

Date May 18, 2020

**APPROVAL OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
AGREEMENT WITH YOUTH AND SHELTER SERVICES (YSS),  
DOING BUSINESS AS IOWA HOMELESS YOUTH CENTERS (IHYC),  
FOR ACQUISITION OF 2705 E. EUCLID AVENUE**

**WHEREAS**, on November 3, 2014, by Roll Call No. 14-1730, the City Council approved the 2015-2019 Consolidated Plan for the U.S. Department of Housing and Urban Development (HUD) Consolidated Plan; and

**WHEREAS**, components of the City's 2015-2019 Consolidated Plan are 1.) address homelessness, and 2.) neighborhood plan implementation, which is designed to provide funding to implement activities to further neighborhood revitalization efforts including the use of CDBG funding for acquisition of properties; and

**WHEREAS**, the use of CDBG funds by a nonprofit entity to acquire real property—including the cost of surveys to identify the property to be acquired, appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to effect the acquisition—is an eligible activity when the activity meets a national objective of the CDBG Program by benefitting low- or moderate-income clientele, such as persons who are homeless; and

**WHEREAS**, the proposed IHYC Rooftop Gardens at 2705 E. Euclid Avenue will provide soft-skills support and workforce training to help homeless youth between the ages of 16 and 24 years old secure permanent employment; and

**WHEREAS**, YSS, an Iowa non-profit corporation, has an accepted purchase offer for 2705 E. Euclid Avenue with the current owners, Michael J. Rovner Trust and Cynthia L. Rovner Trust, and has approached the City for funding for up to \$150,000 in acquisition costs; and

**WHEREAS**, the City conducted an Environmental Assessment, and it has received an Authorization to Use Grant Funds, dated February 20, 2020, from the HUD Omaha Field Office for the project.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa that:

1. The CDBG Agreement between the City of Des Moines and IHYC, in form on file in the office of the City Clerk, providing \$150,000 for acquisition of 2705 E. Euclid Avenue, is hereby approved;
2. The Director of the Community Development Department is authorized and directed to sign said Agreement and related documents, and the Community Development Department is directed to record said Agreement and all related documents as applicable.



**Roll Call Number**

**Agenda Item Number**

**Date** May 18, 2020

- 3. The Community Development Director and his assignees are authorized and directed to administer the CDBG Agreement and related documents in accordance with the terms therein; to approve and execute minor amendments thereto; and to present substantive amendments to the City Council for consideration and approval.

(Council Communication No. 20-*227*)

MOVED BY \_\_\_\_\_ TO ADOPT

FORM APPROVED:

*Judy K Parks-Kruse*  
 Judy K. Parks-Kruse, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

**CERTIFICATE**

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

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

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**City of Des Moines**  
**CDBG Agreement with Iowa Homeless Youth Center (IHYC) Rooftop Gardens**

**Borrower Name and Address:**

Youth and Shelter Services, Inc (YSS)  
DBA: Iowa Homeless Youth Centers (IHYC) in Des Moines  
612 Locust St  
Des Moines, IA 50309

**Borrower Role:** Owner

**Amount of HOME Assistance:** \$150,000

**Form of Assistance:** Grant

**Project Name and Address:** IHYC Rooftop Gardens  
2705 East Euclid Ave  
Des Moines, IA 50317

**Project Type:** Acquisition by nonprofit entity

**National Objective:** Low- and Moderate-Income Clientele

**Number of LMC Assisted:** Between 12 and 16 homeless youth each year

**Contract or Loan Number:** 20-CD-001-\_\_\_\_\_

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

**Sections:**

Part I: Specific Terms & Conditions

Part II: General Terms & Conditions, including Signatory Page & Certification

Part III: Work Program, including Eligibility Requirements for Compliance with CDBG  
National Objectives



**PART I: Specific Terms & Conditions for Nonprofit Agency**

**Iowa Homeless Youth Center Rooftop Gardens**

**Acquisition of 2705 E. Euclid Avenue, Des Moines, Iowa 50317**

**THIS CONTRACT** is made this \_\_\_\_\_ day of May 2020, by and between the City of Des Moines, Iowa ("City") and Iowa Homeless Youth Center (IHYC) ("Operating Agency"); and

**WHEREAS**, on November 3, 2014, by Roll Call No. 14-1730, the City Council approved the 2015-2019 Consolidated Plan for the U.S. Department of Housing and Urban Development (HUD) Consolidated Plan; and

**WHEREAS**, components of the City's 2015-2019 Consolidated Plan are 1.) address homelessness, and 2.) neighborhood plan implementation, which is designed to provide funding to implement activities to further neighborhood revitalization efforts including the use of CDBG funding for acquisition of properties; and

**WHEREAS**, the use of CDBG funds by a nonprofit entity to acquire real property—including the cost of surveys to identify the property to be acquired, appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to effect the acquisition—is an eligible activity when the activity meets a national objective of the CDBG Program of benefitting low- or moderate-income clientele, such as persons who are homeless; and

**WHEREAS**, the proposed IHYC Rooftop Gardens at 2705 E. Euclid Avenue will provide support around soft-skills and workforce training to help homeless youth between the ages of 16 and 24 years old secure permanent employment; and

**WHEREAS**, the City has received an Authorization to Use Grant Funds, dated February 20, 2020, from the HUD Omaha Field Office for the project.

**NOW, THEREFORE**, the City and Operating Agency mutually agree as follows:

1. **Purpose.** The purpose of this Contract is to establish the amount, duration, terms and conditions of the City's financial contribution to the Operating Agency to be used in implementing the Project, as described above and in Part III hereof, the Work Program.
2. **Project.** The Operating Agency shall provide, supervise and administer the Project in the manner described in Part III hereof, the Work Program. While performing the Project the Operating Agency shall specifically abide by all work schedules and budgets contained in the Work Program. Total costs for this Project will not exceed \$150,000 in CDBG funds.
3. **Duration.** This Contract shall be in full force and effect for the 2020 and 2021 Program Years, and it shall remain in full force and effect until the Operating Agency no longer retains control over any CDBG funds (including program income as defined by 24 CFR 570.500(a)) contributed under this Contract.

4. **Reimbursement.** Provided all necessary reports and documentation of costs, expenditures and other relevant information relating to the Project required under the terms and conditions of Part II hereof have been submitted to the City's Project Monitor, and provided that all other terms and conditions of the Project and this Contract have been and are being met by the Operating Agency to the satisfaction of the City and/or HUD, the City will reimburse the Operating Agency for actual costs incurred in connection with the Project in an amount not to exceed the total amount of the Operating Agency's total CDBG allocation. Reimbursement will be disbursed as set forth under the terms and conditions of Part II hereof. All funds received by the Operating Agency under this Contract shall be used only in accordance with the budget set out in the Work Program or pursuant to any and all City authorized amendments thereto.
5. **Eligibility Requirements for Compliance with CDBG National Objectives.** The Operating Agency shall comply with all recordkeeping and reporting requirements as set forth in the Work Program, which requirements relate to the demonstration and documentation that funding under this Contract is in accordance with HUD Eligible Activities and National Objective rules and criteria, and with other reporting and recordkeeping requirements.
6. **Anti-Lobbying Certificate.** The Operating Agency shall execute the anti-lobbying certification attached hereto, following the signatory page, and shall further comply with the anti-lobbying requirements set forth in Part II hereof.
7. **Documentation, Reports and Information - Audit Requirements.** The City Council requires agencies that expend \$150,000 to \$500,000 annually from all funding sources to have a financial audit that meets Generally Accepted Accounting Principles (GAGAS). If the Operating Agency expends between \$150,000 and \$749,999 per year of Federal funds, a limited scope audit shall be performed in accordance with Generally Accepted Accounting Principles (GAGAS). If the agency expends \$750,000 or more annually of Federal funds, the Operating Agency must have a single or program-specific audit conducted for the year and the Project shall be audited under the requirements of 2 CFR Part 200.

At any time during normal business hours and as frequently as is deemed necessary, the Operating Agency shall make available to Representatives from the City, the General Accounting Office and HUD (or other authorized local or federal government entity), for their examination for audit, monitoring or evaluation purposes, all of its records pertaining to all matters covered by this Agreement and the requirements of 2 CFR Part 200. The Operating Agency shall also permit the City, and/or HUD to audit, examine and make excerpts or transcripts from such records including contracts, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this Agreement and the requirements of 2 CFR Part 200 and 24 CFR 576.500 as applicable.

Also at any time during normal business hours and as frequently as is deemed necessary, the Operating Agency shall allow representatives from the City, as appropriate, on its premises for the performance of a field inspection.

The Operating Agency's prior fiscal year audit must be completed and submitted prior to June 30th of the Project period. Furthermore, the Operating Agency shall comply with 24 CFR Part 84, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations." Specifically, the audit must demonstrate that the Operating Agency spent Project funds in accordance with applicable Federal laws and regulations.

The Operating Agency shall prepare and make available to the City all necessary documentation of costs and all other statements, records, data and information required under the terms and conditions of Part II hereof. Further, the Operating Agency shall permit inspections of all such documents, statements, records, data and information as required under the terms and conditions of Part II hereof. In the event the City determines that the Operating Agency has failed to comply with the provisions of this paragraph, this Contract may be suspended or terminated pursuant to paragraph 9 below.

8. **General Terms and Conditions.** The Operating Agency shall comply with all general terms and conditions contained in Part II hereof, (including the provisions of all documents referenced therein) in implementing the Project and activities described in Part III hereof.
9. **Suspension and Termination.** In accordance with 24 CFR 85.43, if the Operating Agency fails to comply with the terms and conditions of this Contract (including those contained in Part II and Part III hereof), or any additional conditions imposed by HUD at any time, the City Community Development Department Director may take one or more of the following enforcement actions as it deems appropriate under the circumstances:
  - a. Temporarily withhold reimbursement payments pending correction of the deficiency by the Operating Agency or pending more severe enforcement action by the City;
  - b. Disallow reimbursement for all or part of any costs and expenditures made by the Operating Agency for activities or actions not in compliance;
  - c. Wholly or partly suspend or terminate this Contract;
  - d. Withhold any other financial contribution by the City to the Operating Agency; and/or
  - e. Pursue all other remedies that may be legally available, including any legal or equitable court action against the Operating Agency, to recover CDBG funds disbursed under this Contract.

Costs and expenditures of the Operating Agency resulting from obligations incurred by the Operating Agency during a suspension or after termination of this Contract shall not be reimbursed by the City, except that such costs and expenditures which are necessary or not reasonably avoidable may be reimbursed at the Community Development Department Director's discretion if 1.) the costs and expenditures result from obligations which were properly incurred by the Operating Agency before and not in anticipation of the effective date of suspension or termination and, in the case of termination, are non-cancellable, and 2.) the costs and expenditures would be reimbursable if the Contract were not suspended or not terminated for noncompliance.

10. **Termination for Convenience.** In addition to the other provisions in this Contract relating to suspension and termination, this Contract may be wholly or partially terminated, in accordance with 24 CFR 85.44 as follows:
- a. By the Community Development Department Director, prior to issuance of the entire reimbursement, with the consent of the Operating Agency where both parties agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated. However, in the event the entire reimbursement contemplated under this Contract has been issued to the Operating Agency, the Community Development Department Director may terminate this Contract as deemed appropriate without consent of the Operating Agency.
  - b. By the Operating Agency upon written notice to the City's Community Development Department Director, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, in the case of partial termination, if the City in its own discretion determines that the Operating Agency will no longer accomplish the original purpose of the Project, the Contract will be terminated by the City Community Development Department Director in its entirety.
11. **Program Income.** "Program Income" is defined as the gross income received by the Operating Agency directly generated from the use of the CDBG funds provided under this Contract (as more specifically defined under 24 CFR 570.500(a)(1) and (2)). The Operating Agency shall maintain adequate records of program income as required under the terms and conditions of Part II hereof. All budgeted program income shall be used to support purposes and activities set forth in the Work Program or as otherwise specified in Section 16 Amendments of this Part I and shall be recorded and disposed of according to the procedures found in 24 CFR 570.504. All program income in excess of budgeted amounts shall be the property of the City and shall be returned to the City in the month it accrues unless the Operating Agency requests and the City authorizes an amendment to this Contract. The Operating Agency shall further be obligated to return all program income it receives after expiration or termination of this Contract.
12. **Reversions of Assets.** Upon expiration or termination of this Contract, the Operating Agency shall transfer to the City all CDBG non-expended funds provided under this Contract and all program income that it has on hand. Further, the Operating Agency shall transfer to the City all accounts receivable attributable to the use of CDBG funds provided under this Contract.

The Operating Agency shall remit and/or reimburse to the City all disbursed grant amount funds for the Project which the City and/or HUD subsequently declares to be returned for the Operating Agency's failure to comply with the requirements of Federal law and the terms and/or conditions of this Contract, whether or not this Contract is or has been suspended or terminated due to such failure to comply.

It is specifically agreed by the Operating Agency that the City may take any action at the time of termination or expiration of this Contract or after if deemed appropriate by the City's Legal Department to ensure compliance with the terms and conditions set forth herein. Such actions

may include, but are not limited to, proceeding with an appropriate legal or equitable court action and filing any appropriate liens.

13. **Disclaimer.** It is mutually understood by the parties that nothing in this Contract is intended or shall be construed as in any way creating or establishing the relationship of copartners between the parties hereto or as constituting the Operating Agency as an agent or representative of the City for any purpose whatsoever. It is further mutually understood by the parties that the employees of the Operating Agency are not to be considered employees of the City.
14. **Binding on Parties.** This Agreement shall be binding upon the City and Operating Agency, and the Operating Agency shall not assign or transfer its rights and responsibilities under this Agreement without prior written consent of the City (such consent as specified in this Paragraph to be given on behalf of the City by the City Manager, the City's Community Development Director or his/her designee).
15. **Entire Agreement.** This Agreement, including all exhibits, attachments and references made herein, shall constitute the full and complete agreement between the parties.
16. **Amendments.** Any additions, modifications, or amendments to this Contract, including Part III hereof, the "Work Program," shall be in writing and executed by both parties as provided in Part II hereof.

(Remainder of this page left blank intentionally)



## **PART II: General Terms & Conditions for Nonprofit Agency**

### **Iowa Homeless Youth Center Rooftop Gardens**

#### **Acquisition of 2705 E. Euclid Avenue, Des Moines, Iowa 50317**

1. **UNIFORM ADMINISTRATIVE REQUIREMENTS.** The Operating Agency shall be responsible for becoming knowledgeable and shall at all times comply with the requirements and standards of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," especially Subpart D, and/or OMB Circulars No. A-122, "Cost Principles for Non Profit Organizations," as relocated to 2 CFR 200, and comply with the following sections of revised OMB Circular No. A-133, as relocated to 2 CFR 200 "Audits of States, Local Governments and Non-Profit Organizations" and OMB Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations" as relocated to 2 CFR 200.
  
2. **PROGRAM REQUIREMENTS - FEDERAL LAW AND REGULATIONS.** The Operating Agency shall be responsible for becoming knowledgeable of, and shall at all times comply with, the requirements of Federal laws and regulations imposed by HUD under 24 CFR Part 570 including:
  - a. 24 CFR 570.601 "Public Law 88-352 and Public Law 90-284 (Civil Rights Acts); affirmatively furthering fair housing; Executive Order 11063;"
  - b. 24 CFR 570.602 "Section 109 of the Act" (equal opportunity, discrimination);
  - c. 24 CFR 570.603 "Labor Standards;"
  - d. 24 CFR 570.605 "National Flood Insurance Program;"
  - e. 24 CFR 570.606 "Displacement, Relocation, Acquisition and Replacement of Housing;"
  - f. 24 CFR 570.607 "Employment and Contracting Opportunities;"
  - g. 24 CFR 570.608 "Lead-Based Paint;"
  - h. 24 CFR 570.609 "Use of Debarred, Suspended or Ineligible Contractors or Subrecipients;"
  - i. 24 CFR 570.610 - "Uniform Administrative Requirements," (See Part II, Section 1 hereof);
  - j. 24 CFR 570.611 - "Conflict of Interest."
  
3. **UTILIZATION OF OTHER FUNDING AND BILLING PROCEDURES.** As specified in Subpart C of OMB Circular No. A-110 as relocated to 2 CFR 200, the Operating Agency shall maintain for all CDBG and other funds designated in the Work Program records that identify adequately the source and application of funds authorized for activities described in the "Work Program." CDBG funds shall be expended on a proportional basis to other funding. The Operating Agency may request reimbursement in excess of the proportional amount by submitting documented justification to the City for prior approval.

The Operating Agency shall at all times comply with the requirements and standards of Subpart D, "Post Federal Award Requirements, Financial and Program Management," OMB Circular No. A-110 as relocated to 2 CFR 200. The Operating Agency shall also comply with the requirements of 2 CFR 200.302, "Financial Management."

4. **METHOD OF PAYMENT.** Payments shall be made to the Operating Agency in conformance with the provisions of 2 CFR 200.305, "Payment." Interim payment may be made for each month during which all terms and conditions of this Project are met to the satisfaction of the City of Des Moines. Claims for payment shall be submitted to the City according to the procedures now or hereafter established by the City Manager.

If, however, an advance is necessary, it shall not exceed twelve and one-half (12 1/2) percent of the Operating Agency's total CDBG allocation for the Project year and documented justification must be submitted to the Project Monitor, Community Development Department.

Documentation shall include, but not be limited to, a cover letter explaining the need for an advance and evidence that the funds will be disbursed in minimal time, and any pertinent documents requested by the City, such as service agreement contracts, purchase orders, time sheets, and other documentation required under Part II hereof, supporting the request.

5. **DOCUMENTATION OF COSTS.** The Operating Agency shall comply with all applicable provisions of 2 CFR Part 200. The Operating Agency shall maintain current books, records, documents, and other evidence pertaining to all funds and revenues received under this Contract and/or the Work Program; and to the extent and in such detail as well properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies, services, and other costs and expenses of whatever nature, for which payment or reimbursement is sought under this Contract. All costs of the Operating Agency for which reimbursement is sought under this Project shall be supported by properly executed payroll and time records, invoices, contracts, vouchers or other acceptable accounting documents evidencing the nature and propriety of the costs, in proper detail that is sufficient to enable an audit to be performed.

All such documents shall be prepared and maintained by the Operating Agency and shall be clearly identified and readily accessible to the City. In preparing such documents, the Operating Agency shall specifically comply with the requirements and standards of OMB Circular No. A-122 "Cost Principles for Non-Profit Organizations," as relocated to 2 CFR Subpart E. The Operating Agency must demonstrate that Project funds are used in compliance with all applicable Federal statutory and regulatory provisions, that Project costs are reasonable and necessary for operating these programs, and Project funds are not used for general expenses required to carry out other responsibilities of the Operating Agency.

6. **REPORTS AND INFORMATION; INSPECTIONS.** The Project will be monitored by the City of Des Moines Community Development Department or other designee of the City Manager and evaluated by the City of Des Moines Finance Department or such other agency as the City may designate to evaluate or monitor the Project. To enable compliance by the City and Operating Agency with 24 CFR 200, on-site monitoring, including but not limited to auditing, record examination, and making excerpts and transcripts from Operating Agency's records, including contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to this Project, may also be conducted by the City (Community Development Department or Internal Auditing Division), by any independently-hired auditor, by HUD or any of

its offices, or another federal agency, at any time during normal business hours as often as deemed necessary by the City or HUD, and the Operating Agency shall fully participate in such monitoring as required or requested by said conducting officials or representatives, and shall furnish such statements, records, data and information pertaining to any matter covered by this Project upon the request of the Project Monitor, evaluator, other City official or HUD.

Further, the Operating Agency shall engage an independent audit to be conducted following the end of the Project period, as required under 2 CFR Part 200 and revised OMB circular No. A-110 as relocated to 2 CFR 200. The Operating Agency shall furnish such statements, records, data and information pertaining to any matter covered by this Project upon the request of the Contract monitor, evaluator, other City official or HUD. The Operating Agency shall specifically prepare and provide all necessary information to enable an audit to be performed in accordance with the requirements of OMB Circular No. A-110 as relocated to 2 CFR 200 and provide all information required by the terms of Part III hereof, the Work Program. A Work Program, activity schedule, and certain monthly reports may be required at the discretion of the City. The following information is to be submitted at least quarterly during the program year:

- a. A list of street addresses, in addition to census tract locations, for each physical development activity and residential rehabilitation. For an activity such as "street reconstruction" or "sewer lines" which is not located at a specific street address, provide both the beginning and ending points at which the activity was carried out, e.g. Ridge Road; from 27th to 30th Street.
- b. Direct Benefit Activities. For reporting purposes a direct benefit activity is defined as a CDBG funded activity that requires the beneficiary to submit an application or to complete a personal record as an integral part of receiving the benefit of that activity. Generally, applications or personal records are completed by beneficiaries for the following types of activities: single and multi-family residential rehabilitation; public services such as day care, mobile meals, manpower training (youth employment), minor home repairs, special assessment subsidy and transportation.

For each activity, the Operating Agency must provide the cumulative number of households (or persons) which have received assistance during the program year; the total number of households/persons assisted who are very low income, low income and moderate income; and the percentage of the total number of households/ persons affected who are:

- White
- Black/African-American
- Black/African-American & White
- American Indian/Alaskan Native
- American Indian/Alaskan Native & White
- American Indian/Alaskan Native & Black/African American
- Asian
- Asian & White
- Native Hawaiian/ Other Pacific Islander

- Other Multi-Racial
  - Female-Headed Households
- c. An outcome report that lists the results of the Project according to the goals and objectives contained in Part III, "Work Program."

Failure to submit required programs, schedules or reports when requested, will be cause for termination or suspension of this Contract pursuant to Part I hereof.

7. **RECORD RETENTION.** All records, documentation of costs, statements, data and information shall be retained by the Operating Agency in compliance with requirements imposed by the City's Community Development Department or HUD and in compliance with OMB Circular No. A-110 as relocated to 2 CFR 200, Subpart D "Post Federal Award Requirements, Record Retention," the minimum three year retention period shall start on the date the City submits the HUD Consolidated Annual Performance and Evaluation Report pursuant to 24 CFR 570.507 which report includes this Project. All records shall be retained by the Operating Agency beyond the minimum retention period if any litigation, claim or HUD audit is started and not resolved within that period.
8. **FINAL PAYMENT.** The Operating Agency must submit a claim for final payment within thirty days after expiration of the Project period, unless otherwise authorized in writing by the City Manager. The City shall not be obligated to pay any claim for reimbursement submitted after this thirty-day period, even if the claim would have been paid if submitted within the Project period.
9. **CHANGES IN SCOPE OF SERVICES.** The Operating Agency may find a need to modify the Project as described in Part III hereof, the Work Program. The Community Development Director is authorized to amend and/or modify the terms and provisions of this Project, provided that such changes do not include any substantive change in the location, services level, time period, budget (<10%) or Project purpose, and are both necessary to effect proper administration and agreed to by the Operating Agency. A request for such a determination and modification must be submitted in writing by the Operating Agency to the Community Development Department.

In those instances where the proposed amendment constitutes a substantive change, or single or cumulative budget adjustment(s) of 10% or more, the City's Neighborhood Revitalization Board must also review the proposed change(s) before such a change(s) is submitted to the City Council for action in accordance with Roll Call No. 08-2075. The request shall include rationale for the change and appropriate amendments to the text of the Work Program, including a Contract budget with detailed, revised line items, if necessary.

Budget adjustments shall be compatible with the terms of this Contract and of such nature as to qualify as an allowable cost. Budget adjustments requested during the final ninety (90) days of the Contract period will be processed at the discretion of the Community Development Department Director.

10. **EQUIPMENT, PERSONAL PROPERTY AND NON-EXPENDABLE SUPPLIES.** All equipment and non-expendable supplies, as defined in 2 CFR Subpart D, purchased by the Operating Agency for the Project and charged in whole or in part against reimbursement payable to the Project, shall be the property of the City and revert to the City and be under the control of the City's Community Development Department upon the termination of this Contract and be delivered to the Community Development Department upon demand. A copy of invoices covering the purchase of equipment and non-expendable supplies by the Operating Agency shall be delivered to the City with the claim for payment.

The Operating Agency shall at all times comply with the requirements and standards of Subpart C of OMB Circular No. A-110 as relocated to 2 CFR 200, Subpart D, "Post Federal Award Requirements, Property Standards." All proceeds from the sale of real or personal property (including equipment and non-expendable supplies) shall be program income (See 24 CFR 570.500(a)).

11. **PUBLIC RELATIONS.** The Operating Agency will in all radio, television, and newspaper reports make a good faith effort to acknowledge the Project's inclusion in the City's HUD Consolidated Plan and the role of citizens as defined in the above statement. Specific references to the Neighborhood Revitalization Board or City Council should be made when possible.
12. **RESTRICTIONS ON DISBURSEMENTS.** No funds under this Project shall be disbursed by the Operating Agency to any contractor except pursuant to a written contract which incorporates all applicable terms and conditions and unless the contractor is in compliance with HUD requirements with regard to accounting and fiscal matters, i.e. cost reasonableness and performance standards to the extent they are applicable.
13. **DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS.** The Operating Agency shall not use funds under this Project to directly or indirectly employ, award contracts to, or otherwise engage the service of any debarred, suspended or ineligible contractor, or fund any contractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR 570.609. The Community Development Department has a list of these contractors, which will be provided to the Operating Agency upon request, or if determined necessary by the Community Development Department, the Operating Agency must require each contractor working on the Project to submit subcontractor eligibility documentation prior to work beginning, for verification against the System for Award Management (SAM).
14. **CONFLICT OF INTEREST.** The Operating Agency, in the procurement of supplies, equipment, construction and services, shall comply with the conflict of interest provisions contained in OMB Circular A-110 as relocated to 2 CFR 200. In all other matters the Operating Agency shall comply with the conflict of interest provisions contained in 24 CFR 570.611.

It is specifically understood by the Operating Agency that no official (elected or appointed), officer, employee, agent or consultant of the City or Operating Agency who exercises or has exercised any functions or responsibilities with respect to any CDBG funded activities (including those under this Project) or who is in a position to participate in a decision making process or

gain inside information with regard to such activities may obtain a financial interest or benefit from the Project activities, or have a financial interest in any contract, subcontract or agreement with respect to the Project or the proceeds thereunder, either for themselves or those with whom they have immediate family or business ties, during their tenure or for one year thereafter. The Operating Agency further covenants that no officer or employee of the City of Des Moines may serve as a voting member of the Operating Agency's Board of Directors, unless a written exception from the City Manager and Legal Department has been received by the Operating Agency.

The Operating Agency agrees that it complies with and will incorporate into every contract or subcontract the following provision:

**INTEREST OF CONTRACTOR AND EMPLOYEES.** The contractor covenants that no person who presently exercises any functions or responsibilities in connection with the Project has any personal financial interest, direct or indirect, in the Project, or has any property interest affected by the Project, which would conflict in any manner or degree with the performance of his/her services hereunder. The Contractor further covenants that in the performance of this Contract no person having any conflicting interest shall be employed. Any interest on the part of the Contractor or his/her employees must be disclosed to the Operating Agency and the City. However, this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area.

15. **OPPORTUNITIES FOR RESIDENTS, BUSINESSES AND LOWER INCOME PERSONS.** The Operating Agency shall comply with and cause to be inserted in all contracts and subcontracts for work or services to be provided under the Project the following requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701u), (24 CFR 570.607(b)) and shall comply with the requirements of the implementing regulations as applicable (24 CFR Part 135), and the City's requirements for providing opportunities to residents, Section 3 Clause of the Housing and Urban Development Act of 1968, as Amended:.

- a. The work to be performed is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b. The parties agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Contract, the parties certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- c. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the commitments under this Section 3 clause, and further agrees to

post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

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

16. **EQUAL EMPLOYMENT OPPORTUNITY.** In the event of the Operating Agency's noncompliance with non-discrimination clauses of this Contract or with any of the following rules, regulations, or requests, this Contract may be canceled, terminated, or suspended either wholly or in part, as set forth in Part I hereof. In addition, the City may take further action by imposing other sanctions and invoking additional remedies as provided by the Iowa Civil Rights Act of 1965 (Chapter 216, Code of Iowa (2013)) or as otherwise provided by law.

The Operating Agency shall comply with Section 109 of the Act regarding equal opportunity and non-discrimination that is referenced at 24 CFR 570.602. The Operating Agency shall also comply with Executive Order 11246 as amended by Executive Orders 11375, 11478, 12086, 12107, 13087, the Executive Order dated December 12, 2002 "Equal Protection of the Laws for Faith-Based and Community Organizations" and the regulations issued pursuant thereto (41 CFR Chapter 60) pertaining to equal employment and contracting opportunities (See 24 CFR 570.607). The Operating Agency shall agree and shall cause to be inserted in all contracts and

subcontracts for work or services to be provided under this Project an agreement not to discriminate against any employee or applicant for employment because of, at a minimum, race, color, religion, sex, age, disability or national origin; and shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment without regard to race, color, religion, sex, age, disability or national origin.

Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

The Operating Agency shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the United States Government setting forth the provisions of this non-discrimination clause, and shall agree that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, or disability.

The Operating Agency shall comply with the City's Affirmative Action Program and shall require all contractors and subcontractors covered by the terms of the program to comply and encourage contractors not covered to comply.

The Operating Agency shall comply with the Contract Compliance Program for Community Development that refers to and includes all provisions of the Contract Compliance Program for the City of Des Moines, Equal Opportunity Program and Affirmative Action Plan.

The Operating Agency shall also, at a minimum, comply with the Des Moines Human Rights Ordinance, specifically Section 62-71 of the Municipal Code of the City of Des Moines, and shall require all its contractors and subcontractors to comply with this section which prohibits unfair or discriminatory employment practices based upon age, race, religion, creed, color, sex, sexual orientation, gender, gender identity, national origin, ancestry, disability, gender identity or familial status.

The Operating Agency will comply with Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, referring to non-discrimination based on handicaps.

17. **CONDITIONS FOR RELIGIOUS ORGANIZATIONS.** The Operating Agency shall not use CDBG funds disbursed by the City or make available such funds to any contractor or subcontractor for use in violation of Constitutional First Amendment Church/State Principles and the provisions set forth at 24 CFR 570.200(j), and the Operating Agency may not use direct CDBG funds to support, or engage in, inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under CDBG; if such activities are conducted by the Operating Agency, they must be offered separately in time or location from the programs or services funded by CDBG, and participation must be voluntary

The Operating Agency shall not use funds or permit the use of funds for the acquisition of property or the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures to be used for religious purposes or which will otherwise promote religious interests. This limitation includes the acquisition of property for ownership by



primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities regardless of the use to be made of the property or structure except if written approval for certain rehabilitation or repair is obtained from the City as permitted under the conditions and guidelines of 24 CFR 570.200(j)(5).

The Operating Agency may use CDBG funds to acquire property owned by a primarily religious entity only at a purchase price that does not exceed the fair market value for a non-religious use.

In the event the Operating Agency contracts or subcontracts with a primarily religious entity for the provision of eligible public services under the Project, the Operating Agency shall include in any such contract or subcontract provisions that the religious entity:

- a. will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
- b. will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
- c. will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.

18. **CONSTRUCTION.** If this is a Project that involves a contract and/or subcontract for construction or repair of any building or work excluding rehabilitation of residential property designed for residential use for less than eight units, the Operating Agency shall comply with 24 CFR 570.603 and cause to be inserted in all contracts and subcontracts the applicable provisions of the Contract Work Hours and Safety Standards Act (40 USCA. 3701 et seq.) and 24 CFR Part 70.

19. **LEAD BASED PAINT REQUIREMENTS.** The Operating Agency and its contractors and subcontractors under contracts for work or services to be performed under this Project shall ensure that any and all residential structures constructed or rehabilitated under this Project, shall comply with all applicable provisions of the HUD Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR Part 35, subparts A, B, M and R, and 24 CFR 570.608.

20. **HISTORIC PRESERVATION ACT OF 1968.** The Operating Agency and its contractors or subcontractors shall comply with and ensure that rehabilitation and redevelopment activities are in conformance with 36 CFR Part 800, "Protection of Historic Properties."

The Operating Agency shall contact the City Community Development Department for an evaluation and assessment to determine if the proposed activities involve any affected historic properties. If it is determined that any activity will involve historic property, the Operating

Agency shall comply with all requirements set out by the City Community Development Department.

21. **AIR AND WATER ACTS.** The Operating Agency shall comply with and cause to be inserted in all contracts and subcontracts for work or services to be provided under this Project the terms and conditions relating to compliance with the Clean Air Act (42 U.S.C.A. 7401 et seq.) and Federal Water Pollution Control Act (33 U.S.C.A. 1251 et seq.).
  
22. **CIVIL RIGHTS ACTS.** The Operating Agency shall comply with and cause to be inserted in all contracts and subcontracts for work or services to be provided under this Project an agreement to comply with the terms and conditions relating to compliance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, as amended by Executive Order 12259 and with Title VII of the Civil Rights Act of 1968, and HUD regulations with respect thereto (24 CFR 570.601 and 24 CFR Part 100), which provide that no person shall be excluded from participation, denied benefits, or be subjected to discrimination (including in the area of housing) on the grounds of race, color, religion, creed, sex, or national origin under any program or activity receiving Federal financial assistance. The Operating Agency may insert language in its contracts and subcontracts that require additional civil rights protections if required or permitted by its policies or rules.
  
23. **COPYRIGHTS AND PATENTS.** The Operating Agency agrees and shall cause to be inserted in all contracts and subcontracts for work or services to be provided under this Project the following:
  - a. The City and HUD reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for Federal Government purposes, the copyright in any work developed under this Project (including all work contracted out) and any rights of copyright to which the Operating Agency (or contractor or subcontractor) purchases ownership with funds under this Contract, in accordance with 24 CFR 85.34.
  - b. Any discovery or invention rising out of or developed in the course of work aided by this Project shall be promptly and fully reported to the City and HUD for determination by them as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereof, shall be disposed of and administered, in order to protect the public interest.
  
24. **POLITICAL ACTIVITY AND LOBBYING.** The Operating Agency agrees and shall cause to be inserted in all contracts and subcontracts for work or services to be provided under this Project the following:
  - a. None of the funds, materials, property or service provided directly or indirectly under this Contract shall be used in the performance of this Project for any partisan political activity, or to further the election or defeat of any candidate for public office, in accordance with the City's current policy on political activity.

- b. No Federal appropriated funds, including the funds provided under this Project, have been paid or will be paid, by or on behalf of the Operating Agency and/or subgrantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant loan, or cooperative agreement, accordance with 24 CFR 87.100, "Conditions on use of Funds."
  - c. If any funds other than Federal appropriated funds, including the funds provided under this Project, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
25. **RELOCATION, DISPLACEMENT AND ACQUISITION.** If the Operating Agency has reason to believe that the Project will result in the displacement of any family, individual, business or nonprofit organization the Operating Agency shall contact the City's Engineering Department. If the City's Engineering Department determines that the Uniform Relocation Act applies to the Project, the Operating Agency shall comply with all requirements set out by the Engineering Department and in 24 CFR 570.606.
26. **PROCUREMENT.** The Operating Agency shall comply with the requirements and standards of 24 CFR Part 84 and OMB Circular No. A-110 as relocated to 2 CFR 200, Subpart D, "Post Federal Award Requirements, Procurement Standards" when procuring property, supplies, equipment or other services pursuant to this Project.
27. **BONDING, INSURANCE AND INDEMNIFICATION.** The Operating Agency shall comply with the requirements and standards of OMB Circular No. A-110 as relocated to 2 CFR 200, Subpart D.

The Operating Agency agrees to obtain and maintain in continuous effect during the term of this Contract with the City of Des Moines, Iowa and while any of its obligations under this Contract remain unsatisfied, the insurance coverages set forth in Attachment A, with amounts, coverages, limits, exclusions and endorsements as therein provided.

For purposes of this section, City shall mean the City of Des Moines, Iowa, its elected and appointed officials, employees, volunteers and others working on behalf of the City of Des Moines. To the fullest extent permitted by law, the Operating Agency agrees to defend, pay on behalf of, indemnify, and hold harmless the City against reasonable expenses incurred by City in enforcing the provisions of this paragraph as well as any and all claims, demands, suits, damages or losses, together with any and all outlay and expense connected therewith, including, but not limited to, attorneys' fees and court costs, that may be asserted or claimed against, recovered

from or suffered by the City by reason of any injury or loss, including, but not limited to, personal injury, including bodily injury or death, property damage, including loss of use thereof, and economic loss or damages arising out of or in any way connected or associated with the Operating Agency's work or services provided pursuant to the provisions of this Contract.

The Operating Agency's obligation to indemnify the City contained in this Agreement is not limited by the amount or type of damages, compensation or benefits payable under any workers' compensation acts, disability benefit acts, or other employee benefit acts.

The City shall not be liable or in any way responsible for any injury, damage, liability, claim, loss or expense incurred by the Operating Agency, its officers, employees, subcontractors, and others affiliated with the Operating Agency, arising out of or in any way connected or associated with the Operating Agency's work or services, except for and only to the extent caused by the negligence of the City of Des Moines, Iowa.

The Operating Agency expressly assumes full responsibility for any and all damages arising out of or in any way connected or associated with the Operating Agency's work or services, but not limited to, the activities of the Operating Agency, its officers, employees, subcontractors, and others affiliated with the Operating Agency.

The Operating Agency shall ensure that its activities, work and services provided pursuant to the provisions of this Contract will be performed and supervised by adequately trained and qualified personnel and that the Operating Agency will observe, and cause its officers, employees, subcontractors and others affiliated with the Operating Agency to observe all applicable safety rules.

28. **ANTI-KICKBACK.** The Operating Agency shall comply with the requirements of 18 USCA 874 (Anti-Kickback Act).
29. **DRUG-FREE WORKPLACE.** The Operating Agency shall comply with the certification requirements of the Drug-Free Workplace Act of 1988 (41 U.S.C.A 702) as set forth at 2 CFR Part 2429.



Operating Agency: Iowa Homeless Youth Center (IHYC)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the \_\_\_\_ day of May, 2020.

By: \_\_\_\_\_  
Toby O'Berry, IHYC Director

STATE OF IOWA        )  
                                  ) §:  
COUNTY OF POLK    )

On this \_\_\_\_\_ day of May, 2020 before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Toby O'Berry, to me personally known, who being by me duly sworn, did say that he is the Director of IHYC, that the instrument was signed on behalf of the corporation by authority of its Board of Directors; and that they acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in the State of Iowa  
My Commission Expires: \_\_\_\_\_



City of Des Moines, Iowa

By: \_\_\_\_\_  
Chris Johansen, Community Development Department Director

Approved as to form:

Judy K. Parks-Kruse  
Judy Parks-Kruse, Assistant City Attorney

STATE OF IOWA        )  
                                  ) §:  
COUNTY OF POLK    )

On this \_\_\_\_\_ day of May, 2020, before me, the undersigned, a Notary Public, personally appeared Chris Johansen, to me personally known, who, being by me duly sworn, did state that he is the Community Development Director for the City of Des Moines, Iowa; and that the instrument was signed on behalf of the corporation, by authority of its City Council, as contained in the Roll Call No. 20- on May 18, 2020 by the City Council, and that he acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.

\_\_\_\_\_  
Notary Public in the State of Iowa  
My Commission Expires: \_\_\_\_\_

### PART III: Work Program

#### Iowa Homeless Youth Center Rooftop Gardens

##### Acquisition of 2705 E. Euclid Avenue, Des Moines, Iowa 50317

1. **Project.** The Project shall include acquisition costs of the property located at 2705 E. Euclid Avenue, Des Moines, Iowa ("Project Property") to construct a job training facility to cultivate employment skills of homeless youth. Following acquisition, the facility will be constructed. Occupation is anticipated to be in spring 2021.
2. **Administration.** The Operating Agency shall be fully responsible for all aspects of the Project. All aspects of the Project shall be undertaken in compliance with applicable federal, state, and local laws and licensing, permitting and inspection requirements, including but not limited to those specifically identified in this Contract. Project shall require, but may not be limited to, the following:
  - a. Compliance with appraisal requirements of 49 CFR Part 24.103 to document Fair Market Value was paid for the property;
  - b. Proof of additional available funding to acquire the property; and
  - c. Documentation of meeting national objective, which is assisting low- and moderate-income clientele. Documentation may include proof of first-year's job training graduates or access to IHYC's HMIS records.
3. **Schedule.** To the extent possible, the Operating Agency shall follow the schedule provided below in undertaking the Project:
  - a. June 1, 2020 - Purchase Land
  - b. June 2020 - Finalize Construction Plans
  - c. July 2020 - Finalize Construction Bids and secure work permit
  - d. August 2020 - Start Construction Work
  - e. February 2021 - Project Completion Date and Certificate of Occupancy Issued to Operate Rooftop Gardens
4. **Budget.** Actual acquisition costs incurred after February 20, 2020, including the cost of surveys to identify the property to be acquired, appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to effect the acquisition associated with the following portions of the Project, are eligible for reimbursement in an amount up to and not to exceed \$150,000 and in accordance with the terms of this Contract.
5. **Recordkeeping and reporting requirements.** Operating Agency will provide a quarterly report to the City documenting status of the Project. Operating Agency will maintain all records in accordance with Parts I and II of this Contract for a period of five years.