

PLANNING & DEVELOPMENT

500 West Fourth Street
Davenport, Iowa 52801-1106
E-mail: planning@scottcountyiaowa.com
Office: (563) 326-8643 Fax: (563) 326-8257



Timothy Huey
Director

To: Dee F Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: December 12, 2012

Re: Approval of the demolition of the structures on County Tax Deed parcels F0033-16 (310-312 East 10th Street) and K0011-20 (1502 Rockingham Road) with the use of Neighborhood Stabilization Program funds through the City of Davenport

The City of Davenport has funding available through the Neighborhood Stabilization Program to pay for the cost of the demolition of two structures on properties that the county holds as Tax Deeds. The funding comes with some restrictions and is in the form of a five year forgivable loan. This funding expires at year end. The City has received bids for the demolition of both structures on these properties but the Forgivable Mortgage, Promissory Note and Restrictive Covenants must be approved and signed prior to the expiration of the funding source.

Staff did have some of questions regarding the language in these documents and will have a fuller presentation at the Committee of the Whole meeting. Bruce Berger, Program Manager with the City of Davenport's Community Development Department will be available at the Committee of the Whole meeting to answer questions. Rob Cusack has also reviewed these documents.

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY
THE BOARD OF SUPERVISORS ON _____
DATE _____

SCOTT COUNTY AUDITOR

RESOLUTION
SCOTT COUNTY BOARD OF SUPERVISORS
December 20, 2012

**APPROVAL OF THE DEMOLITION OF DETERIORATED STRUCTURES LOCATED
ON TAX DEED PROPERTIES WITH FUNDING PROVIDED BY THE CITY OF
DAVENPORT'S NEIGHBORHOOD STABILIZATION PROGRAM**

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

- Section 1 Scott County holds Tax Deeds for two properties located at 310-312 East 10th Street (Parcel F0033-16) and 1502 Rockingham Road (Parcel K0011-20)
- Section 2 Both these parcels contain deteriorated structures that the City of Davenport has declared to be dangerous and substandard buildings.
- Section 3 The City of Davenport has funding available through the Neighborhood Stabilization Program to cover the cost of the demolition of these structures.
- Section 4 The Board of Supervisors approves the demolition of the structures located on Parcel F0033-16 and K0011-20.
- Section 5 The Scott County Tax Deed Administrator is authorized to sign all documents and agreements associated with the requirements of the Neighborhood Stabilization Program.
- Section 6 This resolution shall take effect immediately.



F0032-09

F0032-08

F0032-07

F0032-06

F0032-05

F0032-04

F0032-03

F0032-01

20

40

45

F0033-14

1025

1009

F0033-16

F0033-17

F0033-18

F0033-19

F0033-20

F0033-15

312

310

316

318

318

322

324

PERSHING AVE

E 10TH ST

80

80

F0033-23

F0033-22

F0033-21

Document prepared by: Thomas Warner, City of Davenport, 226 W. 4th Street, Davenport, IA 52801
Return to: City of Davenport, Candice Graf, 226 W 4th Street, Davenport, IA 52801

FORGIVABLE MORTGAGE

THIS FORGIVABLE MORTGAGE (Mortgage) is made between the City of Davenport (Lender) and Scott County, Iowa (Borrower). This mortgage secures credit in the amount of \$11,400. Loans and advances up to this amount together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens. This debt is evidenced by Borrower's note and a schedule (Schedule) which provides for full or partial repayment, if the requirements of the contract, covenant, and this mortgage are not met. This Forgivable Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Note, with all renewals, extensions, modifications issued in substitution thereof if the Borrower defaults or fails to meet any other Neighborhood Stabilization Program requirements; (b) the payment of all other sums, with interest, advanced under paragraph 5 of this document to protect the security of this Mortgage; and (c) the performance of Borrower's covenants and agreements under this Mortgage and the Note. For this purpose, Borrower does hereby mortgage, grant a security interest in and convey to Lender the following described property (real estate) located in Scott County, Iowa:

Parcel F0033-16, situated in Scott County the west 60 feet of Lot 2 in Block 90 in LeClaire's 8th Addition to the City of Davenport, Scott County, Iowa, commonly known as 312 E. 10th Street.

TOGETHER WITH:

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

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

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

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

BORROWER COVENANTS that Borrower holds clear title to the Mortgaged Property and title in fee simple in the Land and has the right, power and authority to execute this Mortgage, grant a security interest in and convey the Mortgaged Property and that the Mortgaged Property is free and clear of all encumbrances, except for encumbrances of record. Borrower will warrant and defend the title to the Mortgaged Property and the liens and priority of this Mortgage against all claims and demands whether existing or hereafter arising.

Borrower and Lender covenant and agree as follows:

1. Repayment of Principal. Borrower shall promptly pay the full or partial principal owed in accordance with the Schedule if Borrower defaults or otherwise fails to comply with the Covenants and Neighborhood Stabilization Program Promissory Note attached.

2. Taxes. Borrowers shall pay each installment of taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand, and shall deliver to Lender proof of such payment fifteen (15) days after the day in which such tax or assessment becomes delinquent.

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

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

Borrower shall promptly discharge any lien which has, or may attain, priority over this Mortgage unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Mortgaged Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

4. Insurance.

- a. **Risks to be Insured.** Borrowers, at their sole cost and expense, shall maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Lender may from time to time require, such insurance to have a Replacement Cost endorsement attached thereto, with the amount of the insurance at least equal to the balance of amount owed under the Note. Borrowers will at their sole cost and expense, from time to time, and at any time at the request of Lender, provide Lender with evidence satisfactory to Lender of the replacement cost of the Mortgaged Property. Borrowers will maintain such other insurance as Lender may reasonably require.
- b. **Policy Provisions.** All insurance policies and renewals thereof maintained by Borrowers pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Lender, contain a mortgagee clause in favor and in form acceptable to Lender, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after thirty (30) days prior written notice to Lender, and be reasonably satisfactory to Lender in all other respects.
- c. **Delivery of Policy or Certificate.** If requested by Lender, Borrowers will deliver to Lender original policies satisfactory to Lender evidencing the insurance which is required under this Mortgage, and Borrowers shall promptly furnish to Lender all renewal notices and, upon request of Lender, evidence of payment thereof. At least ten (10) days prior to the expiration date of a required policy, Borrowers

shall deliver to Lender a renewal policy in form satisfactory to Lender.

- d. **Assignment.** If the Mortgaged Property is sold at a foreclosure sale or if Lender shall acquire title to the Mortgaged Property, Lender shall have all of the right, title and interest of Borrowers in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to sale or acquisition.
- e. **Notice of Damage or Destruction; Loss Adjustment.** If the Mortgaged Property or any part thereof shall be damaged or destroyed by fire or other casualty, Borrowers will, within five (5) calendar days after the occurrence of the damage or destruction, give written notice thereof to the insurance carrier and to Lender and will not adjust any damage or loss which is estimated by Borrowers in good faith to exceed \$25,000 unless Lender shall have joined in or concurred with such adjustment; but if there has been no adjustment of any such damage or loss within four (4) months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four (4) month period or at any time thereafter, Lender may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Borrowers do hereby irrevocably authorize, empower and appoint Lender as attorney-in-fact for Borrower (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Borrowers.
- f. **Application of Insurance Proceeds.** All sums paid under any insurance policy required by this Mortgage shall be paid to Lender, which shall, at its option, apply the same (after first deducting therefrom Lender's expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) to the reduction of amounts due under the Note or to the restoration, repair, replacement or rebuilding of the mortgaged property; provided, however, if funds are sufficient to restore, repair, or rebuild the mortgaged property, there is no default, and the Note is not within 6 months of Maturity, such funds shall be applied to the restoration, repair, replacement or rebuilding of Mortgaged Property and then secondly to the reduction of any further amounts due under the Note. Any application of insurance proceeds to principal of the Note shall not extend or postpone the due date of the installments payable under the Note or change the amount of such installments.
- g. **Expense Reimbursement.** Borrowers shall promptly reimburse Lender upon demand for all of Lender's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

5. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Forgivable Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Mortgaged Property to make repairs. Although Lender may take actions under this paragraph, Lender does not have to do so. Any amounts disbursed or incurred by Lender under this paragraph shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to the other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be immediately due and payable, with interest, upon notice from Lender to Borrower requesting payment.

6. Inspection. Any improvements and all plans and specifications concerning this Property shall comply with all applicable municipal ordinances, regulations, and rules made or promulgated by lawful authority, and upon their completion shall comply therewith. Lender or its agents shall have the right at reasonable times to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property. Lender shall have no duty to make such inspection. Nothing contained in this paragraph shall require Lender to incur any expense or do any act hereunder, and Lender shall not be liable to Borrower for any damage or claims arising out of action taken by Lender pursuant to this paragraph.

7. Condemnation. Borrower shall give Lender prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assign, transfer and set over to Lender the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Lender is hereby authorized to intervene in any such action in the names of Borrowers, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittance for such proceeds. Any expenses incurred by Lender in intervening in such action or compromising and settling such action or claim, or collecting such proceeds shall be reimbursed to Lender first out of the proceeds. The remaining proceeds or any part thereof shall be applied to reduction of amounts due under the Note or to the restoration or repair of the Mortgaged Property, the choice of application to be solely at the discretion of the Lender.

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

- a. Borrowers shall default in the due observance or performance of or breach of its agreement contained in paragraph 1 hereof or shall default in the due observance or performance of or breach any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of this Mortgage.
- b. Borrowers shall make an assignment for the benefit of its creditors, or a petition shall be filed by or against Borrowers under the United States Bankruptcy Code or Borrowers shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or shall not, within thirty (30) days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.
- c. A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within thirty (30) days after its entry, issue or levy.
- d. An event of default, however defined, shall occur under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.
- e. If all or any part of the Mortgaged Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred) to an owner who will not occupy the Mortgaged Property as his/her primary residence, Lender will require immediate payment of the amount due under the attached Schedule. Eligible transfers are further detailed in the Agreement for Covenants and Restrictions.

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

- a. Lender may declare immediately due and payable all Notes secured by this Mortgage in accordance with the Schedule, and the same shall thereupon immediately be due and payable without further notice of demand.
- b. Borrower shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default of a secured part under the Iowa Uniform Commercial Code. If notice to Borrowers of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Borrowers at least ten (10) days prior to the date of intended disposition.
- c. Lender may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Lender

appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as the trustee may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Borrowers only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Note.

10. Redemption. 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 Lender, in such action files an election to waive any deficiency judgment against Borrowers which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Borrower, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to sixty (60) days if all three of the following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the Court finds affirmatively that the real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of foreclosure; and (3) Lender files an election to waive any deficiency judgment against Borrowers or their successors in interest in such action. If the redemption period is so reduced, Borrowers or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption for creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Borrowers shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any redemption provisions contained in Chapter 628 of the Iowa Code.

11. Additional Instruments. At any time and from time to time until payment in full of the Note, Borrowers, at Lender's request, will promptly execute and deliver to Lender such additional instruments as may be reasonably required to further evidence the lien of this Mortgage and to further protect the security interest of Lender in connection with the Mortgaged Property. Such instruments may include, but are not limited to, additional security agreements, financing statements, and continuation statements.

12. Borrower Not Released; Forbearance by Lender Not a Waiver. Extension of the time for payment or modification of Schedule of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify Schedule of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any delay or forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

13. Fixture Filing. From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to Personal Property and for this purpose the name and address of debtor is the name and address of Borrowers as set forth in paragraph 17 herein and the name and address of the secured party is the name and address of the Lender as set forth in paragraph 17 herein.

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

15. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Borrower. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Mortgaged Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage;

and (c) agrees that Lender and any other borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without the Borrower's consent.

16. 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.

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

- a. If to Lender, to: City of Davenport
Community Planning & Economic Department
226 W. 4th Street
Davenport, IA 52801
Attention: NSP Program
- b. If to Borrowers, to: Scott County, Iowa
600 W 4th Street
Davenport, IA 52801

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

19. Acknowledgment of Receipt of Copies of Mortgage and Note. Borrowers hereby acknowledge the receipt of a copy of this Mortgage together with a copy of each promissory note secured hereby.

20. Release. Upon complying with the terms of the Neighborhood Stabilization Program Promissory Note, this Mortgage, and Schedule, Lender shall release this Mortgage without charge to Borrowers.

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

22. Additional Provisions.

By: Scott County, Iowa

Scott County, Iowa Representative signature

Print Name

STATE OF IOWA)
)SS:
COUNTY OF SCOTT)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Scott County, Iowa, the public agency executing the within and foregoing instrument; and that said _____, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

Notary Public

Document prepared by: Thomas Warner, City of Davenport, 226 W. 4th Street, Davenport, IA 52801
Return to: City of Davenport, Candice Graf, 226 W. 4th Street, Davenport, IA 52801

AGREEMENT FOR COVENANTS AND RESTRICTIONS

THIS AGREEMENT FOR COVENANTS AND RESTRICTIONS, as part of the NSP (Neighborhood Stabilization) Program (hereinafter, the Program) and dated as of the date of the below-described Forgivable Mortgage, Contract and Promissory Note, is between the City of Davenport (the City), and Scott County, Iowa (hereinafter, the Recipient).

WITNESSETH:

WHEREAS, the Recipient has applied for and received approval for funding from the Program, and has entered into a Contract and Promissory Note identified above by and between the Recipient and the City (the Loan/Grant Contract);

WHEREAS, pursuant to the Contract, the City will make a grant/loan in the amount of \$11,400 (the Grant/Loan) to the Recipient for the purpose of financing a portion of the costs of the Project described in the Neighborhood Stabilization Agreement, with the Project to be located on the real estate described in the attached Legal Description;

Parcel F0033-16, situated in Scott County the west 60 feet of Lot 2 in Block 90 in LeClaire's 8th Addition to the City of Davenport, Scott County, Iowa, commonly known as 312 E. 10th Street.

WHEREAS, the Project will be economically feasible for the Recipient because of the Grant/Loan funds received through the Program;

WHEREAS, in accordance with the Neighborhood Stabilization Program Promissory Note and Forgivable Mortgage and related requirements, the Recipient or his/her successors are required to maintain the property in good standing regarding use of the property for at least five years from the date of project demolition; and

WHEREAS, as a condition to receipt of Grant/Loan proceeds, and in order to help ensure compliance by the Recipient and any future owner of the Project with the requirements and covenants set forth in the Neighborhood Stabilization Program Promissory Note and Forgivable Mortgage throughout the required period of time as set forth attached Schedule, so as to maintain the housing benefits for which assistance has been provided through the Program and therefore protect the investment of the City and the Program in the Project, and in order to give the Recipient the ability to fulfill its obligations under the Neighborhood Stabilization Program Rules to ensure such compliance, certain covenants and restrictions enforceable by the City must be placed on the real estate described in the attached Legal Description hereto governing the use of the Project, which covenants and restrictions shall run with the land and be binding on the Recipient and its successors or assigns.

Agreement for Covenants and Restrictions

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

1. The Recipient, for itself and for its successors, devisees, heirs or assigns, makes the following covenants as to the use of the Project:
 - (a) The Recipient and the Project shall comply with the Neighborhood Stabilization Promissory Note and the requirements in the Forgivable Mortgage.
 - (b) The Recipient and/or his/her successors shall maintain the property as green space or any other use that meets a national objective for the Neighborhood Stabilization Program for at least five years from the date of demolition.
 - (c) All of the proceeds of the Grant/Loan shall be spent on Qualified Costs of the Project in accordance with the guidelines of the Neighborhood Stabilization Program.
 - (d) During the five years of the agreement an eligible transfer must involve the transfer of fee simple title by warranty deed to the new buyer, with the Recipient and/or his/her successors notifying the City in writing prior to the transfer of the property. Such notice shall be provided at least 30 days prior to any scheduled transfer or closing and said notice shall be provided at the following address:

Community Planning and Economic Development
City of Davenport
226 W. 4th Street
Davenport, Iowa 52801

Upon receiving notice, the City will review the status of the project, make a determination, and inform the Recipient (or his/her successors) of their responsibilities under this Covenant and related security instruments.

2. All of the covenants herein shall run with the real estate described in the Legal Description hereto and the Project thereon, and be binding upon the Recipient and its successors, devisees, heirs or assigns, for the Term of Compliance. If the Recipient conveys any portion of the property during the Term of Compliance, the subsequent buyers are also bound by this agreement. Notwithstanding any other provisions of this Agreement, this entire Agreement, or any of the provisions or paragraphs hereof, may be terminated upon written agreement by both the City and the Recipient.

3. This Agreement may be amended only by an amendment in writing executed by the parties hereto.

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

- (a) by mandamus or other suit, action or proceeding at law or in equity, require the Recipient/Contractor to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder, or obtain damages caused to the City by any such default;
- (b) have access to and inspect, examine and make copies of all the books and records of the Recipient pertaining to the Project;

Agreement for Covenants and Restrictions

- (c) declare a default under the Neighborhood Stabilization Mortgage, and Promissory Note and demand immediate repayment from Recipient of Grant/Loan proceeds previously disbursed to Recipient in accordance with the Truth in Lending and Schedule (of forgiveness); and
- (d) take whatever other action at law or in equity may appear necessary or desirable to enforce the obligations, covenants and agreements of the Recipient hereunder and under the Neighborhood Stabilization Mortgage, and Promissory Note, including the recovery of Grant/Loan proceeds and/or foreclosure.

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

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

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

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

City: Community Planning & Economic Development Department
226 West 4th Street
Davenport, IA 52801
Attention: NSP Program

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

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

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement of Covenants and Restrictions to be executed and sealed by their duly authorized officers, all as of the date first above written.

Agreement for Covenants and Restrictions

RECIPIENT ACKNOWLEDGEMENT

BY SIGNING BELOW, Recipient accepts and agrees to the covenants contained in this Security Instrument and in any rider(s) executed by Recipient and recorded. The undersigned Recipient(s) acknowledge(s) receipt of a copy of this instrument.

“I/we understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I/we voluntarily give up my/our right to this protection for this property with respect to claims based upon this contract.”

Scott County, Iowa Representative signature

Print Name

State of Iowa)
) S.S.
County of Scott)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Scott County, Iowa, the public agency executing the within and foregoing instrument; and that said _____, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

Notary Public in and for Scott County, Iowa

Agreement for Covenants and Restrictions

IN WITNESS WHEREOF, the parties hereto have caused this Agreement of Covenants and Restrictions to be executed and sealed by their duly authorized officers, all as of the date first above written.

CITY OF DAVENPORT
By: _____
Bruce Berger, Senior Manager

CITY ACKNOWLEDGMENT

STATE OF IOWA)
)
COUNTY OF SCOTT)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared Bruce Berger, to me personally known, who being by me duly sworn, did say that he is the Senior Manager of the City of Davenport, the public agency executing the within and foregoing instrument; and that said Senior Manager, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public - State of Iowa

CITY OF DAVENPORT
COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
NEIGHBORHOOD STABILIZATION PROGRAM
PROMISSORY NOTE

1. **BORROWER'S PROMISE TO PAY**

I am not obligated to make payments to reduce the principal on this loan, so long as I comply with the terms of the covenants to the City of Davenport (hereinafter, the "Lender"). However, if:

a. I am declared in default and/or fail to comply with any clause in the attached covenant to the City prior to the end of the five year compliance period (beginning at date of demolition), hereinafter called the "Maturity Date", I promise to pay up to \$11,400 (this amount is called "principal"), to the order of the Lender. This amount may be reduced in accordance with the schedule below.

b. Schedule of repayment – From date of the disbursement of funds, if I comply for:

- 0 – 12 months, I will repay 100% of the amount disbursed;
- >1 year - <2 years, I will repay 80% of the amount disbursed;
- >2 years - <3 years, I will repay 60% of the amount disbursed;
- >3 years - <4 years, I will repay 40% of the amount disbursed;
- >4 years - <5 years, I will repay 20% of the amount disbursed;
- >5 years, I will not be obligated to repay any of the funds disbursed.

The Lender is The City of Davenport, Community Planning and Economic Development Department. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder".

2. **INTEREST**

The yearly interest rate is 0.00%.

3. **OBLIGATIONS**

(A) **OTHER OBLIGATIONS**

I agree to maintain the property as green space or any other use that meets a national objective for the Neighborhood Stabilization Program for at least 5 years from the date of project demolition.

4. **BORROWER'S FAILURE TO COMPLY**

(A) **Default**

If I do not fully abide by the conditions of all the Agreements (Mortgage, Covenant, and Contract) between myself and the City of Davenport, I will be in default.

(B) **Notice of Default**

Promissory Note

If I am in default, the Note Holder may notify me in writing of the default and demand repayment of the amount of principal due in accordance with the attached Schedule by a certain date. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(C) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(D) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the property address above or at a different address if I give the Note Holder a written notice of my different address. Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the addresses stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage (the "Security Instrument") dated the same as this Note protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this

Promissory Note

Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower to a Non-Owner-Occupant.

If all or any part of the property or any interest in it is sold, Lender will require immediate payment of part or all of the amount secured by this Security Instrument in accordance with the attached Schedule.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument in accordance with the attached Schedule. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

The undersigned Borrower(s) acknowledge(s) receipt of a copy of this instrument.

IN WITNESS WHEREOF, this Promissory Note has been duly signed and sealed by the Borrower(s).

Scott County, Iowa Representative signature

Print Name

STATE OF IOWA)
) SS.
COUNTY OF SCOTT)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Scott County, Iowa, the public agency executing the within and foregoing instrument; and that said _____, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

Notary Public - State of Iowa



WASHINGTON ST

WASHINGTON ST



1520 1518 1516
K0011-07 K0011-08 K0011-09
K0011-06 29 31 30 40

W 2ND ST

120 50

K0011-19A 1526

121 126

K0011-19 115
1510 1512 1510
1512 1510
42 78

K0011-20 98
1502

K0011-24 30
K0011-23 30
10 30

K0011-22

WASHINGTON ST

74

221
219

K0010-03

249:2864

1448

K0010-08A

K0010-04

1462

K0010-06

1454

1456

ROCKINGHAM RD

357.5

89.52

117.1

17.14

K0011-27

1441

K0010-01B

Document prepared by: Thomas Warner, City of Davenport, 226 W. 4th Street, Davenport, IA 52801
Return to: City of Davenport, Candice Graf, 226 W 4th Street, Davenport, IA 52801

FORGIVABLE MORTGAGE

THIS FORGIVABLE MORTGAGE (Mortgage) is made between the City of Davenport (Lender) and Scott County, Iowa (Borrower). This mortgage secures credit in the amount of \$13,400. Loans and advances up to this amount together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens. This debt is evidenced by Borrower's note and a schedule (Schedule) which provides for full or partial repayment, if the requirements of the contract, covenant, and this mortgage are not met. This Forgivable Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Note, with all renewals, extensions, modifications issued in substitution thereof if the Borrower defaults or fails to meet any other Neighborhood Stabilization Program requirements; (b) the payment of all other sums, with interest, advanced under paragraph 5 of this document to protect the security of this Mortgage; and (c) the performance of Borrower's covenants and agreements under this Mortgage and the Note. For this purpose, Borrower does hereby mortgage, grant a security interest in and convey to Lender the following described property (real estate) located in Scott County, Iowa:

Green's 2nd Addition, Lot 2, Block 4. PT LOTS 1&2 COM AT SE COR SD LOT 1-N 115' – W 78' – S 115' – N 77 1/4'D E 78' ALG N/L OF ROCK RD. TO BEG. Which has the address of 1502 Rockingham Rd. Parcel K0011-20

TOGETHER WITH:

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

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

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

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

BORROWER COVENANTS that Borrower holds clear title to the Mortgaged Property and title in fee simple in the Land and has the right, power and authority to execute this Mortgage, grant a security interest in and convey the Mortgaged Property and that the Mortgaged Property is free and clear of all encumbrances, except for encumbrances of record. Borrower will warrant and defend the title to the Mortgaged Property and the liens and priority of this Mortgage against all claims and demands whether existing or hereafter arising.

Borrower and Lender covenant and agree as follows:

1. Repayment of Principal. Borrower shall promptly pay the full or partial principal owed in accordance with the Schedule if Borrower defaults or otherwise fails to comply with the Covenants and Neighborhood Stabilization Program Promissory Note attached.

2. Taxes. Borrowers shall pay each installment of taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand, and shall deliver to Lender proof of such payment fifteen (15) days after the day in which such tax or assessment becomes delinquent.

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

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

Borrower shall promptly discharge any lien which has, or may attain, priority over this Mortgage unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Mortgaged Property is subject to a lien which may attain priority over this Mortgage, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

4. Insurance.

- a. **Risks to be Insured.** Borrowers, at their sole cost and expense, shall maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Lender may from time to time require, such insurance to have a Replacement Cost endorsement attached thereto, with the amount of the insurance at least equal to the balance of amount owed under the Note. Borrowers will at their sole cost and expense, from time to time, and at any time at the request of Lender, provide Lender with evidence satisfactory to Lender of the replacement cost of the Mortgaged Property. Borrowers will maintain such other insurance as Lender may reasonably require.
- b. **Policy Provisions.** All insurance policies and renewals thereof maintained by Borrowers pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Lender, contain a mortgagee clause in favor and in form acceptable to Lender, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after thirty (30) days prior written notice to Lender, and be reasonably satisfactory to Lender in all other respects.
- c. **Delivery of Policy or Certificate.** If requested by Lender, Borrowers will deliver to Lender original policies satisfactory to Lender evidencing the insurance which is required under this Mortgage, and Borrowers shall promptly furnish to Lender all renewal notices and, upon request of Lender, evidence of payment thereof. At least ten (10) days prior to the expiration date of a required policy, Borrowers

shall deliver to Lender a renewal policy in form satisfactory to Lender.

- d. **Assignment.** If the Mortgaged Property is sold at a foreclosure sale or if Lender shall acquire title to the Mortgaged Property, Lender shall have all of the right, title and interest of Borrowers in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to sale or acquisition.
- e. **Notice of Damage or Destruction; Loss Adjustment.** If the Mortgaged Property or any part thereof shall be damaged or destroyed by fire or other casualty, Borrowers will, within five (5) calendar days after the occurrence of the damage or destruction, give written notice thereof to the insurance carrier and to Lender and will not adjust any damage or loss which is estimated by Borrowers in good faith to exceed \$25,000 unless Lender shall have joined in or concurred with such adjustment; but if there has been no adjustment of any such damage or loss within four (4) months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four (4) month period or at any time thereafter, Lender may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Borrowers do hereby irrevocably authorize, empower and appoint Lender as attorney-in-fact for Borrower (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Borrowers.
- f. **Application of Insurance Proceeds.** All sums paid under any insurance policy required by this Mortgage shall be paid to Lender, which shall, at its option, apply the same (after first deducting therefrom Lender's expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) to the reduction of amounts due under the Note or to the restoration, repair, replacement or rebuilding of the mortgaged property; provided, however, if funds are sufficient to restore, repair, or rebuild the mortgaged property, there is no default, and the Note is not within 6 months of Maturity, such funds shall be applied to the restoration, repair, replacement or rebuilding of Mortgaged Property and then secondly to the reduction of any further amounts due under the Note. Any application of insurance proceeds to principal of the Note shall not extend or postpone the due date of the installments payable under the Note or change the amount of such installments.
- g. **Expense Reimbursement.** Borrowers shall promptly reimburse Lender upon demand for all of Lender's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

5. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Forgivable Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Mortgaged Property to make repairs. Although Lender may take actions under this paragraph, Lender does not have to do so. Any amounts disbursed or incurred by Lender under this paragraph shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to the other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be immediately due and payable, with interest, upon notice from Lender to Borrower requesting payment.

6. Inspection. Any improvements and all plans and specifications concerning this Property shall comply with all applicable municipal ordinances, regulations, and rules made or promulgated by lawful authority, and upon their completion shall comply therewith. Lender or its agents shall have the right at reasonable times to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property. Lender shall have no duty to make such inspection. Nothing contained in this paragraph shall require Lender to incur any expense or do any act hereunder, and Lender shall not be liable to Borrower for any damage or claims arising out of action taken by Lender pursuant to this paragraph.

7. Condemnation. Borrower shall give Lender prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assign, transfer and set over to Lender the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Lender is hereby authorized to intervene in any such action in the names of Borrowers, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittance for such proceeds. Any expenses incurred by Lender in intervening in such action or compromising and settling such action or claim, or collecting such proceeds shall be reimbursed to Lender first out of the proceeds. The remaining proceeds or any part thereof shall be applied to reduction of amounts due under the Note or to the restoration or repair of the Mortgaged Property, the choice of application to be solely at the discretion of the Lender.

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

- a. Borrowers shall default in the due observance or performance of or breach of its agreement contained in paragraph 1 hereof or shall default in the due observance or performance of or breach any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of this Mortgage.
- b. Borrowers shall make an assignment for the benefit of its creditors, or a petition shall be filed by or against Borrowers under the United States Bankruptcy Code or Borrowers shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or shall not, within thirty (30) days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.
- c. A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within thirty (30) days after its entry, issue or levy.
- d. An event of default, however defined, shall occur under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.
- e. If all or any part of the Mortgaged Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred) to an owner who will not occupy the Mortgaged Property as his/her primary residence, Lender will require immediate payment of the amount due under the attached Schedule. Eligible transfers are further detailed in the Agreement for Covenants and Restrictions.

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

- a. Lender may declare immediately due and payable all Notes secured by this Mortgage in accordance with the Schedule, and the same shall thereupon immediately be due and payable without further notice of demand.
- b. Borrower shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default of a secured part under the Iowa Uniform Commercial Code. If notice to Borrowers of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Borrowers at least ten (10) days prior to the date of intended disposition.
- c. Lender may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Lender

appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as the trustee may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Borrowers only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Note.

10. Redemption. 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 Lender, in such action files an election to waive any deficiency judgment against Borrowers which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Borrower, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to sixty (60) days if all three of the following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the Court finds affirmatively that the real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of foreclosure; and (3) Lender files an election to waive any deficiency judgment against Borrowers or their successors in interest in such action. If the redemption period is so reduced, Borrowers or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption for creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Borrowers shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any redemption provisions contained in Chapter 628 of the Iowa Code.

11. Additional Instruments. At any time and from time to time until payment in full of the Note, Borrowers, at Lender's request, will promptly execute and deliver to Lender such additional instruments as may be reasonably required to further evidence the lien of this Mortgage and to further protect the security interest of Lender in connection with the Mortgaged Property. Such instruments may include, but are not limited to, additional security agreements, financing statements, and continuation statements.

12. Borrower Not Released; Forbearance by Lender Not a Waiver. Extension of the time for payment or modification of Schedule of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify Schedule of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any delay or forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

13. Fixture Filing. From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to Personal Property and for this purpose the name and address of debtor is the name and address of Borrowers as set forth in paragraph 17 herein and the name and address of the secured party is the name and address of the Lender as set forth in paragraph 17 herein.

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

15. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Borrower. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Mortgaged Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage;

and (c) agrees that Lender and any other borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without the Borrower's consent.

16. 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.

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

- a. If to Lender, to: City of Davenport
Community Planning & Economic Department
226 W. 4th Street
Davenport, IA 52801
Attention: NSP Program
- b. If to Borrowers, to: Scott County, Iowa
600 W 4th Street
Davenport, IA 52801

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

19. Acknowledgment of Receipt of Copies of Mortgage and Note. Borrowers hereby acknowledge the receipt of a copy of this Mortgage together with a copy of each promissory note secured hereby.

20. Release. Upon complying with the terms of the Neighborhood Stabilization Program Promissory Note, this Mortgage, and Schedule, Lender shall release this Mortgage without charge to Borrowers.

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

22. Additional Provisions.

By: Scott County, Iowa

Scott County, Iowa Representative signature

Print Name

STATE OF IOWA)
)SS:
COUNTY OF SCOTT)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Scott County, Iowa, the public agency executing the within and foregoing instrument; and that said _____, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

Notary Public

Document prepared by: Thomas Warner, City of Davenport, 226 W. 4th Street, Davenport, IA 52801
Return to: City of Davenport, Candice Graf, 226 W. 4th Street, Davenport, IA 52801

AGREEMENT FOR COVENANTS AND RESTRICTIONS

THIS AGREEMENT FOR COVENANTS AND RESTRICTIONS, as part of the NSP (Neighborhood Stabilization) Program (hereinafter, the Program) and dated as of the date of the below-described Forgivable Mortgage, Contract and Promissory Note, is between the City of Davenport (the City), and Scott County, Iowa (hereinafter, the Recipient).

WITNESSETH:

WHEREAS, the Recipient has applied for and received approval for funding from the Program, and has entered into a Contract and Promissory Note identified above by and between the Recipient and the City (the Loan/Grant Contract);

WHEREAS, pursuant to the Contract, the City will make a grant/loan in the amount of \$13,400 (the Grant/Loan) to the Recipient for the purpose of financing a portion of the costs of the Project described in the Neighborhood Stabilization Agreement, with the Project to be located on the real estate described in the attached Legal Description;

SUB DIVISION: GREEN'S 2ND ADD
LOT & BLOCK: 002/004
SECTION/TOWNSHIP/RANGE:
LEGAL: PT LOTS 1 & 2 COM AT SE COR SD LOT 1-N 115'-W 78'-S 115'-N 77
1/4D E 78' ALG N/L OF ROCK RD TO BEG

Which has the address of 1502 Rockingham Rd. Parcel K0011-20

WHEREAS, the Project will be economically feasible for the Recipient because of the Grant/Loan funds received through the Program;

WHEREAS, in accordance with the Neighborhood Stabilization Program Promissory Note and Forgivable Mortgage and related requirements, the Recipient or his/her successors are required to maintain the property in good standing regarding use of the property for at least five years from the date of project demolition; and

WHEREAS, as a condition to receipt of Grant/Loan proceeds, and in order to help ensure compliance by the Recipient and any future owner of the Project with the requirements and covenants set forth in the Neighborhood Stabilization Program Promissory Note and Forgivable Mortgage throughout the required period of time as set forth attached Schedule, so as to maintain the housing benefits for which assistance has been provided through the Program and therefore protect the investment of the City and the Program in the Project, and in order to give the

Agreement for Covenants and Restrictions

Recipient the ability to fulfill its obligations under the Neighborhood Stabilization Program Rules to ensure such compliance, certain covenants and restrictions enforceable by the City must be placed on the real estate described in the attached Legal Description hereto governing the use of the Project, which covenants and restrictions shall run with the land and be binding on the Recipient and its successors or assigns.

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

1. The Recipient, for itself and for its successors, devisees, heirs or assigns, makes the following covenants as to the use of the Project:
 - (a) The Recipient and the Project shall comply with the Neighborhood Stabilization Promissory Note and the requirements in the Forgivable Mortgage.
 - (b) The Recipient and/or his/her successors shall maintain the property as green space or any other use that meets a national objective for the Neighborhood Stabilization Program for at least five years from the date of demolition.
 - (c) All of the proceeds of the Grant/Loan shall be spent on Qualified Costs of the Project in accordance with the guidelines of the Neighborhood Stabilization Program.
 - (d) During the five years of the agreement an eligible transfer must involve the transfer of fee simple title by warranty deed to the new buyer, with the Recipient and/or his/her successors notifying the City in writing prior to the transfer of the property. Such notice shall be provided at least 30 days prior to any scheduled transfer or closing and said notice shall be provided at the following address:

Community Planning and Economic Development
City of Davenport
226 W. 4th Street
Davenport, Iowa 52801

Upon receiving notice, the City will review the status of the project, make a determination, and inform the Recipient (or his/her successors) of their responsibilities under this Covenant and related security instruments.

2. All of the covenants herein shall run with the real estate described in the Legal Description hereto and the Project thereon, and be binding upon the Recipient and its successors, devisees, heirs or assigns, for the Term of Compliance. If the Recipient conveys any portion of the property during the Term of Compliance, the subsequent buyers are also bound by this agreement. Notwithstanding any other provisions of this Agreement, this entire Agreement, or any of the provisions or paragraphs hereof, may be terminated upon written agreement by both the City and the Recipient.

3. This Agreement may be amended only by an amendment in writing executed by the parties hereto.

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

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

Agreement for Covenants and Restrictions

any such default;

- (b) have access to and inspect, examine and make copies of all the books and records of the Recipient pertaining to the Project;
- (c) declare a default under the Neighborhood Stabilization Mortgage, and Promissory Note and demand immediate repayment from Recipient of Grant/Loan proceeds previously disbursed to Recipient in accordance with the Truth in Lending and Schedule (of forgiveness); and
- (d) take whatever other action at law or in equity may appear necessary or desirable to enforce the obligations, covenants and agreements of the Recipient hereunder and under the Neighborhood Stabilization Mortgage, and Promissory Note, including the recovery of Grant/Loan proceeds and/or foreclosure.

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

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

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

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

City: Community Planning & Economic Development Department
226 West 4th Street
Davenport, IA 52801
Attention: NSP Program

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

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

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement of Covenants and Restrictions to be executed and sealed by their duly authorized officers, all as of the date first above written.

Agreement for Covenants and Restrictions

RECIPIENT ACKNOWLEDGEMENT

BY SIGNING BELOW, Recipient accepts and agrees to the covenants contained in this Security Instrument and in any rider(s) executed by Recipient and recorded. The undersigned Recipient(s) acknowledge(s) receipt of a copy of this instrument.

“I/we understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I/we voluntarily give up my/our right to this protection for this property with respect to claims based upon this contract.”

Scott County, Iowa Representative signature

Print Name

State of Iowa)
) S.S.
County of Scott)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Scott County, Iowa, the public agency executing the within and foregoing instrument; and that said _____, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

Notary Public in and for Scott County, Iowa

Agreement for Covenants and Restrictions

IN WITNESS WHEREOF, the parties hereto have caused this Agreement of Covenants and Restrictions to be executed and sealed by their duly authorized officers, all as of the date first above written.

CITY OF DAVENPORT
By: _____
Bruce Berger, Senior Manager

CITY ACKNOWLEDGMENT

STATE OF IOWA)
)
COUNTY OF SCOTT)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared Bruce Berger, to me personally known, who being by me duly sworn, did say that he is the Senior Manager of the City of Davenport, the public agency executing the within and foregoing instrument; and that said Senior Manager, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public - State of Iowa

CITY OF DAVENPORT
COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
NEIGHBORHOOD STABILIZATION PROGRAM
PROMISSORY NOTE

1. **BORROWER'S PROMISE TO PAY**

I am not obligated to make payments to reduce the principal on this loan, so long as I comply with the terms of the covenants to the City of Davenport (hereinafter, the "Lender"). However, if:

a. I am declared in default and/or fail to comply with any clause in the attached covenant to the City prior to the end of the five year compliance period (beginning at date of demolition), hereinafter called the "Maturity Date", I promise to pay up to \$13,400 (this amount is called "principal"), to the order of the Lender. This amount may be reduced in accordance with the schedule below.

b. Schedule of repayment – From date of the disbursement of funds, if I comply for:

0 – 12 months, I will repay 100% of the amount disbursed;
>1 year - <2 years, I will repay 80% of the amount disbursed;
>2 years - <3 years, I will repay 60% of the amount disbursed;
>3 years - <4 years, I will repay 40% of the amount disbursed;
>4 years - <5 years, I will repay 20% of the amount disbursed;
>5 years, I will not be obligated to repay any of the funds disbursed.

The Lender is The City of Davenport, Community Planning and Economic Development Department. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder".

2. **INTEREST**

The yearly interest rate is 0.00%.

3. **OBLIGATIONS**

(A) **OTHER OBLIGATIONS**

I agree to maintain the property as green space or any other use that meets a national objective for the Neighborhood Stabilization Program for at least 5 years from the date of project demolition.

4. **BORROWER'S FAILURE TO COMPLY**

(A) **Default**

If I do not fully abide by the conditions of all the Agreements (Mortgage, Covenant, and Contract) between myself and the City of Davenport, I will be in default.

(B) **Notice of Default**

Promissory Note

If I am in default, the Note Holder may notify me in writing of the default and demand repayment of the amount of principal due in accordance with the attached Schedule by a certain date. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(C) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(D) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the property address above or at a different address if I give the Note Holder a written notice of my different address. Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the addresses stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage (the "Security Instrument") dated the same as this Note protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this

Promissory Note

Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower to a Non-Owner-Occupant.

If all or any part of the property or any interest in it is sold, Lender will require immediate payment of part or all of the amount secured by this Security Instrument in accordance with the attached Schedule.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument in accordance with the attached Schedule. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

The undersigned Borrower(s) acknowledge(s) receipt of a copy of this instrument.

IN WITNESS WHEREOF, this Promissory Note has been duly signed and sealed by the Borrower(s).

Scott County, Iowa Representative signature

Print Name

STATE OF IOWA)
) SS.
COUNTY OF SCOTT)

On this _____ day of _____, 2012, before me, the undersigned Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Scott County, Iowa, the public agency executing the within and foregoing instrument; and that said _____, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said agency by it and by him voluntarily executed.

Notary Public - State of Iowa