2009 AGREEMENT TO USE HOME INVESTMENT PARTNERSHIPS PROGRAM ("HOME")
FUNDS BY THE CITY OF LAS VEGAS

WHEREAS, the Housing Division, Department of Business and Industry, State of Nevada, hereinafter called "NHD", has entered into a Grant Agreement with the United States Department of Housing and Urban Development, hereinafter referred to as "HUD", for participation in the Home Investment Partnerships Program, hereinafter referred to as the "HOME Program" under 24 CFR Part 92 as amended; and

WHEREAS, NHD, as the Entitlement Grantee for the HOME Program, is responsible for the planning, administration, implementation, and evaluation of the program; and

WHEREAS, the City of Las Vegas hereinafter called the City of Las Vegas is a political subdivision of the State of Nevada; and

WHEREAS, NHD desires to assist the City of Las Vegas by providing HOME Program funds to assist with qualified projects under HOME rules, statutes, and regulations.

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WHEREAS, pursuant to NRS 277.180 any one or more public agencies may contract with any one or more public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform.

NOW, THEREFORE, in consideration of the foregoing premises, be it agreed between NHD and the City of Las Vegas that HOME Funds be conveyed to the City of Las Vegas by NHD, subject to the following conditions and limitations:

I. Scope of Services.

A. NHD has determined that the City of Las Vegas is eligible to receive FY 2009 HOME Program funds in the amount of $430,712.00.

B. NHD will provide the City of Las Vegas, $430,712.00 in HOME Program Funds.

C. The City of Las Vegas agrees that any program costs, unless otherwise specified, exceeding the $430,712.00 in HOME Program funds provided by NHD pursuant to this Agreement, will be the responsibility of the City of Las Vegas. Any ongoing project costs such as maintenance and operations shall be the sole responsibility of the City of Las Vegas.

D. The City of Las Vegas agrees to expend the total allotment on project-specific activities, to the exclusion of administrative or CHDO operating expenses. The City of Las Vegas agrees that the cost of the administration of projects funded under this allotment will be borne by the City of Las Vegas.

E. Before disbursing HOME funds to any recipient, the City of Las Vegas agrees to enter into a written agreement with qualified recipients requiring compliance with the rules set forth in 24 CFR Part 92.

F. The City of Las Vegas agrees to commit (and expend) no less than $150,000.00 of the agreed upon allotment to Community Housing Development Organization (CHDO) activities, and designate this expenditure as the CHDO set-aside for the State of Nevada.

G. Changes in the Scope of Services as outlined herein must be in accordance with HOME Program regulations, made by written amendment to this Agreement and approved by both parties. Any such changes must not jeopardize HOME Program funding.

II. Division General Conditions. The City of Las Vegas agrees to abide by all conditions fully set forth below.

A. The City of Las Vegas has requested the financial support of NHD that is provided for in this Agreement in order to enable the City of Las Vegas to provide affordable housing assistance. NHD shall have no relationship whatsoever with the services provided, except the provision of financial support, monitoring, and the receipt of such reports as are provided for herein. To the extent, if at all, that any relationship to such services on the part of NHD may be claimed or found to exist, the City of Las Vegas shall be an independent contractor only.

B. The City of Las Vegas shall obtain, or require any subgrantee to obtain, any and all federal, state, and local permits and licenses required to execute any individual Project as described in this Agreement's Scope of Services. The City of Las Vegas further agrees to abide by, and shall require all subgrantees to abide by, all applicable federal, state, and local codes, regulations, statutes, ordinances, and laws.

C. The City of Las Vegas shall submit to NHD, draw requests for projects and allow the Division a maximum of seven days to process the draw. The City of Las Vegas will close projects in a timely manner.

D. The City of Las Vegas will provide NHD with client usage records per project on an annual basis during the period of this Agreement. These records will contain, but are not limited to, the following data:

1. Total clients served;
2. Racial breakdown of clients served including Black, White, Hispanic, American Indian/Alaskan and Asian/Pacific Islander;
3. Number and percentage of low- and very low- income clients as defined by HUD HOME Program Income Guidelines;
4. Number of handicapped clients served;
5. Number of senior citizens served;
6. Number of female head-of-households served;
7. Name of each head of household served;
8. Number of persons in each household served; and
9. Rent charged each household served.

E. The City of Las Vegas will not use any portion of the allocated HOME funds for other than HOME qualified projects, as defined in the HOME program regulations (24 CFR 92). Any recipient or subgrantee must meet HOME Program requirements and serve eligible low-income residents.

F. If the qualified projects or activities, or any portion thereof, are converted to non-qualified HOME projects or activities without the prior written approval of NHD, the City of Las Vegas shall, upon the request of NHD, repay to NHD, without interest, the amount of HOME Program funds expended on the non-qualified project. The City of Las Vegas shall require reasonable assurances of security for terms of affordability and repayments in the form of a recorded deed of trust for such property, pursuant to 24 CFR 92.252 and 92.254, and which the City of Las Vegas shall cause to be executed as part of providing applicable assistance. A sale, transfer, or other conveyance of the assisted property is subject to the requirement that the amount of HOME funds previously invested in the property be treated in accordance with 24 CFR Part 92.503.

G. The City of Las Vegas may not assign or delegate any of its rights, interests, or duties under this Agreement without the prior written consent of NHD. Any such assignment or delegation made without the required consent shall be voidable by NHD, and may, at the option of NHD, result in the forfeiture of all financial support provided herein.

H. The City of Las Vegas shall carry, or require any subgrantee to carry, Comprehensive Fire and Hazard insurance covering the full replacement costs of an assisted project.

I. The City of Las Vegas shall allow duly authorized representatives of NHD to conduct such occasional reviews, audits, and on-site monitoring of projects as NHD deems to be appropriate in order to determine:

1. Whether the objectives of the program are being achieved;
2. Whether the program is being conducted in an efficient and effective manner;
3. Whether management control systems and internal procedures have been established to meet the objectives of the program;
4. Whether the financial operations of the program are being conducted properly;
5. Whether the periodic reports to NHD contain accurate and reliable information; and
6. Whether all of the activities of the program are conducted in compliance with the provisions of Federal and State laws and regulations and this Agreement.

Visits by NHD to Projects shall be announced to the City of Las Vegas in advance of those visits and shall occur during normal operating hours. The representatives of NHD may request, and, if such request is made, shall be granted, access to the records of the City of Las Vegas that relate to the program. The representatives of NHD may, from time to time, interview recipients of the housing services of the program who volunteer to be interviewed.

J. At any time during normal business hours, the City of Las Vegas' records with respect to the Program shall be made available for audit, examination, and review by NHD, the Attorney General's Office, contracted independent auditors, HUD, the Comptroller General of the United States, or any combination thereof.

K. Subject to NRS Chapter 41and 354, the City of Las Vegas will protect, defend, indemnify, and save and hold harmless NHD from and against any and all liability, damages, demands, claims, suits, liens, and judgments of whatever nature including but not limited to claims for contribution or indemnification for injuries to or death of any person or persons, caused by the negligence, gross negligence or intentional act of the City of Las Vegas or its agents pursuant to this Agreement.

L. The City of Las Vegas will not use any funds or resources which are supplied by NHD in litigation against any person, natural or otherwise, or in its own defense in any such litigation and also to agree to notify NHD of any legal action which is filed by or against it.

M. This Agreement will commence upon its approval and signature by all parties. Funds allocated by NHD to the City of Las Vegas under this agreement must be committed by the City of Las Vegas to specific Projects in HUD's Integrated Disbursement Information System (IDIS) prior to May 31, 2011 used prior to May 31, 2013.

N. In the event that the City of Las Vegas and/or NHD anticipate the total amount of funds allocated for this Agreement will not be expended in the time and manner prescribed in this Agreement, NHD reserves the right to extract that portion for other projects/programs operated under NHD's HOME Program.

O. The City of Las Vegas agrees that no officer or employee of the City of Las Vegas may seek or accept any gifts, service, favor, employment, engagement, emolument, or economic opportunity that would tend improperly to influence a reasonable person in that position to depart from the faithful and impartial discharge of the duties of that position.

P. The City of Las Vegas agrees that no officer or employee of the City of Las Vegas may use his or her position to secure or grant any unwarranted privilege, preference, exemption or advantage for himself or herself, any member of his or her household, any business entity in which he or she has a financial interest or any other person.

Q. The City of Las Vegas agrees that no officer or employee of the City of Las Vegas may participate as an agent of the City of Las Vegas in the negotiation or execution of any contract between the City of Las Vegas and any private business in which he or she has a financial interest.

R. The City of Las Vegas agrees that no officer or employee of the City of Las Vegas may suppress any report or other document because it might tend to affect unfavorably his or her private financial interests.

S. The City of Las Vegas, and any subgrantee, shall keep and maintain in effect at all times any and all licenses, permits, notices and certifications which may be required by any county ordinance or state or federal statute.

T. The City of Las Vegas, and any subgrantee, shall be bound by all county ordinances and state and federal statutes, conditions, regulations and assurances which are applicable to the entire HOME Program or are required by HUD, NHD, or any combination thereof.

U. Any material breach of this section may in the discretion of NHD, result in forfeiture of all unexpended HOME Program funds received by the City of Las Vegas pursuant to this Agreement, or any part thereof.

III. Federal General Conditions.

A. The City of Las Vegas shall comply with the following laws and directives:

1. The Hatch Act as set forth in Title 5, Chapter 15, of the United States Code.

2. The National Environmental Policy Act of 1969 as set forth in Public Law 91-190 and the implementing regulations in 24 CFR, Parts 51 and 58.

3. Title VIII of the Civil Rights Act of 1968, Public Law 90-284.

4. Section 109 of the Housing and Community Development Act of 1974.

5. Title VI of the Civil Rights Act of 1964, Public Law 88-352, and the regulations of HUD with respect thereto, including 24 CFR, Parts 1 and 2.

6. The Fair Housing Act, as amended.

7. Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations of HUD with respect thereto, including 24 CFR, Part 135.

8. Executive Order 11063, as amended.

9. The Age Discrimination Act of 1975.

10. Section 504 of the Rehabilitation Act of 1973.

11. Executive Order 11246, as amended, and the regulations which are issued pursuant thereto.

12. The Fair Labor Standards Act.

13. Section 202(a) of the Flood Disaster Protection Act of 1973.

14. Sections 302 and 401(b) of the Lead-Based Paint Poisoning Prevention Act and implementing regulations in 24 CFR, Part 35.

15. The Davis-Bacon Act, as amended, if applicable, which requires that all laborers and mechanics who are employed to perform work on the Project, or any contractor or construction work which is financed, in whole or in part, with assistance which is received under the Housing and Community Development Act of 1974 shall be paid wages at rates which are not less than those that prevail in the locality for similar construction and shall receive overtime compensation in accordance with the Contract Work Hours and Safety Standards Act. The contractor and its subcontractors shall also comply with all applicable Federal laws and regulations which pertain to labor standards, including the minimum wage law.

16. 45 CFR, Part 76, Subpart F of the Drug-Free Workplace Act of 1988.

17. Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, which prohibits the City of Las Vegas from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of the City of Las Vegas, 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.

18. Title I of the Housing and Community Development Act of 1974, as amended, which requires that the City of Las Vegas shall:

    a. not discriminate against any employee or applicant for employment on the basis of religion and not limit employment or give preference in employment to persons on the basis of religion; and
    b. not discriminate against any person applying for such public services on the basis of religion and not limit such services or give preference to persons on the basis of religion; and
    c. 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.

19. Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225.

B. No officer, employee or agent of NHD shall have any interest, direct or indirect, financial or otherwise, in any contract or subcontract or the proceeds thereof, for any of the work to be performed pursuant to the Project during the period of service of such officer, employee or agent, for one year thereafter.

C. None of the personnel employed in the administration of the Program shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 Title 5, U.S. Code.

D. None of the HOME Program funds to be paid under this Agreement shall be used for any partisan political activity, or to support or defeat legislation pending before Congress.

E. The City of Las Vegas shall carry out its activities in compliance with all Federal laws and regulations described in 24 CFR Part 92, which are applicable to HOME Program funds, except that the City of Las Vegas will not assume NHD's environmental responsibilities described in 24 CFR 92.352, nor the intergovernmental review process described in 24 CFR 92.359, but shall assist in the completion of required Environmental Reviews.

F. The City of Las Vegas shall comply with applicable uniform administrative requirements, as described in 24 CFR 92.505.

G. The City of Las Vegas shall maintain records in accordance with 24 CFR 92.508.

H. The City of Las Vegas shall comply with the requirements of Executive Order 11625, 12432, and 12138 that provides for the utilization of minority businesses and women business enterprises in all federally assisted contracts. The City of Las Vegas shall provide NHD, on an annual basis, records and data on Minority Business Enterprise, Women's Business Enterprise, and affirmative marketing efforts. These records shall contain, but are not limited to, the following data:

1. Data on the attempts to reach minority-owned and female-owned businesses when announcing business opportunities;
2. Data on racial/ethnic or gender character of business to whom a contract was awarded and the contract amount; and
3. Data on attempts to affirmatively further fair housing.

NHD, in its discretion, may request such other and further information, as from time to time required to ensure compliance with the mandates of the above listed Executive Orders.

I. Program income shall be treated in accordance with 24 CFR Part 92.503. City of Las Vegas will be allowed to keep any program income received using state HOME funds.

J. Any material breach of the terms of this section may, in the discretion of NHD, result in forfeiture of all HOME Program funds received by the City of Las Vegas pursuant to this Agreement, or any part thereof.

K. Upon the expiration or revocation of this Agreement, the City of Las Vegas shall transfer to NHD any HOME Program funds on hand at the time of expiration or revocation and any accounts receivable attributable to the use of HOME Program funds, unless waived in writing by NHD.

L. For each qualified project receiving funds pursuant to this agreement, the City of Las Vegas shall establish a term of affordability. The City of Las Vegas agrees to establish this term of affordability for the qualified projects in accordance with HOME Program regulations, Section 92.252, and Section 92.254, if applicable. A sale, transfer, or other conveyance of the assisted property is subject to the requirement that the amount of HOME funds previously invested in the property be returned to be reinvested in other affordable housing units.

M. The City of Las Vegas agrees to maintain, and shall require subgrantees to maintain, the qualified Projects funded pursuant to this agreement in accordance with Housing Quality Standards established by HUD for the Section 8 Program, and, if applicable, local housing code requirements for the duration of this Agreement.

N. The City of Las Vegas agrees, and shall require subgrantees to agree, to undertake an affirmative marketing program in conformance with 24 CFR 92.351(b) and Chapter 3 of the HUD Handbook 7360.01 (Rental Rehabilitation Program) and as described in the State of Nevada Program Description.

O. The City of Las Vegas agrees that the duration of this Agreement is the longest Period of Affordability used in any project receiving funds pursuant to this agreement, commencing from the initial date of payment of HOME funds, pursuant to 24 CFR 92.252 or 24 CFR 92.254.

P. The City of Las Vegas agrees that, for the duration of this Agreement or the Period of Affordability applicable to the project receiving funds pursuant to this agreement, whichever is longer, each project or activity will be operated in compliance with Home Program requirements, specifically those contained in 24 CFR 92.250-92.258, Subpart F.

Q. In conjunction with the acquisition and/or rehabilitation of any qualified project, the City of Las Vegas agrees, and shall require any subgrantee to agree, to minimize displacement or dislocation of current tenants by honoring all leases in force at the time this Agreement is executed, by referring eligible dislocated tenants to the local Housing Authority for assistance, and by assisting with their relocation per 24 CFR 92.353.

R. Should any tenants be displaced as a result of acquisition or rehabilitation of any qualified project, the City of Las Vegas agrees to assume, or delegate to any subgrantee, the sole financial responsibility for any liability associated with 49 CFR Part 24.

S. All leases with tenants living in HOME-assisted units shall be made for not less than one year, unless a shorter term is mutually agreed upon between the City of Las Vegas and tenant. All such leases must comply with the requirements set forth in 24 CFR 92.253.

T. The City of Las Vegas agrees, and shall require subgrantee to agree, to use qualified housing inspectors to perform an initial housing quality inspection of any qualified project prior to occupancy by HOME Program tenants, or with the replacement of a tenant, or after making any Code corrections, with the housing quality inspection to be performed annually, when applicable.

U. The City of Las Vegas agrees, and shall require any subgrantee, to re-certify project tenant's, if applicable, HOME Program eligibility at least annually as required by HUD regulations.

V. The City of Las Vegas agrees, and shall require any subgrantee, to agree, that maximum rents charged shall not exceed those calculated by HUD per HOME Program regulations, and that the City of Las Vegas will supply tenants with written notice at least 45 days before implementing any rent increase.

IV. Financial Management.

A. The City of Las Vegas agrees, and shall require any subgrantee to agree, to comply with the requirements of the United States Office of Management and Budget (OMB) Circular No. A-110 "Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" and its relevant attachments "A" through "O" excepting Section F.2(H) of OMB Circular A-110 which has been superseded by OMB Circular A-133; and Circular A-122, entitled "Cost Principles for Non-Profit Organizations".

B. The City of Las Vegas agrees, and shall require any subgrantee to agree, that all costs of any project receiving funds pursuant to this agreement, shall be recorded by budget line items and be supported by checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents evidencing in proper detail the nature and propriety of the respective charges, and that all checks, payrolls, time records, invoices, contracts, vouchers, orders or other accounting documents which pertain, in whole or in part, to the project shall be thoroughly

identified and readily accessible to NHD.

C. The City of Las Vegas agrees that excerpts or transcripts of all checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents related to or arguably related to the project will be provided upon request to NHD.

D. The City of Las Vegas agrees that it may not request disbursement of funds under this Agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the City of Las Vegas requests HOME funds. As required by 92.504(c)(1)(vii).

E. The City of Las Vegas shall comply with the Single Audit Act and Circular A-133 and shall provide NHD with a copy of the complete audit report.

V. Modification or Revocation of Agreement.

A. NHD and the City of Las Vegas will amend or otherwise revise this Agreement should such modification be required by HUD or any applicable Federal statutes or regulations.

B. In the event that any of the HOME Program funds for any reason are terminated or withheld from NHD or otherwise not forthcoming, NHD may revoke this Agreement.

C. In accordance with 24 CFR 85.43, NHD may suspend or terminate this agreement if the City of Las Vegas fails to comply with any of its terms.

D. This agreement may be terminated at the convenience of NHD in accordance with 24 CFR 85.44.

E. This Agreement constitutes the entire Agreement between the parties and may only be modified by a written amendment signed by the parties, or as otherwise set forth in the terms of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby, this _____ day of _____, 2009. The City of Las Vegas certifies that it will not contract services of any debarred, suspended or ineligible contractors or allow any of its members to contract services of any debarred, suspended or ineligible contractors.

CITY OF LAS VEGAS

_____
Oscar B. Goodman
Mayor

ATTEST:

_____
Beverly K. Bridges, CMC, City Clerk

State of Nevada)
County of Clark)

On this _____ day of _____, 2009, before me, a Notary Public, personally appeared Oscar Goodman, who did say that he is the Mayor of the Board of City of Las Vegas Commissioners named in the foregoing instrument, and acknowledged that he executed the same.

_____
Notary Public

NEVADA HOUSING DIVISION

_____
Charles L. Horsey, III
Administrator

State of Nevada)
Carson City)

On this _____ day of _____, 2009 before me, a Notary Public, personally appeared Charles L. Horsey, III, who did say that he is the Administrator of the Nevada Housing Division, named in the foregoing instrument, and acknowledged that he executed the same.

_____
Notary Public

APPROVED AS TO FORM ONLY

By: Robert J. Sylvia 7-20-09
Deputy City Attorney