will review the application to ensure a decision was made based upon the guidelines.

ELIGIBLE PROPERTIES

All properties must be contained within the City Limits of Joplin and within the boundaries of the Tornado Path that are generally described as the area between Black Cat Road and Davis Boulevard and between 13th Street/Junge Boulevard and 32nd Street. Properties located in the floodplain will not be eligible for this program. Assistance will initially only be made available to existing single-family units or single-family units that are already under construction. Once Environmental Clearance is received for new Construction, the program will be available to those properties as well.

All properties must be appraised unless another method is approved in writing by the Government. New Construction must meet the local International Building Codes. Housing Units that do not comply with the local codes are not eligible for assistance through this program. Any purchase contracts should include a contingency clause that the property must pass the required inspections.

Eligible properties must be a one unit single family dwelling (attached or detached) designed for residential use, condominiums, or planned unit developments approved by Fannie Mae, Freddie Mac, or the Mortgage Insurer, townhomes, and modular homes that are located in an area consistent with such use and intended for owner-occupancy.

Manufactured housing is not eligible for this program. Modular Housing is eligible if the home meets all local Building Code and other City Code requirements.

Properties constructed prior to 1978 may contain lead paint hazards. The Homebuyer will receive an informational packet about the associated risks with lead paint and will be required to sign and form acknowledging receipt of that information.

ENVIRONMENTAL REVIEW

Information must be provided to the City of Joplin to review that will prove to adequately comply with the applicable NEPA regulations. For existing properties, this review will require documentation related to flood plain location, Airport Hazards, and Coastal areas. If a property does not pass this review, it will not be eligible for assistance.

A more in-depth review will be required for properties that do not currently exist or under construction. One requirement of a new construction activity is that all new homes must include Radon Resistant New Construction methods according to EPA regulation and will be subject to a clearance test by the City of Joplin or its contracted agent. Detailed information on design can be found at http://www.epa.gov/radon/rrnc/basic_techniques_builder.html and should be provided to the builder.

LOAN TO VALUE

For Homeownership Assistance projects, the City of Joplin cannot approve funding where the combined debt (CDBG-DR funding and other public and/or private financing) exceeds the loan to value limits as set forth by the underwriting, closing and funding criteria of Fannie Mae, Freddie Mac, USDA, FHA or VA. The appraised value used for this determination must be the approved appraisal for CDBG-DR Homeownership Assistance projects.

CO-SIGNERS/CO-BORROWERS ON FIRST MORTGAGE LOANS

The use of a co-signer or co-borrower's income for purposes of qualifying for a first mortgage loan is permissible under some first mortgage loan programs. A co-signer or co-borrower's income may be used to assist in qualifying ratios and may be included in loan documents with a mortgage company. However, if the co-signer will also be an occupant of the property he/she is required to also meet all CDBG-DR program eligibility and occupancy requirements.

FORM OF OWNERSHIP

For the purposes of this program, homeownership means ownership in fee simple title. This housing may only contain a single dwelling unit. See section above for "Eligible Properties". Forms of sale known as "life estates" or "contracts for deed" or "contracts for sale" are not a HUD approved form of ownership.

ESTIMATE OF FAIR MARKET VALUE

Appraisals are required for each property prepared by a licensed fee appraiser.

PERIOD OF AFFORDABILITY

To ensure long-term affordability, the City is adopting the HOME requirements for this program. The City of Joplin requires that housing assisted through this program remain affordable to a reasonable range of low-income homebuyers for a period of time based on the amount of CDBG-DR funds invested. The period of affordability will be determined based on the following table.

Homeownership Assistance Amount	Affordability Period
<$15,000	5 years
$15,000 - $30,000	10 years

A Deed Restriction template and 2nd Mortgage template are made available by the City of Joplin and includes separate paragraphs detailing the affordability period and the recapture provisions. Either of these documents may be utilized.

FORM OF SUBSIDY

This subsidy will be provided in the form of a 0% interest forgiveable loan with deferred payments. The loan will not require regular monthly payments.

A Deed Restriction shall be placed upon the property by the City of Joplin for the Government. The Deed Restriction shall provide for recapture of the CDBG-DR subsidy in the event that the homebuyer sells the property, is foreclosed upon by another mortgagee, or ceases to occupy the property as his/her principal residence. The total of CDBG-DR assistance may not exceed $30,000.00 for homebuyers at or less than 120% of median income. The CDBG-DR subsidy may be used to fund:

1. 100% of the primary lender required down payment costs, and/or
2. 100% of reasonable closing costs.

The minimum CDBG-DR subsidy cannot be less than $1,000 or greater than $30,000.

SUBORDINATION

The Government will be in a subordinate position to primary mortgage providers. This subordinate status will only be true for those loans that occur at the time of the first mortgage and will not include subsequent loans (e.g. Home Equity Loans). Assisted home buyers must notify the City of Joplin and/or its contracted agent of any request for the subordination of the CDBG-DR Deed Restriction to another loan. The City of Joplin will make the final written determination regarding the subordination of the CDBG-DR loan.

SALE BEFORE EXPIRATION OF THE PERIOD OF AFFORDABILITY

In the event that the CDBG-DR subsidized property is sold during the period of affordability, the grantor agency shall provide for the recapture of at least a portion of the CDBG-DR investment. The City will require repayment of the direct subsidy when a resale occurs during the affordability period. This recapture amount will be pro-rated based on the amount of time the applicant has occupied the home. As an example, a homeowner that is subject to a 5 year affordability period will have 20% of their recapture amount forgiven each year they occupy the home and meet the principal occupancy requirements. However, if there are no net proceeds or insufficient proceeds to recapture the full amount of CDBG-DR investment due, the amount subject to recapture must be limited to what is available from net proceeds. Net proceeds are defined as the sales price minus superior non-CDBG-DR loan repayments and any closing costs.

FORECLOSURE DURING THE PERIOD OF AFFORDABILITY

In the event of a foreclosure by a superior lien holder or transfer in lieu of foreclosure during the period of affordability, the Government may recapture the full CDBG-DR subsidy from net proceeds of the property sale before the homeowner's recovery of down payment, principal payments, and capital investment. In the event that net proceeds are insufficient to repay the full amount of the CDBG-DR

subsidy, the Government may reduce the subsidy to be recaptured in the same manner as for a sale before the expiration of affordability.

VIOLATION OF RESTRICTION ON PRINCIPAL RESIDENCE

In the event that the homebuyer ceases to occupy the subsidized unit as his/her principal residence during the required period of affordability, the Government shall recapture the CDBG-DR subsidy. Notwithstanding the provisions on recapture of subsidy in the event of a sale before the expiration of the period of affordability and the recapture of subsidy in the event of a foreclosure by a superior lienholder during the period of affordability, in the event of a foreclosure due to violation of restriction on principal residence, the CDBG-DR subsidy shall be recaptured after the first mortgagee has recovered the value of its loan. The homebuyer may only recover his/her down payment, principal payments, and value of capital improvements after the full amount of the CDBG-DR subsidy, and costs of foreclosure have been recovered by the grantor agency. In lieu of foreclosure, the homebuyer shall return the pro-rated amount of the CDBG-DR subsidy to the Government.

SECURITY

All properties acquired under a CDBG-DR-assisted homebuyer program will be considered to be CDBG-DR-assisted and therefore are subject to all restrictions.

All restrictions regarding the period of affordability and use of property as principal residence during the period of affordability shall be included in the loan agreement, mortgage, and mortgage note, made in favor of the grantor agency.

REPORT TO THE GOVERNMENT (CITY OF JOPLIN, MISSOURI)

The Homebuyer shall provide the Government with copies of all loan agreements, mortgages, and mortgage notes for properties assisted under the provisions of these guidelines.

USE OF RECAPTURED CDBG-DR SUBSIDY

Any CDBG-DR funds recaptured under the provisions of these guidelines shall be returned to the Government within ten days of receipt, unless otherwise noted in a written agreement.

CDBG-DR RELOCATION REQUIREMENTS

All Homebuyers and sellers are required to sign a Seller and Buyer's Occupancy Certification. This document will show whether or not current tenants reside in the property that is being assisted through the program. If tenants are present, additional steps may be necessary.

A CDBG-DR-assisted homeownership project is subject to relocation requirements under the Uniform Relocation Act (URA). In order to avoid the costs of relocation and to avoid the displacement of persons, the Government requires that homebuyers purchase only vacant properties or properties which are owner-occupied and are being publicly marketed. An owner-occupant who sells a property is not eligible for relocation assistance under the URA as long as the seller, prior to sale is informed in writing: (1) of the fair market value of the property; and (2) that the buyer does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable sales agreement.

COUNSELING

All prospective homebuyers will receive counseling according to the requirements of their lender. Additional homebuyer counseling will not be required by this program.

LOAN MANAGEMENT

While The City of Joplin encourages affordable and sustainable first mortgages, some life events such as recessions, layoffs, illnesses, injury or death could dramatically affect anyone's financial health with little or no warning. For these reasons, home buyers must notify the City of Joplin or its contracted agent if they are experiencing difficulty in meeting their first mortgage obligation. The City of Joplin emphasizes the importance for the home buyer to contact their first mortgage lender at the onset of the financial difficulty. Many lenders work with borrowers who have a good payment history to arrange a temporarily reduced payment plan until they regain their financial health. The sooner a home buyer contacts their lender, the easier it is to deal with the problem.

The City of Joplin or its contracted agent can provide the assisted home buyer with a listing of available credit counseling agencies that may be able to assist if these problems arise.

RECORD RETENTION

The City and/or its contracted agent will maintain records for home buyer projects in accordance with the regulations for five (5) years after the completion date for the project recorded in the HUD DRGR system, except for documents imposing recapture restrictions which must be retained for five (5) years after the affordability period ends.

OTHER APPLICABLE FEDERAL REQUIREMENTS

These are contained in the CDBG regulations which are codified at 24 CFR Part 570 and alternative requirements provided in Federal Register Notice FR-5628-N-01, dated April 16, 2012. These in requirement include the following:

- Program Income (24 CFR 570.503 and 570.504).
- Programmatic and Budget Changes.
- Civil Rights and Fair Housing; Employment and Contracting Opportunities (24 CFR 570.601, 570.607 and 570.614).
- Labor Standards (24 CFR 570.603).
- Environmental Requirements (with respect to the use of funds, 24 CFR 570.604).
- Historic Preservation.
- National Flood Insurance Program (24 CFR 570.605).
- Floodplain Management (24 CFR Part 55).
- Relocation, Real Property Acquisition, and One-for-One Housing Replacement (24 CFR 570.606).
- Lead-based Paint (24 CFR 570.608)
- Political Activity (24 CFR 570.207(a)(3)).
- Conflict of Interest (24 CFR 570.611).
- Program Monitoring (24 CFR 570.501(b), 24 CFR 85.40(a) and (e), and 24 CFR 84.51(a)).
- Suspension and Termination (24 CFR 570.503 (b) (6), 24 CFR 85.43 and 44, and 24 CFR 84.62).