

Prepared by: \_\_\_\_\_, Associate Planner, 410 E. Washington St., Iowa City, IA 52240; (319) 356-5230

**AGREEMENT BETWEEN THE CITY OF IOWA CITY AND  
FOR THE USE OF HOME INVESTMENT PARTNERSHIP FUNDS**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between the City of Iowa City, a municipal corporation ("City"), and \_\_\_\_\_, a *public/private* organization ("Recipient") to include any and all other parties (public and private) associated with the project described herein;

WHEREAS, the City is the recipient of HOME Investment Partnership (HOME) funds granted by the U.S. Department of Housing and Urban Development (HUD) under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (P.L. 101-625), as amended; and

WHEREAS, the City wishes to utilize HOME Investment Partnership (HOME) funds to assist the RECIPIENT in \_\_\_\_\_;  
and

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PART I

1. **PURPOSE AND SCOPE OF SERVICES:**

A. 1. The Recipient shall use HOME funds, provided by the City of \_\_\_\_\_  
For  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ("the Project").

2. The Recipient shall provide affordable *homeownership/rental* housing for a minimum period of \_\_\_\_\_ years from the time when all \_\_\_\_\_ HOME assisted units, associated with this project, are occupied by eligible occupants. Upon *sale/rent up*, preference will be given to households under 30% median family income over the term of this agreement. According to HOME regulations, rental housing assisted with HOME Investment Partnership funds shall have a deed restriction placed upon it, requiring adherence to the occupancy and rent restrictions of 24 CFR 92.252, with the effective term of said instrument in accordance with 24 CFR 92.252(a)(5). **This HOME Agreement shall act as said deed restriction for the period of affordability as determined herein.**

- B. Within 30 days after the closing of permanent financing, the RECIPIENT shall have properly recorded in the appropriate office of the Johnson County Recorder any mortgage, security agreement, financing statement or similar document required by the City under this agreement, with all recording charges being paid by the RECIPIENT.
- C. Development of any architectural designs for the project shall be the responsibility of the RECIPIENT, subject to written concurrence by the City.
- D. The City shall provide technical assistance to the RECIPIENT concerning compliance with the terms of this Agreement. The RECIPIENT shall be responsible for all bidding procedures and subcontractual arrangements. All procedures shall be carried out in accordance with all Federal, State and local standards, and shall be monitored by the City.
- E. The Project shall be completed in compliance with all applicable state and local building codes; and upon completion, shall be operated in compliance with all applicable state and local codes and ordinances. The RECIPIENT agrees the facilities shall be used solely for the purpose of providing affordable rental housing as detailed in Part I.1.A of this Agreement.

2. **TIME OF PERFORMANCE:**

The RECIPIENT shall perform according to the following schedule:

<u>Program Element</u>	<u>Deadline</u>
1. Execute Contract for Project	
2. Acquisition of Property	
3. Pre-construction Conference	
4. Project Start Date	Date of Execution of this Agreement
5. Construction Completion Date	
6. Project Rent-up Started	
7. Project Rent-up Completed	
8. Monitoring Period	

*This schedule is subject to change by mutual agreement of both parties in writing.*

3. **PROPOSED PROJECT BUDGET:**

	<b>Recipient City HOME</b>	
	<b><u>Amount</u></b>	<b><u>Amount</u></b>
A. Real Property Acquisition Costs	\$	\$
B. Construction Expenses	\$	\$
C. Architect\Engineering	\$	\$
D. State and Local Fees (including property taxes)	\$	\$
E. Financing Fees	\$	\$
F. Environmental and Appraisal Fees	\$	\$
G. Project Overhead & Developer Fees	\$	\$
H. Accounting, Legal & Misc. Fees	\$	\$
I. Leasing & Operating Reserves	\$	\$

J. Other Eligible Expenses (with prior written City approval)	\$ _____	\$ _____
<b>SUBTOTALS</b>	\$ _____	\$ _____
<b>TOTAL PROJECT COST</b>	\$ _____	

4. **COMPENSATION AND METHOD OF PAYMENT:**

The City shall pay and the RECIPIENT agrees to accept in full no more than \$\_\_\_\_\_ (dollars and no\100) (*hereinafter "Grant/Loan"*) for performance under this Agreement, as follows:

- A. Based on the approved budget, partial payments shall be made upon presentation of (i) purchase agreements and invoices, and/or (ii) other source documents. Payments will be made for eligible expenses actually incurred by the RECIPIENT, and not to exceed actual cash requirements.
- B. All payments under this agreement are subject to receipt by the City of sufficient federal funds for the HOME Investment Partnership program. HOME Investment Partnership funds shall be drawn from the U.S. Treasury by the City through the Integrated Disbursement and Information System (IDIS). The City shall retain exclusive direct access rights to the IDIS system. All access to the IDIS system will be by duly authorized persons designated by the City as approved by HUD. Any termination, reduction or delay of receipt of HOME Investment Partnership funds to the City shall, at the option of the City, result in the termination, reduction or delay of HOME Investment Partnership funds to the RECIPIENT.
- C. Funds provided to the RECIPIENT shall be expended within 10 business days from the date of disbursement to the RECIPIENT by the City. Any funds not disbursed by the RECIPIENT in the aforementioned time period shall be returned to the City and will be deposited in the U.S. Treasury, HOME Investment Partnership Trust Account. Any interest earned on cash advances from the U.S. Treasury and/or City of less than one hundred dollars (\$100.00) per year may be retained by the RECIPIENT and used for project expenses. Any interest in excess of one hundred dollars (\$100.00) per year shall be remitted promptly to the City.

5. **TERMS AND CONDITIONS:**

- A. The RECIPIENT agrees to comply with all applicable federal, state, and local laws and regulations governing the funds provided under this contract. Said HOME regulations are published in 24 CFR Part 92.
- B. The City shall have no responsibility or liability for the maintenance, operation or program funding for the RECIPIENT.
- C. 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 RECIPIENT shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the RECIPIENT is an independent contractor.

D. During the period of this Agreement, effective as of the start of the Project, the RECIPIENT shall, at its own expense, procure and maintain all-risk property damage and liability insurance. For the term of this agreement, the RECIPIENT shall list the City as a loss payee on said property insurance. Property damage coverage shall not be less than the current market value of the property. Liability coverage shall include contractual insurance as well as comprehensive form insurance, and shall provide coverage of not less than \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence, and \$100,000 property damage. Proof of insurance shall be shown to the City by furnishing a copy of the certificate of insurance issued by an insurance company licensed to do business in the State of Iowa. The certificate of insurance shall include a statement guaranteeing that the insurance company shall notify the Community Development Coordinator within 30 days of the lapse of said policy. The RECIPIENT shall provide Workers' Compensation Insurance coverage for all employees involved in the performance of this contract.

E. The amount paid hereunder shall be a \_\_\_\_ percent (\_\_\_%) amortized loan, secured by a mortgage on the property (see Exhibit "C").

The loan amount shall be evidenced by a promissory note in the form attached hereto as Exhibit "B" and repaid in \_\_\_\_\_(\_\_\_\_) equal monthly installments commencing on \_\_\_date\_\_\_\_\_ for a period of \_\_\_\_\_ (\_\_) years. There shall be no penalty for prepayment.

F. Until at least \_\_\_date\_\_\_\_\_, the RECIPIENT shall, in a manner satisfactory to the City, fulfill its stated purpose as outlined in Part I.1.A of this Agreement and provide continued service as required by the Iowa Finance Authority.

G. The RECIPIENT shall not sell, assign or transfer any legal or equitable interest in the property at any time prior to \_\_\_\_\_ date \_\_\_\_\_ without written concurrence of the City; but in such event, the RECIPIENT shall pay to the City the outstanding balance of the loan relating to the property sold or, if the RECIPIENT discontinues its program, the RECIPIENT shall pay to the City the outstanding balance of the loan then due. If the RECIPIENT fully complies with its obligations hereunder, on \_\_\_\_\_ date \_\_\_\_\_ the lien against the property shall be released by the City.

H. In the event the RECIPIENT discontinues the provision of affordable rental housing as funded under this Agreement prior to \_\_\_\_\_ date \_\_\_\_\_, except as provided in Part I.1.A. of this Agreement, **the value of the pro-rated portion of** real and personal property (tangible and intangible) secured with the HOME Investment Partnership funds under this Agreement shall revert to the City. If the property has been disposed of, then the City will be reimbursed in the amount of the current fair market value of the property less any portion **of the fair market value** attributable to non- **City** HOME Investment Partnership funds. (Personal property includes, but is not limited to, equipment, furnishings, and vehicles.)

I. Except as provided herein, the terms of this Agreement shall be effective from the date of execution through and including \_\_\_\_\_ date \_\_\_\_\_.

J. All housing assisted with HOME Investment Partnership funds shall be maintained in compliance with the property standards defined in 24 CFR 92.251, and any locally enforceable housing standards, laws and codes of the City.

- K. RECIPIENTs that receive HOME Investment Partnership funds for rental housing shall maintain records indicating that an inspection of the rental housing was performed and at a minimum the rental housing meets HUD Section 8 Housing Quality Standards and all applicable local housing standards. For this project an annual inspection shall be performed as required.
- L. All mixed income housing projects funded under the terms of this Agreement shall comply with the provisions of 24 CFR 92.255.
- M. All projects shall adhere to the project requirements found in Subpart F of 24 CFR Part 92, as applicable in with the type of project assisted.
- N. RECIPIENTs that receive HOME Investment Partnership funds for rental housing shall have a Tenant Participation Plan, approved by the City, in accordance with 24 CFR 92.303.

## PART II

### 1. PERFORMANCE AND REPORTING:

- A. The RECIPIENT shall direct all notices, reports, insurance policies, and other communications related to or required by this Agreement to the office of the City of Iowa City, Community Development Office, 410 E. Washington Street, Iowa City, Iowa 52240. Notice by both RECIPIENT and City shall be given by ordinary mail.
- B. Until the completion of the Project and expenditure of all HOME Investment Partnership funds disbursed under this Agreement, the RECIPIENT shall submit quarterly reports describing progress of the project activities. This report will be due 10 (ten) days after the end of each quarter, based upon the City's fiscal year (July 1 to June 30).
- C. Not later than \_\_\_\_\_ *date* \_\_\_\_\_, the RECIPIENT shall provide the City with a Certified Statement of the Expenditure of Funds disbursed under this Agreement.
- D. RECIPIENTs that receive HOME Investment Partnership funds for tenant based rental assistance and rental housing shall maintain records of determination of each tenant income eligibility and eligibility as a family at the time the household(s) receive the assistance. The RECIPIENT shall reexamine family income, size and composition at least annually unless waived by mutual consent by the U.S. Department of Housing and Urban Development, the City of Iowa City and the RECIPIENT.
- E. The RECIPIENT shall submit annual reports (July 1 – June 30) by the first day of August of each contract year through \_\_\_ *date* \_\_\_\_\_. The annual report shall, at a minimum, include statistics relating to the number of households being assisted with HOME Investment Partnership funds, household size, racial characteristics, single head of household by gender, household income and a narrative of project highlights.
- F. For projects with a HOME grant or loan of \$300,000 or more (including all funding sources), an audit report which discloses the expenditure of HOME Investment Partnership funds allocated for this Project, shall be submitted by \_\_\_\_\_ *date* \_\_\_\_\_.

G. No reporting requirements for City HOME funds shall extend beyond the final annual report that is due on \_\_\_\_\_ date \_\_\_\_\_.

2. **OTHER REPORTS, AUDITS AND INSPECTIONS:**

A. The RECIPIENT shall promptly furnish the City or HUD with any financial records, statements, other records, data and information as the City or HUD may reasonably request pertaining to this Agreement.

B. During the term of this Agreement, any time during normal business hours, the RECIPIENT shall make available to the City, HUD and/or the Comptroller General of the United States, or their duly authorized representatives, all of the RECIPIENT's records in order to permit examination of any audits, invoices, materials, payrolls, personnel records, conditions of employment, and other data relating to all matters covered by this Agreement.

C. The RECIPIENT shall retain financial records, supporting documents, statistical records, and all other records pertaining to expenditures under this Agreement for a period of five (5) years after the termination of this Agreement on \_\_\_\_\_.

3. **ADMINISTRATIVE REQUIREMENTS:**

A. Financial Management

1. Accounting Standards

The RECIPIENT agrees to comply with Attachment F of OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The RECIPIENT shall administer its program in conformance with OMB Circular A-110/HUD Handbook 2210.18, "Cost Principles for For-Profit Organizations," for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The RECIPIENT shall maintain all records that are pertinent to the activities to be funded under this Agreement, including but not limited to:

a. Records providing a full description of each activity undertaken;

b. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance:

- c. Records documenting compliance with the fair housing and equal opportunity components of the HOME program; and
- d. Financial records as required by OMB Circular A-122, and/or OMB Circular A-133, and/or OMB Circular A-110.

2. Client Data

The RECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, signed verification of income statement, or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

3. National Objectives and Eligibility

The RECIPIENT agrees to maintain documentation demonstrating the activities carried out with funds provided under this contract benefit low income persons, as defined in 24 CFR Part 92.216 and/or 92.217.

C. Procurement

1. Compliance

In the event of termination for cause as provided in paragraph 12 or termination for convenience as provided in paragraph 13, a pro-rated portion of program assets (unexpended program income, property, equipment, etc.) attributable to the City's HOME investment shall revert to the City upon termination of this contract, as provided in Paragraph 12 or Paragraph 13 of this Agreement.

2. OMB Standards

The RECIPIENT shall procure materials in accordance with the requirements of A-133, A-122, Attachment O of OMB Circular A-110, Procurement Standards, and shall subsequently follow Attachment N, Property Management Standards, covering utilization and disposal of property. Copies of said circulars are provided and by execution of this Agreement, the RECIPIENT acknowledges their receipt.

D. Amendments

The City or RECIPIENT may amend this Agreement at any time provided that such amendments 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 RECIPIENT from its obligations under this Agreement.

4. **NON-DISCRIMINATION and AFFIRMATIVE MARKETING:**

No person shall be excluded from or denied the benefits of the RECIPIENT's service on the basis of age, race, color, religion, creed, national origin, sex, marital status, disability, gender identity or sexual orientation. All current and prospective project beneficiaries must, however, be persons in need of the programs provided by the RECIPIENT. The

RECIPIENT shall comply with the affirmative marketing requirements set forth in 24 CFR 92.351.

5. **SECTION 504 COMPLIANCE:**

No otherwise qualified individual with handicaps shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. This includes, but is not limited to, programs and/or activities related to housing, employment, and the delivery of services.

6. **EQUAL EMPLOYMENT OPPORTUNITY and FAIR HOUSING:**

The RECIPIENT certifies that it is an "Equal Opportunity Employer" and that it will comply with Title 3 (Human Rights) of the City Code, Chapter 216 (State Civil Rights) of the Iowa Code, and all applicable regulations of the U.S. Department of Housing and Urban Development pertaining to equal opportunity and affirmative action in employment. Further, the RECIPIENT shall ensure that all contracts for work under this Agreement contain appropriate equal employment opportunity statements. In addition, RECIPIENTs shall comply with all provisions of 24 CFR 92.350.

7. **SECTION 3:**

Contractors retained by the RECIPIENT shall adhere to the following Section 3 requirements and provide reports as required by HUD. The RECIPIENT agrees to comply with Section 3 requirements, the requirements under 24 CFR 24 92.350, the regulations set forth in 24 CFR 135, and to include the following language in all subcontracts executed under this Agreement:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each;



and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with the regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and sub-contracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

8. **W/MBE:**

The RECIPIENT will use its best efforts to afford minority and women-owned business enterprises (at least fifty-one (51) percent owned and controlled by minority group members or women) the maximum practicable opportunity to participate in the performance of this Agreement.

9. **LABOR:**

New construction projects funded under the HOME Investment Partnership program that contain more than 11 (eleven) units shall comply with the labor provisions outlined in 24 CFR 92.354. The RECIPIENT agrees to adhere to said provisions and will not use suspended or debarred contractors and will abide by 24 CFR 92.357.

10. **ENVIRONMENTAL ASSESSMENT AND HISTORIC PRESERVATION:**

The RECIPIENT shall assist the City in complying with all applicable environmental assessment and historic preservation requirements of HUD and the State Historic Preservation Officer of Iowa.

11. **LEAD-BASED PAINT POISONING PREVENTION:**

The RECIPIENT shall comply with requirements of Section 302 of the Lead-Based Paint Poisoning Prevention Act and HUD regulations thereunder (24 CFR 92.355) insofar as they apply to the performance of this Agreement.

12. **TERMINATION OF AGREEMENT FOR CAUSE:**

If the RECIPIENT fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the RECIPIENT violates any of the terms, agreements or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the RECIPIENT of such termination, specifying the default or defaults, and stating that this Agreement shall be terminated 30 days after the giving of such notice unless such default or defaults are remedied within such cure period. The City shall be obligated to make no payment due hereunder after it gives said notice unless the defaults are remedied within said 30-day period. In the event of such termination, the RECIPIENT shall promptly repay to the City the full loan amount or that portion of the amounts that have been disbursed to the RECIPIENT prior to such termination.

13. **TERMINATION OF AGREEMENT FOR CONVENIENCE:**

This Agreement may be terminated in whole or in part upon the mutual agreement of the parties hereto, in which case the City and the RECIPIENT shall agree upon the termination conditions, including the effective date, the disposition of contract amounts, and in the case of partial termination, the portion to be terminated. However, if, in the case of partial termination, the City determines that the remaining portion of the award will not accomplish the purposes for which the award was made, and the award is terminated in its entirety, the RECIPIENT shall promptly repay to the City the full grant and/or loan amount or that portion of the amount which has been disbursed to the RECIPIENT prior to such termination.

14. **INTEREST OF CERTAIN FEDERAL AND OTHER OFFICIALS:**

- A. No member or delegate to the Congress of the United States, and no resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit to arise herefrom.
- B. No member of the governing body of the City, no officer, employee, official or agent of the City, or other local public official who exercises any functions or responsibilities in connection with the review, approval or carrying out of the Project to which this Agreement pertains, shall have any private interest, direct or indirect, in this Contract.
- C. No federal funds appropriated under this contract shall be paid, by or on behalf of the RECIPIENT, to any person for influencing or attempting to influence a member of Congress, an officer or employee of Congress or any federal agency 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 the extension,

continuation, renewal, amendment or modification of any federal contract, grant, loan or agreement.

- D. If any funds other than federal appropriated funds have been paid or will be paid 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 this federal contract, the RECIPIENT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- E. The RECIPIENT shall require that the language of this certification be included in the award documents for all subrecipients and that all subrecipients shall certify and disclose accordingly.
- F. The RECIPIENT agrees to comply with the provisions of 24 CFR 92.356.

15. **GRANTOR RECOGNITION:**

All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as HOME funded. In addition, the RECIPIENT will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

16. **ASSIGNABILITY:**

The RECIPIENT shall not assign or transfer any interest in this Agreement without the prior written approval of the City. Any assignment made without such consent shall be void. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

17. **HOLD HARMLESS PROVISION:**

The RECIPIENT shall indemnify, defend and hold harmless the City, its officers, employees and agents from all liability, loss, cost, damage and expense (including reasonable attorney's fees and court costs) resulting from or incurred by reason of any actions based upon the negligent acts or omissions of the RECIPIENT's employees or agents during the performance of this Agreement.

18. **SEVERABILITY CLAUSE:**

If any one or more of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable, this Agreement shall be deemed severable and the remainder of the Agreement shall remain in full force and effect.

19. **WORKERS' COMPENSATION**

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

20. **LIMITATIONS OF CITY LIABILITY - DISCLAIMER OF RELATIONSHIP:**

The City shall not be liable to the RECIPIENT, or to any party, for completion of or failure to complete any improvements which are part of the Project. Nothing contained in this Agreement, nor any act or omission of the City or the RECIPIENT, shall be construed to create any special duty, relationship, third-party beneficiary, respondeat superior, limited or general partnership, joint venture, or any association by reason of the RECIPIENT's involvement with the City.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**CITY OF IOWA CITY, IOWA** \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_  
City Manager

ATTEST: \_\_\_\_\_ ATTEST: \_\_\_\_\_  
City Clerk

**ACKNOWLEDGEMENT**

**STATE OF IOWA** )  
 ) **SS:**  
 \_\_\_\_\_ **COUNTY)**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2000, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who being by me duly sworn, did say that they are the City Manager and City Clerk, respectively, of said municipal corporation executing the within and foregoing instrument; that the seal affixed hereto is the seal of said municipal corporation, and that the said \_\_\_\_\_ and \_\_\_\_\_ acknowledged the execution of said instrument to be the voluntary act and deed of said municipal corporation, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for \_\_\_\_\_ County, Iowa

STATE OF IOWA     )  
                                  ) SS:  
\_\_\_\_\_ COUNTY)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2000, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that he is the \_\_\_\_\_, executed the within and foregoing instrument to which this is attached, that said instrument was signed on behalf of said \_\_\_\_\_, by \_\_\_\_\_ authority of its \_\_\_\_\_, and that the said \_\_\_\_\_, in such capacity, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company and of said limited partnership, by it and by them voluntarily.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

Approved By:

\_\_\_\_\_  
City Attorney's Office

## EXHIBIT A

### Legal Description and Street Address of HOME Assisted Property

Street Address:

# EXHIBIT B

## PROMISSORY NOTE

Borrower, \_\_\_\_\_, whose address is \_\_\_\_\_, promises to pay to the City of Iowa City, a municipal corporation whose address is \_\_\_\_\_ (hereinafter "City"), the sum of \_\_\_\_\_ Dollars (\$) plus all interest due as shown herein. This Promissory Note (hereinafter "Note") is evidence of a debt running from Borrower to City resulting from a loan from the City in the Principal Amount of \_\_\_\_\_ Dollars (\$), and constitutes Borrower's promise to repay said loan according to the terms and conditions stated in this Note, and in the Mortgage and the HOME Agreement executed simultaneously herewith, and referred to herein as the "Mortgage" and the "HOME Agreement."

**TERM:** Borrower shall pay to City the sum of \_\_\_\_\_ **Dollars and 00/100 (\$)** beginning on the 1st day of \_\_\_\_\_, and on the 1st day of each month thereafter until, and including, \_\_\_\_\_.

**INTEREST:** Interest shall accrue on the Principal Amount at the rate of \_\_\_\_\_ percent (%) per annum from the date of \_\_\_\_\_, and continuing until the Principal Amount is paid in full.

All payments of principal and interest shall be made to the City of \_\_\_\_\_ at the address given above or at such other place as may be designated in writing by the City.

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

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

# EXHIBIT C

## MORTGAGE

This mortgage (hereinafter "Security Instrument") is given on \_\_\_\_\_. The mortgagor is \_\_\_\_\_ (hereinafter "Borrower"). This Security Instrument is given to the City of Iowa City, Iowa, a municipal corporation (hereinafter "the City") whose address is 410 E. Washington Street, Iowa City, IA. It is given in consideration of the Borrower's receipt of a loan from the City in the amount of \_\_\_\_\_ Dollars (\$). This debt is evidenced by a Promissory Note (hereinafter "Note") executed simultaneously herewith.

This Security Instrument secures to the City: (a) the repayment of the debt evidenced by and under the terms of the Note; (b) all sums, advanced under paragraph 5 to protect this Security Instrument; and (c) the Borrower's performance of the covenants and agreements under this Security Instrument, the Note and a HOME Agreement executed simultaneously herewith. For this purpose, Borrower does hereby grant to the City a mortgage and security interest in the following described real property located in Johnson County, Iowa:

### *Legal description*

with the street address of \_\_\_\_\_; together with all buildings, structures and improvements now standing or hereafter constructed on the property, and all easements, appurtenances, and fixtures now or hereafter made a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to as the "Property" in this Security Instrument.

The Borrower further grants to the City a security interest in the rents, issues, profits and proceeds of the Property, said security interest to be effective to the extent of the unpaid balance of the loan.

Borrower and the City covenant and agree as follows:

1. Borrower covenants to the City and any successor in interest that: (i) Borrower holds clear title to the mortgaged property; (ii) Borrower has the right and authority to execute this mortgage and to grant a security interest in the mortgaged property; (iii) the mortgaged property is free and clear of all liens and encumbrances, except for encumbrances of record; and (iv) Borrower warrants and will defend title to the mortgaged property against all claims and demands of all persons subject to any encumbrances of record.
2. Taxes. Borrower shall pay all real estate taxes and special assessments levied against the property before the same become delinquent, without notice or demand. Borrower shall, upon request, promptly furnish proof of such payment to the City. Borrower further agrees to pay any water charges, sewer charges and other charges on the premises when they become due.

3. Liens. Other than a first mortgage with private lender name, Borrower shall not create or incur any lien, encumbrance, or security interest on the Property or any part thereof which might or could be held to be equal or prior to the lien of this Security Instrument. Borrower shall pay, when due, the claims of all persons who supply labor or materials to or in connection with the Property. Other than the above-referenced first mortgage, Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to the City; (b) in good faith, contests the lien by, or defends against enforcement of the lien in, legal proceedings which in the City's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to the City subordinating the lien to this Security Instrument. If the City determines that any part of the Property is subject to a lien, which may attain priority over this Security Instrument, the City 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 10 days of the giving of notice.
  
4. Insurance. Borrower shall maintain insurance on all the Property against loss by fire, hazards included within the term "extended coverage", and any other hazards, casualties and contingencies. Such insurance shall be in a company to be approved by the City and in an amount not less than the full insurable value of the premises or not less than the unpaid balance of the promissory note, whichever amount is smaller. Such insurance shall include a standard mortgage clause listing the City of Iowa City as Lender. The Borrower shall provide a certificate of insurance to the City as well as evidence of paid premiums and renewal notices.

Borrower further agrees to obtain liability insurance coverage against personal injury and death, and to furnish a certificate of insurance to the City as well as evidence of paid premiums and renewal notices. In the event either the comprehensive property or liability insurance is canceled or terminated, or Borrower receives a notice of non-renewal, Borrower will immediately notify the City. In that event, the City may, at its option, obtain coverage to protect the City's rights in accordance with Paragraph 5.

In case of loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in rebuilding or restoring the Property, shall be used to pay the amount due in accordance with any decree of foreclosure. The balance, if any, shall be paid to the owner of the redemption equity, if entitled, or as the court may direct.

5. Protection of the City's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect the City's rights in the Property, the City may do and pay for whatever is necessary to protect the value of the Property and the City's rights in the Property. The City's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering the property to make repairs. Although the City may take action under this paragraph, the City is not obligated to do so.



6. Costs of Collection. Borrower agrees to pay all costs of collection, including reasonable attorney fees and court costs, in the event the City must take action, either informally or by judicial proceeding, to enforce this Security Instrument.
7. Care of Property. Borrower shall keep the buildings and other improvements on the property in good and reasonable repair. Borrower shall not damage, destroy or impair the Property, allow the Property to deteriorate, or commit waste on the Property.
8. Inspection. The City or its agent may make reasonable entries upon and inspections of the Property. The City shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.
9. Condemnation. In the event Borrower's interest in the Property is condemned, the City is entitled to share in the proceeds of the condemnation award, payable to the Borrower and the City as their interests may appear under Iowa law.
10. Foreclosure. The parties acknowledge the City's traditional remedy to enforce this mortgage is foreclosure under Chapter 654, Iowa Code (1991). The parties agree that if the Property should sell, upon foreclosure, for less than the debt due and owing, the City may waive the right to a deficiency judgment but in such event the Borrower's redemption period shall be reduced to six months, as provided by Iowa law.
11. Successors and Assigns Bound. This mortgage shall be binding and inure to the benefit of the Borrower and the City herein and to their successors and assigns in interest subject to the provisions of the Note executed simultaneously herewith.
12. Non-Assignability. The Borrower agrees that this Security Instrument cannot be assigned or amended without the written consent of the City. In the event of an amendment and/or assignment, an Amended Mortgage shall be executed in a form recordable under Iowa law, and shall be recorded in the Johnson County Recorder's Office at the initiating party's own expense.
13. Continuation of Abstract. In the event of any default by the Borrower, the City may, at the Borrower's expense, procure an abstract of title or continuation thereof for said mortgaged premises, and add the expense to the unpaid balance of the loan.
14. Notices. Any and all required notices must be in writing and must be personally delivered or sent by certified or registered mail, postage pre-paid, addressed as follows:
  - A. If to the Borrower, to:
  - B. If to the Mortgagee, to: City Attorney  
City of Iowa City  
410 E. Washington Street  
Iowa City, IA 52240
15. Governing Law. This mortgage shall be governed by and construed in accordance with the laws of the State of Iowa.

16. Severability. In the event any portion of this Security Instrument shall, for any reason, be held invalid, the remainder of this Security Instrument shall be deemed severable, and shall continue to remain in full force and effect.
17. Bankruptcy. In the event Borrower files for bankruptcy or is declared bankrupt under state or federal law, whether voluntarily or involuntarily, Borrower agrees that a lien running in favor of the City shall attach to all rent, profits, proceeds and issues of the Property, without further action required by the City and without further recitation herein.
18. Acknowledgement of Receipt of Copies of Debt Instruments. Borrower hereby acknowledges the receipt of a copy of this Security Instrument and the Note.
19. Additional Provisions. None

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**BORROWER(s):**

\_\_\_\_\_

**STATE OF IOWA )**  
**JOHNSON COUNTY )SS:**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2000, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that he is the \_\_\_\_\_, executed the within and foregoing instrument to which this is attached, that said instrument was signed on behalf of said \_\_\_\_\_, by \_\_\_\_\_ authority of its \_\_\_\_\_, and that the said \_\_\_\_\_, in such capacity, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company and of said limited partnership, by it and by them voluntarily.

\_\_\_\_\_  
 Notary Public in and for said County and State

# **EXHIBIT D**

## **Building Plans and Design**