

Georgia Department of Community Affairs
Community HOME Investment Program
PROMISSORY NOTE

**FOR
HOMEOWNER REHABILITATION ASSISTANCE ACTIVITY**

FOR VALUE RECEIVED, the undersigned ("Borrower") promises to pay to the order of the _____, Georgia, (the "Lender," which, along with any subsequent holder of this Note shall also be referred to as the "Holder") \$_____ (the "Loan"). All payments due under this Note shall be made to the Georgia Housing and Finance Authority ("GHFA") at the following address: 60 Executive Park South, N.E., Atlanta, Georgia 30329.

1. Definitions. In addition to terms defined elsewhere in this Note, the following terms shall have the following meanings: "Affordability Period" means the period starting with the date of this Note and continuing for the applicable number of years outlined below; "Anniversary" means one year from the date of this Note (which would be the first Anniversary) and the same day of each subsequent year through the end of the Affordability Period; "Borrower" means and includes all persons signing this Note; "Borrower's Investment" means the amount of any funds paid by the Borrower from non-CHIP resources for the rehabilitation of the Property based on the Contractor's Proposal plus all capital improvements to the Property made with Borrower's funds ("Borrower's funds" shall not include Loan proceeds or Senior Loan proceeds), the amount of which must be documented to the satisfaction of Holder in order to be included in the Borrower's Investment; "Deed" means the Subordinate Deed to Secure Debt and Security Agreement from Borrower to Holder, transferring the Property and securing the Loan; "Default Rate" means an interest rate of 10% per year, compounded annually; "family" has the same meaning as under the HOME regulations (currently found at 24 CFR §92.1 et seq.); "Fraudulent Transfer" means a voluntary Transfer for less than fair market value, which Holder reasonably determines was made for the purpose of avoiding all or part payment under this Note or terminating the Affordability Period early or both; "including" means "including, but not limited to;" "Grant Amount" means the value of the grant of CHIP funds received by the borrower under a separate agreement for the costs associated with lead-based paint and project delivery; "Loan Amount" means the amount of the Loan plus any amounts Borrower owes under the Deed; "Loan Document" means this Note, the Deed, and any other agreement or document relating in any way to the Loan; "Net Proceeds" means the gross amount Borrower receives for a Transfer less any payment on any Senior Loan plus any closing costs that Borrower is obligated to pay in connection with the Transfer, such as real estate commissions, attorney's fees, and the transfer tax; "Payment Event" is an event described in section 5; "Property" means the real property conveyed by the Deed, as more particularly described in the Deed; "Senior Loan" means a loan of Borrower that has an interest in the Property superior to Holder's interest; "Transfer" means any lease or a voluntary or involuntary sale of all or any part of the Property or any interest in the Property.

2. Payment.

(a) Time and Amount of Payment. There will be no required regular monthly or annual payments under this Note. If there is no Payment Event before the end of the Affordability

Period as outlined below, Borrower shall not be obligated to pay Holder any part of the Loan Amount. If, however, there is a Payment Event before the end of the Affordability Period, at the time of the Payment Event, Borrower shall pay Holder the amount specified below (the “Amount Due”):

Total Value of the Loan Amount plus the Grant Amount	Length of the Affordability Period	Amount Considered Satisfied for Each Year of the Period of Affordability Completed in its Entirety
Less than \$15,000	6 Years	1/6 th
\$15,000 to \$40,000	11 Years	1/11 th
More than \$40,000	16 Years	1/16 th

For example, if a Payment Event occurs between the second and third Anniversary and the Total Value of the Loan Amount plus the Grant Amount is \$12,000.00, the Borrower’s Amount Due to Holder is [$\$12,000 - (2/6 * \$12,000)$], which equals \$8,000.00.

Or, for example, if a Payment Event occurs between the fourth and fifth Anniversary and the Total Value of the Loan Amount plus the Grant Amount is \$25,000.00 ($\$25,000$ less $4/11 * \$25,000$), the Borrower’s Amount Due to Holder is [$\$25,000.00 - (4/11 * \$25,000.00)$] is \$15,909.09.

The Total Value of the Loan Amount plus the Grant Amount is \$_____, and the applicable Length of the Affordability Period is _____ years.

(b) Source of Payment and Proration. The Amount Due shall be payable from the Net Proceeds. If the Net Proceeds are more than the Amount Due plus the amount of the Borrower’s Investment, any excess shall belong to Borrower. If the Net Proceeds are less than the Amount Due plus the amount of the Borrower’s Investment, Borrower and Holder shall split the Net Proceeds on a pro-rata basis as follows:

(Amount Due)

(Amount Due + Borrower’s Investment) X Net Proceeds = Holder’s prorata portion

(Borrower’s Investment)

(Amount Due + Borrower’s Investment) X Net Proceeds = Borrower’s prorata portion

For example, if the Amount Due is \$6,000.00, the Borrower’s Investment is \$4,000.00, and the Net Proceeds are \$5,000.00, Holder would be entitled to \$3,000.00 of the Net Proceeds, and Borrower would be entitled to \$2,000.00 of the Net Proceeds.

(c) No Net Proceeds. If the Net Proceeds are zero, there will be no Amount Due to Holder.

(d) Application of Payments. Lender will apply any payment first to any charges or other amounts owed under this Note or any other Loan Document, second to any accrued and unpaid interest under this Note, and finally to principal.

(e) Exceptions. If the Payment Event is a Fraudulent Transfer or if any representation

made by Borrower in connection with the Loan was false in any material respect when made, notwithstanding subsections (a)-(c), Borrower shall owe Holder the full Loan Amount, including interest at the Default Rate from the date of the Fraudulent Transfer or the date the misrepresentation is discovered (as the case may be) until payment in full. If there is a Fraudulent Transfer, Holder shall be under no obligation to release any collateral for the Loan, including the Deed and the Property, until the Loan Amount has been paid in full, including all accrued interest.

3. Prepayment. Borrower may prepay this Note in full or in part at any time and from time to time without notice, penalty, or prepayment fee, and, if prepaid in full, the Amount Due at the time of the prepayment shall be calculated under section 2(a), using the date of prepayment as if it were the date of a Payment Event.

4. Costs and Fees. If this Note is collected by law or through an attorney at law, in addition to any other amounts owed under this Note, Borrower shall be liable for all costs of collection incurred by Holder, including attorney's fees equal to 15% of the Loan Amount, whether or not suit is brought and whether incurred in connection with collection, trial, appeal, or otherwise.

5. Payment Events. The following events are "Payment Events" under this Note: (a) a Transfer before the end of the Affordability Period; (b) at any time during the Affordability Period, Borrower's family does not occupy the Property as its principal residence; or (c) Lender declares a default under the Deed.

6. Miscellaneous. **Time is of the essence of this Note.** This Note shall be construed and enforced in accordance with Georgia law. As used in this Note, the words "Borrower" and "Holder" shall include their respective heirs, representative, successors and assigns. If there is more than one person signing this Note, each person signing shall be jointly and severally liable with all other persons signing. By signing this Note, Borrower: (a) waives demand, presentment of payment, notice of dishonor and nonpayment, protest, notice of protest, and all other notices and diligence in collecting this Note; (b) agrees to any substitution, addition, subordination, or release of any collateral (including the Property) or of any person primarily or secondarily liable on this Note; (c) agrees that Holder shall not be required first to sue or exhaust its remedies against Borrower or any other liable person or against any collateral (including the Property) in order to enforce payment of this Note; (d) agrees that Holder may exercise or refrain from exercising any right or remedy that it may have; and (e) agrees that, notwithstanding the occurrence of any of the foregoing, Borrower is liable for all sums due under this Note, unless Holder releases Borrower in writing. No waiver or release by Holder shall be effective unless in writing. A waiver or release with reference to one event shall not be construed as continuing or as a bar to or waiver or release of any subsequent right, remedy, or recourse as to any subsequent event. Borrower waives all homestead and exemption rights it may have under federal or state law, both as to himself and in all of his real and personal property, against the enforcement and collection of the obligations evidenced by this Note. To the extent Borrower has the power to do so, Borrower assigns to Holder a sufficient amount of such homestead or other exempt property as may be set apart in bankruptcy to pay this Note in full with all costs of collection and directs any trustee in bankruptcy having possession of such homestead or exempt property to deliver to Holder a sufficient amount to pay the debt evidenced by this Note. To the extent possible,

Borrower appoints Holder as his attorney-in-fact to claim any and all exemptions allowed by law. Borrower understands that Lender will collaterally assign this Note and any other documents relating to the Loan to GHFA and that GHFA shall have all the rights of "Holder" under this Note.

IN WITNESS WHEREOF, Borrower has executed this Note.

Date: _____

Name: _____
[Typed or Printed Name]

Date: _____

Name: _____
[Typed or Printed Name]

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