

# PROMISSORY NOTE

**BORROWER:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LENDER:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Principal Amount: \$**

**Interest Rate: %**

**Date of Note:**

**PURPOSE OF LOAN.** The purpose of the loan is to provide assistance to the Borrower, a person of low or moderate income, using the **HOME Investment Partnerships Program Funds** who is a "first time homebuyer" (defined as someone who has not owned a home in the last 3 years, a single parent with dependent children or family which includes a disabled family member) of the property located at the Borrower Address listed at the top of this Promissory Note.

**PROMISE TO PAY.** I ("Borrower") promise to pay to (enter Lender's name) ("Lender"), or order, in lawful money of the United States of America, the principal amount of (enter amount of HOME loan, spelled out and numeric amount. e.g. Fifteen THousand Dollards and No Cents (\$15,000) Dollars (\$ ). **DELETE or IF INTEREST IS CHARGED, FILL IN APPLICABLE INFORMATION**

**PAYMENT.** I will pay this loan in one principal payment of \$(enter amount) on (enter date). This payment due on (enter date), will be for all principal and all accrued interest not yet paid. Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; and then to any late charges. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**INTEREST CALCULATION METHOD.** N/A or FILL IN IF APPLICABLE

**PREPAYMENT.** N/A or FILL IN IF APPLICABLE

**MATURITY DATE.** No interest will be charged on the loan prior to default. The amount of the loan will be calculated using the requirements contained within the Deed Restriction Agreement and Trust Indenture of the total assistance provided by the Lender to/the Borrower. Said sum shall be in proper form of assignment without interest, effective only upon occurrence of the following events:

**A.** Upon the first sale or transfer of the Property to occur after the date of this Note. For purposes of this Note, a sale or transfer shall be defined as any sale, assignment, exchange or transfer, voluntary or involuntary, and including any transfer by gift, devise, or inheritance, of any interest in the Property, including but not limited to, (i) a fee simple interest whether in its entirety or a fractional interest; (ii) a joint tenancy interest; (iii) a life estate; (iv) a leasehold interest of any nature without (enter name of entity)'s (or its designee's) express prior written consent; (v) creation of a trust with any interest in the Property acting as the corpus of the trust; (vi) or an interest evidenced by a land contract by which possession of the Property is transferred and Borrower retains legal title for security purposes, EXCEPTING (i) a transfer by gift, devise, or inheritance to a present spouse or surviving joint tenant; (ii) a transfer to a spouse as part of a dissolution proceeding or in connection with a marriage; provided that with respect to each excepted transaction described in clause (i) and (ii), prior to or simultaneously with the transfer, the transferee agree to assume the obligations of Borrower in a manner that is acceptable to (enter name of entity);

**B.** Upon a default or breach under this Note or Deed of Trust securing this Note, or any Declaration of Restrictions, Declaration of Unit of Ownership, Bylaws or other recorded documents of record pertaining to the property, or upon any default in any superior lien secured by the Property;

**C.** Upon the Borrower's refinancing of a lien superior to that created by the Deed of Trust securing this Note for any amount greater than the amount owed on account of such superior lien immediately prior to such refinancing;

**D.** Upon the Borrower's vacation of the Property or Borrower's cessation of use as Borrower's sole residence.

**E.** Upon full repayment of the first mortgage.

**F. Extension of Maturity Date:** If none of the aforementioned events occur, then the principal balance of the note shall be due and payable (enter the year, spelled out and numeric e.g. Fifteen years (15) ( ) years from the date of the initial disbursement. If at the end of the (enter the year, spelled out and numeric e.g. Fifteen years (15) ( ) years, and none of the aforementioned events have occurred, ENTER APPROVED MANAGEMENT PLAN OPTION.

Upon occurrence of the Maturity Date as stated above, the Borrower shall pay to Lender the Principal sum and all other amounts owing under the Note.

**PROMISSORY NOTE  
(Continued)**

**Recapture or Resale Provisions:** N/A or FILL IN IF APPLICABLE

**LATE CHARGE.** N/A or FILL IN IF APPLICABLE

**INTEREST AFTER DEFAULT.** N/A or FILL IN IF APPLICABLE

**DEFAULT.** I will be in default under this Note if any of the following happen:

**Payment Default.** I fail to make any payment when due under this Note.

**Break Other Promises.** I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Note or in any agreement related to this Note, or in any other agreement or loan I have with Lender.

**False Statements.** Any representation or statement made or furnished to Lender by me or on my behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished.

**Death or Insolvency.** Any Borrower dies or becomes insolvent; a receiver is appointed for any part of my property; I make an assignment for the benefit of creditors; or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

**Taking of the Property.** Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, garnishing of or levying on my accounts with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

**Defective Collateralization.** This Note or any of the related documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Collateral Damage or Loss.** Any collateral securing this Note is lost, stolen, substantially damaged or destroyed and the loss, theft, substantial damage or destruction is not covered by insurance.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then I will pay that amount.

**LENDER CONSENT OF TRANSFER OR ASSIGN.** The Borrower shall transfer or assign the property described in the Deed of Trust, only with the written consent of Lender. Such consent shall not be unreasonably withheld, provided the Lender's security interest herein is adequately protected. Lender, may, at its option, declare immediately due and payable all sums secured by the Deed of Trust / Mortgage upon the sale or transfer of all or part of the real property as described in the Deed of Trust or Mortgage without the Borrower's prior knowledge and written consent.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if I do not pay. I will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees, paralegal fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

**GOVERNING LAW.** This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Montana without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of Montana.

**CHOICE OF VENUE.** If there is a lawsuit, I agree upon Lender's request to submit to the jurisdiction of the courts of (enter county) County, State of Montana.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**NOTICES.** Any notice required to be given under this Note shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the address shown near the beginning of this Note. Any person may change his or her address for notices under this Note by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, I agree to keep Lender informed at all times of my

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current address. Unless otherwise provided or required by law, if there is more than one Borrower, any notice given by Lender to any Borrower is deemed to be notice given to all Borrowers. It will be my responsibility to tell the others of the notice from the Lender.

**NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES.** I may notify Lender if Lender reports any inaccurate information about my account(s) to a consumer reporting agency. My written notice describing the specific inaccuracy(ies) should be sent to Lender at the following address: (enter entity and address).

**USE, OCCUPANCY AND RECAPTURE RESTRICTIONS.** The undersigned shall at all times comply with the use, occupancy and recapture restrictions affecting the property as set forth in that certain Deed Restriction Agreement and Deed Of Trust securing this Note, dated this day, between the Borrower and the Lender. If the undersigned shall fail or refuse to comply with such use, occupancy and recapture restrictions, the Lender may, at its option and with notice as provided in such Deed Restriction Agreement and Deed of Trust, declare the entire unpaid balance of this Note immediately due and payable and may invoke any remedies provided in such Deed Restriction Agreement, Deed of Trust, or applicable law in the event of default.

**GENERAL PROVISIONS.** If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. I do not agree or intend to pay, and Lender does not agree or intend to contract for, charge, collect, take, reserve or receive (collectively referred to herein as "charge or collect"), any amount in the nature of interest or in the nature of a fee for this loan, which would in any way or event (including demand, prepayment, or acceleration) cause Lender to charge or collect more for this loan than the maximum Lender would be permitted to charge or collect by federal law or the law of the State of Montana (as applicable). Any such excess interest or unauthorized fee shall, instead of anything stated to the contrary, be applied first to reduce the principal balance of this loan, and when the principal has been paid in full, be refunded to me. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

**PRIOR TO SIGNING THIS NOTE, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. I AGREE TO THE TERMS OF THE NOTE. I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.**

**BORROWER:**

**BORROWER:**

X \_\_\_\_\_

X \_\_\_\_\_

