INTER-LOCAL HOME AGREEMENT

BETWEEN THE CITY OF OMAHA, NEBRASKA

AND

THE CITY OF COUNCIL BLUFFS, IOWA

DISTRIBUTION OF HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM FUNDING UNDER THE HOME CONSORTIUM AGREEMENT BETWEEN THE CITY OF OMAHA AND THE CITY OF COUNCIL BLUFFS FOR FISCAL YEARS 2024 TO 2027

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HOME PROGRAM FUND DISTRIBUTION AGREEMENT
Distribution of funds to Council Bluffs, Iowa

THIS AGREEMENT is entered into by and between the City of Omaha, Nebraska ("Lead Entity") a municipal corporation, and the City of Council Bluffs, Iowa, ("Subrecipient"), a municipal corporation.

RECITALS

WHEREAS, the Lead Entity is a municipal corporation located in Douglas County, Nebraska, and is organized and existing under the laws of the State of Nebraska, and is authorized and empowered to exercise all powers conferred by the State constitution, laws, HOME Rule Charter of the City of Omaha, 1956, as amended, and local ordinances, including but not limited to the power to contract; and

WHEREAS, the Subrecipient is a municipal corporation located in Pottawattamie County, Iowa, and is organized and existing under the laws of the State of Iowa, and is authorized and empowered to exercise all powers conferred by the Iowa State constitution, laws, and local ordinances including, but noFt limited to the power to contract; and

WHEREAS, on July 19, 2012 by Resolution No. 0812, the Omaha City Council approved the Home Investment Partnerships Program Consortium Cooperation Agreement (Cooperation Agreement) between the City of Omaha, the Lead Entity, and the City of Council Bluffs, the Subrecipient, to receive a HOME Fund allocation from the U.S. Department of Housing and Urban Development and administer the HOME Program as a single grantee; and

WHEREAS, Section 4.2.3 of the Cooperation Agreement authorizes the Lead Entity to provide the Subrecipient with the portion of HOME funds equal to its share of the consortium for Fiscal Years 2017 to 2024, based upon the Department of Housing and Urban Development's allocation formula found at 24 CFR 92.50, less 10% to be retained by the Lead Entity for administrative costs pursuant to 24 CFR § 92.207; and

WHEREAS, the Lead Entity annually applied for and received HOME Investment Partnerships Program (HOME) funds under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, for the purpose of providing affordable housing opportunities for low-income households; and

WHEREAS, the Omaha Council Bluffs FY 2023 Consolidated Submission for Community Planning and Development Programs ("Consolidated Plan"), which was approved by the City of Omaha City Council on March 28, 2023 by Resolution No. 0319, and was also approved by HUD, included plans to allocate a total of $799,999 in HOME funds to the Subrecipient per the terms of the Cooperation Agreement; and

WHEREAS, the Subrecipient has plans to construct an affordable housing project, as described in this Agreement; and

WHEREAS, it is in the best interest of the City of Omaha and the residents thereof that the Lead Entity enter into the Agreement with the Subrecipient to provide funding to the Subrecipient per the terms of the Cooperation Agreement, and in accordance with the Consolidated Plan.

NOW THEREFORE, IN CONSIDERATION OF THESE MUTUAL COVENANTS, the parties hereby agree as follows:

SECTION 1. DEFINITIONS AND ABBREVIATIONS

The following terms shall have the following meanings for all purposes in this Agreement:

1.1 "Affordability period" shall mean the time period required by 24 CFR Part 92, which shall range from five (5) to twenty (20) years, in which Subrecipient and its Developers shall meet all applicable affordability requirements, including but not limited to rent amount, occupancy requirements, and property standards, as these requirements are outlined in 24 CFR Part 92.

1.2 "Client" shall mean a qualified participant making application to the Developer/Property Owner to occupy a HOME assisted unit.

1.3 "Construction Completion" shall mean the date the Project has been certified by the Lead Entity as complying with all appropriate state, federal and local laws, ordinances, regulations and codes, including but not limited to, Universal Physical Condition Standards (UPCS) as established by HUD and accessibility requirements.

1.4 "Developer" shall mean a qualified for-profit or non-profit organization(s) that the Subrecipient approves to undertake eligible HOME projects.

1.5 "Director" shall mean the Planning Director of the City of Omaha.

1.6 "HOME Funds" shall mean that portion of the HOME Investment Partnerships Program Funds awarded to the Lead Entity during FY 2024 to 2027 and available to be disbursed to the Subrecipient under the Cooperation Agreement, not to exceed seven hundred ninety-nine thousand and nine hundred ninety-nine dollars ($799,999.00) subject to the terms, conditions, and requirements of this Agreement

1.7 "Lead-Based Paint" shall mean paint containing more than six one-hundredths of on per centum of lead by weight.

1.8 "Lead Entity" shall mean the City of Omaha, Nebraska.

1.9 "Project" or "Property" shall mean the HOME funded project as described in in Exhibits B and C to this Agreement.

1.10 "Project Closeout" shall mean the dates all project HOME funds have been disbursed and the Subrecipient and Lead Entity have completed HUD close out procedures (24 CFR 92.507 and 2 CFR Part 200(D), 200.343.)

1.11 "Project Completion" shall have the same meaning as found at 24 CFR § 92.2. It shall generally mean construction work has been completed, the project complies with the requirements of 24 CFR Part 92, the final drawdown of HOME funds has been disbursed, and the project completion information has been entered into the disbursement and information system. For tenant-based, rental projects, Project Completion occurs upon completion of construction but before occupancy.

1.12 "Program Income" shall have the same meaning as found at 24 CFR § 92.2. It shall mean the gross income received by the Subrecipient directly generated from the use of HOME Funds (24 C.F.R. 92.503). When such income is generated by an activity that is only partially assisted with HOME Funds, the income shall be prorated to reflect the percentage of HOME Funds used.

1.13 "Subrecipient" shall mean the City of Council Bluffs, Iowa.

SECTION 2. GENERAL TERMS

2.1 Term: This Agreement shall be in full force and effect starting on the date it is executed by both parties and shall end the first day following the end of the 20-year Affordability Period.

2.2 Disbursement Amount: The Lead Entity shall make available to the Subrecipient seven hundred ninety-nine thousand and nine hundred ninety-nine dollars ($799,999.00) in HOME Funds for the purposes set forth in this Agreement, and as detailed in Exhibit B and Exhibit C as attached to this Agreement, and incorporated herein by reference.

2.2.1 Availability of Funds. Funding pursuant to this Section shall be contingent upon receipt of and subject to the availability of HOME funds in amounts adequate to meet the obligation under this agreement. Should adequate funding not be available, the Lead Entity will notify the Subrecipient as soon as reasonably possible.

2.2.2 Disbursement; When Authorized. Pursuant to 24 CFR §92.504(c)(viii), the Subrecipient may not request disbursement of funds until the funds are needed for payment of eligible costs

2.2.3 Funding Conditions. Disbursement of HOME funds under this agreement shall be conditioned on the Subrecipient providing the following documents to the Lead Entity:

2.2.3.1 Property Insurance. Subrecipient shall require Developers/property owners to procure and maintain, at a minimum, fire and extended coverage insurance in an amount sufficient to protect the Subrecipient's interest in the property during the term of the Agreement, and financing security documents (2 CFR § 310 200.447.) The insurance policy shall include the Subrecipient and the Lead Entity as additional insureds. Written evidence of such insurance shall be submitted to the Subrecipient for approval. In the event of damage to the property, any insurance proceeds are to be applied, at the discretion of the City of Council Bluffs Community Development Director, to the reconstruction of the property or repayment, in full, of the funding.

2.2.3.2 Contracts. The Subrecipient shall require all Developers/Contractors to submit executed contracts for construction work to the Subrecipient, and shall provide the executed contracts to the Director prior to the start of construction.

2.2.3.3 Performance and Labor Material Payment Bond and/or Irrevocable Letter of Credit. Subrecipient's Developer shall acquire and maintain performance bond and/or letter of credit in force for one year following the completion of the Construction Work from the Developer/General Contractor and all subcontractors in an aggregate amount of the contract bid for the Properties. The Bonds and/or Letters of Credit shall be in favor of the Subrecipient and shall be submitted to the Subrecipient's City of Council Bluffs Community Development Department Director for review and approval. The Community Development Department Director reserves the right to reject the Letters of Credit and Choice of Surety of the Bonds. Upon written request by the Developer, the City of Council Bluffs Community Development Department Director may waive this requirement.

2.2.3.4 Contractors' Insurance and Workers' Compensation. Subrecipient's Developers, and its Developers' contractors and subcontractors, shall be required to submit Certificates of Insurance in favor of the Lead Entity and Subrecipient for review and approval by the Director, not to be unreasonably withheld. The insurance coverage shall include pollutant liability for lead reduction work, if applicable, Workers' Compensation, and, at a minimum, the following amount of coverage:

Contractor's Personal Liability	$1,000,000.00
Combined Bodily Injury and Property Damage ($1,000,000.00 each occurrence)	$2,000,000.00
Product, Including Completed Operations	$1,000,000.00

2.2.3.5 Plans Submission. Subrecipient shall require Developer to submit all plans, working drawings and/or specifications necessary or incidental to this Project to Subrecipient for review and approval. All plans, working drawings and/or specification shall be provided to the Lead Entity by the Subrecipient.

2.2.3.6 Minority/Women-Owned Business Outreach. In accordance with 24 CFR § 92.351(b), Subrecipient shall require Developer shall to submit to Subrecipient for its review and approval, not to be unreasonably withheld, a minority and women business participation plan, which discusses economic development and employment opportunities. These plans shall ensure that the Developer(s) and its/their contractors will make their best efforts to ensure that construction services, contracts and employment opportunities are affirmatively marketed to women and members of minority groups.

2.2.3.7 Eligible Contractors. Subrecipient shall obtain a certificate from each contractor or subcontractor, including any Developer, to be used on this Project to the effect that each contractor or subcontractor has not been disbarred or disqualified by 2 CFR, Part 200.213. Each contractor and subcontractor shall register with sam.gov prior to being placed on the job as evidenced by a copy of the registration screen print out. Subrecipient shall approve all contractors and subcontractors prior to being hired by the Developer.

2.2.3.8 Funding Compliance Deadline. In the event that all conditions of funding are not met on or before December 31, 2029, then this Agreement shall automatically become null and void and the City shall not be deemed to have assumed any obligation or liability hereunder. Upon the sole discretion of the Director, this date may be extended.

2.2.3.9 Employment Insurance and Bonding. The Subrecipient shall require the Developer to purchase a blanket fidelity bond covering all employees, at a minimum, in an amount equal to cash advances from the Lead Entity. The Developer shall comply with bonding and insurance requirements of 2 CFR, Part 200.310, 200.447, 200-325.

2.2.3.10 Underwriting Requirements. Subrecipient shall provide:

1. A capital needs assessment and budget if project has over 26 units;
2. Sources and uses statement,
3. Operating pro-forma,
4. Listing and qualifications of project staff and project team
5. A market analysis,
6. Proof of environmental completion
7. Fiscal soundness of the developer (must include most recent audit of financial statement
8. Experience and capacity of the developer
9. Tenant selection plan
10. Affirmative marketing policy
11. Fair Housing compliance plan
12. Development budget
13. Evidence of all funding sources being fully committed

2.3 Program Income. Any Program Income received during the term of this Agreement shall be remitted to the Lead Entity by the Subrecipient. In the event Program Income is not remitted to the Lead Entity, additional distributions of HOME Funds under this Agreement shall be withheld by the Lead Entity. It is anticipated that the following types of Program Income will be generated by the Project: none. The Subrecipient acknowledges that all Program Income must be spent before the consortium can draw down additional funds from the U.S. Department of Housing and Urban Development.

2.4 Reversion of Assets. Upon expiration of the Agreement, any HOME funds or accounts receivable that can be attributed to the use of HOME funds will revert to the Lead Entity. Should the Subrecipient stop participating in the consortium, or fail to perform in compliance with program requirements, assets are subject to reversion to the Lead Entity.

2.5 Termination. The Lead Entity will monitor the Subrecipient's performance under the terms of this Agreement and compliance with federal regulations through the reporting requirements imposed upon the Subrecipient through this Agreement, the reporting requirements imposed by federal regulation, and through periodic inspections of the Subrecipient. In the event the Subrecipient materially breaches any terms of this Agreement, or materially fails to comply with federal regulations, this Agreement may be terminated for cause by the Lead Entity or by the federal Government.

2.5.1 Termination for Cause. In the Subrecipient defaults in its responsibilities under this Agreement, fails to perform any condition of this Agreement, or otherwise violates this Agreement, the Lead Entity may terminate this Agreement for cause. Prior to termination, the Lead Entity shall provide written notice of its intent to terminate the agreement to the Subrecipient. The written notice shall detail in what specific respects the Subrecipient's performance has been deficient or the agreement ha otherwise been breached. The Subrecipient shall have thirty (30) days to cure any

violation. If, after the 30-day cure period, the violations cited in the written notice of intent to terminate remain uncured, the City may terminate the Agreement by sending a final notice of termination to the Subrecipient. Such notice shall be effective, and the Agreement will be terminated, as of the date of the notice. Upon termination, all HOME funds previously disbursed shall be returned to the Lead Entity.

2.5.2 Termination of the Federal Award. This Agreement will be terminated in the event the federal award is terminated in accordance with 2 CFR §200.340.

SECTION 3. DUTIES AND RESPONSIBILITIES OF THE SUBRECIPIENT.

3.1 Eligible Use of Funds. Subrecipient shall use the HOME Funds provided pursuant to this Agreement to pay for Eligible Costs associated with the provision of affordable housing opportunities for low income housing through the construction of the Project, as depicted in Exhibit B and Exhibit C to this Agreement. Costs considered to be Eligible Costs are detailed in 24 CFR §92.206.

3.1.1 Disbursement, When Authorized. Pursuant to 24 CFR §92.504(c)(viii), Subrecipient shall not request disbursement of funds under this Agreement until the funds are needed for payment of eligible costs associated with the Project.

3.1.2 Nonluxury Items Only. In accordance with 24 CFR § 92.205, HOME funds may only be used for nonluxury housing. Items the Director determines to be luxury items shall not be considered an eligible cost for which disbursement of funds is authorized.

3.2 Affordability Requirements. In the event the Affordability Requirements outlined in 24 CFR § 92.252 or § 92.254, as applicable, are not met, funds will be subject to recapture pursuant to 24 CFR § 92.254(a)(5)(ii).

3.2.1 Adequate Supervision. Subrecipient agrees to adequately supervise its Developer's its Developer's contractors or subcontractors, and its Developers Clients to ensure all affordability requirements, including but not limited to all occupancy and use requirements, are met, and to ensure HOME funds are not subject to recapture.

3.2.2 Recapture Assistance. In the event any HOME funds disbursed under this agreement become subject to recapture, Subrecipient agrees to cooperate and assist the Lead Entity in the recapturing of funds.

3.3 Property Standard & Subrecipient Inspection Requirements.

3.3.1 Subrecipient Inspections Required. In accordance with 24 CFR § 92.504(d)(1), the Subrecipient shall perform on-site inspections of HOME-assisted properties to

determine compliance with the property standards and Affordability Requirements of 24 CFR §92.251 and § 92.252. The standards and requirements required by §92.251 and §92.252 include, but are not limited to the following: 1) state, federal and local laws, ordinances, regulations and codes, including but not limited to, Universal Physical Condition Standards (UPCS) as established by HUD, Housing Quality Standards for Existing Homes (HQS) as established by HUD, 2) the Subrecipient's Local Property Standards, 3) the current International Building Code for Council Bluffs, and 4) accessibility requirements as applicable, in accordance with Section 504 of the Rehabilitation Act, the American with Disabilities Act and the Fair Housing Act.

3.3.2 Lead Entity Inspections Authorized. The Lead Entity may perform periodic inspections at any reasonable time to ensure compliance with this Agreement. The Lead Entity shall perform a final inspection to certify Project Completion prior to final disbursement of HOME Program proceeds (24 CFR 5.705).

3.4 Environmental Review. Subrecipient shall assume responsibility for environmental review, decision making, and action for each activity it carries out with HOME funds, in accordance with the requirements imposed on a recipient under 24 CFR Part 58. If an environmental review is required by 24 CFR Part 58, no funds may be committed to a HOME-assisted project before the completion of the environmental review, except as authorized by 24 CFR, Part 58. The Subrecipient shall ensure no rehabilitation or construction pertaining to the Project begins until the Subrecipient certifies that all provisions of the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in HUD's implementing regulations at 24 CFR Parts 50 and 58 have been met regarding the Project.

3.5 Relocation Assistance. Subrecipient shall ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, non-profit organizations, and farms) as a result of a project assisted with HOME funds. A displaced person must be provided with relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (URA) (42 U.S.C. 4201-4655 and 49 CFR Part 24.)

3.6 Davis-Bacon Wage Determination and HUD 4010 Labor Standards. In accordance with Section 286 of the National Affordable Housing Act of 1990, and 24 CFR § 92.354, with respect to HOME funds, Davis-Bacon wage requirements apply when a construction contract covers the construction of 12 or more housing units whose construction are assisted by HOME funds. To the extent a construction contract is directly funded or assisted by the HOME funds made available under this agreement, and that contract covers the construction of 12 or more HOME-assisted units, Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Acts amended (40 U.S.C. 76a-a-7), the provisions of Contract Work Hours, the Safety Standards

Act, the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276 (c)) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall provide all necessary information and documents including, but not limited to, a project location, description and site plans. In the event Davis Bacon wage rates are triggered on any individual property in the Project, Subrecipient and its Developer shall comply with and ensure that all bid documents, contracts, and subcontracts contain the HUD 4010 Federal Labor Standards provisions (attached herein as Exhibit "E") and applicable Department of Labor Wage Determination. In addition, Subrecipient shall certify that no Developer or its subcontractors are ineligible for federally assisted work. Once a Project is identified as subject to Davis-Bacon, all funds involved in the Project shall be governed by Davis-Bacon Labor Standards. The wage determination may be modified to keep it current. All actions modifying a general wage determination apply unless notice of such action is published less than 10 days before the contract award for the HOME assisted property in the Project. The wage determination is required to be updated in the event construction has not commenced within ninety (90) days for the date of the contract award to its Developers. For the purposes of this award this project is exempt from Davis Bacon.

3.7 Affirmative Marketing Policy. The Subrecipient agrees to comply with the Lead Entity's Affirmative Marketing Policy, attached hereto as Exhibit D, and incorporated herein by reference as if wholly set forth, which has been established in accordance with 24 CFR § 92.351. All Affirmative Marketing procedures must be employed in the advertising and marketing of this Project for the Affordability Period. In Marketing, the Subrecipient shall ensure all Developers and or Project owners conform to the nondiscrimination provision.

3.8 Uniform Administrative Requirements. The Subrecipient is subject to, and must comply with, the uniform administrative requirements governing Federal funds. These include the requirements of OMB Circular No. A-87 and the following provisions of 24 CFR Part 85: §85.6, §85.12, §85.22, §85.22, §85.26, §§85.32-85.34, §85.44, §85.51, and §85.52.

3.9 Lien Waivers. Subrecipient shall require Developer to obtain the appropriate lien waivers prior to each construction payment.

3.10 Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 C.F.R. 92.356 with respect to conflicts of interest, and covenants that it presently has financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer or elected official or appointed official of the City or any designated public agencies or subrecipients which are receiving funds under the HOME program.

3.11 Written Agreements with Housing Partners. In order to ensure compliance with HOME requirements, if the Subrecipient provides HOME funds to non-profit developers or owners, for-profit developers or owners, homeowners, homebuyers, tenants receiving rental assistance, or contractors, the Subrecipient must enter into a written agreement with the party HOME funds are provided to.

3.12 Reports. The Subrecipient shall submit to the City the following reports, as applicable, in accordance with the submission timelines as specified.

3.12.1 Occupancy Report. For each HOME-assisted unit, the Subrecipient shall provide to the Director an initial tenant survey, asset/income computation form and notarized City of Omaha Definition of Income Form, copy of the executed lease, utility allowance table effective on the date of the lease, citizenship attestation form for public benefit, race and ethnicity of household members, and source documentation of all income and asset sources (minimum two month pay stubs, consecutive bank statements, subsidy letters, fixed income statements, etc.) Attached as Exhibit "E", and incorporated herein by this reference as though fully set forth, are copies of the requisite forms. These forms are due at the time of initial lease execution and annually thereafter for each tenant household occupying a HOME-assisted unit during the Affordability Period. All documentation can be no more than six (6) months old. The Subrecipient annually must also submit evidence of affirmative marketing efforts undertaken during each calendar year in the Affordability Period. Annual reports required by this Agreement shall be due March 15 and shall include all information for up to and including the end of the previous calendar year. The City will determine the reporting format throughout the Affordability Period.

For each household or individual occupying a HOME-assisted unit in the Property, the Subrecipient shall retain the following records for five (5) years after the required Affordability Period as specified in Section 1.14 of this Agreement. In the event the Term of the Agreement would be extended, the timeframe for record retention would be extended correspondingly.

The following information shall be included in the reports:

- name(s) of tenant(s)
- address of property, unit number
- household income as a percent of Median Family Income (MFI) as determined by HUD (Exhibit "C"), income verification forms used in determining MFI including the City's Computing Annual Income Form (Exhibit "K")
- household size
- gender of head of household member

- name and age of each household member
- race and ethnicity of each household member
- disability status of any household member
- copy of annual lease agreement and utility allowance table used
- evidence of affirmative marketing efforts
- citizenship attestation
- source documentation for all income and asset sources

3.13 Lead-Based Paint Prohibition: In accordance with 42 U.S.C. § 4821 et seq., 24 CFR § 4821, and 24 CFR Part 35, the use of Lead-Based Paint during the performance of this Agreement is prohibited. The Subrecipient shall take steps to ensure that the Developer, contractor, or subcontractor comply with all federal regulation prohibiting the use of Lead-Based Paint, and comply with all applicable federal requirements regarding Lead-Based Paint poison prevention.

3.14 Regulatory Compliance. Subrecipient acknowledges that it is familiar with and will comply with the HOME Investment Partnership Program Final Rule, 24 CFR Part 92, dated December 5, 2024, and any future amendment to the Rule, in the performance of this Agreement.

3.15 Record Retention. The Subrecipient, its Developer(s) and their subcontractors shall maintain such records and accounts, including property, personnel and financial records, as are deemed necessary by the Lead Entity to assure a proper accounting for all expenses. The Comptroller General of the United States, or any of their duly authorized representatives, or any duly authorized representatives of the Lead Entity, as approved by the Director, shall have access to any books, documents, papers, records and accounts of the Subrecipient, its Developer(s) and their subcontractors which are directly pertinent to this Project for the purpose of making audit, examination, excerpts and transcriptions. Such records and accounts shall be retained for five (5) years after expiration of the Affordability Period. 2 CFR §§ 200.333 – 200.337).

3.16 Record Inspection. Pursuant to 24 CFR §92.508, all Subrecipient/Developer records with respect to any matters covered in this Agreement shall be made available to the Lead Entity, its designees, or the federal government, at any time during normal business hours, upon prior written notice, as often as the Lead Entity deems reasonably necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any contract entered into by the Subrecipient, its Developer(s), or with any contractor or subcontractors shall include this Section to ensure said access.

3.17 Release of Information Laws. The Subrecipient specifically hereby states, agrees and certifies that it is familiar with the limited purpose set forth in the Federal Laws, Rules and Regulations, and in the laws of the State of Nebraska, for which personal information

requested may be used and that the information received will be used solely for those limited purposes and not to harass, degrade or humiliate any person. The information released shall be used for the limited purposes stated, and the Subrecipient further agrees to indemnify and hold harmless the City of Omaha for any liability arising out of the improper use by the Subrecipient of information provided.

SECTION 4. MISCELLANEOUS

4.1 Applicable Laws. Parties to this Agreement shall conform with all existing and applicable City ordinances, resolutions, state laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this Agreement.

4.2 Interest of the Lead Entity. Pursuant to Section 8.05 of the Home Rule Charter, no elected official or any officer or employee of the City shall have a financial interest, direct or indirect, in any City agreement. Any violation of this section with the knowledge of the person or corporation contracting with the City shall render the Agreement voidable by the Mayor or Council.

4.3 Independent Contractor. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an independent entity from the City. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance.

4.4 Captions. Captions used in this Agreement are for convenience and are not used in the construction of this Agreement.

4.5 Merger. This Agreement shall not be merged into any other oral or written agreement, lease or deed of any type.

4.6 Modification. This Agreement and any related documents securing the financing contain the entire agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee, or other representative of either party is empowered to alter any of the terms herein unless done in writing and signed by an authorized officer of the respective parties, pursuant to Section 10-142 of the Omaha Municipal Code.

4.7 Assignment. Neither the Subrecipient nor the City may assign its rights or obligations under this Agreement.

4.8 Strict Compliance. All provisions of this Agreement and each and every document that shall be attached shall be strictly complied with as written, and no substitution or change shall be made except upon written direction from authorized representatives of the parties.

4.9 Reversion of Assets. Upon the expiration of this Agreement, the Subrecipient shall transfer to the City of Omaha any HOME funds on hand at the time of expiration.

4.10 Indemnification. The Subrecipient shall indemnify and hold the City harmless from and against: (1) any and all claims arising from contracts between the Subrecipient and third parties made to effectuate the purposes of this Agreement; and, (2) any and all claims, liabilities or damages arising from the preparation or presentation of any of the work covered by this Agreement.

4.11 Unenforceable Provisions. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be in effect to the extent of such prohibition or enforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

4.12 Drug Free Workplace. All parties to this Agreement are subject to the requirements of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR Part 24.

4.13 Notice/Authorized Representatives. For the purposes of notice, including legal service of process, during the term of this Agreement, and for the period of any applicable statute of limitations thereafter, the following named individuals shall be authorized representatives of the parties:

(1) City of Omaha
Director, Planning Department
Omaha/Douglas Civic Center
1819 Farnam Street
Omaha, NE 68183

(2) City of Council Bluffs
Director, Community Development Department
Office of Community Development
209 Pearl Street
Council Bluffs, IA 51503

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below:

ATTEST:

_____
CITY CLERK, CITY OF OMAHA

CITY OF OMAHA:

_____
MAYOR, CITY OF OMAHA

ATTEST:

_____
CITY CLERK, CITY OF COUNCIL BLUFFS

CITY OF COUNCIL BLUFFS:

_____
MAYOR, CITY OF COUNCIL BLUFFS

APPROVED AS TO FORM:

_____
ASSISTANT CITY ATTORNEY

LIST OF EXHIBITS

Exhibit A – Consortium Agreement between City of Omaha, Nebraska and Council Bluffs, Iowa
Exhibit B – Description of the Project
Exhibit C – Budget
Exhibit D – Affirmative Marketing Policy

Exhibit A

Consortium Agreement between City of Omaha, Nebraska and Council Bluffs, Iowa

Exhibit B

Description of the Project

Exhibit C

Budget

Exhibit D

Affirmative Marketing Policy