

**“ATTORNEY PACKET:
PROPERTY BOND
PROCEDURE”
FORMS PACKET**

Information Regarding Property Bonds

The following information is intended to assist with the filing of an Application for Real Property Equity Bond with the San Diego Superior Court (Penal Code §§ 1278; 1279; 1280 & 1298).

After the documents have been reviewed by the court and the application has been approved, it is the responsibility of the party bringing the application to record the Deed of Trust and Request for Notice with the appropriate County Recorder's Office and provide proof of that recording to the court. Proof of recording consists of a copy of the documents submitted for recordation, stamped by the Recorder's Office with confirmation that they were accepted for recording.

All documents must be originals and submitted on specified court forms.

Note: Equity must be equal to twice the amount of the bail required.

1. Application For Real Property Equity Bond And Declaration of Property Owner(s) (SDSC CRM-136)
 - Must include full legal description of property.
 - Current market value of property.
 - List of all encumbrances and liens with supporting documentation.
 - Amount of equity must be at least twice the amount of the bail.
2. Promissory Note (SDSC CRM-137)
 - Promissory Note must be notarized.
 - Note must be made out for the amount of bail.
3. Order Approving Property Bond (SDSC CRM-138)
 - Fill in only case caption. Leave remainder blank.

Additional requirements:

1. Deed of Trust with All Purpose Acknowledgement (Civil Code §1189)
 - The name of the Trustee is Court Executive Officer of the San Diego Superior Court.
 - The name of the beneficiary is San Diego County.
 - Address of the appropriate court division must be on face of Deed with case # in section entitled "and when recorded mail this...deed to"
2. Current appraisal
 - Must show fair market value dated within 6 months prior to the hearing.
 - Appraiser must be certified by the State of California Office of Real Estate Appraisers.
 - The Appraiser's license number must be on the appraisal.
3. Preliminary Title Report
 - Must be from a California title company.
 - Must be dated within 30 days prior to the hearing.
 - All property taxes must be paid.
 - A Lot Book Report or Property Profile is not acceptable.

4. Proof of insurance on property (fire)
 - Fire insurance is required covering the replacement value of any structures or other improvements on the property. This requirement will be waived where the site value is more than ½ of the property value. If the property is a single family dwelling a copy of the declarations page of a homeowner's policy is acceptable proof of insurance. In the case of a condominium, the declarations page of the policy for the condominium complex will be required.
 - The County of San Diego must be named as an additional insured on all required policies.
5. Request for Notice (Civil Code §2924b)
 - Must be notarized.
6. Proof of Personal Service
 - Personal service of Application and all supporting documentation on the prosecutor and County Counsel at least 48 hours before submission to the court.

If the property bond is approved, the Deed of Trust and Request for Notice will be returned to the applicant for recording. Upon submission of proof of recordation, consisting of a copy of the documents submitted for recordation, stamped by the Recorder's Office with confirmation that they were accepted for recording, an order for the release of the defendant will be prepared and forwarded to the jail.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

The People of the State of California
Plaintiff(s)

vs

Defendant(s)

Case Number:

**APPLICATION FOR REAL
PROPERTY EQUITY BOND AND
DECLARATION OF PROPERTY
OWNER(S)**

1. The defendant above named, having been arrested, has had bail set in the amount of \$_____.
2. I/We desire to post a "property bond" consisting of real estate equity pursuant to the provisions of section 1298 of the Penal Code.
3. I/We own real property located at _____, which has a present market value of \$ _____, the legal description of which is provided on Attachment A.
4. The property is subject to liens and encumbrances totaling \$ _____, which are listed on Attachment B. Statements from all persons who have liens and encumbrances against the property verifying how much is presently owed on the property and that all such obligations are current are also attached.
5. The property has/has not been previously qualified for such property bail bond within the prior 12 months (in the amount of \$ _____, not exonerated).
6. Also attached to this declaration is an original Preliminary Title Report issued by a California Title Company, and proof of required fire insurance showing the County of San Diego as an additional insured.
7. I/We agree to maintain the insurance on the property and keep all property taxes and obligations listed in paragraph four (4) current while the property bond is in force. I/We further agree not to further encumber the property without prior court approval. I/WE UNDERSTAND THAT IN THE EVENT THAT THE PERSON FOR WHOM THIS BOND IS TO BE POSTED FAILS TO MAKE ANY NECESSARY COURT APPEARANCE, THE PROPERTY MAY BE SOLD TO SATISFY PAYMENT OF THE AMOUNT OF THE BAIL.

I/We declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature of Property Owner

Signature of Property Owner

(Type Name)

(Type Name)

**APPLICATION FOR REAL PROPERTY EQUITY BOND AND
DECLARATION OF PROPERTY OWNERS(S)**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

The People of the State of California
Plaintiff(s)

Case Number:

PROMISSORY NOTE

vs

Defendant(s)

In consideration of the County of San Diego accepting the undertaking and the pledge of security in lieu of cash bail of the undersigned in the case of the People of the State of California versus

_____ Case Number(s) _____
(Defendant's Name)

I/We _____ herein referred to as makers, promise to pay the County of
(Depositor's Name)
San Diego, its successors, and assignee, the sum of \$ _____ (\$ _____).

Such payment shall be made pursuant to the provisions of Penal Code Section 1305 in the event that the said
_____ fails to appear without sufficient excuse for the proceedings
(Defendant's Name)

outlined in Section 1305 of the Penal Code and answer any charge in any accusatory pleading based upon the acts supporting the complaint above mentioned, including all duly authorized amendments to said complaint, in whatever court it may be prosecuted, or fails to hold himself amenable to the orders and processes of the court or, fails if convicted, to appear for pronouncement of judgment or grant of probation.

This note is secured by a Deed of Trust executed by maker in favor of the County of San Diego on _____.
The terms of said Deed of Trust are hereby incorporated by reference herein. (Date)

In the event of suit being commenced on this note, the prevailing party shall be entitled to costs of suit, together with reasonable attorney's fees.

DATED: _____ Signature _____

DATED: _____ Signature _____

ALL PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
County of _____)

On _____ before me, _____, personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL DIVISION, 220 W. BROADWAY, SAN DIEGO, CA 92101-3814 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6695 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649	<i>FOR COURT USE ONLY</i>
PEOPLE OF THE STATE OF CALIFORNIA <div style="display: flex; justify-content: space-between;"> VS PLAINTIFF, </div> <div style="display: flex; justify-content: space-between;"> DEFENDANT </div>	
ORDER APPROVING PROPERTY BOND	CASE NUMBER

The Court having considered the Application for Real Property Equity Bond and Declaration of Property Owner(s) and the documentation submitted therewith finds:

1. Bail remains fixed at \$ _____.
2. The Application is sufficient, meeting all requirements of Section 1298 of the California Penal Code. The equity in the real property offered as security for bail pursuant to Section 1298 is \$_____, which is at least twice the amount of the bail set.
3. The property owners understand the property may be sold if the defendant fails to make any necessary court appearances and the bond is forfeited.
4. The property owners have agreed to keep all liens, encumbrances, property taxes and insurance current while the property bond is in effect and to obtain court approval prior to further encumbering the property.
5. Upon receipt of proof that the Deed of Trust and Request for Notice have been recorded the Court will order that the defendant in this case may be released on Property Bond.

The Application is GRANTED on the preceding terms and conditions.

Date: _____

Judge of the Superior Court