

STATE OF TEXAS §

COUNTY OF BRAZOS §

REAL ESTATE PROMISSORY NOTE

DATE: **August 13, 2019**

BORROWER(S): **Pamela K. Moorehead**
1110 E. 21st Street
Bryan, Texas 77803

LENDER: CITY OF BRYAN, TEXAS
Community Development Services Department
1803 Greenfield Plaza
Bryan, Texas 77803

PRINCIPAL AMOUNT: **ONE HUNDRED TWENTY-SEVEN THOUSAND
FOUR HUNDRED FIFTY-SEVEN AND 72/100
DOLLARS (\$127,457.72)**

ANNUAL INTEREST RATE: 0% per annum for \$92,457.72 repayment loan for a
period of Thirty (30) years; 0% per annum for
\$35,000.00 deferred subsidy loan

PROPERTY: Being all that certain lot, tract or parcel of land lying and
being situated in Brazos County, Texas and being Lot
Twenty (20), Block Two (2) WILEY B. HIGGS
DIVISION, an addition to the City of Bryan, Texas,
according to plat recorded in Volume 38, page 555,
Deed Records of Brazos County, Texas, also known as
1110 E. 21st Street.

I. PURPOSE

- A. This Note implements requirements applicable to assistance furnished by the City of Bryan, Community Development Services Department (Lender) to **Pamela K. Moorehead**, (Borrower) under a Housing Rehabilitation Assistance Program (Program) to help eligible individuals and families. Lender, using HOME Investment Partnerships Program (HOME) funds furnished by the United States Department of Housing and Urban Development (HUD), is carrying out this Program, as authorized by 42 USC 12703.
- B. The Lender has assisted the Borrower in improving the Property for use as the Borrowers' principal residence. The Lender or any authorized party who takes this Note by assignment and is entitled to receive amounts due under this Note is called the Note Holder.

II. BORROWERS PROMISE TO PAY

- A. Obligation to Repay Principal (**\$92,457.72**).
 - 1) In return for the reconstruction assistance that is part and parcel of the purchase money for

the Property and its improvements, which the undersigned Borrower has received pursuant to the Program for the rehabilitation/ reconstruction of the Property, Borrower hereby promises to pay the principal amount of NINETY-TWO THOUSAND FOUR HUNDRED FIFTY-SEVEN AND 72/100 DOLLARS (\$92,457.72) ("Principal") to the order of Lender. Payment of Principal and zero interest under this Note will be made in equal monthly payments for the period specified.

- 2) Borrower agrees that no interest is will be paid except in the event of a default on this note by Borrower, in which case interest shall accrue from the date of the event of breach until paid at the rate of ten percent (10%) per annum.
- 3) Principal and interest on the \$92,457.72 in the amount of \$256.83 shall be payable in 360 monthly installments beginning on the 1st day of February, 2020. A like installment shall be payable on or before the same day of each succeeding month until the note has been paid. Notwithstanding the foregoing, this Note may not be pre-paid during the Owner Occupancy Period, defined below.
- 4) In the event of a change in the scope of the work requiring a change order, the Principal may be amended accordingly, provided that Borrower and Lender agree in writing. In such a case, if the change order is for less than \$25,000 and is equivalent to less than twenty-five percent of the original Principal amount, Lender delegates approval authority for such a change order to the City Manager, or his or her designee, as allowed by state law and city ordinances.

B. **Obligation to pay Deferred Subsidy (\$35,000.00)**

- 1) The THIRTY FIVE THOUSAND AND 00/100 DOLLARS (\$35,000.00) remainder of this note is in the form of a zero interest, deferred loan ("Subsidy"). The Subsidy shall be deferred until the Borrower is deceased, or in the event the Borrower sells, refinances, or transfers the Property, or any interest therein (including a beneficial interest) to any other person or entity, or the Borrower no longer occupies the Property as her primary residence. In the event that the Borrower dies, the representative of the estate has 180 days from the date of death to repay the Subsidy.
- 2) If the Borrower dies, sells, refinances or transfers the property or any interest therein (including a beneficial interest) from Borrower to any other person or entity, or the Borrower no longer occupies the Property as her primary residence, during the Affordability Period as defined in Paragraph III.A., a prepayment penalty shall become due and payable in an amount equivalent to **\$1,050.00** per year for the period between the date of the death, sale, transfer, or change of occupancy and the end of the Owner Occupancy Period. The prepayment penalty may be waived, at the discretion of the Lender, if the Note is transferred or refinanced to a different qualified borrower.
- 3) Borrower acknowledges and understands that the Subsidy is deferred in accordance with the Program requirements, so long as those requirements are being met. In the event that Borrower is in default, as stated in Paragraph V, the Subsidy, and prepayment penalty if applicable, become due and payable and all sums due shall accrue interest at the rate of ten percent (10%) per annum from the date of default until paid.

III. OWNER OCCUPANCY PERIOD

- A. In accordance with the terms of the Program, during the ten year Owner Occupancy period

("Occupancy Period") the Borrower must continue to make the Property his or her primary residence, and the property may not be sold, transferred, or assigned by Borrower, including without limitation a change of ownership due to death, divorce, legal separation, or legal incapacity of Borrower, without first obtaining Lender's written permission. The terms of this Note may be assigned in the event of a change in ownership of the property that results from the death, divorce, legal separation, or legal incapacity of Borrower, provided that the new owner of the Property meets the requirements of the Program.

- B. If the Property is sold, transferred, or assigned to a new owner that does not meet the requirements of the Program within the Owner Occupancy Period, the Borrower is in breach of the terms of this Note. In addition to other remedies at law and otherwise set forth herein, the Subsidy shall become due and payable, along with the prepayment penalty and any outstanding Principal and interest.
- C. If the Property is sold, transferred, or assigned to a new owner that does not meet the requirements of the Program after the end of the Owner Occupancy Period, the Subsidy shall become due and payable, along with any outstanding Principal and interest.

IV. RELEASE AND SATISFACTION

- A. In the event of a sale, transfer, or assignment within the Owner Occupancy Period, Borrower shall repay the Subsidy and any Prepayment Penalty, at or before the time the sale, transfer, or assignment is completed or within 180 days of the Borrower's death, in the case of repayment by the Borrower's estate.
- B. In the event of a sale, transfer, or assignment after the end of the Affordability Period, Borrower shall repay the Subsidy, at or before the time the sale, transfer, or assignment is completed or within 180 days of the Borrower's death, in the case of repayment by the Borrower's estate.
- C. If the conditions for repayment have been met, Lender shall execute a release of the deed of trust.

V. DEFAULT

- A. Events of Default. Any of the following events shall constitute a Default under this Note:
 - 1) If the Borrower rents or leases (including an oral lease) the Property, to any person or entity during the Owner Occupancy Period, except that the Borrower may rent limited space, such as a room or basement, in a single-unit Property, to the extent permitted by the law of the jurisdiction, provided that the Borrower continues to occupy the unit as his or her Principal Residence.
 - 2) If the Borrower fails to occupy Property as principal residence. If all Borrowers are continuously absent from the Property for a period of more than thirty days, or move substantially all their personal possessions out of the Property, without the written consent of the Lender, Borrowers shall be deemed not to be occupying the Property as their Principal Residence.
 - 3) Any default under the Deed of Trust.
 - 4) Any default under the Deed of Trust.

- 5) Any breach of the terms of this Note.
 - 6) Any willful misstatement of, or failure to disclose, a material fact by Borrower relating to his or her eligibility for assistance with respect to the Property under the Lenders' Program is a Default under this Paragraph. Recovery against the Borrower responsible for the fraud or misrepresentation is not limited to the proceeds of fraud or sale of the Property but may include personal judgment and execution thereon to the full extent authorized by law.
 - 7) If the Borrower is convicted of a felony (including a state jail felony) arising out of conduct that occurred during the Affordability Period. If the Borrower allows a person to use the Property as a residence during the Affordability Period, and that person is convicted of a felony arising out of conduct that took place while the person was using the Property as a residence.
 - 8) If the Borrower is cited for violations of City Ordinances relating to the Property (e.g. Building Code, Nuisances, Health and Safety, etc.) three (3) or more times within a twelve (12) month span during the Affordability Period.
- B. Notice of Default and Amount Due. If Borrower is in Default, the Lender may send Borrower a written Notice of Default stating the reason Borrower is in Default and demanding immediate payment of the following:
- 1) The full amount of Subsidy and Principal then due on this Note, including interest from the date of the Notice of Default until paid.
 - 2) All of the Note Holders' costs and expenses reimbursable under Paragraph 5.D. This Notice shall be sent to Borrower at the above address, certified mail, return receipt requested.
- C. Right of Foreclosure. In the event of any default of the Borrower, Note Holder has the right of foreclosure against this property and its improvements, according to the terms of the Deed of Trust of executed of even date.
- D. Payment of Note Holders' Costs and Expenses. If the Note Holder has provided Borrower with a Notice of Default, the Note Holder has the right to be repaid from the proceeds of foreclosure for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include for example, reasonable attorney fees.
- E. No Waiver by Note Holder. Even if, at any time when Borrower is in Default, the Note Holder does not require Borrower to pay immediately in full under Paragraph 5.B., the Note Holder will still have the right to do so if Borrower is in Default for the same reason, or for another reason, at any later time.

VI. GIVING OF NOTICES

Any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by certified mail, return receipt requested to Borrower at the Property Address above, or at a different address if Borrower gives the Note Holder a written notice of a different address.

VII. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed from the proceeds of a Sale of the Property. Any person who is a guarantor, surety or endorser of this Note is also obligated to the same extent. Any person who takes over these obligations including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all signers, successors, guarantors, sureties, or endorsers together.

VIII. WAIVERS

Borrower and any other person who has obligations under this Note waive the rights of Presentment and Notice of dishonor. **Presentment** means the right to require that the Note Holder formally demand payment of amounts due. **Notice of dishonor** means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

IX. COMPLIANCE WITH ENVIRONMENTAL LAWS

Borrower agrees to comply with all applicable environmental laws and authorities.

X. MAINTENANCE OF PROPERTY

The Property must be maintained to meet all applicable City codes, including community appearance standards and code enforcement ordinances.

XI. GOVERNING LAW

The law of the State of Texas shall govern this Note and the Deed of Trust. Venue shall lie with a court of competent jurisdiction in Brazos County, Texas.

BORROWER

Pamela K. Moorehead

LENDER--CITY OF BRYAN

Andrew Nelson, Mayor

APPROVED AS TO FORM

Janis K. Hampton, City Attorney

ATTEST

Mary Lynne Stratta, City Secretary

STATE OF TEXAS

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COUNTY OF BRAZOS

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2019, by **Pamela K. Moorehead** as BORROWER for the reconstruction of the property described herein.

Notary Public, State of Texas