REQUEST FOR LEGAL SERVICES

RECEIVED
CORPORATION COUNSEL

2018 SEP 28 AM 8: 04

Date: **September 27, 2018**

From: **Stacy Crivello, Chair**
Housing, Human Services, and Transportation Committee

TRANSMITTAL
Memo to: **DEPARTMENT OF THE CORPORATION COUNSEL**
Attention: Jeffrey Ueoka, Esq.

Subject: **FIRST-TIME HOMEBUYERS PROGRAM** (HHT-24)

Background Data: Please approve as to form and legality the attached revised proposed resolution, relating to the County's First-time Homebuyers Program. Please include a signed, hard copy in your response.

Work Requested: [X] FOR APPROVAL AS TO FORM AND LEGALITY
[ ] OTHER:

RECEIVED
2018 SEP 28 PM 1: 22
OFFICE OF THE COUNTY COUNSEL

Requestor's signature	Contact Person
Stacy Crivello	Saumalu Mataafa (Telephone Extension: 7665)

[ ] ROUTINE (WITHIN 15 WORKING DAYS)
[ ] PRIORITY (WITHIN 10 WORKING DAYS)
[ ] RUSH (WITHIN 5 WORKING DAYS)
[ ] URGENT (WITHIN 3 WORKING DAYS)

[X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 2, 2018
REASON: For discussion at the October 4, 2018 HHT Committee meeting

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: JTU	ASSIGNMENT NO. 2017-0097	BY:

TO REQUESTOR: [✓] APPROVED [ ] DISAPPROVED [ ] OTHER (SEE COMMENTS BELOW)
[ ] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date 9/28/18 *By*

(Rev. 7/03)

hht:ltr:024acc01:ssm

Attachment

Resolution

No. _____

APPROVING THE FISCAL YEAR 2019
FIRST-TIME HOMEBUYERS PROGRAM

WHEREAS, Fiscal Year 2019 Budget, Ordinance 4861 (2018), appropriated TWO MILLION DOLLAR ($2,000,000) for a First-Time Homebuyers Program from the Affordable Housing Fund; and

WHEREAS, the Department of Housing and Human Concerns has drafted the County of Maui, First-Time Home Buyer's Down Payment Assistance Program, Program Guidelines, attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, no funds shall be granted prior to Council approving, by Resolution, a First-Time Homebuyers Program; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby approves the County of Maui, First-Time Home Buyer's Down Payment Assistance Program, Program Guidelines; and

2. That it does hereby authorize the Mayor, or the Mayor's duly authorized representative, to execute all necessary documents to further the intent of this Resolution; and

3. That certified copies of this Resolution be transmitted to the Mayor, the Department of Finance, and the Department of Housing and Human Concerns.

APPROVED AS TO FORM AND
LEGALITY

_____
Deputy Corporation Counsel
County of Maui
hht:misc:024reso01:ssm

COUNTY OF MAUI

FIRST-TIME HOME BUYER'S DOWN PAYMENT ASSISTANCE PROGRAM

PROGRAM GUIDELINES

PROGRAM FUNDED BY
COUNTY OF MAUI

September 18, 2018

EXHIBIT "A"

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APPENDIX: A

1. a. PROGRAM SUMMARY AND ELIGIBILITY CRITERIA
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3. HAZARD, HURRICANE AND FLOOD INSURANCE CERTIFICATE

GENERAL PROVISIONS

1. PROGRAM

1.1. DESCRIPTION OF PROGRAM

The First-Time Home Buyer's Down Payment Assistance Program is intended to provide down payment assistance for the purchase of dwelling units for families and/or individuals of Maui County with incomes not exceeding 140% area median income, as determined by the United States Department of Housing and Urban Development (HUD), or, if the applicant is a resident of Lana'i, Moloka'i, or Hana, one hundred forty percent or less of the adjusted median income for Lana'i, Moloka'i, or Hana, as determined by the Department.

1.2. AUTHORITY CREATING PROGRAM

The First-Time Home Buyer's Down Payment Assistance Program was established as a Line Item Grant in the Housing Division's Fiscal Year 2019 Budget.

1.3. DEFINITIONS

A. "Administering Agency" refers to the organization(s) or agency(ies) identified by a written contract by the County of Maui who will be responsible for the delivery of grant origination, grant monitoring, and/or other duties as assigned and otherwise defined or amended within this Program Guidelines.

B. "Applicant" means a person or persons who submit a formal grant application for the First-Time Home Buyer's Grant Program.

C. "Department" means the Department of Housing and Human Concerns of the County.

D. "Director" means the Director of Housing and Human Concerns of the County.

E. "Displaced homemaker" means an adult who has not been employed full-time in the labor force for at least one year, but has worked during that time primarily to care for the home and family without remuneration, and is currently unemployed.

F. "Dwelling" or "Dwelling Unit" refers to the eligible real property to be purchased including a fee simple or leasehold lot of record and the single-family residential unit as well as any other capital improvements to be conveyed.

G. "Fee Simple" means a form of real property ownership with unrestricted and unlimited rights to use, mortgage and convey.

H. "Grantee" means a person or persons who receive First-Time Home Buyer's Down Payment Assistance Program funds to purchase an eligible dwelling. Term used interchangeably with "homebuyer". An applicant may become a

grantee or homebuyer after meeting the requirements of the program and receiving funds under this program.

I. "Homebuyer" or "Home-buyer" refers to the person(s) who have become or are about to become owners of an existing dwelling unit under the First-Time Home Buyer's Down Payment Assistance Program. An Applicant becomes a Homebuyer when the Applicant executes a sales contract to purchase an eligible property. A Homebuyer is also a Grantee until they have fulfilled all of the program requirements.

J. "Household income" means the total adjusted gross income of income of the applicant's household, as defined by the Internal Revenue Code of 1986, as amended, for the calendar year preceding the year in which an application is submitted.

K. "Leasehold property units" refers to the right to hold or use property for a fixed period of time at a given price, without transfer of ownership, on the basis of a lease contract.

L. "Low to above-moderate income household(s)" refers to households whose gross annual family income is more than fifty percent (50%) but not more one hundred forty percent (140%) of the area median income or as stated in the County of Maui Residential Workforce Housing Policy, Chapter 2.96, Maui County Code.

M. "Owner" refers to the person(s) or entity that holds title to the fee simple property.

N. "Resident of the County" means the person's principal residence and domicile is within the County.

O. "Seller" refers to the person(s) or entity that owns an eligible dwelling unit and is ready, willing and able to sell the property to a Homebuyer.

P. "Single parent" means an unmarried or legally separated adult who is pregnant or has one or more minor (less than eighteen years of age) children for whom the adult has sole or joint custody.

1.4. PURPOSE OF PROGRAM

A. The County has experienced such high sales prices of single-family residences and multi-family residences that substantial savings for a down payment are required for a home purchase.

B. Families with income not exceeding one hundred forty percent of the median annual income in the County find it difficult to save for a down payment.

C. The establishment of the First-Time Home Buyer's Down Payment Assistance Program is to provide no interest down payment and/or closing cost grants to

first-time homebuyers (as defined in sub-section 1.9) to low to above-moderate income households interested in achieving homeownership.

1.5. PURPOSE OF GUIDELINES

Program guidelines will provide written guidance to the Department and/or the administering agency as set forth by the funding agency, the County of Maui, to ensure compliance of the County of Maui First-Time Home Buyer's Down Payment Assistance Program.

1.6. PROGRAM SERVICING LOCATION

Program assistance shall be made available to any eligible participant and for any eligible property within the County of Maui (specifically the Islands of Maui, Moloka'i and Lana'i) so long as program funds are available.

1.7. PROGRAM FUNDING NOTIFICATION & MARKETING

Notification of Funding to the Public. The County shall provide notification of funds available to the general public and marketing of program, as needed, to promote the First-Time Home Buyer's Grant Program utilizing one or more of the following methods:

1. Placement of advertisement(s) in the major local newspaper (Maui News) serving the funding locale.

2. Placement of advertisement(s) in minor local newspapers serving the funding locale.

3. Promote program in the form of audio, video, and/or print media to appropriate markets providing related, supportive or complimentary housing services.

Workshops and information meetings may be conducted to provide program information which shall include, at a minimum: a description of the program, the funding source(s), the eligibility requirements, the period in which applications will be received, the location where applications can be obtained and submitted, the name, address and phone number of the administering agency .

1.8. TERMS OF THE DOWN PAYMENT ASSISTANCE

A. The maximum grant amount under this program shall not exceed $30,000. The maximum assistance amount to any one borrower shall not exceed five percent of the purchase price or appraised value of the residential property, or the amount stated above, whichever is less. The actual amount of assistance will be determined by demonstrated need on a case by case basis.

B. A Grant Agreement with the grant requirements shall be executed between the grantee and the County of Maui at the time of the closing of the home

purchase.

C. The grant shall be secured by a lien in favor of the County and shall exist in perpetuity. The grantee shall execute a lien document in favor of the County.

D. Immediate repayment of the grant shall occur in the event that:

1. The grantee refinances the first mortgage loan on the eligible property;

2. The grantee no longer uses the property as the borrower's principle residence;

3. The grantee sells the property; or

4. The grantee provided fraudulent information to obtain funds from the First-Time Home Buyer's Down Payment Assistance Program.

Upon the occurrence of any of the events enumerated in this subsection, the grantee, upon receipt of written demand from the County, shall pay the County the outstanding grant balance, without interest, within thirty (30) calendar days of receipt of the written demand (the "Grant Payment Date").

E. Exemptions require written request from the grantee and written approval from the County.

1. CONSTRUCTION TAKE-OUT LOANS
The refinancing of a first mortgage as a requirement to the initial Construction loan shall be exempt to the refinancing clause stated in Sub-section 1.8. D. providing that the refinance was conducted for the sole purpose of a Construction Take-Out loan and that the proposed house was built within two (2) years. As such, the County of Maui will subordinate its lien on the property when the first mortgage loan is refinanced.

2. STREAMLINE FINANCING
The refinancing of an outstanding loan balance (without cash-out) for the sole purpose of interest rate and monthly payment reductions on the first mortgage loan.

3. CAPITAL IMPROVEMENT
The refinancing of a first mortgage with cash to the grantee for the sole purpose of capital improvement on the property secured by the first mortgage loan shall be exempt to the refinancing clause stated in Sub-section 1.8. D. providing there is sufficient equity to cover the increased first mortgage loan and the program grant.

Failure to comply will result in default and subject to the total outstanding balance becoming due and payable upon demand.

F. In the event payment as required pursuant to subsection 1.8. D. is not received by the County by the Grant Payment Date, the grantee shall be subject to the following grant recapture provisions:

1. Immediate repayment of the grant balance to the County;

2. All costs, expenses, and fees incurred by the County to enforce the grant recapture provisions, including reasonable attorneys' fees and costs.

1.9. PROGRAM PARTICIPANT ELIGIBILITY

A. Eligible Participants.
An applicant for the First-Time Home Buyer's Down Payment Assistance Program shall meet all of the following requirements:

1. Be a resident of the County of Maui at the time the application is submitted;

2. Provide copies of their last three (3) years of Federal Income Tax returns.

3. Provide copies of latest checking, savings, credit union and brokerage account statements (excluding retirement and pension accounts).

4. Agree to occupy the eligible property to be purchased under this chapter, as the applicant's principal residence, provided that this requirement may be waived by the Director if the applicant is temporarily out of the County to further the applicant's education or is called to active military duty, in which event the applicant shall provide proof of enrollment at an educational institution or of military status, respectively, upon requesting a waiver;

5. Be a United States citizen or resident alien;

6. Be at least eighteen years of age;

7. For the taxable year preceding the application, have a household income of one hundred forty percent (140%) or less of the County median annual income, as determined by the United States Department of Housing and Urban Development (HUD), or, if the applicant is a resident of Lana'i, Moloka'i, or Hana, one hundred forty percent or less of the adjusted median income for Lana'i, Moloka'i, or Hana, as determined by the Department.

8. Shall not have a fifty percent (50%) or greater interest in fee simple or leasehold land suitable for dwelling purposes, as determined by the Director, for a period of at least three (3) calendar years prior to the date the application is submitted, provided that this requirement may be waived by the Director if the applicant is the head of household and is a displaced homemaker, or a single parent, or is living in a home not

suitable for habitation, as determined by the Director; and

9. Shall not have previously received a grant under this program, provided that this requirement may be waived by the Director if the applicant is the head of the household and is a displaced homemaker, or single parent, or is living in a home not suitable for habitation, as determined by the Director.

10. Attend and complete a County of Maui approved homeownership counseling or financial literacy class. Must be taken within one (1) year prior to completion of the closing date of the sale of the property.

11. Shall maintain income and other eligibility requirements throughout the grant process.

1.10. PROGRAM PROPERTY ELIGIBILITY

A. Eligible Properties. Eligible properties for the First-Time Home Buyer's Down Payment Assistance Program must be: 1) fee simple; or 2) leasehold.

1. Eligible Types of Properties

a) Single-family detached unit;

b) Multi-family dwelling unit;

c) Residential lot with plans to construct a single-family detached dwelling unit. The construction of the proposed dwelling unit shall be built within two years and failure to comply shall result in the balance of the grant becoming due upon demand. Extensions may be granted should there be any delays under extenuating circumstances (ex. union strikes, natural disasters, etc.). Such requests must be submitted in writing by the borrower and shall be subject to approval by the Director;

d) Leasehold property units shall be built within two years and failure to comply shall result in the balance of the grant becoming due upon demand. Extensions may be granted for delays occurring under extenuating circumstances (ex. union strikes, natural disasters, etc.). Such requests must be submitted in writing by the borrower and shall be subject to approval by the Director.

1.11. CONFIDENTIALITY

All applicant information shall be held confidential and shall be made available only to authorized representatives of the administering agency, the County of Maui, other

government agencies or departments and the financial institution providing the loan funds.

1.12. DISCRIMINATION PROHIBITED

Pursuant to the Fair Housing Act of 1988, as amended, no person shall, on the grounds of race or color, national origin, religion, sex, familial status, or handicap, be excluded from participation or be denied the benefits of, or be subjected to discrimination under any housing program or activity. In addition, pursuant to Chapter 515 of the Hawaii Revised Statutes (HRS), no person in the State of Hawaii shall, on the grounds of race, sex, including gender identity or expression, sexual orientation, ancestry, color, religion, marital status, familial status, disability, age or HIV (human immunodeficiency virus) infection, be excluded from participation or be denied the benefits of, or be subjected to discrimination under any real property program or activity.

GUIDELINES

2. GRANT REQUIREMENTS

Grants will be processed based on the following Program Guidelines for the First-Time Home Buyer's Down Payment Assistance Program.

2.1. HOMEBUYER ASSISTANCE PROGRAM APPLICATION PROCESS.

A. Registration.

1. Applicants for the First-Time Home Buyer's Down Payment Assistance Program shall submit a completed preliminary application/lottery card to participate in a lottery drawing. A pre-approval (not pre-qualification) letter from a mortgage lender that is authorized to do business in Hawaii must be turned in with the completed application/lottery card. The pre-approval letter must be for the applicants on the application/lottery card. No application/lottery card will be accepted without the pre-approval letter. The lottery drawing will be conducted by the County.

2. All application/lottery cards will be drawn. The applicants of the first 66 cards drawn will be notified in writing that they must complete and sign formal applications to submit with signed tax returns for the last three years, which must be returned within 10 calendar days of the date of the letter. Applicants will be asked to also complete a short survey to help the County collect data about housing needs. The remaining applicants will be alternates prioritized in the order that their cards were drawn should any of the first 66 applicants fail to meet their obligations or grant qualification criteria or should additional funds be available.

3. Applicants that are determined eligible to participate in the program will be notified in writing and must submit an acceptance of Deposit Receipt Offer and Acceptance (DROA) to the County within 45 days of date of the letter.

4. Applicants that do not qualify shall be informed, in writing, within thirty (30) days of disqualification.

5. Qualified applicants shall be processed using the Program Checklist (Appendix A).

6. Applicants who have selected leasehold property units shall be required to obtain and submit written prior approval from the Lessor.

B. Appeal of Disqualification

1. Applicant Appeal. Applicants may appeal a disqualification by providing written notice to the administering agency within thirty (30) days of the date of the disqualification letter and must provide sufficient evidence to dispute the reasons for disqualification.

7. Response. Upon receipt of a written appeal, the administering agency shall investigate the claims of the appeal and any evidence provided and shall render a decision within thirty (30) days of receipt of the written appeal to the applicant.

2.2. INCOME AND INCOME ELIGIBILITY

For the taxable year preceding the application, the applicant shall have a household income of one hundred forty percent or less of the County median annual income, as determined by the HUD, or, if the applicant is a resident of Lana'i, Moloka'i, or Hana, one hundred forty percent or less of the adjusted median income for Lana'i, Moloka'i, or Hana, as determined by the Department.

Household members are required to file tax returns and shall submit copies of completed and signed federal tax returns for the last three (3) years and W2s for the most recent year. Failure to disclose household income will result in program disqualification.

2.3. ASSET LIMITATION

Applicants shall not have total household assets amounting to more than seventy five thousand dollars ($75,000). Assets shall include all cash, securities, stocks and bonds. Retirement accounts or pension funds shall not be included in determining the total assets of the borrower.

Household members shall submit copies of or provide information on bank statements or other income and interest bearing accounts. Failure to disclose assets will result in program disqualification.

2.4. TOTAL LOAN TO VALUE RATIO

Total loan (first mortgage loan) and down payment/closing cost assistance grant may

be for one hundred percent (100%) of the purchase price of the housing unit.

2.5. PROPERTY SELECTION AND SALES CONTRACT

A. Selection. The eligible homebuyer shall search for and locate a suitable dwelling unit or residential lot that is eligible pursuant to Section 1.10.A.1. and shall confirm eligibility with the chosen first mortgage lender.

B. Time Period. The homebuyer must select a suitable fee simple dwelling, housing lot or leasehold property within forty five (45) calendar days from the date the applicant is informed of eligibility and availability of program funds.

i. An extension of time may be granted by the administering agency/County of Maui provided that the eligible homebuyer has demonstrated a good faith effort to search for and locate an eligible and suitable property; however, the total time for location and selection shall not extend beyond ninety (90) calendar days.

ii. Applicant will have ninety (90) days from the DROA date to close escrow. If, for reasons beyond the applicant's control, the closing takes longer than ninety days, the applicant may submit a written request that shall include an explanation for delay and also the anticipated loan closing date. Requests are subject to the written approval of the Director and will be done on a case by case basis.

iii. Failure to complete the escrow closing within the closing deadline will result in the termination of program fund availability and removal of the homebuyer's current First-Time Home Buyer's Down Payment Assistance Program application from existing waitlists.

C. Homebuyer Responsibility. It shall be the homebuyer's responsibility to keep the administering agency informed of its progress in locating and selecting an eligible property.

2.6. HOMEBUYER EDUCATION REQUIREMENT

1. Homebuyer Education Class. All eligible applicants are required to attend and successfully complete a qualified Homebuyer's Education (Homebuyer Ed) class prior to completion of the closing date of the sale of the property and to provide the administering agency with evidence of attendance and completion. The Homebuyer Ed class, at a minimum, must provide information on budgeting, money management, the home owners financial responsibility, the components of mortgage payments, the importance of making timely mortgage payments, a reinforcement of the requirements imposed under the First-Time Home Buyer's Down Payment Assistance Program steps the homeowner should take if they anticipate having difficulty in making timely mortgage payments and information on the availability of housing and/or credit counseling.

2. Homebuyer Education Providers. The administering agency shall seek qualified Homebuyer Education providers (approved by the County) in the

servicing locale and establish a list from which the qualified applicants of the program may make arrangements to obtain the required instruction. The qualified applicants will be responsible for the payment of any fees required for the education class(es). At its option, the administering agency may contract with qualified Homebuyer Education providers to service it's qualified program applicants at set fees or may select to provide the Homebuyer Education class(es) itself and collect reasonable fees from each participating household to help defray the cost of the class(es).

3. Applicant Notification of Homebuyer-Ed Requirement. The administering agency shall inform applicants of the Homebuyer Education requirement at the time of application; and again, in writing, when the applicant has been deemed eligible as a result of completion of all income verifications.

4. Termination. The failure of any qualified program applicant to successfully complete a qualified Homebuyer Education class in the time set forth in writing by the administering agency shall render that applicant ineligible for any assistance under the First-Time Home Buyer's Down Payment Assistance Program for that contract period.

2.7. ESCROW ACCOUNTS

Grantees shall be notified that escrow accounts shall be established in their names for the purposes of the real property transaction. Escrow related activities shall be coordinated with first mortgage lenders.

2.8. LIEN DOCUMENT

The lien established from the First-Time Home Buyer's Down Payment Assistance Program shall be subordinate only to the initial first mortgage loan utilized for the purchase of the eligible property. Borrowers are not required to repay County of Maui for their First-Time Home Buyer's Down Payment Assistance Program funds unless one of the events in Section 1.8 D. occurs.

A. Lien Document. All legal owners of the property to be purchased shall sign a Lien Document to protect the Grantor (County of Maui) from possible losses. Any and all Lien Documents shall be legally executed and recorded with the Bureau of Conveyances of the State of Hawaii or, as applicable, with the Lessor.

Mortgaging of a leasehold property unit shall require prior written approval from the Lessor.

2.9. TITLE, HAZARD AND HURRICANE INSURANCE AND FLOOD INSURANCE

A. Title. Grantee shall hold fee simple title to the property purchased with County funds through the First-Time Home Buyer's Down Payment Assistance

Program or lease interest on leasehold on which a dwelling unit was constructed with County funds under the First-Time Home Buyer's Down Payment Assistance Program for duration of the term of the loan.

B. Appraisal. An appraisal is required to be provided by the first mortgagee or grantee.

C. Hazard and Hurricane Insurance. The County shall ensure that the Lender/Servicer certifies (Appendix A) that it has in its possession adequate funds to insure the applicable property with adequate hazard and hurricane insurance to protect the security of the first mortgage and grant, and has obtained an endorsement to the hazard and hurricane policies naming the County of Maui as loss payee.

D. Flood Insurance. The appraisal shall include a determination on whether the applicable property is within a flood hazard area. If it is determined in the appraisal that the location of the applicable property is within a designated flood hazard area, the lender shall ensure that the mortgagor has obtained adequate flood insurance to protect the security of the first mortgage and grant and has obtained an endorsement to the flood insurance policy naming the County of Maui as loss payee.

E. The Grantee shall maintain "in the course of construction" insurance for liability and property loss during the entire term of the construction work.

2.10. RESTRICTION FROM ADDITIONAL DEBT

After the purchase of the eligible property utilizing funds from the First-Time Home Buyer's Down Payment Assistance Program and for the entire term of the grant, grantee shall be restricted from incurring any additional mortgage loans or loans requiring the property as collateral.

2.11. RELEASE OF MORTGAGE

The Grant Agreement shall terminate at the time that the affordability period ends or at the time grantee repays grant. Upon the termination of Grant Agreement, the County will execute a Release of Lien. Grantee will pay for the drafting and recording of the Release of Lien.

2.12. PERIOD OF DEED RESTRICTION

Period of Deed Restriction. The affordability period for the First-Time Home Buyer's Down Payment Assistance Program shall commence from the date of the applicable mortgage, financing documents, and/or lien documents are recorded and run in perpetuity.

2.13. OCCUPANCY REQUIREMENT

A. Occupancy Requirement. All properties purchased utilizing funds from the

First-Time Home Buyer's Down Payment Assistance Program shall be occupied as the principal residence of the owner(s) during the term of the grant with the exception to eligible properties in conformance to Section 1.10.A.1.c. and d. whereby the unit must be occupied as the principle residence of the owner(s) from the time the property passes final building inspection by the County of Maui and throughout the term of the grant.

B. Penalty for Violation. Failure to occupy the property as a principal residence during the term of the grant affordability period shall require the grantee, upon receipt of written demand from the County, to pay the County the outstanding grant balance, without interest, within thirty (30) calendar days of receipt of the written demand. Failure to remit repayment upon demand will result in grant recapture provisions which shall include the adding of other applicable fees as specified in sub-section 1.8.F.2.

2.14. REPAID GRANT

All assistance funds repaid to the County from the initial purchase of the affordable housing unit during the affordability period shall be returned to the First-Time Home Buyer's Down Payment Assistance Program through the Housing Division of the Department of Housing and Human Concerns, County of Maui.

2.15. GRANT MONITORING

At the discretion of the County, grant monitoring will be provided to each First-Time Home Buyer's Down Payment Assistance Program grant to confirm compliance with:

A. The applicable affordability period; and

B. Occupancy requirements: Verification of occupancy may be confirmed by, but shall not be limited to, one or more of the following: real property tax exemption filing date, home address, physical inspection of dwelling, return receipt on certified mail delivery and/or neighborhood survey. Upon completion of each monitoring process for the occupancy requirements, the County shall provide the homebuyer with a written notice of such monitoring conducted and confirmation of occupancy.

C. Hazard, Hurricane and Flood Insurance requirements: Current insurance policies shall be maintained and updated to insure the property has (in effect) adequate insurance coverage to protect the security of the first and second mortgages, with the County of Maui as loss payee.

Failure to comply with program guidelines will result in grant default and will be subject to grant recapture provisions which shall include the adding of interest and other applicable fees as specified in sub-section 1.8.F.2.

2.16 DEFAULT

In the event that grant recipients are found to be in non-compliance due to events

stipulated in Section 1.8.D., the loan will be classified as defaulted. Administering agencies shall provide written reports to the County of Maui on all grants classified as defaulted and the reasons for classification.

2.17 CALCULATING DEFAULT

In the event of default, the total amount due shall include:

A. All costs, expenses, and fees incurred by the County to enforce the grant recapture provisions, including reasonable attorneys' fees and costs.

GENERAL PROGRAM PROCEDURES

3. PROGRAM ADMINISTRATION

3.1. FILE MAINTENANCE

A. Active applicant and individual files shall be maintained and updated through completion of home purchase and affordability period.

B. Applicant and individual files shall be maintained in separate, individual folders. Documents shall be set in chronological order.

3.2. PAYMENT REQUESTS

Payment requests to the County of Maui shall be made in a manner to coincide with the grant closing and shall include all required supporting documentation.

3.3. REPORTING

The administering agency shall prepare quarterly performance reports to the County no more than thirty (30) days after the end of each period. Reporting shall include the submission of information and documents relative but not limited to: 1) grant recipients; 2) projected grant recipients; 3) total program outcomes; and 4) other reporting requirements as requested, which shall include (but not limited to) the following:

A. The names and addresses of grant recipients;
B. The individual grant amounts of the First-Time Home Buyer's Down Payment Assistance Program;
C. The area median income (AMI) percentage for each household;
D. The reporting of identified financial difficulties.

3.4. AUDITING

All documents and files related to the First-Time Home Buyer's Down Payment Assistance Program shall be made available for review and audit by any authorized representative of the County of Maui.

APPENDIX: A

1. a. PROGRAM SUMMARY AND ELIGIBILITY CRITERIA
   b. FIRST-TIME HOME BUYER'S DOWN PAYMENT ASSISTANCE PROGRAM APPLICATION
2. FIRST-TIME HOME BUYER'S DOWN PAYMENT ASSISTANCE PROGRAM CHECKLIST
3. HAZARD AND HURRICANE INSURANCE CERTIFICATE