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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

2008-1337

Preparer Information: Tim Crabb, ECIA
7600 Commercial Park
Dubuque, IA 52002
Phone: (563) 556-4166

Taxpayer Information: N/A

Return Document To: City of Manchester, Iowa
208 E. Main St.
Manchester, IA 52057

Grantors:
Emily Bandy
628 Prospect St.
Manchester, IA 52057

Grantees:
City of Manchester, Iowa
208 E. Main St.
Manchester, IA 52057

Legal description is located on page: 8

Document of instrument number of previously recorded documents: N/A

City of Manchester HOMEOWNERSHIP ASSISTANCE ACTIVITY
Funding agreement with IDED 07-HM-107-69

FORGIVABLE MORTGAGE

Notice: This Mortgage secures a loan (*"Loan"*) in the original amount of **$10,000.00 - (This forgivable mortgage amount will be the sum of the ADDI funds, rehabilitation funds, temporary relocation funds, and administration time by the Rehabilitation Specialist for technical services). This Loan is senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens, unless the Lender enters into a written subordination agreement.

**** Plus or minus any increase or decrease change orders in the amount of $ +29,704.00 for a total indebtedness and amount of this forgivable mortgage of $ ~~39,704.00~~ 40,000.00**

Grant of Mortgage. For valuable consideration, Emily Bandy *("Grantor")* hereby grants, mortgages and conveys to USDA Rural Development, lender, a security interest in all of Grantor's right, title, and interest in and to the following described real property located at 628 Prospect Street, Manchester, Iowa located in the County of Delaware:

Legal is known as: SEE PAGE 8

The Mortgaged Property or its address is commonly known as 628 Prospect Street, Manchester, Iowa, 52057.

The security interest in the Mortgaged Property includes all existing or subsequently erected or affixed buildings, improvements, and fixtures.

This Mortgage is given to secure the Grantor's performance of any and all obligations under the Forgivable Loan Promissory Note ("Note") executed by the Grantor on this date and payable to the Lender.

Performance. Except as otherwise provided in this Mortgage or the Note, the Grantor shall strictly perform all of Grantor's obligations under this Mortgage and the Note.

Terms and Conditions

1. Affordability Period. The Grantor shall comply with the terms of this Forgivable Loan Promissory Note for a term of 10 years *("Affordability Period")* beginning on the date of this Forgivable Loan Promissory Note. The Loan shall be forgiven 1/ 10 on each anniversary of the date the Grantor executed this Forgivable Mortgage for each year during the Affordability Period.

   If the sum of the forgivable loan is less than $39,999.00 the term will be 10 years. If the sum of the forgivable loan is $40,000.00 or more, the term will be 15 years. The forgivable loan amount will be the sum of the ADDI funds, rehabilitation funds, lead reduction funds, temporary relocation funds, and administration time by the Rehabilitation Specialist for technical services.

2. Principal Residence Requirement: Notice of Sale and Recapture.

The Grantor shall own and occupy the Mortgaged Property as the Grantor's principal residence. The Grantor shall notify the Lender if the Grantor no longer occupies the Mortgaged Property as the Grantor's principal residence or if the Grantor sells or transfers for any reason, the Mortgage Property during the Affordability Period. If the Grantor sells or transfers the Mortgaged Property during the Affordability Period, the Grantor shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff on the first mortgage lien on the property and any usual and customary sellers' closing costs) of the sale are not sufficient to cover the un-forgiven balance of the Loan. If the Net Proceeds are not sufficient to cover the un-forgiven balance of the Loan, the amount of the Loan subject to recapture shall be determined in accordance with the provisions of paragraph 3, below.

3. Insufficient Proceeds. If Net Proceeds are insufficient to repay the un-forgiven balance of the Loan, any Net Proceeds available shall be distributed to the Grantor and the Lender based on a ratio of the Original Loan Amount ("OLA") to the sum of the OLA and the Grantor's Investment ("GI" – defined as any out-of-pocket down payment paid by the Grantor plus any verified capital improvements made by the Grantor), as follows:

$$\frac{OLA}{OLA + GI} \times \text{Net proceeds} = \text{Recapture Amount payable to Lender}$$

$$\frac{GI}{OLA + GI} \times \text{Net Proceeds} = \text{Proceeds payable to Grantor}$$

If there are no Net Proceeds to distribute, the recapture amount payable to the Lender shall be zero.

4. Refinance. If the Grantor refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Department of Economic Development for participation in the Department's homeownership assistance program during the Affordability Period, the Lender may, in its sole discretion, agree to sign a subordination agreement subordinating the mortgage securing this debt to the new mortgage held by the IDED-approved lender. If the Grantor refinances both the first mortgage and this mortgage during the Affordability Period, the Grantor shall pay the Lender the entire un-forgiven balance of the Loan.

5. Duty to Maintain. Grantor shall maintain the Mortgaged Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value and shall not cause or suffer waste on or to the Mortgaged Property.

6. Taxes and Liens. Grantor shall pay all taxes and special assessments before the taxes or special assessments become delinquent. Grantor shall maintain the Mortgaged Property free of any liens having priority over the interest of the Lender, except as specifically agreed to in writing by the Lender.

7. Insurance. Grantor shall keep in force homeowners insurance with a standard mortgagee clause in favor of the Lender covering all improvements on the Mortgaged Property against loss by fire, tornado and other hazards in an amount not less than the total combined mortgages and liens on the Mortgaged Property. Grantor shall provide proof of insurance and appropriate riders to the Lender and shall pay all premiums on the insurance when due.

8. Lender's Expenses. If the Grantor fails to (a) pay all taxes, (b) maintain required insurance coverage on the Mortgaged Property, or (c) maintain the Mortgaged Property in good condition, the Lender may do so, at the Lender's sole discretion. The Grantor shall be obligated to repay all

expenses incurred or paid by Lender for such purposes and any amounts owed to the Lender for such purposes will accrue interest at 0%. The rights provided in this paragraph shall be in addition to any other rights or any remedies to which the Lender may be entitled as a result of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

9. Acceleration of Maturity and Receivership. If the Grantor defaults on this Forgivable Mortgage and the Note, the Lender may declare the Grantor in default and the entire un-forgiven amount of the Loan plus any payments made by the Lender for taxes, assessments, insurance premiums, or repairs shall become due and owing and the entire amount shall be collectable by foreclosure or otherwise. At any time after the commencement of any action in foreclosure, or during the period of redemption, and upon the request of the Lender, the court shall appoint a receiver to take immediate possession of the Mortgaged Property.

10. Default Events. At Lender's option, Grantor will be in default under this Mortgage if any of the following happens:

a. The Grantor fails to occupy the Mortgaged Property as Grantor's principal residence for a period of two consecutive months.
b. The Grantor sells, transfers, or conveys the Mortgaged Property.
c. The Grantor fails to pay all taxes, to pay the insurance, or to maintain the property in good condition.

11. Attorneys Fees. If Lender institutes any suit to enforce this Forgivable Mortgage and the Note and to foreclose on the Forgivable Mortgage, the Grantors shall pay all costs of the action, including reasonable attorneys' fees, court costs, and abstracting fees.

12. Governing Law. This Forgivable Mortgage and the Note shall be construed in accordance with the laws of the State of Iowa and the federal laws and regulations governing the HOME Investment Partnership Program.

13. Warranty of Title. The Grantor warrants that Grantor holds good and marketable title of record to the Mortgaged Property in fee simple, clear of all liens and encumbrances other than the first mortgage lien held by a lender approved by the Iowa Department of Economic Development for participation in the Department's homeownership assistance program and agreed to by the Lender.

14. Eminent Domain. If the Mortgaged Property is subject to eminent domain proceedings, the transfer shall constitute a sale of the Mortgaged Property and the proceeds shall be subject to the recapture provisions described above.

15. Non-judicial Foreclosure. Lender may exercise the right to non-judicial foreclosure pursuant to Iowa Code section 654.18 and Chapter 655A as currently enacted or hereafter modified, amended or replaced.

16. Shortened Redemption. Grantor hereby agrees that, in the event of foreclosure of this Forgivable Mortgage, Lender may, at Lender's sole option, elect to reduce the period of redemption pursuant to Iowa Code sections 628.26, 628.27, or 628.28, or any other Iowa Code section, to such time as may then be applicable and provided by law.

17. Notices. Any notice provided for under this Forgivable Mortgage shall be given in writing by registered or certified mail, by receipted hand delivery, or by courier and addressed to the Grantor at the Mortgaged Property's address. Notice shall be effective at the earliest of (a) the time it is actually received, (b) within one day if it is delivered using an overnight courier service, or (c) within five days after it is deposited in the U.S. mail if it is delivered using registered or certified mail.

18. Successors and Assigns. Subject to any limitations stated in this Forgivable Mortgage, this Forgivable Mortgage shall be binding on and inure to the benefit of the parties' successors and assigns.

19. Time is of the Essence. Time is of the essence in the performance of this Forgivable Mortgage and the Note.

20. Release of Rights of Dower, Homestead and Distributive Share. Each of the undersigned Grantors hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

21. Impact on Real Property. All of the terms and conditions herein shall run with and encumber the Mortgaged Property and the improvements thereon, and be binding upon the Grantor and the Grantor's successors and/or assigns during the Affordability Period.

EACH GRANTOR ACKNOWLEDGES HAVING READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS FORGIVABLE MORTGAGE, AND EACH AGREES ITS TERMS.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS FORGIVABLE MORTGAGE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

GRANTOR:

Emily Bandy

Emily Bandy, Individually

[Name of Grantor], Individually

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF IOWA)
) **SS**
COUNTY OF)

On this 28 day of April 2008 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Emily Bandy, to me known to be the persons named in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her voluntary act and deed.

Seal

Notary Public in and for the State of Iowa

Timothy B. Crabb

Commission Expires: 1-9-09

City of Manchester HOMEOWNERSHIP ASSISTANCE ACTIVITY

FORGIVABLE LOAN PROMISSORY NOTE
PURCHASE MONEY MORTGAGE

Borrower: Emily Bandy **Lender:** City of Manchester

For the value received, I (We) ("*Borrower*") jointly and severally promise to pay to City of Manchester] ("Lender"), its successors or assigns, the sum of (A) original loan amount **$10,000.00 (Plus the items listed below) or (B) the amount as determined under the Terms and Conditions provisions set forth below.

The forgivable loan amount "(A)" will be the sum of the ADDI funds, rehabilitation funds, temporary relocation funds, and administration time by the Rehabilitation Specialist for technical services. Total indebtedness for this project will be **$ 39,704.00 YMC

Terms and Conditions: The Borrower agrees that:

1. Affordability Period. The borrower shall comply with the terms of this Forgivable Loan Promissory Note for a term of 10 [*enter length of affordability period*] ("Affordability Period") beginning on the date of this Forgivable Loan Promissory Note. The Loan shall be forgiven 1/ 10 [*length of affordability period*]th on each anniversary of the date the Borrower executed this Forgivable Loan Promissory Note for each year during the Affordability Period.

   If the sum of the forgivable loan is less than $39,999.00 the term will be 10 years. If the sum of the forgivable loan $40,000.00 or more, the term will be 15 years. The forgivable loan amount will be the sum of the ADDI funds, rehabilitation funds, temporary relocation funds, and administration time by the Rehabilitation Specialist for technical services. Forgiveness of this document will be in equal proportions equal to the term of the forgivable loan.

2. Principal Residence Requirement: Notice of Sale and Recapture.
   The Borrower shall own and occupy the real property that serves as security for this Loan located at [address] ("Mortgaged Property") as the Borrower's principal residence. The Borrower shall notify the Lender if the Borrower no longer occupies the Mortgaged Property as the Borrower's principal residence or if the Borrower sells or transfers for any reason, the Mortgaged Property during the Affordability Period. If the Borrower sells or transfers the Mortgaged Property during the Affordability Period, the Borrower shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff on the first mortgage lien on the property and any usual and customary sellers' closing costs) of the sale are not sufficient to cover the un-forgiven balance of the Loan. If the Net Proceeds are not sufficient to cover the un-forgiven balance of the Loan, the amount of the Loan subject to recapture shall be determined in accordance with the provisions of paragraph 3, below.

3. Insufficient Proceeds. If the Net Proceeds are insufficient to repay the un-forgiven balance of the Loan, any Net Proceeds that are available shall be distributed to the Borrower and the Lender based on a ratio of the Original Loan Amount ("OLA") to the sum of the OLA and the Borrower's Investment ("BI" – defined as any out-of-pocket down payment paid by the Borrower plus any verified capital improvements made by the Borrower), as follows:

$$\frac{OLA}{OLA + BI} \times \text{Net Proceeds} = \text{Recapture Amount payable to Lender}$$

$$\frac{BI}{OLA + BI} \times \text{Net proceeds} = \text{Proceeds payable to Borrower}$$

If there are no Net Proceeds to distribute, the recapture amount payable to the Lender shall be zero.

4. Refinancing. If the Borrower refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Department of Economic Development (IDED) for participation in the Department's homeownership assistance program during the Affordability Period, the Lender may, in its sole discretion, agree to sign a subordination agreement subordinating the mortgage securing this debt to the new mortgage held by the IDED-approved lender. If the Borrower refinances both the first mortgage and this mortgage during the Affordability Period, the Borrower shall pay the Lender the entire un-forgiven balance of the Loan.

5. Collateral and Forgivable Mortgage. Borrower acknowledges this Forgivable Loan Promissory Note is secured by a Forgivable Mortgage dated [date] on real estate located at [property address]. Borrower further agrees to be bound by the terms and conditions of the Forgivable Mortgage and agrees that the terms and conditions of the Forgivable Mortgage are incorporated into this Forgivable Loan Promissory Note as fully set forth herein.

BEFORE SIGNING THIS FORGIVABLE LOAN PROMISSORY NOTE, I (WE) READ AND UNDERSTOOD ALL THE PROVISIONS AND I (WE) AGREE TO THE TERMS OF THIS FORGIVABLE LOAN PROMISSORY NOTE.

I (WE) ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS FORGIVABLE LOAN PROMISSORY NOTE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

Emily Bandy

Emily Bandy [NAME OF BORROWER]

4/28/08

DATE DATE

Lot Eight (8), except the West seven (7) feet thereof, of Hawker's First Addition to Manchester, Iowa, according to plat recorded in Book 2 Plats, Page 78, as resurveyed by plat recorded in Book 2 Plats, Page 145.