



**HOUSING AND NEIGHBORHOOD REVITALIZATION
HOUSING ASSISTANCE PROGRAMS
NEW CONSTRUCTION &
EXISTING HOME PURCHASE
PROGRAM GUIDELINES**



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**CITY OF PORT ARTHUR
HOUSING AND NEIGHBORHOOD REVITALIZATION
HOUSING ASSISTANCE PROGRAMS
NEW CONSTRUCTION & EXISTING HOME PURCHASE
PROGRAM GUIDELINES**

PURPOSE

The overall objective is the development of viable communities by providing affordable housing, promoting a suitable living environment and expanding economic opportunities, primarily for low income persons and families in the City of Port Arthur.

In order to address the need for affordable housing, the City of Port Arthur established a New Construction & Existing Home Purchase Program that is administered through the Housing and Neighborhood Revitalization Department of the City of Port Arthur. The City of Port Arthur's New Construction & Existing Home Purchase Programs are designed to provide direct financial assistance primarily to low to moderate income persons. Through the utilization of Federal and local funds, families will be given the opportunity to own a home of their own. The funds are used to provide interim financing for construction and used to buy down mortgage interest rates, pay closing costs and principle reduction. Participants must qualify for mortgage financing through a lending institution, which utilizes standard underwriting procedures.

APPLICANT ELIGIBILITY REQUIREMENTS

To be eligible to receive homebuyer's assistance from the City of Port Arthur's New Construction & Existing Home Purchase Program, applicants must meet the following requirements:

1. Applicant(s) total projected annual gross household income must not exceed eighty percent (80%) of the current median income for the area, adjusted for family size, as established by the U.S. Department of Housing and Urban Development (HUD). The income calculation will be determined by the Housing Department as required by Federal Regulation. Income will be verified by the Department by reviewing and documenting tax returns, copies of wage receipts (paycheck stubs), subsidy and/or benefit checks, bank statements and third party verification of employment, (using forms sent directly to employers). All documents expire 6 months after income certification date.

2. Applicant(s) must not currently own a home.

Exceptions:

- a. A single parent, defined as an individual who is legally separated or divorcing from a spouse and has one or more minor children for whom the individual has custody or joint custody, or who is pregnant at the time of application.
- b. An individual or family whose principal residence during the twelve month (12 month) period, prior to the purchase of a home using the City of Port Arthur's Housing Assistance Program funds, is not affixed to a permanent foundation, (i.e.: mobile home), in accordance with local or other applicable codes and regulations.

- c. An individual or family whose residence is not in compliance with local building codes or other applicable codes, (i.e.: electrical wiring, plumbing, extensive roof damage, damaged foundations), and the unit cannot be brought into compliance for less than the cost of building a permanent structure.
 - d. A individual or family who desire to relocate to this community from a different City, State or Country.
3. Applicant(s) must be a U.S. citizen or a permanent resident or possess a current work authorization visa.
 4. Permanent residents and individuals with work authorization visa must provide a copy of both sides of their un-expired immigration documents from the Immigration and Naturalization Services.
 5. Applicant(s) must certify that he/she/they will occupy the unit as his/her/their primary residence for the full term of the required period of affordability, as determined by the amount of assistance received.
 6. Applicant(s) must be able to obtain financing from a private or public lending source.
 7. Applicant(s) requesting assistance must provide prior two (2) years income tax forms as filed with the IRS, Completed and sign forms retrieved from the IRS will be accepted.
 8. Applicant(s) may not receive cash back at closing.
 9. Applicant's family size must be appropriate for the number of bedrooms in the available unit. All dependents must have verifiable supporting documentation, (i.e. birth certificate, social security card, legal documentation of adoption or guardianship, school records with matching address for children). Unborn children are included.
 10. Applicant(s) must successfully complete a minimum of eight (8) hours in a homebuyer's counseling & training course by a HUD Certified Housing Counseling Agency.
 11. Applicant(s) must provide proof of income; current and projected income will be used to evaluate applicant's eligibility for assistance.
 12. Applicant(s) must sign an authorization for release of information for verification of employment and income.
 13. While Federal assistance (HOME or CDBG) cannot be provided to any applicant(s) with a projected gross annual income above 80 percent of the area median income. Applicant(s) with a projected gross annual income at 81 percent and above may be eligible to receive an interest free loan in the amount of \$5,000 which may be used as subsidy funding for down payment and closing costs assistance as identified in Resolution 02-213; or, the funds may be utilized as a deferred grant to acquire land and perform site preparations for new construction activities. Funding is provided through utilization of the non-federal funds. Funds are available at the discretion of the City Manager and or his/her designees.

Applicant(s) meeting the criteria will be processed on a first come, first served basis, provided the applicant has provided ALL of the required documents.

No commitment is made or implied until the City of Port Arthur's Housing & Neighborhood Revitalization Department has approved funding for each application.

Due to the funding limitations, no applicant should assume any commitment even when applicant(s) must expend personal funds to meet application requirements.



Application Process

1. Interested applicants will be given an application form, requirement of verifications and instructions for completion. The City's Housing & Neighborhood Revitalization Department will explain the program requirements in detail at the time the application is given to the applicants.
2. Applications are deemed complete only if all information is completed, the application is signed and dated.
3. Once a completed application is received by the Department, (or when the applicant(s) name come to the top of the waiting list), their program eligibility will be verified by the Department.
4. Applicants will be required to complete a minimum of eight (8) hours in a Homebuyer's Education Course as approved by the City of Port Arthur. Upon successful completion of the course, the applicants shall be directed to apply for a full mortgage approval. Once qualified, the applicants will be encouraged to select a suitable and affordable existing house or select a suitable new construction home, as applicable, and submit an earnest money contract on the property; as designated by representative or seller of the property; (\$1,000.00 required for new construction (City of Port Arthur owned homes) or amount designated by representative or seller of the property and \$500.00 required for existing home purchase, unless otherwise designated by the seller or representative of the property).
5. If the Department encounters material discrepancies and/ or misrepresentations, and/or there are income, asset, household composition, or other important questions that can't be resolved, the Department reserve the right to deny assistance to the household. In this case, the applicant may re-apply after 60 days have elapsed from the time of written denial.
6. The lender will then coordinate the required information with Housing Department to complete the file for closing. During this process, the applicant may be contacted by a Housing staff member for additional information.
7. Closing on the property will take place at selected title company. At closing, the applicant will receive a detailed explanation of the terms and conditions of the Lender.

DIRECT FINANCIAL ASSISTANCE

Eligible applicants earning 80 percent or less of the area median income may receive up to **\$40,000.00** in direct financial assistance for new construction. This assistance will be limited to applicants earning 80 percent or less of the area median income. This assistance shall not exceed the difference between the maximum amount of a first mortgage from a private lender and the selling price of the home plus closing costs.

When an existing house is purchased, eligible applicants, may receive up to **\$14,995.00** in direct financial assistance to be used for down payment and/or closing costs assistance. This assistance will be limited to applicants earning 80 percent or less of the area median income. This assistance shall not exceed the difference between the maximum amount of a first mortgage from a private lender and the selling price of the home plus closing costs.

LOAN APPLICATION PROCESS

1. Approval Process for Assistance

- a. Once your application packet is submitted to the Housing office, staff will determine if your household meet basic income and eligibility requirements. The City will rely on the information included in the homebuyer application and the backup documentation provided. Depending on the particular circumstances, the City may request additional information or documentation.
- b. After income eligibility has been determined, an income certification will be signed by you and all household members over 18 yrs. old. An income certification letter will be sent by mail after the Housing Director review your file.
- a. The applicant will then complete a Homebuyer Education Counseling, and will receive a certificate of completion from the work shop provider. The homebuyer certificate must be submitted to the Housing office.
- b. Once the pre-approved for a loan, a copy of loan approval must be submitted to the Housing office for your file.
- c. The applicant will then select a home. A real estate agent can assist applicant with selecting a home and will execute a purchase contract. However, a real estate agent is not required.
 - A Housing Quality Standards Inspection is required on all homes and must past inspection (repairs are completed at sellers expense) before any funding is issued for down payment assistance.
 - Applicants choosing an existing home, must have a termite inspection on the property selected for purchase at the Buyer's expense.
 - A lead and asbestos test is required for all properties built before 1978 at the Buyer's expense.
- f. The approved applicant will be given instructions to contact a financial institution of their choice for a full mortgage loan approval.
- g. The lender will be required to contact the Housing Department to request additional information.

2. Application – Lending Institutions

- a. Applicant(s) seeking conventional, FHA or VA financing must contact a lending institution of their choice and submit application. Housing & Neighborhood Revitalization Staff shall provide technical assistance.
- b. A written application signed by the applicant(s), accompanied by the required fees for the appraisal and credit report, etc., including other information required by lender, shall constitute an application.
- c. The Housing & Neighborhood Revitalization will issue a down payment assistance letter of commitment to applicants to be given to the lender showing the amount of assistance the applicants qualify for.
- d. The Housing & Neighborhood Revitalization shall respect the decision of the lenders to approve or reject any loan.

3. Loan Approval

- a. The completed written loan data is reviewed by the lender and the loan is either:
 - i. Approved.
 - ii. Conditionally approved, subject to additional terms; or
 - iii. Rejected.
- b. Once notification of loan approval is received, applicants are required to provide a loan commitment from the lending institution. The Housing & Neighborhood Revitalization will issue a HOME Agreement, Resale & Recapture Provisions to be signed by the applicants. The HOME Agreement, Resale & Recapture Provisions stipulates that the applicants must remain in the home for a minimal of five (5) years for existing home purchase and a minimal of ten (10) years for new construction, based on the amount of assistance received. In case the property is sold or rented within the period of affordability, the balance of the HOME or CDBG subsidy funds provided is payable in full to the City of Port Arthur.

4. Preparation for Loan Closing

All loans will close at a local Title Company.

- a. Title Check
 - i. Firm commitment of loan approval is made.
 - ii. Commitment of Title, property survey, and an estimate of yearly tax assessment are ordered from a local title company.
 - iii. The applicants are instructed to provide information regarding his property insurance coverage to the title company. It is required that the City of Port Arthur be named as an additional "Loss Payee" on the insurance policy along with the first mortgage lender for the purpose of securing the interest invested in the property.
- b. Legal Document Preparation
 - i. The title company forwards the Commitment of Title, survey, tax and insurance information to the lender.
 - ii. The lender reviews the documents and forwards them to an attorney for preparation of the loan documents.
 - iii. The lender's closing instructions, legal documents from the attorney and a down payment assistance check are sent to the title company for loan closing. The City of Port Arthur reserves the right to review the closing documents prior to releasing the down payment assistance funds.
 - iv. The title company reviews the documents, completes the requirements and sets a date for closing.
- c. Loan Closing

The borrowers and sellers sign the legal documents at the title company; the loan proceeds are disbursed and the transaction is completed. The Housing Assistance Staff will provide adequate assistance to the homebuyer through the entire process. It is required that the City of Port Arthur receive a copy of the first mortgage lender's note, deed of trust, the HUD 1 Settlement Statement and final appraisal.

PRE-EXISTING ELIGIBLE PROPERTIES

An eligible homebuyer may qualify to receive funding to assist with rehabilitation of an existing unit. Funding shall not exceed \$50,000 for the full rehabilitation of the unit. The rehabilitation must be completed prior to the closing of the loan for permanent financing by a Financial Institution.

Properties must be a single family, owner-occupied residence. All properties participating in the program require inspections by a City Certified Housing Inspectors. The properties must meet locally adopted Property Standards, the States most current International Residential and Building Codes, and all other applicable State & Local Codes, including Lead Base Paint Regulations prior to the closing of the loan.

Funding for any required rehabilitation will be provided to the eligible low and moderate-income homebuyer as a deferred forgivable loan that will be subject to the applicable affordability period as identified in 24 CFR 92.

As part of the inspections process, the City will request a Lead Based Paint and Termite Inspection on ALL homes, at the Buyer's expense, provided the potential homebuyer has a full mortgage approval.

The applicants must deliver and Seller must sign a *Notice to Real Property Owner/Seller*. An executed copy of this document must be provided to the City.

The applicant(s) will be provided with a Lead Hazard Information pamphlet "*Protect Your Family from Lead In Your Home, EPA747-K-99-001*".

An Environmental Review Report (ERR) must be prepared by the Housing & Neighborhood Revitalization Department.

ENVIRONMENTAL CLEARANCE REQUIREMENTS

A. The City shall be responsible for providing all information, concerning HOME Investment Partnership and Community Development Block Grant Program funded projects, required for City to meet its responsibilities for environmental review, decision making, and other action which applies to City in accordance with and to the extent specified in 24 CFR, Part 58. In accordance with 24 CFR 58.77(b), the City shall make all reasonable efforts in handling inquiries and complaints from persons and agencies seeking redress in relation to environmental reviews covered by approved certifications.

PROPERTY INSPECTIONS

The Port Arthur's Housing & Neighborhood Revitalization Department requires all properties to be inspected by a Certified Inspector or a representative or agent appointed by the Housing & Neighborhood Revitalization Department to determine if the properties meet the acceptable criteria according to the Locally Adopted Property Standards, the State's International Residential Codes and all other applicable State & Local Codes. The City of Port Arthur's Housing & Neighborhood

Revitalization Department reserves the right to perform its own inspection of any unit prior to settlement.

LAND ACQUISITION AND SITE PREPARATION

Land will be provided as available for new construction activities on a case by case basis from the City's Land Bank Program **until the Land Bank is closed.**

Additional land may be acquired and cleared of debris, trees, sidewalks, etc., and provided for applicant(s) earning 80 percent or less of the area median income.

Applicant(s) earning between 81 and 120 percent of the area median income can qualify to receive funds for new construction activities in the form of a \$5,000 / 10-year / 0% interest loan to assist with down payment and/or closing costs, as identified in Resolution 02-213; or, the \$5,000 may be provided as a grant and may be used to buy lots from the City to construct housing thereon. Funds are provided through utilization of non-federal funds. Recommendations to fund this activity is at the discretion of the City Manager or his/her designees as funds may be available.

MINIMUM/MAXIMUM HOME PROGRAM SUBSIDY AMOUNTS

The required minimum CDBG and HOME Investment is \$1,000 per unit; the maximum CDBG and HOME Program per unit subsidy (Section 221(d) (3) (ii) of the National Housing Act) is published and provided annually by the U.S. Department of Housing & Urban Development.

The maximum value of a newly constructed unit cannot exceed the maximum allowed under Section 203b of the National Housing Act.

The property must appraise for at least 100 percent or more of the sales price.

LOAN TERMS

Terms should be fixed where payments are affordable, based on the income per household. The City of Port Arthur's Housing Assistance Division reserves the right to deny assistance to those receiving extraordinarily high interest rates (11% and above). Applicants receiving such rates will be recommended for further debt counseling.

GIFTS

Gifts can be used for down payment and closing cost assistance, if the donor is a family member or a nonprofit organization with lending institutions permission.

CREDIT REPORTS AND CREDIT HISTORY

A residential mortgage credit report and credit history will be obtained and reviewed by a third party institution to determine applicant eligibility to qualify for a mortgage loan.

CLOSING COST AND/OR PRE-SETTLEMENT COSTS

Eligible applicants will receive direct financial assistance for closing costs and/or pre-paid items. This assistance will be provided to the title company or other approved closing agent(s) at the loan closing. No funds will be provided directly to the buyers.

MORTGAGE INSTRUMENTS

An attorney representing a local title company must draw up all closing papers. Current Fannie Mae/Freddie Mac uniform instruments may be used. The city will provide the soft second documents.

TITLE/HAZARD/WINDSTORM/FLOOD INSURANCE

Hazardous, Windstorm and Title Insurance required of all loans. Flood Insurance required only if the property is located in a hazardous flood zone on all loans and/or as required at the discretion of the lender. The minimum required amount of coverage must be sufficient to cover all secured debt.

APPRAISALS

Required on all loans.

SURVEYS

Required on all loans.

HOMEBUYER EDUCATION

Borrowers must participate in a homebuyer's education program. Participation in the training program will be documented in the loan file by a copy of the certificate issued by the HUD certified training agency.

BORROWER'S INCOME

The borrower's projected annual gross household income, adjusted for family size cannot be greater than 80 percent of the area median income as published by the U.S. Department of Housing and Urban Development (HUD). Staff and lenders must verify all sources of income for two full consecutive years in order to determine adequacy and continuance. All other forms of employment will be reviewed upon a case-by-case basis.

Verification of alimony or child support income for qualifying purposes is not restricted to divorce decrees or separation agreements. Other forms of verification are acceptable as long as they verify the amount received, and can demonstrate two years of past history and the continuation of income.

CIVIL RIGHTS

The Fair Housing Act (42U.S.C. 3601-20) and implementing regulations at 24 CFR part 10; Executive Order 11063, as amended by Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., 652 and 3CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing and implementing regulations at 24 CFR, Part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination on Federally Assisted Programs) and implementing regulations issued at 24 CFR, Part 1;

Executive Order 11063, as amended by Executive Order 12259, and 24 CFR part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive order 11063 or 24 CFR, Part 107 shall be a proper basis for the imposition of sanctions specified in 24 CFR 107.60;

The prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR, Part 146, and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR, Part 8;

The requirements of Executive Orders 1246 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR, Chapter 60.

The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise). Consistent with HUD's responsibilities under these Orders, each applicant must make efforts to encourage the use of minority and women's business enterprises in connection with CDBG and HOME funded activities. Each Contractor must prescribe procedures acceptable to the State to establish activities to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women. The Contractor/Subcontractor will be required to identify contracts which have been bid by minority owned, women owned, and/or small disadvantaged businesses.

The Age Discrimination Act of 1975 (42 U.S.C., Section 6101 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., Section 794) and "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban development", 24 CFR, Part 8. By signing this contract, Contractor understands and agrees that the activities funded herein shall be operated in accordance with 24 CFR, Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C., Section 4151 et. seq.), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

PROGRAM SPECIFIC REQUIREMENTS

Recapture Provision

Homes acquired with HOME program funds and provided subsidy assistance with CDBG and HOME funds must comply with the Federal CDBG and HOME Program Recapture Provision as identified in 24

CFR 92.253(a)(5)(ii). The homes must satisfy the affordability requirements for a time no less than the applicable period as indicated in the table that follows, beginning after a project has been completed.

During the affordability period, the following rules related to the buyer’s investment and the CDBG and HOME program funds are applicable:

- The dwelling acquired with the CDBG and HOME subsidy will be the principal residence of the participant and will not be rented or used for other purposes.
- The participant will not engage the property to obtain a mortgage, gift, sell or exchange the property without the written consent of the Municipality of the City of Port Arthur, Texas.
- The Municipality will inspect the property to assure that the participant is in compliance with these requirements during the affordability period of the property.
- The non-compliance with the terms and condition mentioned in this provision will obligate the participant to reimburse the total amount of the subsidy to the Municipality.
- The affordability period of the property will be as follows:

Homeownership Assistance per Unit	Affordability Period (Years)
Amount up to \$40,000	10
Amount of \$14,995	5

If the participant sells the property within the affordability periods and net proceeds are sufficient to repay CDBG and HOME Program Funds invested and homeowner investment, the Municipality will recover the full amount of CDBG and HOME investment only. The participant will recover any amount for investments and apply the following formula for distribution of surplus net proceeds.

Sale during affordability period	Recapture amount of Down Payment & Closing Costs subsidy funds only	Share of net proceeds Down Payment & Closing Costs Subsidy funds only
1 – 5 years	100 %	75 %
6 – 10 years	50 %	50 %

If the participant sells the property within any of the affordability periods, but net proceeds are insufficient to repay CDBG and HOME and homeowner investment, the Municipality will allow the participant to recover its whole investment before recapturing CDBG and HOME investments.

Other requirements shall apply:

- The participants will pay up to \$5,000 to cover the cost of legal service in case of breaches of any of the terms and condition of this provision.
- The participant will allow that the CDBG and HOME subsidy constitute a second mortgage to their property.
- Specific documentation required to calculate CDBG and HOME and net proceeds.
 - Housing Unit Sale Price (Settlement Statement)



- Homeowner Investments – evidence of down payment, closing costs, payments to principal, and any other capital investment to improve the housing unit (original Settlement statement and Capital Expenditures Receipts).
- Once the documentation is presented, the Municipality will determine the amount of the recapture on a case-by-case basis.

In addition to the recapture restrictions to be incorporated in the deed of sale and promissory note, other provisions will be established to guarantee that the units remain affordable for subsequent homebuyers. These provisions include the following considerations:

- A provision restricting refinancing and subsequent mortgages of the property, without the written consent of the Municipality. Refinancing will be limited to capital improvements without equity return. This restriction is necessary, as refinancing with cash return will have the effect of reducing the profit at resale thus violating the purpose of resale / recapture provisions. In addition, a higher monthly payment after refinancing could represent a risk of foreclosure due to income adjustments.
- A requirement that the property will be used as the principal residence of the homebuyer(s) will not be leased, converted, sold, donated, and permuted to other such use without written consent of the Municipality.

The indebtedness evidence by the Note, and any other financial obligation which may hereafter be imposed on borrower by the Lender, is subordinate to the indebtedness evidence by a note payable to a senior lender (“Senior Lien Holder”), which note is secured by a first deed of trust (the “First Deed of Trust”) dated of even date therewith encumbering certain real property located in Port Arthur, Texas (the “Property”).

In the implementation of the Homeownership Program, the Department will comply and will require recipients to comply with the provisions of 24 CFR 92.217, Income targeting Homeownership and 24 CFR 92.254, qualifications as affordable housing.

Written Agreements & Deed of Trust

The City Manager or his designee(s) shall be authorized to execute the Grant Agreements, Written Agreements, Second Lien Deed of Trusts, Promissory Notes, and Riders on an as needed basis for eligible program participants, at the close of a loan, utilizing the documents identified and attached hereto as “Attachment A” and “Attachment B” of these Guidelines. The City Manager or his designee(s) shall provide a reporting of such loan closings to the City Council quarterly.

Summary

The goals of our programs are to provide high quality, durable, resilient, mold resistant, energy efficient, decent, safe, and sanitary housing that meet Green Building Standards, and to provide homeownership opportunities for low to moderate-income families and individuals.

Providing false or misleading information during the application process will be automatic grounds for dis-qualification to participate in the Housing Assistance Programs.

GRIEVANCE PROCEDURE
City of Port Arthur Housing Assistance Programs

Should any applicant or participant of services from the Housing Assistance Division wish to file a grievance against the City of Port Arthur pertaining to services received or applied for, they may do so by the following procedure:

- 1) The person(s) filing the grievance may either verbally or in writing request an appointment with the Housing & Neighborhood Revitalization Manager to present the complaint. At this informal stage of the resolution process, the complaint may be presented either in written form or verbally. It is the Division's intent to respond to and resolve the complaint as practically & quickly as possible. A response to the complaint should be made no later than 10 working days from the date of receipt.
- 2) Should the response by the Housing & Neighborhood Revitalization Manager not be satisfactory to the person(s) bringing the complaint, an appeal may be made directly to the Assistant City Manager. At this stage of the resolution process, the request for appeal and the complaint itself should be submitted in writing. The complaint should fully describe the nature of the problem and contain all pertinent information that may aid in understanding the scope of the problem. The Assistant City Manager has option of meeting with the person(s) involved before reaching a decision. A response to the complaint should be made as expeditiously as practical, but no later than 10 working days from the date of receipt of all written information provided or requested.
- 3) Should the response by the Assistant City Manager not be satisfactory to the person(s) bringing the complaint, an appeal may be made directly to the City Manager requesting review of the decision. The request for appeal and review should be in writing. A response to the complaint should be made within twenty (20) working days from receipt of the request for appeal to the City Manager.

The following list identifies the names, addresses, and telephone numbers of the persons to contact to file a grievance:

Beverly A. Freeman
Housing & Neighborhood
Revitalization Manager
Development Services Building
Suite 500
300 4th Street
Port Arthur, TX 77640
(409) 983-8259

Pamela D. Langford
Director of Development Services
Assistant City Manager
3rd Floor, Room 337
444 4th Street
Port Arthur, TX 77640
(409)983-8135

Ronald Burton
City Manager
4th Floor, Room 410
444 4th Street
Port Arthur, TX 77640
(409) 983-8101

I (We), the undersigned, have read and understand the grievance procedure described above which is to be used for the purpose of resolving any complaint relating to the Housing Assistance Programs of the City of Port Arthur.

Applicant _____ Date _____ Co-Applicant _____ Date _____



**City of Port Arthur
Housing & Neighborhood Revitalization Department
REFUND POLICY**

Homebuyer Fees:

\$1,000 Housing Deposit (earnest money) – New Construction- *Only if the City of Port Arthur has contracted to have the home constructed.*

Existing Home Purchase – Please bring a copy of earnest money receipt after earnest money have been submitted to the title company.

- ⤴ **If a homebuyer cannot get an approval for a mortgage loan by a lending institution, the homebuyer will receive a full refund of his or her housing deposit.**
- ⤴ **If the homebuyer get an approval for a mortgage loan by a lending institution and the homebuyer changes his or her mind, the homebuyer will receive a refund of 90% of the housing deposit.**
- ⤴ **If homebuyer is rejected for loan or assistance due to falsification of information on his or her application and has paid a housing deposit, the homebuyer will receive a refund of 90% of the housing deposit.**
- ⤴ **Once the homebuyer signs an earnest money contract he or she will receive a 50% refund of the housing deposit. The housing deposit is recorded as earnest money when recorded at Title Company along with earnest money contract.**

This refund policy does not cover any fees paid directly to lending institutions. Normally, fees to lending institutions are nonrefundable.

Enhancement and Upgrade Escrow Funds:

Funds placed in escrow for enhancements and / or upgrades are nonrefundable once construction has begun. If homebuyer changes mind prior to initiation of construction, homebuyer will receive all but \$100.00 of escrowed funds.

I have read, understand and accept the above terms:

Agreed To By:

Applicant_____Date_____ Co-Applicant_____Date_____



ACKNOWLEDGEMENT:

All homeowners, potential homebuyers and/or tenants should receive a copy of the City Of Port Arthur's Housing & Neighborhood Revitalization Programs Guidelines for the Homebuyers Assistance Program and/or the Owner Occupied Housing Assistance Rehabilitation and Reconstruction Program, which contain information regarding the program rules and Federal Regulations in accordance with 24 Code of Federal Regulations Part 92 and 570.

I _____ and _____ acknowledge
(Print Your Name) (Print Your Name)

I have received, read and understand the City of Port Arthur's Homebuyers Assistance New Construction and Existing Home Purchase Program Guidelines and/or the Owner Occupied Housing Assistance Rehabilitation and Reconstruction Program Guidelines.

Applicant

Co-Applicant

Date



DEFINITIONS

Affordability: affordability refers to the requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME regulations. Affordability requirements vary depending on the nature of the HOME-assisted activity (i.e., applicantship or rental housing).

Age of housing: the number of year-round housing units, as further defined in section 102(a)(11) of the Act.

Affordable Housing: housing for which the occupant is paying no more than 30 percent of his or her income for gross housing costs, including utilities.

Affordability period: dictated by the amount of HOME funds committed to each HOME-assisted unit and the type of housing activity funded. Federal Final Rule Section 92.254 (a) (4) addresses the period of affordability for homeownership.

Annual Income: The HOME Program allows the use of one of three definitions of annual income: Section 8 annual income; annual income as reported on the U.S. Census long form; and adjusted gross income as defined for reporting on IRS Form 1040.

Affordability: the requirements of the HOME Program that relate to the cost of housing both at initial occupancy and over established timeframes, as prescribed in the HOME Final Rule. Affordability requirements vary depending upon the nature of the HOME assisted activity (i.e., applicantship or rental housing).

Annual Income: the HOME Program allows the use of three income definitions for the purpose of determining applicant eligibility:

1. annual income as defined in 24 CFR 5.609; or
2. annual income as reported under the Census Long Form for the most recent decennial census; or
3. adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

The definitions are collectively referred to as annual income and are also used in the Community Development Block Grant (CDBG) Program.

Appraisal Fee: a fee charged by an appraiser to estimate the market value of a property.

Appraised Value: an estimation of the current market value of a property.

Appraiser: a qualified individual who uses his or her experience and knowledge to prepare the appraisal estimate.

Applicant: a person or a family that has applied for housing assistance. [24 CFR 5.403]

Application: a written request for occupancy in a subsidized housing unit that includes the information required to determine eligibility for assistance and suitability for tenancy. Owners generally develop a standardized form that is completed by the prospective applicant. The application must be signed and dated by the applicant and include the applicant's certification that the information provided is complete and accurate.

Assets: the total resources of a person or business, as cash, notes and accounts receivable, securities, goodwill, or real estate (**opposed to liabilities**).

Borrower: a person who has been approved to receive a loan and is then obligated to repay it and any additional fees according to the loan terms.

Building Code: based on agreed upon safety standards within a specific area, a building code is a regulation that determines the design, construction, and materials used in building.

Closing: the final step in property purchase where the title is transferred from the seller to the buyer. Closing occurs at a meeting between the buyer, seller, settlement agent, and other agents. At the closing the seller receives payment for the property. Also known as settlement.

Closing Costs: fees for final property transfer not included in the price of the property. Typical closing costs include charges for the mortgage loan such as origination fees, discount points, appraisal fee, survey, title insurance, legal fees, real estate professional fees, prepayment of taxes and insurance, and real estate transfer taxes. A common estimate of a Buyer's closing costs is 2 to 4 percent of the purchase price of the home. A common estimate for Seller's closing costs is 3 to 9 percent.

Certification: shall have the meaning provided in section 104(21) of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12704.

Checklist: form developed by HUD for use by landholding agencies to report the information to be used by HUD in making determinations of suitability.

Contractors: a contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.

Credit: an agreement that a person will borrow money and repay it to the lender over time.

Credit Report: a report generated by the credit bureau that contains the borrower's credit history for the past seven years. Lenders use this information to determine if a loan will be granted.

Credit Score: a score calculated by using a person's credit report to determine the likelihood of a loan being repaid on time. Scores range from about 360 - 840: a lower score meaning a person is a higher risk, while a higher score means that there is less risk.

Deed of Trust: A *Deed of Trust* is a type of secured real-estate transaction that is used instead of mortgages. A deed of trust involves three parties: a lender, a borrower, and a trustee, where the lender (City) gives the borrower money. In exchange, the borrower gives the lender (City) one or more promissory notes. As security for the promissory notes, the borrower transfers a real property interest to a third-party trustee. This document is used in the event the borrower default on the terms of the loan, the trustee may take full control of the property to correct the borrower's default.

Documentation: source documents, such as wage statements, interest statements, unemployment compensation statements, etc., must be reviewed to determine annual (gross) income. Eligibility is based on anticipated income during the next 12 months.

Down Payment: the portion of a home's purchase price that is paid in cash and is not part of the mortgage loan. This amount varies based on the loan type, but is determined by taking the difference of the sale price and the actual mortgage loan amount. Mortgage insurance is required when a down payment less than 20 percent is made.

Document Recording: after closing on a loan, certain documents are filed and made public record. Discharges for the prior mortgage holder are filed first. Then the deed is filed with the new owner's and mortgage company's names

Earnest Money (Deposit): money put down by a potential buyer to show that they are serious about purchasing the home; it becomes part of the down payment if the offer is accepted, is returned if the offer is rejected, or is forfeited if the buyer pulls out of the deal. During the contingency period the money may be returned to the buyer if the contingencies are not met to the buyer's satisfaction.

Fair Housing Act: title VIII of the Civil Rights Act, 42 U.S.C. 3601. The Fair Housing Act is a broad statute that prohibits discrimination based upon race, color, religion, sex, national origin, disability, or familial status in most housing and housing-related transactions.

Family: a household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the program with the person with AIDS at the time of his or her death.

Federal Financial Assistance: any assistance provided or otherwise made available by the Department through any grant, loan, contract, or any other arrangement, in the form of:

1. Funds;
2. Services of Federal personnel; or
3. Real or personal property or any interest in or use of such property, including:
 - a. Transfers or leases of the property for less than fair market value or for reduced consideration; and

b. Proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government.

First-come, first-served: means applicants are served on a first-come, first-served basis. To ensure fairness, the date and time they applied should be stamped on their application by the person receiving the application.

Full-Time Student: means a person who is attending school or vocational training on a full-time basis.

Grant: an award of financial assistance, the principal purpose of which is to transfer a thing of value from a federal agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). A grant is distinguished from a contract, which is used to acquire property or services for the federal government's direct benefit or use.

Gross Income: money earned before taxes and other deductions. Sometimes it may include income from self-employment, rental property, alimony, child support, public assistance payments, and retirement benefits.

Hazard Insurance: protection against a specific loss, such as fire, wind etc., over a period of time that is secured by the payment of a regularly scheduled premium.

Home Inspection: an examination of the structure and mechanical systems to determine a home's quality, soundness and safety; makes the potential homebuyer aware of any repairs that may be needed. The homebuyer generally pays inspection fees.

Homeowner's Insurance: an insurance policy, also called hazard insurance, that combines protection against damage to a dwelling and its contents including fire, storms or other damages with protection against claims of negligence or inappropriate action that result in someone's injury or property damage. Most lenders require homeowners insurance and may escrow the cost. **Flood insurance is generally not included in standard policies and must be purchased separately.**

Homeownership Education Classes: sessions that stress the need to develop a strong credit history and offer information about how to get a mortgage approved, qualify for a loan, choose an affordable home, go through financing and closing processes, and avoid mortgage problems that cause people to lose their homes.

Housing Counseling Agency: provides counseling and assistance to individuals on a variety of issues, including loan default, fair housing, and home buying.

Household: one or more persons occupying a housing unit.

HUD1 Statement: also known as the "settlement sheet," or "closing statement" it itemizes all closing costs; must be given to the borrower at or before closing. Items that appear on the statement include real estate commissions, loan fees, points, and escrow amounts.

Low-Income Family: a family whose annual income does not exceed 80 percent of the area median income, as determined by HUD, with adjustments for smaller and larger families.

Low and Moderate Income: low and moderate income (also referred to in this manual as LMI) means family or household with an annual income less than the Section 8 Low Income Limit, generally 80 percent of the area median income, as established by HUD.

Income Household/Family: a household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Moderate-Income Household/Family: a household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

Interest Rate: the amount of interest charged on a monthly loan payment, expressed as a percentage.

International Residential Code (IRC): the International Residential Code is a comprehensive, stand-alone residential code that creates minimum regulations for one- and two-family dwellings of three stories or less. It brings together all building, plumbing, mechanical, fuel gas, energy, and electrical provisions for one- and two-family residences

Lender: a person or company that makes loans for real estate purchases. Sometimes referred to as a loan officer or lender.

Loan: money borrowed that is usually repaid with interest.

Loan Officer: a representative of a lending or mortgage company who is responsible for soliciting homebuyers, qualifying and processing of loans. They may also be called lender, loan representative, account executive or loan rep.

Low-and moderate-income household: a household having an income equal to or less than the Section 8 low-income limit established by HUD.

Low-and moderate-income person: a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose

Mortgage: a lien on the property that secures the Promise to repay a loan. A security agreement between the lender and the buyer in which the property is collateral for the loan. The mortgage gives the lender the right to collect payment on the loan and to foreclose if the loan obligations are not met.

Note: a legal document obligating a borrower to repay a mortgage loan at a stated interest rate over a specified period of time.

Pre-Approval: a lender commits to lend to a potential borrower a fixed loan amount based on a completed loan application, credit reports, debt, savings and has been reviewed by an underwriter. The commitment remains as long as the borrower still meets the qualification requirements at the time of purchase. This does not guaranty a loan until the property has passed inspections underwriting guidelines.

Principal Residence: refers to the main home where a person lives.

Property Standards: means as with all HOME-assisted properties, properties that are constructed with HOME funds must meet certain standards. (For full information on standards for all HOME-assisted properties, see Exhibit 2-1 in Chapter 2: General Program Rules.)

Property Tax: a tax charged by local government and used to fund municipal services such as schools, police, or street maintenance. The amount of property tax is determined locally by a formula, usually based on a percent per \$1,000 of assessed value of the property

Real Estate Agent: an individual who is licensed to negotiate and arrange real estate sales; works for a real estate broker.

Recapture provision: outlines the terms of recapture of PHA subsidy to the purchaser. The PHA may choose to recapture the entire amount of direct financing to the purchaser (generally in the form of a subordinate mortgage) or to forgive the loan over time.

Survey: a property diagram that indicates legal boundaries, easements, encroachments, rights of way, improvement locations, etc. Surveys are conducted by licensed surveyors and are normally required by the lender in order to confirm that the property boundaries and features such as buildings, and easements are correctly described in the legal description of the property.

Title Company: a company that specializes in examining and insuring titles to real estate.

U.S. Department of Housing and Urban Development (HUD): the Federal agency responsible for national policy and programs that address America's housing needs that improve and develop the Nation's communities, and enforce fair housing laws. HUD's business is helping create a decent home and suitable living environment for all Americans, and it has given America's cities a strong national voice at the Cabinet level.

Written Agreements: A legal document summarizing an agreement between parties.

Very-Low-Income Families: families whose annual incomes do not exceed 50 percent of the median income for the area (adjusted for family size).

“ATTACHMENT A”

WRITTEN AGREEMENT FOR THE CITY OF PORT ARTHUR’S HOMEBUYER’S ASSISTANCE *NEW CONSTRUCTION* PROGRAM



“ATTACHMENT A”

**WRITTEN AGREEMENT
FOR THE CITY OF PORT ARTHUR’S
HOMEBUYER’S ASSISTANCE NEW CONSTRUCTION PROGRAM**

This **APPLICANT** Agreement (“Agreement” hereinafter) is made and entered into by and between **THE CITY OF PORT ARTHUR, TEXAS**, through its duly authorized agent, Ron Burton, City Manager, hereinafter as **PARTICIPATING JURISDICTION**, and _____, Social Security Number XXX/XX/XXXX resident(s) of Port Arthur, Texas, hereinafter referred to as “**APPLICANT**”.

This Agreement sets forth the understanding of the parties concerning the City’s Community Development Block Grant (CDBG) Program 24 Code of Federal Regulations Part 570 and the HOME Investment Partnership (HOME) Program Homebuyers Assistance Program requirements in accordance with 24 Code of Federal Regulations Part 92. It is the intent of this Agreement to outline what eligible activities and procedures the **APPLICANT** must comply with in order to qualify for a Deferred Payment Forgivable Loan from the City’s Homebuyers Assistance Program. Each party has the necessary legal capacity and sufficiency to enter into this Agreement and does severally and collectively agree by the execution hereof, that they are bound to the mutual obligations and performances of the requirements described herein.

- 1. THE PARTICIPATING JURISDICTION** receives Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Program funds from the U. S. Department of Housing and Urban Development, (HUD) under the Title II of the Law of the National Housing Affordable of 1990 (National Affordable Housing Act of 1990), and is authorized to make contracts and agreements.
- 2. THE PARTICIPATING JURISDICTION** is an Entitlement city receiving funding annually under the CDBG and HOME Programs established under the National Affordable Housing Act and therefore has agreed to the use of said funds as identified its Consolidated Plan.
- 3. THE PARTICIPATING JURISDICTION** has as public policy for the authorization to develop, provide and facilitate the acquisition of decent, safe, sanitary and affordable housing in Port Arthur, Texas, and with such purpose has allocated program funds to acquire or develop affordable housing that will be sold to Low-Moderate Income residents.
- 4. APPLICANT** has requested assistance through the CDBG Program to acquire a housing unit located at _____, Port Arthur, Texas, which has a value of \$ _____, established in accordance with the appraisal carried out in the same or the purchase price established, whichever is lower.
- 5.** After conducting a detailed review of the **APPLICANT’s** application for assistance, the **PARTICIPATING JURISDICTION** has determined that the **APPLICANT** qualifies for assistance in the amount of up to \$40,000.00, which will be provided in the form of a Deferred Payment Forgivable Loan (“DPFL”), in accordance with the applicable federal, state and local requirements. The funding provided will be used to assist with down payment and/or closing costs associated with the purchase of a single-family dwelling unit located at _____, Port Arthur, Texas.
- 6.** The DPFL will be guaranteed by a Second Lien Deed of Trust and/or Deed Restrictions in favor of the City of Port Arthur, subordinate only to a private financial institution’s superior lien for a loan in a



greater amount. As an additional requirement, **APPLICANT** must comply with the City's Recapture Provisions established for the CDBG and HOME Programs in accordance to 24 Code of Federal Regulations Part 92.254 and Part 570.

7. Such Recapture Provisions as identified in 24 Code of Federal Regulations Part 92.254 and Part 570 incorporated herein as a part of the DPFL provide for the conditions that the **APPLICANT** must comply with prior to the disbursement of any funds. The Recapture Provisions will also be made a part of the Second Lien Deed of Trust supported by a Promissory Note executed between the parties at the time of actual disbursement of CDBG or HOME Program funds.

8. Recapture Provisions are an essential and integral part of this agreement and are incorporated herein.

9. The **APPLICANT** agrees to comply with the Recapture Provisions and further understands that funds will neither be granted nor disbursed if **APPLICANT** does not consent to the requirements of said provisions.

10. The **APPLICANT** acknowledges having read the Recapture Provisions and that they have been explained by CDBG and HOME Program staff. **APPLICANT** further acknowledges and agrees to comply with the same as a condition of receiving assistance.

11. The **APPLICANT** acknowledges and agrees to comply with the requirement that the dwelling unit must continue to be the principal residence of the **APPLICANT** during the period of affordability being ten (10) years, as set forth in the Recapture Provisions, and that it may not be used for any other purpose than that of **APPLICANT**'s principal residence during the same period. The **APPLICANT** acknowledges and agrees that this dwelling unit may not become rental property during the affordability period set forth in the Recapture Provisions. The **APPLICANT** further acknowledges and agrees that any violation of these requirements would require that the entire amount of assistance provided is subject to recapture, and must be repaid to the City, including any related expenditures, costs and attorney fees incurred by the **PARTICIPATING JURISDICTION** in the event of any resulting legal action.

12. The **APPLICANT** acknowledges and agrees that the dwelling unit must be acquired, evidenced by the execution of a Second Lien Deed of Trust and a Promissory Note, within six (6) months after the execution of this Agreement. This and any prior Agreements become null and void six (6) months from the execution date of this Agreement.

This document is made of record in Port Arthur, Texas on

Date:

PARTICIPATING JURISDICTION:

APPLICANT:

Ron Burton
City Manager

Signature

CITY OF PORT ARTHUR

CITY ATTORNEY

CO-APPLICANT:

Val Tizenso

Signature



“ATTACHMENT B”

SECOND LIEN DEED OF TRUST PROMISSORY NOTE RIDER FOR THE CITY OF PORT ARTHUR’S HOMEBUYER’S ASSISTANCE *NEW CONSTRUCTION* PROGRAM

“ATTACHMENT B”

NOTICE OF CONFIDENTIALITY RIGHTS IF YOU OR A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THE INSTRUMENT BEFORE IT IS FILED RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER.

SECOND LIEN DEED OF TRUST
NEW CONSTRUCTION PROGRAM

Date: _____

Grantor/Borrower: _____

Grantor’s/ Borrower’s Mailing Address (including county):

Port Arthur, Texas 77642
Jefferson County, Texas

Trustee: Ron Burton (or his designated successor)
City Manager

Trustee’s Mailing Address (including county):

Office of the City Manager
P.O. Box 1089
Port Arthur, TX 77640-1089
Jefferson County

Beneficiary/Lender: City of Port Arthur

Beneficiaries/ Lender Mailing Address (including county):

City of Port Arthur
Housing & Neighborhood Revitalization Department
P.O. Box 1089
Port Arthur, TX 77640-1089
Jefferson County

Obligation:

The City of Port Arthur is a home rule Beneficiary/Lender and participating jurisdiction in the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs. HOME Program. The City (hereinafter referred to as Beneficiary/Lender) has provided the Grantor/Borrower with up to \$40,000.00 of CDBG or HOME Program funds for down payment assistance



and closing costs. Pursuant to 24 Code of Federal Regulation Part 92.254, and Part 570 the period of affordability for homebuyer units is based upon the *direct CDBG or HOME subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any CDBG or HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

Note:

Date:

Original principal amount: up to \$40,000.00

Grantor/Borrower: _____

Beneficiary/Lender: City of Port Arthur

Maturity Date: (10 year affordability period)

Terms of Payment: As provided in the note, the Grantor/Borrower will abide by the requirements of the CDBG or HOME program.

Homeownership Assistance per Unit	Affordability Period (Years)
Up to \$40,000.00	10

That certain promissory note of even attached hereto as Exhibit "B" of even date herewith executed by Grantor/Borrower and payable to Beneficiary/Lender, in the principal amount of up to \$40,000.00. The Note shall mature and become finally due and payable upon the occurrence of any default during the Affordability Period of ten (10) years (the affordability period) after the date hereof) being unless the debt evidenced by the Note is forgiven as provided in the Note.

Recapture Provisions:

Homes acquired with CDBG or HOME Program funds must satisfy certain requirements for the ten (10) year affordability period. The funds must be recaptured in the event the following rules are not adhered to:

- The dwelling acquired with the CDBG or HOME subsidy must be the principal residence of the Grantor/Borrower and will not be rented or used for other purposes.
- The Grantor/Borrower will not engage the property to obtain a mortgage, gift, sell or exchange the property without the written consent of the Beneficiary/Lender.
- The Beneficiary/Lender will inspect the property to confirm that the participant is in full compliance with the CDBG or HOME program guidelines during the affordability period of the property.

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE HOME PROGRAM WILL OBLIGATE THE GRANTOR/BORROWER TO REIMBURSE THE TOTAL AMOUNT OF THE SUBSIDY TO THE BENEFICIARY/LENDER. The Beneficiary/Lender may recover up to \$5,000 for legal services rendered in the event of a breach of terms and conditions set forth above.



Sale of Property Within the Affordability Period:

If the Grantor/Borrower sells the property within the affordability period and the net proceeds are sufficient to repay all of the CDBG or HOME Program funds invested and Grantor/Borrower’s investment, the Beneficiary/Lender will recover the full amount of CDBG or HOME investment only. The participant will recover any amount for investments and apply the following formula for distribution of surplus net proceeds.

Sale during affordability period	Recapture amount of Down Payment & Closing Costs subsidy funds only	Share of net proceeds Down Payment & Closing Costs Subsidy funds only
1 – 5 years	100 %	75 %
6 – 10 years	50 %	50 %

If the participant sells the property within the affordability period and the net proceeds are insufficient to repay CDBG or HOME funds invested and the Grantor/Borrower’s investment, the Beneficiary/Lender will allow the Grantor/Borrower to recover its entire investment and will the Beneficiary/Lender will recapture any remaining funds. Specific documentation will be required to calculate CDBG or HOME and net proceeds. The Beneficiary/Lender may require additional information such as:

- Housing Unit Sale Price (Settlement Statement)
- Grantor/Borrower Investments – evidence of down payment, closing costs, payments to principal, and any other capital investment to improve the housing unit (original Settlement statement and Capital Expenditures Receipts).

Once the documentation is presented, the Beneficiary/Lender will determine the amount of the recapture on a case-by-case basis.

The indebtedness evidence by the Note, and any other financial obligation which may hereafter be imposed on Grantor/Borrower by the Beneficiary/Lender, is subordinate to the indebtedness evidence by a note payable to a senior lender (“Senior Lien Holder”), which note is secured by a first deed of trust (the “First Deed of Trust”) dated of even date therewith encumbering certain real property located in Port Arthur, Texas (the “Property”).

In the implementation of the Homeownership Program, the Department will comply and will require recipients to comply with the provisions of 24 CFR Part 92.217 and Part 570, Income targeting Homeownership and 24 CFR Part 92.254 and Part 570, Qualifications as affordable housing.

Property: The land described in Exhibit “A”, attached hereto and made a part hereof, and all rights and appurtenances thereto; all improvements now or hereafter located on the land; all fixtures and equipment now or hereafter attached to the land or improvements, and all substitutions and replacements thereof and additions and successions thereto, including without limitation, all air conditioning, heating ventilation, plumbing and electrical fixtures and equipment; and all leases, contracts,



rental, royalties and other income received in connection with the land and improvements, which has the address of: _____, Port Arthur, Jefferson County, Texas 77640, Lot Number (), in Block Number (), of the City of Port Arthur Addition located in Jefferson County, Texas, according to the map or plat of record in/ under Volume , Page of the Map Records of Jefferson County, Texas

Prior Lien: Senior Lien Holder: _____

In addition to the loan, the Grantor/Borrower obtained a Deed of Trust Loan (the “First Deed of Trust Loan”) from: _____ (the “Senior Lien Holder”), which loan is secured by a First Deed of Trust Lien on the Property (the “First Deed of Trust”). The documents evidencing or securing the first Deed of Trust Loan are collectively referred to herein as the First Deed of Trust Loan Documents.

This Security Instrument secures to Beneficiary/Lender: (a) the repayment of the debt evidenced by the Note, with interest or shared appreciation as provided in the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest as provided in the note, advanced under Paragraph 8 to protect the security of this Security Instrument; and (c) the performance of Grantor/Grantor/Borrower’s covenants and agreements under this Security Instrument and the Note. For this purpose, Grantor/Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, subject to the rights of the Senior Lien Holder under the First Deed of Trust, the property located in Jefferson County which has the address of _____, Port Arthur, Jefferson County, Texas 77640, Lot Number (), in Block Number (), of the City of Port Arthur Addition location in Jefferson County, Texas, according to the map or plat of record in/ under Volume , Page of the Map Records of Jefferson County, Texas and is further described in Exhibit “A”, attached hereto (“Property Address”):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the “Property”.

GRANTOR/BORROWER COVENANTS that Grantor/Borrower is lawfully seized of the Estate hereby conveyed and has the right to grant and convey the Property and, except for the First Deed of Trust and other encumbrances of record acceptable to the Senior Lien Holder, the Property is unencumbered.

Grantor/Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Grantor/Borrow and Beneficiary/Lender covenant and agree as follows:



1. Payment of Principal and Interest; Prepayment and Late Charges. Grantor/Borrower shall promptly pay when due the principal of and interest (or any shared appreciation) on the debt evidenced by the Note and any late charges due under the Note.

2. Keep Property and Good Repair Condition.

3. Pay all taxes, assessments and homeowner insurance.

4. Prior Deeds of Trust; Charges; Liens.

The Grantor/Borrower shall perform all of the Grantor/Borrower's obligations under the First Deed of Trust, including Grantor/Borrower's covenants to make payments when due. Grantor/Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and *Leasehold* payments or ground rents, if any. Grantor/Borrower shall pay these obligations in the manner provided in Paragraph 2, or if not paid in that manner, Grantor/Borrower shall pay them on time directly to the person owed payment. Grantor/Borrower shall promptly furnish to Beneficiary/Lender all notices of amounts to be paid under this paragraph. If Grantor/Borrower makes these payments directly, Grantor/Borrower shall promptly furnish to Beneficiary/Lender receipts evidencing the payments.

Except for the lien of the First Deed of Trust, Grantor/Borrower shall promptly discharge any other lien which shall have attained priority over this Security Instrument unless Grantor/Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary/Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary/Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Beneficiary/Lender subordinating the lien to this Security Instrument. Except for the lien of the First Deed of Trust, if Beneficiary/Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Beneficiary/Lender may give Grantor/Borrower a notice identifying the lien. Grantor/Borrower shall satisfy such lien or take one or more of the actions set forth above within five (5) days of the giving of notice.

5. Subordination. Beneficiary/Lender and Grantor/Borrower acknowledge and agree that this Security Instrument is subject and subordinate in all respects to the liens, terms, covenants, and conditions of the First Deed of Trust and to all advances heretofore made or which may hereafter be made pursuant to the First Deed of Trust, including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Deed of Trust, curing defaults by the Grantor/Borrower under the First Deed of Trust or for any other purpose expressly permitted by the First Deed of Trust or (b) constructing, renovating, repairing, furnishing, fixturing, or equipping the Property. The terms and provisions of the First Deed of Trust are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith. In the event of a foreclosure or deed in lieu of foreclosure of the First Deed of Trust, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate-income households or otherwise restricting the Grantor/Borrower's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the property. Any person, including his successors or assigns (other than the Grantor/Borrower or a related entity of the Grantor/Borrower), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the first Deed of Trust shall receive title to the Property free and clear from such restrictions.

Further, if the Senior Lien Holder acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall automatically terminate upon the Senior Lien Holder's acquisition of title, provided that (i) the Beneficiary/Lender has been given written notice of a default under the First Deed of Trust, and (ii) the Beneficiary/Lender shall not have cured the default under the First Deed of Trust, or diligently pursued curing the default as determined by the Senior Lien Holder, within the sixty (60) day period provided in such notice sent to the Beneficiary/Lender.

6. Hazard or Property Insurance. Grantor/Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary/Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Beneficiary/Lender requires. The insurance carrier providing the insurance shall be chosen by Grantor/Borrower subject to Beneficiary/Lender's approval which shall not be unreasonably withheld. If Grantor/Borrower fails to maintain coverage described above, Beneficiary/Lender may, at Beneficiary/Lender's option, obtain coverage to protect Beneficiary/Lender's rights in the Property in accordance with Paragraph 8.

All insurance policies and renewals shall be acceptable to Beneficiary/Lender and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Grantor/Borrower complies with the insurance requirements under the First Deed of Trust. All original policies of insurance required pursuant to the First Deed of Trust shall be held by the Senior Lien Holder; provided, however, Beneficiary/Lender may be named as a loss payee as its interest may appear and may be named as an additional insured. If Beneficiary/Lender requires, Grantor/Borrower shall promptly give to Beneficiary/Lender copies of all receipts of paid premiums and renewal notices. In the event of loss, Grantor/Borrower shall give prompt notice to the insurance carrier, the Senior Lien Holder and Beneficiary/Lender. Beneficiary/Lender may make proof of loss if not made promptly by the Senior Lien Holder or the Grantor/Borrower.

Unless Beneficiary/Lender and Grantor/Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Beneficiary/Lender's security is not lessened. If the restoration or repair is not economically feasible or Beneficiary/Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Grantor/Borrower. If Grantor/Borrower abandons the Property, or does not answer within thirty (30) days, a notice from Beneficiary/Lender that the insurance carrier has offered to settle a claim, then

Beneficiary/Lender may collect the insurance proceeds. Beneficiary/Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Beneficiary/Lender and Grantor/Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraphs 1 and 2 or change the amount of the payments. If under Paragraph 23, the Property is acquired by Beneficiary/Lender, Grantor/Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary/Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

Notwithstanding the above, the Beneficiary/Lender's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of the Senior Lien Holder to collect and apply such proceeds in accordance with the First Deed of Trust.

7. Occupancy, Preservation, Maintenance and Protection of the Property; Grantor/Borrower's Loan Application; Leaseholds. Grantor/Borrower shall occupy, establish, and use the Property as Grantor/Borrower's principal residence within sixty (60) days after the execution of this Security Instrument. Grantor/Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Grantor/Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary/Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Beneficiary/Lender's security interest. Grantor/Borrower may cure such a default and reinstate, as provided in Paragraph 19, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary/Lender's good faith determination, precluded forfeiture of the Grantor/Borrower's interest in the Property or other material impairment of the Lien created by this Security Instrument Beneficiary/Lenders security interest. Grantor/Borrower shall also be in default if Grantor/Borrower, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary/Lender (or failed to provide Beneficiary/Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning (i) Grantor/Borrower's occupancy of the Property as a principal residence and (ii) Grantor/Borrower's income. If this Security Instrument is on a leasehold, Grantor/Borrower shall comply with all the provisions of the lease. If Grantor/Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary/Lender agrees to the merger in writing.

The Grantor/Borrower acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the real property records where the Property is located), limiting the Property's use as Grantor/Borrower's primary residence in accordance to the CDBG and HOME Program Regulations 24 Code of Federal Regulations Part 92 and Part 570 and use as **"low and moderate income housing, within the meaning of the CDBG and Home Program Regulations 24 Code of Federal Regulations Part 92 and Part 570 affordable housing as defined by the Beneficiary/Lender in the City of Port Arthur Housing and Neighborhood Revitalization Housing Assistance Programs New Construction & Existing Home Purchasing Program Guidelines and in accordance with 24 Code of Federal Regulations Part 85.** The use and occupancy restrictions may limit the Grantor/Borrower's ability to rent the Property and require that Borrow use property as Grantor/Borrower's principal residence during the term of such agreement which is ten (10) years from the date of the Deed of Trust being [REDACTED]. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary/Lender to the remedies provided in Section 23 hereof.

8. Protection of Beneficiary/Lender's Rights in the Property. If Grantor/Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Beneficiary/Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Beneficiary/Lender may do and pay for whatever is necessary to protect the value of the Property and Beneficiary/Lender's rights in the Property. Beneficiary/Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument (including sums secured by the first Deed of Trust), appearing in Court, paying reasonable attorney's fees and entering on the Property to make

repairs. Although Beneficiary/Lender may take action under this Paragraph 8, Beneficiary/Lender does not have to do so.

Any amounts disbursed by Beneficiary/Lender under this Paragraph 8 shall become additional debt of Grantor/Borrower secured by this Security Instrument. Unless Grantor/Borrower and Beneficiary/Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Beneficiary/Lender to Grantor/Borrower requesting payment.

Prior to taking any actions under this Section 8, however, Beneficiary/Lender shall notify the Senior Lien Holder of such default in the manner provided in Section 23 of this Security Instrument, and shall provide the Senior Lien Holder with the opportunity to cure any such default under this Security Instrument. All amounts advanced by the Senior Lien Holder to cure a default hereunder shall be deemed advanced by the Senior Lien Holder and shall be secured by the First Deed of Trust. In addition, the Beneficiary/Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least sixty (60) days' prior written notice. Any action by Beneficiary/Lender hereunder to foreclose or accept a deed in lieu of foreclosure shall be subject to the "due on sale" provisions of the First Deed of Trust.

Beneficiary/Lender and Grantor/Borrower further agree that a default hereunder shall constitute a default under the First Deed of Trust. In the event of a default hereunder, the Senior Lien Holder shall have the right to exercise all rights and remedies under the First Deed of Trust.

9. Mortgage Insurance. If Beneficiary/Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Grantor/Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Beneficiary/Lender lapses or ceases to be in effect, Grantor/Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Grantor/Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Beneficiary/Lender. If substantially equivalent mortgage insurance coverage is not available, Grantor/Borrower shall pay to Beneficiary/Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Grantor/Borrower when the insurance coverage lapsed or ceased to be in effect. Beneficiary/Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Beneficiary/Lender, if mortgage insurance coverage (in the amount and for the period that Beneficiary/Lender requires) provided by an insurer approved by Beneficiary/Lender again becomes available and is obtained. Grantor/Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Grantor/Borrower and Beneficiary/Lender or applicable law.

10. Inspection. Beneficiary/Lender or its agent may make reasonable entries upon and inspections of the Property. Beneficiary/Lender shall give Grantor/Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

11. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of

condemnation, are hereby assigned and shall be paid to Beneficiary/Lender, subject to the terms of the First Deed of Trust.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Grantor/Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Grantor/Borrower and Beneficiary/Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Grantor/Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Grantor/Borrower and Beneficiary/Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Grantor/Borrower, or it, after notice by Beneficiary/Lender to Grantor/Borrower that the condemner offers to make an award or settle claim for damages, Grantor/Borrower fails to respond to Beneficiary/Lender within thirty (30) days after the date of the notice is given, Beneficiary/Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by Security Instrument, whether or not then due.

Unless Beneficiary/Lender and Grantor/Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraphs 1 and 2 or change the amount of such payments.

12. Grantor/Borrower Not Released; Forbearance by Beneficiary/Lender Not in Waiver.

Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Beneficiary/Lender to any successor in interest of Grantor/Borrower shall not operate to release the liability of the original Grantor/Borrower or Grantor/Borrower's successors in interest. Beneficiary/Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Grantor/Borrower or Grantor/Borrower's successors in interest. Any forbearance by Beneficiary/Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

13. Successors and Assigns Bound; Joint and Several Liability; Co-signers.

The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Beneficiary/Lender and Grantor/Borrower, subject to the provisions of Paragraph 18. Grantor/Borrower's covenants and agreements shall be joint and several. Any Grantor/Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey the Grantor/Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Beneficiary/Lender and any other Grantor/Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this security Instrument or the Note without that Grantor/Borrower's consent; provided, however, that such modification or accommodations with regard to the terms of this Security Instrument or the Note without that Grantor/Borrower's consent; provided,



however, that such modification shall not be made without the prior written consent of the Senior Lien Holder.

14. Loan Charges. If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Grantor/Borrower which exceeded permitted limits will be refunded to Grantor/Borrower. Beneficiary/Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Grantor/Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

15. Notices. Any notice to Grantor/Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Grantor/Borrower designates by notice to Beneficiary/Lender. Any notice to Beneficiary/Lender shall be given by first class mail to

Beneficiary/Lender's address stated herein or any other address Beneficiary/Lender designates by notice to Grantor/Borrower. Any notice required to be given to the Senior Lien Holder shall be given by first class mail to the following address of Senior Lien Holder:

SENIOR LIEN HOLDER: _____

or such other address the Senior Lien Holder designates by notice to the Grantor/Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Grantor/Borrower or Beneficiary/Lender when given as provided in this Paragraph.

16. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end, the provisions of this Security Instrument and the Note are declared to be severable.

17. Grantor/Borrower's Copy. Grantor/Borrower shall be given one conformed copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Grantor/Borrower. Except for a conveyance to the trustee under the First Deed of Trust, if all or any part of the Property or any interest in it is sold or transferred without Beneficiary/Lender's prior written consent in accordance with the CDBG and HOME Program Regulations 24 Code Of Federal Regulations Part 92 and Part 570 or Grantor/Borrower does not utilize the property as its principal residence or use the property for low to moderate income housing, Beneficiary/Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Beneficiary/Lender if exercise is prohibited by the federal law as of the date of this Security Instrument.



If Beneficiary/Lender exercises this option, Beneficiary/Lender shall give Grantor/Borrower and the Senior Lien Holder prior written notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Grantor/Borrower must pay all sums secured by this Security Instrument. If Grantor/Borrower fails to pay these sums prior to the expiration of this period, Beneficiary/Lender may invoke any remedies permitted by this security Instrument without further notice or demand on Grantor/Borrower.

Notwithstanding Beneficiary/Lender's right to invoke any remedies hereunder, as provided in Section 8 above, Beneficiary/Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least sixty (60) days' prior written notice.

The Grantor/Borrower and the Beneficiary/Lender agree that whenever the Note or this Security Instrument gives the Beneficiary/Lender the right to approve or consent with respect to any matter affecting the Property (or the construction of any improvements thereon) or otherwise (including the exercise of any "due on sale" clause), and a right of approval or consent with regard to the same matter is also granted to the Senior Lien Holder pursuant to the First Deed of Trust, the Senior Lien Holder's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Grantor/Borrower and the Beneficiary/Lender.

Any restrictions on transferability, such as occupancy requirements or resale restrictions, will automatically and permanently terminate upon foreclosure, deed-in-lieu of foreclosure, or assignment of the insured mortgage to HUD.

19. Grantor/Borrower's Right to Reinstate. If Grantor/Borrower meets certain conditions, Grantor/Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) ten (10) days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Grantor/Borrower: (a) pays Beneficiary/Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorney's fees; and (d) takes such action as Beneficiary/Lender may reasonably require to assure that the lien of this Security Instrument, Beneficiary/Lender's rights in the Property and Grantor/Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Grantor/Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Paragraph 18.

20. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Grantor/Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Grantor/Borrower will be given written notice of the change in accordance with Paragraph 15 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

21. No Assignment. Until the loan secured by the First Deed of Trust has been satisfied in full, the Beneficiary/Lender and the Grantor/Borrower agree that the Note and the Security Instrument will not be assigned without the Senior Lien Holder's prior written consent.

22. Hazardous Substance. Borrow shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrow shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two (2) sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Grantor/Borrower shall promptly give Beneficiary/Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Grantor/Borrower has actual knowledge. If Grantor/Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary,

Grantor/Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Prior to taking any such remedial action, however, the Grantor/Borrower shall notify the Senior Lien Holder that such remedial action is necessary and shall obtain the Senior Lien Holder's prior written consent for such remedial action.

As used in this Paragraph 22, "Hazardous Substances" are those substances as defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 22, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrow and Beneficiary/Lender further covenant and agree as follows:

23. Acceleration; Remedies. Beneficiary/Lender shall give notice to Grantor/Borrower and the Senior Lien Holder prior to acceleration following Grantor/Borrower's breach of any covenant or agreement in this Security Instrument. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is given to Grantor/Borrower (and with respect to the Senior Lien Holder, sixty (60) days from the date the notice is given to the Senior Lien Holder), by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Grantor/Borrower of the right to reinstate after acceleration and the right to bring a Court action to assert the non-existence of a default or any other defense of Grantor/Borrower to acceleration and sale. If the default is not cured by the Grantor/Borrower on or before the date specified in the notice, and the Senior Lien Holder has not exercised its right to cure the default, then Beneficiary/Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Notwithstanding Beneficiary/Lender's right to invoke any remedies hereunder, as provided in Section 8 above, the Beneficiary/Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least sixty (60) days' prior written notice.



Beneficiary/Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Paragraph 23, including, but not limited to, reasonable attorney's fees and costs of title evidence.

If Beneficiary/Lender invokes the power of sale, Beneficiary/Lender or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Grantor/Borrower, the Senior Lien Holder and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Grantor/Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary/Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order:

(a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

24. Release. Upon payment of all sums secured by this Security Instrument, Beneficiary/Lender shall release this Security Instrument without charge to Grantor/Borrower. Grantor/Borrower shall pay any recordation costs.

25. Substitute Trustee. Beneficiary/Lender, at its option, may from time to time revoke Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

26. Modification of First Deed of Trust Loan Documents. The Beneficiary/Lender consents to any agreement or arrangement in which the Senior Lien Holder waives, postpones, extends, reduces or modifies any provisions of the First Deed of Trust Loan Documents, including any provisions requiring the payment of money.

27. Grievance Procedure. Should any applicant or participant of services from the Housing Assistance Division wish to file a grievance against the City of Port Arthur pertaining to services received or applied for, they may do so by the following procedure:

1) The person(s) filing the grievance may in writing request an appointment with the Housing and Neighborhood Revitalization Manager and/or the Director of Development Services or assigned designee to present the complaint. At this informal stage of the resolution process, the complaint may be presented either in written form or verbally. It is the Department's intent to respond to and resolve the complaint as practically & quickly as possible. A response to the complaint should be made no later than 5 working days from the date of receipt.

2) Should the response by the Housing and Neighborhood Revitalization Manager, Director of Development Services or assigned designee not be satisfactory to the person(s) bringing the complaint, an appeal may be made directly to the City Manager or his designated successor requesting review of the decision. At this stage of the resolution process, the request for appeal and

the complaint itself should be submitted in writing. The complaint should fully describe the nature of the problem and contain all pertinent information that may aid in understanding the scope of the problem. The City Manager has option of meeting with the person(s) involved before reaching a decision. A response to the complaint shall be made as expeditiously as practical, but no later than twenty (20) working days from the date of receipt of all written information provided or requested and the request for appeal to the City Manager.

28. Restrictions on Transfer Ability. Any restrictions on transferability, such as occupancy requirements or resale restrictions, will automatically and permanently terminate upon foreclosure, deed-in-lieu of foreclosure or the assignment of the First Deed of Trust to the United States Department of Housing and Urban Development (“HUD”).

The following list identifies the names, addresses, and telephone numbers of the persons to contact to file a grievance:

Beverly A. Freeman, Housing & Neighborhood Revitalization Manager
Room 500
300 4th Street
Port Arthur, TX 77640
(409) 983-8259

Pamela Langford, Director of Development Services
Room 336
444 4th Street
Port Arthur, TX 77640
(409)983-8135

Ron Burton, City Manager
Room 410
444 4th Street
Port Arthur, TX 77640
(409) 983-8101

BY SIGNING BELOW, the Grantor/Borrower and the Beneficiary/Lender accept and agree to the terms and covenants contained in this Security Instrument.

Signature: _____

Grantor/Borrower

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

This instrument was acknowledged before me on the ____ day of _____, 20____,
by _____.

Notary Public, State of Texas
Notary’s Printed Name: _____
Notary’s Expiration Date: _____



Signature: _____
Ron Burton,
City Manager

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

This instrument was acknowledged before me on the ____ day of _____, 20____,
by Ron Burton, City Manager.

Notary Public, State of Texas
Notary's Printed Name: _____
Notary's Expiration Date: _____



Promissory Note

Original Date: _____

Grantor/Borrower: _____

Grantor/Borrower's Mailing Address (including county):

Port Arthur, Texas 77640
Jefferson County, Texas

Beneficiary/Lender: City of Port Arthur

Place for Payment (including county):

City of Port Arthur
Housing & Neighborhood Revitalization Department
P.O. Box 1089
Port Arthur, Texas 77640-1089
Jefferson County, Texas

Original Principal Amount: up to \$40,000.00

Annual Interest Rate: 0%

Maturity Date: _____

Terms of Payment (principal and interest):

Security for Payment: This note is secured by a Deed of Trust of even date from _____ through _____ the ten (10) year affordability period, pursuant to the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs Regulations 24 Code of Federal Regulations Part 92, Part 570, and 24 Code of Federal Regulations Part 85, to cover the following real property:

_____, Port Arthur, Jefferson County, Texas 77640, Lot Number (), in Block Number (), of the City of Port Arthur Addition locate in Jefferson County, Texas, according to the map or plat of record in/ under Volume , Page of the Map Records of Jefferson County, Texas

Grantor/Borrower promises to pay to the order of Beneficiary/Lender the Principal Amount plus interest at the Annual Interest Rate. This note is payable at the Place for Payment and according to the Terms of Payment. All unpaid amounts are due by the Maturity Date. If any amount is not paid either when due under the Terms of Payment or on acceleration of maturity, Grantor/Borrower promises to pay any unpaid amounts plus interest from the date the payment was due to the date of payment at the Annual Interest Rate on Matured, Unpaid Amounts. In return for a loan that I have received (the "Loan"), I promise to pay an amount not to exceed up to \$40,000.00 (this amount is called "principal"), plus interest, to the order of the Beneficiary/Lender. The Beneficiary/Lender is the City of Port Arthur. The Beneficiary/Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

PAYMENTS

(A) Time and Place of Payments

The principal amount of this Note represents funds advanced by Beneficiary/Lender to or for my benefit to assist me in paying part of the purchase price of the Property or the closing costs on the Property or lot. On the same date as the date of this Note, I have entered into an agreement with Beneficiary/Lender that I will, among other things, continue to use the property as my principal residence and will use the Property as “low and moderate income housing” as defined in the CDBG and HOME Program Regulations 24 Code of Federal Regulations Part 92, and Part 570, and as defined in the “Grantor/Borrower Agreement” for a period of ten (10) years, ([redacted] through [redacted]). If for any reason I default under any of the provisions of the Grantor/Borrower Agreement, the Beneficiary/Lender may at its option, accelerate the maturity of this Note and demand payment by me of the entire balance of this Note together with any interest thereon accruing after maturity.

(B) Amount of Monthly Payments

There are currently no monthly payments. This is a forgivable note whereby Grantor/Borrower is required to use the property as his/her principal residence in accordance with the CDBG or HOME Program Regulations 24 Code of Federal Regulations Part 92 and Part 570. In the event Grantor/Borrower ceases to comply with section 3 of this agreement, the full balance of the note will become due.

Obligation:

The City of Port Arthur is a home rule Beneficiary/Lender and participating jurisdiction in the CDBG and HOME Program. The City (hereinafter referred to as Beneficiary/Lender) has provided the Grantor/Borrower with up to \$40,000.00 of CDBG or HOME funds for down payment assistance and closing costs. Pursuant to 24 Code of Federal Regulation Part 92.254, and Part 570, the period of affordability for homebuyer units is based upon the *direct CDBG or HOME subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any CDBG or HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

Note:

Date: [redacted]

Original principal amount: up to \$40,000.00

Grantor/Borrower: _____

Beneficiary/Lender: City of Port Arthur

Maturity Date: [redacted] (10 year affordability period)

Terms of Payment: As provided in the note, the Grantor/Borrower will abide by the requirements of the CDBG and HOME Programs.

Homeownership Assistance per Unit	Affordability Period (Years)
Up to \$40,000.00	10

That certain promissory note of even attached hereto as Exhibit "B" of even date herewith executed by Grantor/Borrower and payable to Beneficiary/Lender, in the principal amount of up to \$40,000.00. The Note shall mature and become finally due and payable upon the occurrence of any default during the Affordability Period of ten (10) years (the affordability period) after the date hereof) being [redacted], unless the debt evidenced by the Note is forgiven as provided in the Note.

Recapture Provisions:

Homes acquired with CDBG or HOME program funds must satisfy certain requirements for the ten (10) year affordability period. The funds must be recaptured in the event the following rules are not adhered to:

- a. The dwelling acquired with the CDBG or HOME subsidy must be the principal residence of the Grantor/Borrower and will not be rented or used for other purposes.
- b. The Grantor/Borrower will not engage the property to obtain a mortgage, gift, sell or exchange the property without the written consent of the Beneficiary/Lender.
- c. The Beneficiary/Lender will inspect the property to confirm that the participant is in full compliance with the CDBG or HOME program guidelines during the affordability period of the property.

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE HOME PROGRAM WILL OBLIGATE THE GRANTOR/BORROWER TO REIMBURSE THE TOTAL AMOUNT OF THE SUBSIDY TO THE BENEFICIARY/LENDER. The Beneficiary/Lender may recover up to \$5,000 for legal services rendered in the event of a breach of terms and conditions set forth above.

Sale of Property Within the Affordability Period:

If the Grantor/Borrower sells the property within the affordability period and the net proceeds are sufficient to repay all of the CDBG or HOME Program funds invested and Grantor/Borrower's investment, the Beneficiary/Lender will recover the full amount of CDBG or HOME investment only. The participant will recover any amount for investments and apply the following formula for distribution of surplus net proceeds.

Sale during affordability period	Recapture amount of Down Payment & Closing Costs subsidy funds only	Share of net proceeds Down Payment & Closing Costs Subsidy funds only
1 – 5 years	100 %	75 %
6 – 10 years	50 %	50 %

If the participant sells the property within the affordability period and the net proceeds are insufficient to repay CDBG or HOME funds invested and the Grantor/Borrower's investment, the Beneficiary/Lender will allow the Grantor/Borrower to recover its entire investment and will the Beneficiary/Lender will recapture any remaining funds. Specific documentation will be required to



calculate CDBG or HOME net proceeds. The Beneficiary/Lender may require additional information such as:

- Housing Unit Sale Price (Settlement Statement)
- Grantor/Borrower Investments – evidence of down payment, closing costs, payments to principal, and any other capital investment to improve the housing unit (original Settlement statement and Capital Expenditures Receipts).

Once the documentation is presented, the Beneficiary/Lender will determine the amount of the recapture on a case-by-case basis.

The indebtedness evidence by the Note, and any other financial obligation which may hereafter be imposed on Grantor/Borrower by the Beneficiary/Lender, is subordinate to the indebtedness evidence by a note payable to a senior lender (“Senior Lien Holder”), which note is secured by a first deed of trust (the “First Deed of Trust”) dated of even date therewith encumbering certain real property located in Port Arthur, Texas (the “Property”).

In the implementation of the Homeownership Program, the Department will comply and will require recipients to comply with the provisions of 24 CFR Part 92.217, and Part 570 Income targeting Homeownership and 24 CFR Part 92.254, and Part 570 Qualifications as affordable housing.

Other requirements shall apply:

- The participants will pay up to \$5,000.00 to cover the costs of legal services rendered because of a breach of any of the terms and conditions of this contract.
- Specific documentation will be required to calculate CDBG or HOME and net proceeds.

In addition to the recapture restrictions to be incorporated in the deed of sale and promissory note, other provisions will be established to guarantee that the units remain affordable for subsequent homebuyers. These provisions include the following considerations:

- A provision restricting refinancing and subsequent mortgages of the property, without the written consent of the Beneficiary/Lender. Refinancing will be limited to capital improvements without equity return. This restriction is necessary, as refinancing with cash return will have the effect of reducing the profit at resale thus violating the purpose of resale / recapture provisions. In addition, a higher monthly payment after refinancing could represent a risk of foreclosure due to income adjustments.
- A requirement that the property will be used as the principal residence of the homebuyer(s) will not be leased, converted, sold, donated, and permuted to other such use without written consent of the Beneficiary/Lender.

If, on the sale, lease, lease with an option to purchase, transfer or other disposition (including any contract for deed) of all or any interest in the Property, I still owe amounts under this Note, Note Holder may require payment in full of sums owed hereunder as ore specifically provided by the Second Lien Deed of Trust (hereinafter defined) and the date upon which Note Holder requires such payment in full is called the “maturity date.”

Any payments required will be made to the City of Port Arthur at 444 4th Street, Port Arthur, Texas 77640. I will make these payments every month until I paid all of the principal and interests, if any, and any other charges described below that I may owe under this Note. If interest is charged on the Loan, my monthly payments will be applied to interest before principal.

GRANTOR/BORROWER’S RIGHT TO REPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a “prepayment.” When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date.

LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

GRANTOR/BORROWER’S FAILURE TO PAY AS REQUIRED

(A) Default

Except as otherwise provided above, if I do not pay the full amount due hereunder on the date it is due, or utilize the property as his/her principal residence, I will be in default. A default under the terms and provisions of the documents evidencing, securing or pertaining to the indebtedness secured by the First Deed of Trust, including, without limitation, the First Deed of Trust, shall constitute a default hereunder. In addition, I will be in default if I default under the terms and provisions of the Second Lien Deed of Trust executed by me dated the same date as this Note securing my obligations under this Note.

(B) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(C) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in



full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(D) Payment of Note Holder’s Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me 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 attorneys’ fees.

GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to these things. 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 promise made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together in accordance with 24 Code of Federal Regulations Part 92 and Part 570 and 24 Code of Federal Regulations Part 85. This means that any one of us may be required to pay all of the amounts owed under this Note.

WAIVERS

I 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 the Note Holder to 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.

UNIFORMED SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Second Lien Deed of Trust (the “Subordinate Security Instrument”), dated the same date as the Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. The Subordinate Security Instrument is and shall be subject and subordinate in all respects to the liens terms, covenants and conditions of the First Deed of Trust. The Subordinate Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:



Transfer of Property or a Beneficial Interest in Grantor/Borrower. Except for a conveyance to the trustee under the First Deed of Trust, if all or any part of the Property or any interest in it is sold, conveyed, leased, leased with an option to purchase or transferred (including any contract for deed) without Note Holder's prior written consent. Note Holder may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Note Holder if exercise is prohibited by federal law as of the date of this Security Instrument.

If Note Holder exercises this option, Note Holder shall give Grantor/Borrower and the Senior Lien Holder prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Grantor/Borrower must pay all sums secured by this Security Instrument. If Grantor/Borrower fails to pay these sums prior to the expiration of this period, Note Holder may invoke any remedies permitted by this Security Instrument without further notice or demand on Grantor/Borrower.

POSSIBLE FORGIVENESS

Note Holder hereby agrees to forgive the principal of this Note on the 10th anniversary of the date of this Note, being [redacted]; provide, however, as conditions precedent to the possible forgiveness of the principal of this Note on the 10th anniversary of the date of this Note being [redacted], as provided above, during such 10 year affordability period (A) I must have allowed the occurrence of any default under this Note or the Subordinate Security Instrument; (B) I must not have allowed the occurrence of any default under any deed of trust ("Superior Deed of Trust"), including the First Deed of Trust, (i) the lien of which encumbers the Property, and (ii) which evidences a lien on the Property superior to the lien of the Subordinate Security Instrument; (C) I must not have allowed the occurrence of any default in the payment of any indebtedness secured by a Superior Deed of Trust; and (D) I must have occupied the Property as my principal residence continuously during the period commencing on the date hereof through and including the 10th anniversary of the date of this Note being [redacted].

IN WITNESS WHEREOF, the undersigned has executed this Note.

GRANTOR/BORROWER

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

Before me, the undersigned authority, on this day personally appeared _____ owner(s) known to me to be the persons whose name(s) are subscribed to the foregoing instrument, and acknowledge to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____ 20____.

Notary Public, State of Texas
My Commission Expires: _____



RIDER

**PROMISE TO GIVE PERSONAL NOTICE TO THE CITY OF
PORT ARTHUR, TEXAS (SECOND LIEN HOLDER) OF DATE OF
ANY FORECLOSURE SALE OR OTHER ADVERSE ACTION
RELATING TO THE PROPERTY**

In consideration for the City of Port Arthur, Jefferson County, Texas subordinating its lien and becoming a Second Lien Holder with respect to the following property: _____, Port Arthur, Jefferson County, Texas 77640, Lot Number _____ (), in Block Number _____ (), of the City of Port Arthur Addition located in Jefferson County, Texas, according to the map or plat of record in/ under Volume _____, Page _____ of the Map Records of Jefferson County, Texas, the Bank/Mortgage Company, _____, First Lien Holder, agrees to notify the City of Port Arthur at the address below, by certified mail, return receipt requested, of the date of any foreclosure sale relating to the above-referenced property or of any other adverse action relating to the property. This Notice Provision will either be included in the First Lien Holder's Deed of Trust and filed of record, or this document will be attached as a rider to the First Mortgage or Deed of Trust and filed of record. All future assignees of the First Lien Documents are hereby notified of and agree to comply with this notice agreement.

AGREED TO BY, (FIRST LIEN HOLDER):

Authorized Signature: _____

Title: _____

ACKNOWLEDGMENT

**THE STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §**

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____.

Title Company:

Notary Public, State of Texas

My commission expires: _____

AFTER RECORDING RETURN TO:

**City of Port Arthur
Housing and Neighborhood Revitalization Department
P.O. Box 1089
Port Arthur, TX 77640-1089**



EXHIBIT “A”

_____, PORT ARTHUR, JEFFERSON COUNTY, TEXAS 77640, LOT NUMBER _____
(), IN BLOCK NUMBER _____ (), OF CITY OF PORT ARTHUR LOCATED IN
JEFFERSON COUNTY TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN/ UNDER
VOLUME , PAGE , OF THE MAP RECORDS OF JEFFERSON COUNTY, TEXAS.



“ATTACHMENT C”

WRITTEN AGREEMENT FOR THE CITY OF PORT ARTHUR’S HOMEBUYER’S ASSISTANCE *EXISTING HOME PURCHASE* PROGRAM

“ATTACHMENT C”

**WRITTEN AGREEMENT
FOR THE CITY OF PORT ARTHUR’S
HOMEBUYER’S ASSISTANCE
EXISTING HOME PURCHASE PROGRAM**

This **APPLICANT** Agreement (“Agreement” hereinafter) is made and entered into by and between **THE CITY OF PORT ARTHUR, TEXAS**, through its duly authorized agent, Ron Burton, City Manager, hereinafter as **PARTICIPATING JURISDICTION**, and _____, Social Security Number XXX/XX/XXXX resident(s) of Port Arthur, Texas, hereinafter referred to as “**APPLICANT**”.

This Agreement sets forth the understanding of the parties concerning the City’s Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Program Homebuyers Assistance Program requirements in accordance with 24 Code of Federal Regulations Part 92 and Part 570. It is the intent of this Agreement to outline what eligible activities and procedures the **APPLICANT** must comply with in order to qualify for a Deferred Payment Forgivable Loan from the City’s Homebuyers Assistance Program. Each party has the necessary legal capacity and sufficiency to enter into this Agreement and does severally and collectively agree by the execution hereof, that they are bound to the mutual obligations and performances of the requirements described herein.

- 1. THE PARTICIPATING JURISDICTION** receives CDBG and HOME Program funds from the U. S. Department of Housing and Urban Development, (HUD) under the Title II of the Law of the National Housing Affordable of 1990 (National Affordable Housing Act of 1990), and is authorized to make contracts and agreements.
- 2. THE PARTICIPATING JURISDICTION** is an Entitlement city receiving funding annually under the CDBG and HOME Programs established under the National Affordable Housing Act and therefore has agreed to the use of said funds as identified its Consolidated Plan.
- 3. THE PARTICIPATING JURISDICTION** has as public policy for the authorization to develop, provide and facilitate the acquisition of decent, safe, sanitary and affordable housing in Port Arthur, Texas, and with such purpose has allocated program funds to acquire or develop affordable housing that will be sold to Low-Moderate Income residents.
- 4. APPLICANT** has requested assistance through the CDBG and HOME Programs to acquire a housing unit located at _____, Port Arthur, Texas, which has a value of \$ _____, established in accordance with the appraisal carried out in the same or the purchase price established, whichever is lower.
- 5.** After conducting a detailed review of the **APPLICANT**’s application for assistance, the **PARTICIPATING JURISDICTION** has determined that the **APPLICANT** qualifies for assistance in the amount of **up to \$14,995.00**, which will be provided in the form of a Deferred Payment Forgivable Loan (“DPFL”), in accordance with the applicable federal, state and local requirements. The funding provided will be used to assist with down payment and/or closing costs associated with the purchase of a single-family dwelling unit located at _____, Port Arthur, Texas.



6. The DPFL will be guaranteed by a Second Lien Deed of Trust and/or Deed Restrictions in favor of the City of Port Arthur, subordinate only to a private financial institution's superior lien for a loan in a greater amount. As an additional requirement, **APPLICANT** must comply with the City's Recapture Provisions established for the CDBG and HOME Programs in accordance to 24 Code of Federal Regulations Part 92.254 and Part 570.

7. Such Recapture Provisions as identified in 24 Code of Federal Regulations Part 92.254 and Part 570 incorporated herein as a part of the DPFL provide for the conditions that the **APPLICANT** must comply with prior to the disbursement of any funds. The Recapture Provisions will also be made a part of the 2nd Lien Deed of Trust supported by a Promissory Note executed between the parties at the time of actual disbursement of CDBG and HOME Program funds.

8. Recapture Provisions are an essential and integral part of this agreement and are incorporated herein.

9. The **APPLICANT** agrees to comply with the Recapture Provisions and further understands that funds will neither be granted nor disbursed if **APPLICANT** does not consent to the requirements of said provisions.

10. The **APPLICANT** acknowledges having read the Recapture Provisions and that they have been explained by CDBG and HOME Program staff. **APPLICANT** further acknowledges and agrees to comply with the same as a condition of receiving assistance.

11. The **APPLICANT** acknowledges and agrees to comply with the requirement that the dwelling unit must continue to be the principal residence of the **APPLICANT** during the period of affordability being five (5) years, as set forth in the Recapture Provisions, and that it may not be used for any other purpose than that of **APPLICANT**'s principal residence during the same period. The **APPLICANT** acknowledges and agrees that this dwelling unit may not become rental property during the affordability period set forth in the Recapture Provisions. The **APPLICANT** further acknowledges and agrees that any violation of these requirements would require that the entire amount of assistance provided is subject to recapture, and must be repaid to the City, including any related expenditures, costs and attorney fees incurred by the **PARTICIPATING JURISDICTION** in the event of any resulting legal action.

12. **THE APPLICANT** acknowledges and agrees that the dwelling unit must be acquired, evidenced by the execution of a Second Lien Deed of Trust and a Promissory Note, within six (6) months after the execution of this Agreement. This and any prior Agreements become null and void six (6) months from the execution date of this Agreement.

This document is made of record in Port Arthur, Texas on

Date:

PARTICIPATING JURISDICTION:

APPLICANT:

Ron Burton
City Manager
City of Port Arthur

Signature

CITY ATTORNEY

CO-APPLICANT:

Val Tizenno

Signature



“ATTACHMENT D”

SECOND LIEN DEED OF TRUST PROMISSORY NOTE RIDER FOR THE CITY OF PORT ARTHUR’S HOMEBUYER’S ASSISTANCE *EXISTING HOME PURCHASE* PROGRAM

“ATTACHMENT D”

NOTICE OF CONFIDENTIALITY RIGHTS IF YOU OR A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THE INSTRUMENT BEFORE IT IS FILED RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER.

SECOND LIEN DEED OF TRUST
EXISTING HOME PURCHASE

Date: _____

Grantor/Borrower: _____

Grantor’s/ Borrower’s Mailing Address (including county):

Port Arthur, Texas 77642
Jefferson County, Texas

Trustee: Ron Burton (or his designated successor)
City Manager

Trustee’s Mailing Address (including county):

Office of the City Manager
P.O. Box 1089
Port Arthur, TX 77640-1089
Jefferson County

Beneficiary/Lender: City of Port Arthur

Beneficiaries/ Lender Mailing Address (including county):

City of Port Arthur
Housing & Neighborhood Revitalization Department
P.O. Box 1089
Port Arthur, TX 77640-1089
Jefferson County

Obligation:

The City of Port Arthur is a home rule Beneficiary/Lender and participating jurisdiction in the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs. The City (hereinafter referred to as Beneficiary/Lender) has provided the Grantor/Borrower with up to \$14,995.00 of CDBG or HOME funds for down payment assistance and closing costs. Pursuant to 24 Code



of Federal Regulation Part 92.254, and Part 570 the period of affordability for homebuyer units is based upon the *direct CDBG or HOME subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any CDBG or HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

Note: Date: _____

Original principal amount: up to \$14,995.00

Grantor/Borrower: _____

Beneficiary/Lender: City of Port Arthur

Maturity Date: _____ (5 year affordability period)

Terms of Payment: As provided in the note, the Grantor/Borrower will abide by the requirements of the CDBG or HOME program.

Homeownership Assistance per Unit	Affordability Period (Years)
Up to \$14,995.00	5

That certain promissory note of even attached hereto as Exhibit "B" of even date herewith executed by Grantor/Borrower and payable to Beneficiary/Lender, in the principal amount of up to \$14,995.00. The Note shall mature and become finally due and payable upon the occurrence of any default during the Affordability Period of five (5) years (the affordability period) after the date hereof) being _____ unless the debt evidenced by the Note is forgiven as provided in the Note.

Recapture Provisions:

Homes acquired with CDBG or HOME program funds must satisfy certain requirements for the five (5) year affordability period. The funds must be recaptured in the event the following rules are not adhered to:

- The dwelling acquired with the CDBG or HOME subsidy must be the principal residence of the Grantor/Borrower and will not be rented or used for other purposes.
- The Grantor/Borrower will not engage the property to obtain a mortgage, gift, sell or exchange the property without the written consent of the Beneficiary/Lender.
- The Beneficiary/Lender will inspect the property to confirm that the participant is in full compliance with the CDBG or HOME program guidelines during the affordability period of the property.

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE HOME PROGRAM WILL OBLIGATE THE GRANTOR/BORROWER TO REIMBURSE THE TOTAL AMOUNT OF THE SUBSIDY TO THE BENEFICIARY/LENDER. The Beneficiary/Lender may recover up to \$5,000 for legal services rendered in the event of a breach of terms and conditions set forth above.



Sale of Property Within the Affordability Period:

If the Grantor/Borrower sells the property within the affordability period and the net proceeds are sufficient to repay all of the CDBG or HOME Program funds invested and Grantor/Borrower’s investment, the Beneficiary/Lender will recover the full amount of HOME investment only. The participant will recover any amount for investments and apply the following formula for distribution of surplus net proceeds.

Sale during affordability period	Recapture amount of Down Payment & Closing Costs subsidy funds only	Share of net proceeds Down Payment & Closing Costs Subsidy funds only
1 – 5 years	100 %	75 %
6 – 10 years	50 %	50 %

If the participant sells the property within the affordability period and the net proceeds are insufficient to repay CDBG or HOME funds invested and the Grantor/Borrower’s investment, the Beneficiary/Lender will allow the Grantor/Borrower to recover its entire investment and will the Beneficiary/Lender will recapture any remaining funds. Specific documentation will be required to calculate CDBG or HOME and net proceeds. The Beneficiary/Lender may require additional information such as:

- Housing Unit Sale Price (Settlement Statement)
- Grantor/Borrower Investments – evidence of down payment, closing costs, payments to principal, and any other capital investment to improve the housing unit (original Settlement statement and Capital Expenditures Receipts).

Once the documentation is presented, the Beneficiary/Lender will determine the amount of the recapture on a case-by-case basis.

The indebtedness evidence by the Note, and any other financial obligation which may hereafter be imposed on Grantor/Borrower by the Beneficiary/Lender, is subordinate to the indebtedness evidence by a note payable to a senior lender (“Senior Lien Holder”), which note is secured by a first deed of trust (the “First Deed of Trust”) dated of even date therewith encumbering certain real property located in Port Arthur, Texas (the “Property”).

In the implementation of the Homeownership Program, the Department will comply and will require recipients to comply with the provisions of 24 CFR 92.217, Income targeting Homeownership and 24 CFR 92.254, Qualifications as affordable housing.

Property: The land described in Exhibit “A”, attached hereto and made a part hereof, and all rights and appurtenances thereto; all improvements now or hereafter located on the land; all fixtures and equipment now or hereafter attached to the land or improvements, and all substitutions and replacements thereof and additions and successions thereto, including without limitation, all air conditioning, heating ventilation, plumbing and electrical fixtures and equipment; and all leases, contracts,



rental, royalties and other income received in connection with the land and improvements, which has the address of: _____, Port Arthur, Jefferson County, Texas 77640, Lot Number (), in Block Number (), of the City of Port Arthur Addition located in Jefferson County, Texas, according to the map or plat of record in/ under Volume , Page of the Map Records of Jefferson County, Texas

Prior Lien: Senior Lien Holder: _____

In addition to the loan, the Grantor/Borrower obtained a Deed of Trust Loan (the “First Deed of Trust Loan”) from: _____ (the “Senior Lien Holder”), which loan is secured by a First Deed of Trust Lien on the Property (the “First Deed of Trust”). The documents evidencing or securing the first Deed of Trust Loan are collectively referred to herein as the First Deed of Trust Loan Documents.

This Security Instrument secures to Beneficiary/Lender: (a) the repayment of the debt evidenced by the Note, with interest or shared appreciation as provided in the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest as provided in the note, advanced under Paragraph 8 to protect the security of this Security Instrument; and (c) the performance of Grantor/Grantor/Borrower’s covenants and agreements under this Security Instrument and the Note. For this purpose, Grantor/Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, subject to the rights of the Senior Lien Holder under the First Deed of Trust, the property located in Jefferson County which has the address of _____, Port Arthur, Jefferson County, Texas 77640, Lot Number (), in Block Number (), of the City of Port Arthur Addition location in Jefferson County, Texas, according to the map or plat of record in/ under Volume , Page of the Map Records of Jefferson County, Texas and is further described in Exhibit “A”, attached hereto (“Property Address”):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the “Property”.

GRANTOR/BORROWER COVENANTS that Grantor/Borrower is lawfully seized of the Estate hereby conveyed and has the right to grant and convey the Property and, except for the First Deed of Trust and other encumbrances of record acceptable to the Senior Lien Holder, the Property is unencumbered.

Grantor/Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Grantor/Borrow and Beneficiary/Lender covenant and agree as follows:



1. Payment of Principal and Interest; Prepayment and Late Charges. Grantor/Borrower shall promptly pay when due the principal of and interest (or any shared appreciation) on the debt evidenced by the Note and any late charges due under the Note.

2. Keep Property and Good Repair Condition.

3. Pay all taxes, assessments and homeowner insurance.

4. Prior Deeds of Trust; Charges; Liens. The Grantor/Borrower shall perform all of the Grantor/Borrower's obligations under the First Deed of Trust, including Grantor/Borrower's covenants to make payments when due. Grantor/Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and *Leasehold* payments or ground rents, if any. Grantor/Borrower shall pay these obligations in the manner provided in Paragraph 2, or if not paid in that manner, Grantor/Borrower shall pay them on time directly to the person owed payment. Grantor/Borrower shall promptly furnish to Beneficiary/Lender all notices of amounts to be paid under this paragraph. If Grantor/Borrower makes these payments directly, Grantor/Borrower shall promptly furnish to Beneficiary/Lender receipts evidencing the payments.

Except for the lien of the First Deed of Trust, Grantor/Borrower shall promptly discharge any other lien which shall have attained priority over this Security Instrument unless Grantor/Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary/Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary/Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Beneficiary/Lender subordinating the lien to this Security Instrument. Except for the lien of the First Deed of Trust, if Beneficiary/Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Beneficiary/Lender may give Grantor/Borrower a notice identifying the lien. Grantor/Borrower shall satisfy such lien or take one or more of the actions set forth above within five (5) days of the giving of notice.

5. Subordination. Beneficiary/Lender and Grantor/Borrower acknowledge and agree that this Security Instrument is subject and subordinate in all respects to the liens, terms, covenants, and conditions of the First Deed of Trust and to all advances heretofore made or which may hereafter be made pursuant to the First Deed of Trust, including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Deed of Trust, curing defaults by the Grantor/Borrower under the First Deed of Trust or for any other purpose expressly permitted by the First Deed of Trust or (b) constructing, renovating, repairing, furnishing, fixturing, or equipping the Property. The terms and provisions of the First Deed of Trust are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith. In the event of a foreclosure or deed in lieu of foreclosure of the First Deed of Trust, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate-income households or otherwise restricting the Grantor/Borrower's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the property. Any person, including his successors or assigns (other than the Grantor/Borrower or a related entity of the Grantor/Borrower), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the first Deed of Trust shall receive title to the Property free and clear from such restrictions.

Further, if the Senior Lien Holder acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall automatically terminate upon the Senior Lien Holder's acquisition of title, provided that (i) the Beneficiary/Lender has been given written notice of a default under



the First Deed of Trust, and (ii) the Beneficiary/Lender shall not have cured the default under the First Deed of Trust, or diligently pursued curing the default as determined by the Senior Lien Holder, within the sixty (60) day period provided in such notice sent to the Beneficiary/Lender.

6. Hazard or Property Insurance. Grantor/Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term “extended coverage” and any other hazards, including floods or flooding, for which Beneficiary/Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Beneficiary/Lender requires. The insurance carrier providing the insurance shall be chosen by Grantor/Borrower subject to Beneficiary/Lender’s approval which shall not be unreasonably withheld. If Grantor/Borrower fails to maintain coverage described above, Beneficiary/Lender may, at Beneficiary/Lender’s option, obtain coverage to protect Beneficiary/Lender’s rights in the Property in accordance with Paragraph 8.

All insurance policies and renewals shall be acceptable to Beneficiary/Lender and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Grantor/Borrower complies with the insurance requirements under the First Deed of Trust. All original policies of insurance required pursuant to the First Deed of Trust shall be held by the Senior Lien Holder; provided, however, Beneficiary/Lender may be named as a loss payee as its interest may appear and may be named as an additional insured. If Beneficiary/Lender requires, Grantor/Borrower shall promptly give to Beneficiary/Lender copies of all receipts of paid premiums and renewal notices. In the event of loss, Grantor/Borrower shall give prompt notice to the insurance carrier, the Senior Lien Holder and Beneficiary/Lender. Beneficiary/Lender may make proof of loss if not made promptly by the Senior Lien Holder or the Grantor/Borrower.

Unless Beneficiary/Lender and Grantor/Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Beneficiary/Lender’s security is not lessened. If the restoration or repair is not economically feasible or Beneficiary/Lender’s security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Grantor/Borrower. If Grantor/Borrower abandons the Property, or does not answer within thirty (30) days, a notice from Beneficiary/Lender that the insurance carrier has offered to settle a claim, then

Beneficiary/Lender may collect the insurance proceeds. Beneficiary/Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Beneficiary/Lender and Grantor/Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraphs 1 and 2 or change the amount of the payments. If under Paragraph 23, the Property is acquired by Beneficiary/Lender, Grantor/Borrower’s right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary/Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

Notwithstanding the above, the Beneficiary/Lender’s rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of the Senior Lien Holder to collect and apply such proceeds in accordance with the First Deed of Trust.



7. Occupancy, Preservation, Maintenance and Protection of the Property; Grantor/Borrower's Loan Application; Leaseholds. Grantor/Borrower shall occupy, establish, and use the Property as Grantor/Borrower's principal residence within sixty (60) days after the execution of this Security Instrument. Grantor/Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Grantor/Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary/Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Beneficiary/Lender's security interest. Grantor/Borrower may cure such a default and reinstate, as provided in Paragraph 19, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary/Lender's good faith determination, precluded forfeiture of the Grantor/Borrower's interest in the Property or other material impairment of the Lien created by this Security Instrument Beneficiary/Lenders security interest. Grantor/Borrower shall also be in default if Grantor/Borrower, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary/Lender (or failed to provide Beneficiary/Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning (i) Grantor/Borrower's occupancy of the Property as a principal residence and (ii) Grantor/Borrower's income. If this Security Instrument is on a leasehold, Grantor/Borrower shall comply with all the provisions of the lease. If Grantor/Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary/Lender agrees to the merger in writing.

The Grantor/Borrower acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the real property records where the Property is located), limiting the Property's use as Grantor/Borrower's primary residence in accordance to the HOME Program Regulations 24 Code of Federal Regulations Part 92 and use as **“low and moderate income housing, within the meaning of the Home Program Regulations 24 Code of Federal Regulations Part 92 and Part 570 affordable housing as defined by the Beneficiary/Lender in the City of Port Arthur Housing and Neighborhood Revitalization Housing Assistance Programs New Construction & Existing Home Purchasing Program Guidelines and in accordance with 24 Code of Federal Regulations Part 85.** The use and occupancy restrictions may limit the Grantor/Borrower's ability to rent the Property and require that Borrow use property as Grantor/Borrower's principal residence during the term of such agreement which is five (5) years from the date of the Deed of Trust being [REDACTED]. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary/Lender to the remedies provided in Section 23 hereof.

8. Protection of Beneficiary/Lender's Rights in the Property. If Grantor/Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Beneficiary/Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Beneficiary/Lender may do and pay for whatever is necessary to protect the value of the Property and Beneficiary/Lender's rights in the Property. Beneficiary/Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument (including sums secured by the first Deed of Trust), appearing in Court, paying reasonable attorney's fees and entering on the Property to make repairs. Although Beneficiary/Lender may take action under this Paragraph 8, Beneficiary/Lender does not have to do so.

Any amounts disbursed by Beneficiary/Lender under this Paragraph 8 shall become additional debt of Grantor/Borrower secured by this Security Instrument. Unless Grantor/Borrower and Beneficiary/Lender agree to other terms of payment, these amounts shall bear interest from the date of

disbursement at the Note rate and shall be payable, with interest, upon notice from Beneficiary/Lender to Grantor/Borrower requesting payment.

Prior to taking any actions under this Section 8, however, Beneficiary/Lender shall notify the Senior Lien Holder of such default in the manner provided in Section 23 of this Security Instrument, and shall provide the Senior Lien Holder with the opportunity to cure any such default under this Security Instrument. All amounts advanced by the Senior Lien Holder to cure a default hereunder shall be deemed advanced by the Senior Lien Holder and shall be secured by the First Deed of Trust. In addition, the Beneficiary/Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least sixty (60) days' prior written notice. Any action by Beneficiary/Lender hereunder to foreclose or accept a deed in lieu of foreclosure shall be subject to the "due on sale" provisions of the First Deed of Trust.

Beneficiary/Lender and Grantor/Borrower further agree that a default hereunder shall constitute a default under the First Deed of Trust. In the event of a default hereunder, the Senior Lien Holder shall have the right to exercise all rights and remedies under the First Deed of Trust.

9. Mortgage Insurance. If Beneficiary/Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Grantor/Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Beneficiary/Lender lapses or ceases to be in effect, Grantor/Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Grantor/Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Beneficiary/Lender. If substantially equivalent mortgage insurance coverage is not available, Grantor/Borrower shall pay to Beneficiary/Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Grantor/Borrower when the insurance coverage lapsed or ceased to be in effect. Beneficiary/Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Beneficiary/Lender, if mortgage insurance coverage (in the amount and for the period that Beneficiary/Lender requires) provided by an insurer approved by Beneficiary/Lender again becomes available and is obtained. Grantor/Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Grantor/Borrower and Beneficiary/Lender or applicable law.

10. Inspection. Beneficiary/Lender or its agent may make reasonable entries upon and inspections of the Property. Beneficiary/Lender shall give Grantor/Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

11. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary/Lender, subject to the terms of the First Deed of Trust.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Grantor/Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately

before the taking, unless Grantor/Borrower and Beneficiary/Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Grantor/Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Grantor/Borrower and Beneficiary/Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Grantor/Borrower, or it, after notice by Beneficiary/Lender to Grantor/Borrower that the condemner offers to make an award or settle claim for damages, Grantor/Borrower fails to respond to Beneficiary/Lender within thirty (30) days after the date of the notice is given, Beneficiary/Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by Security Instrument, whether or not then due.

Unless Beneficiary/Lender and Grantor/Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraphs 1 and 2 or change the amount of such payments.

12. Grantor/Borrower Not Released; Forbearance by Beneficiary/Lender Not in Waiver.

Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Beneficiary/Lender to any successor in interest of Grantor/Borrower shall not operate to release the liability of the original Grantor/Borrower or Grantor/Borrower's successors in interest. Beneficiary/Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Grantor/Borrower or Grantor/Borrower's successors in interest. Any forbearance by Beneficiary/Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

13. Successors and Assigns Bound; Joint and Several Liability; Co-signers.

The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Beneficiary/Lender and Grantor/Borrower, subject to the provisions of Paragraph 18. Grantor/Borrower's covenants and agreements shall be joint and several. Any Grantor/Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey the Grantor/Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Beneficiary/Lender and any other Grantor/Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this security Instrument or the Note without that Grantor/Borrower's consent; provided, however, that such modification or accommodations with regard to the terms of this Security Instrument or the Note without that Grantor/Borrower's consent; provided, however, that such modification shall not be made without the prior written consent of the Senior Lien Holder.

14. Loan Charges.

If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums



already collected from Grantor/Borrower which exceeded permitted limits will be refunded to Grantor/Borrower. Beneficiary/Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Grantor/Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

15. Notices. Any notice to Grantor/Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Grantor/Borrower designates by notice to Beneficiary/Lender. Any notice to Beneficiary/Lender shall be given by first class mail to

Beneficiary/Lender's address stated herein or any other address Beneficiary/Lender designates by notice to Grantor/Borrower. Any notice required to be given to the Senior Lien Holder shall be given by first class mail to the following address of Senior Lien Holder:

SENIOR LIEN HOLDER: _____

or such other address the Senior Lien Holder designates by notice to the Grantor/Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Grantor/Borrower or Beneficiary/Lender when given as provided in this Paragraph.

16. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end, the provisions of this Security Instrument and the Note are declared to be severable.

17. Grantor/Borrower's Copy. Grantor/Borrower shall be given one conformed copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Grantor/Borrower. Except for a conveyance to the trustee under the First Deed of Trust, if all or any part of the Property or any interest in it is sold or transferred without Beneficiary/Lender's prior written consent in accordance with the CDBG and HOME Program Regulations 24 Code Of Federal Regulations Part 92 and Part 570 or Grantor/Borrower does not utilize the property as its principal residence or use the property for low to moderate income housing, Beneficiary/Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Beneficiary/Lender if exercise is prohibited by the federal law as of the date of this Security Instrument.

If Beneficiary/Lender exercises this option, Beneficiary/Lender shall give Grantor/Borrower and the Senior Lien Holder prior written notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Grantor/Borrower must pay all sums secured by this Security Instrument. If Grantor/Borrower fails to pay these sums prior to the expiration of this period, Beneficiary/Lender may invoke any remedies permitted by this security Instrument without further notice or demand on Grantor/Borrower.



Notwithstanding Beneficiary/Lender's right to invoke any remedies hereunder, as provided in Section 8 above, Beneficiary/Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least sixty (60) days' prior written notice.

The Grantor/Borrower and the Beneficiary/Lender agree that whenever the Note or this Security Instrument gives the Beneficiary/Lender the right to approve or consent with respect to any matter affecting the Property (or the construction of any improvements thereon) or otherwise (including the exercise of any "due on sale" clause), and a right of approval or consent with regard to the same matter is also granted to the Senior Lien Holder pursuant to the First Deed of Trust, the Senior Lien Holder's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Grantor/Borrower and the Beneficiary/Lender.

Any restrictions on transferability, such as occupancy requirements or resale restrictions, will automatically and permanently terminate upon foreclosure, deed-in-lieu of foreclosure, or assignment of the insured mortgage to HUD.

19. Grantor/Borrower's Right to Reinstate. If Grantor/Borrower meets certain conditions, Grantor/Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) ten (10) days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Grantor/Borrower: (a) pays Beneficiary/Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorney's fees; and (d) takes such action as Beneficiary/Lender may reasonably require to assure that the lien of this Security Instrument, Beneficiary/Lender's rights in the Property and Grantor/Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Grantor/Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Paragraph 18.

20. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Grantor/Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Grantor/Borrower will be given written notice of the change in accordance with Paragraph 15 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

21. No Assignment. Until the loan secured by the First Deed of Trust has been satisfied in full, the Beneficiary/Lender and the Grantor/Borrower agree that the Note and the Security Instrument will not be assigned without the Senior Lien Holder's prior written consent.

22. Hazardous Substance. Borrow shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrow shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two



(2) sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Grantor/Borrower shall promptly give Beneficiary/Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Grantor/Borrower has actual knowledge. If Grantor/Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Grantor/Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Prior to taking any such remedial action, however, the Grantor/Borrower shall notify the Senior Lien

Holder that such remedial action is necessary and shall obtain the Senior Lien Holder's prior written consent for such remedial action.

As used in this Paragraph 22, "Hazardous Substances" are those substances as defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 22, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrow and Beneficiary/Lender further covenant and agree as follows:

23. Acceleration; Remedies. Beneficiary/Lender shall give notice to Grantor/Borrower and the Senior Lien Holder prior to acceleration following Grantor/Borrower's breach of any covenant or agreement in this Security Instrument. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is given to Grantor/Borrower (and with respect to the Senior Lien Holder, sixty (60) days from the date the notice is given to the Senior Lien Holder), by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Grantor/Borrower of the right to reinstate after acceleration and the right to bring a Court action to assert the non-existence of a default or any other defense of Grantor/Borrower to acceleration and sale. If the default is not cured by the Grantor/Borrower on or before the date specified in the notice, and the Senior Lien Holder has not exercised its right to cure the default, then Beneficiary/Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Notwithstanding Beneficiary/Lender's right to invoke any remedies hereunder, as provided in Section 8 above, the Beneficiary/Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least sixty (60) days' prior written notice. Beneficiary/Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Paragraph 23, including, but not limited to, reasonable attorney's fees and costs of title evidence.

If Beneficiary/Lender invokes the power of sale, Beneficiary/Lender or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Grantor/Borrower, the Senior Lien Holder and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public



advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Grantor/Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary/Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

24. Release. Upon payment of all sums secured by this Security Instrument, Beneficiary/Lender shall release this Security Instrument without charge to Grantor/Borrower. Grantor/Borrower shall pay any recordation costs.

25. Substitute Trustee. Beneficiary/Lender, at its option, may from time to time revoke Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

26. Modification of First Deed of Trust Loan Documents. The Beneficiary/Lender consents to any agreement or arrangement in which the Senior Lien Holder waives, postpones, extends, reduces or modifies any provisions of the First Deed of Trust Loan Documents, including any provisions requiring the payment of money.

27. Grievance Procedure. Should any applicant or participant of services from the Housing Assistance Division wish to file a grievance against the City of Port Arthur pertaining to services received or applied for, they may do so by the following procedure:

1) The person(s) filing the grievance may in writing request an appointment with the Housing and Neighborhood Revitalization Manager and/or the Director of Development Services or assigned designee to present the complaint. At this informal stage of the resolution process, the complaint may be presented either in written form or verbally. It is the Department's intent to respond to and resolve the complaint as practically & quickly as possible. A response to the complaint should be made no later than 5 working days from the date of receipt.

2) Should the response by the Housing and Neighborhood Revitalization Manager, Director of Development Services or assigned designee not be satisfactory to the person(s) bringing the complaint, an appeal may be made directly to the City Manager or his designated successor requesting review of the decision. At this stage of the resolution process, the request for appeal and the complaint itself should be submitted in writing. The complaint should fully describe the nature of the problem and contain all pertinent information that may aid in understanding the scope of the problem. The City Manager has option of meeting with the person(s) involved before reaching a decision. A response to the complaint shall be made as expeditiously as practical, but no later than



twenty (20) working days from the date of receipt of all written information provided or requested and the request for appeal to the City Manager.

28. Restrictions on Transfer Ability. Any restrictions on transferability, such as occupancy requirements or resale restrictions, will automatically and permanently terminate upon foreclosure, deed-in-lieu of foreclosure or the assignment of the First Deed of Trust to the United States Department of Housing and Urban Development (“HUD”).

The following list identifies the names, addresses, and telephone numbers of the persons to contact to file a grievance:

Beverly A. Freeman, Housing & Neighborhood Revitalization Manager
Room 500
300 4th Street
Port Arthur, TX 77640
(409) 983-8259

Pamela Langford, Director of Development Services
Room 336
444 4th Street
Port Arthur, TX 77640
(409)983-8135

Ron Burton, City Manager
Room 410
444 4th Street
Port Arthur, TX 77640
(409) 983-8101

BY SIGNING BELOW, the Grantor/Borrower and the Beneficiary/Lender accept and agree to the terms and covenants contained in this Security Instrument.

Signature: _____

Grantor/Borrower

ACKNOWLEDGEMENT

STATE OF TEXAS §

§

COUNTY OF JEFFERSON §

This instrument was acknowledged before me on the ___ day of _____, 20___, by _____.

Notary Public, State of Texas

Notary’s Printed Name: _____

Notary’s Expiration Date: _____

Signature: _____

Ron Burton,
City Manager



ACKNOWLEDGEMENT

STATE OF TEXAS

§

COUNTY OF JEFFERSON §

This instrument was acknowledged before me on the ____ day of _____, 20____,
by **Ron Burton, City Manager.**

Notary Public, State of Texas

Notary's Printed Name: _____

Notary's Expiration Date: _____



Promissory Note

Original Date: _____

Grantor/Borrower: _____

Grantor/Borrower's Mailing Address (including county):

Port Arthur, Texas 77640
Jefferson County, Texas

Beneficiary/Lender: City of Port Arthur

Place for Payment (including county):

City of Port Arthur
Housing & Neighborhood Revitalization Department
P.O. Box 1089
Port Arthur, Texas 77640-1089
Jefferson County, Texas

Original Principal Amount: up to \$14,995.00

Annual Interest Rate: 0%

Maturity Date: _____

Terms of Payment (principal and interest):

Security for Payment: This note is secured by a Deed of Trust of even date from _____ through _____ the ten (10) year affordability period, pursuant to the CDBG or HOME Program Regulations 24 Code of Federal Regulations Part 92, Part 570, and 24 Code of Federal Regulations Part 85, to cover the following real property:

_____, Port Arthur, Jefferson County, Texas 77640, Lot Number (), in Block Number (), of the City of Port Arthur Addition locate in Jefferson County, Texas, according to the map or plat of record in/ under Volume , Page of the Map Records of Jefferson County, Texas

Grantor/Borrower promises to pay to the order of Beneficiary/Lender the Principal Amount plus interest at the Annual Interest Rate. This note is payable at the Place for Payment and according to the Terms of Payment. All unpaid amounts are due by the Maturity Date. If any amount is not paid either when due under the Terms of Payment or on acceleration of maturity, Grantor/Borrower promises to pay any unpaid amounts plus interest from the date the payment was due to the date of payment at the Annual Interest Rate on Matured, Unpaid Amounts. In return for a loan that I have received (the "Loan"), I promise to pay an amount not to exceed up to \$14,995.00 (this amount is called "principal"), plus interest, to the order of the Beneficiary/Lender. The Beneficiary/Lender is the City of Port Arthur. The Beneficiary/Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

PAYMENTS

(A) Time and Place of Payments

The principal amount of this Note represents funds advanced by Beneficiary/Lender to or for my benefit to assist me in paying part of the purchase price of the Property or the closing costs on the Property or lot. On the same date as the date of this Note, I have entered into an agreement with Beneficiary/Lender that I will, among other things, continue to use the property as my principal residence and will use the Property as “low and moderate income housing” as defined in the HOME Program Regulations 24 Code of Federal Regulations Part 92, and Part 570, and as defined in the “Grantor/Borrower Agreement” for a period of five (5) years, ([redacted] through [redacted]). If for any reason I default under any of the provisions of the Grantor/Borrower Agreement, the Beneficiary/Lender may at its option, accelerate the maturity of this Note and demand payment by me of the entire balance of this Note together with any interest thereon accruing after maturity.

(C) Amount of Monthly Payments

There are currently no monthly payments. This is a forgivable note whereby Grantor/Borrower is required to use the property as his/her principal residence in accordance with the CDBG or HOME Program Regulations 24 Code of Federal Regulations Part 92 and Part 570. In the event Grantor/Borrower ceases to comply with section 3 of this agreement, the full balance of the note will become due.

Obligation:

The City of Port Arthur is a home rule Beneficiary/Lender and participating jurisdiction in the CDBG and HOME Program. The City (hereinafter referred to as Beneficiary/Lender) has provided the Grantor/Borrower with up to \$14,995.00 of CDBG or HOME funds for down payment assistance and closing costs. Pursuant to 24 Code of Federal Regulation Part 92.254, and Part 570, the period of affordability for homebuyer units is based upon the *direct CDBG or HOME subsidy* provided to the homebuyer that enabled the homebuyer to purchase the unit. Any CDBG or HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

Note:

Date: [redacted]

Original principal amount: up to \$14,995.00

Grantor/Borrower: _____

Beneficiary/Lender: City of Port Arthur

Maturity Date: [redacted] (5 year affordability period)

Terms of Payment: As provided in the note, the Grantor/Borrower will abide by the requirements of the CDBG and HOME Programs.

Homeownership Assistance per Unit	Affordability Period (Years)
Up to \$14,995.00	5

That certain promissory note of even attached hereto as Exhibit "B" of even date herewith executed by Grantor/Borrower and payable to Beneficiary/Lender, in the principal amount of **up to \$14,995.00**. The Note shall mature and become finally due and payable upon the occurrence of any default during the Affordability Period of five (5) years (the affordability period) after the date hereof) being **_____**, unless the debt evidenced by the Note is forgiven as provided in the Note.

Recapture Provisions:

Homes acquired with CDBG or HOME program funds must satisfy certain requirements for the five (5) year affordability period. The funds must be recaptured in the event the following rules are not adhered to:

- d. The dwelling acquired with the CDBG or HOME subsidy must be the principal residence of the Grantor/Borrower and will not be rented or used for other purposes.
- e. The Grantor/Borrower will not engage the property to obtain a mortgage, gift, sell or exchange the property without the written consent of the Beneficiary/Lender.
- f. The Beneficiary/Lender will inspect the property to confirm that the participant is in full compliance with the CDBG or HOME program guidelines during the affordability period of the property.

FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE HOME PROGRAM WILL OBLIGATE THE GRANTOR/BORROWER TO REIMBURSE THE TOTAL AMOUNT OF THE SUBSIDY TO THE BENEFICIARY/LENDER. The Beneficiary/Lender may recover up to \$5,000 for legal services rendered in the event of a breach of terms and conditions set forth above.

Sale of Property Within the Affordability Period:

If the Grantor/Borrower sells the property within the affordability period and the net proceeds are sufficient to repay all of the CDBG or HOME Program funds invested and Grantor/Borrower’s investment, the Beneficiary/Lender will recover the full amount of CDBG or HOME investment only. The participant will recover any amount for investments and apply the following formula for distribution of surplus net proceeds.

Sale during affordability period	Recapture amount of Down Payment & Closing Costs subsidy funds only	Share of net proceeds Down Payment & Closing Costs Subsidy funds only
1 – 5 years	100 %	75 %
6 – 10 years	50 %	50 %

If the participant sells the property within the affordability period and the net proceeds are insufficient to repay CDBG or HOME funds invested and the Grantor/Borrower’s investment, the Beneficiary/Lender will allow the Grantor/Borrower to recover its entire investment and will the Beneficiary/Lender will recapture any remaining funds. Specific documentation will be required to calculate HOME and net proceeds. The Beneficiary/Lender may require additional information such as:



- Housing Unit Sale Price (Settlement Statement)
- Grantor/Borrower Investments – evidence of down payment, closing costs, payments to principal, and any other capital investment to improve the housing unit (original Settlement statement and Capital Expenditures Receipts).

Once the documentation is presented, the Beneficiary/Lender will determine the amount of the recapture on a case-by-case basis.

The indebtedness evidence by the Note, and any other financial obligation which may hereafter be imposed on Grantor/Borrower by the Beneficiary/Lender, is subordinate to the indebtedness evidence by a note payable to a senior lender (“Senior Lien Holder”), which note is secured by a first deed of trust (the “First Deed of Trust”) dated of even date therewith encumbering certain real property located in Port Arthur, Texas (the “Property”).

In the implementation of the Homeownership Program, the Department will comply and will require recipients to comply with the provisions of 24 CFR Part 92.217, and Part 570 Income targeting Homeownership and 24 CFR Part 92.254, and Part 570 Qualifications as affordable housing.

Other requirements shall apply:

- The participants will pay up to \$5,000.00 to cover the costs of legal services rendered because of a breach of any of the terms and conditions of this contract.
- Specific documentation will be required to calculate CDBG or HOME and net proceeds.

In addition to the recapture restrictions to be incorporated in the deed of sale and promissory note, other provisions will be established to guarantee that the units remain affordable for subsequent homebuyers. These provisions include the following considerations:

- A provision restricting refinancing and subsequent mortgages of the property, without the written consent of the Beneficiary/Lender. Refinancing will be limited to capital improvements without equity return. This restriction is necessary, as refinancing with cash return will have the effect of reducing the profit at resale thus violating the purpose of resale / recapture provisions. In addition, a higher monthly payment after refinancing could represent a risk of foreclosure due to income adjustments.
- A requirement that the property will be used as the principal residence of the homebuyer(s) will not be leased, converted, sold, donated, and permuted to other such use without written consent of the Beneficiary/Lender.

If, on the sale, lease, lease with an option to purchase, transfer or other disposition (including any contract for deed) of all or any interest in the Property, I still owe amounts under this Note, Note Holder may require payment in full of sums owed hereunder as ore specifically provided by the Second Lien Deed of Trust (hereinafter defined) and the date upon which Note Holder requires such payment in full is called the “maturity date.”

Any payments required will be made to the City of Port Arthur at 444 4th Street, Port Arthur, Texas 77640. I will make these payments every month until I paid all of the principal and interests, if any, and



any other charges described below that I may owe under this Note. If interest is charged on the Loan, my monthly payments will be applied to interest before principal.

GRANTOR/BORROWER'S RIGHT TO REPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date.

LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

GRANTOR/BORROWER'S FAILURE TO PAY AS REQUIRED

(E) Default

Except as otherwise provided above, if I do not pay the full amount due hereunder on the date it is due, or utilize the property as his/her principal residence, I will be in default. A default under the terms and provisions of the documents evidencing, securing or pertaining to the indebtedness secured by the First Deed of Trust, including, without limitation, the First Deed of Trust, shall constitute a default hereunder. In addition, I will be in default if I default under the terms and provisions of the Second Lien Deed of Trust executed by me dated the same date as this Note securing my obligations under this Note.

(F) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(G) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(H) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me 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 attorneys' fees.

GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to these things. 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 promise made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together in accordance with 24 Code of Federal Regulations Section 92 and 24 Code of Federal Regulations Section 85. This means that any one of us may be required to pay all of the amounts owed under this Note.

WAIVERS

I 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 the Note Holder to 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.

UNIFORMED SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Second Lien Deed of Trust (the "Subordinate Security Instrument"), dated the same date as the Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. The Subordinate Security Instrument is and shall be subject and subordinate in all respects to the liens terms, covenants and conditions of the First Deed of Trust. The Subordinate Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of Property or a Beneficial Interest in Grantor/Borrower. Except for a conveyance to the trustee under the First Deed of Trust, if all or any part of the Property or any interest in it is sold, conveyed,

leased, leased with an option to purchase or transferred (including any contract for deed) without Note Holder's prior written consent. Note Holder may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Note Holder if exercise is prohibited by federal law as of the date of this Security Instrument.

If Note Holder exercises this option, Note Holder shall give Grantor/Borrower and the Senior Lien Holder prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Grantor/Borrower must pay all sums secured by this Security Instrument. If Grantor/Borrower fails to pay these sums prior to the expiration of this period, Note Holder may invoke any remedies permitted by this Security Instrument without further notice or demand on Grantor/Borrower.

POSSIBLE FORGIVENESS

Note Holder hereby agrees to forgive the principal of this Note on the 5th anniversary of the date of this Note, being [redacted]; provide, however, as conditions precedent to the possible forgiveness of the principal of this Note on the 5th anniversary of the date of this Note being [redacted], as provided above, during such 10 year affordability period (A) I must have allowed the occurrence of any default under this Note or the Subordinate Security Instrument; (B) I must not have allowed the occurrence of any default under any deed of trust ("Superior Deed of Trust"), including the First Deed of Trust, (i) the lien of which encumbers the Property, and (ii) which evidences a lien on the Property superior to the lien of the Subordinate Security Instrument; (C) I must not have allowed the occurrence of any default in the payment of any indebtedness secured by a Superior Deed of Trust; and (D) I must have occupied the Property as my principal residence continuously during the period commencing on the date hereof through and including the 5th anniversary of the date of this Note being [redacted].

IN WITNESS WHEREOF, the undersigned has executed this Note.

_____,
GRANTOR/BORROWER

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

Before me, the undersigned authority, on this day personally appeared _____ owner(s) known to me to be the persons whose name(s) are subscribed to the foregoing instrument, and acknowledge to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____ 20____.

Notary Public, State of Texas
My Commission Expires: _____



RIDER

PROMISE TO GIVE PERSONAL NOTICE TO THE CITY OF PORT ARTHUR, TEXAS (SECOND LIEN HOLDER) OF DATE OF ANY FORECLOSURE SALE OR OTHER ADVERSE ACTION RELATING TO THE PROPERTY:

In consideration for the City of Port Arthur, Jefferson County, Texas subordinating its lien and becoming a Second Lien Holder with respect to the following property: _____, Port Arthur, Jefferson County, Texas 77640, Lot Number _____ (), in Block Number _____ (), of the City of Port Arthur Addition located in Jefferson County, Texas, according to the map or plat of record in/ under Volume _____, Page _____ of the Map Records of Jefferson County, Texas, the Bank/Mortgage Company, _____, First Lien Holder, agrees to notify the City of Port Arthur at the address below, by certified mail, return receipt requested, of the date of any foreclosure sale relating to the above-referenced property or of any other adverse action relating to the property. This Notice Provision will either be included in the First Lien Holder’s Deed of Trust and filed of record, or this document will be attached as a rider to the First Mortgage or Deed of Trust and filed of record. All future assignees of the First Lien Documents are hereby notified of and agree to comply with this notice agreement.

AGREED TO BY, (FIRST LIEN HOLDER):

Authorized Signature: _____

Title: _____

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____.

Title Company:

Notary Public, State of Texas
My commission expires: _____

AFTER RECORDING RETURN TO:

**City of Port Arthur
Housing and Neighborhood Revitalization Department
P.O. Box 1089
Port Arthur, TX 77640-1089**



EXHIBIT "A"

_____, PORT ARTHUR, JEFFERSON COUNTY, TEXAS 77640, LOT NUMBER _____
(), IN BLOCK NUMBER _____ (), OF CITY OF PORT ARTHUR LOCATED IN
JEFFERSON COUNTY TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN/ UNDER
VOLUME , PAGE , OF THE MAP RECORDS OF JEFFERSON COUNTY, TEXAS.

