



Date September 11, 2023

APPROVAL OF THE RENTAL HOUSING ENHANCEMENT PROGRAM POLICY AND PROCEDURES TO ADDRESS SEPARATION OF SHARED FORCED AIR HEATING SOURCES AND KNOCKOUT PANELS

WHEREAS, on June 13, 2022, by Roll Call No. [22-0957](#) and Roll Call No. [22-0958](#) ([Council Communication No. 22-264](#)), the City Council approved the addition of Sections 60-185 and 60-186 to the Municipal Code of the City of Des Moines, Iowa; and

WHEREAS, Section 60-185 requires the separation of shared forced air heating sources, so each dwelling unit has a separate heating source, and shared vents and ductwork are eliminated; and

WHEREAS, Section 60-170 requires elimination of all knockout panels; and

WHEREAS, separation of shared forced air heating and elimination of knockout panels from rental units shall be completed by property owners by the second license renewal inspection after June 1, 2021 and no later than June 1, 2024; and

WHEREAS, the City of Des Moines has set aside funding in fiscal year 2024 to assist rental housing owners affected by the code additions; and

WHEREAS, the funding to address separation of shared forced air heating and elimination of knockout panels is through the Rental Housing Enhancement Program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the Rental Housing Enhancement Program Policy and Agreement with all exhibits as attached hereto, are hereby approved, and the Neighborhood Services staff are directed and authorized to administer said Program in accordance with said Policy and Procedures.

(Council Communication No. 23-423)

Moved by _____ to adopt.

Second by _____



Roll Call Number

Agenda Item Number

32

Date September 11, 2023

FORM APPROVED:

/s/ Gary D. Goudelock Jr.
Gary Goudelock, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

_____ Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

Rental Housing Enhancement Program Guidelines

ND414000, LT206



1. Program Purpose

The purpose of this Rental Housing Enhancement Program is to provide financial assistance to residential rental housing owners to fix property conditions that no longer meet Rental Inspection Code requirements. Local Option Sales and Services Tax (LOSST) revenue will be used for these rental property enhancements to make sure the City of Des Moines rental housing stock is brought up-to-code for improving the health and safety of tenants while reducing financial burden to rental housing owners.

2. Program Scope

The enhancements covered in this program are replacement of knockout panels pursuant to Des Moines Municipal Code section 60-170 and separate shared forced air heating sources pursuant to code section 60-185. The definition of a knockout panel is a previously approved, temporary, removable device in an approved exit opening that allows for an emergency second means of egress. A knockout panel must be removable without any special knowledge or tools. A knockout panel is typically a piece of plexiglass or thin plywood that is able to be destroyed or removed by hand to allow access to unlock a door into another unit and allow for occupants of one unit to use the secured tenant space in another unit as means of egress.

3. Eligibility Requirements

Property and Project Eligibility Requirements:

- Applications must be received by June 1, 2024.
- Property must have a valid rental license.
- Property cannot be on the public nuisance list or be the subject of an active court case with the City.
- Owner of rental housing must be current on property taxes, including special assessments, for the property and all other properties owned by the landlord in the City of Des Moines.
- Each application will be limited to one project for one site (parcel). Multiple buildings located on one site must be under common ownership, management, and financing and shall be assisted with LOSST funds as a single undertaking.
- The property owner is allowed to submit three applications for three projects at a time and shall not have more than three projects active at the same time. Property owner is defined in Chapter 60 of the City code as the holder of legal title or contract purchaser of record of the real estate parcel.
- Eligible costs include hard construction costs, third-party, labor charges for arms-length transactions by independent (unrelated) parties, architectural and engineering costs, or other relevant professional consultation. Any costs not expressly mentioned as eligible in this text will need prior approval and authorization, in writing, from program staff as an eligible cost for reimbursement.
- Ineligible costs of this program include, but are not limited to air conditioning units, tenant or occupant relocation costs, revenue loss, or administrative fees.
- Tenants or occupants must not be displaced as a result of this program. Property owners must provide a construction plan detailing the scope of repairs needed to fulfill code compliance. If repairs are expected to necessitate temporary unit vacancy, owners must submit a tenant relocation plan. A property owner will be required to repay assistance if they issue an illegal vacate notice to a tenant to make the relevant repairs.
- Permits must be pulled for all work as required, and permits must be made final before reimbursement from the City is issued.
- Rent must not exceed the Fair Market Rent set by the United States Housing and Urban Development as of the effective date of the agreement.

4. Funding

The Rental Housing Enhancement Program will reimburse and provide a forgivable loan to rental housing owners who have paid for eligible costs to replace knockout panels and/or to separate shared forced air heating systems. Projects will be funded through LOSST funds and will be reviewed and funded on a first-come, first-served basis upon receipt of a completed application. See more below in Section 8- Project Application Requirements and Review Criteria.

With this program, the City will make a forgivable loan for 75% of the cost actually paid by the property owner, up to a maximum of \$5,000 per unit with a \$30,000 per project maximum (\$1,000 minimum project expenditure required), to the owners who meet the requirements of the program. An appeal for increasing the maximum award may be made in writing to the Neighborhood Services Director as outlined in Section 9- Appeal and Grievance Process, and support for an increased award will be based on valid bids.

Funding will be provided in the form of a forgivable loan, secured with a promissory note (Exhibit "A"), mortgage (Exhibit "B"), and restrictive covenant (Exhibit "C") on the property. The loan will be forgiven on a yearly, pro-rated basis according to the following schedule:

- Loan amount \$10,000 or less: Compliance period 5 years
- Loan amount \$10,001-\$20,000: Compliance period 7 years
- Loan amount \$20,001-\$30,000: Compliance period 10 years
- Any loan amount greater than \$30,000 will need to go through the appeal and grievance process.

A property for which the maximum loan amount has been reimbursed by the City is not eligible for additional forgivable loans under this program, regardless of a change in ownership or use, until the end of the compliance period. All additional costs of the project above the stated program fund limitations shall come from other financial resources. All other necessary financial resources shall be the responsibility of the property owner.

Draw Request Process

City of Des Moines funds may be disbursed in a single payment as agreed to in the funding agreement. To receive a draw, a draw request form provided by City staff must be completed. City staff will review the request, inspect the work completed, verify any City permits and inspections are in place, and approve or deny the request before processing payment. Payments will be issued within thirty (30) business days of final City inspection approval.

5. Compliance

Rent Limitations

For properties assisted with LOSST funds under this program, the property owner or landlord will report annually during the Compliance Period the rent roll information to the City who will then review them to ensure they do not exceed Fair Market Rents. Initial rents and rents during the Compliance Period for units in which LOSST funds are used for this program shall not exceed Fair Market Rents set by the United States Department of Housing and Urban Development as of the effective date of the agreement. Rent limits on rental properties for which LOSST funds under this program cannot be raised without the approval of the City of Des Moines during the Compliance Period.

Fair Market Rent set by the United States Housing and Urban Development established pursuant to CFR Part 92.252(a)

	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
MARKET RENT	\$791	\$ 889	\$1,074	\$1,473	\$1,499	\$1,724	\$1,949

Property Transfer/Sale

If the owner of the rental project site sells or transfers the project property or otherwise violates the terms of the funding agreement during the compliance period, the entire amount of the forgivable loan shall be repaid. However, upon mutual agreement and consent between the City of Des Moines and the original-assisted rental housing owner, the assisted rental project may be sold or transferred, but only if the new purchaser agrees to continue with the terms of the developer agreement, mortgage, promissory note, and restrictive covenants throughout the remainder of the

Compliance Period. The initial titleholder is obligated to communicate the Rental Property Enhancement Program obligations to any potential buyers.

6. Developer Agreement, Mortgage, Promissory Note, and Restrictive Covenants

Prior to the allocation of funding and authorization of any reimbursement, each property receiving LOSST funds will be required to enter into a developer agreement, mortgage, promissory note, and restrictive covenant in the form of a recorded lien to ensure project compliance from the onset. This agreement will be subject to a "Compliance Period," which is the term, in years, in which the property owner must own the property and maintain affordable rent limits. The Compliance Period is calculated from the fund reimbursement date after completion of the work for a period of years determined by the amount of funding for the project, as outlined in Section 4-Funding.

The property owner must ensure that all project work associated with this program is completed on or before January 31, 2025. However, the Affordable Housing Programs Manager at the City will negotiate an agreement expiration date and deadline date with the property owner for completion of work after January 31, 2025, only upon the condition that the City and the property owner agree the project work cannot be completed on or before January 31, 2025 due to the complexity of the project and the estimated project timeline for the work to be completed. The deadline for work completion and expiration of the funding agreement will be consistent with any current compliance agreement between the City and the property owner as applicable. Work completed prior to application may be eligible for reimbursement and must have been completed no longer than one (1) year before the application date approval to be eligible for the program.

The LOSST funds forgivable loan may be recorded in junior position to a principal conventional loan (if there is one) but must be recorded in senior position to all other funding in the project that is less than the portion being funded by the City. Additionally, recipients must maintain their funding assistance security agreements in the above-stated recording position throughout the Compliance Period.

7. Project Application Process

Applications will be reviewed first for completeness and eligibility. If additional information is required, the applicant shall be provided with notice to submit additional information. Applicants may apply before they have a Construction Budget, Construction Schedule and Timeline, and Scope of Work. However, applications will not be reviewed for approval until all required documentation and information has been received by the City through the online application. Applications will be considered based on funding availability and alignment with program goals.

Proof of ownership should be provided in the application. The developer can show ownership of the project property with documentation from the County Recorder's office, such as a recorded warranty deed.

Applications must be received by the City of Des Moines Neighborhood Services Department before June 1, 2024, or before funds are fully exhausted, whichever occurs first. The City will require that all permits are issued and the construction budget, construction schedule and timeline, and the scope of work are submitted with the application before June 1, 2024. After work is completed in accordance with the deadline established in the funding agreement between the City and the property owner, additional documentation will be required including itemized invoice, proof of payment, plumbing permit number, and W-9 federal tax form. Applications must be thorough and complete. All items identified in the application checklist must be provided as applicable, and all signatures included. Incomplete applications will not be reviewed. Subject to availability of funds, applications for the Rental Property Enhancement Program will be accepted and reviewed through June 1, 2024.

The application form for the City of Des Moines Rental Property Enhancement Program will be available on the City of Des Moines website at www.dsm.city on or before October 1, 2023.

8. Project Application Requirements and Review Criteria.

Every application for project assistance shall include submission of the following information, along with any other information that City of Des Moines deems necessary to process and review the application. An application shall be considered received by City of Des Moines only if it is deemed to be complete.

After the work is completed, additional documentation will be required including itemized invoice, proof of payment, and W-9 federal tax form. City staff will process the rebate payment after receiving all necessary documentation. Access to your property may be required for City staff to review this application and inspect the completed project.

9. Appeal and Grievance Process

The City will provide an appeal and grievance opportunity to address developer issues with scope of work and the need for additional funding beyond the maximum amount allowed in the program. The property owner shall submit their appeal or grievance in writing to the City of Des Moines Neighborhood Services Director who will make the final decision in any appeals or grievances filed.

10. Code Sections References

Sec. 60-185. - Separation of shared forced air heating sources.

Shared forced air heating sources are unsafe and shall be eliminated so each dwelling unit has a separate heating source with the elimination of shared vents and ductwork by the second renewal inspection after June 1, 2022, and by no later than June 1, 2025.

Sec. 60-170. - Knockout panels.

All knockout panels in approved exit openings shall be a minimum of ten inches by ten inches in size, shall have only single strength glass, and shall be labeled directly on the panel "emergency exit - break glass," in contrasting colors at least one inch in height, and one-quarter inch stroke. Knockout panels shall be located not more than 42 inches from the floor to the top of the knockout panel and shall permit the lock or latch on the inside of the exit door to be operated quickly and easily. No more than one lock or latch shall be permitted on any approved exit door. No more than one intervening door containing a knockout panel shall be permitted in the exit way from any unit. No new installations or repair of existing knockout panels shall be permitted. All knockout panels are deemed to be a hazardous means of egress and shall be eliminated by the second license renewal inspection after June 1, 2021 and no later than June 1, 2025.

**AGREEMENT BETWEEN THE CITY OF DES MOINES AND [OWNER]
RENTAL HOUSING ENHANCEMENT PROGRAM**

Exhibits Attached

- A. Restrictive Covenant
- B. Mortgage
- C. Promissory Note
- D. Statement of Work
- E. Construction Budget
- F. Project Schedule and Timeline

Effective Date: [Agreement Effective Date]

The undersigned property owner(s) (“Owner”), participating in the City of Des Moines, Rental Property Enhancement Program (“Program”), in consideration of the receipt of [Agreement Amount] as a loan (the “Loan”) for the construction and enhancement upon the real property locally known as **[Property Address], Des Moines, Iowa** (“Project Area”) and legally described as:

[Legal Description], an Official Plat, now included in and forming a part of the City of Des Moines, Iowa.

legal or equitable title to which is held by the undersigned. This agreement shall be effective from the agreement effective date of [Agreement Effective Date] and will continue to run through the end of the Compliance Period which will be [Compliance Period in Years] Years from the Project Completion and Closeout Date.

This Agreement outlines the terms and conditions under which the City shall provide funding to OWNER to assist with the costs of the replacement of knockout panels pursuant to Des Moines Municipal Code section **60-170** and separation of shared forced air heating sources pursuant to code section **60-185** in residential rental properties located in the City of Des Moines.

In consideration of the mutual representations and obligations hereunder, the City and OWNER agree as follows:

Section 1. City Funding

1. The City funding to OWNER shall be in the form of a forgivable loan for [Agreement Amount] and shall be reimbursed by the City after the owner has met the requirements of this Agreement and Owner has demonstrated to City’s satisfaction that it is able to complete the scope of work set forth in Exhibit D hereto and by this reference incorporated herein before [Project Completion Deadline]. Prior to disbursement of Loan proceeds or for any other purpose relating to the completion of the Project, the City will have reasonable access and right of entry at any reasonable time of the day to inspect all or any portion of the Project. These inspections are for the benefit of the City as lender, to assure that the Loan proceeds are being expended in accordance with the Loan Application or development proposal used to underwrite the Project.
 - a. As a condition precedent to City’s obligation to provide any funding under this Agreement, Owner shall execute and deliver to City a Promissory Note in the form of Exhibit C attached hereto and by this reference incorporated herein.

- b. As a further condition precedent to City’s obligation to provide any funding under this Agreement, Owner shall execute and deliver to City a Mortgage in the form of Exhibit B attached hereto and by this reference incorporated herein.
- c. As a further condition precedent to City’s obligation to provide any funding under this Agreement, Owner shall execute and deliver to City the Restrictive Covenants set forth in Exhibit A attached hereto and by this reference incorporated herein.
- d. Owner agrees that City funding will be provided only on a reimbursement basis.
- e. Owner may submit a request for reimbursement to the City upon completion of at least sixty percent (60%) of the work outlined per unit in the approved scope of work, and then shall request reimbursement for the remainder after the project is 100% complete.
- f. The remaining funds may be requested upon completion of all of the work and final inspection by the City.
- g. Funding requests to the City shall be in writing using a format accepted by the City and shall include supporting documentation of work completed and costs incurred.
- h. If developer has completed all work set forth in Exhibit D to City’s satisfaction and is otherwise in compliance with all terms of this Agreement and its Exhibits, then the loan will be forgiven on a yearly, pro-rated basis according to the following schedule:
 - 1. Loan amount \$10,000 or less: Compliance Period 5 years. Loan will be forgiven on a pro-rated basis of 20% of the original principal balance per annum.
 - 2. Loan amount \$10,001-\$20,000: Compliance Period 7 years. Loan will be forgiven on a pro-rated basis of 14.29% of the original principal balance per annum.
 - 3. Loan amount \$20,001-\$30,000: Compliance Period 10 years. Loan will be forgiven on a pro-rated basis of 10% of the original principal balance per annum.
 - 4. Any loan amount greater than \$30,000 will need to go through the appeal and grievance process. Loan will be forgiven on a pro-rated basis such that the original principal balance of the loan will be divided by the number of years in the Compliance Period and the dollar amount so determined shall be forgiven each year.
- i. A property for which the maximum loan amount has been reimbursed by the City is not eligible for additional forgivable loans under this program, regardless of a change in ownership or use, until the end of the Compliance Period.

Section 2. Compliance Requirements and Duration of Agreement

- a. Rents for properties on which Local Option Sales and Services Tax(LOSST) funds were used under this program cannot be raised without the approval of the City of Des Moines during the Compliance Period.
- b. The City will review rents reported by the owner in their application to ensure they do not exceed Fair Market Rents as set by the United States Department of Housing and Urban Development.
- c. The rents for the rental units will not exceed the annual Fair Market Rents of the then-current calendar year as annually published by the United States Housing and Urban Development (HUD).
- d. Initial Fair Market Rents for the Des Moines/West Des Moines Metro Area as of June 15, 2023 are as follows:

HUD FAIR MARKET RENT	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
	\$791	\$ 889	\$1,074	\$1,473	\$1,499	\$1,724	\$1,949

- e. Rent increase requests from Borrower must be presented in writing to the City's Neighborhood Services Department, Federal Funds Division (FFD). FFD will provide written responses to rent increase requests within 30 days of receipt.
- f. The owner agrees to submit a Rent Roll each year following the project completion date during the Compliance Period to the designated contact at the City of Des Moines, Neighborhood Services Department, Federal Funds Division (FFD). The Rent Roll shall include the following information:
 - 1. Tenant Name;
 - 2. Number of adults and children in the household;
 - 3. Unit Rent Amount;
 - 4. Estimated monthly utility amount paid by the tenant.
- g. Failure on the part of the Landlord to submit an annual Rent Roll to the City, as required in this agreement, may result in termination of the agreement and repayment by the owner of the entire amount of the forgivable loan.
- h. Owner agrees to repay the entire amount of the forgivable loan when selling or transferring the project property or otherwise violating the terms of the funding agreement during the Compliance Period. However, upon mutual agreement and consent between the City of Des Moines and the originally assisted rental property owner, the assisted rental project may be sold or transferred, but only if the new purchaser agrees to continue with the terms of the developer agreement, mortgage, promissory note, and restrictive covenants throughout the remainder of the Compliance Period. The initial titleholder is obligated to communicate the Rental Housing Enhancement Program obligations to any potential buyers.
- i. Owner agrees that funding will be provided in the form of a forgivable loan, secured with a promissory note, mortgage, and restrictive covenant on the property as shown on Exhibits A, B, and C.

Exhibit A hereto represents the Restrictive Covenant

Exhibit B hereto represents the Mortgage

Exhibit C hereto represents Promissory Note

Section 3. Scope of Work

- a. Owner agrees to submit a Scope of Work to the City for each property. Exhibit D hereto represents the Scope of Work.
- b. Owner agrees to replace knockout panels pursuant to Des Moines Municipal Code ordinance 60-170 and separate shared forced air heating sources pursuant to code ordinance 60-185 in residential rental properties residential units in the City of Des Moines during the term of this Agreement. The rental property must be a multi-unit structure. Each unit within a multi-unit structure, such as a duplex, shall constitute a residential unit.

- c. Owner agrees that replacement of knockout panels and separation of shared forced air heating sources shall be completed by the end date of this Agreement and shall be completed in accordance with all federal, state, and local laws.
- d. Owner agrees to maintain the properties during the course of construction, including, but not limited to lawn care, snow removal, and maintenance.
- e. Owner agrees to maintain accurate records that include detailed costs associated with the construction costs of each residential unit. Costs can include any reasonable construction cost. Owner's staff time cannot be directly allocated to residential units' costs. Owner agrees to provide the City access to its records upon request. In addition, all cost records will accompany all requests to draw from City funds.
- f. Owner agrees to a final inspection by the City to determine standards are met.

Section 4. Construction Budget and Project Schedule and Timeline

- a. Owner agrees to submit a detailed Construction Budget to the City for each property.
 - 1. Exhibit E represents the Construction Budget, Submitted Construction Budget should consist of estimates based on received bids from contractors.
 - 2. Exhibit F represents the Project Schedule and Timeline

Section 5. Indemnification

Owner shall indemnify, defend, and hold harmless the City, its governing body, departments, officials, employees, and agents from and against all liability, claims, actions, damages, losses, and expenses arising out of in any way connected to any party's performance of its obligations under this Agreement.

Section 6. Amendments

This Agreement may be modified or amended only in writing by a duly-authorized representative and executed by both Owner and City. It may not be amended or modified by oral agreement or understanding between the parties unless the same shall be in writing, duly approved, and executed by both parties.

Section 7. Parties Bound

The covenants and conditions herein contained shall apply to and bind the legal representatives, successors, and assigns of all of the parties hereto.

Section 8. Notices

All notices or demands to be given, made, or sent, or which may be given, made, or sent by one party to the other pursuant to this Agreement shall be deemed to have been given, made, or sent when made in writing, and deposited in the U.S. mail, certified and postage prepaid, addressed as follows:

- a. To City: Jodi Gjersvik, City of Des Moines
Affordable Housing Programs Manager
602 Robert D Ray Drive, Des Moines, IA 50309
- b. To [OWNER]: [OWNER]
[Owner Address]

The address to which any notice, demand, or other writing may be given, made, or sent by any party as above provided may be changed by written notice given by such party as above provided.

Section 9. Termination

- a. Prior to disbursement of any funds pursuant to Section 1 of this Agreement, either party may terminate the agreement for any reason by providing thirty (30) days' written notice. However, termination does not preclude the parties from meeting obligations under the Agreement for work completed up to the date of termination.
- b. City may terminate this Agreement at any time in the event of any default by Owner of its obligations under this Agreement or any of its Exhibits. Upon termination pursuant to this section, City reserves its rights under this Agreement or any of its Exhibits to recover any expended funds or seek any other available remedy at law or in equity.

Section 10. Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Iowa.

Section 11. Severability

If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, or unenforceable, the rest of the Agreement will remain in full force and effect and will in no way be affected, impaired, or invalidated, unless such enforcement will frustrate the purpose of this Agreement.

Section 12. Force Majeure

In the event that either party hereto will be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, unavailability or excessive price of fuel, power failure, riots, insurrection, war, terrorist activities, chemical explosions, hazardous conditions, fire, weather or acts of God, or by reason of any other cause beyond the exclusive and reasonable control of the party delayed in performing work or doing acts required under the terms of this Agreement, then performance of such act will be excused for the period of the delay and the period for the performance of any such act will be extended for a period equivalent to the period of such delay.

Section 13. Paragraph Headings

The titles to the paragraphs of this Agreement are solely for the convenience of the parties and will not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.



Section 14. Entire Agreement

This agreement and its Exhibits constitute the entire agreement between the parties, and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding on either party except to the extent incorporated in this agreement.

IN WITNESS WHEREOF, the parties have executed these presents the day and year first above written.

City of Des Moines, Iowa

[OWNER]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Prepared by: Gary D. Goudebeck Jr, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309
(515) 283-4543

Return Address: Jodi Gjersvik, Neighborhood Services Dept., 602 Robert D. Ray Dr., Des Moines, IA 50309;
(515) 283-4778

Taxpayer: [Billing Contact]

Title of Document: Restrictive Covenant

Grantor's Name: [Owner]

Grantee's Name: City of Des Moines, Iowa

Legal Description: The real estate of [Property Address] in the City of Des Moines, Polk County, Iowa more specifically described as follows (hereinafter referred to as the "Property"): [Legal Description].

RESTRICTIVE COVENANT

The undersigned property owner(s) ("Owner"), participating in the City of Des Moines Rental Property Enhancement Program ("Program"), in consideration of the receipt of [Agreement Amount] as a loan (the "Loan") for the construction and enhancement upon the real property locally known as [Property Address], Des Moines, Iowa ("Project Area") and legally described as:

[Legal Description], an Official Plat, now included in and forming a part of the City of Des Moines, Iowa.

legal or equitable title to which is held by the undersigned, in consideration of the Loan provided by City to Grantor, both hereby agree and consent to the creation and imposition of specific restrictive covenants which are hereby declared to be covenants running with the land for the benefit of the City of Des Moines, Iowa ("City") as specifically set out herein:

1. **Affordability Period.**

- a. OWNER agrees that this Restrictive Covenant shall run continuously with the land beginning on the date of execution of this covenant and shall continue as an encumbrance on the Project Area for a period of [Affordability Period in Years] years following Project Completion and Closeout for [Situs Address] project area and provision of final rent and tenant information and all construction reports required herein to the City (herein "Affordability Period"). City shall notify OWNER in writing of the date commencing the [Affordability Period in Years] year Affordability Period.

2. The undersigned agrees to fully comply with the City of Des Moines Municipal code.
3. **Sale or Transfer of Property.** During the Affordability Period, the undersigned hereby covenants and agrees not to transfer title to or interest in, or otherwise dispose of the Project Area or any interest therein, or to materially change the occupancy of the Project Area, without obtaining the prior written consent of the City, which shall be conditioned solely upon receipt of evidence to the City that the purchaser or transferee has assumed in writing and in full the undersigned's duties and obligations under this Restrictive Covenant, and under the Agreement and related documents, and has the financial and administrative capabilities to carry out such obligations.
4. **Lien Release.** Following Grantor's completion of the Affordability Period and upon request of the Grantor, release of this Restrictive Covenant shall be in writing and filed of record with the Polk County Recorder.
5. **Correspondence.** Correspondence required by this Restrictive Covenant shall be provided by U.S. Mail as follows:
 - a. For the City, shall be directed to the Director of the Neighborhood Services Department, 602 Robert D. Ray Drive, Des Moines, Iowa 50309;
 - b. For the Grantor, shall be directed to [Owner]; [Owner Address]
6. **Failure to Comply.** Failure by Grantor to comply with the terms and obligations set forth in this Restrictive Covenant or with the Agreement and related documents for the entirety of the Affordability Period shall constitute default of this Covenant and of the Agreement. After City has given Grantor due notice of such non-compliance, and if Grantor should fail to cure such noncompliance within 30 days of such notice, or such longer period of time as agreed to in writing by City, then City shall be entitled to require Grantor to repay the entirety of the Loan within 30 calendar days of the City's request for such repayment, notwithstanding any term to the contrary in the Agreement, Note, Mortgage, or any other related document, and in addition to remedies set forth therein.
7. **Enforceability.** The terms and obligations set forth in this Restrictive Covenant are enforceable by the City by any and all legally available options, including but not limited to specific performance, injunctive relief, and assessment of costs. This Restrictive Covenant shall be governed by, construed, and enforced in accordance with the laws of the State of Iowa, and Grantor agrees to pay and discharge all reasonable costs and fees, including fees for services rendered by the City Legal Department, attorneys, officers, employees, or agents, or any expense that shall arise from any of the terms of this Restrictive Covenant.
8. **Precedence.** This Restrictive Covenant, and the terms and obligations of Grantor set forth herein, shall supersede and take precedence over any and all other liens, obligations, or agreements made by Grantor in relation to the Project Area, unless otherwise explicitly stated

therein or agreed to by written subordination agreement approved by resolution of the Des Moines City Council.

Borrower: [Owner]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the ___ day of _____, 2023.

By: _____
[Owner]

STATE OF IOWA)
) §:
COUNTY OF POLK)

On this ___ day of _____, 2023 before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared **[Owner]** to me personally known, who being by me duly sworn, did say that they are the owner of [Property Address]; that the instrument was signed on behalf of the organization by authority of its Board of Directors and that they acknowledged the execution of the instrument to be the voluntary act and deed of the organization, by it and by them voluntarily executed.

Notary Public in the State of Iowa



SPACE ABOVE THIS LINE FOR RECORDER

Prepared by: Jodi Gjersvik, Neighborhood Services Dept, 602 Robert D Ray Dr., Des Moines, IA 50309; (515) 283-4778

Return to: SAME

Mortgage

City of Des Moines Rental Property Enhancement Program

This Mortgage made on this _____ day of _____, 2023 between [Owner], (hereinafter called "Borrower" or "Mortgagor"), and the City of Des Moines, Iowa (hereinafter called "Lender" or "Mortgagee").

WITNESSETH, that to secure the payment of an indebtedness in the principal amount of [Agreement Amount] with interest thereon, which shall be payable in accordance with a certain note, bearing even date herewith and all other indebtedness which the Mortgagor is obliged to pay to the Mortgagee pursuant to the provisions of the Note and this Mortgage, the Mortgagor hereby grants, sells, conveys and mortgages to the Mortgagee, forever, the following described real estate situated in the County of Polk, State of Iowa, to wit:

Legally known as:

[Legal Description], an Official Plat, now included in and forming a part of the City of Des Moines, Iowa.

Locally known as:

[Property Address]

TOGETHER, with all appurtenances thereto and all the estate and rights of the Mortgagor in and to such property or in anywise appertaining thereto; all buildings and other structures now or hereafter thereon erected or installed, and all fixtures and articles of personal property now or hereafter affixed to, or used in, or in the operations of, any such land, buildings or structures which are necessary to the complete use and occupancy of such buildings or structures for the purpose for which they were or are to be erected or installed, including, but not limited to all heating, plumbing, bathroom, lighting, cooking, laundry, ventilating, refrigerating, incinerating, and air-conditioning equipment and fixtures and all replacements thereof and additions thereto; whether or not the same are or shall be attached to such land, buildings or structures in a manner.

TOGETHER, with any and all awards now or hereafter made for the taking of the property mortgaged hereby, or any part thereof (including any easement), by the exercise of the power of eminent domain, including any award for change of the grade of any street or other roadway, which awards are hereby

assigned to the Mortgagee and are deemed a part of the property mortgaged hereby, and the Mortgagee is hereby authorized to collect and receive the proceeds of such awards, to give proper receipts and acquittances therefor, and to apply the same toward the payment of the indebtedness secured by this Mortgage, notwithstanding the fact that the amount owing thereon may not then be due and payable; and the Mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning each such award to the Mortgagee, free, clear and discharged of any encumbrances of any kind or nature whatsoever; and nothing herein shall be considered an assignment of Mortgagor's right to contest a claim of eminent domain, which Mortgagor shall reserve all rights to; and

TOGETHER, with all right, title and interest of the Mortgagor in and to the land lying in the streets and roads in front of and adjoining the above-described land (all the above-described land, buildings, other structures, fixtures, articles of personal property, awards of taking by eminent domain, and other rights and interests as described herein being hereinafter collectively call the "mortgaged property").

TO HAVE AND TO HOLD the mortgaged property and every part thereof unto the Mortgagee, its successors and assigns forever for the purposes and uses herein set forth.

AND, the Mortgagor further covenants and agrees with the Mortgagee as follows;

1. **Obligations.** The Mortgagor will promptly pay the principal and interest on the indebtedness evidenced by the Note, and all other charges and indebtedness provided therein and in this Mortgage, at the times in the manner provided in the Note and in this Mortgage.
2. **Taxes and Assessments.** The Mortgagor will pay when due, as hereinafter provided, all ground rents, if any, and all taxes and assessments, water rates and other governmental charges, fines and impositions, of every kind and nature whatsoever, now or hereafter imposed on the mortgaged property, or any part thereof, and will pay when due, every amount of indebtedness secured by any lien to which the lien of this Mortgage is expressly subject.
3. **Improvements; Remedies.** This Mortgage and the Note were executed and delivered to secure moneys advanced in full or in part to the Mortgagor by the Mortgagee as or on account of a loan evidenced by the Note, for the purpose of making the improvements described or referred to in the Agreement entered into by the Mortgagor and the Mortgagee in connection herewith to or on the Mortgaged property, and for such other purpose, if any, described or referred to therein, which improvements are hereafter collectively called "Improvements." The Mortgagor shall make or cause to be made all the Improvements. If the construction or installation of the Improvements shall not be carried out with reasonable diligence, or shall be discontinued at any time for any reason, other than strikes, lockouts, acts of God, fires, floods or other similar catastrophes, riots, war or insurrection, the Mortgagee after due notice to the Mortgagor is hereby authorized:
 - a. to enter upon the mortgaged property and employ any watchmen to protect the Improvements from depredation or injury and to preserve and protect such property,

- b. to carry out any or all then existing contracts between the Mortgagor and other parties for the purpose of making any of the Improvements,
 - c. to make and enter into additional contracts and incur obligations for the purposes of completing the Improvements pursuant to the obligations of the Mortgagor hereunder, either in the name of the Mortgagee or the Mortgagor,
 - d. to pay and discharge all debts, obligations and liabilities incurred by reason of any action taken by the Mortgagee, as provided in this Paragraph, all of which amounts so paid by the Mortgagee, with interest thereon from the date of each payment at the rate of amounts so paid by the Mortgagee, with interest thereon from the date of each payment at the rate set forth in the Promissory Note signed concurrently herewith and included herein by this reference shall be payable by the Mortgagor on demand and shall be secured by this Mortgage.
4. **Alterations in Project Area.** No building or other structure or improvement, fixture or personal property mortgaged on the Project Area hereby shall be removed or intentionally demolished by Mortgagor without the prior written consent of the Mortgagee unless the same is replaced with like property, subject to the lien and security interest of this Mortgage, of at least equal value and utility. The Mortgagor will not make, permit or suffer any substantial alteration of or installed upon the mortgaged property, or any part thereof, except the Improvements required to be made pursuant to Paragraph 3 hereof, nor will the Mortgagor use, or permit or suffer the use of, any of the mortgaged property for any purpose other than the purpose or purposes for which the same is now intended to be used, without the prior written consent of the Mortgagee. The Mortgagor will maintain the mortgaged property in good condition and state of repair and will not suffer or permit any waste to any part thereon and will promptly comply with all the requirements of Federal, state and local governments, or of any departments, divisions or bureaus thereof, pertaining to such property or any part thereof.
5. **Liens.** The Mortgagor will not voluntarily create, or permit or suffer to be created or to exist on or against the mortgaged property, or any part thereof, any lien superior to the lien of this mortgage, except if subordinated by the City, and will keep and maintain the same free from the claims of all parties supplying labor or materials which will enter into the construction or installation of the improvements.
6. **Insurance.**
 - a. The Mortgagor will keep all buildings, other structures, and improvements, including equipment, now existing or which may hereafter be erected or installed on the land mortgaged hereby, insured against loss by fire and other hazards, casualties and contingencies, in such amounts and manner, and for such periods, as deemed commercially reasonable. Unless otherwise required by the Mortgagee, all such insurance shall be effected by Standard Fire and Extended Coverage insurance policies,

in amounts not less than necessary to comply with the coinsurance clause percentage of the value applicable to the location and character of the property to be covered. All such insurance shall be carried in companies approved by the Mortgagee and all policies therefore shall be in such form and shall have attached thereto loss payable clauses in favor of the mortgagee and any other parties as shall be satisfactory to the Mortgagee.

A certificate of insurance for all required insurance policies herein shall be delivered promptly to the Mortgagee upon execution of this Mortgage, unless they are required to be delivered to the holder of a lien or mortgage or similar instrument to which this Mortgage is expressly subject, in which latter event certificates thereof, satisfactory to the Mortgagee, shall be delivered promptly to the Mortgagee.

The Mortgagor will pay promptly when due, as hereinafter provided, any and all premiums on such insurance, and in every case in which payment thereof is not made from the deposits therefor required by this Mortgage, promptly submit to the Mortgagee for examination, receipts or other evidence of such payment as shall be satisfactory to the Mortgagee.

- b. In the event of loss or damage to the property the Mortgagor will give to the Mortgagee immediate notice thereof by mail, and the Mortgagee may make and file proof of loss if not made otherwise promptly by or on behalf of the Mortgagor. Each insurance company issuing any such policy is hereby authorized and directed to make payment hereunder for such loss directly to the Mortgagee, instead of to the Mortgagor and the Mortgagee jointly payable, unless the amount of loss is payable first to the holder of a lien under a mortgage or similar instrument to which this Mortgage is expressly subject; and the insurance proceeds or any part thereof received by the Mortgagee may be applied by the Mortgagee, at its option, either in reduction of the indebtedness of foreclosure of the Mortgage, or of the transfer of title to the mortgaged property in every such insurance policy then in force, subject to the rights in interest of the holder of any such prior lien, shall pass to the grantee acquiring title to the mortgaged property together with such policy and appropriate assignment of such right, title and interest which shall be made by the Mortgagor.

7. Payment and Application of Payments.

- a. In order to more fully protect the security of this Mortgage, the Mortgagor provide annually to the Mortgagee until the Note is paid in full, proof of payment of the following:
 - i. ground rents, if any, next becoming due,
 - ii. the premiums next becoming due on the policies of fire and all other hazard insurance required by this Mortgage with respect to the mortgaged property,
 - iii. taxes, assessments, water rates and other governmental charges next becoming due on the mortgaged property (all the foregoing amounts as estimated by the



Mortgagee as set forth in a written notice of such estimate by the Mortgagee to the Mortgagor from time to time),

- b. Following written notice from Mortgagee to Mortgagor, the Mortgagee may require that the Mortgagor deposit with the Mortgagee, together with and in addition to the payment of principal and interest in accordance with the Note secured hereby, until the Note is paid in full or forgiven as applicable, an amount of money equal to the total amount referred to in clauses (i) through (iii) above less all amounts that may already have been paid therefor, divided by the number of calendar months to elapse before one calendar month prior to the date when such ground rents, premiums, taxes, assessments, water rights and other governmental charges, respectively, will become due and payable. If any amount referred to in clauses (i) through (iii) hereof is required to be deposited by the Mortgagor under a mortgage or similar instrument having priority over the lien of this Mortgage, the Mortgagor shall make the deposits required by this Paragraph 7 only in the event of the termination of such obligation under the prior mortgage or similar instrument. The Mortgagor shall give prompt notice in writing to the Mortgagee of the occurrence of the last-mentioned event. All such amounts so deposited with the Mortgagee shall be held by the Mortgagee, or any agent designated by it, in trust to be used only for the payment of such ground rents, premiums, taxes, assessments, water rates and other governmental charges. No interest shall be payable by the Mortgagee on any sum so deposited.
- c. All amounts required to be deposited with the Mortgagee or Senior Security monthly in accordance with Paragraph 7(b) hereof, and the amount of principal and interest to be paid each month on account of the Note, shall be added together, and the aggregate amount thereof shall be paid by the Mortgagor to the Mortgagee in a single payment to be applied by the Mortgagee on account of the indebtedness of the mortgagor pursuant to the Note and this Mortgage (to the extent that monies are available from the amount so deposited), in the order, any provision of the Note to the contrary notwithstanding, as follows:

- | | |
|--------|--|
| FIRST | to the amount of such ground rents, if any, taxes, assessments, water rights and other governmental charges required to be paid under the provisions of this Mortgage, in whatever sequence the Mortgagee may exclusively determine; |
| SECOND | to the interest due on the Note; |
| THIRD | to the principal due on the note; and |
| FOURTH | the remainder, to the late charges, if any, referred to in the Note. |

Any deficiency in the amount of any such aggregate monthly payment shall, unless paid by the Mortgagor prior to the due date of the next such deposit payable, constitute an event of default under this Mortgage.

- d. Any excess funds that may be accumulated by reason of the deposits required under Paragraph 7(a) hereof, remaining after payment of the amounts described in clauses (i), (ii), and (iii) thereof, shall be credited to subsequent respective monthly amounts of the same nature required to be paid thereunder. If any such amount shall exceed the estimate therefor, the Mortgagor shall forthwith pay to the Mortgagee the amount of such deficiency upon written notice by the Mortgagee of the amount thereof. Failure to do so before the due date of such amount shall be an event of default under this Mortgage. If the mortgaged property is sold under foreclosure or is otherwise acquired by the Mortgagee, after default by the Mortgagor, any remaining balance of accumulations under Paragraph 7(a) hereof, shall be credited to the principal amount owing on the Note as of the date of commencement of foreclosure proceedings for the mortgaged property, or as of the date the mortgaged property is otherwise so acquired.
8. **Compliance with Laws.** The improvements and all plans and specifications therefor shall comply with all applicable municipal ordinances, regulations, and rules made or promulgated by lawful authority, and upon their completion shall comply therewith.
9. **Protection of Mortgagee's Security.** Upon any failure by the Mortgagor to comply with or perform any of the terms, covenants or conditions of this Mortgage requiring the payment of any amount of money by the Mortgagor, other than the principal amount of the loan evidenced by the Note, interest and other charges, as provided in the Note, the Mortgagee may at its option make such payment. Every payment so made by the Mortgagee (including reasonable attorney's fees incurred thereby), with interest thereon from the date of such payment, at a rate not to exceed fifteen percent (15%) per annum, except any payment for which a different rate of interest is specified herein, shall be payable by the Mortgagor to the Mortgagee within thirty days and shall be secured by this Mortgage. This Mortgage with respect to any such amount and the interest thereon, shall constitute a lien on the mortgaged property prior to any other lien attaching or accruing subsequent to the lien of this Mortgage.
10. **Inspections.** The Mortgagee, by any of its agents or representatives, shall have the right to inspect the mortgaged property from time to time at any reasonable hour of the day. Should the mortgaged property, or any part thereof, at any time require inspection, repair, care or attention of any kind or nature not provided by this Mortgage as determined by the Mortgagee in its reasonable discretion, the Mortgagee may, after reasonable notice to the Mortgagor, enter or cause entry to be made upon, the mortgaged property, and inspect, repair, protect, care for or maintain such property, as the Mortgagee may in its sole discretion deem necessary, and may pay all amounts of money therefor, as the Mortgagee may in its sole discretion deem necessary.
11. **Acceleration of Payment.** The principal amount owing on the Note together with interest thereon and all other charges, as therein provided, and all other amounts of money owing by the Mortgagor to the Mortgagee pursuant to and secured or intended to be secured by this Mortgage, will immediately become due and payable without notice or demand upon the appointment of a court-appointed receiver or liquidator, whether voluntary or involuntary, for

the mortgagor or any of the property of the Mortgagor, or upon the filing of a petition by or against the Mortgagor under the provisions of any State insolvency law, or under the provisions of the Bankruptcy Act of 1898, as amended, or upon the making by the Mortgagor of an assignment for the benefit of the Mortgagor's creditors. The Mortgagee is authorized to declare, at its option, all or any part of such indebtedness immediately due and payable upon the happening of any of the following events:

- a. Failure to pay the amount of any installment of principal and interest, or other charges payable on the Note, which shall have become due, prior to the due date of the next such installment;
- b. Nonperformance by the Mortgagor of any covenant, agreement, term or condition of this Mortgage, or of the Note (except as otherwise provided in subdivision (a) hereof), or the Agreement or Restrictive Covenant related thereto, after the Mortgagor has been given thirty-day due notice and opportunity to cure by the Mortgagee of such nonperformance;
- c. After applicable notice and cure period, failure of the mortgagor to perform any covenant, agreement, term or condition in any instrument creating a lien upon the mortgaged property, including but not limited to the Agreement or Restrictive Covenant, or any part thereof, which shall have priority over the lien of this Mortgage;
- d. The Mortgagee's discovery of the Mortgagor's failure in any application of the Mortgagor to the Mortgagee to disclose any fact reasonably deemed by the Mortgagee to be material, or of the making therein or in any of the agreements entered into by the Mortgagor with the Mortgagee (including, but not limited to, the Note and this Mortgage) of any misrepresentation by, on behalf of, or for the benefit of, the Mortgagor;
- e. The sale, lease, or other transfer of any kind of nature of the mortgaged property (except mortgaged interest or easements), or any part thereof, without the prior written consent of the Mortgagee;

The Mortgagee's failure to exercise any of its rights hereunder shall not constitute a waiver thereof. All the events in this Paragraph enumerated upon the happening of any of which the Note shall become, or may be declared to be, immediately due and payable, are in this Mortgage called "events of default".

12. **Cure of Default.** The Mortgagee may from time to time cure an event of default under any covenant or agreement in any instrument creating a lien upon the mortgaged property, or any part thereof, including but not limited to the Agreement and Restrictive Covenant, which shall have priority over the lien of this Mortgage, to such extent as the Mortgagee may exclusively determine, and each amount paid (if any) by the Mortgagee to cure any such default shall be

paid by the Mortgagor to the Mortgagee; and the Mortgagee may also become subrogated to whatever rights the holder of the prior lien might have under such instrument.

13. **Event of Default.**

- a. After the happening of an event of default hereunder, the Mortgagor shall, upon demand of the Mortgagee, surrender possession of the mortgaged property to the Mortgagee, and the Mortgagee may enter such property, and let the same and collect all the rents therefrom which are due or become due, and apply the same, after payment of all charges and expenses, on account of the indebtedness hereby secured, and all such rents and all leases existing at the time of such default are hereby assigned to the Mortgagee as further security for the payment of the indebtedness secured hereby; and the Mortgagee may also dispossess, by the usual summary proceedings, any tenant defaulting in the payment of any rent to the Mortgagee.
- b. In the event that the Mortgagor occupies the mortgaged property, or any part thereof, the Mortgagor agrees to surrender possession of such property to the Mortgagee immediately after any such default hereunder, and if the Mortgagor remains in possession after such default, such possession shall be as a tenant of the Mortgagee, and the Mortgagor shall pay in advance, upon demand by the Mortgagee, as a reasonable monthly rental for the premises occupied by the Mortgagor, an amount at least equivalent to one-twelfth (1/12) of the aggregate of the twelve monthly installments payable in the current calendar year, plus the actual amount of the annual ground rent, if any, taxes, assessments, water rates, other governmental charges and insurance premiums payable in connection with the mortgaged property during such year, and upon the failure of the Mortgagor to pay such monthly rental, the Mortgagor may also be dispossessed by the usual summary proceedings applicable to tenants. This covenant shall become effective immediately upon the happening of any such default, as determined in the sole discretion of the Mortgagee, who shall give notice of such determination to the Mortgagor; and in the case of foreclosure and the appointment of a receiver of the rents, the within covenant shall inure to the benefit of such receiver.

14. **Receivership.** The Mortgagee in any action to foreclose this Mortgage shall be entitled to the appointment of a receiver with notice as a matter of right without regard to the value of the mortgaged property, or the solvency or insolvency of the Mortgagor or other party liable for the payment of the Note and other indebtedness secured by this Mortgage.

15. **Redemption.** In addition to all other remedies afforded to Mortgagee by this Mortgage and under Iowa law, at Mortgagee's option in the event of default that remains uncured by Mortgagor, Mortgagee may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654, Code of Iowa (2022) or any successor statute thereto. Thereafter this Mortgage may be foreclosed in equity and the court may 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 receiver may

deem best for the interest of all parties concerned, and such receiver shall be liable to account to Mortgagor only for the net profits, after application of rents, issues and profits from the costs and expenses of the receivership and foreclosure and upon the Note and Mortgage obligation.

It is agreed that if this Mortgage covers less than ten (10) 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 (6) months provided the Mortgagee, in such action files an election to waive any deficiency judgment against the Mortgagors which may arise out of the foreclosure proceedings; all to be consistent with the provision of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after the sale such right of redemption shall be exclusive to the Debtor, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to 60 days if all of the three following contingencies develop: (1) the real estate is less than 10 acres in size; (2) the court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and (3) Mortgagee in such action files an election to waive any deficiency judgment against Mortgagors or their successor in interest in such action. If the redemption period is so reduced, Mortgagors or their 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 by creditors as provided in Section 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 Mortgagors shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code. In case of a foreclosure sale of the mortgaged property, it may be sold in one parcel.

16. **Statement of Indebtedness.** The Mortgagor, within 10 days upon request in person or within 20 days upon request by mail, will furnish promptly a written statement in form satisfactory to the Mortgagee, signed by the Mortgagor and duly acknowledged, of the amount then owing on the Note and other indebtedness secured by this Mortgage, and whether any offsets or defenses exist against such indebtedness or any part thereof.
17. **Notice of Damage or Destruction.** The Mortgagor will give prompt notice by registered or certified mail to the Mortgagee of any fire, damage or other casualty materially affecting the mortgaged property, or of any conveyance, transfer of change in ownership of such property, or any part thereof.
18. **Notices.** Notice and demand or request may be made in writing and may be served in person or by mail, as follows:



- a. For the City: Neighborhood Services Director, Neighborhood Services Department, 602 Robert D. Ray Drive, Des Moines, IA 50309
 - b. For the Borrower: [Owner], [Owner Address]
19. **Assignment of Rents.** The Mortgagor will not assign the rents, if any, in whole or in part, from the mortgaged property, or any part thereof, without the prior written consent of the Mortgagee.
20. **Authority.** The Mortgagor is lawfully seized of the mortgaged property and has good right, full power and lawful authority to sell and convey the same in the manner above provided and will warrant and defend the same to the Mortgagee forever against the lawful claims and demands of any and all parties whatsoever.
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. **Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned 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.
23. **Successors and Assigns.** This Mortgage and all the covenants, agreements, terms and conditions herein contained shall be binding upon and inure to the benefit of the Mortgagor and the heirs, legal representatives and assigns of the Mortgagor, and, to the extent permitted by law, every subsequent owner of the mortgaged property; and shall be binding upon and inure to the benefit of the Mortgagee and its assigns. If the Mortgagor, as defined herein, consists of two or more parties, the Mortgage shall constitute a grant and mortgage by all of them jointly and severally, and they shall be obligated jointly and severally under all the provisions hereof and under the Note. The word "Mortgagee" shall include any person, corporation or other party who may from time to time be the holder of this Mortgage. Whenever used herein the singular number shall include the plural, the plural number shall include the singular, and the use of any gender shall be applicable to all genders wherever the sense requires.
24. **Acknowledgement of Receipt of Copies of Debt Instrument.** Mortgagor hereby acknowledges the receipt of a copy of the Mortgage together with a copy of the Note secured hereby.



Borrower: [Owner]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the ___ day of _____, 2023.

By: _____
[Owner]

STATE OF IOWA)
) §:
COUNTY OF POLK)

On this ___ day of _____, 2023 before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared **[Owner]** to me personally known, who being by me duly sworn, did say that they are the owner of [Property Address]; that the instrument was signed on behalf of the organization by authority of its Board of Directors and that they acknowledged the execution of the instrument to be the voluntary act and deed of the organization, by it and by them voluntarily executed.

Notary Public in the State of Iowa

My Commission Expires: _____



Promissory Note
City of Des Moines Rental Property Enhancement Program

Borrower/Promisor: [Owner], "Borrower"
Property Addresses: [Property Address]
"Property"
Loan Amount: [Agreement Amount]
Legal Descriptions: [Legal Description]

Borrower Promise to Pay. For value received, the undersigned Borrower(s) jointly and severally promise(s) to pay to the order of the City of Des Moines, Iowa (hereafter referred to as the City), or its successors and assigns (herein collectively called the "Lender"), the maximum principal sum of [Agreement Amount] ("Loan"), or such lesser amount as may be endorsed on this Note on behalf of Lender.

Loan Forgiveness. The Borrower shall use the Loan amount in compliance with the RENTAL PROPERTY ENHANCEMENT Agreement (hereafter referred to as Agreement) by and between City and Borrower relating to the above-listed property. If Borrower complies with the Agreement by and between City and Borrower, as determined by City, then the loan will be forgiven on a yearly, pro-rated basis according to the following schedule:

- Loan amount \$10,000 or less: Compliance period 5 years
 - Loan amount \$10,001-\$20,000: Compliance period 7 years
 - Loan amount \$20,001-\$30,000: Compliance period 10 years
 - Any loan amount greater than \$30,000 will need to go through the appeal and grievance process.
1. **Non-Compliance.** If the Borrower fails to comply with the Agreement, as determined by City and expiration of the 30-day cure period, said non-compliance shall constitute a default of the terms of this Note and then and in that event the entire Loan amount due on this Note shall immediately be due and payable to Lender and no portion of the Loan amount shall be discharged or forgiven.
 2. **Sale or Transfer.** The Loan, or any remaining balance thereof, shall be due in full upon any voluntary sale of the Property or improvements thereon without the prior written consent of the Lender. If the Loan is not timely paid when due upon such sale, it shall thereafter draw interest at the rate of 10% per annum, but not to exceed the maximum interest rate permitted by law. If the City consents to the sale or transfer of the Property or the improvements thereon, the Loan and all of the obligations related thereto shall be assumed by the Borrower's successor or assign.
 3. **Satisfaction of Repayment.** Unless there is a finding of ineligible use of funding or a requirement of reimbursement of funding, the Lender shall look solely to the Property for the satisfaction of the repayment obligations under this Note.

4. **Borrower's Right to Prepay.** Borrower may prepay at any time all or any part of the principal amount due on this Note without the payment of penalties or premiums, provided that Borrower is not in default under this Note and the payment is identifiable as a prepayment of principal. In the event of prepayment, Lender will notify Borrower of the new date and amount of final payment due under this Note.

5. **Borrower's Failure to Pay as Required.** If the Borrower shall default in the payment of any installment due under this Note, and such default is not made good prior to the due date of the next installment, the entire unpaid principal amount of this Note, together with accrued interest and late charges shall become immediately due and payable, at the option of the Lender, with two-day notice to the Borrower(s). Failure of the Lender to exercise such option shall not constitute a waiver of such default. No default shall exist by reason of nonpayment of any required installment of principal and interest, so long as the amount of optional prepayments already made pursuant hereto equals or exceeds the amount of the required installments. If Lender exercises its option to declare the entire amount of Borrower's loan immediately due and payable as provided above, Borrower hereby agrees to pay Lender's costs and expenses of collection, including reasonable attorney's fees and court costs. If this Note is reduced to judgment, the judgment shall bear interest at the maximum rate permissible on such judgment in the State of Iowa, or if there is no such maximum, at the rate of 15% per annum.

If any annual installment of interest or any part of such installment, remains unpaid for a period of 30 days from its due date, the Borrower hereby agrees to pay to Lender a Late Charge of 4% of the unpaid amount of such installment.

6. **Security.** This Note is secured by a Mortgage, duly filed for record in the office of the County Recorder/Register of Deeds of Polk County, Iowa.

7. **Waivers.** All parties to this Note hereby waive presentment for payment, demand, protest, notice of protest and notice of dishonor. The Borrower hereby waives, to the extent permitted by law, any and all homestead and other exemption rights which otherwise would apply to the debt evidenced by this Note.



Borrower: [Owner]

IN WITNESS WHEREOF, the parties have executed this Note as of the ___ day of _____, 2023.

By: _____
[Owner]

STATE OF IOWA)
) §:
COUNTY OF POLK)

On this ___ day of _____, 2023 before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared **[Owner]** to me personally known, who being by me duly sworn, did say that they are the owner of [Property Address]; that the instrument was signed on behalf of the organization by authority of its Board of Directors and that they acknowledged the execution of the instrument to be the voluntary act and deed of the organization, by it and by them voluntarily executed.

Notary Public