

ASSIGNMENT OF LEASES AND RENTS

Document prepared by, and
after recording, please return to:

City of _____

_____, Iowa _____

(____) ____ - ____

GRANTOR AND TAXPAYER: _____

GRANTEE: _____

LEGAL DESCRIPTION: _____

CDBG-UPPER STORY Contract Owner: _____

CDBG-UPPER STORY Contract Number: _____

Address: _____

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment"), dated as of _____, _____, is made by _____, an Iowa _____ (Developer/"Assignor"), whose address is _____, in favor of _____, (Jurisdiction) an Iowa municipality, whose address is _____ (the "Assignee"), as the holder of the Promissory Note effective _____, as amended, in the aggregate principal amount of \$_____ maturing 3 (Three) years from the receipt of the Certificate of Occupancy (CO) or a letter from the City or Architect that the building has been completed according to State of Iowa building codes and is considered livable, if a CO is not issued (the "Note"), in connection with the loan to the Assignor pursuant to a Community Development Block Grant Upper Story Rental Housing Conversion Program Development Agreement (the "Contract") effective as of _____, as amended, between the Assignor and the Assignee, and which loan is evidenced by the aforesaid Note.

This Assignment is executed with reference to the following facts:

A. To secure payment of the Note, Assignor has executed and delivered that certain Mortgage recorded simultaneously herewith, to Assignee, as lender, which Mortgage encumbers Assignor's interest in real property located in _____ County, Iowa, more particularly described in Exhibit A, made a part hereof (the "Property"). Capitalized terms used herein and not otherwise defined shall have the same meanings as set forth in the Contract and Mortgage referred to above.

B. Assignor desires to absolutely, irrevocably and unconditionally assign to Assignee, all of Assignor's right, title and interest, if any, in and to all present and future leases, subleases, underlettings, concession agreements, management agreements, licenses and other agreements relating to the use or occupancy of the Property or any part thereof, now existing or subsequently entered into by Assignor and whether written or oral and all guarantees of any of the foregoing (collectively, as any of the foregoing may be amended, restated, extended, renewed or modified from time to time, the "Leases").

For value received, the receipt and legal sufficiency of which is hereby acknowledged, Assignor hereby agrees as follows:

1. Assignment of Rents.

1.1 Rents. Assignor hereby presently, absolutely and unconditionally grants, transfers and assigns to Assignee all right, title and interest of Assignor in and to any and all rents, subrents, issues and royalties of and from the Property ("Rents"). It is the intention of Assignor to establish a present, absolute and irrevocable transfer and assignment to Assignee of all Rents and to authorize and empower Assignee to collect and receive all Rents without the necessity of

further action on the part of the Assignor. Promptly upon request by Assignee, Assignor agrees to execute and deliver such further assignments as Assignee may from time to time require. Assignor and Assignee intend this assignment of Rents to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of rents, and for no other purpose, Rents shall not be deemed to be a part of the Property. However, if this present, absolute and unconditional assignment of Rents is not enforceable by its terms under the laws of the State of Iowa, then the Rents shall be included as part of the Property and Mortgaged Property and it is the intention of the Assignor that in this circumstance this Assignment create and perfect a lien on Rents in favor of Assignee, which lien shall be effective as of the date of this Assignment. Until the occurrence of an Event of Default, Assignee hereby grants Assignor a revocable license to collect and receive all such Rents which become payable prior to an Event of Default, to hold all Rents in trust for the benefit of Assignee and to apply all Rents, subject, however, to the terms of the Loan Agreement and Mortgage. Upon the occurrence of an Event of Default and upon Assignee's election to collect the rents, subrents, issues, royalties, income and profits as hereinafter provided, Assignor's license to collect Rents shall automatically terminate and the right to collect and use any of such proceeds shall cease, and Assignee shall have the right, with or without taking possession of the Property, and either in person, by agent, or through a court-appointed receiver (Assignor hereby consents to the appointment of Assignee or Assignee's designee as such receiver), to sue for or otherwise collect all such rents, subrents, issues, royalties, income, and profits, including those past due and unpaid. Any sums so collected, after the deduction of all reasonable costs and expenses of operation and collection, including attorney fees (regardless of the particular nature thereof and whether incurred with or without suit or before or after judgment), shall be applied toward the payment of any and all amounts due under the Note, the Contract and the Mortgage (collectively, the "Obligations"). Such right of collection and use of such proceeds by Assignee shall exist both before and after the exercise of the power of sale provisions of the Mortgage, foreclosure of the Mortgage and throughout any period of redemption. The rights granted under this Section 1.1 shall in no way be dependent upon and shall apply without regard to whether all or a portion of the Property is in danger of being lost, removed, or materially injured, or whether the Property or any other security is adequate to discharge the Obligations. Assignee's failure or discontinuance at any time to collect any of such proceeds shall not in any manner affect the right, power, and authority of Assignee thereafter to collect the same. Neither any provision contained herein, nor Assignee's exercise of Assignee's right to collect such proceeds, shall be, or be construed to be, an affirmation by Assignee of any tenancy, lease, sublease, option, or other interest in the Property, or an assumption of liability under, or subordination of the lien or charge of the Mortgage to, any tenancy, lease, sublease, option, or other interest in the Property. At any time on or after the date of Assignee's demand for Rents in accordance with this Section 1.1, Assignee may give, and Assignor hereby

irrevocably authorizes Assignee to give, notice to all tenants of the Property instructing them to pay all Rents to Assignee. No tenant shall be obligated to inquire further as to the occurrence or continuance of an Event of Default and no tenant shall be obligated to pay to Assignor any amounts which are actually paid to Assignee in response to such a notice. Any such notice by Assignee shall be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Assignor shall not interfere with and shall cooperate with Assignee's collection of such Rents. All tenants, lessees, sublessees and other persons which have any obligation to make any payment to Assignor in connection with the Property or any portion thereof are hereby authorized and directed to pay the rents, subrents, issues, royalties, income, and profits payable by them with respect to the Property, or any part thereof, directly to Assignee on the demand of Assignee, in accordance with this Section 1.1. Assignee's receipt of such rents, subrents, issues, royalties, income, and profits shall be a good and sufficient discharge of the obligation of the tenant, lessee, sublessee, or other person concerned to make the payment connected with the amount so received by Assignee. When all of the Obligations have been fully satisfied and such satisfaction is evidenced by a recorded release of the Mortgage, this assignment shall no longer be of effect and shall be void.

1.2 Entry on Property. If Assignee enters the Property, Assignee shall be liable to account only to Assignor and only for those Rents actually received. Assignee shall not be liable to Assignor, anyone claiming under or through Assignor or anyone having an interest in the Property, by reason of any act or omission of Assignee under this Assignment, and Assignor hereby releases and discharges Assignee from any such liability to the fullest extent permitted by law, except for any act or omission constituting fraud, gross negligence or willful misconduct by Assignee. If the Rents are not sufficient to meet the costs of taking control of and managing the Property and collecting the Rents, any funds extended by Assignee for such purposes shall become an additional part of the Obligations. The entering upon and taking possession of the Property or any portion of the Property or the collection of rents, subrents, issues, royalties, income, profits, or the application or release thereof as aforesaid, shall not cure or waive any Event of Default or notice of default under the Loan Documents, shall not invalidate any act done pursuant to such notice of default, and shall not operate to postpone or suspend the obligation to make, or have the effect of altering the size of any scheduled installments provided for in any of the Obligations.

2. Assignment of Leases.

2.1 Leases. Assignor hereby presently, absolutely and unconditionally grants, transfers and assigns to Assignee all right, title and interest of Assignor in and to the Leases including Assignor's right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease. It is the intention of Assignor to establish a present, absolute and irrevocable transfer and

assignment to Assignee of all of Assignor's right, title and interest in, to and under the Leases. Assignor and Assignee intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases shall not be deemed to be a part of the Property. However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the State of Iowa, then the Leases shall be included as part of the Property and Mortgaged Property and it is the intention of Assignor that in this circumstance this Assignment create and perfect a lien on the Leases in favor of Assignee, which lien shall be effective as of the date of this Assignment. Until Assignee gives notice to Assignor of Assignee's exercise of its rights under this Section, Assignor shall have all rights, power and authority granted to Assignor under any Lease (except as otherwise limited by this Section or any other provision of this Assignment), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an Event of Default, and during the continuation thereof, the permission given to Assignor pursuant to the preceding sentence to exercise all rights, power and authority under the Leases shall automatically terminate. Assignor shall comply with and observe Assignor's obligations under all Leases, including Assignor's obligations pertaining to the maintenance and disposition of tenant security deposits.

2.2 Not Mortgagee in Possession. Assignor acknowledges and agrees that the exercise by Assignee, either directly or by a receiver, of any of the rights conferred under this Assignment shall not be construed to make Assignee a mortgagee-in-possession of the Property so long as Assignee has not itself entered into actual possession of the Land and the improvements located thereon. The acceptance by Assignee of the assignment of the Leases or Rents pursuant to this Assignment shall not at any time or in any event obligate Assignee to take any action under this Assignment or to expend any money or to incur any expenses. Assignee shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Property. Prior to Assignee's actual entry into and taking possession of the Property, Assignee shall not (i) be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease); (ii) be obligated to appear in or defend any action or proceeding relating to any Lease or the Property; or (iii) be responsible for the operation, control, care, management or repair of the Property or any portion of the Property. The execution of this Assignment by Assignor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Property is and shall be that of Assignor, prior to such actual entry and taking of possession.

2.3 Exercise of Rights. Upon delivery of notice by Assignee to Assignor of Assignee's exercise of Assignee's rights under this Assignment at

any time after the occurrence of an Event of Default (and during the continuation thereof), and without the necessity of Assignee entering upon and taking and maintaining control of the Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the State of Iowa, Assignee immediately shall have all rights, powers and authority granted to Assignor under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.

2.4 Delivery of Leases. Assignor shall, promptly upon Assignee's request, deliver to Assignee an executed copy of each Lease then in effect.

2.5 No Advance Payments of Rent. Assignor shall not receive or accept Rent under any Lease for more than two months in advance.

2.6 No Non-Residential Leases. Assignee shall not lease any portion of the Property for non-residential use.

3. Reimbursement. Assignor shall pay immediately and without demand all sums reasonably expended by Assignee pursuant to the provisions hereof, and all attorneys' fees incurred in connection with the enforcement of the terms hereof and/or the collection of the obligations secured hereby. All such amounts shall constitute obligations secured by the Mortgage and this Assignment.

4. Representations, Warranties and Covenants. As a material inducement to the execution and acceptance of this Assignment, Assignor represents, warrants and covenants to Assignee that:

4.1 No Prior Assignment. Assignor has not executed any prior assignment of the Leases or of its right, title and interest therein or in the rents to accrue thereunder.

4.2 No Limitations on Assignee. Assignor has not performed nor will perform any act or executed, nor will execute, any instrument which might prevent Assignee from operating under any of the terms and conditions hereof, or which would limit Assignee in such operation.

4.3 No Advance Rent Payments. Assignor has not accepted any payment of advance rent under any of the Leases presently in effect for any period subsequent to the next period for which rent shall become due and payable.

4.4 Assignor is Absolute Owner of the Leases. Assignor is the absolute owner of the Leases and the rents thereof, having full right and authority to assign the Leases and the rents due or to become due hereunder.

5. Events of Default. As used herein, the term “Event of Default” shall mean any “Event of Default” under the Note, the Mortgage or the Contract. Upon the occurrence and during the continuance of an Event of Default beyond any applicable cure period, Assignor’s license shall automatically terminate and Assignee shall receive and collect any and all income, rents, issues, profits and proceeds pursuant to the Leases hereby assigned to Assignee, including any which may be past due and unpaid, and Assignee may at any time and without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the obligations secured hereby, enter upon, take possession of, manage and operate the Property or any part thereof, together with any other real or personal property located thereon, make, enforce, cancel, terminate, modify and accept the surrender of Leases, or any of them, obtain or evict tenants, fix or modify rents, and do any acts which Assignee deems proper. In taking possession of the Property, Assignee shall be entitled to exercise all of the rights, remedies and powers of an owner thereof, may conduct the business of Assignor in its own name or in the name of Assignor, may use any and all of the properties and facilities of Assignor, and may deal with the creditors, debtors, tenants, agents, employees and other persons and/or companies having any relationship whatsoever with Assignor and the Property, and alter or amend any contracts between them, in any manner Assignee in its sole discretion may determine. All rights, remedies and powers given to Assignee herein may be exercised by Assignee either in person, by agent or by a receiver to be appointed by a court, and such exercise shall not cure or waive any default or notice of default hereunder or under the Mortgage or invalidate any act done pursuant to any such notice.

6. No Assumption of Leases. Neither this Assignment nor any action or inaction on the part of Assignee shall constitute an assumption on the part of Assignee of any obligation or liability under any of the Leases. No action or inaction on the part of Assignor shall affect or limit in any way the rights of Assignee under this Assignment or, through this Assignment, under any of the Leases.

7. Remedies Cumulative. Each right, power and remedy of Assignee provided for in this Assignment or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Assignment or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Assignee of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by Assignee of all such other rights, powers or remedies. No failure or delay on the part of Assignee to exercise any such right, power or remedy shall operate as a waiver thereof.

8. Indemnification of Assignee. Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under the Leases, or any of them, or under or by reason of this Assignment. Assignor shall indemnify Assignee against and defend and hold Assignee harmless from any and all liability, loss or damage which Assignee may or might incur as Assignee under this Assignment under the Leases, or any of them, or under or by

reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on Assignee's part to perform or discharge any of the terms, covenants or agreements contained in the Leases, except such claims. If Assignee incurs any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in defense against any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the rate provided in the Note, shall be secured by the Mortgage, and by this Assignment, and Assignor shall reimburse Assignee therefor immediately upon demand.

9. Continued Leasing of the Property. Until the payment of all indebtedness secured hereby, Assignor covenants and agrees, subject to the terms of the Contract and the Agreement for Covenants and Restrictions to exercise reasonable efforts to keep leased at good and sufficient rental all the Property and the improvements located thereon. Notwithstanding the foregoing, Assignor shall not enter into or execute any Lease of all or any portion of the Property, except in accordance with the terms and provisions of the Mortgage, this Assignment, the Contract and the Agreement for Covenants and Restrictions.

10. Termination of Assignment. Upon the payment in full of all indebtedness secured hereby, as evidenced by the recording of a satisfaction of the Mortgage, this Assignment shall become and be void and of no effect.

11. Notices. All notices given or served on any party hereto pursuant to the terms hereof shall be served by the means and to the addresses, and shall be deemed effective within the time periods, established pursuant to the Contract.

12. Successors and Assigns. This Assignment inures to the benefit of Assignee and its successors and assigns, and binds Assignor and Assignor's successors and assigns. Assignor may not assign its rights or obligations under this Assignment without the prior written consent of Assignee. All rights and remedies of Assignee hereunder and under any other agreement are cumulative and not exclusive, and are in addition to all other rights and remedies provided by law, agreement or otherwise. Notice of acceptance of this Assignment by Assignee is waived.

13. Waiver of Notice of Exercise of Assignment of Rents. Assignor hereby waives any right to notice and waives any right to any hearing, judicial or otherwise, prior to Assignee's exercise of its rights under this Assignment and/or the Mortgage with respect to the Assignment of Rents hereunder or under the Mortgage.

14. Governing Law; Venue. THIS ASSIGNMENT SHALL BE GOVERNED EXCLUSIVELY BY AND CONSTRUED IN ACCORDANCE WITH THE APPLICABLE LAWS OF THE STATE OF IOWA, WITHOUT GIVING EFFECT TO ITS CONFLICT OF LAWS PRINCIPLES.

15. Miscellaneous. This Assignment or any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought. All the terms of this Assignment shall be binding upon the successors and assigns of Assignor and shall inure to the benefit of and be enforceable by Assignee, any successor holder of the Note and any trustee appointed for the benefit of the holder of the Note. This Assignment shall be construed and enforced in accordance with and governed by the laws of the State of Iowa. The headings in this Assignment are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Assignment may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

-END OF ASSIGNMENT OF LEASES AND RENTS-
-REFER TO FOLLOWING PAGE FOR SIGNATURES-

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

ASSIGNOR:

By: _____
Print Name: _____
Authority: _____

STATE OF IOWA)
)
COUNTY OF _____)

On this _____ day of _____, 2021, in front of the undersigned notary public, in and for the State of Iowa, personally appeared _____, the _____ for _____, an Iowa non-profit corporation organized in the State of Iowa, and that _____, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and _____.

Signature of Notary Public

ASSIGNEE:

By: _____
Print Name: _____
Authority: _____

By: _____
Print Name: _____
Authority: _____

STATE OF IOWA)
)
COUNTY OF _____)

On this ____ day of _____, 2021, in front of the undersigned notary public, in and for the State of Iowa, personally appeared _____, the _____ for _____, a _____ organized in the State of Iowa, and that _____, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and _____.

Signature of Notary Public

STATE OF IOWA)
)
COUNTY OF POLK)

On this ____ day of _____, 2021, in front of the undersigned notary public, in and for the State of Iowa, personally appeared _____, the _____ for _____, a _____ organized in the State of Iowa, and that _____, as such officer, acknowledged the execution of said instrument to be the voluntary act of him/her and _____.

Signature of Notary Public

EXHIBIT A

LEGAL DESCRIPTION

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