



# New Housing Construction Single-Family Program Guidelines

Version 1.0: March 2026

# Contents

**Version History .....ii**

**Program Summary .....1**

    Purpose..... 1

    How to use these Guidelines ..... 1

    Definitions ..... 1

    Administration ..... 2

    Available Funds..... 3

    Maximum Awards..... 3

    Eligible Activities ..... 3

    Ineligible Activities..... 5

    National Objectives ..... 5

    Disaster Tie-back ..... 5

    Eligible Applicants ..... 5

    Eligible Areas ..... 6

    Required Match..... 6

    Second Homes..... 6

    Exception Policy..... 6

**Incentives .....6**

    Developer Incentives..... 6

    Homebuyer Incentive ..... 7

**Application for Assistance .....7**

    Citizen Participation..... 7

    Public Hearing Requirement..... 8

    Application Workshop..... 8

    Housing Development Approach ..... 9

    Application Criteria ..... 10

    Project Team Identification ..... 13

    Roles and Responsibilities ..... 13

    Project Costs..... 15



Developer Selection .....	15
Grant Administration.....	15
Project Delivery .....	16
<b>Applicant Selection .....</b>	<b>18</b>
Scoring.....	18
Award .....	19
<b>Grant Agreement .....</b>	<b>20</b>
Terms and Conditions .....	20
Post Award First Steps.....	20
Section 106 .....	20
Release of Funds .....	21
Amendments and Extensions.....	21
<b>Implementation .....</b>	<b>22</b>
Timeliness and Project Completion .....	22
Claims .....	22
Building Codes .....	23
Prior to Sale .....	24
Mitigation Measures & Mitigation Construction Incentive .....	24
Infrastructure in Support of Housing Incentive .....	25
Forgivable Mortgages & Period of Affordability.....	26
Maximum Sale Price & Maximum Number of Units .....	28
Unit Warranty .....	29
Connection to Publicly Owned Infrastructure.....	29
<b>General Program Requirements .....</b>	<b>29</b>
Floodplain Requirement .....	29
Procurement and Contracting.....	29
Violence Against Women Act (VAWA).....	30
Section 3 .....	30
Davis Bacon .....	30
Uniform Relocation Assistance.....	30
Minimize Displacement .....	31
Long-term Sustainability .....	31



Fair Housing and Civil Rights .....	32
Internal Controls .....	32
Prevention of Fraud, Waste, and Abuse .....	33
Financial Management .....	33
Duplication of Benefits Review and Subrogation .....	33
Conflict of Interest .....	34
<b>Monitoring .....</b>	<b>34</b>
<b>Closeout .....</b>	<b>35</b>
Audit Requirements.....	36
Records Management.....	36
Document Retention.....	37
<b>APPENDIX: .....</b>	<b>1</b>
Homebuyer Guide .....	2
Income Verification Guidance for Recipients .....	10
Developer Agreement Template.....	11
Construction Lien/Mortgage .....	35
Example Homebuyer Agreement.....	45
Example Homebuyer Promissory Note.....	50
Example Homebuyer Mortgage .....	55
Example Homebuyer Mortgage Downpayment Assistance .....	68
Example Homebuyer Covenants and Restrictions.....	77
Example Record Mortgage Form.....	86
Example Release of Mortgage Form .....	98



# Version History

Version	Date	Summary Description
1.0	March 2026	Original

# Program Summary

## Purpose

The New Housing Construction Single-Family program will build new resilient, affordable housing that will be coordinated with homebuyer assistance. Communities still face significant needs for restoring and improving the resilience of the housing stock in the disaster impacted MID areas. The homes will be available to LMI households who are previous or current homeowners, as well as households who want to transition from renting to home ownership. The homes will first be offered to disaster-impacted families.

HUD has allocated \$134,687,000 in Community Development Block Grant-Disaster Recovery CDBG-DR funds to the State of Iowa in response to the June 2024 Midwest Flooding (FEMA DR-4796-IA), through publication of the Federal Register, Vol. 90, No. 10 (January 16, 2025; FR-6512-N-01). This allocation was made available through the Disaster Relief Supplemental Appropriations Act, 2025 (Pub. L. 118-158).

The state understands that a variety of housing sizes and types are needed to respond to the needs of all residents. Therefore, the program aims to fund the construction of owner-occupied single-family houses on vacant lots within existing neighborhoods or the development of homes in newly constructed neighborhoods.

## How to use these Guidelines

This manual describes the policies for the Single Family New Construction program. There is an Appendix that includes useful templates and documents needed for project implementation as well as a Homebuyer Guide to provide more detailed information about homebuyer requirements.

## Definitions

- **Unit of General Local Government (UGLG):** Any city, county, town, township, parish, political subdivision of a state, or public agency that has the authority to undertake activities eligible for assistance.
- **Applicant:** Unit of Local Government or Tribe.
- **Subrecipient:** The ‘Applicant’ becomes a Subrecipient from IEDA for any awarded funds.
- **Grant Administrators:** A Grant Administrator (GA) is an individual who has engaged with the Iowa Economic Development Authority (IEDA) for inclusion into the Certified Grant Administrator (CGA) Program for training and certification requirements necessary to administer grant funded projects in Iowa. GAs are responsible for ensuring full compliance with federal and state regulations across all phases of the funded project. Applicants can acquire a list of Certified Grant Administrators by contacting IEDA. Please see IEDAs CGA Policy and Training Resources for details.
- **Grant Administration (CDBG-DR)** Per HUD, Program Administration Costs (PACs) for CDBG-DR are defined as “reasonable general costs (including carrying charges) of grant management that do not include staff and overhead costs directly related to carrying out other CDBG-DR eligible activities” (CPD Notice 2023-06). **These apply to IEDA staff to administer the grant at the State level.**
- **Project Delivery (CDBG-DR)** Per HUD, Activity Delivery Costs (ADCs) for CDBG-DR are defined as

“allowable costs incurred for implementing and carrying out eligible CDBG-DR activities. All ADCs must be allocable to a CDBG-DR activity and include direct costs integral to the delivery of the final CDBG-DR assisted activity” ([CPD Notice 2023-06](#)). For CDBG-DR programs, Project / Activity Delivery refers to the implementation-level tasks required to carry out a specific CDBG-DR activity approved in the Action Plan and established in DRGR. Under IEDA’s CDBG-DR model, nearly all reimbursable work performed by external CGAs is classified as Project / Activity Delivery, **not Grant Administration**.

- **Developer:** A developer is a for-profit or nonprofit individual or entity that the grantee provides CDBG-DR funding to for the purpose of constructing new housing. Subrecipients will enter into development agreement with a developer who maintains site control of the project site.
- **Low to Moderate Income Household:** These are households that make at or below 80% of the area median income of the county in which the housing unit is built. Income verifications must be completed in accordance with 24 CFR 5.609 (Part 5 Annual Income). Income verifications are valid for 12 months from the date verification is completed.
- **Tribes:** [Federally recognized Indian tribes](#), bands, nations, and Alaska Native villages, as defined under Title I of the Indian Self-Determination and Education Assistance Act
- **Recipient:** Iowa Economic Development Authority (IEDA), as the receiving entity of the HUD program funds on behalf of the state of Iowa.
- **Vendor:** Any contractor or consultant hired by the Subrecipient to perform services or provide products to support the proposed project.

Additional definitions can be found in the CDBG Management Guide.

## Project Specific Definitions

- **Development Agreement:** This is the agreement executed between the Subrecipient/Responsible Entity and the Developer. This is NOT a subrecipient agreement per HUD regulations, as it does not delegate the roles and responsibilities of the subrecipient/Responsible Entity down to the Owner/Developer. The Subrecipient/Responsible Entity retains all responsibilities, and the Developer owns the property and executes the project.
- **Period of Affordability:** The term in which the assisted unit must remain in the ownership of the original homeowner.

## Administration

This program is administered by the Iowa Economic Development Authority (IEDA). IEDA is a state agency which administers Community Development Block Grant-Disaster Recovery (CDBG-DR) awards issued to the State of Iowa by the U.S. Department of Housing & Urban Development (HUD). Administrative activities are led by the IEDA CDBG Team Lead and members of the CDBG team.

## Available Funds

Program	Budget
Single Family New Construction	\$30,000,000

## Maximum Awards

Housing Construction Incentive Per Unit	Mitigation Construction Incentive Per Unit	Infrastructure in Support of Housing Incentive Per Unit*	Homebuyer Assistance Incentive Per Unit
Up to \$200,000	Up to \$25,000	Up to \$90,000 (or 35% of housing construction whichever is lower)	Up to \$35,000

All incentives will be applied for on the New Housing Construction Single-Family Owner-Occupied program application.

\*Infrastructure in support of housing will be awarded competitively and not available to every awarded unit. There is \$10,000,000 allocated to Infrastructure in support of housing and will be utilized by this program as well as the New Housing Construction Rental Program.

## Eligible Activities

Acquisition, construction, reconstruction or installation of public works, facilities, and site or other improvements: HCDA Section 105(a) 1, 4, 5, 11, 14, 15 and 24; applicable waivers identified in the Allocation Announcement Notice (90 FR 4754) and Universal Notice (90 FR 1754).

Eligible Activities	
Section 105(a)(1)	<p>Acquisition of real property (including air rights, water rights, and other interests therein) which is</p> <ul style="list-style-type: none"> <li>A. blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;</li> <li>B. appropriate for rehabilitation or conservation activities;</li> <li>C. appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;</li> <li>D. to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or</li> <li>E. to be used for other public purposes</li> </ul>
Section 105(a)(4)	<p>Clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings).</p>

Section 105(a)(11)	relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;
Section 105(a)(14)	<p>Provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property;</p> <p>(A) acquisition of real property;</p> <p>(B) acquisition, construction, reconstruction, rehabilitation, or installation of</p> <p>(i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and</p> <p>(ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and</p> <p>(C) planning;</p>
Section 105(a)(15)	<p>assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in non-entitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 101(c) of this title, and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;</p>
Section 105(a)(24)	<p>provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to— (A) subsidize interest rates and mortgage principal amounts for low- and moderate income homebuyers; (B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers; (C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees); (D) provide up to 50 percent of any down payment required from low- or moderate income homebuyer; or (E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by low- or moderate-income homebuyers; and</p>

## Ineligible Activities

As per [24 CFR 570.207](#), IEDA will not fund the following activities through the program:

Ineligible Activities	
<b>General government expenses</b>	Expenses required to carry out the regular responsibilities of the unit of the general local government are not eligible for assistance.
<b>Political activities</b>	Grant funds cannot fund the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.
<b>Purchase of equipment</b>	<p>The purchase of equipment with grant funds is generally ineligible.</p> <ul style="list-style-type: none"> <li>• Construction equipment: The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing or depreciation is eligible. The purchase of construction equipment for use as part of a solid waste disposal facility is eligible.</li> <li>• Furnishings and personal property: The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property, not an integral structural fixture is generally ineligible.</li> </ul>
<b>Operating and maintenance</b>	<p>Any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Examples of ineligible operating and maintenance expenses are:</p> <ul style="list-style-type: none"> <li>• Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with disability, parking and other public facilities and improvements.</li> <li>• Payment of salaries for staff, utility costs, and similar expenses necessary for the operation of public works and facilities.</li> </ul>

## National Objectives

Low- to moderate-income (LMI) households specifically Low to Moderate Income Housing (LMH) national objective.

## Disaster Tie-back

This program addresses the unmet needs tied to providing new resilient, affordable housing to improve the housing stock in the disaster-impacted MID areas. The newly constructed homes will be sold first to disaster-impacted households for the first four months. Developers will also market the homes to first-time home buyers to assist with the disaster’s impact on the rental community. The program is not restricted to first-time homebuyers.

## Eligible Applicants

Units of general local government (UGLGs) and tribes are the eligible applicants for these funds. UGLGs and tribes will identify a developer on their applications to IowaGrants and enter into a development agreement

AFTER a Release of Funds is achieved for awarded projects. Homebuyer assistance is also available to households purchasing the units.

## Eligible Areas

Grant funding will be provided to:

- HUD-identified MID areas: **Cherokee County, Clay County, Sioux County and Woodbury County**
- Grantee-identified MID Areas: **Lyon, Buena Vista, and Pottawattamie counties**

The HUD-identified MID areas will receive priority because 80% of the grant allocation needs to be spent in the HUD-identified MID areas.

## Required Match

There is no required match for this program; however, additional consideration will be provided to those applications that demonstrate a greater degree of leveraged funds.

## Second Homes

Individuals with an ownership interest in second homes are not eligible to be beneficiaries under this program. A second home is defined as a home that is not the primary residence of the owner, tenant, or any occupant at the time of the disaster or at the time of application for grant assistance. This program will not fund second homes, and all homes built must be the primary and sole residence of an LMI household. A homebuyer may have a loan co-signer, but not a co-borrower that does not also reside in the home and only have ownership interest in the grant funded home.

## Exception Policy

IEDA will consider exceptions to the program guidelines on a case-by-case basis. All exceptions must be submitted in writing with the application and include a justification. Exceptions should enhance the benefit to LMI households or areas. Exceptions cannot violate federal, state, or local laws or regulations. Exceptions must still meet HUD’s requirements of being necessary and reasonable, comply with federal accessibility standards, and accommodate a person with disabilities if applicable. A response will be authorized in writing to the applicant upon approval or denial of the application requesting an exception.

## Incentives

### Developer Incentives

Cities, counties and tribal governments within the disaster-affected area will apply to IEDA through a competitive application cycle. After the award, these entities will fund developers to build new homes. Subrecipients will enter into a development agreement with a developer who maintains site control of the project site. A developer is a for-profit or nonprofit individual or entity that the grantee provides grant funding for the purpose of constructing new housing.

The developers will receive incentives that can be drawn down during construction. All incentives are per unit. The incentives are as follows:

- **Housing Construction:** maximum assistance is **up to \$200,000 per unit**. The incentive will be used to assist with housing construction costs to keep the unit affordable. This is the main source of developer funding for this program.

- **Mitigation Construction:** maximum assistance is **up to \$25,000 per unit**. The Incentive is optional and will be used toward the purchase and installation of building materials that can better withstand storm events and mitigate against future natural disaster damage. More information can be found in the Mitigation Section of these guidelines.
- **Infrastructure in Support of Housing Incentive:** maximum assistance is **up to \$90,000 or 35% per unit**. The incentive is optional and will be used to support the construction of infrastructure for the new housing development. More information about this incentive can be found in the Infrastructure in Support of Housing Section of these guidelines.

The developer incentives will be awarded as a grant, with 10% retainage held until an LMI-qualified buyer occupies the home.

### Homebuyer Incentive

Eligible low to moderate income (LMI) homebuyers can receive assistance toward the purchase of the single-family units constructed as part of this program. The amount of assistance is **up to \$35,000 per homebuyer**. Eligible LMI buyers approved for a mortgage will have access to downpayment assistance up to 100% of lender required downpayment and applicable closing costs and/or principal write-down, interest rate subsidization, and assist in paying private mortgage insurance. Households requiring cosigners from outside of the purchasing household are ineligible.

More information about this incentive can be found in the Homebuyer Section of these guidelines and the homebuyer guide in the appendix.

## Application for Assistance

IEDA will open an application window for eligible applicants to apply to the program. Applications will be available on IowaGrants. The applications will be reviewed competitively and evaluated to ensure that the proposed projects meet the minimum criteria outlined in these Program Guidelines. If all funds are not obligated, future rounds will be established, at no less than one round per year, until the funds in this program are fully expended. After evaluation, the scoring will be forwarded onto IEDA leadership for the award. IEDA will identify awardees and notify selected and non-selected applicants in writing. Selected awardees will then enter into a grant agreement with IEDA that will formalize the conditions of the grant.

### Citizen Participation

All applicants, including Units of Local Government and Subrecipients, must ensure meaningful access to program information and services for individuals with Limited English Proficiency (LEP) in accordance with Title VI of the Civil Rights Act of 1964 and HUD’s LEP Guidance (72 FR 2732). This obligation is reinforced through IEDA’s own planning documents. The State of Iowa Citizen Participation Plan, which is incorporated into the State’s Consolidated Plan, requires that program materials and public hearings be made accessible to non-English speakers, including by providing translators and written translations upon request and ensuring that approved Consolidated Plan documents are available “in a manner accessible to non-English speakers or those with disabilities.” In addition, IEDA maintains a formal Language Access Plan, which describes the reasonable steps required under HUD’s LEP framework—such as the Four-Factor Analysis—and affirms that both IEDA and its subrecipients must provide meaningful language assistance so LEP individuals can access CDBG-funded programs and services.

Applicants may either adopt IEDA’s Language Access Plan or develop their own HUD-compliant Language Access Plan that meets Title VI and Executive Order 13166 requirements.

- IEDA Citizen Participation Plan: <https://opportunityiowa.gov/media/6833/download?inline>
- IEDA Language Access Plan: <https://opportunityiowa.gov/media/6834/download?inline>

## Public Hearing Requirement

According to the IEDA’s Action Plan and Citizen Participation Plan, applicants are required to solicit public feedback on the projects for which they are applying for funding by holding a public hearing. According to Iowa Code 362.3, the notice of the public hearing should be published or posted for review no less than 4 days and no more than 20 days prior to the hearing. If awarded, applicants will be required to host an additional public hearing before closing out of the project.

Public hearings can be held in conjunction with other public meetings. The meeting notice should be posted in a newspaper of general circulation. The public hearing must include discussion of the following:

- How the need for the activities was identified;
- How the proposed activities will be funded and the sources of funds;
- The date the application will be submitted;
- The requested amount of federal funds;
- The estimated portion of federal funds that will benefit low-and moderate-income persons;
- Where the proposed activities will be conducted;
- Plans to minimize displacement and the unit of general local government's anti-displacement and relocation plans required under § 570.488;
- Plans to assist persons that are actually displaced; and
- The nature of the proposed activities.

Applicants will be required to provide proof of the public hearing in the application including:

- A copy of the Affidavit of Publication and a copy of the actual public hearing notice;
- Meeting minutes, including comments and responses;

During the project construction, the applicant must conduct at least one status of funded activities (SOFA) hearing that covers the following minimum points:

- A general description of accomplishments to date;
- A summary of funding of the proposed activity and sources of funds;
- A summary of expenditures to date;
- A general description of the remaining work;
- The location of the proposed activity;
- A general description of changes made to the project budget, performance targets, activity schedules, scope, location, objectives, or beneficiaries.

## Application Workshop

Entities will apply to IEDA via <https://www.iowaGrants.gov> using the guidance provided in this document and in the CDBG Management Guide.

### *Application Workshops*

Application Workshop is scheduled for [April 09, 2026](#);

### *Application Window*

Application Window schedule for Round #1 will be [5/01/26 – 8/01/26](#)

## **Housing Development Approach**

### ***Early Start - Buyer Pool (“ESBP”) Model***

IEDA will administer the Single Family New Construction Program using a Hybrid Early Start Buyer Pool Development Approach, which combines elements of both the Buyer Pool and Speculative construction models. This approach is designed to allow developers to initiate construction activities in a timely manner while maintaining the accountability, eligibility verification, and national objective compliance required for CDBG-DR funded housing activities.

Under the Hybrid Early Start Buyer Pool model, developers may commence certain preconstruction and construction activities after execution of the Grant Agreement and completion of the applicable environmental review, even if an income qualified purchaser has not yet executed a purchase agreement for a specific unit. However, continued construction progress, unit completion, and program reimbursement are contingent upon the developer’s demonstrated compliance with Buyer Pool requirements, including active marketing, documented outreach, and the identification of income qualified, disaster impacted homebuyers within established timeframes. This approach ensures that housing development can proceed without unnecessary delays while still requiring that all assisted units ultimately serve verified low to moderate-income (LMI) or disaster impacted households and meet all CDBGDR statutory and regulatory requirements.

#### Step 1: Conditional Early Construction Authorization

Following the a) Full execution of the Grant Agreement and b) Completion and approval of the environmental review, developers may begin site preparation, infrastructure installation, and vertical construction prior to execution of a purchase agreement, subject to the conditions outlined below. IEDA may limit the number of units authorized for early construction at any one time to mitigate market and compliance risk and to ensure alignment with anticipated Buyer Pool demand.

#### Step 2: Required Buyer Pool Development Activities (Concurrent with Construction)

While construction is underway, developers must actively implement Buyer Pool development activities consistent with the accountability standards of a Buyer Pool model. These activities include, but are not limited to:

- Submission and approval of a Marketing and Outreach Plan detailing:
  - Target populations;
  - Disaster impacted outreach strategies;
  - Affirmative marketing and fair housing compliance; and
  - Anticipated timelines for buyer identification.
- Conducting documented outreach efforts, including:
  - Advertising;
  - Community engagement;
  - Coordination with local governments, housing counselors, and disaster recovery partners.
- Hosting open house events or informational sessions once homes reach a stage suitable for public viewing.

- Maintaining a Buyer Pool list of interested households, including disaster impact status, application date, and income qualification status.

These activities must begin no later than a developer defined point approved by IEDA and must continue throughout the construction period until all units are under executed purchase agreements.

### Step 3: Disaster Impacted Priority Marketing Period

Consistent with CDBGDR requirements, the Hybrid model includes a disaster impacted priority marketing window. Once marketing efforts formally commence, a four month disaster priority period will begin. During this period, only households that self certify and document disaster impact may be income qualified and approved for participation. Disaster impacted households will receive the first opportunity to execute purchase agreements for available units. Marketing materials must include language substantially similar to: “Households impacted by the July 2024 Disaster Event will receive the first opportunity to purchase these homes.” The grant administrator must receive sample marketing materials prior to or concurrent with distribution.

### Step 4: Purchase Agreement Milestones and Construction Limits

To maintain program accountability and minimize speculative risk, Developers must secure executed purchase agreements with income qualified, disaster impacted buyers no later than a defined construction milestone (e.g., prior to drywall, certificate of occupancy, or final draw—IEDA may specify). Additional requirements exist:

- Earnest money requirements may not exceed \$500;
- Income qualifications are valid for 12 months;
- Developers must demonstrate a reasonable expectation that buyers will close within nine (9) months of executing a purchase agreement;

Failure to meet Buyer Pool milestones may result in:

- Suspension of further construction authorizations;
- Withholding of reimbursements for uncommitted units; or
- Other corrective actions as determined by IEDA.

### Step 5: Post Priority Outreach and General LMI Buyers

If, after exhausting all approved disaster impacted applicants; and allowing at least 30 days for disaster impacted households to execute purchase agreements units remain available, Developers may extend outreach to income qualified LMI households from the general public. These applicants will be considered on a first come, first served basis. Approved LMI households must be given at least 30 days to execute a purchase agreement. All households must be approved by IEDA through the Housing Unit Verification process in IowaGrants prior to loan closing and occupancy.

## Application Criteria

IEDA has selected funding criteria to best address the disaster-related unmet needs identified in each affected community and ensure timely project completion. A minimum threshold score will be established to ensure high-quality projects are selected. The criteria used to evaluate each competitive application and award funds will include:

- Applicant has an Active SAM.gov account and Unique Entity Identifier (UEI) #;
  - ***If awarded, SAM.gov account must be kept active throughout the life of the grant agreement.***
- The application must demonstrate that the homes will be sold to LMI households.

- All costs must be used in for eligible activities
- All new units will be constructed outside of the HUD defined Federal Flood Risk Management Standard (FFRMS) Floodplain.
- All units will have access and connection to municipal utilities, including water, sewer and broadband. Projects dependent on wells and/or septic systems will not be eligible.
- Municipalities must demonstrate that the proposed units to be constructed can be supported by the existing water / sewer / stormwater utility infrastructure at the time of the application. If the Applicant is additionally seeking water / sewer / stormwater repairs via FEMA-PA or CDBG-DR funding, that construction must not be dependent upon constructing proposed housing units as a means to expand economic benefit beyond the replacement of list housing stock.
- The project will be located in one of the HUD- or grantee-identified MID areas.
- The development team has financial stability and demonstrates experience in housing development and working with federally funded projects.
- The project is ready to proceed, and the project schedule is detailed and feasible.
- The other sources of funding are well documented and make up a reasonable amount of the total project cost.
- The Developer must demonstrate ownership or site control of the building site.
- The budget is comprehensive and reasonable for the project's scope.
- Evidence that each home will be constructed based on a set of blueprints.
- Evidence that the development team has someone on staff or a hired architect/engineer/project manger that will perform construction inspection activities.
- The designs and plans demonstrate that future hazards will be mitigated, and that recommendations provided in the IEDA design consultation were incorporated.
- The Applicant has included proposed steps to Affirmatively Further Fair Housing.
- The development team has experience with green and resilient building standards, and the National Green Building Standards (NGBS) are integrated into the design, including if they intend to comply with the U.S. Department of Energy Zero Energy Ready Homes program requirements and obtain certification.
- The Applicant has a marketing plan in place to sell the units to eligible homebuyers

### ***Priority Criteria***

Priority projects will include:

- The project should align with the applicant’s Community Development and Housing Needs Assessment.
- Timeliness: demonstrated ability to complete project in target milestones.
- Benefit: document the needs stated by the impacted community.
- Quality Control: assess the quality of documentation to justify the local match (as applicable).
- The project promotes infill, compact, transit-oriented development, and/or orderly development.
- The project site has access to biking/walking trails, open space/recreation, and parks.
- The project site has access to public transit and/or alternative forms of transportation.

### ***Required Application Documentation***

To be scored, applications must include:



**Standard CDBG Application Documents required for scoring:**

- Notification of Funding Availability (NOFA):
  - *Affidavit and Copy of Public Hearing Publication, Public Hearing Minutes with 9 Points, Resolution Authorizing the CDBG Application*
- [HUD Form 2880 – Applicant Disclosures](#);
- [HUD Form 424-B Federal Assurances form](#);
- [Required Acknowledgement of Environmental Review Requirements](#);
- [Residential Anti-Displacement & Relocation Assistance Plan \('RARA'\)](#);
- [Prohibition of Excessive Force Policy](#);
- [Equal Opportunity Policy](#);
- [Code of Conduct](#);
- [Procurement Policy](#);
- [2 CFR 200 Competition Certification of Compliance](#);
- [Affirmative Fair Housing Policy](#);
- Community Development Housing Needs Assessment;
  - ***Must be current to within the last year & presented at a public meeting.***
- Language Access Plan;
- Project Budget and Match Worksheet;
- LMI Income Survey Report (if no ACS data demonstrates LMI/LMA status);
- Project Team Identification (See below);
- Project Delivery / Administration Staffing Plan, that identifies all participating GA members;

**Program-Specific Application Documents**

- Documentation of request for Infrastructure in Support of Housing (if applicable)
- Documentation of request for Mitigation Incentive (if applicable)
- Developer Assurances signed by Developer & UGLG;
- Proof of procurement for project delivery & Developer;
- Map of project location;
- Floodplain Map;
- Current Site Zoning and an outline of any needed rezonings necessary – WITH a targeted schedule for implementation;
- Evidence the proposed Developer team has positive site control;
- Project Cost Estimates ;
- Support documentation for the project budget;
- Demonstration of the ability to obtain construction financing for the entire project;
- Project Design Documents (Site Plan, Rendering, Concept, etc.);
- DOB Application Certification signed by the Applicant;
- Subrogation Agreement signed by the Applicant;
- Outreach plan to LMI, underserved, and vulnerable populations eligible to purchase a home through this program, including any steps to help prepare them for homeownership;
- Project Schedule of critical milestones to become part of the grant agreement and required to be incorporated into the developer/contractor agreements;
- Marketing plan to sell the units

In addition to the above documentation, all fields in IowaGrants.gov application form must be completed.  
**Incomplete application will not be reviewed or scored.**

## Project Team Identification

All projects will be required to submit a detail of the proposed project team with their application. The plan will indicate clearly who will be providing what supportive roles to the applicant. The details will include the designation of the project team, including their roles and responsibilities. All must be contractually established (except for municipal staff). These include, but not limited to:

- Chief Elected Official (CEO) – oversee City’s contractual obligations to the project and all project contractors / vendors
- Municipal Admin Lead – oversee the financial matters
- Local Counsel – represent the applicant interests for all contractual / acquisition matters
- Municipal Utilities – If the Applicant has a separate municipal utility provider, distinct from the UGLG’s departmental staff, that entity **MUST** be part of the project team and demonstrated to be part of project planning and implementation.
- Grant Administrator – oversee all state / federal funding compliance elements that apply to the project, IowaGrants data entry, City team liaison
- Architect/Engineer:
  - Develop plans and assure that contractor builds to plans ;
  - Must be a procured licensed professional to work in the State of Iowa;
- Labor Compliance Officer – GA-designated member that reviews payrolls and completes interviews
- General Contractor – ensure the GC and subs adhere to contract scope / schedule / budget as cited in bids / quotes
- **For Housing Projects, the following will be included:**
  - Housing Inspector – performs final inspection prior to sale
  - Project Manager – overall coordination of the project, can be UGLG staff, the CGA entity under a distinct contract from GA duties, architect/engineer or, or outside entity;
  - Developer - oversee the planning, financing, and execution of new housing construction in accordance with program requirements
    - *Note: Developer may not also be the GC.*
  - Property Owners - Cooperate with city and project team to ensure timely project completion

## Roles and Responsibilities

### *IEDA Responsibilities*

As the CDBG-DR grantee, IEDA is responsible for ensuring program compliance and providing oversight throughout the homebuyer assistance process. In carrying out these responsibilities, IEDA will:

- Review homebuyers’ Duplication of Benefits (DOB) documentation to confirm that no duplication exists before assistance is awarded.
- Verify underwriting materials, including income eligibility and the amount of assistance requested.
- Approve final homebuyer eligibility determinations and authorize the amount and terms of direct assistance provided.
- Disburse CDBG-DR funds to developers for the construction of program-funded housing units.
- Provide required program forms, such as sample Purchase and Sale Agreements and any necessary addenda.
- Issue guidance on setting and adjusting sale prices, ensuring consistency with federal and program requirements.
- Review and resolve grievances or appeals submitted through the program’s established process.

## ***Subrecipient Responsibilities***

Subrecipients are responsible for managing program activities, ensuring compliance with federal and state requirements, and overseeing developers to ensure successful delivery of eligible housing units. Subrecipient responsibilities include:

- Procure and contract with a qualified developer through an RFP process.
- Execute a development agreement incorporating IEDA requirements and milestones.
- Serve as the Responsible Entity (RE) for environmental review compliance under 24 CFR Part 58.
- Contract with an IEDA-certified Grant Administrator (CGA) or eligible COG for project delivery.
- Submit all required reporting, claims, and documentation through Iowa Grants.
- Ensure compliance with federal requirements (Section 3, Davis-Bacon, URA, Fair Housing, Civil Rights).
- Conduct required public hearings (NOFA and SOFA) and maintain documentation.
- Verify that constructed units meet program standards and are sold to qualified LMI buyers.
- Maintain financial records, internal controls, and procurement files consistent with 2 CFR 200.
- Support IEDA in homebuyer eligibility review and closing documentation.

## ***Developer Responsibilities***

As part of the program, Developers play a key role in constructing program-funded housing units. They are selected by Subrecipients and receive funding through them, while ensuring compliance with program requirements and supporting homebuyers throughout the process. Developers will:

- Maintain site control and provide required design documents, plans, and specifications.
- Construct homes in compliance with local/Iowa building code, NGBS Silver minimum, and mitigation requirements.
- Demonstrate and maintain construction financing prior to reimbursement.
- Submit standardized payment applications (AIA/EJCDC or equivalent) with required cost documentation.
- Market units following the Buyer Pool Approach, prioritizing disaster-impacted households for four months.
- Coordinate with the Grant Administrator on homebuyer intake, purchase agreements, and eligibility steps.
- Ensure units pass all inspections before sale and provide required warranty materials.
- Comply with federal labor standards, fair housing requirements, and all program rules.
- Maintain accurate records and provide documentation for IEDA monitoring and project closeout.

## ***Homebuyer Responsibilities***

Homebuyers receive assistance through the program as forgivable mortgage. To ensure eligibility and maintain compliance with program requirements, homebuyers must:

- Complete the homebuyer application and provide all required documentation.
- Submit income verification materials and respond to requests for additional information.
- Disclose all sources of assistance to support the Duplication of Benefits (DOB) review.
- Obtain an eligible first mortgage product that meets program requirements.
- Participate in the Buyer Pool Approach process, including required purchase agreements and earnest money (if applicable).
- Cooperate with the subrecipient, developer, and IEDA during underwriting and eligibility review.
- Use the property as their primary residence for the required occupancy period.
- Comply with the terms of the forgivable mortgage and affordability restrictions.

- Notify the subrecipient/IEDA of any changes in occupancy, refinancing requests, or plans to sell the home.
- Provide required documentation at closing and throughout the affordability period (e.g., proof of occupancy upon request).

## Project Costs

Any contingencies proposed in the application budget must be at least 10% but may not exceed 15%. As contingencies turn into project costs, they will need to be supported with documentation to be claimed. The Developer fee proposed in the application budget may not exceed 10% profit. Contractors’ and sub-contractors’ profits must be capped at 10% profit. Grant Admin fees will not exceed 10%.

Prior to the obligation of funds by IEDA for construction, developers will demonstrate that the engineering co-design for a project is feasible.

Grant funds are made on a reimbursement basis and therefore, project sponsors and/or their contracted Developers must have project financing for the project to pay vendors and other expenses prior to being reimbursed by IEDA. Therefore, IEDA will require the Applicants to demonstrate full financing and submit supporting documentation for estimated project costs prior to release of funds.

For construction projects, all trades will utilize the AIA, EJCDC, or equivalent standard Payment Applications forms for submitting costs with direct/indirect costs clearly indicated under the “general conditions” or “mobilization” pay item. IEDA will also provide a payment application template upon request.

## Developer Selection

Applicants will be able to select the Developers they choose to work with; a request for proposals (RFP) process is required. Along with a list of required qualifications, Applicants should also include the proposed developer agreement in the RFP, such that terms and conditions of the grant funding requirements are made very clear up front. Part of the developer agreement will be the incorporation of the project milestones and the IEDA grant agreement period of performance. Applicants are reminded that the proposed Developer cannot be currently engaged in litigations of any kind. Additionally, they cannot be a developer or contractor on another active funded project due to capacity concerns. Any vendors who work in conjunction with the Developers must disclose their ownership structure and partners to demonstrate transparency for conflict-of-interest avoidance and arms-length separation of legal entities. Vendors shall not have more than one business concern under the same project.

## Grant Administration & Project Delivery

### Grant Administrators

IEDA will only award applications with a Grant Administrator (GA) identified to perform grant administration services on the behalf of the Applicant / Subrecipient team. All GA’s performing any activity on a project must comply [with IEDA’s Certified Grant Administrator \(“CGA”\) Policy](#) . All Applicants will be required to contract with a GA that appears on IEDA’s CGA list; if the proposed GA is not in the CGA Program, then they must first contact IEDA to be read into the program rules and enter the training cycle for certification.

Iowa law permits local governments to obtain services from a Council of Governments through a Chapter 28E intergovernmental agreement, which is not subject to competitive procurement requirements applicable to private vendors. (<https://www.legis.iowa.gov/docs/ico/chapter/28E.pdf>)

The GA working with the project will be required to maintain an active IEDA Certified Grant Administrator certification. The GA will provide a lump sum estimate for administration in the application for funding. Administration must be substantiated by documentation of costs incurred.

The GA should provide to the Applicant a list of all team members that will participate in the project, and include this in the application, as noted in the Required Application Documents. This list should specifically list individuals that will perform critical cross-cutting functions, such as Environmental Review, Procurement, Federal Labor Standards, Section 3 Reporting, etc.

If a member of a for-profit consulting firm: the proposed CGA must demonstrate that they are NOT performing roles of a design professional (e.g., the project Architect / Engineer of record) and must have a distinct contract for grant administration / project delivery duties apart from any other services – this ensures that an entity is not self-performing compliance checks against itself. If extenuating circumstances are experienced by a Subrecipient in acquiring a CGA, the Subrecipient may formally request a waiver

A full description of anticipated duties and responsibilities of the GA can be found in the CDBG Management Guide. **The maximum reimbursable cost for GA cost is not to exceed 10% total grant award.**

## Project Delivery

According to HUDs definitions of grant administration and project delivery under CPD Notice 2023-06 and under IEDA’s CDBG-DR program structure, IEDA retains responsibility for grant-level administration, while Subrecipients are responsible for implementing approved Activities. Accordingly, external Certified Grant Administrators (CGAs) engaged by Subrecipients function primarily in a Project / Activity Delivery role, rather than as grant-level administrators. Each application must budget for and document CGA fees and other Project / Activity Delivery (Activity Delivery Costs or ADCs). Project / Activity Delivery refers to the eligible costs incurred to implement and carry out a specific grant funded activity approved in the Action Plan and established in DRGR. These costs include all tasks necessary to determine eligibility, complete activity-level regulatory requirements, and bring the activity to completion in accordance with HUD rules and IEDA program guidance.

### Eligible Project Delivery Activities

Eligible Activity Delivery Costs include, but are not limited to, the following when performed for a specific CDBG-DR assisted project:

- **Grant Administrators:**
  - Project-specific environmental review activities under 24 CFR Part 58, including site assessments, statutory checklists, agency consultations, and SHPO/THPO coordination.
  - Income surveys and beneficiary documentation required to establish national objective compliance.
  - Preparing and submitting reimbursement requests with supporting documentation in accordance with 2 CFR Part 200;
  - Ensuring Activity compliance with procurement standards, civil rights requirements, fair housing, Federal Labor Standards, Section 3, and other cross-cutting requirements under 24 CFR Part 570;
  - On-site inspections, construction monitoring, and compliance reviews necessary to implement the activity;
  - Activity-level financial management, including invoice review, payment verification, and

- expenditure tracking;
- Establishing and maintaining required grant files, policies, records, and reporting systems pursuant to 24 CFR 570.503(b);
- **Other Consultants** (such as archaeologist, architects, engineers, if contracted directly to the Applicant):
  - Consultant or professional services retained solely to carry out tasks specific to the funded activity;
  - Project-specific procurement, bidding, and contracting support;
  - Preparation of bid packages, contractor coordination, and procurement compliance activities in accordance with 2 CFR 200.317–200.327 (typically performed by the Architect or Engineer of Record);
  - Housing program technical services, including inspections, code compliance reviews, construction oversight, and project-specific management;
  - Demolition oversight, appraisal coordination, code inspections, lien development, and participation in mortgage or closing activities associated with housing programs;
  - Preparation and maintenance of activity-specific documentation required to demonstrate eligibility, compliance, and reimbursement allowability;

Reminder: Architects / Engineers contracted by the Developer will be billed under the Developers agreement.

All Project Delivery costs must be reasonable, necessary, and directly attributable to the specific CDBG-DR activity being carried out and must be adequately documented to support reimbursement. Please see [IEDA’s Training Resources website](#) for more details.

### ***Contract Requirements***

To maintain program integrity and ensure proper cost classification, any Council of Governments (COG) or consultant performing CGA services, along with other project delivery activities, must have a scope of work that clearly reflects activity-level implementation responsibilities. Where a single entity performs multiple functions, contracts must ensure that:

- Project / Activity Delivery tasks are clearly defined and separately identifiable, and
- Invoicing aligns with specific activities or projects, rather than general grant management.

IEDA generally does not require separate contracts for CGA activities and other Project Delivery roles, provided that the contract clearly demonstrates that reimbursed costs are tied to activity-level delivery. However, distinct contracts for CGA and any other Project Delivery activities is preferred.

### ***Project Delivery Contract Requirements***

To maintain program integrity and ensure proper cost classification, any Council of Governments (COG) or consultant performing Project / Activity Delivery services must have a scope of work that clearly reflects activity-level implementation responsibilities, not grant-wide administration.

Where a single entity performs multiple functions, contracts must ensure that:

- Project / Activity Delivery tasks are clearly defined and separately identifiable, and
- Invoicing aligns with specific activities or projects, rather than general grant management.

IEDA generally does not require separate contracts for Grant Administration and Project Delivery in CDBG-DR, provided that the contract clearly demonstrates that reimbursed costs are tied to activity-level delivery.

### ***Project Delivery Documentation and Reimbursement***

Project Delivery costs must be:

1. Identified separately from general program administration or other consultants Project Delivery fees in the application and resulting contracts;
2. Supported with detailed documentation demonstrating that the cost is directly tied to a specific eligible project activity; and
3. Allocated only to the project benefiting from the work.

There is no HUD or IEDA-defined cap on Project Delivery costs; however, as cited above all CGA fees are capped at 10% of grant award and all costs must comply with federal cost principles (2 CFR 200) and IEDA may review for cost reasonableness. A full list of examples, documentation requirements, and cost allocation guidance is provided in the CDBG Management Guide.

## **Applicant Selection**

### **Scoring**

IEDA will rank applications based on the composite score generated by IEDA review staff. The State will use the scores, in part, to rank projects, but reserves the right to allocate funds to projects that meet the State’s ultimate program objectives. Program requirements, such as the Low/Mod area benefit and those projects within the HUD-Mid areas, are prioritized through scoring criteria and will factor into final funding determinations. In the event that demand exceeds the amount of funds available, those projects with the greatest need and effectiveness will be recommended for funding.

### ***Threshold Criteria:***

- Evidence homes will be sold to LMI households
- Applicant has an Active SAM.gov account and Unique Entity Identifier (UEI) #;
- NOFA Public Hearing Minutes are complete with the 9 elements;
- The project will be located in one of the HUD- or grantee-identified MID areas;
- All units will be constructed outside the FFRMS Floodplain areas;
- All units will have access and connection to municipal utilities, including water, sewer and broadband (projects dependent on wells and/or septic systems will not be eligible);
- Project Budget is correct & grant amount requested does not exceed the program cap;
- Grant Administration Project Delivery fees do not exceed program cap;
- Required Uploads are provided, complete and fully executed;
- The development team has financial stability and demonstrates experience;
- The developer must demonstrate ownership or site control of the building site.
- The proposed plans meet the NGBS Silver certification;

### ***Scored Criteria:***

- Degree to which the project is ready to proceed;
- Degree of other sources of funding are well documented and / or local match inclusion;
- Degree of budget comprehensiveness and reasonableness for the project scope;

- The designs and plans demonstrate that future hazards will be mitigated
- Degree to which proposed plans align with the Applicants’ Community Development & Housing Needs Assessment;
- Degree to which the Applicants’ proposed plans Affirmatively Further Fair Housing;
- Degree to which project furthers infill and/or orderly development;
- Degree of development team experience with HUD-funded projects;
- The level of development of provided plans, renderings & Specifications;
- Mitigation / Resiliency features;
- Degree of development team experience with NGBS green building standards;
- Do the plans propose to exceed the NGBS Silver Certification standard?
- If IEDA was consulted for design review, were any suggested changes applied?
- Degree of impact the activity will have on the identified need and the standard of living or quality of life of the proposed beneficiaries;

**NOTE: IEDA strongly recommends reaching out to schedule a consultation regarding the Section 106, environmental review procedures and the proposed design, to ensure that the Applicant team is well aware of all program requirements and any risks or limitations that can be identified and resolved prior to a formal submission!**

## Award

### Notice of Award

Once award amounts are determined, IEDA will notify successful applicants which is a preliminary offer and any supplemental information required prior to entering into a grant agreement. Execution of a grant is contingent on both parties’ agreement of the terms and conditions, including project scope, budget, state and federal construction and financial rules and regulations, and timeliness, and other program details described in greater detail in this guidelines document. Awards will be considered final upon receipt of a signed grant agreement between IEDA and the applicant. Prior to an award, a duplication of benefits review will take place as well as a determination of cost reasonableness and verification that the award will not supplant funding for the project from other sources.

### Supplanting Funds

Under the program, grantees must use federal funds to supplement—not supplant—existing financial resources. Specifically, [24 CFR § 570.200](#) et seq. clearly prohibits substituting grant dollars for local, state, or federal funds that are already obligated or budgeted. HUD’s Office of Inspector General has emphasized that CDBG-DR was never intended to fund activities that jurisdictions are already required to underwrite through their own budget authority. Instead, supplanting violates the program’s intent to add capacity to meet unmet community needs—an expectation reinforced in HUD CPD Notices and FAQs for both regular CDBG and CDBG-DR programs.

These include City, County, FEMA, State, and U.S. Army Corps of Engineers (USACE) funding. IEDA will verify that grant funds will not be used for activities reimbursable by, or for which funds are made available by, FEMA or USACE.

Applicants must document the **need** for grant funds, showing that proposed activities wouldn’t proceed absent federal assistance, and demonstrate adherence to a “maintenance of effort” standard rooted in the

Housing and Community Development Act and HUD policy. IEDA will require Applicants to certify that the grant funds will not supplant other available funding that has been budgeted or in the case of FEMA and USACE made available to the Applicant.

### **Cost Reasonableness**

All projects must be cost reasonable. IEDA will determine project cost reasonableness through the competitive application comparison, review, and selection processes and may obtain third-party verification on a case-by-case basis. As such, application budgets must be thorough and accurate for evaluation.

## **Grant Agreement**

### **Terms and Conditions**

A written grant agreement will be provided to the subrecipient before any disbursement of grant funds. At a minimum, the agreement will include the following provisions (in accordance with [24 CFR 570.503\(b\)](#)):

- Statement of Work, detailing the activities to be completed
- Period of performance
- Milestones with Timelines
- Budget
- Record and Reports Requirements
- Program Income Guidance
- Suspension and Termination Rules
- Recapture of Funds Guidance
- Prohibition of Religious Activities
- Uniform Administrative Requirements to comply with federal and financial standards

### **Post Award First Steps**

All funded projects will be required to comply with all federal and state requirements. By signing the federal assurances, the Applicant – now a ‘Subrecipient’ from IEDA (city, county, or tribe) acknowledges and accepts these requirements. By passing a resolution of support and executing a contract with IEDA, the subrecipient assumes the responsibility of enforcing these requirements as the HUD-designated Responsible Entity (RE) in accordance with 24 CFR Part 58.

The following steps will be required after award:

1. IEDA will enter into a contract with the UGLG for the award amount;
2. The Subrecipient will enter into a contract for grant administration / project delivery;
3. The Subrecipient completes all necessary Environmental Review compliance steps;
4. Release of Funds will be issued by IEDA;
5. IEDA evaluates subrecipient vendor contracts prior to execution for eligible costs;
6. The Subrecipient will provide any stipulated pre-construction deliverable prior to incurring construction costs;

### **Section 106**

Section 106 of the National Historic Preservation Act of 1966 (NHPA) outlines the process of identifying and assessing the potential effects of a federal undertaking on historic and archaeological resources. The process consists of four steps:

1. Initiating the Section 106 process
2. Identifying and evaluating historic properties
3. Assessing the undertaking’s effects on historic properties
4. Resolving adverse effects to historic properties

The first step is to review the Programmatic Agreement IEDA has with the SHPO. It is available in the CDBG Management Guide on the IEDA website. It will list if the project is programmatically excluded from review or must complete a full Section 106 Review. If a full Section 106 Review is necessary, follow the steps as outlined in the CDBG Management Guide.

It is important to initiate the Section 106 process early as it can take a great deal of time if a full Section 106 Review is necessary, and the project will have an impact on historic properties.

An applicant may have site control only through a non-binding, contingent form of control—such as an option-to-purchase agreement with nominal consideration, explicitly conditioned on completion of the environmental review—without violating the “choice-limiting actions” prohibition under 24 CFR 58.22. Applicants may NOT hold binding purchase contracts, undertake acquisition, construction, rehabilitation, or any action that commits the project to a site before environmental clearance.

## Release of Funds

Before Release of Funds can be issued by IEDA, an environmental review process in accordance with the National Environmental Policy Act (NEPA) must take place to ensure compliance with all federal and state laws and regulations. The timeline for this will generally take 4-6 months, but the specific timeline will be dependent on-site conditions. Once the environmental review checklist is complete, it will be submitted to IowaGrants.

Throughout the environmental review, no choice-limiting actions can be committed by the Subrecipient or its partners. These include actions to commit or spend grant or non-grant funds for activities including but not limited to:

- Purchase of property or structures (including executing an option agreement);
- Bidding (or advertisement of bids);
- Signing construction contracts of any kind;
- Construction, demolition, rehabilitation, repair, conversion, site improvements, and any phase of construction activities;
- Platting and rezoning land (can work on preliminary plats and rezoning needs);
- Apply for building permits;

A description of the environmental review process can be found in the CDBG Management Guide.

## Amendments and Extensions

Should any legitimate program additions or deletions be required, IEDA may modify the terms of the subrecipient grant agreement upon review of the formal request. Subrecipients may request a grant amendment to extend the period of performance, for scope changes, or for budget changes that affect the grant award. IEDA will review the submission and determine whether a grant amendment is warranted. Subrecipients must submit the request for a grant amendment as soon as the need is identified, but not less than 90 days prior to the grant agreement period of performance expires.

# Implementation

## Timeliness and Project Completion

All IEDA contract awards have a standard three-year period of performance. The grant agreements also require that each Subrecipient provide claims for Activity costs within 6 months of award, and every 90 days thereafter. Further, IEDA has developed projections based on each quarter’s expected performance. The project manager will also determine if the delays in spending or the completion of deliverables/tasks can potentially result in a negative impact on the project by conducting Risk Assessments on, not less than, an annual basis. If the discrepancy in spending or progress is deemed reasonable, the project manager will continue to monitor the expenditure rate.

If the project manager has concerns about the spending discrepancy or the status of project deliverables/tasks, or the recipient has reported a spending discrepancy for 2 consecutive years, the project manager will confer with the CDBG Team Lead for the next steps according to the Risk Assessment and Monitoring Polices. One of the following actions will be taken:

- Annual spending projections will be amended;
- Project manager will continue to monitor the project status and implement technical assistance as required;
- A meeting with subrecipient and grant administrator will be held and subrecipient will submit a revised quarterly budget projection and/or a plan to overcome progress delay or other remedies as required;
- Terminate the agreement;

## Claims

IEDA will reimburse funds in the form of a grant for actual costs incurred. The grant agreements and documents incorporated by reference will explain the roles and responsibilities, identify the project(s) to be funded with grant funds, the total budget, the grant milestones, and the requirements for the use of grant funds.

Claims for reimbursement will be submitted by the subrecipient’s Certified Grant Administrator (CGA) via the online IowaGrants system. The subrecipient shall maintain a file of all claim-supporting documentation including claim documents, invoices and payments. NO claim will be processed if the following conditions are present:

- Proof of payment is not present;
- A Contractor Clearance does not exist for vendors included in the Claim;
- Any required compliance reporting is not present or up to date;

Generally, Activity Claims are due within 6 months of the grant agreement execution, and every 90 days thereafter. Projects that experience protracted Release of Funds will be addressed on a case-by-case basis. As a standard, the IEDA Project Manager will notify the Subrecipient if payment is withheld due to delinquent reporting of any kind. Once funds requests are approved by project staff, IEDA Fiscal sends payment to each subrecipient ACH. Per the Subrecipient Agreement, the final Claim will be submitted within 30 days prior to the grant agreement period of performance end date.

All construction trades will utilize the AIA, EJCDC or equivalent standard form of Payment Applications for submitting costs with direct/indirect costs clearly indicated under the “general conditions” or “mobilization” pay item. IEDA will also provide a payment application template upon request

### ***Retainage***

IEDA will withhold all final claims until vendors are shown to be paid in full, and compliance documents and reports are provided. As such, the subrecipient shall retain 10% of all contract values as retainage until 100% of all Work defined in the contractors’ scope is completed and the Grant Administrator has acquired all compliance documents, reports, releases of liens from the participating contractors. Once the Grant Administrator and IEDA have affirmed the vendor contracts are satisfied, proof of payment is provided, compliance elements are resolved and the National Objective is met, IEDA will process the final claims.

### ***Recapture of Funds***

Grantees must be aware that CDBG-DR funds may need to be recaptured—or redirected—when issues arise such as duplication of benefits, ineligible costs, or noncompliance with HUD regulations. Under HUD policy and regulations at 24 CFR § 570.200(k) and § 570.480(h), unused or misspent funds must be returned to the state or federal line of credit rather than used for other activities. HUD’s CPD memorandum "Methods for Returning Community Development Block Grant Funds" clarifies that these recapture actions ensure federal dollars remain properly allocated and safeguarded. For example, if a project receives overlapping federal assistance—resulting in a duplication of benefits—or if a subrecipient spends grant funds on unapproved costs, IEDA is required to reduce or recapture funding. In such cases, IEDA staff will work with the subrecipient to reconcile any overpayment or eligibility issues before formally requesting repayment. No project may be closed out until all recaptured funds have been fully returned and formally affirmed in writing by IEDA. Recapture also occurs for violations to the affordability period and other violations.

### ***Program Income***

Program income is the gross income received by IEDA or any of its Subrecipients that is directly generated from the use of grant funds. Information regarding how program income may be generated and used is available at 24 CFR 570.489 and 24 CFR 570.504,, as well as on HUD’s website. Unless otherwise agreed to in a signed amendment to this Contract, proceeds generated from the use of grant funds are considered program income when the total amount of any CDBG-DR program income received by the Subrecipient in a fiscal year exceeds \$35,000, at which time the entire \$35,000 and excess are considered program income. Program income received by the Subrecipient shall be returned to IEDA.

### ***Building Codes***

All units shall be designed and constructed in accordance with all locally adopted and enforced building codes and standards. In the absence of locally adopted or enforced building codes and standards, the requirements of the current Iowa State Building Code shall apply. The designated Housing Inspector in conjunction with the architect will oversee compliance with building codes.

### ***Green Building Standard***

IEDA requires at a minimum the National Green Building Standard (NGBS) Silver rating for all new construction. Additional points will be awarded for applications that demonstrate a higher certification of the NGBS. The NGBS includes universal design, which ensures access to the units for persons with mobility, hearing, or vision impairments. Any exceptions to universal design granted under this program will not reduce the total number of universally-design multifamily units below the federal requirements.

## Radon Testing Requirements

According to CPD Notice: 23-103, the U.S Housing and Urban Development (HUD) clarified that under 24 CFR 58.5(i)(2)(i) and (ii), all properties proposed for use in HUD programs must be free of hazardous materials such as radon gas, contamination, toxic chemicals and gases, and radioactive substances that could pose a hazard to the health and safety of occupants or interfere with the intended use of the property. The environmental review process, whether falling under Categorically Excluded Subject to 58.5 ("CEST"), Environmental Assessment ("EA"), or Environmental Impact Statements ("EIS"), may not be considered complete until radon evaluation is performed as part of the site contamination analysis. The environmental review process is concluded only when a determination of whether the project site is impacted by radon, and where applicable, mitigation of radon or application of an exemption is documented in the Environmental Review Report (ERR).

Radon testing and mitigation are required for those projects that meet the following criteria:

- a. those with a confirmed environmental review level of Categorically Excluded Subject to 58.5 ("CEST"), Environmental Assessment ("EA"), or
- b. Environmental Impact Statements ("EIS"), and for CDBG projects involving a structure that is occupied or intended to be occupied for at least four (4) continuous hours a day.

This requires that all Housing projects are required to conduct a Section 106 Review. A complete Section 106 form is required when the radon level is found to exceed the 4 pCi/L (picocuries) limit. If the radon level were below the required limit for mitigation, a Section 106 form is still required; however, you are only required to complete the PA form as "Exempt". The cost of testing (admin) and mitigation (part of the overall construction expense) are eligible program costs

## Prior to Sale

Prior to the sale of the units:

- All infrastructure will be in place and operational;
- All homes will be inspected and signed off for unit quality by Codes / Housing Inspector;
- All site work will be completed;
- Mortgage Agreement/Loan Documentation must be reviewed by IEDA;
- All relevant requirements like URA must be completed;
- The Grant Administrator will verify income eligibility for all low- to moderate-income (LMI) homebuyers prior to the execution of any Agreements or loan documents and prior to closing. Homeownership cannot proceed until income eligibility has been fully reviewed and approved

## Mitigation Measures & Mitigation Construction Incentive

### Mitigation Measures

This program will provide high-quality, durable, resilient, mold-resistant, energy-efficient, decent, safe, sanitary housing. Mitigations measures may include, but are not restricted to:

- Using flood resistant nonporous flooring materials;
- Adding waterproof veneer to foundation, exterior walls, windows and doorways;
- Elevating the home foundation and sealing cracks;
- Enhancing drainage systems (e.g., installing backflow valves);
- Installing flood barriers (e.g., floodgates or flood panels) ;

- Incorporating new wind resistant features or FEMA-compliant storm shelters;
- Using mold-resistant products;

All new construction work will be designed to incorporate appropriate mitigation measures to withstand damage against the impact of future disasters.

Certain projects may be funded with the Mitigation Set-Aside allocation. These projects will address a mitigation need, like flooding and wind, identified in the mitigation needs assessment for the MID areas. In order for a project to meet the requirements to be funded with mitigation set-aside funding the project must:

- Meet the definition of mitigation activities - activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters
- Address the current and future risks as identified in the mitigation needs assessment in the Action Plan
- Be an eligible activity as listed in this policy
- Align with existing hazard mitigation plans submitted to the Federal Emergency Management Agency (FEMA) or other state, local, or tribal hazard mitigation or long-term recovery plans.

### **Mitigation Incentive**

In addition to the developer incentive, a mitigation incentive is also available. The amount of subsidy is listed in the Maximum Award section of this document. The incentive is to increase the housing units’ resilience to future natural disasters, lessen the impact of future natural disasters, and reduce LMI households’ suffering and hardship after a natural disaster has destroyed or damaged their home. Funding will only be available to mitigate against disasters identified in the applicant county’s Hazard Mitigation Plan.

IEDA requires at a minimum the NGBS Silver rating for all new construction. Additional points will be awarded for applications that demonstrate a higher certification of the NGBS.

### **Infrastructure in Support of Housing Incentive**

‘Infrastructure in Support of Housing’ incentives can only be claimed when used in support of public infrastructure to support the specific rental construction. The public infrastructure must be owned and maintained by the city/county/tribe through either the transfer of ownership or another legal agreement. Additionally, the incentive cannot be used to increase the communities’ treatment works capacity; it can only be used to extend the water, sewer or other utilities piping and appurtenances to the development site. Regardless of whether grant funds are used to support infrastructure for the housing units, all water and sewer infrastructure must be in place before housing unit construction can begin.

Public infrastructure must be accessible to the general public and serve a delineated service area. No utilities on private property will be considered public infrastructure (e.g., service lines from the right-of-way into the housing unit). Examples of public infrastructure include but are not limited to:

- Streets
- Street curbs and gutters
- Street trees

- Access roads
- Bridges
- Sidewalks
- Multi-use paths/trails
- Water lines and supporting infrastructure
- Sewer lines and supporting Infrastructure
- Stormwater lines and supporting infrastructure
- Electric, gas, and broadband lines

In addition to publicly owned utilities, assistance to non-profit or for-profit privately owned utilities is allowable. If assisted, the privately owned utilities must comply with the following:

1. The funded activity must comply with applicable CDBG–DR requirements.
2. That the activity prioritizes activities that will benefit areas where at least 51 percent of the residents are LMI persons and demonstrate how assisting the private, for-profit utility will benefit those areas.
3. The level of assistance provided to a private, for-profit utility addresses only the actual identified needs of the utility.
4. The level of assistance to a private, for-profit utility, based on the business’s financial capacity, in order to ensure that assistance is based on actual identified need.

For all applications that require the construction of infrastructure in support of housing, the applicant will provide a line-item request for each infrastructure item based on anticipated costs of construction, provide support documentation for these costs, and demonstrate that funding is not available through other existing federal, state, or local programs (e.g. TIF, DOT, general fund, etc.). All infrastructure in support of housing is subject to federal labor standards, Davis Bacon prevailing wage compliance and any other applicable state and local public works requirements. Infrastructure contracts must be separate from housing contracts.

Infrastructure in support of housing is available to both the owner-occupied and rental new housing construction programs. Higher scoring applications in both programs will receive the first opportunity to access these funds based on a demonstration of need.

The amount of subsidy available can be found in the Maximum Award section.

Higher scoring applications in both programs will receive the first opportunity to access these funds based on a demonstration of need. All infrastructure in support of housing construction is subject to Davis Bacon if it exceeds \$2,000 in funds. Infrastructure in support of housing that is constructed by a developer is exempt from procurement. Infrastructure in support of housing that is constructed by the subrecipient is subject to procurement. Any construction contracts procured through awarded projects must comply with the Bonding Requirements.

## Forgivable Mortgages & Period of Affordability

### *Homebuyer Incentive Forgivable Mortgage*

This incentive will be filed as a forgivable mortgage (aka, ‘downpayment assistance’) on a monthly receding basis for 5 years and subject to recapture if the LMI buyer transfers, sells, vacates, or abandons the property during the 5-year period, unless IEDA provides approval in advance of the transfer.

All housing units built must be marketed to households impacted by the 2024 disaster event for four months before being offered to eligible members of the public. Impact includes but is not limited to: property damage, property loss, displacement, buyout, loss of business, loss of employment, economic loss, commute time to employment or childcare significantly increased due to disaster impact, physical or mental health issues related to the disaster, etc.

Developers will also need to market first-time homebuyers to assist with the disaster impact on the rental community but will not restrict the program to first-time homebuyers.

All housing units must be sold to Low to Moderate Income (LMI) households. These are households that make at or below 80% of the area median income of the county in which the housing unit is built. Income verifications must be completed in accordance with 24 CFR 5.609 (Part 5 Annual Income). Income verifications are valid for 12 months from the date verification is completed.

Homebuyer assistance will only be provided for mortgages with a term of 33 years or less. No balloon payment loans are eligible. No private loans are eligible. Homebuyers should apply for State and local homebuying assistance programs (e.g., Iowa Finance Authority programs) before applying for CDBG-DR assistance to avoid a Duplication of Benefit.

IEDA encourages the use of USDA Section 502 Direct Loans, which tend to offer lower interest rates and no required down payment for LMI buyers.

### ***Construction Offset Forgivable Mortgage***

The construction offset loan will fund the gap between an affordable mortgage for the homebuyer and the maximum sale price (listed below). This loan will be subordinate to buyer’s first mortgage and the homebuyer incentive. The loan will be filed as a forgivable mortgage on a monthly receding basis for 15 years and subject to recapture if the housing unit if the LMI buyer transfers, sells, vacates, or abandons the property during the 15-year period, unless IEDA provides approval in advance of the transfer. The construction offset loan will not exceed the total amount of CDBG-DR provided to the developer to construct the unit.

### ***Period of Affordability***

The affordability period will be a total of 15 years for single-family housing units. The period of affordability is made up of the Construction offset Amount (15 years) and the homebuyer incentive (5 years) will be recorded as a forgivable mortgage. This mortgage is recorded at closing and is subordinate to the primary mortgage. The loan carries 0% interest, requires no monthly payments, and is forgiven on a monthly basis over a fifteen-year period. The mortgage is subject to recapture from the homeowner if the housing unit is sold during the affordability period.

During the affordability period, owners of units constructed under this program will be required to provide proof of primary occupancy to IEDA upon request.

During the initial sale, income verification must be completed by the GA prior to buyer agreement / mortgage documents in a 2-phase process:

- 1) Draft submission to assess for LMI and other eligibility concerns and then
- 2) A final submission with fully executed documents to retain in the project file.

When calculating income for homebuyers, verifications must be completed in accordance with 24 CFR 5.609 (“Part 5”) and submitted in IowaGrants. For more detail on the “Part 5” process, please see the homebuyer guide in the appendix.

Income verifications are valid for twelve (12) months from the date verification was completed.

A “Housing Unit Verification” form must be completed in IowaGrants at the time of project completion to verify that the National Objective was met. If the National Objective is not or cannot be met, all funds may be required to be paid back in full.

Homeowners that refinance their property within the 15-year period may only do so for the purpose of lowering their interest rate and not for the purpose of receiving funds by cashing out equity. Refinancing to lower the interest rate will require verification from the lender that no funds will be received and a subordination agreement between the homeowner and the subrecipient is required. If the homeowner receives funds from refinancing, they will be required to repay all grant funding.

Please see expanded Homebuyer Guide in the Appendices for more information.

### Maximum Sale Price & Maximum Number of Units

IEDA adopts HUD’s HOME Homeownership Value Limits <sup>1</sup>(95% of area median purchase price) as the maximum sale price for DR assisted new construction to ensure compliance with IFA HOME program standards, maintain market feasibility, avoid appraisal gaps, and support LMI affordability through layered DR incentives. While HUD limits reflect the market value of newly constructed housing, LMI households remain able to purchase these homes due to substantial construction subsidies and up to \$35,000 in direct homebuyer assistance, which together reduce the effective mortgage amount to a level consistent with underwriting standards for households at or below 80% AMI assisted- new construction to ensure compliance with IFA HOME program standards, maintain market feasibility, avoid appraisal gaps, and support LMI affordability through layered DR incentives. While HUD limits reflect the market value of newly constructed housing, LMI households remain able to purchase these homes due to substantial construction subsidies (construction offset) and up to \$35,000 in direct homebuyer assistance, which together reduce the effective mortgage amount to a level consistent with underwriting standards for households at or below 80% AMI.

County Name	Metropolitan/FMR Area Name	1-bed	2-bed	3-bed	4-bed
Buena Vista County	Buena Vista County, IA	\$308,000	\$394,000	\$477,000	\$591,000
Cherokee County	Cherokee County, IA	\$308,000	\$394,000	\$477,000	\$591,000
Clay County	Clay County, IA	\$308,000	\$394,000	\$477,000	\$591,000
Lyon County	Lyon County, IA	\$308,000	\$394,000	\$477,000	\$591,000
Pottawattamie County	Omaha-Council Bluffs, NE-IA HUD Metro FMR Area	\$358,000	\$458,000	\$555,000	\$687,000
Sioux County	Sioux County, IA	\$308,000	\$394,000	\$477,000	\$591,000
Woodbury County	Sioux City, IA-NE-SD MSA	\$308,000	\$394,000	\$477,000	\$591,000

<sup>1</sup> HOME Homeownership Value Limits: <https://www.huduser.gov/portal/datasets/home-ownership-value-limits.html>

The maximum number of units awarded in a project cannot exceed 25 units without a waiver.

## Unit Warranty

Unless the loan requirements dictate a higher warranty period, all housing units will have a minimum warranty period post-construction of 1 year. The industry standard expressed warranty will also have contact information and typical remedies. A formal notification must be sent to homebuyers 3 months prior to the end of the warranty period.

## Connection to Publicly Owned Infrastructure

All housing units must be connected to utilities at the time of completion, including to municipal water, sewer, and broadband. No applications proposing connections to wells or septic tanks will be accepted. Proposed constructions must be able to be serviced by capacity of the existing utilities (e.g., water, sewer, stormwater, gas, etc.) at the time of application. All housing units must be connected to publicly owned streets.

## General Program Requirements

### Floodplain Requirement

All Activities must be outside of the HUD-defined Federal Flood Risk Management Standard (FFRMS) Floodplain. Under HUD’s 2024 Final Rule, the FFRMS floodplain may extend beyond the FEMA mapped 100-year and 500-year floodplains through the Climate Informed Science Approach (CISA), the 500-year floodplain approach, or the Freeboard Value Approach. No exceptions are permitted for new construction within the FFRMS floodplain. In limited circumstances where rehabilitation or other nonconstruction activities occur within the FFRMS floodplain, the applicant must provide documentation demonstrating compliance with all applicable elevation, floodproofing, mitigation, and environmental review requirements under 24 CFR Part 55, including justification of how the activity will preserve or enhance safe access for LMI households and how any flood risk reduction measures—existing or planned—adequately address future flood hazards.

### Procurement and Contracting

Subrecipients shall follow the state of Iowa procurement requirements in [Iowa Code 26.3](#) and [362.3](#), federal procurement requirements in [2 CFR Part 200.318-326](#) and bonding requirements as found in the CDBG Management Guide. All projects must be cost reasonable. IEDA will determine project cost reasonableness through the competitive application comparison, review, and selection processes and may obtain third-party verification on a case-by-case basis. As such, application budgets must be thorough and accurate for evaluation.

Developers are not required to procure their contractors or subcontractors.

All contractors and contract data must be submitted for Contractor Clearance in IowaGrants. All work for construction must be recorded in a written, executed contract, and Federal and State language must be included, per the Contract Requirements for CDBG Projects. All contractors must be registered to work in the State of Iowa with the Iowa Workforce Development.

CDBG-DR funds are not required to follow the Build America, Buy America Act (BABA). It requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver.

Any construction contracts procured through awarded projects must comply with the Bonding Requirements.

## Violence Against Women Act (VAWA)

UGLG & Subrecipients of HUD-funded programs must fully comply with the Violence Against Women Act (VAWA) and its housing protections, which safeguard applicants and program participants who are survivors of domestic violence, dating violence, sexual assault, or stalking. Under VAWA and HUD’s implementing regulations, subrecipients are prohibited from denying admission, terminating assistance, or evicting any individual solely because they are a survivor of violence, and must provide required notices of VAWA rights, certification forms, and access to emergency transfer protections. Subrecipients must maintain strict confidentiality of survivor information, refrain from discrimination or retaliation, and support an individual’s right to seek law enforcement or emergency assistance without penalty as required under the 2022 VAWA Reauthorization. These obligations ensure that survivors can safely access HUD-assisted housing and services without further jeopardizing their safety or housing stability. [Fact Sheet - VAWA Right to Report from Home for CDBG Recipients.](#)

## Section 3

All projects receiving more than \$200,000 in HUD assistance at a project site are required to comply with the Section 3 rule, as detailed in 24 CFR Part 75. This includes tracking of all labor hours on the project sites, including projects not subject to Davis Bacon, and qualitative efforts undertaken to demonstrate compliance.

Subrecipients are required to follow the requirements listed in the CDBG Management Guide

## Davis Bacon

Projects of 8 or more housing units are subject to Davis Bacon prevailing wage requirements. All infrastructure in support of housing is subject to Davis Bacon.

If applicable, Contractors must comply with the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (CWHSSA), and the Copeland Anti-Kickback Act (the Copeland Act) commonly referred to as the Davis-Bacon and Related Acts (DBRA).

Subrecipients are required to follow the requirements listed in the CDBG Management Guide

## Uniform Relocation Assistance

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (the URA) and its implementing regulations at 49 CFR 24, establish minimum standards for federally funded programs and projects requiring the acquisition of real property or displaced persons from their homes or businesses. The URA applies broadly to all planned or intended federally funded projects, funded in part or in whole where acquisition, rehabilitation or demolition occurs in any phase. For applications, properties impacted will indicate on their application if the property is owner-occupied or tenant occupied. The project must consider

potential impacts to tenants<sup>2</sup>. If an identified project results in tenants leaving their homes involuntarily (being displaced), the tenants may be eligible for Tenant Relocation Assistance under the URA. These requirements apply to the relocation of any displaced person as defined at 49 CFR § 24.2(a)(9). Displaced persons under this definition must be fully informed of their rights and entitlements to relocation assistance and payments provided by the URA and its implementing regulations.

Subrecipients must budget and plan if relocation occurs. The budget should include discovering the needs of displaced persons such as site visits, interviews, and orientations as well as housing market conditions, acquisition costs, relocation payments and other costs.

Subrecipients are required to follow the requirements listed in the CDBG Management Guide.

## Minimize Displacement

Subrecipients shall minimize displacement associated with funded activities. Subrecipients will be required to submit a Residential Anti-displacement and Relocation Assistance Plan (RARAP) with their applications. The type of infrastructure activities planned should not result in displacement. However, if displacement does occur Subrecipients will follow their RARAP by assisting displaced entities and persons and ensure the accessibility needs of displaced persons with disabilities.

## Long-term Sustainability

All newly constructed infrastructure that is assisted with grant funds must be designed and constructed to support the communities’ needs for the lifecycle of the constructed infrastructure and withstand extreme weather events. Applicants should provide narratives that cite strong financial plans to support the infrastructure for the life of the infrastructure, and cite designs that directly address resiliency.

Additionally, IEDA must identify and implement resilience performance metrics that will protect the public from any risks identified in the Action Plan. IEDA will review projects to determine which metrics are suitable for reporting to HUD through the IDIS / DRGR systems. Examples of resilience performance metrics include:

- Number of non-residential buildings constructed
- Number of public facilities
- Number of fewer outages of critical facilities and utilities
- Number of linear feet of public improvement
- Number of properties with access above 100 year or 500-year flood level
- Number of residents protected from future flooding

For purposes of this requirement, an infrastructure activity includes any activity or group of activities (including acquisition or site or other improvements), whether carried out on public or private land, that assists the development of the physical assets that are designed to provide or support services to the general public in the following sectors:

- Surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels;
- Water resources projects;
- Energy production and generation, including renewable, nuclear, and hydro sources;
- Electricity transmission;

<sup>2</sup> HUD’s [Tenant Assistance, Relocation and Real Property Acquisition Handbook](#) (1378.0)

- Broadband;
- Pipelines;
- Stormwater and sewer infrastructure;
- Drinking water infrastructure;
- Schools, hospitals, and housing shelters; and
- Other sectors as may be determined by the [Federal Permitting Improvement Steering Council](#).

For purposes of this requirement, an activity that falls within this definition is an infrastructure activity regardless of whether it is carried out under sections 105(a)(2), 105(a)(4), 105(a)(14), another section of the HCDA, or a waiver or alternative requirement established by HUD.

## Fair Housing and Civil Rights

IEDA, subrecipients, and developers must ensure that all program activities comply with applicable federal fair housing and civil rights laws. No person may be denied access to the Single-Family New Construction Program based on race, color, national origin, religion, sex, gender identity, sexual orientation, age, familial status, disability, or any other protected characteristic. Program partners must incorporate equal opportunity standards into marketing, outreach, eligibility review, sales practices, and all interactions with applicants.

Subrecipients and developers must include required fair housing language in program materials, provide reasonable accommodations to applicants with disabilities, and ensure effective communication for individuals with limited English proficiency. Any fair housing concerns, complaints, or allegations of discrimination must be documented and referred to IEDA for review and resolution in accordance with state and federal requirements.

## Internal Controls

Internal controls refer to the combination of policies, procedures, defined job responsibilities, personnel, and records that allow an organization (or an agency) to maintain adequate oversight and control of its cash, property, and other assets.

The soundness of any subrecipient’s financial management structure is determined by its system of internal controls. Specifically, internal controls refer to the following:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations

With a sound internal control system, a subrecipient can ensure that:

- Resources are used for authorized purposes and in a manner consistent with applicable laws, regulations, and policies.
- Resources are protected against waste, mismanagement, or loss.
- Information on the source, amount, and use of funds is reliable, secured, and up-to-date, and this information is disclosed in the appropriate reports and records.

As part of an effective internal control system, one person should be designated as the primary person at the subrecipient organization responsible for the financial management of the project. This person should be familiar with their organization’s accounting system and how the accounting of grant funds is integrated into the subrecipient’s existing system. Refer to 2 CFR 200.303 for more information.

Subrecipients are required to follow the requirements listed in the CDBG Management Guide.

## Prevention of Fraud, Waste, and Abuse

IEDA has zero tolerance for the commission or concealment of acts of fraud, waste, or abuse. Subrecipient and grant administrator staff will attend HUD OIG fraud training when provided. Any instances of fraud, waste, or abuse should be reported to the HUD OIG at 1-800-347-3735 or [hotline@hudoig.gov](mailto:hotline@hudoig.gov). All instances of fraud, waste, and abuse discovered by IEDA will be reported to the HUD OIG.

## Financial Management

Subrecipients must insure that they have policies and procedures for expending and accounting for all grant funds received and to maintain adequate source documentation to demonstrate that grant funds are used in compliance with all the terms and conditions of the award, only spent for reasonable and necessary costs, and not used for general expenses to carry out other responsibilities of State and local governments. More information on the minimum requirements can be found in the CDBG Management Guide. The financial policies will also ensure the following are met:

1. The subrecipient will charge the CDBG-DR award for only allowable costs incurred during the period of performance and any authorized pre-award costs.
2. When grant funds are transferred to subrecipients, the subrecipient will minimize the time elapsing between the receipt of funds from the state and the transfer of funds to contractors.
3. If applicable, subrecipients will disburse funds available from program income or send it to the state, before requesting additional grant funding.
4. For any changes made to the approved budget, scope, or objectives, subrecipients will notify IEDA of the changes, and any substantial changes will be approved by IEDA.
5. Subrecipients will submit to HUD mandatory quarterly progress reports for IEDA’s review of program progress.

Subrecipients are required to follow the requirements listed in the CDBG Management Guide.

## Duplication of Benefits Review and Subrogation

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act prohibits any person, business, or other entity from receiving duplicative financial assistance for the same disaster recovery purpose from multiple sources of federal and other support (42 United States Code [U.S.C.] 5155(a) and (c)). Duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need.

Per CDBG-DR regulations, the program’s subrecipients are required to disclose all other benefits (e.g., cash, in-kind, grants, loans) received, or which will be received for the proposed project to ensure that federal funds do not duplicate funds received from other sources.

Typical sources of duplication of benefits include, but are not limited to, the following:

- Federal Emergency Management Agency (FEMA) Public Assistance
- FEMA Hazard Mitigation Grant Program
- FEMA National Flood Insurance Program
- FEMA Increased Cost of Compliance Benefits
- U.S. Army Corps of Engineers

- Commercial insurance
- Insurance and personal property replacement
- Forced mortgage payoffs
- Philanthropic cash assistance
- subsidized loans

IEDA will perform a duplication of benefits analysis for each project that includes:

- 1.) assess applicant’s total need;
- 2.) identify total assistance;
- 3.) exclude non-duplicative amounts;
- 4.) exclude funds for a different purpose;
- 5.) exclude funds for the same purpose, different allowable use;
- 6.) identify a final DOB amount (if any) and calculate the award; and
- 7.) reassess unmet need when necessary.

IEDA will verify that subrecipients did not have other local or state funds designated or planned for the activity in any capital improvement plan or budgeted.

Applicants must agree to subrogate (commit to the State) any future payments they may receive after the award amount is determined from sources that represent a potential DOB. The subrogation agreement requires the entity to notify the State if additional funds are received and to assist the State in collecting any amounts owed to the entity from these sources.

### Conflict of Interest

No persons who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of sub-recipients that are receiving funds under this part who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-DR assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-DR assisted activity, or with respect to the proceeds of the CDBG-DR -assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

### Monitoring

Monitoring will be conducted via multiple methodologies throughout the project. One method is the Risk Assessment that IEDA will conduct annually per the contract. Each activity will have either a virtual desktop or on-site Site Visit at least once during the life of the grant, per the CDBG Management Guide. The Risk Assessment will assist project managers in determining the timing and frequency of documented Site Visits. The Risk Assessment will be conducted through IowaGrants once per year by the project manager, and based on the outcome score, the project manager will determine if / when a subsequent Site Visit is required. Per 200.331(b), IEDA will evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and terms and conditions of the subaward for the purposes of determining the appropriate level of monitoring. The risk-based assessment will include:

- Financial Risk- how large is the grant;
- Submitted Draws- are claims on schedule as outlined in contract, and contain required backup documentation;

- Timeliness – has the project progressed according to plans or suffered preventable delays;
- Program Management/Capacity – is the administrator In compliance with IEDA’s CGA Policy;
- Program Income- has the contract generated program income;
- Compliance Reporting – are all cross-cutting compliance requirements met;
- Complaints – are there any citizen complaints or conflicts with the Citizen Participation Plan;
- Report Tracking- is the program reasonably on track;

IEDA will schedule a Site Visit with the subrecipient upon the expenditure of at least 50% of the award by a subrecipient, or upon 50% construction. The project manager will email the subrecipient and grant administrator to schedule the visit. Site Visit information and forms will be made available and completed in IowaGrants. The project manager will instruct grant administrators to provide any additional information identified as needed during a Site Visit. After the Site Visit, a report will be uploaded to IowaGrants and sent to both the subrecipient and grant administrator; any identified findings or concerns will also be communicated along with deadlines for submission of corrective actions. IEDA reserves the right to perform monitoring assessments the project at any point in time based on its assessment of project risk or other considerations.

Subrecipients are required to follow the requirements listed in the CDBG Management Guide.

## Closeout

The IEDA grant agreement specifies that all closeout deliverables are due to be completed, along with final claims, 60 days prior to the contract expiration to provide time to resolve any document errors or missing items among all project stakeholders. To close out the project, IEDA staff will verify the following:

- Projects:
  - o Confirm that all program activities are complete.
  - o Confirm final beneficiary numbers.
  - o Confirm compliance with all contracts funded through the program.
  - o Confirm national objective met.
  - o Project Photos acquired for before & post project completion.
  - o NGBS and IDALS stormwater elements are completed and signed off / certified.
  - o Confirm final compliance reporting is complete:
    - o Subrecipient Section 3 Reports, IEDA Semi-Annual Labor Standards Reports;
- Financials:
  - o Confirm that the total reimbursement through the program and verify that the accounting is accurate.
  - o Confirm that the final reimbursement request has been made.
  - o Confirm that the program is not overspent against the Action Plan budget.
  - o Confirm Single Audits, as applicable, have been submitted to the Federal Audits Clearinghouse.
- Administrative
  - o Risk Assessments and Site Visits are complete.
  - o All Monitoring issues have been resolved and documented in the project file.
  - o Single Family New Construction: Covenants, Mortgage Release and all other Mortgage documents are Recorded and on file.
  - o Confirm documentation is retained for any critical decisions made or policies developed (for future audits).

- o Closeout applicant files and make sure files are consistently organized.
- o Closeout individual activities.

The program will be ready for closeout when the conditions are met:

- A final public hearing has been held
- All eligible activities are completed.
- All funds are expended in full, or remaining funds are planned to be returned to IEDA.
- All reporting requirements were completed.
- Any specials conditions of the program were met.
- All audit and monitoring issues were resolved.

## Audit Requirements

As per the provisions of [2 CFR 200, Subpart F](#), Audit Requirements, grantees that expend \$1 million or more during their fiscal year in Federal awards must have a single or program-specific audit conducted for that year. Subrecipients must also have a single or program-specific audit if they meet the \$1 million expenditure threshold.

If IEDA is disbursing grant funds to subrecipients, IEDA is required by [2 CFR 200.331](#) to ensure that subrecipients comply with Subpart F. IEDA will verify that subrecipients, if applicable, have prepared financial statements (including the schedule of expenditures of Federal awards), that there are no significant findings in the Single Audit that impact the use of CDBG-DR funding, and if there are findings that the subrecipient has taken corrective action. To that end, IEDA reserves the right to perform due diligence assessments on the status of an Applicants Audits from open source mediums prior to making a recommendation for award.

Subrecipients are required to follow the requirements listed in the CDBG Management Guide.

## Records Management

IowaGrants.gov is intended to serve as the primary medium for administering CDBG-DR funds and tracking the various compliance requirements stated in the grant agreement, the CDBG Management Guide and this Program Guide. However, the Subrecipient must maintain complete and accurate records that fully document compliance with all CDBG-DR program requirements. This includes maintaining financial, programmatic, procurement, environmental, civil rights, labor standards, and contract records in a manner that provides a clear audit trail and supports IEDA’s oversight responsibilities.

- o Records must demonstrate:
  - o Activity eligibility and National Objective compliance
  - o Proper procurement and contractor selection
  - o Compliance with labor standards and other cross-cutting requirements
  - o Accurate financial management and documentation of costs
  - o Performance outcomes and beneficiary data
  - o Resolution of monitoring or audit findings

Records must be retained for the required federal retention period and must be made available to IEDA, HUD, or other authorized oversight entities upon request.

## Document Retention

The subrecipient must retain all documentation of this project for three years after the entire grant between IEDA and HUD is closed. IEDA grant closeout with HUD is anticipated in 2031. IEDA will notify all subrecipients when documentation retention is no longer required. Subrecipients may also contact IEDA’s CDBG Team to inquire about document retention times for the grant.



# APPENDIX:

## Contents

Homebuyer Guide.....	2
Income Verification Guidance for Recipients.....	10
Developer Agreement Template .....	11
Construction Lien/Mortgage .....	35
Example Homebuyer Agreement.....	45
Example Homebuyer Promissory Note .....	50
Example Homebuyer Mortgage.....	55
Example Homebuyer Mortgage Downpayment Assistance .....	68
Example Homebuyer Covenants and Restrictions .....	77
Example Record Mortgage Form .....	86
Example Release of Mortgage Form.....	98

# Homebuyer Guide

## Marketing and Sales

### Responsibility for Marketing and Sales

The developer is responsible for marketing IEDA Single Family New Construction Program. Developers must market the homes in accordance with program requirements and ensure all units are sold to income qualified, eligible buyers. At a minimum, developers must:

- Market the program and available units using the required Buyer Pool Approach.
- Prioritize outreach to disaster impacted households during the four month preferential period.
- Include required program language in all marketing materials and provide samples to the Grant Administrator and IEDA upon request.
- Maintain a list of interested applicants and coordinate with the Grant Administrator to verify eligibility.
- Facilitate timely execution of purchase agreements with approved buyers, including required earnest money limits.
- Ensure that all sales comply with program requirements, affordability restrictions, and income eligibility standards.

### Marketing plan

Developers must create and implement a comprehensive marketing plan for the Program. The plan will be due at the time of application. The plan should outline strategies for affirmative outreach within target areas, methods for advertising available homes, and the inclusion of required equal opportunity and program approved language in all materials. It must also detail processes and timelines for prequalifying buyers based on CDBGDR income and mortgage eligibility, managing waiting lists, establishing priority when demand exceeds supply, and providing sample disclosure statements to buyers before signing purchase agreements and at closing.

Developers may use a variety of marketing strategies to promote the Single-family New Construction Program and support the successful sale of units. Marketing options can include:

- Conducting marketing and presale activities prior to construction.
- Supporting buyers of presold units with limited selections of colors, finishes, and materials.
- Using completed units as model homes or marketing centers for tours and Program information.
- Providing online information specific to CDBGDR units, which may be limited to prescreened eligible applicants.
- Organizing press events, open houses, and guided site tours.
- Creating direct marketing campaigns targeted at households impacted by the disaster.
- Installing onsite signage with links (e.g., QR codes) directing prospective buyers to eligibility information, layouts, and next steps.

## Homebuyer Intake and Eligibility

IEDA requires that all homebuyers purchasing Single-Family New Construction units meet CDBG-DR eligibility requirements prior to entering into a purchase agreement with the developer. Eligibility determinations ensure that federal funds support qualified LMI households and that all program restrictions, including disaster-impact prioritization and income verification, are met. Subrecipients and their Grant Administrators must use consistent intake procedures and document all steps in accordance with IEDA guidelines.

## Homebuyer Application Intake

Homebuyers must submit a complete application package prior to eligibility review. Homebuyer intake will be processed by the Grant Administrator. At minimum, the application must contain the following:

- Applicants contact information
- Household composition
- Income and asset details
- Required Duplication of Benefits (DOB) disclosures
- Documentation supporting the homebuyer meets all loan requirements including:
  - First mortgage lender pre-approval
  - Down payment
  - Underwriting criteria
  - Lawful presence

Grant Administrators will review applications for completeness, request missing items, and forward eligibility documentation to IEDA for final approval. Applications missing required information may be placed on hold or denied.

## Determining Household Income Eligibility

The applicant packet will be reviewed to determine eligibility including income eligibility by the grant administrator. The homebuyers must be low-to moderate income which means the household is  $\leq 80\%$  the area medium income (AMI) at the time of application. Household income eligibility is based on HUD's Part 5 definition of annual income (24 CFR 5.609). IEDA requires that:

- All household members aged 18 or older are included in income calculations.
- Total household income must be  $\leq 80\%$  AMI at the time of application.
- Income limits are based on HUD's annually published limits.

Income eligibility must be confirmed before entering into a purchase agreement. Household income does not need to remain LMI after the purchase. Eligibility is fixed at the time of entering into a homebuyer agreement.

Income eligibility determinations are established by reviewing a combination of income and assets and are valid for 12 months from the date of verification is completed.

### *Income*

Income includes earned income, unearned benefits, and recurring payments from all adult household members. Examples include:

- Wages and salaries
- Social Security (SSDI/SSI)
- VA benefits
- Pensions and retirement distributions
- Self-employment income (based on verified tax documentation)
- Parental support payments

Income must reflect what the household expects to receive in the next 12 months.

Acceptable methods of determining household income include:

- Documentation such as:
  - Recent paystubs (covering at least 60 days)
  - Employer statements
  - Social Security, SSI, SSDI, VA benefit letters
  - Pension/retirement statements
  - Unemployment or workers' compensation statements
  - Tax returns and supporting documents for self-employment
- Written verification forms submitted to employers or income sources when direct documentation is unavailable.
- Phone or verbal verifications when written methods cannot be obtained, documented with:
  - Date, time, and person contacted
  - Information provided
- Self-certification, used only when other sources of documentation cannot be obtained and the file clearly explains why.

### Assets

Assets include cash, checking and savings accounts, retirement accounts accessible prior to retirement, real property (excluding the home being purchased), and other financial resources. Assets that do not generate income, such as personal property, may be excluded from the calculation.

IEDA may ask households that have substantial accessible assets to use those resources for closing costs, helping prevent duplicate benefits or excessive subsidies.

### Single Family New Construction Underwriting Standards

IEDA has established minimum underwriting standards to ensure that:

- The homebuyer receives only the subsidy needed to make the mortgage affordable;
- The buyer is not over subsidized;
- Program funds do not exceed demonstrated need.

Underwriting must consider:

- Household income and allowable debt ratios
- Reasonableness of primary mortgage terms
- Confirmed closing costs
- Monthly mortgage payment
- Any other financial resources contributing to the purchase
- Any duplication of benefits

The complete underwriting package must be sent and approved by IEDA before signing a purchase agreement or entering into the homebuyer agreement.

### Homebuyer Debt Calculations

#### *Housing Debt (Front-End Ratio)*



To promote sustainable homeownership and prevent buyers from becoming housing-cost burdened, IEDA requires that the front-end ratio be assessed during underwriting. The front-end ratio is calculated as the sum of principal, interest, taxes, and insurance (PITI), plus any applicable homeowner association dues, expressed as a percentage of the household's gross monthly income.

IEDA employs a tiered standard for front-end ratios based on household income levels:

- The front-end ratio cannot exceed 25- 30% for households above 50% of AMI.
- The front-end ratio cannot exceed 20-25% for households at or below 50% of AMI. This percentage is a more flexible ratio range to facilitate access to homeownership, provided the mortgage product is sustainable and passes IEDA’s affordability review through the designated underwriting tool.

These requirements are designed to maintain affordability, prevent over-subsidizing, and ensure that buyers are not placed at undue financial risk. Exceptions to the standard ratio ranges may be granted on a case-by-case basis if the lender provides documented compensating factors and the payment is determined to be sustainable given the buyer’s verified income, debt obligations, and overall financial profile.

IEDA reserves the right to request modifications to the mortgage structure or subsidy amount if the proposed housing payment does not meet program standards for long-term affordability, regardless of lender approval.

### ***Total Debt (Back-End Ratio)***

The total debt ratio measures the buyer’s total monthly financial commitments, including housing expenses and all recurring long-term debts such as auto loans, student loans, minimum credit card payments, and child support, as a percentage of their gross monthly income. A homebuyer’s backend ratio must not exceed 41% of their monthly income.

IEDA may make exemptions on a case-by-case basis to allow the back-end ratio to exceed 41%, provided that the lender has supporting documentation that the mortgage payment is sustainable.

### **Review of Loan Terms for Additional Loans**

IEDA requires review of all additional financing to ensure that:

- Loan products are reasonable and non-predatory;
- There are no excessive fees or high interest rates;
- No balloon payments, interest-only periods, or adjustable-rate products are used; and
- Borrower costs are aligned with standard market practices

Assistance will be denied if any loan contains harmful or unsustainable terms.

### **Housing Counseling and Other Services**

Homebuyers are encouraged to participate in housing counseling to support long-term, sustainable homeownership. Subrecipients may refer applicants to HUD approved counseling agencies for education on budgeting, mortgage readiness, and ongoing housing responsibilities. Additional referral, such as credit counseling, legal aid, or financial coaching, may be made when needed to assist buyers in resolving issues

that could delay or prevent home purchase or closing. Counseling costs may be covered by the program when allowed under CDBG-DR rules.

### **Communicating with Applicants Regarding Approvals/Denials**

Grant Administrators must notify applicants in writing of their eligibility determination. Approval notices must include the amount of CDBG-DR assistance the buyer qualifies for and any conditions that must be met prior to closing. Denial notices must clearly state the reason for ineligibility and include instructions for how to request reconsideration or appeal through the program’s established process. All communications must be documented and retained in the applicant’s file.

## **Waiting List**

A waiting list must be maintained when the number of eligible homebuyers exceeds the number of available units. The waiting list ensures consistent, fair access to available homes and allows IEDA, developers, and subrecipients to manage demand throughout the development process. The waiting list must reflect IEDA’s four month disaster impact priority period and ongoing LMI eligibility requirements. The waiting list will be maintained by the Grant Administrator in cooperation with the developer.

### **Requirements for Waiting Lists**

Waiting lists must:

- Include only applicants who have completed income, DOB, and eligibility documentation.
- Prioritize disaster impacted households for the first four months of marketing.
- Track the date the applicant completed eligibility review.
- Allow applicants to remain on the list even if they decline a unit, subject to program limits.
- Be updated when applicants withdraw, become ineligible, or purchase a unit.
- Be made available to IEDA upon request for monitoring or review.

### **Waiting List Procedures**

When a waiting list is required, the procedure below must be followed:

1. Add applicants to the list only when full eligibility documentation is complete.
2. Offer units first to disaster impacted households during the four month priority period
3. After the priority period, offer units to LMI buyers in order of completion date.
4. Document every offer, acceptance, and decline.
5. Establish limits for how many units an applicant may decline before being moved to the bottom of the list.
6. Notify applicants in writing when their position changes or when a unit becomes available.
7. Maintain the list until all homes in the project are sold.

## **Homebuyer Agreement**

### **IEDA Approval Prior to Entering a Homebuyer Agreement**

Before a homebuyer agreement may be executed, the Grant Administrator must submit a complete eligibility and underwriting package to IEDA for review. This package must include verified income, asset documentation, duplication of benefits information, underwriting analyses, and the proposed level of assistance. IEDA must issue written approval confirming eligibility and assistance amounts before a purchase agreement or homebuyer agreement is signed. No commitments may be made to buyers prior to IEDA approval.

## Homebuyer Agreement

The homebuyer agreement is the document that lists the amount, terms, and your obligation for the financial assistance provided by IEDA. The homebuyer agreement will be part of the closing documents for the homebuyer. The agreement will include the following:

- Property Details
- Assistance Calculation outlines the process for addressing other resources identified as Duplication of Benefits (DOB) and details how the amount of homebuyer assistance was determined.
- Subrogation and/or Assignment Agreement, in which the homebuyer agrees that any additional funds the homebuyer may receive from potential DOB sources may belong to the Program.
- Affordability Requirements
- Insurance Obligations: Requirements for the buyer to maintain hazard, multi-peril, and/or flood insurance, as applicable. If the home is sold, the flood insurance policy is assumable by the buyer, provided that the seller is not transferring the policy to a new location.
  - Homeowners in special flood hazard areas must obtain and maintain flood insurance if they receive federal disaster assistance. Failure to maintain this insurance disqualifies the property from future federal disaster recovery assistance.
  - Under the Stafford Act, homeowners who received disaster recovery assistance after September 14, 1994, are required to obtain and maintain adequate flood insurance coverage.
  - As part of the DOB verification, the Program must verify that homeowners with prior disaster recovery assistance have maintained flood insurance before granting an award.

The loan in the homebuyer agreement is secured by two legal documents, a promissory note and a mortgage:

- Promissory Note: A document where you promise to repay the loan under certain conditions. It lists the amount, terms, and your requirements.
- Mortgage: A legal document that is recorded on your home’s title that uses the property as collateral for the loan.

Unlike traditional loans, there is no interest and no monthly payments. Payback may be required if the home is sold before the loan term ends. The homebuyer may pay back some or all of the loan from the sale proceeds.

## Loan Terms

### Occupancy and Primary Residency

Homebuyers must occupy the unit as their primary residence for the duration of the program’s required affordability period. The home may not be used as a rental, second home, or vacant property at any point during this period. IEDA may request documentation to confirm occupancy, including utility records, insurance declarations, or other proof if needed. Failure to maintain the home as the primary residence constitutes non-compliance and may trigger recapture of the assistance provided.

### Loan Terms and Payment Structure

Homebuyer Incentive Loan: Sometimes referred to as down payment assistance. To document the required period of affordability, homebuyer assistance is provided in the form of a five-year forgivable mortgage. This mortgage is recorded at closing and is subordinate to the primary mortgage. The loan carries 0% interest, requires no monthly payments, and is forgiven on a monthly basis over a five-year period. The terms of the forgivable mortgage, all affordability restrictions, and any required subordination documents will be

reviewed and approved by IEDA prior to closing, consistent with IEDA’s homebuyer incentive structure. The terms of the forgivable mortgage, all affordability restrictions, and any required subordination documents will be reviewed and approved by IEDA prior to closing. If the homeowner sells, transfers ownership, or otherwise violates program requirements during the five-year forgiveness period, the remaining unforgiven balance must be repaid.

**Construction offset Loan:** In addition to the five-year forgivable mortgage, all assisted properties are subject to a fifteen-year construction offset affordability period required by IEDA. This mortgage is recorded at closing and is subordinate to the primary mortgage. The loan carries 0% interest, requires no monthly payments, and is forgiven on a monthly basis over a fifteen-year period. The loan is subject to recapture from the homeowner if the housing unit is sold during the affordability period. This affordability period begins at project completion. During this fifteen-year period, the property must continue to meet all applicable affordability requirements established by the program and HUD. If a violation occurs during this construction offset affordability period, IEDA may pursue appropriate enforcement or repayment actions consistent with program regulations.

The loans will run concurrently.

### Recapture Requirements

If the homeowner sells or transfers the property before the end of either the homebuyer incentive or construction offset affordability), IEDA will recapture the remaining unforgiven portion of the homebuyer assistance. In the event net proceeds are insufficient to repay the amount owed, recaptured funds will be limited to the net proceeds, and the loan will be considered satisfied. Net proceeds refer to the amount remaining from the sale price of the home after deducting all repayments on loans with a higher priority than the CDBG-DR loan, any seller-paid closing costs, and the homeowner’s original investment made at the time of purchase.

The home must be sold at fair market value, and any changes in ownership must be reviewed and approved by IEDA in advance.

Non-compliance occurs when the homeowner violates any terms of the program, including but not limited to:

- Failing to maintain the home as the primary residence
- Renting, leasing, or otherwise vacating the property
- Refinancing without IEDA approval
- Transferring ownership without prior written approval
- Failing to maintain required insurance

If a homeowner fails to comply with program requirements, IEDA may require repayment of the remaining unforgiven balance of the mortgage. Homeowners will be provided with written notice of the violation and, when possible, given a timeframe to resolve the issue.

### Refinance and/or Equity Loans/Lines of Credit

Homeowners may not refinance the primary mortgage or obtain any home equity loan or line of credit without prior written approval from IEDA. Refinance may be approved only if it lowers the homeowner’s interest rate and does not provide cash back to the borrower. The forgivable mortgage must remain in a subordinate position unless otherwise approved by IEDA. Unauthorized refinancing or equity borrowing constitutes noncompliance and may trigger recapture of the remaining unforgiven funds. Refinance may be

approved only if it lowers the homeowner's interest rate and does not provide cash back to the borrower. The forgivable mortgage must remain in a subordinate position unless otherwise approved by IEDA. Unauthorized refinancing or equity borrowing constitutes non-compliance and may trigger recapture of the remaining unforgiven

## Income Verification Guidance for Recipients

Under the Federal CDBG/ CDBG-DR regulations, Subrecipients must select and use one of three methods for calculating income to determine if households are eligible to participate in a CDBG program.

IEDA has made the determination that communities receiving CDBG/CDBG-DR funding should use the Part 5 definition of income when collecting information and verifying income for potential homeowners.

The Part 5 definition of income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. A detailed list of income and asset sources can be found in federal regulation 24 CFR 5.609 (regulation attached).

To verify income, the following documents must be collected from homeowners:

- IRS form 1040/ tax return from the most recent year
- Disclosure of all anticipated income for the next 12 months with documentation (sample income verification form attached)

### Notes

- Documentation used for CDBG income verification is valid for 12 months.
- 3rd party verification of income is allowed under the CDBG program and is considered a best practice when verifying documentation provided by a homeowner/homebuyer/tenant. However, 3rd party verification is not required.

### Additional resources:

HUD has an on-line income calculator that can be used to help determine a household's annual gross income for establishing eligibility for assistance. Communities and grant administrators may reference the CPD Income Eligibility Calculator at <https://www.hudexchange.info/incomecalculator/>.

HUD's "Technical Guide on Determining Income and Allowances under the HOME Program," is a very thorough and detailed guide. This guide may be helpful when assessing how to handle particular assets. The guide can be found at:

<https://www.hudexchange.info/resources/documents/HOMEGuideForIncomeAndAllowances.pdf>.

### Income Verification Form Links:

- Sample Income Verification Form (Initial Lease-Up):  
[https://www.iowaeda.com/UserDocs/initial\\_period\\_of\\_affordability\\_certification\\_sample\\_income\\_verification.pdf](https://www.iowaeda.com/UserDocs/initial_period_of_affordability_certification_sample_income_verification.pdf)
- Period of Affordability Self-Certification of Income (Year 2-3):  
[https://www.iowaeda.com/UserDocs/year\\_2-3\\_period\\_of\\_affordability\\_self-certification.pdf](https://www.iowaeda.com/UserDocs/year_2-3_period_of_affordability_self-certification.pdf)

# Developer Agreement Template

## COMMUNITY DEVELOPMENT BLOCK GRANT DEVELOPMENT AGREEMENT

THIS AGREEMENT (the “Agreement”) is by and between the **City of [redacted]**, Iowa (herein called the "City") and **Developers Name/Company**. (herein called the "Developer").

WITNESSETH THAT:

WHEREAS, the effective date of this Agreement is **[redacted]**, 2025; and

WHEREAS, the City received Community Development Block Grant **Disaster Recovery** (CDBG-DR) funds from the Iowa Economic Development Authority (IEDA) under Disaster Relief Supplemental Appropriations Act, 2025 **Signed into law: Public Law 118-158**, allocating CDBG funding to HUD; and

WHEREAS, the Developer was the applicant for said funds; and

WHEREAS, Developer will own, develop and manage the Project; and

WHEREAS, these funds will be used to assist the construction of **(number)** affordable **(Single Family)** housing units at **(address)** as depicted in Exhibit A; and

WHEREAS, the City has been designated as the recipient of these funds by IEDA and will receive, administer, and disburse these funds; and

WHEREAS, the City has relied upon the representations of the proposed activities by the Developer who will undertake the community development activities in accordance with the original funding application submitted to the IEDA; and

WHEREAS, this project shall be subject to all the terms and conditions specified in the contract by and between the IEDA and the City for the implementation of the CDBG or CDBG-DR Funds (herein referred to as “CDBG Funds”), in the attached **Exhibit A**, and all governing regulations set by City ordinances and codes; and

NOW, THEREFORE, it is agreed between the parties hereto that:

I. **SCOPE OF SERVICE**

A. **Activities**

1. As a condition of providing up to \$ **[redacted]**, the Developer will be responsible for developing, in a manner satisfactory to the City and IEDA and consistent with any standards required by this Agreement or federal or state laws and regulations, the construction of a **Single-Family Home with Down Payment Assistance** project located at **(address)** containing **[redacted]** units (the “Project”).
2. Additionally, all single-family homes sold to persons and/or households at or below 80% of the area median family income, as determined by the U.S. Department of Housing and Urban Development.

B. Funding

1. The City agrees to lend the project an amount not to exceed \$ [REDACTED] in CDBG-DR funds, as more specifically set out in Exhibit B: Mortgage, Exhibit C: Promissory Note, Exhibit D: Assignment of Leases and Rents (as applicable), and Exhibit E: Agreement for Covenants and Restrictions (this Agreement, the Mortgage, the Promissory Note, the Assignment of Leases and Rents, and the Covenants and Restrictions shall collectively be known as the “Loan Documents”), which are attached hereto and by this reference made a part hereof as if set out in full in this section.
2. The Mortgage and the Assignment of Leases and Rents securing the CDBG funds forgivable loan (non-receding) may be recorded in junior position to the principal conventional loan but must be recorded in senior position to any and all other funding in the project. The Agreement for Covenants and Restrictions should be filed prior to any mortgages being filed.
3. The Developer shall receive the CDBG-DR Funds and use the proceeds thereof to pay eligible costs incurred by the Developer in connection with the construction and acquisition of the Project. The funding of the CDBG Funds and any portion thereof is expressly conditioned upon the Developer complying with all of the program requirements and the terms of this Contract. Proceeds of the CDBG Funds may only be applied to eligible uses. **No costs incurred prior to the Effective Date of this Agreement may be included under this Agreement without prior written approval.**
4. No CDBG-DR funds or non-CDBGDR funds may be committed to the project until the City and the Developer have secured environmental approval from the IEDA, as provided in HUD regulation 24 CFR Part 58. In addition, pending environmental approval and pursuant to 24 CFR Part 58.22(a), no activities may be undertaken that may limit the choice of reasonable alternatives.
5. The award proceeds will be paid to Developer to be applied against the approved project expenses. Developer will have no authority to direct any of the funds elsewhere or to withdraw any of the funds without the express written permission of the City.

C. Closing

- I. Prior to or at the time of closing on/filing the CDBG-DR Loan, the Developer shall:
  - (i) Execute and deliver this Agreement and the Exhibits, including the note, mortgage, assignment of leases and rents, and covenants and restrictions, to the City.
  - (ii) Have submitted a firm written commitment from each source of funds to the Project identified in Exhibit A. Each commitment shall include the amount, terms, estimated time of contribution, and conditions of the financial commitment, as well as any schedules. These commitments must be in a form and amount acceptable to the City. The Developer shall report any changes in these contributions to the City immediately, whether the change is made by the Developer or any other party.
  - (iii) Provide an attorney’s title opinion regarding the land.
  - (iv) Provide a budget for the Project acceptable to the City.
  - (v) Provide the City with the due diligence materials requested by the City, all in form and substance reasonably satisfactory to the City.
  - (vi) Provide a construction schedule.

D. Disbursements

1. **Prior to commencement of construction,** IEDA must be provided the following documents:
  - (i) Environmental Review process must be complete, including the signed Release of Funds letter from IEDA’s Environmental Review Specialist;
  - (ii) Final Designs submitted to IEDA and approved for all green building standards and/or Mitigation designs (as applicable);
  - (iii) Documentation for recorded private financing uploaded to IowaGrants;
  - (iv) **Preliminary Home Energy Rating System (HERS) report to IowaGrants;**
  - (v) Acquire IEDA approval of applicable DBRA wage rates if more than seven (7) units constructed;
  - (vi) Acquire IEDA approval of construction contracts prior to execution for concurrence of all State and Federal Clauses present;
  - (vii) Provide approval of building plan from local codes authority
  - (viii) *If no local codes enforcement:*
    1. Provide evidence of ImageTrend submission via screenshot to IowaGrants;
    2. Provide evidence of Iowa Department of Public Safety Submission via screenshot to IowaGrants;
    3. Provide signed agreement for a Building Inspector to perform inspections at the Footing, Framing and Final completion intervals for State Building Code and State Energy Code compliance;
  - (ix) *For New Housing:*
    4. CDBG-DR Mortgage recorded in second place to County for which project resides uploaded to IowaGrants;
    5. **Promissory Note signed and uploaded to IowaGrants (for CDBG-DR);**
  - (x) *If Disturbing > 1 Acre:*
    6. Iowa DNR Water Quality Permit uploaded to IowaGrants;
    7. Stormwater Management Milestone Checklist;
2. The City shall use the CDBG-DR Funds it receives from IEDA and HUD with respect to the Project to reimburse the Developer for eligible costs incurred in connection with the development of the Project to the extent such costs are properly submitted to the City in accordance with the procedures set forth in this Agreement and all other terms and conditions of this Agreement. The Developer may not request a disbursement of CDBG Funds from the City until such funds are needed to pay eligible costs of the Project.
3. Accordingly, the amount of each draw request must be limited to the amount of money needed to pay eligible costs actually incurred by the Developer at the time of the draw request, may not include amounts for prospective or future needs, and may not be placed into escrow accounts or advanced in lump sums to the Developer.
4. All claims for disbursement must be processed in accordance with IEDA’s Policies and Procedures manual for this grant program.
5. The Developer shall provide a draw request for CDBG-DR Funds to the City using the

procedures and forms specified by the City in coordination with IEDA. All eligible costs to be reimbursed must have adequate and itemized supporting documentation, including copies of receipts. The eligibility of any cost shall be determined by the City, in its sole discretion. A draw request must show expenses in whole dollar amounts. The Developer shall round down for any expense not in a whole dollar amount. A draw request must be equal to or greater than five hundred dollars (\$500.00), except for a final draw request.

6. Further, a final draw request shall not be paid by the City until at least one monitoring visit of the Project has been conducted and any required or requested project reports and documents have been reviewed and approved by the City.
7. The Developer shall not charge or allow CDBG-DR Funds to pay any flat rate or estimate for service, meaning that any expense must be the actual cost for providing such good or service.
8. Ten percent of the CDBG Funds will be withheld as retainage until:
  - (i) the Project has been constructed or rehabilitated;
  - (ii) the CDBG-DR Funded Units have been sold to qualified buyers;
  - (iii) a monitoring visit has been satisfactorily completed by the City and/or IEDA;
  - (iv) all other regulatory or funding requirements are completed in full.
9. The CDBG-DR Funds must be used to pay eligible costs. The City shall determine the Developer's compliance with this requirement at the time each draw request of CDBG-DR Funds is made based upon a review of the draw request. The City may request lien waivers as necessary and establish such additional limitations on the expenditure of CDBG-DR Funds as it determines are appropriate to ensure compliance with program requirements.
10. In the event that the City shall determine that the CDBG-DR Funds Grant have been used to pay ineligible costs, whether such costs are ineligible costs because they are not approved as eligible costs in accordance with this Agreement or because they violate program requirements, the City shall provide the Developer with written notice thereof and the Developer shall pay to the City, in immediately available funds within ten Business Days from the date of said notice, an amount equal to that portion of the CDBG-DR Funds used to pay ineligible costs to the City.
11. In the event that the City makes a determination that the Developer has failed to expend (or is unlikely to expend) sufficient CDBG-DR Funds on eligible costs within the prescribed expenditure deadlines, the City shall have no obligation to disburse any funds to the Developer under this Agreement and may, at the election of the City, recover or offset any CDBG Funds actually paid to the Developer with respect to the Project.
12. The City reserves the right to withhold funds until the City has received, reviewed, and approved all items, such as permits or licenses from other local, state or federal agencies, which may be required prior to Project commencement.
13. If the total amount of funding for a Project has not been requested by the Developer within 60 Days after its estimated construction completion date, then the City shall be under no obligation for further disbursement. Upon the submission and disbursement of a final Draw Request, any remaining CDBG-DR Funds shall not be available.

14. Upon the expiration of this Agreement, any remaining CDBG-DR Funds and accounts receivable attributable to the use of CDBG-DR Funds must be transferred to the City.
15. The Developer shall cooperate with the City in obtaining and providing any additional documentation that may be required by the City to approve the request for CDBG-DR Funds.
12. The City will not make any payments to the Developer for costs that:
  - (i) are Ineligible Costs or otherwise prohibited under Program Requirements;
  - (ii) are not strictly in accordance with the terms of this Agreement;
  - (iii) were requested and/or incurred before the signing of this Agreement without prior City approval;
  - (iv) were requested and/or incurred after termination of this Agreement; or
  - (v) were requested during the occurrence and continuation of an uncured Event of Default.
16. The City is authorized to make modifications to the Draw Request procedure and to establish additional requirements for payment of the CDBG-DR Funds to the Developer as may be necessary or advisable for compliance with all Program Requirements.

E. Repayments

1. There will be no repayments required on the \$ [REDACTED] of CDBG-DR Funds if all affordability and long-term monitoring conditions are fulfilled. Terms and conditions are further set forth in the Loan Documents. If the assisted rental project is sold or transferred to an alternate use during the compliance period following completion and acceptance, the entire amount of the CDBG-Funded forgivable loan shall be repaid.

F. Default

1. Any of the following events shall constitute an “Event of Default” under this Agreement:
  - (i) a breach by the Developer of any of its representations, covenants, or warranties contained in this Agreement or the Loan Documents or in the performance of any of its obligations under this Agreement, in either event that (a) has or might reasonably be expected to have a material adverse impact on the operation of the Project, and (b) is not cured within ten Business Days in the case of a monetary default or 20 Business Days in the case of a non-monetary default following notice of such breach or default from the City to the Developer, provided, however, that if a non-monetary default cannot reasonably be cured within 20 Business Days and the Developer commences a cure within 20 Business Days and proceeds in good faith to effect such cure thereafter, the cure period with respect to such breach or default shall be extended for up to an additional 30 Business Days;
  - (ii) a representation, warranty or statement made or furnished to the City by, or on behalf of the Developer in connection with the Application or this Agreement to induce the City to make an award to the Developer

shall be determined by the City to be incorrect, false, misleading or erroneous in any material respect when made or furnished and shall not have been remedied to the City's satisfaction within 30 Days after written notice by the City is given to the Developer; or

- (iii) the Developer fails to make a payment when due under the terms of this Agreement within ten days following written notice of such overdue payment is given to the Developer by the City; or
- (iv) the Developer demonstrates a lack of capacity to carry out the approved Project in a timely manner, in the sole discretion of the City; or
- (v) the commencement of foreclosure proceedings with respect to any mortgage, which have not been withdrawn or dismissed within 30 Days after the date of such commencement; or
- (vi) a violation of any law, regulation or order applicable to the Developer or the Project that has or might reasonably be expected to have a material adverse impact on the operation of the Project and is not cured within the applicable cure period, if any, provided in such law, regulation, or order; or
- (vii) gross negligence, fraud, willful misconduct, misappropriation of funds, or criminal activity other than a simple misdemeanor by the Developer or any Affiliate of the Developer providing services to or in connection with the Developer or the Project; or
- (viii) the estimated construction completion date as set forth in the Construction Schedule has been delayed by more than 30 Days and (a) the Developer has failed to submit an acceptable Action Plan to the City or (b) the City determines such delay will prevent the Developer, the Project or the City from complying with the Program Requirements; or
- (ix) the Developer is debarred, suspended, proposed for debarment, or placed on ineligibility status by HUD; or
- (x) repeated or prolonged failure to provide any required reports; or
- (xi) the Project fails to maintain the Program Requirements for the Affordability Period(s) of the CDBG-DR Funded Units for the entire affordability period; or
- (xii) Developer fails to satisfy or appeal any judgment against Developer.

2. In the event of a default, the City shall follow 2 CFR part 200 for suspension or termination of this Agreement. This includes temporarily withholding cash payments, disallowing all or part of the costs of the Project, wholly or partly suspending or terminating this Agreement, withholding further awards from CDBG-DR, requiring the immediate repayment of the full amount of CDBG-DR Funds disbursed, or taking any other remedies that may be legally available. Costs incurred by the Developer during a suspension or after termination of this Agreement are not allowable for reimbursement unless the City, in its sole discretion, expressly authorizes reimbursement.

3. The City shall have the right to exercise any of the following remedies upon an Event of Default:

- (i) temporarily suspend making disbursements of CDBG-DR Funds under this Agreement pending correction of the deficiency or default by the Developer;
- (ii) require the repayment of the CDBG-DR Loan;
- (iii) declare the Developer and its principals “not in good standing” with respect to the City;

- (iv) cease making any further payments of CDBG-DR Funds under this Agreement;
  - (v) terminate this Agreement;
  - (vi) require the immediate repayment of CDBG-DR Funds advanced pursuant to this Agreement;
  - (vii) require that the Developer, the property manager, the Contractor or any other party providing services to the Developer to be replaced;
  - (viii) “Reserved”
  - (ix) draw upon and apply any escrows and/or reserve accounts in accordance with their terms;
  - (x) exercise any rights it may have under the CDBG-DR Loan Documents, including, but not limited to, foreclosure of the Note and Mortgage thereunder, in order to assure for repayment of the CDBG-DR Funds; and
  - (xi) exercise any other rights and remedies that may be available under law or in equity.
4. In addition to the remedies described, the Developer shall, upon demand by the City following an Event of Default, repay any amount of CDBG-DR Funds previously disbursed to the Developer under the terms of this Agreement.
  5. The City may defer the enforcement of remedies upon the occurrence of an Event of Default for such period as it determines appropriate, if it determines that any Lender is taking appropriate measures to correct the circumstances giving rise to the Event of Default.
  6. The City may consult with and advise the Lender as to its intention to exercise remedies hereunder.
  7. Each right and remedy provided in this Agreement is distinct from all other rights or remedies under this Agreement, the Loan Documents, or otherwise afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.
  8. The City may provide a Lender with a copy of any written notice of default provided to the Developer pursuant to the terms of this Article. The City hereby agrees that any cure of any default made or tendered by any Lender shall be deemed to be a cure by the Developer and shall be accepted or rejected on the same basis as if such cure were made or tendered by the Developer.
  9. The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided in this Agreement is to assure compliance of the Project and the Developer with the Program Requirements, AND BY REASON THEREOF, THE DEVELOPER IN CONSIDERATION FOR RECEIVING THE CDBG-FUNDED LOAN / GRANT FOR THIS PROJECT HEREBY AGREES AND CONSENTS THAT THE CITY, HUD AND/OR THE RESIDENTS OF THE PROJECT SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED ABOVE OR BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN ANY STATE COURT OF COMPETENT JURISDICTION FOR ANY AND ALL BREACH OF THE



CONDITIONS AND RESTRICTIONS HEREOF. The Developer hereby further specifically acknowledges that the beneficiaries of the Developer's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

10. If the City determines at any time that the Developer has expended funds for Ineligible Costs, the Developer will be notified of the questioned costs and given an opportunity to justify questioned costs prior to the City's final determination of the disallowance of costs. Refer to Section 7.4(B) for repayment. If it is the City's final determination that costs previously paid by the City are Ineligible Costs under the terms of this Agreement, the expenditures will be disallowed and the Developer shall repay to the City all Ineligible Costs.

G. Period of Affordability

1. Affordability duration terms:
  - a. 2024 Disaster Series:
    - i. New Single-Family Homes: 15years - Deed restriction or covenant recorded at closing; forgiveness prorated over 180 months;
2. All units constructed for sale will be sold to households at or below 80% of the area median income. Upon completion of a single-family unit, and the closing on that sale, the affordability requirements of this agreement will be removed, and a new lien (fifteen year receding) will be filed with the new property owner.

H. Inspections

1. The City or its agents may perform periodic inspections at any reasonable time to ensure compliance with this agreement and the Loan Documents. The City or its agents shall perform a final inspection to certify project completion prior to final disbursement of the loan proceeds. The Developer agrees to keep this project in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals and additions in a timely manner.
2. Prior to disbursement of loan proceeds or for any other purpose in connection with the completion of the improvements, the City or its agents shall have free access and right of entry at any reasonable time of the day to inspect all or any portion of the property and the improvements. These inspections are for the benefit of the City as lender, to assure that the loan proceeds are being expended on the property in accordance with the approved loan application and the construction contract and for the benefit of the local government to assure that local law is being complied with in the project. In the event of any such inspection, the City may inform the Developer of any noncompliance with respect to the construction contract, but the City shall not issue direct orders or instructions to the contractor or subcontractor performing the work, except as authorized by the Developer. The Developer shall take all steps necessary to assure that the City or its agents are permitted to examine and inspect such work, and all contracts, materials, equipment, fixtures, payrolls and conditions of employment pertaining to the work, and all relevant data, books, and records of the Developer.

I. Period of Performance

1. The Developer agrees to use their good faith efforts to obtain a building permit for the project and begin construction by \_\_\_\_\_. They also agree to use their good

faith efforts to complete the project on or before the end date of the City's Contract with IEDA.

II. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE DEVELOPER

The Developer hereby represents, warrants and covenants to the City that the following are true as of Execution and will be true on the due date of each disbursement of CDBG Funds, and as applicable, throughout the term of this Agreement:

- A. The Developer is a duly organized \_\_\_\_\_ validly existing under the laws of the state of its organization and has full power and authority to perform its obligations under this Agreement.
- B. No litigation, demand, investigation, claim or proceeding against the Developer or any other litigation or proceeding directly affecting the Project is pending or, to the best knowledge of the Developer, threatened, before any court, administrative agency or other Governmental Authority that would, if adversely determined, have a material adverse effect on the Developer or the construction, use and operation of the Project. The Developer and its Project Team shall promptly notify the City of the initiation of any claims, lawsuits or proceedings brought against the Developer.
- C. No default by the Developer or any Affiliate thereof having any relationship with the Project has occurred or is continuing (nor has there occurred any continuing event which, with the giving of notice or the passage of time or both, would constitute such a default in any material respect) under any of the financing documents for the Project or other documents or instruments governing the development, use, occupancy and operation of the Project.
- D. The Developer has not entered into any verbal or written contracts, agreements or arrangements of any kind which are inconsistent with this Agreement.
- E. All material building, zoning, health, safety, business and other applicable certificates, permits and licenses necessary to permit the construction, use, occupancy and operation of the Project have been or will, at the time required, be obtained and maintained (other than, prior to completion of construction of the Project or a specified portion thereof, such as are issuable only upon completion of construction or such specified portion thereof); and the Developer has not received any notice nor has any knowledge of any violation with respect to the Project of any law, rule, regulation, order or decree of any Governmental Authority having jurisdiction which would have a material adverse effect on the Project or the construction, use or occupancy thereof, except for violations which have been cured or can be cured within any applicable cure period, and are in the process of being cured, and notices or citations which have been withdrawn or set aside by the issuing agency or by an order of a court of competent jurisdiction.
- F. Before disbursement of CDBG-DR Funds, the Developer will have a fee simple interest in the Project and good and marketable title thereto, free and clear of any liens, charges or encumbrances other than the encumbrances the Developer is permitted to create under the terms of this Agreement, matters of title as of the effective date of the City's title opinion, and mechanics' or other liens that have been bonded against (or as to which other cash equivalent security has been provided) in such a manner as to preclude the holder of such lien from having any recourse to the Project or the Developer for payment of any debt secured thereby.
- G. No Event of Default has occurred and is continuing.

- H. No Event of Bankruptcy has occurred as to the Developer.
- I. As of the date of Execution, all reserves and accounts required to be maintained by the Developer under the terms of this Agreement are currently funded (or will be funded at the time(s) required) up to the specified levels.
- J. The Developer will complete the Project.
- K. All utilities are, or will be, available to the Project, including sanitary and storm sewers, water, gas (if applicable) and electricity.
- L. The sources of funds available to the Developer are sufficient to enable the Developer to complete construction of the Project in accordance with the Plans and Specifications.
- M. All financial statements and related materials concerning the Project provided to the City are true and correct in all material respects and completely and accurately represent the subject matter thereof as of the effective date of the statements and related materials, and no material adverse change has occurred since that date.
- N. Unless the City consents to a transfer of the Project by Developer, the Project will continue to be owned and operated by the Developer through the expiration of this Agreement or, if later, the date, (if any), through which the Developer is required to own and operate the Project pursuant to any of the documents governing the use and operation of the Project.
- O. Tenants for the residential units in the Project will be screened and selected from a pool of eligible tenants based on uniformly applied tenant selection criteria that are commonly employed by other property owners in determining tenant eligibility in similar projects to the Project throughout the Affordability Period(s), and :
- P. No preferences or discrimination will be employed in selecting tenants (i.e., no discrimination based on religion, race, color, creed, national origin, ancestry, legal residency, sex, sexual preference or orientation, gender identity, age, physical handicap, medical condition, blindness or other physical disability, acquired immune deficiency syndrome (AIDS), family status, marital status, pregnancy, childbirth or related medical condition, or membership in the sponsoring organization) as will be consistent with federal housing policy governing nondiscrimination as determined under HUD rules and regulations.
- Q. Each of the representations and disclosures made by the Developer to the City in any application for CDBG-DR Funds is true and correct as of the date hereof. Each of the covenants, agreements and conditions contained in the such applications have been duly performed or satisfied by the Developer to the extent that performance or satisfaction is required on or prior to the date of Execution, and the Developer has no reason to believe that the covenants, agreements, and conditions required to be performed or satisfied after the date hereof will not be performed or satisfied in a timely manner.
- R. The Project is not located in a special flood hazard area identified by the Federal Emergency Management Agency (FEMA).
- S. The Developer shall not employ, award a contract to, or fund any person that has been debarred, suspended, proposed for debarment, or placed on ineligibility status by HUD.



- T. No federal appropriated funds have been paid or will be paid, by or on behalf of the Developer, to any Person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and/or the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- U. No funds have been paid for influencing or attempting to influence an officer or employee of a Member of Congress in connection with a federal contract, grant, loan and/or cooperative agreement benefiting the Developer. To the best knowledge of the Developer, the Developer has complied with all restrictions, certifications and disclosure requirements contained in the Byrd amendment to the fiscal 1990 appropriations measures for the United States Department of the Interior (P.L. 101-121) and with any guidelines and rules issued by any federal entity in connection therewith, if applicable.
- V. Neither the Developer nor any of its partners, members, managers, officers, directors, or employees, nor, to the best knowledge of the Developer, any of the Developer Parties has been debarred, suspended, proposed for debarment, or placed on ineligibility status by HUD.
- W. To the best knowledge of the Developer, no Developer or Developer Parties, nor any of the Developer’s property is or has ever been subject to or a party to or bound by any agreement or other arrangement with any person who has been debarred, suspended, proposed for debarment, or placed on ineligibility status by HUD.
- X. The Developer will prevent, and has instituted or will institute, (and will update from time to time to correspond to changes in circumstances and changes in applicable laws and regulations) policies and procedures to prevent, any circumstance or event described in subclauses T. and V. above.
- Y. The Developer and all other applicable Developer Parties have not engaged and shall not engage in any act or omission that would violate anti-money-laundering laws, including but not limited to 18 USC § 1956; have complied or will comply with requirements for instituting an anti-money laundering compliance program required under 31 USC § 5318(h) and applicable to all “financial institutions” as defined in 31 USC § 5312(a)(2); and have instituted or will institute policies and procedures and use commercially reasonable due diligence to identify and report Suspicious Transactions to relevant U.S. Government officials. “Suspicious Transactions” that may require reporting include, but are not limited to, (i) individual or related transactions in which a third-party provides payment in U.S. or foreign currency in excess of \$10,000 that may require reporting under 31 USC § 5331 and 26 USC § 6050I; (ii) any transaction where the Developer or any Developer Party knows, suspects, or has reason to know that the transaction (A) is for an illegal purpose, including but not limited to money laundering; (B) is otherwise an attempt to disguise funds derived from illegal activity or evade reporting requirements under U.S. law; or (C) is suspicious because the transaction appears to serve no business or lawful purpose.

### III. NOTICES

1. Communication and details concerning this Agreement shall be directed to the City Clerk at  
(full address)

and directed to the Developer at  
(full address).

#### IV. SPECIAL CONDITIONS

##### A. Compliance

The Developer agrees to comply with all applicable federal, state, and local laws and regulations governing the funds provided under this agreement.

##### B. Governing Law

The Developer agrees to comply with the requirements of the Housing and Community Development Act of 1974, Title 24 Code of Federal Regulations, Part 570 of the Housing and Urban Development regulations concerning the CDBG Program, all federal regulations and policies issued pursuant to these regulations, and/or all notices issued in the Federal Register pertaining to these CDBG / CBG-DR funds. The Developer further agrees to utilize funds available under this agreement to supplement rather than supplant funds otherwise available.

##### C. IEDA

The project shall be subject to all the terms and conditions specified in the contract by and between the IEDA and the City for the implementation of the CDBG-DR Single-Family New Construction Program, and all governing regulations set by City ordinances and codes.

#### V. GENERAL CONDITIONS

##### A. Independent Contractor

Nothing contained in this agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Developer shall at all times remain an independent contractor with respect to the services to be performed under this agreement. The City shall not be responsible for payment of Unemployment Compensation, FICA, retirement, life and/or medical insurance, and Workers Compensation Insurance for the employees of the Developer.

##### B. Hold Harmless

The Developer shall hold harmless, defend and indemnify the City, the State of Iowa and the Iowa Economic Development Authority, and their respective Board members, employees, agents, elected and appointed officials, harmless against all obligations, claims, losses, costs, damages, expenses (including the costs of the investigation), deficiencies, demands, and liabilities of whatsoever nature or kind including, but not limited to, attorney fees, including the reasonable value of time of the Attorney General's office, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgment and, any loss from a judgment directly or indirectly resulting from, arising out of, or related to the subject matter of this agreement.

##### C. Workers' Compensation

The Developer shall provide Workers' Compensation Insurance coverage for all employees involved in the performance of this agreement.

D. Insurance and Bonding

The Developer shall carry sufficient insurance coverage to protect real estate and or personal property related to the Project from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City. The Developer shall comply with the bonding and insurance requirements in Subpart C of OMB Circular A-110. The Developer shall have the City and the IEDA identified as additional insureds on any insurance policy it takes out related to the Project during construction and throughout the affordability period.

E. Grantor Recognition

The Developer shall insure recognition of the role of the grantor agency in providing services through this agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Developer will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement. Specifically, the Developer must comply with the grantor recognition requirements as determined by the IEDA.

F. Amendments

The City or the Developer may amend this agreement at any time provided that such amendments make specific reference to this agreement, and are executed in writing, and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this agreement, nor relieve or release the City or Developer from their obligations under this agreement.

The City may, in its discretion, amend this agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other valid reasons. If such amendments result in a change in the funding, the scope of services, or the schedule of activities to be undertaken as part of this agreement, such modifications will be incorporated only by written amendment signed by both the City and the Developer.

G. Suspension or Termination

Either party may terminate this agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Developer under this agreement shall, at the option of the City, become the property of the City, and the Developer shall be entitled to receive just and suitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this agreement, in whole or in part, if the Developer materially fails to comply with any term of this agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Developer ineligible for any further participation in city contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Developer is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said funds until such time as the Developer is found to be in compliance by the City or is otherwise adjudicated to be in compliance.

H. Retention

The Developer shall retain all records pertinent to expenditures incurred under this agreement for a period of five (5) years after the termination of all activities funded under this agreement, or after the

resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this agreement shall be retained for five (5) years after final disposition of such property. Additional information on retention is contained in Article 9 of the original IEDA agreement.

I. Disclosure

The Developer understands that client information collected under this agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Developer's responsibilities with respect to services provided under this agreement, is prohibited unless written consent is obtained from such person receiving the service or, in the case of a minor, that of a responsible parent/guardian.

J. Property Records

The Developer shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(7) and 570.505.

K. National Objectives

The Developer agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this agreement meet one or more of the CDBG program's national objectives (as defined in 24 CFR Part 570.208): 1) benefit low/moderate income persons; 2) aid in the prevention or elimination of slums or blight; or 3) meet community development needs having a particular urgency.

L. Close-Outs

Developer obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets, and determining the custodianship of records.

M. Reversion of Assets

Upon the expiration of this agreement, the Developer shall transfer to the City any CDBG Funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds, as well as ensure that any real property acquired or improved with CDBG Funds in excess of \$25,000 meets all requirements specified in 24 CFR 570.503(b)(7).

N. Building Standards

The Developer shall meet all applicable local codes, ordinances, zoning, and Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794) at the time of completion and for the duration of the Affordability Period. The Developer agrees to follow the state building code if no local codes are in place. The Developer agrees to meet the industry-recognized green building standard as outlined in IEDA's baseline Green Streets Criteria.

O. Audits and Inspections

All Developer records with respect to any matters covered by this agreement shall be made available to the City, grantor agency, the Iowa Economic Development Authority, the Federal Government, or any of their designees at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Developer within 30 days after receipt by the Developer. Failure of the Developer to comply with the above audit requirements will constitute a violation of this agreement and may result in the withholding of future payments. The Developer hereby agrees to have agency audit(s) conducted in accordance with OMB Circular A-133.

P. Procurement

1. The Developer shall comply with 24 CFR 85 ("Common Rule") and the current City policy concerning the purchase of equipment and shall maintain an inventory record of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

Q. Conflict of Interest

1. The Developer shall comply with the conflict of interest policy found at 24 CFR 570.611. Specifically, the employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of Developers who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

VI. ADMINISTRATIVE REQUIREMENTS

A. Applicable Laws

The Developer certifies and assures that the project will be conducted and administered in compliance with all applicable Federal and State laws, regulations and orders. Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. The Recipient certifies and assures compliance with the applicable orders, laws and implementing regulations, including but not limited to:

1. Financial Management guidelines issued by the U.S. Office of Management and Budget, OMB Circular A-133 ("Single Audit Act Amendment of 1996"), OMB Circular A-122 ("Cost Principles for Nonprofit Organizations"), OMB Circular A-87 ("Principles for Determining Cost Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments").
2. Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.); and regulations which implement these laws,
3. Title VI of the Civil Rights Act of 1964 as amended (Public Law 88-352; 42 U.S.C. 2000d et seq.); Title VIII of the Civil Rights Act of 1968 as amended (Public Law 90-284; 42 U.S.C. 3601 et seq.); the Iowa Civil Rights Act of 1965; Iowa Code Section 19B.7, and Executive Order #34, dated July 22, 1988; Iowa Code Chapter 216, Presidential Executive Order 11063, as amended by Executive Order 12259; Presidential Executive Order 11246, as amended; Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794); the Age Discrimination Act of 1975 as amended (42 U.S.C. 6101 et seq.); the Americans with Disabilities Act, as applicable, (P.L. 101-336, 42 U.S.C. 12101-12213); and related Civil Rights and Equal Opportunity statutes; and regulations which implement these laws.
4. Fair Housing Act, Public Law 90-284. The Fair Housing Act is part of Title VIII of the Civil Rights Act of 1968 as amended (42 U.S.C. 3601 et seq.); Section 109 of the Title I of the Housing and Community Development Act of 1974, as amended; Section 3 of

the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u); and regulations which implement these laws.

5. Department of Housing and Urban Development regulations governing the CDBG program, 24 Code of Federal Regulations, Part 570. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235), and implementing regulations.
6. Requirements for the Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule (24 CFR Part 35, et al.), including the identification and evaluation of lead-based paint hazards and implementation of lead-based paint hazard control measures. To the extent that lead-based paint is located in any existing building at the project, the Developer shall provide the City with a plan for handling such lead-based paint in a safe manner and in accordance with the foregoing regulations and comply with the plan during any construction at the project.
7. Davis-Bacon Act, as amended (40 U.S.C. 276a – 276a-5) under Section 110 of the Housing and Community Development Act of 1974, as amended; Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); the Copeland Anti-Kickback Act (18 U.S.C. 874); the Department of Defense Reauthorization Act of 1986; and regulations which implement these laws. The Davis Bacon Act and the Contract Work Hours and Safety Standards Act only apply to residential projects if the project is for 8 or more units.
8. National Environmental Policy Act of 1969 and implementing regulations.
9. National Historic Preservation Act of 1966, as amended (16 USC 70) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the PROJECT.
10. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA)(42 U.S.C. 4601 – 4655) and implementing regulations; Section 104(d) of the Housing and Community Development Act of 1974, as amended, governing the residential anti-displacement and relocation assistance plan; and Section 105(a)(11) of the Housing and Community Development Act of 1974, as amended, governing optional relocation assistance.
11. Iowa CDBG Program Administrative rules adopted by the Iowa Department of Economic Development, 261 Iowa Administrative Code, Chapter 23, to the extent applicable to the Program and not in conflict with the Program rules.
12. Financial and Program Management guidelines issued by the Iowa Department of Economic Development; the Iowa Housing Fund Management Guide.
13. Government-wide Restriction on Lobbying Certification [Section 319 of Public Law 101-121] and implementing regulations.
14. Fair Labor Standards Act and implementing regulations
15. Hatch Act (regarding political partisan activity and federally funded activities) and implementing regulations.



16. Citizen participation, hearing and access to information requirements found under sections 104(a)(2) and 104(a)(3) of Title I of the Housing and Community Development Act of 1974, as amended and as modified by the waivers and / or alternative requirements published in the Federal Register on September 11, 2008.
17. Subsection 104(I) of Title I of the Housing and Community Development Act of 1974, as amended, regarding the prohibition of the use of excessive force in nonviolent civil rights demonstrations and the enforcement of state and local laws on barring entrance to or exit from facilities subject to such demonstrations.
18. Drug-Free Workplace Act.
19. All Federal law and regulations described in 24 CFR subpart K.

VII. PERSONNEL AND PARTICIPANT CONDITIONS

A. Reporting and Monitoring: Hiring Practices during Construction

1. The Developer and their contractors must comply with the Equal Employment Opportunity, Executive Order 11246, as amended (41 CFR Part 60) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex familial status or national origin and Section 3 of the Housing and Urban Development Act of 1968 as amended (12 USC 1711u) that requires to the greatest extent feasible, opportunities for training and employment arising from the funding provided to be offered low-income persons residing in the program service area. Also to the greatest extent feasible, contracts for work to be performed will be awarded to Certified Section 3 business concerns.
2. The Developer agrees to comply with the Section 3 requirements as applicable. Section 3 requirements provide that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the areas of the project. The Developer or their contractors will be required to provide information related to labor hours worked on the project, and the income certification of labors in order to establish a percentage of Section 3 labor hours worked on the project. Additionally, the developer may need to report on marketing to Section 3 certified business concerns and residents. The Developer agrees that they will use their best efforts to afford small businesses, minority business enterprises, and women’s business enterprises the maximum practicable opportunity to participate in the performance of this agreement. As used in this context, the terms “small business” means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 USC 632) and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Developer may rely on written representations by businesses regarding their status as minority and women-owned business enterprises in lieu of an independent investigation. The Developer or their contractor will be required to complete forms on Minority and Women Contractors and Section 3 hiring during the construction period on forms provided by the City before City releases final payments. The City will review these reports in conjunction with the Minority and Women Owned Business Plan submitted by the Developer.

3. Federal Davis-Bacon wage requirements are applicable to this Agreement if the number of units in the Project is 8 or more and/or the installation of Public Infrastructure is incorporated into this Project. The Developer agrees to comply with 24 CFR Section 570.603 and the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 USC 276(a) to (1-7) as it applies to any construction work financed in whole or in part with CDBG funds. All contracts and subcontracts for construction shall include a provision for compliance with the Davis-Bacon Act and supporting Department of Labor regulations. The Developer shall maintain documentation and records which demonstrate compliance with wage and hour requirements, including contract provisions and payroll records.

3. The Developer also agrees to comply with the Contract Work Hours and Safety Standards Act (40 USC 327-333), as supplemented by the Department of Labor regulations contained in 29 CFR Part 5 if the Project is 8 units or more.
4. The Developer agrees to comply with the Copeland “Anti-Kickback” Act (18 USC 874) as supplemented by the Department of Labor regulations contained in 24 CFR Part 3.
6. Contractor and Subcontractor Review. The Developer shall obtain information on each contractor and subcontractor to prior to start of construction to determine if any contractor has been debarred or disqualified by HUD (24 CFR Part 5 and 24 CFR Part 24). The Developer shall not enter into a contract with any person, agency, or entity that is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 or 12689. In the event that the Developer has entered into a contract or subcontract with a debarred or suspended party, no CDBG Funds will be provided as reimbursement for the work done by that debarred or suspended contractor or subcontractor.

B. Civil Rights

1. Nondiscrimination

The Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance. The Developer will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Developer agrees to post or otherwise make available equal opportunity and nondiscrimination information for employees and applicants for employment.

2. Section 504

The Developer agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program. The City shall provide the Developer with any guidelines necessary for compliance with that portion of the regulations in force during the term of this agreement.

The Developer shall ensure, to the maximum extent feasible that five percent of the total dwelling units, or \_\_\_\_\_ units, shall be readily accessible to and usable by individuals with mobility impairments. An additional two percent, or \_\_\_\_\_ units, shall be accessible for persons with sensory impairments. The total number

of units in this assisted project, regardless of whether they are all CDBG-DRassisted, is used as the basis for determining the minimum number of accessible units.

C. Affirmative Action

1. Approved Plan

The Developer agrees that it shall comply with the City's Affirmative Action Program, in keeping with the principles as provided in Executive Order 11246.

2. WBE/MBE

The Developer will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women.

3. Access to Records

The Developer shall furnish and cause each of its sub-Developers to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, IEDA, HUD and/or their agents, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. EEO/AA Statement

The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that it is an equal opportunity or affirmative action employer.

5. Subcontract Provisions

The Developer will include the Civil Rights and Affirmative Action provisions of this Agreement in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each sub-Developer or vendor.

D. Conduct

1. Assignability

The Developer shall not assign or transfer any interest in this agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Developer from the City under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

(i) Approvals

The Developer shall not enter into any subcontracts with any agency or individual in the performance of this agreement without the written consent of the City prior to the execution of such agreement.

(ii) Monitoring

The Developer will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

(iii) Content



The Developer shall cause all of the provisions of this agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this agreement.

(iv) Selection Process

The Developer shall undertake to ensure that all subcontracts let in the performance of this agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

3. Copyright

If this Agreement results in any copyrightable material, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.

4. Religious Organization

The Developer agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with regulations specified in 24 CFR 570.200(j).

F. Eligibility Restrictions for Certain Resident Aliens (570.613)

1. Restriction

The Developer agrees to comply with 24 CFR 570.613, which states that certain newly legalized aliens, as described in 24 CFR Part 5 Subpart E are not eligible to apply for benefits under covered activities funded by CDBG programs. "Benefits" under this section means financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities funded through CDBG programs. "Benefits" do not include relocation services and payments to which displacees are entitled by law.

2. Covered Activities

"Covered activities" under this section means activities meeting the requirements of Section 570.208(a) that either:

- (i) Have income eligibility requirements limiting the benefits exclusively to low and moderate income persons; or
- (ii) Are targeted geographically or otherwise to primarily benefit low and moderate income persons (excluding activities serving the public at large, such as sewers, roads, sidewalks, and parks), and that provide benefits to persons on the basis of an application.

3. Limitation on Coverage

The restrictions under this section apply only to applicants for new benefits not being received by covered resident aliens as of the effective date of this agreement.

4. Compliance



Compliance can be accomplished by the Developer obtaining certification as provided in 24 CFR Part 5 Subpart E, Section 5.508 evidencing citizenship or Section 5.510 eligible immigration status.

VIII. Final Disbursement

- A. After completion of the improvements, the Developer will furnish the City a Disposition of Funds Statement, showing in detail how the loan proceeds have been disbursed. The City shall then provide a statement on the amount of retainage being held until the City approves the beginning date of affordability. By executing such statement, the Developer agrees that the improvements have been completed in accordance with the construction contract, except for any warranty items (which the Developer are responsible to have the warrantor correct). By such execution, the Developer further agree to assess no claim against the City, or any defense against collection of the loan, with respect to any defect or inadequacy in the construction, whether or not the Developer is aware of such defect or inadequacy. The following documents shall be provided upon construction completion:
1. A certificate of occupancy;
  2. A certificate from the Developer stating the total construction cost;
  3. A certificate from a third party professional (architect or engineering firm) stating that the project has been completed in accordance with the plans and specifications, in a good and workmanlike manner and in accordance with all laws, ordinances, rules and regulations or all governmental authorities having or purporting to have jurisdiction over the project. This certification shall also include compliance with the Architectural Barriers Act of 1968 (42 USC 4151-4157); the Uniform Federal Accessibility Standards, as set forth in 24 CFR Section 570.614; the Americans with Disabilities Act of 1990; the Lead Based Paint Poisoning Prevention Act (42 USC 4831(b) and the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 USC 4851-4856) and implementing regulations at 24 CFR Part 35; and Section 504 of the Rehabilitation Act of 1973; and
  4. Evidence that the project has been completed lien-free (which evidence shall include without limitation, final lien waivers from the general contractor and all major subcontractors and expiration of the lien periods provided by applicable State law) in form and substance reasonably satisfactory to the City.

VIII. Miscellaneous

A. Rules of Construction

1. Unless the context clearly indicates to the contrary, the following rules apply to the construction of this Agreement:
2. Words importing the singular number include the plural number and words importing the plural number include the singular number;
3. Words of the masculine gender include correlative words of the feminine and neuter genders, and vice-versa;
4. The table of contents and the headings or captions used in this Agreement are



for convenience of reference and do not constitute a part of this Agreement, nor affect its meaning, construction, or effect;

5. Words importing persons include any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, or government or agency or political subdivision thereof;
  6. Any reference in this Agreement to a particular “Article,” “Section,” or other subdivision shall be to such Article, Section, or subdivision of this Agreement unless the context shall otherwise require;
  7. Each reference in this Agreement to an agreement or contract shall include all amendments, modifications, and supplements to such agreement or contract unless the context shall otherwise require; and
  8. When any reference is made in this document or any of the schedules or exhibits attached hereto to the Agreement, it shall mean this Agreement, together with all other schedules and exhibits attached hereto, as though one document.
- B. The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assignees of the respective parties hereto, except in each case as expressly provided to the contrary in this Agreement.
- C. No waiver by the City of any Event of Default hereunder shall operate as a waiver of any other Event of Default or of the same Event of Default on any future occasion. No delay on the part of the City in exercising any right or remedy hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy by the City shall preclude future exercise thereof or the exercise of any other right or remedy.
- D. No provision of this Agreement shall be construed in any manner so as to create any rights in Persons or Entities that are not a party to this Agreement, except where specific rights in the IEDA are created herein.
- E. This Agreement shall be interpreted in accordance with the laws of the State of Iowa, and any action relating to this Agreement shall only be commenced in the Iowa District Court for Polk County or in the United States District for the Southern District of Iowa. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity in state or federal court, which may be available to the City or the State. By signing this Agreement, the Developer waives the right to jury trial in the event of any legal proceedings.
- F. The Developer shall pay upon demand any and all reasonable fees and expenses of the City, including the fees and expenses of their attorneys, experts and agents, in connection with the exercise or enforcement of any of the rights of the City under this Agreement.
- G. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all the parties hereto. Any counterpart of this Agreement, which has attached to it separate signature pages which together contain the signatures of all the parties hereto or is executed by an attorney in fact on behalf of some or all of the parties, shall for all purposes be deemed a fully executed instrument.



- H. All representations, warranties, and indemnifications contained herein shall survive the termination of this Agreement.
- I. Separability of Provisions; Rights and Remedies; Arbitration; Consistency with Program Requirements
1. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.
  2. Unless otherwise specifically provided herein, the rights and remedies of any of the parties hereunder shall not be mutually exclusive, and the exercise of one or more of the provisions hereof shall not preclude the exercise of any other provisions hereof. Each of the parties confirms that damages at law may be an inadequate remedy for breach or threat of breach of any provisions hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other parties for a breach or threat of breach of any provision hereof, it being the intention by this paragraph to make clear that under this Agreement the respective rights and obligations of the parties shall be enforceable in equity as well as at law or otherwise.
  3. The provisions of this Agreement are intended to implement CDBG in accordance with Program Requirements and shall be interpreted consistently therewith. In the event of any conflict between the provisions of this Agreement and the Program Requirements, the Program Requirements shall govern and, to the extent necessary, the inconsistent provisions of this Agreement shall be without effect.
- J. This Agreement contains the entire understanding between the Developer and the City and any representations that may have been made before or after the signing of this Agreement, which are not contained therein, are nonbinding, void and of no effect. None of the parties have relied on any such prior representation in entering into this Agreement.
- K. **Time is of the essence** in the performance of this Agreement. The Developer acknowledges that the timely completion of the Project is a material term of this Agreement and that delays in the completion of the Project will result in substantial damages to the Owner, including but not limited to potential loss of CDBG funds, delays in project utilization, and additional administrative costs

The parties agree that actual damages for delay would be difficult to determine with certainty and that the amount set forth herein represents a reasonable estimate of such damages and is not intended as a penalty.

Therefore, if the Developer fails to complete the work required under this Agreement by the Completion Date specified at paragraph I. Period of Performance or any extension thereof approved in writing by the Owner, **liquidated damages shall be assessed at a rate of \_\_\_\_\_ dollars (\$XXX.00) for each calendar day beyond the Completion Date** that the work remains incomplete.

These liquidated damages shall be deducted from any payments due or to become due to the Developer, or, if such payments are insufficient, shall be immediately due and payable by the

Developer to the Owner upon demand. Nothing in this provision shall be construed to limit any other rights or remedies available to the Owner under this Agreement, at law, or in equity.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

City:

By: \_\_\_\_\_

Name of City Elected Official

City of \_\_\_\_\_

Developer – Developer Name / Company / City Department

By: \_\_\_\_\_

Developer Representative Name

Developer Name/Company

**Exhibits:**

Exhibit A – Project Scope and Schedule Outline (application, grant agreement excerpts)

Exhibit B - Mortgage

Exhibit C - Promissory Note

Exhibit D – Assignment of Leases and Rents

Exhibit E – Agreement for Covenants and Restrictions



# Construction Lien/Mortgage

RECORDED:  
RECORDING FEE: \$  
REVENUE TAX: \$  
COMBINED FEE: \$  
RECORDER:  
COUNTY:

MORTGAGE

SPACE ABOVE THIS LINE FOR RECORDER

PREPARED BY:

AFTER RECORDING RETURN TO:

GRANTOR AND TAXPAYER: \_\_\_\_ (Developer) \_\_\_\_\_

GRANTEE: City of \_\_ (UGLG Subrecipient) \_\_\_\_\_

LEGAL DESCRIPTION:  
\_\_\_\_\_  
\_\_\_\_\_

Grant Agreement Contract Owner: \_\_\_\_ (UGLG Subrecipient) \_\_\_\_\_

Grant Agreement Contract Number: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_



## MORTGAGE

THIS MORTGAGE IS A CONSTRUCTION MORTGAGE LIEN AS DEFINED IN THE IOWACODE.

NOTICE: This mortgage secures credit in the amount of \$\_\_\_\_\_. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

THIS MORTGAGE ("Mortgage"), dated \_\_\_\_\_, by and between the City of \_\_\_\_\_, Iowa, an Iowa City ("Lender"), and \_\_\_\_\_, an Iowa Developer ("Borrower"), secures payment of the loan made by Lender to Borrower evidenced by a promissory note dated \_\_\_\_\_, as revised, in the principal amount of \$\_\_\_\_\_ ("Note") which provides for the full debt due and payable on \_\_\_\_\_.

This Mortgage secures to Lender: (a) the repayment of the debt as evidenced by the Note, and all renewals, extensions, modifications or refinancing thereof and any Promissory Note issued in substitution therefore; (b) all other obligations of Borrower to Lender, now existing or hereafter arising, whether direct or indirect, contingent or absolute and whether as maker or surety, including, but not limited to, future advances and amounts advanced and expenses incurred by Borrower pursuant to this Mortgage; and (c) the performance of Borrower's covenants and agreements under this Mortgage, the Note, the Community Development Block Grant-Disaster Recovery Contract delivered to Lender by Borrower and dated \_\_\_\_\_.

(the "Contract"), and the Agreement for Covenants and Restrictions delivered by Borrower to Lender and dated \_\_\_\_\_ (the "Covenants") (this Mortgage, the Note, the Contract, and the Covenants are hereinafter referred to as the "Loan Documents"), as applicable. For this purpose, Borrower does hereby mortgage, grant and convey the Lender a security interest in and to the following described property including any after acquired title or reversion thereto (the "Land") located in \_\_\_\_\_ County, Iowa:

(Legal description inserted here)

TOGETHER WITH:

- (a) Buildings. All buildings, structures and improvements now standing or hereafter constructed or placed on the Land (the "Buildings"), and all easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the land.
- (b) Personal Property. All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings, whether attached or detached, including but not limited to, light fixtures, shades, rods, blinds, venetian blinds, awnings, storm windows, screens, linoleum, water softeners, automatic heating and air conditioning equipment and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs, replacements and substitutes of, to, and for the foregoing (the "Personal Property").
- (c) Revenues and Income. All rents, issues, profits, leases, condemnation awards and insurance proceeds now or hereafter arising from the ownership, occupancy or use of the Land, Buildings and Personal Property, or any part thereof (the "Revenues and Income").

TO HAVE AND TO HOLD the Land, Buildings, Personal Property and Revenues and Income (collectively called the "Mortgaged Property"), together with all privileges, hereditaments thereunto now or hereafter

belonging, or in any way appertaining, and the products and proceeds thereof, unto Lender, its successors and assigns.

Borrower and Lender covenant and agree as follows:

1. **Representations and Warranties of Borrowers.** Borrowers represent, warrant, and covenant to Lender that (1) Borrowers hold clear title to the Mortgaged Property; (2) Borrowers have the right, power, and authority to execute this Mortgage and grant a security interest in the Mortgaged Property; (3) the Mortgaged Property is free and clear of all liens and encumbrances, except for real estate taxes not yet delinquent, as otherwise stated herein, or encumbrances of record disclosed in the Lender's Title Guaranty Division Certificate issued in favor of the Lender; (4) Borrowers will warrant and defend title to the Mortgaged Property and the lien and priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising; and (5) all buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land.
2. **Payment.** Borrower shall promptly repay principal and interest of the debt and any prepayment thereunder as evidenced by the Note, and timely perform all other obligations of Borrower under the Loan Documents. The provisions of the Loan Documents are hereby incorporated by reference into this Mortgage as if fully set forth herein.
3. **Taxes.** Borrower shall pay each installment of property taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand.
4. **Liens.** Borrower shall pay in a timely manner all taxes, assessments, charges, fines and impositions attributable to the Mortgaged Property which may attain priority over this Mortgage, and leasehold payments or ground rents, if any. Borrower shall promptly furnish to Lender receipts evidencing the payment.

Unless Borrower obtains Lender's prior written approval, Borrower shall not create, incur or suffer to exist any lien, encumbrance, security interest or charge on the Mortgaged Property or any part thereof which might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable. Borrower shall pay, when due, the claims of all persons supplying labor or materials in connection with the Mortgaged Property.

Borrower shall promptly discharge any lien which has, or may attain, priority over this Mortgage unless Borrower: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (3) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Mortgaged Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within ten business days of the giving of notice.

5. **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to Personal Property and for this purpose the name and address of debtor is the name and address of Borrower as set forth in Paragraph 23 herein and the name and address of the secured party is the name and address of the Lender as set forth in Paragraph 23 herein.

6. Compliance with Laws. Borrowers shall comply with all present and future statutes, laws, rules, orders, regulations, and ordinances affecting the Mortgaged Property, any part thereof, or the use thereof.

7. Care of Property. Borrower shall take good care of the Mortgaged Property; shall keep the Buildings and the Personal Property now or later placed upon the Mortgaged Property in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Personal Property during the term of this Mortgage. Borrower shall not make any material alteration in the Mortgaged Property without the prior written consent of Lender.

8. Insurance.

a. Risks to be Insured. Borrower, at its sole cost and expense, shall maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Lender may from time to time require. Lender requires such insurance to have a "Replacement Cost" endorsement attached thereto, with the amount of the insurance at least equal to the balance of amount owed under the Note. Borrower will at its sole cost and expense, from time to time, and at any time at the request of Lender, provide Lender with evidence satisfactory to Lender of the replacement cost of the Mortgaged Property. Borrower will maintain such other insurance as Lender may reasonably require.

b. Policy Provisions. All insurance policies and renewals thereof maintained by Borrower pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Lender, contain a Lender clause in favor of Lender and in form acceptable to Lender, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after 30 calendar days prior written notice to Lender, and be reasonably satisfactory to Lender in all other respects.

c. Delivery of Policy or Certificate. If requested by Lender, Borrower will deliver to Lender original policies satisfactory to Lender evidencing the insurance which is required under this Mortgage, and Borrower shall promptly furnish to Lender all renewal notices and, upon request of Lender, evidence of payment thereof. At least ten calendar days prior to the expiration date of a required policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

d. Assignment. If the Mortgaged Property is sold at a foreclosure sale or if Lender shall acquire title to the Mortgaged Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to sale or acquisition.

e. Notice of Damage or Destruction; Loss Adjustment. If the Mortgaged Property or any part thereof is damaged or destroyed by fire or other casualty, Borrower will, within five calendar days after the occurrence of the damage or destruction, give written notice thereof to the insurance carrier and to Lender and will not adjust any damage or loss which is estimated by Borrower in good faith to exceed Twenty-five Thousand Dollars (\$25,000) unless Lender joins in or concurs with such adjustment; but if there has been no adjustment of any such damage or loss within four months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four month period or at any time thereafter, Lender may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Borrower does hereby irrevocably authorize, empower and appoint Lender as attorney-in-fact for Borrower (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Borrower.

f. Application of Insurance Proceeds. All sums paid under any insurance policy required by this Mortgage shall be paid to Lender. Lender agrees to apply all insurance proceeds from casualty or damage of the Project (after first deducting therefrom Lender's expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) in the following order: (1) to bring loan current if it is in default due

to delinquent payments; (2) to repayment of the indebtedness secured by this Mortgage and the Note if any other Event of Default has occurred prior to the casualty, and is continuing thereunder; (3) if no Event of Default exists, to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed and to Borrower's Replacement Reserve or Operating Reserve, in such manner as Lender shall determine, and (4) any remainder to be applied to the payment of the indebtedness.. Restoration will not remove or alter any existing obligations associated with the Loan Documents.

g. Expense Reimbursement. Borrower shall promptly reimburse Lender upon demand for all of Lender's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

9. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Mortgaged Property to make repairs. Although Lender may take actions under this paragraph, Lender does not have to do so.

Any amounts disbursed or incurred by Lender under this paragraph shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to the other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be immediately due and payable, with interest, upon notice from Lender to Borrower requesting payment.

10. Inspection. Lender or its agents shall have the right at reasonable times to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property. Lender shall have no duty to make such inspection. Nothing contained in this paragraph shall require Lender to incur any expense or do any act hereunder, and Lender shall not be liable to Borrower for any damage or claims arising out of action taken by Lender pursuant to this paragraph.

11. Condemnation.

a. Notice, Assignment and Loss Adjustment. Borrower shall give Lender prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assign, transfer and set over to Lender the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Lender is hereby authorized to intervene in any such action in the name of Borrower, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds.

b. Application of Proceeds. Lender agrees to apply all proceeds resulting from its intervention in any condemnation or eminent domain action or the compromise and settlement of such action or claim, or its collection of such proceeds (after first deducting therefrom Lender's expenses incurred including but not limited to reasonable attorneys' fees), in the following order: (1) to bring loan current if it is in default due to delinquent payments; (2) to repayment of the indebtedness secured by this Mortgage and the Note if any other Event of Default has occurred prior to the casualty, and is continuing thereunder; (3) if no Event of Default exists, to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed and to Borrower's Replacement Reserve or Operating Reserve, in such manner as Lender shall determine, and (4) any remainder to be applied to the payment of the indebtedness. Restoration will not remove or alter any existing obligations associated with the Loan Documents.

12. Events of Default. Each of the following occurrences shall constitute an event of default ("Event of Default"):
- a. Borrower fails to make payment as required by the Note or breaches its agreements contained in paragraph 2 hereof or defaults in the due observance or performance of or breaches any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of the Loan Documents or any document related thereto.
  - b. Borrower sells, leases (other than by residential leases in the ordinary course of business), transfers or otherwise disposes the Mortgaged Property without the prior written consent of the Lender.
  - c. Borrower, without the prior written consent of the Lender, permits any change in the ownership interests in the Borrower that, when added to any prior changes in the ownership interest in such entity, exceeds ten percent of the total aggregate ownership interest in Borrower.
  - d. Borrower makes an assignment for the benefit of its creditors, or a petition is filed by or against Borrower under the United States Bankruptcy Code or Borrower seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or does not, within 20 business days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.
  - e. A judgment, writ or warrant of attachment or execution, or similar process is entered and becomes a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within 20 business days after its entry, issue or levy.
  - f. An event of default, however defined, occurs under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.

13. Acceleration; Foreclosure. Upon the occurrence of any Event of Default and at any time thereafter while such Event of Default exists, Lender may, at its option, exercise one or more of the following rights and remedies (and any other rights and remedies available to it):

- a. Lender may declare immediately due and payable all Notes secured by this Mortgage, and the entire balance of the same, including accrued interest, shall thereupon be immediately due and payable, without further notice of demand.
- b. Lender shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default of a secured party under the Iowa Uniform Commercial Code. If notice to Borrower of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Borrower at least ten days prior to the date of intended disposition.
- c. Lender may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Lender appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as the trustee may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Borrower only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Note.

14. Redemption. It is agreed that if this Mortgage covers less than ten acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six months provided the Lender, in such action files an election to waive any deficiency judgment against Borrower which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three months after sale such right of redemption shall be exclusive to the Borrower, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four months.

It is agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to 60 days if all three of the following contingencies develop:

- (1) The real estate is less than ten acres in size;
- (2) the Court finds affirmatively that the real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of foreclosure; and
- (3) Lender files an election to waive any deficiency judgment against Borrower or its successor in interest in such action.

If the redemption period is so reduced, Borrower or its successors in interest or the owner shall have the exclusive right to redeem for the first 30 days after such sale, and the time provided for redemption for creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of Borrower shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any redemption provisions contained in Chapter 628 of the Iowa Code.

15. **Attorney's Fees.** Borrowers shall pay, on demand, all costs and expenses incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, reasonable attorneys' fees and legal expenses.

16. **Additional Instruments.** At any time and from time to time until payment in full of the Note, Borrower, at Lender's request, will promptly execute and deliver to Lender such additional instruments as may be reasonably required to further evidence the lien of this Mortgage and to further protect the security interest of Lender in connection with the Mortgaged Property. Such instruments may include, but are not limited to, additional security agreements, financing statements, and continuation statements. Any expenses incurred by Lender in connection with the recordation of any such instruments shall become additional obligations of Borrowers secured by this Mortgage and shall be immediately due and payable by Borrowers to Lender

17. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to Borrower or any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against Borrower or any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any delay or forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy. No waiver by Lender of any particular provisions of this Mortgage shall be deemed effective unless such waiver is in writing signed by the Lender.

18. **Rights and Remedies Cumulative.** All rights and remedies provided for in this Mortgage or which Lender or holder of the Loan Documents may have otherwise, at law or in equity, shall be distinct, separate, and cumulative and may be exercised concurrently, independently, or successively in any order whatsoever, and as often as the occasion thereof arises.

19. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Borrower. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest

in the Mortgaged Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without the Borrower's consent.

20. Severability. In the event any portion of this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Mortgage is invalid, illegal, or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable then such provision shall be deemed to be written, construed and enforced as so limited.

21. Number and Gender. Words and phrases contained in this Mortgage, including acknowledgment hereof, shall be construed as in the singular or plural number and as masculine, feminine, or neuter gender according to the contexts.

22. Captions. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

23. Notices. All notices required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to Lender, to: City of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: City Clerk

b. If to Borrower, to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

24. Governing Law. This Mortgage shall be governed and construed in accordance with the laws of the State of Iowa.

25. WAIVER OF MARSHALLING. Borrower, any party who consents to this Mortgage, and any party who now or hereafter acquires a lien on the Mortgage Property and who has actual or constructive notice of this Mortgage hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

26. Acknowledgement of Receipt of Copies of Mortgage and Note. Borrower hereby acknowledges the receipt of a copy of this Mortgage together with a copy of each Promissory Note secured hereby.

27. Release. Upon compliance with the Contract and/or payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower.

28. Waivers. Each of the undersigned relinquishes all rights of dower, waives all right of homestead and distributive share in and to the Mortgaged Property and waives any right to exemption as to the Mortgaged Property.

29. Additional Provisions: NONE

-END OF MORTGAGE - REFER TO FOLLOWING PAGE FOR SIGNATURES-

IN WITNESS WHEREOF, the parties have caused this mortgage to be duly executed by its duly authorized officers.

BORROWER:

\_\_\_\_\_

By:

Print Name: \_\_\_\_\_

Authority: \_\_\_\_\_

By: \_\_\_\_\_ Print Name: \_\_\_\_\_ Authority: \_\_\_\_\_

STATE OF IOWA)

)

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and

Signature of Notary Public

STATE OF IOWA)

)

COUNTY OF LINN \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and



Signature of Notary Public

LENDER:

City of \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Authority: \_\_\_\_\_

By: \_\_\_\_\_ Print Name: \_\_\_\_\_ Authority: \_\_\_\_\_

STATE OF IOWA)

)

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and the City of \_\_\_\_\_

Signature of Notary Public

STATE OF IOWA)

)

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and the City of \_\_\_\_\_

Signature of Notary Public



# Example Homebuyer Agreement

## HOMEBUYER AGREEMENT

This Homebuyer Agreement (the "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_, a single person, (the "Homebuyer"), whose mailing address is \_\_\_\_\_, and \_\_\_\_\_ (the "Developer"), having its principal offices at \_\_\_\_\_, and The City of \_\_\_\_\_ (the "City").

1. PURPOSE. The Developer has applied for and been awarded Community Development Block Grant Disaster Recovery (CDBG-DR) funds from the City of \_\_\_\_\_ (the "City") under Extending Government Funding and Delivering Emergency Assistance Act, 2021 Signed into law: Public Law 117-43, allocating CDBG funding to HUD, which then allocated it to the Iowa Economic Development Authority (the "IEDA"), which then allocated it to the City. CDBG-DR funds are provided to the Developer in the form of a conditional grant completed after 180 months of compliance with the Rules and the Agreement between the City and the Developer (the "Retention Period") for the purpose of assisting the Homebuyer with ownership of the eligible home located at \_\_\_\_\_ (the "Project") to be owned and occupied by the Homebuyer. The purpose of this agreement is to require the Homebuyer to abide by the same Retention Period requirements as the Developer in its agreement with the City.

2. HOMEBUYER REPRESENTATIONS AND WARRANTIES. The Homebuyer represents and warrants to the Developer as follows:

- (a) As determined at the time of income qualification by the Developer, the Homebuyer has a household annual income, adjusted by family size, of not more than 80% of the area median income limit as published annually by the U.S. Department of Housing and Urban Development.
- (b) The Project being purchased by the Homebuyer will be the primary residence of the Homebuyer throughout the retention period.
- (c) The Homebuyer shall list the Developer as a loss payee on the homeowner's insurance for the duration of the retention period.
- (d) The Homebuyer has read and understands the Terms and Conditions identified below and agrees to abide by such Terms and Conditions as part of this Agreement.

3. TERMS AND CONDITIONS. The Sale of the Project to the Homebuyer shall be subject to the following terms and conditions:

(a) AMOUNT. The Developer shall sell the Project to the Homebuyer for no more than \$\_\_\_\_\_.

(b) OWN AND OCCUPY. For the entire Retention Period, the Homebuyer must own and occupy the Project as its personal residence.

(c) RETENTION PERIOD. The Retention Period, which is the period in which the Homebuyer must comply with the terms and conditions of this Agreement and the Rules, commences on \_\_\_\_\_. The Retention Period expires on \_\_\_\_\_.

(d) TRANSFER. If the Homebuyer sells the Project during the Retention Period, it must be sold to household at or below 80% of the area median income for not more than \$\_\_\_\_\_ plus the total amount forgiven at the time of sale.

(e) APPROVAL OF TRANSFER. Prior to entering into any agreement to transfer the Project, the Homebuyer must obtain the Developer's approval of the transfer in accordance with the requirements of this Agreement and obtain the new Owner's written agreement to be bound by the terms of this Agreement.

4. ADDITIONAL TERMS AND CONDITIONS OF THIS AGREEMENT

(a) RECORDS. At the request of the Developer, the Homebuyer shall furnish records and other information in connection with Homebuyer and Project eligibility determinations as may be requested by the Developer, the City, and/or the IEDA.

(b) INDEMNIFICATION. The Homebuyer hereby indemnifies, holds harmless, and will defend the IEDA, the State, the City, the Developer, their officers, agents, and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages by any person or property arising directly or indirectly as a result of any error, omission, or negligent act of any Homebuyer, its contractors, or anyone directly or indirectly employed by any Homebuyer in the performance of this Agreement.

(c) DEFAULT. The Homebuyer shall be in default pursuant to the terms of this Agreement if, at anytime during the Retention Period, the Homebuyer violates any of the terms, conditions, or its obligations in the Rules or this Agreement, including, but not limited to:

1. Homebuyer ceases owning and occupying the Project as its personal residence during the entire Retention Period.
2. Homebuyer transfers the Project to a household *above* 80% of the area median income or for more than \$\_\_\_\_\_ plus the total amount forgiven at the time of transfer.
3. Homebuyer transfers of the Project without the approval of the Developer.
4. Any representation or warranty made by the Homebuyer in connection with this Agreement shall prove to have been incorrect in any material respect when made and shall not be made good within thirty (30) days after written notice thereof shall have been given to the Homebuyer by the Developer.
5. Any other violation by the Homebuyer of the terms of Agreement or the terms, conditions, or obligations of the Homebuyer pursuant **to** this Agreement or the Rules.

(d) NOTICE OF DEFAULT. Upon default of the terms of this Agreement by the Homebuyer pursuant to Paragraph 4(c) *above*, the Developer shall give written notice thereof to the Homebuyer, as provided in Section 4(g) of this Agreement. If such violation is not corrected to the satisfaction of the Developer within thirty (30) days after the date such notice is given (or for a period of 60 days after such notice if such default is curable but requires acts to be done or conditions to be remedied which, by their nature, cannot be done or remedied within such 30 day period, and if the Owner commences same within such 30 day period and thereafter diligently and continuously pursues the same to completion within such 60 day period), the Developer may declare a default under this Agreement, effective on the date of such declaration of default and notice thereof to the Homebuyer. Upon such default the Developer may:

- (i) terminate this Agreement;
- (ii) by mandamus or other suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of the Developer hereunder, or obtain damages caused to the Developer by any such default
- (iii) demand payment from the Homebuyer of the\$ \_\_\_\_\_ CDBG-DR Funds used to reduce the purchase price of the Project from the appraised value to \$\_\_\_\_\_, which shall be represented by a Note, secured by a mortgage, which also secures performance of the Agreement for Covenants executed by the Homebuyer. However, the amount of CDBG-DR Funds used to build the Project and to be repaid shall be reduced by one hundred eightieth (1/180) of the total amount of CDBG-DR Funds used to build the Project for each full month that has passed since the start of the Retention Period. For purposes of this section, months shall be counted from the first day of the Retention Period until the same date of the succeeding month or any month thereafter prior to the sale. Only each full month, rounded down to the nearest full month,

prior to a default pursuant to the Rules or this Agreement shall be used.  
For instance, a Homebuyer who owned and occupied the Property for 24 months and seven days would be given credit only for 24 full months; and

(iv) exercise such other rights or remedies as may be available to the Developer, at law or in equity.

(e) AMENDMENT. This Agreement shall not be altered or amended except in writing signed by the parties hereto.

(f) NOTICE. Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder shall be given in writing, at the addresses set forth below, by any of the following means:

(a) personal service; (b) electronic communication together with confirmation of receipt; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other party given in the same manner as herein provided.

(g) ASSIGNABILITY. The Homebuyer may not assign or delegate this Agreement, or any part of it, or any right to any compensation or reimbursement paid under it without the express written consent of the Developer. The Developer may assign or delegate this Agreement to the City or the IEDA.

(h) ENFORCEMENT BY THE CITY. In the event the Developer is unable or unwilling to enforce the terms of this Agreement upon a violation of the terms of this Agreement by the Homebuyer, City may, but is not required to, exercise any rights or remedies available to the Developer, at law or in equity, to enforce this Agreement, as if they were the rights and remedies of the City to enforce this Agreement.  
The parties hereto have caused this Agreement to be executed on the date first above written.

**HOMEBUYER:**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**DEVELOPER:**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY:**

City of \_\_\_\_\_

By: \_\_\_\_\_

Printed Name:- \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

# Example Homebuyer Promissory Note

## COMMUNITY BLOCK DEVELOPMENT GRANT-DISASTER RECOVERY FORGIVABLE LOAN PROMISSORY NOTE

**Borrower:** \_\_\_\_\_ **Lender:** \_\_\_\_\_

Pursuant to the terms of this Forgivable Promissory Note dated \_\_\_\_\_, 20\_\_ ("Note") between the undersigned Borrower, \_\_\_\_\_ ("Borrower" or if more than one party "jointly and severally called "Borrower""), \_\_\_\_\_ (the "Lender"), and The City of \_\_\_\_\_ (the "City"), the Borrower, jointly and severally, promises to pay to the Lender, or its successors or assigns, the maximum principal sum of \$ \_\_\_\_\_ ("Loan Amount"), or such lesser amount as may be endorsed on this Note on behalf of the Lender, at the interest rate of zero percent (0%) per annum.

**Terms and Conditions:** The Borrower agrees to the following terms of this Note:

1. **Repayment.** The borrower shall comply with the terms of this Forgivable Loan Promissory Note for a term of fifteen years commencing on the day that the Borrower moves into the Mortgaged Property ("Affordability Period"). During the Affordability Period, 1118<sup>0</sup> of the Loan Amount shall be forgiven each month for 15 years, after which the entire remaining Loan Amount shall be forgiven, provided the Borrower is not in default on any of the terms, conditions, or obligations in this Note, the Forgivable Mortgage granted to the Lender by the Borrower and dated \_\_\_\_\_ (the "Forgivable Mortgage"), the Homebuyer Agreement delivered to Lender by Borrower and dated \_\_\_\_\_ (the "Homebuyer Agreement"), and the Agreement for Covenants and Restrictions delivered to Lender by Borrower and dated \_\_\_\_\_ (the "Covenants") as applicable (the Note, the Mortgage, the Homebuyer Agreement, and the Covenants shall be collectively referred to as the "Loan Documents"), or any other documents related to this Note.

2. **Principal Residence Requirement: Notice of Sale and Recapture.** During the term of this Note, the Borrower shall own and occupy as the Borrower's principal residence the property located at \_\_\_\_\_ ("Mortgaged Property") which serves as security for this Note. The Borrower shall immediately 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 Mortgaged Property ceases to be the Borrowers Residence during the Affordability Period or the Borrower sells or transfers the Mortgaged Property during the Affordability Period, the Borrower hereby agrees to 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 Land 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 this Note pursuant to Paragraph 2 *above*, any Net Proceeds that are available shall be distributed to the Borrower and the Lender based on a ratio of the Home Investment ("HI") to the sum of the HI and the Homeowner Investment ("HOI" - defined as any out-of-pocket down payment paid by the Borrower plus any verified capital improvements made by the Borrower since the purchase), as follows:

$$\frac{HI}{HOI} \times \text{Net Proceeds} = \text{Amount to Lender HI+}$$

$$\frac{\quad}{\quad} \times \text{Net proceeds} = \text{Amount to}$$

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

4. Collateral and Forgivable Mortgage. Borrower acknowledges this Note is secured by the Forgivable Mortgage. 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 Note as if fully set forth herein.

5. Verification of Principal Residency. The Borrower agrees to submit, at the request of the Lender or the City, documentation verifying Borrower's principal residency at the Mortgaged Property, including but not limited to verification of mailing address by the U.S. Postal Service, current utility bills, real estate assessment or tax documents and other documents as requested by the Lender.

6. Acceleration Upon Default. The undersigned agrees that forgiveness of any portion of the Loan Amount is specifically conditioned upon the satisfactory fulfillment of all the terms, conditions, and obligations set forth herein and in the Loan Documents, and any other documents related to this Note; and that any default on these conditions shall render the original Loan Amount immediately due and payable to the Lender, less any forgiven amounts, at the option of Lender, without notice. Borrower, in case of suit on this Note, agrees to pay Lender's reasonable attorney fees.

7. Forgiveness Withdrawn. Notwithstanding the forgiveness provisions above, the original Loan Amount becomes immediately due and payable to the Lender if the Borrower, during the Affordability Period and without the Lender's prior written consent, (a) fails to occupy the Mortgaged Property as Borrower's principal residence, or any part thereof, for a period of two consecutive months; or (b) sells, leases, rents, or abandons, or transfers, whether voluntary or involuntary, the Mortgaged Property, or any part thereof without consent of the Lender.

8. Payments. Payments or correspondence required by this Note for the Lender shall be directed to \_\_\_\_\_ AT \_\_\_\_\_.

9. Waiver. No delay or omission on the part of the Lender in exercising any right under this Note shall operate a waiver of that right or of any other right under this Note. A waiver on any one occasion shall not be construed as a bar to or waiver of any right and/or remedy on any future occasion.
  
10. Waiver of Protest. The Borrower, of this Note expressly waives presentment, protest, demand notice of dishonor or default, and notice of any kind with respect to this Note.
  
11. Joint and Several Liability. If this Note is signed by more than one person or entity, it shall be the joint and several liabilities of all such persons or entities.
  
12. Captions. The captions of the paragraphs in this Note are for the convenience of reference only, shall not define or limit the provisions hereof and shall not have any legal or other significance whatsoever.
  
13. Governing Law. This Note shall be governed and construed in accordance with the laws of the State of Iowa.
  
14. Enforcement by the City. In the event the Lender is unable or unwilling to enforce the terms of this Note upon a violation of the terms of this Note by the Borrower, the City may, but is not required to exercise any rights or remedies available to the Lender, at law or in equity, to enforce this Note, as if they were the rights and remedies of the City to enforce this Note.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK  
SIGNATURES ARE ON THE FOLLOWING PAGE

**IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.**

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

**BORROWER:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**DEVELOPER:**

\_\_\_\_\_

By:

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY:**

City of: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

# Example Homebuyer Mortgage

**RECORDED:**  
**RECORDING FEE: \$**  
**REVENUE TAX: \$**  
**COMBINED FEE: \$**  
**RECORDER:**  
**COUNTY:**

SPACE ABOVE THIS LINE FOR RECORDER  
PREPARED BY:

AFTER RECORDING RETURN TO:

FULL LEGAL DESCRIPTION LOCATED ON PAGE: 2

CDBG HOMEBUYER

## FORGIVABLE MORTGAGE

THIS IS A PURCHASE MONEY MORTGAGE AS DEFINED BY IOWA CODE SECTION 654.128.

**NOTICE: This Mortgage secured credit in the amount of \$\_\_\_\_\_. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.**

THIS FORGIVABLE MORTGAGE ("Mortgage") dated \_\_\_\_\_, between The City of \_\_\_\_\_ ("Lender"), a municipality of the State of Iowa, and \_\_\_\_\_, (a single person) ("Borrower" or if more than one party, "jointly and severally called "Borrower""), secures the payment of the loan made by Lender to Borrower evidenced by a Forgivable Loan Promissory Note dated \_\_\_\_\_, in the principal amount of \$\_\_\_\_\_ ("Note") due and payable on \_\_\_\_\_.

This Mortgage secures to Lender:

- (a) the repayment of the debt as evidenced by the Note, and all renewals, extensions, modifications or refinancing thereof and any promissory note issued in substitution therefore;
- (b) all other obligations of Borrower to Lender, now existing or hereafter arising, whether direct or indirect, contingent or absolute and whether as maker or surety, including, but not limited to, future advances and amounts advanced and expenses incurred by Borrower pursuant to this Mortgage;
- (c) the performance of Borrower's covenants and agreements under this Mortgage, the Note, the Homebuyer Agreement delivered to Lender by Borrower and dated \_\_\_\_\_ (the "Homebuyer Agreement"), and the Agreement for Covenants and Restrictions delivered to Lender by Borrower and dated \_\_\_\_\_ (the "Covenants") as applicable (the Note, the Mortgage, the Homebuyer Agreement, and the covenants shall be collectively referred to as the "Loan Documents").

For this purpose, Borrower does hereby mortgage, grant a security interest in and convey to Lender the following described property including any after acquired title or reversion thereto (the "Land") located in \_\_\_\_\_ County, Iowa:

LEGAL

.....

<Insert property description here>,

TOGETHER WITH AN UNDIVIDED PERCENTAGE INTEREST IN THE COMMON AREAS AND FACILITIES APPURTENANT THERETO, ALL AS APPEARS OF RECORD AND ON LAND DESCRIBED IN THE DECLARATION RECORDED IN THE OFFICE OF THE COUNTY RECORDER, ----- COUNTY, IOWA ON \_\_\_\_\_ DOCUMENT NO. \_\_\_\_\_, AS MAY BE AMENDED.

Locally known as <Insert property physical address here>.

TOGETHER WITH:

(A) **Buildings.** All buildings, structures and improvements now standing or hereafter constructed or placed on the Land (the "Buildings"), and all easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the land.

(B) **Personal Property.** All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings, whether attached or detached, including but not limited to, light fixtures, shades, rods, blinds, venetian blinds, awnings, storm windows, screens, linoleum, water softeners, automatic heating and air conditioning equipment and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs, replacements and substitutes of, to, and for the foregoing (the "Personal Property").

(C) **Revenues and Income.** All rents, issues, profits, leases, condemnation awards and insurance proceeds now or hereafter arising from the ownership, occupancy or use of the Land, Buildings and Personal Property, or any part thereof (the "Revenues and Income").

TO HAVE AND TO HOLD the Land, Buildings, Personal Property and Revenues and Income (collectively called the "Mortgaged Property"), together with all privileges, hereditaments thereunto now or hereafter belonging, or in any way appertaining, and the products and proceeds thereof, unto Lender, its successors and assigns.

Borrower covenants and agrees as follows:

1. **Representations and Warranties of Borrowers.** Borrower represents, warrants, and covenants to Lender that (1) Borrower holds clear title to the Mortgaged Property; (2) Borrower has the right, power, and authority to execute this Mortgage and grant a security interest in the Mortgaged Property; (3) the Mortgaged Property is free and clear of all liens and encumbrances, except for real estate taxes not yet delinquent, as otherwise stated herein, or encumbrances of record disclosed in the Lender's Title Guaranty Division Certificate issued in favor of the Lender; (4) Subject to the rights of any senior lienholders, Borrower will warrant and defend title to the Mortgaged Property and the lien and priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising; (5) all buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land; (6) Borrower is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Borrower hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification

2. **Payment.** The Borrower shall comply with the terms of the Loan Documents for a term of fifteen (15) years, commencing upon the Borrower moving into the single family residence on the land ("Affordability Period") and timely perform all other obligations of Borrower under the Loan Documents. The loan shall be forgiven during this Affordability Period in the amount of 1/180th of the total indebtedness provided for each full month in which the undersigned maintains ownership of the Mortgaged Property and it remains their primary residence.

3. **Principal Residence Requirement: Notice of Sale and Recapture.** During the term of this Mortgage, the Borrower shall own and occupy the Mortgaged Property as the Borrower's principal residence. The Borrower shall immediately 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 term of this Mortgage. If the Mortgaged Property ceases to be the Borrowers Residence during the Affordability Period or the Borrower sells or transfers the Mortgaged Property during the Affordability Period, the Borrower hereby agrees to pay the Lender the un-forgiven balance of the loan the

Borrower hereby agrees to 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 Land 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 4, below. Notwithstanding the forgiveness provisions above, the original Loan Amount becomes immediately due and payable to the Lender if the Borrower, during the Affordability Period and without the Lender's prior written consent, (a) fails to occupy the Mortgaged Property as Borrower's principal residence, or any part thereof, for a period of two consecutive months; or (b) sells, leases, rents, or abandons, or transfers, whether voluntary or involuntary, the Mortgaged Property, or any part thereof without consent of the Lender.

4. Insufficient Proceeds. If the Net Proceeds are insufficient to repay the un-forgiven balance of this Note pursuant to Paragraph 3 above, any Net Proceeds that are available shall be distributed to the Borrower and the Lender based on a ratio of the Home Investment ("HI") to the sum of the HI and the Homeowner Investment ("HOI" - defined as any out-of-pocket down payment paid by the Borrower plus any verified capital improvements made by the Borrower since the purchase), as follows:

$$\frac{\text{HI}}{\text{HI} + \text{HOI}} \times \text{Net Proceeds} = \text{Amount to Lender}$$

$$\frac{\text{HOI}}{\text{HI} + \text{HOI}} \times \text{Net proceeds} = \text{Amount to Borrower}$$

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

5. Care of Property. Borrower shall take good care of the Mortgaged Property; shall keep the Buildings and the Personal Property now or later placed upon the Mortgaged Property in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Personal Property during the term of this Mortgage. Borrower shall not make any material alteration in the Mortgaged Property without the prior written consent of Lender.

6. Taxes. Borrower shall pay all taxes and special assessments before the taxes or special assessments become delinquent, without notice of demand.

7. Liens. Borrower shall pay in a timely manner all taxes, assessments, charges, fines and impositions attributable to the Mortgaged Property which may attain priority over this Mortgage, and leasehold payments or ground rents, if any. Borrower shall promptly furnish to Lender receipts evidencing the payment.

Unless Borrower obtains Lender's prior written approval, Borrower shall not create, incur or suffer to exist any lien, encumbrance, security interest or charge on the Mortgaged Property or any part thereof which might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable. Borrower shall pay, when due, the claims of all persons supplying labor or materials in connection with the Mortgaged Property.

Except for senior liens, Borrower shall promptly discharge any lien which has, or may attain, priority over this Mortgage unless Borrower: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the

lien; or (3) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Mortgaged Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within ten business days of the giving of notice.

8. **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to Personal Property and for this purpose the name and address of debtor is the name and address of Borrower as set forth in Paragraph 29 herein and the name and address of the secured party is the name and address of the Lender as set forth in Paragraph 29 herein.

9. **Insurance.**

a. **Risks to be Insured.** Borrower, at its sole cost and expense, shall maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Lender may from time to time require. Lender requires such insurance to have a "Replacement Cost" endorsement attached thereto, with the amount of the insurance at least equal to the balance of amount owed under the Note. Borrower will at its sole cost and expense, from time to time, and at any time at the request of Lender, provide Lender with evidence satisfactory to Lender of the replacement cost of the Mortgaged Property. Borrower will maintain such other insurance as Lender may reasonably require.

b. **Policy Provisions.** All insurance policies and renewals thereof maintained by Borrower pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Lender, contain a Lender clause in favor of Lender and in form acceptable to Lender, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after 30 calendar days prior written notice to Lender, and be reasonably satisfactory to Lender in all other respects.

c. **Delivery of Policy or Certificate.** If requested by Lender, Borrower will deliver to Lender original policies satisfactory to Lender evidencing the insurance which is required under this Mortgage, and Borrower shall promptly furnish to Lender all renewal notices and, upon request of Lender, evidence of payment thereof. At least ten calendar days prior to the expiration date of a required policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

d. **Assignment.** If the Mortgaged Property is sold at a foreclosure sale or if Lender shall acquire title to the Mortgaged Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to sale or acquisition.

e. **Notice of Damage or Destruction; Loss Adjustment.** If the Mortgaged Property or any part thereof is damaged or destroyed by fire or other casualty, Borrower will, within five calendar days after the occurrence of the damage or destruction, give written notice thereof to the insurance carrier and to Lender and will not adjust any damage or loss which is estimated by Borrower in good faith to exceed Twenty-five Thousand Dollars (\$25,000) unless Lender joins in or concurs with such adjustment; but if there has been no adjustment of any such damage or loss within four months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four month period or at any time thereafter, subject to the rights of senior lienholders, Lender may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Borrower does hereby irrevocably authorize, empower and appoint Lender as attorney-in-fact for Borrower (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Borrower.

f. **Application of Insurance Proceeds.** Subject to the rights of senior lienholders, all sums paid under any insurance policy required by this Mortgage shall be paid to Lender. Lender agrees to apply all insurance proceeds from casualty or damage of the Project (after first deducting therefrom Lender's expenses incurred in collecting the same including, but not limited to reasonable attorneys' fees) in the following order: (1) to bring the Note current if it is in default due to delinquent payments; (2) to repayment of the indebtedness secured by this Mortgage and the Note if any other Event of Default has occurred prior to the casualty, and is continuing thereunder; (3) if no Event of Default

exists, to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed and to Borrower's Replacement Reserve or Operating Reserve, in such manner as Lender shall determine, and (4) any remainder to be applied to the payment of the indebtedness. Restoration will not remove or alter any existing obligations associated with the Loan Documents.

g. **Expense Reimbursement.** Borrower shall promptly reimburse Lender upon demand for all of Lender's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

10. **Compliance with Laws.** Borrowers shall comply with all present and future statutes, laws, rules, orders, regulations and ordinances affecting the Mortgaged Property, any part thereof or the use thereof.

11. **Protection of Lender's Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Mortgaged Property to make repairs. Although Lender may take actions under this paragraph, Lender does not have to do so.

Any amounts disbursed or incurred by Lender under this paragraph shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to the other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be immediately due and payable, with interest, upon notice from Lender to Borrower requesting payment.

12. **Lender Inspections.** Lender, and its agents, shall have the right at all reasonable times, to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property or any part thereof. Lender shall, however, have no duty to make such inspection. Any inspection of the Mortgaged Property by Lender shall be entirely for its benefit and Borrower shall in no way rely or claim reliance thereon.

13. **Condemnation.**

a. **Notice, Assignment and Loss Adjustment.** Borrower shall give Lender prompt notice of any action, actual or threatened, in condemnation or eminent domain and, subject to the rights of senior lienholders, hereby assign, transfer and set over to Lender the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Lender is hereby authorized to intervene in any such action in the name of Borrower, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds.

b. **Application of Proceeds.** Lender agrees to apply all proceeds resulting from its intervention in any condemnation or eminent domain action or the compromise and settlement of such action or claim, or its collection of such proceeds (after first deducting therefrom Lender's expenses incurred including but not limited to reasonable attorneys' fees), in the following order: (1) to bring Note current if it is in default due to delinquent payments; (2) to repayment of the indebtedness secured by this Mortgage and the Note if any other Event of Default has occurred prior to the casualty, and is continuing thereunder; (3) if no Event of Default exists, to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed and to Borrower's Replacement Reserve or Operating Reserve, in such manner as Lender shall determine, and (4) any remainder to be applied to the payment of the indebtedness. Restoration will not remove or alter any existing obligations associated with the Loan Documents.

14. **Default Events.** Each of the following occurrences shall constitute an event of default ("Event of Default"):

a. Borrower fails to make payment as required by the Note or breaches its agreements contained in paragraph 2 hereof or defaults in the due observance or performance of or breaches

any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of the Loan Documents or any document related thereto and if such default remains uncured for a period of ten (10) business days (in the case of a monetary default) or twenty (20) business days (in the case of a non-monetary default) following notice of such default or breach, provided, however, that if a non-monetary default cannot reasonably be cured within 20 business days and the Owner commences a cure within 20 Business Days and proceeds in good faith to effect such cure thereafter, the cure period with respect to such breach or default shall be extended for up to an additional 30 business days.

b. Borrower sells, leases (other than by residential leases in the ordinary course of business), transfers or otherwise disposes the Mortgaged Property, except as otherwise provided herein or in the other Loan Documents without the prior written consent of the Lender.

c. Except for transfers otherwise permitted pursuant to the terms of the Loan Documents, Borrower, without the prior written consent of the Lender, permits any change in the ownership interests in the Borrower that, when added to any prior changes in the ownership interest in such entity, exceeds ten percent of the total aggregate ownership interest in Borrower.

d. Borrower makes an assignment for the benefit of its creditors, or a petition is filed by or against Borrower under the United States Bankruptcy Code or Borrower seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or does not, within 20 business days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.

e. A judgment, writ or warrant of attachment or execution, or similar process is entered and becomes a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within 20 business days after its entry, issue or levy.

f. An event of default, beyond any applicable cure period, however defined, occurs under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.

The Lender's failure to exercise any of its rights hereunder shall not constitute a waiver thereof.

15. Acceleration of Maturity and Receivership. If the Borrower defaults on this Mortgage and/or any other Loan Documents, the Lender, at the Lender's option, (a) may declare immediately due and payable all Notes secured by this Mortgage, and the entire unforgiven balance of the same, including accrued interest, shall thereupon be immediately due and payable, without further notice of demand; (b) shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default of a secured party under the Iowa Uniform Commercial Code. If notice to Borrower of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Borrower at least ten days prior to the date of intended disposition; (c) may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Lender appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as the trustee may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Borrower only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Note. 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.

16. Redemption. It is agreed that if this Mortgage covers less than ten acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six months provided the Lender, in such action files an election to waive any deficiency judgment against Borrower which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three months after

sale such right of redemption shall be exclusive to the Borrower, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four months.

It is agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to 60 days if all three of the following contingencies develop: (1) The real estate is less than ten acres in size; (2) the Court finds affirmatively that the real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of foreclosure; and (3) Lender files an election to waive any deficiency judgment against Borrower or its successor in interest in such action. If the redemption period is so reduced, Borrower or its successors in interest or the owner shall have the exclusive right to redeem for the first 30 days after such sale, and the time provided for redemption for creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of Borrower shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any redemption provisions contained in Chapter 628 of the Iowa Code.

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

18. Additional Instruments. At any time and from time to time until payment in full of the Note, Borrower, at the Lender's request, will promptly execute and deliver to the Lender such additional instruments as may be reasonably required to further evidence the lien of this Mortgage and to further protect the security interest of the Lender in connection with the Mortgaged Property. Such instruments may include, but are not limited to, additional security agreements, financing statements, and continuation statements. Any expenses incurred by the Lender in connection with the recordation of any such instruments shall become additional obligations of Borrower secured by this Mortgage and shall be immediately due and payable by Borrower to the Lender.

19. Borrower Not Released: Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by the Lender to Borrower or any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. The Lender shall not be required to commence proceedings against Borrower or any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any delay or forbearance by the Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy. No waiver by the Lender of any particular provisions of this Mortgage shall be deemed effective unless such waiver is in writing signed by the Lender.

20. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of the Lender and Borrower. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Mortgaged Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that the Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without the Borrower's consent.

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 Borrower and the Borrower's successors and/or assigns during the Term of the Note.

22. Rights and Remedies Cumulative. All rights and remedies provided for in this Mortgage or which the Lender or holder of the Loan Documents may have otherwise, at law or in equity, shall be distinct, separate, and cumulative and may be exercised concurrently, independently, or successively in any order whatsoever, and as often as the occasion thereof arises.

23. Severability. In the event any portion of this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Mortgage is invalid, illegal, or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable then such provision shall be deemed to be written, construed and enforced as so limited.

24. Governing Law. This 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 CDBG-DR Program.

25. Successors and Assigns Bound: Joint and Several Liability: Co-signers. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of the Lender and Borrower. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Mortgaged Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that the Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without the Borrower's consent.

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

27. Number and Gender. Words and phrases contained in this Mortgage, including acknowledgment hereof, shall be construed as in the singular or plural number and as masculine, feminine, or neuter gender according to the contexts.

28. Captions. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

29. Notices. All notices required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed as follows:

- a. If to Lender, to:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- b. If to Borrower, to:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

30. Waiver of Marshalling. Borrower, any party who consents to this Mortgage, and any party who now or hereafter acquires a lien on the Mortgage Property and who has actual or constructive notice of this Mortgage hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

31. Acknowledgement of Receipt of Copies of Mortgage and Note. Borrower hereby acknowledges the receipt of a copy of this Mortgage together with a copy of each Promissory Note secured hereby.

32. Release. Upon compliance with the Loan Documents and/or payment of all sums secured by this Mortgage, the Lender shall release this Mortgage without charge to Borrower.

33. Waivers. Each of the undersigned relinquishes all rights of dower, waives all right of homestead and distributive share in and to the Mortgaged Property and waives any right to exemption as to the Mortgaged Property.

34. Additional Provisions: None.

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.

Dated:.....

BORROWER:

BORROWER ACKNOWLEDGES HAVING READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS MORTGAGE, AND AGREES WITH ITS TERMS.



By;

Print \_\_\_\_\_

Its: \_\_\_\_\_ City of \_\_\_\_\_

**STATE OF IOWA COUNTY OF**

\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the City \_\_\_\_\_ of the City of \_\_\_\_\_, Iowa, a municipal corporation organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of the City of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

# Example Homebuyer Mortgage Downpayment Assistance

**Recording #:**  
**RECORDED:**  
**RECORDING FEE: \$**  
**REVENUE TAX: \$**  
**COMBINED FEE: \$3**  
**RECORDER:**  
**COUNTY:**

Prepared By and Return To: \_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note  
Page 1 of 6**

WHEREAS, the City of \_\_\_\_\_, IA, (hereinafter referred to as City) has established the CDBG-DR Single Family New Construction - Downpayment Assistance Program (hereinafter referred to as The Program) to assist homeowners with purchasing a home in \_\_\_\_\_, IA, and

WHEREAS, \_\_\_\_\_, (hereinafter referred to as Owner(s)) certifies that the property located at *7024 ARTESA BELL DR SW, CEDAR RAPIDS, IOWA 52404* will be used as the primary residence and is wholly residential in use, and

WHEREAS, **Cameron Wagner**, (hereinafter referred to as owner(s)) qualifies under The Program for a total **loan of Thirty Five Thousand dollars and Zero cents (\$35,000.00)** for downpayment assistance and closing costs, and any additional loans, advances, and costs which hereafter may be made under this mortgage, said additional advances to have same priority and rights as if made by this date, and

WHEREAS, a requirement of The Program is for the repayment of the loan to be in the amount shown in the Promissory Note whenever the property is sold, used as a rental, simply vacated, transferred or passed upon death, passed by gift or as part of a domestic relations matter, or otherwise passed by operation of law.

THEREFORE, in consideration of the awarding of the loan the mutual covenants and promises of the parties and other good and valuable consideration, the City, and the Owner agree as follows:

**FORGIVABLE LOAN PROMISSORY NOTE**

FOR VALUE RECEIVED, the undersigned jointly and severally promises to pay to the order of the City, the sum of **\$35,000.00** as follows:

- A. If the below described property is sold or transferred, vacated, or used as rental property, from the date of this agreement to it's first year anniversary, 100% of the amount shown above shall be due.
- B. If the below described property is sold or transferred, vacated, or used as rental property, between the 1st and 2nd year anniversary of this instrument, 80% of the amount shown shall be called due.
- C. Thereafter, each year, the loan shall depreciate at the rate of one sixtieth (1/60) per month until the loan is completely forgiven.

Transfer of ownership or cessation of this owner's residence by moving from the property shall constitute a default of the forgivable note and will cause this note to become due and payable. Failure of the City to exercise such option shall not constitute a waiver of such default.

**Homeowner Initials:** \_\_\_\_\_

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note  
Page 2 of 6**

**NOTICE: This Mortgage secures a loan ("Loan") in the amount of \$\_\_\_\_\_ . Loans and advances up to this amount, together with interest, if applicable, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens, unless the Lender enters into a written subordination agreement.**

MORTGAGE (State Law Reference)

**TO HAVE AND TO HOLD** the said real estate with all appurtenances thereto belonging unto the City, its successors and assigns, forever, Owner hereby covenanting for themselves, their executors, administrators and assigns, that they have full right, power and authority to convey said real estate and its appurtenances, and that they will warrant and defend the title thereto unto the City, its successors and assigns, against the claims of all persons whomsoever lawfully claiming the same; and the Owner hereby relinquish all their contingent rights including dower and homestead, which they have in and to said described real estate.

For valuable consideration, I, \_\_\_\_\_, ("Owner(s)") do hereby mortgage, grant and convey to the **City of** \_\_\_\_\_, ("City") a security interest in all of Owner's right, title, and interest in and to the following described real property ("Mortgaged Property") in the CITY OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, STATE OF IOWA, to secure the payment of the promissory note set out above.

**LEGAL DESCRIPTION: See attached.**

*THE REAL PROPERTY OR ITS ADDRESS ALSO KNOWN AS:* \_\_\_\_\_

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 Owner's performance of any and all obligations under the Forgivable Loan Promissory Note ("Note") executed by the Owner on this date and payable to the City.

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

OWNER COVENANTS that Owner is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Owner warrants and will defend generally the title to the Property against all claims and demands subject to any 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.

**Homeowner Initials:** \_\_\_\_\_

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note  
Page 3 of 6**

**TERMS AND CONDITIONS**

- 1) **AFFORDABILITY PERIOD:** The Owner shall comply with the terms of this Forgivable Loan Promissory Note for a period of 5 years ("Affordability Period") beginning on the date of this Forgivable Loan Promissory Note. The Loan shall be forgiven 1/60th on each full month anniversary of the date the grantor executed this Forgivable Mortgage for each month during the Affordability Period.
- 2) **PRINCIPAL RESIDENCE REQUIREMENT: NOTICE OF RESALE AND RECAPTURE:** The Owner shall own and occupy the Mortgaged Property as the Owner's principal residence. The Owner shall notify the City if the Owner no longer occupies the Mortgaged Property as the Owner's principal residence or if the Owner sells or transfers for any reason, the Mortgaged Property during the Affordability Period. If the Owner sells or transfers the Mortgaged Property during the Affordability Period, the Owner shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff for the first mortgage lien on the property and any usual and customary seller's 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 re-pay the un-forgiven balance of the Loan, any net proceeds available shall be distributed to the Owner and the City 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:

$$\frac{OLA}{OLA+GI} \times \text{Net Proceeds} = \text{Recapture Amount payable to the City}$$

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

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

- 4) **REFINANCE:** If the Owner refinances the first lien on the Mortgaged Property with an active Iowa Finance Authority (IFA) participating lender during the Affordability Period, the City may, in its sole discretion, agree to sign a subordination agreement, subordinating the mortgage securing this debt to the new mortgage held by the IFA-approved lender. If the Owner re-finances both the first mortgage and this mortgage during the Affordability period, the Owner shall pay the City the entire un-forgiven balance of the Loan.

**Homeowner Initials:** \_\_\_\_\_

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note  
Page 4 of 6**

- 5) **DUTY TO MAINTAIN:** Owner shall maintain the Mortgaged Property on said premises in as good repair and condition, as same may now be, or are hereafter placed; ordinary wear and tear only accepted, and promptly perform all repairs, replacements, and maintenance necessary to preserve its value and shall not suffer or commit waste on or to said security.
- 6) **TAXES AND LIENS:** Owner shall pay each installment of all taxes and special assessments of every kind, new or hereafter levied against said property, or any part thereof, before same become delinquent, without notice or demand. Owner 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 City.
- 7) **INSURANCE:** Owner shall keep in force homeowner's insurance with a standard mortgagee clause in favor of the City covering all buildings and improvements against loss by fire, tornado and other hazards, casualties and contingencies in an amount not less than the total combined mortgages and liens on the Mortgaged Property. Owner shall provide proof of insurance and appropriate riders to the City and shall pay all premiums on the insurance when due.
- 8) **LENDER'S EXPENSES:** If the Owner fails to (a) pay all taxes, (b) maintain required insurance coverage on the Mortgaged Property, or (c) maintain the property in good condition, the City may do so at the City's sole discretion. The Owner shall be obligated to repay all expenses incurred or paid by the City for such purposes and any amounts owed to the City for such purposes will accrue interest at 0%. The rights provided in this paragraph shall be in addition to any other rights or remedies to which the City may be entitled as a result of any default. Any such action by City shall not be construed and curing the default so as to bar the City from any other remedy that it otherwise would have had.
- 9) **ACCELERATION OF MATURITY AND RECEIVERSHIP:** If the Owner defaults on this Forgivable Mortgage and Note, the City may declare the Owner in default and the entire un-forgiven amount of the Loan plus any payments made by the City for taxes, assessments, insurance premiums, or repairs shall come 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 City, the court shall appoint and receiver to take immediate possession of the Mortgaged Property.
- 10) **DEFAULT EVENTS:** At the City's option, Owner will be in default under this Mortgage if any of the following happens:
  - a) The Owner fails to occupy the Mortgaged Property as Grantor's principal residence of a period of two consecutive months.
  - b) The Owner sells, transfers, or conveys the Mortgaged Property, or uses the Mortgaged Property as a rental.
  - c) The Owner fails to pay all taxes, the pay the insurance, or to maintain the property in good condition.

**Homeowner Initials:** \_\_\_\_\_

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note**

Page 5 of 6

- 11) **ATTORNEY'S FEES:** If City institutes any suit to enforce this Forgivable Mortgage and the Note and to foreclose on the Forgivable Mortgage, the Owner 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, the federal laws, regulations, and Federal Register notices governing the Community Development Block Grant-Disaster Recovery (CDBG-DR) funding allocation, and the Policies and Procedures of the Iowa Economic Development Authority CDBG-DR Program.
- 13) **WARRANTY OF TITLE:** The Owner warrants that Owner holds good and marketable title to the Mortgaged Property in fee simple, clean or all liens and encumbrances other than the first mortgage lien held by an active IFA participating lender and agreed to by the City.
- 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:** City 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:** Owner hereby agrees that, in the event of foreclosure of this Forgivable Mortgage, Lender may, at City'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 Owner 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 if 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 any of the parties' successors and assigns.
- 19) **TIME IS OF THE ESSENCE:** Time is in the essence in the performance of this Forgivable Mortgage and Note.
- 20) **RELEASE OF RIGHTS OF DOWER, HOMESTEAD, AND DISTRIBUTIVE SHARE:** Each of the undersigned Owners 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 Owner is not an owner of the property, that Owner executes this Mortgage for the sole purpose of relinquishing such rights.

Homeowner Initials: \_\_\_\_\_

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note**

Page 6 of 8

21) **IMPACT ON REAL PROPERTY:** All of the terms and conditions herein shall run with and encumber the Mortgaged Property and the improvements hereon, and be binding upon the Owner and the Owner's successor's and assigns during the Affordability Period.

**EACH OWNER ACKNOWLEDGES HAVING READ AND UNDERSTOOD ALL OF THE PROVISIONS OF THIS FORGIVABLE MORTGAGE AND AGREES TO ITS TERMS.**

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

**EXECUTED BY:**

By: \_\_\_\_\_

Print: \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_ 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.

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note  
Page 7 of 8**

By;

Print \_\_\_\_\_

Its: \_\_\_\_\_, City of \_\_\_\_\_

**STATE OF IOWA COUNTY OF \_\_\_\_\_**

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the City of \_\_\_\_\_, Iowa, a municipal corporation organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of the City of \_\_\_\_\_.

Prepared By and Return To: \_\_\_\_\_  
\_\_\_\_\_

**CDBG-DR Single Family New Construction - Downpayment Assistance Program  
Forgivable Loan and Promissory Note  
Page 8 of 8**

Legal Description

**<INSERT HERE>**

*SUBJECT TO ALL EASEMENTS, COVENANTS, CONDITIONS, RESERVATIONS, LEASES AND RESTRICTIONS OF RECORD, ALL LEGAL HIGHWAYS, ALL RIGHTS OF WAY, ALL ZONING, BUILDING AND OTHER LAWS, ORDINANCES AND REGULATIONS, ALL RIGHTS OF TENANTS IN POSSESSION, AND ALL REAL ESTATE TAXES AND ASSESSMENTS NOT YET DUE AND PAYABLE*

**RECORDED:**  
**RECORDING FEE: \$**  
**REVENUE TAX: \$**  
**COMBINED FEE: \$**  
**RECORDER:**  
**COUNTY:**

**AGREEMENT FOR COVENANTS AND RESTRICTIONS**

Prepared By and Return To: \_\_\_\_\_

\_\_\_\_\_

GRANTOR AND TAXPAYER: \_\_\_\_\_

GRANTEE: City of \_\_\_\_\_

LEGAL DESCRIPTION:

\_\_\_\_\_

\_\_\_\_\_

CDBG-DR Contract Owner: \_\_\_\_\_

CDBG-DR Contract Number: \_\_\_\_\_

Address: \_\_\_\_\_

# Example Homebuyer Covenants and Restrictions

## AGREEMENT FOR COVENANTS AND RESTRICTIONS (COMMUNITY DEVELOPMENT BLOCK GRANT)

THIS AGREEMENT FOR COVENANTS AND RESTRICTIONS ("Agreement"), effective as of \_\_\_\_\_, is between \_\_\_\_\_ (the "Developer"), The City of \_\_\_\_\_ (the "City") and \_\_\_\_\_, a single person, (the "Owner").

WITNESSETH:

WHEREAS, the City received Community Development Block Grant Disaster Recovery (CDBG-DR) funds from the Iowa Economic Development Authority (IEDA) under Extending Government Funding and Delivering Emergency Assistance Act, 2021, signed into law: Public Law 117-43, allocating CDBG funding to HUD ("CDBG-DR Funds"); and

WHEREAS, the Developer received CDBG-DR Funds from the City; and

WHEREAS, The Developer and the City entered into various Agreements related to the award of the CDBG-DR Funds to the Developer, including an Agreement for Covenants and Restrictions in which the Developer agreed to only sell the single family housing it agreed to build using the CDBG-DR Funds to households at or below 80% of the area median income for not more than \$175,000.00; and

WHEREAS, The Developer is selling a house funded by \$\_\_\_\_\_ of CDBG-DR Funds to the Owner for \$\_\_\_\_\_;

NOW, THEREFORE, in consideration of the premises and for other valuable consideration the receipt of which is hereby acknowledged, the City and the Owner hereto agree as follows:

1. DEFINITIONS. As used in this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:

"Community Development Block Program-Disaster Recovery" or "CDBG-DR" means the grant program authorized under Title I of the Housing, and Community Development Act of 1974, as amended, 24 CFR 570, as amended, 87 FR 6364, and all other notices published by HUD in the Federal Register and related to 87 FR 6364 in response to the federally declared disasters, which occurred in \_\_\_\_\_, as defined by FEMA Declaration # \_\_\_\_\_.

"IEDA" means the Iowa Economic Development Authority.

"Project" means the Real Estate described on Exhibit A hereto and the single family residence located at the Real Estate described on Exhibit A hereto.

2. As a condition to purchase of the house for \$\_\_\_\_\_, and in order to help ensure compliance by the Owner and any future owner of the Project with the requirements and covenants set forth in the Homebuyer Agreement between the Developer and the Owner (the "Homebuyer Agreement") throughout the retention period set forth in the Homebuyer Agreement (the "Retention Period") so as to maintain the housing benefits for which assistance has been provided through CDBG-DR and therefore protect the investment of the Developer, the City, and the IEDA in the Project, and in order to give the Developer, the City, and the IEDA the ability to fulfill their obligations under CDBG-DR to ensure such compliance, certain covenants and restrictions enforceable by the Developer must be placed on the real estate described in Exhibit A (the "Real Estate") hereto governing the use of the Project, which covenants and restrictions shall run with the land and be binding on the Owner and its successors or assigns. The Owner, for itself and for its successors or assigns, makes the following covenants as to the use of the Project and the Real Estate:

- (a) Throughout the Retention Period, the Owner shall allow inspections of the Project to ensure continued compliance with all locally adopted and enforced building codes and standards, or, in the absence of any locally adopted and enforced building codes and standards, the requirements of the current Iowa State Building Code;
- (b) Throughout the Retention Period, the Owner shall comply with all of the statutes, regulations, and notices in the Federal Register that govern CDBG-DR, including, but not limited to, Title I of the Housing, and Community Development Act of 1974, as amended, 24 CFR 570, as amended, 87 FR 6364, and all other notices published by HUD in the Federal Register and related to [87 FR 6364](#);
- (c) For the entire Retention Period, the Homebuyer shall own and occupy the Project as its personal residence;

(d) Any sale of the Property during the Retention Period shall be to households at or below 80% of the area median income for not more than \$\_\_\_\_\_.

(e) In order to ensure compliance with the covenants in subparagraphs (a), (b), (c), and (d) above, Owner shall submit to the City, as required by the Homebuyer Agreement, its certification of compliance with such covenants, together with documentation in form and substance satisfactory to the Developer evidencing compliance with such covenants; and

(f) The Owner shall comply with all the covenants set forth in the Homebuyer Agreement.

3. All the covenants herein shall run with the Real Estate and the Project thereon, and be binding upon the Owner and its successors or assigns, for the Retention Period. Notwithstanding any other provisions of this Agreement, this entire Agreement, or any of the provisions or paragraphs hereof, may be terminated upon written agreement by the Developer and the Owner.

4. Notwithstanding the provisions of Section 3, such covenants shall cease to apply to the Real Estate prior to the end of the Retention Period, in the event of involuntary noncompliance therewith caused by a fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or action of a federal agency after the date of making of the Loan which prevents the Developer or its successors or assigns from enforcing the covenants, or condemnation or similar event, but only if, within a reasonable period, amounts received by the Grantor as a consequence of such event are used to pay the Developer the \$\_\_\_\_\_ CDBG-DR Funds used to build the Project.

5. Notwithstanding the provisions of Section 4, if once the Mortgaged Property has been subject to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, and at any time during the part of the Retention Period subsequent to such event, the Grantor or a related person to the Grantor obtains an ownership interest in the Project for tax purposes, the covenants herein shall once again run with the land described in Exhibit A hereto and the Project thereon and be binding on the Grantor or such related person and their respective successors or assigns for the remainder of the Retention Period.

6. The Owner shall cause this Agreement and all amendments and supplements hereto to be recorded and filed in such manner and in such places as the Developer may reasonably request, and shall pay all fees and charges incurred in connection therewith.

7. This Agreement may be amended only by an amendment in writing executed by the parties hereto and properly recorded in the County Recorder's office.

9. The Owner hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project or any interest therein without obtaining the prior written consent of the City, which shall be conditioned solely upon receipt of evidence satisfactory to the City that the Owner's purchaser or transferee (i) has assumed in writing and in full the Owner's duties and obligations under this Agreement, the Homebuyer Agreement, and all related documents thereto and has the financial capability to carry out such obligations. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this paragraph may be ineffective to relieve the Owner of its obligations under this Agreement, the Homebuyer Agreement and all related documents thereto.

10. If the Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Agreement, and if such default remains uncured for a period of 30 days after notice thereof shall have been given by the City to the Owner (or for a period of 60 days after such notice if such default is curable but requires acts to be done or conditions to be remedied which, by their nature, cannot be done or remedied within such 30 day period, and if the Owner commences same within such 30 day period and thereafter diligently and continuously pursues the same to completion within such 60 day period), then the City or the Developer may declare that the Owner is in default hereunder and may take any one or more of the following steps, at its option:

(a) by mandamus or other suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder, or obtain damages caused to the Developer by any such default;

(b) declare a default under the Homebuyer Agreement and demand payment from the Homebuyer of the \$\_\_\_\_\_ CDBG DR Funds used to build the Property; and

(d) take whatever other action at law or in equity may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner hereunder and under the Homebuyer Agreement, including, but not limited to, the recovery of CDBG-DR Funds.

No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of the City or the Developer to enforce the same or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

10. This Agreement shall be governed by the laws of the State of Iowa

11. Any notice required to be given hereunder shall be given by registered or certified mail at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto:

City:

City of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Attention: Cit Clerk

Developer:

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Owner:

\_\_\_\_\_  
\_\_\_\_\_

12. If any provision of this Agreement shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired.

13. This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument and each of which shall be deemed to be an original.

14. All the rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Signatures on the Following Pages The Remainder of this Page Left Blank

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed by its duly authorized officers.

**OWNER:**

By : \_\_\_\_\_

By :

Signature

Signature

Print Name: \_\_\_\_\_

Print Name:

Authority \_\_\_\_\_

Authority

Date

Date

**STATE OF IOWA**

**COUNTY OF** \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, and that \_\_\_\_\_, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of him/her.

\_\_\_\_\_  
Notary Public

**STATE OF IOWA**

**COUNTY OF** \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, and that \_\_\_\_\_, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of him/her.

\_\_\_\_\_  
Notary Public

**DEVELOPER:**

\_\_\_\_\_

By : \_\_\_\_\_

Signature

Print Name: \_\_\_\_\_

Authority \_\_\_\_\_

Date

By :

Signature

Print Name:

Authority

Date

**STATE OF IOWA**

**COUNTY OF** \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of him/her and \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**STATE OF IOWA**

**COUNTY OF** \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of him/her and \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**CITY:**

\_\_\_\_\_

By : \_\_\_\_\_

Signature

Print Name: \_\_\_\_\_

Authority \_\_\_\_\_

Date

By :

Signature

Print Name:

Authority

Date

**STATE OF IOWA**

**COUNTY OF** \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for the City of \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of him/her and the City of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**STATE OF IOWA**

**COUNTY OF** \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for the City of \_\_\_\_\_, a \_\_\_\_\_ organized in the State of Iowa, and that \_\_\_\_\_, acknowledged the execution of this instrument to be his voluntary act and the voluntary act of him/her and the City of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_.

**EXHIBIT A**

LEGAL DESCRIPTION

The following described real estate located in the City of \_\_\_\_\_, County of \_\_\_\_\_, Iowa:

<INSERT PARCEL DESCRIPTION HERE>

**MORTGAGE**

Document prepared by: \_\_\_\_\_  
\_\_\_\_\_

Return Document to: \_\_\_\_\_  
\_\_\_\_\_

GRANTOR AND TAXPAYER: \_\_\_\_\_

GRANTEE: City of \_\_\_\_\_, IA

LEGAL DESCRIPTION:

CDBG-DR Contract Owner: \_\_\_\_\_

CDBG-DR Contract Number: \_\_\_\_\_

Address: \_\_\_\_\_

# Example Record Mortgage Form

## MORTGAGE

**THIS MORTGAGE IS A PURCHASE MONEY MORTGAGE AS DEFINED IN THE IOWA CODE.**

**THIS MORTGAGE IS A CONSTRUCTION MORTGAGE LIEN AS DEFINED IN THE IOWA CODE.**

**NOTICE: This mortgage secures credit in the amount of \$\_\_\_\_\_. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.**

THIS MORTGAGE ("Mortgage"), dated \_\_\_\_\_, by and between the City of \_\_\_\_\_, an Iowa City ("Lender"), and <Developer> \_\_\_\_\_, an Iowa <Corp., LLC., etc.> ("Borrower"), secures payment of the loan made by Lender to Borrower evidenced by a promissory note dated \_\_\_\_\_ as revised, in the principal amount of \$\_\_\_\_\_ ("Note") which provides for the full debt **due and payable** fifteen years (15) from the date of final Certificate of Occupancy. This Mortgage secures to Lender: (a) the repayment of the debt as evidenced by the Note, and all renewals, extensions, modifications or refinancing thereof and any Promissory Note issued in substitution therefore; (b) all other obligations of Borrower to Lender, now existing or hereafter arising, whether direct or indirect, contingent or absolute and whether as maker or surety, including, but not limited to, future advances and amounts advanced and expenses incurred by Borrower pursuant to this Mortgage; and (c) the performance of Borrower's covenants and agreements under this Mortgage, the Note, the Community Development Block Grant-Disaster Recovery Contract delivered to Lender by Borrower and dated \_\_\_\_\_ (the "Contract"), and the Agreement for Covenants and Restrictions delivered by Borrower to Lender and dated \_\_\_\_\_ (the "Covenants") (this Mortgage, the Note, the Contract, and the Covenants are hereinafter referred to as the "Loan Documents"), as applicable. For this purpose, Borrower does hereby mortgage, grant and convey the Lender a security interest in and to the following described property including any after acquired title or reversion thereto (the "Land") located in \_\_\_\_\_ County, Iowa:

<Description> IN THE CITY OF \_\_\_\_\_, \_\_\_\_\_ COUNTY  
IOWA

TOGETHER WITH:

- a) **Buildings.** All buildings, structures and improvements now standing or hereafter constructed or placed on the Land (the "Buildings") and all easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the land.

- b) **Personal Property.** All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings, whether attached or detached, including but not limited to, light fixtures, shades, rods, blinds, venetian blinds, awnings, storm windows, screens, linoleum, water softeners, automatic heating and air conditioning equipment and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs, replacements and substitutes of, to, and for the foregoing (the "Personal Property'<sup>1</sup>").
- c) **Revenues and Income.** All rents, issues, profits, leases, condemnation awards and insurance proceeds now or hereafter arising from the ownership, occupancy or use of the Land, Buildings and Personal Property, or any part thereof (the "Revenues and Income").

TO HAVE AND TO HOLD the Land, Buildings, Personal Property and Revenues and Income (collectively called the "Mortgaged Property"), together with all privileges, hereditaments thereunto now or hereafter belonging, or in any way appertaining, and the products and proceeds thereof, unto Lender, its successors and assigns.

Borrower and Lender covenant and agree as follows:

**1. Representations and Warranties of Borrowers.** Borrowers represent, warrant, and covenant to Lender that (1) Borrowers hold clear title to the Mortgaged Property; (2) Borrowers have the right, power, and authority to execute this Mortgage and grant a security interest in the Mortgaged Property; (3) the Mortgaged Property is free and clear of all liens and encumbrances, except for real estate taxes not yet delinquent, as otherwise stated herein, or encumbrances of record disclosed in the Lender's Title Guaranty Division Certificate issued in favor of the Lender; (4) Borrowers will warrant and defend title to the Mortgaged Property and the lien and priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising; and (5) all buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land.

**2. Payment.** Borrower shall promptly repay principal and interest of the debt and any prepayment thereunder as evidenced by the Note, and timely perform all other obligations of Borrower under the Loan Documents. The provisions of the Loan Documents are hereby incorporated by reference into this Mortgage as if fully set forth herein.

**3. Taxes.** Borrower shall pay each installment of property taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand.

**4. Liens.** Borrower shall pay in a timely manner all taxes, assessments, charges, fines and impositions attributable to the Mortgaged Property which may attain priority over this Mortgage, and leasehold payments or ground rents, if any. Borrower shall promptly furnish to Lender receipts evidencing the payment.

Unless Borrower obtains Lender's prior written approval, Borrower shall not create, incur or

suffer to exist any lien, encumbrance, security interest or charge on the Mortgaged Property or any part thereof which might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable. Borrower shall pay, when due, the claims of all persons supplying labor or materials in connection with the Mortgaged Property.

Borrower shall promptly discharge any lien which has, or may attain, priority over this Mortgage unless Borrower: (1) agrees in writing to the payment of the obligation secured by the Hen in a manner acceptable to Lender; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (3) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Mortgaged Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within ten business days of the giving of notice, pay, when due, the claims of all persons supplying labor or materials in connection with the Mortgaged Property.

Borrower shall promptly discharge any lien which has, or may attain, priority over this Mortgage unless Borrower: (1) agrees in writing to the payment of the obligation secured by the Hen in a manner acceptable to Lender; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (3) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Mortgaged Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within ten business days of the giving of notice,

**5. Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to Personal Property and for this purpose the name and address of debtor is the name and address of Borrower as set forth in Paragraph 23 herein and the name and address of the secured party is the name and address of the Lender as set forth in Paragraph 23 herein.

**6. Compliance with Laws.** Borrowers shall comply with all present and future statutes, laws, rules, orders, regulations, and ordinances affecting the Mortgaged Property, any part thereof, or the use thereof.

**7. Care of Property.** Borrower shall take good care of the Mortgaged Property; shall keep the Buildings and the Personal Property now or later placed upon the Mortgaged Property in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Personal Property during the term of this Mortgage. Borrower shall not make any material alteration in the Mortgaged Property without the prior written consent of Lender.

**8. Insurance.**

a. **Risks to be Insured.** Borrower, at its sole cost and expense, shall maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Lender may from time to time require. Lender requires such insurance to have a

"Replacement Cost" endorsement attached thereto, with the amount of the insurance at least equal to the balance of amount owed under the Note. Borrower will at its sole cost and expense, from time to time, and at any time at the request of Lender, provide Lender with evidence satisfactory to Lender of the replacement cost of the Mortgaged Property. Borrower will maintain such other insurance as Lender may reasonably require.

b. **Policy Provisions.** All insurance policies and renewals thereof maintained by Borrower pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Lender, contain a Lender clause in favor of Lender and in form acceptable to Lender, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after 30 calendar days prior written notice to Lender, and be reasonably satisfactory to Lender in all other respects.

c. **Delivery of Policy or Certificate.** If requested by Lender, Borrower will deliver to Lender original policies satisfactory to Lender evidencing the insurance which is required under this Mortgage, and Borrower shall promptly furnish to Lender all renewal notices and, upon request of Lender, evidence of payment thereof. At least ten calendar days prior to the expiration date of a required policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

d. **Assignment.** If the Mortgaged Property is sold at a foreclosure sale or if Lender shall acquire title to the Mortgaged Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to sale or acquisition.

e. **Notice of Damage or Destruction; Loss Adjustment.** If the Mortgaged Property or any part thereof is damaged or destroyed by fire or other casualty, Borrower will, within five calendar days after the occurrence of the damage or destruction, give written notice thereof to the insurance carrier and to Lender and will not adjust any damage or loss which is estimated by Borrower in good faith to exceed Twenty-five Thousand Dollars (\$25,000) unless Lender joins in or concurs with such adjustment; but if there has been no adjustment of any such damage or loss within four months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four month period or at any time thereafter, Lender may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Borrower does hereby irrevocably authorize, empower and appoint Lender as attorney-in-fact for Borrower (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Borrower.

f. **Application of Insurance Proceeds.** All sums paid under any insurance policy required by this Mortgage shall be paid to Lender. Lender agrees to apply all insurance proceeds from casualty or damage of the Project (after first deducting therefrom Lender's expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) in the following order: (1) to bring loan current if it is in default due to delinquent payments; (2) to repayment of the indebtedness secured by this Mortgage and the Note if any other Event of Default

has occurred prior to the casualty, and is continuing thereunder; (3) if no Event of Default exists, to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed and to Borrower's Replacement Reserve or Operating Reserve, in such manner as Lender shall determine, and (4) any remainder to be applied to the payment of the indebtedness.. Restoration will not remove or alter any existing obligations associated with the Loan Documents.

- 9. Expense Reimbursement.** Borrower shall promptly reimburse Lender upon demand for all of Lender's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage
- 10. Protection of Lenders Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Mortgaged Property to make repairs. Although Lender may take actions under this paragraph, Lender does not have to do so. Any amounts disbursed or incurred by Lender under this paragraph shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to the other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be immediately due and payable, with interest, upon notice from Lender to Borrower requesting payment.

**11. Inspection.** Lender or its agents shall have the right at reasonable times to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property. Lender shall have no duty to make such inspection. Nothing contained in this paragraph shall require Lender to incur any expense or do any act hereunder, and Lender shall not be liable to Borrower for any damage or claims arising out of action taken by Lender pursuant to this paragraph.

**12. Condemnation.**

a. **Notice, Assignment and Loss Adjustment.** Borrower shall give Lender prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assign, transfer and set over to Lender the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Lender is hereby authorized to intervene in any such action in the name of Borrower, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds.

b. **Application of Proceeds.** Lender agrees to apply all proceeds resulting from its intervention in any condemnation or eminent domain action or the compromise and settlement of such action or claim, or its collection of such proceeds (after first deducting therefrom Lender's expenses incurred including but not limited to reasonable attorneys' fees), in the following order: (1) to bring loan current if it is in default due to delinquent payments; (2) to repayment of the indebtedness secured by this Mortgage and the Note if any other Event of Default has occurred prior to the casualty, and is continuing thereunder; (3) if no Event of Default exists, to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed and to Borrower's Replacement Reserve or Operating Reserve, in such manner as Lender shall determine, and (4) any remainder to be applied to the payment of the indebtedness. Restoration will not remove or alter any existing obligations associated with the Loan Documents.

**13. Events of Default.** Each of the following occurrences shall constitute an event of default ("Event of Default"):

a. Borrower fails to make payment as required by the Note or breaches its agreements contained in paragraph 2 hereof or defaults in the due observance or

performance of or breaches any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of the Loan Documents or any document related thereto.

b. Borrower sells, leases (other than by residential leases in the ordinary course of business), transfers or otherwise disposes the Mortgaged Property without the prior written consent of the Lender.

c. Borrower, without the prior written consent of the Lender, permits any change in the ownership interests in the Borrower that, when added to any prior changes in the ownership interest in such entity, exceeds ten percent of the total aggregate ownership interest in Borrower.

d. Borrower makes an assignment for the benefit of its creditors, or a petition is filed by or against Borrower under the United States Bankruptcy Code or Borrower seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or does not, within 20 business days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.

e. A judgment, writ or warrant of attachment or execution, or similar process is entered and becomes a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within 20 business days after its entry, issue or levy.

f. An event of default, however defined, occurs under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.

**14. Acceleration; Foreclosure.** Upon the occurrence of any Event of Default and at any time thereafter while such Event of Default exists, Lender may, at its option, exercise one or more of the following rights and remedies (and any other rights and remedies available to it):

a. Lender may declare immediately due and payable all Notes secured by this Mortgage, and the entire balance of the same, including accrued interest, shall thereupon be immediately due and payable, without further notice of demand.

b. Lender shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default of a secured party under the Iowa Uniform Commercial Code. If notice to Borrower of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Borrower at least ten days prior to the date of intended disposition.

c. Lender may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Lender appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as the trustee may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Borrower only for the net profits, after application of

rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Note.

**15. Redemption.** It is agreed that if this Mortgage covers less than ten acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six months provided the Lender, in such action files an election to waive any deficiency judgment against Borrower which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three months after sale such right of redemption shall be exclusive to the Borrower, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four months.

It is agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to 60 days if all three of the following contingencies develop: (1) The real estate is less than ten acres in size; (2) the Court finds affirmatively that the real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of foreclosure; and (3) Lender files an election to waive any deficiency judgment against Borrower or its successor in interest in such action. If the redemption period is so reduced, Borrower or its successors in interest or the owner shall have the exclusive right to redeem for the first 30 days after such sale, and the time provided for redemption for creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of Borrower shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any redemption provisions contained in Chapter 628 of the Iowa Code.

**16. Attorney's Fees.** Borrowers shall pay, on demand, all costs and expenses incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, reasonable attorneys' fees and legal expenses.

**17. Additional Instruments.** At any time and from time to time until payment in full of the Note, Borrower, at Lender's request, will promptly execute and deliver to Lender such additional instruments as may be reasonably required to further evidence the lien of this Mortgage and to further protect the security interest of Lender in connection with the Mortgaged Property. Such instruments may include, but are not limited to, additional security agreements, financing statements, and continuation statements. Any expenses incurred by Lender in connection with the recordation of any such instruments shall become additional obligations of Borrowers secured by this Mortgage and shall be immediately due and payable by Borrowers to Lender

**18. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to Borrower or any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against Borrower or any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any delay or forbearance by

Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy. No waiver by Lender of any particular provisions of this Mortgage shall be deemed effective unless such waiver is in writing signed by the Lender.

**19. Rights and Remedies Cumulative.** All rights and remedies provided for in this Mortgage or which Lender or holder of the Loan Documents may have otherwise, at law or in equity, shall be distinct, separate, and cumulative and may be exercised concurrently, independently, or successively in any order whatsoever, and as often as the occasion thereof arises.

**20. Successors and Assigns Bound; Joint and Several Liability; Co signers.** The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Borrower. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Mortgaged Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without the Borrower's consent.

**21. Severability.** In the event any portion of this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Mortgage is invalid, illegal, or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable then such provision shall be deemed to be written, construed and enforced as so limited.

**22. Number and Gender.** Words and phrases contained in this Mortgage, including acknowledgment hereof, shall be construed as in the singular or plural number and as masculine, feminine, or neuter gender according to the contexts.

**23. Captions.** The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

**24. Notices.** All notices required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to Lender, to: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Attention  
on:

\_\_\_\_\_

b. If to Borrower, to: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Attention:

\_\_\_\_\_

\_\_\_\_\_

**25. Governing Law.** This Mortgage shall be governed and construed in accordance with the laws of the State of Iowa.

**26. WAIVER OF MARSHALLING.** Borrower, any party who consents to this Mortgage, and any party who now or hereafter acquires a lien on the Mortgage Property and who has actual or constructive notice of this Mortgage hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

**27. Acknowledgement of Receipt of Copies of Mortgage and Note.**  
Borrower hereby acknowledges the receipt of a copy of this Mortgage together with a copy of each Promissory Note secured hereby.

**28. Release.** Upon compliance with the Contract and/or payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower.

**29. Waivers.** Each of the undersigned relinquishes all rights of dower, waives all right of homestead and distributive share in and to the Mortgaged Property and waives any right to exemption as to the Mortgaged Property.

**30. Additional Provisions:** NONE

*-END OF MORTGAGE - REFER TO FOLLOWING PAGE FOR SIGNATURES-*

IN WITNESS WHEREOF, the parties have caused this mortgage to be duly executed by its duly authorized officers.

**BORROWER:**

\_\_\_\_\_

Authority: CFO / Vice President

**STATE OF IOWA**

COUNTY OF \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the \_\_\_\_\_ for \_\_\_\_ <Developer> \_\_\_\_ a \_\_\_\_ <Corp., LLC. etc. \_\_\_\_\_, organized in the State of Iowa, and that \_\_\_\_\_, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and \_\_\_\_\_

Signature of Notary Public

**LENDER:**

City of \_\_\_\_\_

By:

Print Name: \_\_\_\_\_

Authority: \_\_\_\_\_

City of: \_\_\_\_\_

STATE OF IOWA     )

COUNTY OF \_\_\_\_\_ )

On this \_ / / \_ day of \_\_\_\_\_, 20 \_\_, in front of the undersigned notary public, in and for the State of Iowa, personally appeared \_\_\_\_\_, the City \_\_\_\_\_ of the City of \_\_\_\_\_, Iowa, a municipal corporation organized in the State of Iowa, and that \_\_\_\_\_, as such officer1 acknowledged the execution of this instrument to be his voluntary act and the voluntary act of the City of \_\_\_\_\_.

. -  
Signature of Notary Public

# Example Release of Mortgage Form

**Recording #:**  
**RECORDED:**  
**RECORDING FEE: \$**  
**REVENUE TAX: \$**  
**COMBINED FEE: \$3**  
**RECORDER:**  
**COUNTY:**

Prepared By and Return To:  
\_\_\_\_\_  
\_\_\_\_\_

### PARTIAL RELEASE OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS:  
That a certain Mortgage, dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, executed by \_\_\_\_\_ for \_\_\_\_\_, to **The City of** \_\_\_\_\_, same as Mortgage recorded on \_\_ day of \_\_\_\_\_, 20\_\_, in **Book #\_\_, Page #** \_\_\_\_\_ of the \_\_\_\_\_ County Recorder's Office, is redeemed, paid off, satisfied and discharged in full, is hereby released this \_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Its \_\_\_\_\_,  
City of \_\_\_\_\_, IA

**LEGAL:**

*<INSERT PARCEL LEGAL DESCRIPTION>*

STATE OF IOWA,  
ss:  
\_\_\_\_\_ County

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, to me personally known, who being duly sworn did state that this person is \_\_\_\_\_ of the City of \_\_\_\_\_ who did acknowledge the execution of said instrument to be voluntarily executed.

NOTARY PUBLIC \_\_\_\_\_

