

**HOME INVESTMENT PARTNERSHIPS PROGRAM  
CHDO AGREEMENT BETWEEN  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AND  
REACH, INC.**

**THIS AGREEMENT**, made and entered into on this 1<sup>st</sup> day of November 2022, by and between the Lexington-Fayette Urban County Government, an urban county government of the Commonwealth of Kentucky, pursuant to KRS Chapter 67A, and located at 200 East Main Street, Lexington, Fayette County, Kentucky 40507 (hereinafter referred to as "GOVERNMENT"), and REACH, INC., a non-stock, nonprofit Kentucky corporation, organized pursuant to KRS Chapter 273, that has been identified as a Community Housing Development Organization (CHDO) and whose mailing address is 733 Red Mile Road, Lexington, Kentucky 40504 (hereinafter referred to as "CHDO").

**RECITALS**

**WHEREAS**, the GOVERNMENT, in accordance with the regulations codified at 24 CFR 92.102 –92.104 for the HOME Investment Partnership Program, has been designated a PARTICIPATING JURISDICTION by the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD").

**WHEREAS**, REACH has been certified by the GOVERNMENT as a Community Housing Development Organization (CHDO) that meets all of the federal requirements for designation as such.

**WHEREAS**, the GOVERNMENT has been awarded federal funds from HUD's HOME Investment Partnerships Program (CFDA # 14.239);

**WHEREAS**, a requirement of the HOME Investment Partnerships Program (24 CFR 92.300) is that the GOVERNMENT identify community housing development organizations capable of carrying out elements of the jurisdiction's approved housing strategy and that no less than 15 percent of the GOVERNMENT'S HOME allocations be reserved for investment only in housing to be developed, sponsored, or owned by community housing development organizations.

**WHEREAS**, the GOVERNMENT'S 2020 and 2021 Consolidated Plan provides for the allocation of \$138,027 in funds to the CHDO acting as an Owner/Developer for acquisition/rehabilitation of a single family housing unit located at 1936 Greenleaf Drive;

**WHEREAS**, the GOVERNMENT is responsible for ensuring that HOME funds are used in accordance with all program requirements; and,

**WHEREAS**, federal regulations require the GOVERNMENT to enter into a written agreement with the CHDO ensuring compliance with all applicable federal regulations.

**WHEREAS**, the CHDO has remaining funds from previous HOME written agreements, this agreement and its full contents will apply to those remaining funds.

**NOW THEREFORE**, in consideration of the foregoing and mutually agreed upon promises, conditions, and covenants hereinafter set forth, the GOVERNMENT and the CHDO hereto agree as follows:

**ARTICLE I**

**OBLIGATIONS OF THE CHDO**

***Use of HOME Funds***

The CHDO agrees to use the set-aside of \$138,027 for the purpose of acquiring/rehabilitating a single family residence located at 1936 Greenleaf Drive ("Project") for sale to eligible low-income household under the GOVERNMENT'S approved HOME First Time Homebuyer Assistance Guidelines and in accordance with the HOME Investment Partnerships Program regulations as stated in 24 CFR Part 92.

The CHDO agrees that all HOME funds will be used only for eligible costs in accordance with 24 CFR Part 92.206, and in accordance with a Project budget that shall receive prior written approval of the GOVERNMENT. One residential unit will be completed with these funds.

CHDO further agrees that upon sale to eligible first-time homebuyers, total encumbrances will equal market value. Maximum value of property shall not exceed HOME Homeownership Sales Price Limits established by the U.S. Department of Housing and Urban Development in accordance with the First-Time Homebuyer Guidelines, attached hereto and incorporated herein as Exhibit A.

A HOME Program Beneficiary Written Agreement is required for all HOME assisted units, as attached hereto and incorporated herein as Exhibit B.

The CHDO is prohibited from charging servicing, origination, processing, inspection, or other fees for the costs of administering a HOME program, except as permitted by § 92.214(b)(1).

***Maximum Per-Unit Subsidy Amount***

All sums provided hereunder shall be used solely and exclusively for the acquisition/rehabilitation of the unit for eligible Project costs as set forth in 24 CFR 92.206. CHDO acknowledges that each unit in the Project shall be administered as a HOME-assisted unit, and that the per-unit subsidy shall not exceed the maximum per-unit subsidy amount established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the unit is located.

***Duration of the Agreement***

The CHDO agrees to complete all acquisition and construction activities under this agreement no later than May 31, 2023. Project Completion is defined as all construction work being completed, issuance of a Certificate of Occupancy by the Lexington-Fayette Urban County Government Division of Building Inspection (if applicable), and final inspection by the Division of Grants and Special Programs. Completion of activities includes the transfer of ownership to an eligible household and acceptance of completion report by the HUD Cash Management System. Transfer of unit shall be completed *within nine months of Project completion* and completion report shall be submitted at the time of sale. In the event that unit is not sold for homeownership to an eligible buyer, CHDO shall operate the unit as a rental unit to an eligible low-income household for an affordability period of not less than twenty (20) years, beginning on the date that HUD Cash Management System accepts and records the Completion Report.

***Period of Affordability***

Upon purchase of the property financed in whole or in part with HOME funds, CHDO shall execute a Deed Restriction attached hereto and incorporated herein as Exhibit C requiring resale of the property to eligible first-time homebuyer(s). The Deed of Restrictions is used to meet the requirements of the Affordability Period as required by the HOME regulations. However, when the unit is sold to the eligible first-time homebuyer and the CHDO provides Direct Assistance to the homebuyer, the Deed Restrictions will be released and HOME restrictions on affordability period shall be incorporated into a mortgage that provides for recapture of HOME funds, in accordance with the HOME First-Time Homebuyer Assistance Guidelines.

The period of affordability is defined as a period of twenty (20) years, beginning on the Project completion date, established as the date the HUD Cash Management System accepts and records the Completion report. For purposes of enforcing the period of affordability, CHDO and GOVERNMENT shall execute and record in the Fayette County Clerk's Office, Deed and Declaration of Restrictive Covenants upon each property on which HOME funds are expended. Repayment of funds does not affect the period of affordability.

***Insurance***

The CHDO shall provide, maintain, and deliver to the GOVERNMENT evidence of fire and extended coverage insurance satisfactory to and with loss payable to the GOVERNMENT in the order and amount of the Mortgage Note hereby secured; assign to the GOVERNMENT any award of damages, or portion thereof, in connection with any condemnation for public use or injury to this property in the same manner and with the same effect as provided for payment of proceeds of fire and other insurance, said award or damages not to exceed the amount secured by the Mortgage Note and to the extent not assigned to the holder of any prior or superior mortgage on this property.

### ***HOME Rent Restrictions***

In the event that unit becomes a rental unit, for a period of twenty (20) years from the date on which development of the Project is completed, established as the date the HUD Cash Management System accepts and records the Completion report showing that one hundred percent (100%) of the units assisted with these funds have been rented to low-income and very low-income households, in accordance with 24 CFR 92.252, CHDO shall charge the low HOME and high HOME rents as established from time to time by HUD pursuant to any regulations promulgated by HUD or the GOVERNMENT. The rents so charged must include utility costs. The maximum allowable HOME rent must be reduced by a utility allowance approved by GOVERNMENT if tenant is required to pay separately for utilities. Utility allowances approved by GOVERNMENT may vary as periodic adjustments are made. Should HUD revise these or other rent guidelines set out herein so as to permit CHDO to adjust the rent charged, CHDO must provide tenants with no less than thirty (30) days written notice before adjustments are implemented. GOVERNMENT will notify CHDO of changes in rent and utility schedules. If the unit becomes a rental unit, the current rent and utility schedules will be provided to the CHDO.

### ***Property Standards***

The CHDO agrees to comply with the Kentucky Building Code, as applicable. The CHDO agrees to comply with all local and state laws regarding the submission of plans and specifications to, and approval by, the appropriate Building Official prior to the start of construction. In the construction of new units, the CHDO agrees to meet the current edition of the Model Energy Code published by the Council of American Building Officials. CHDO agrees that these units will meet the federal ENERGY STAR standards. CHDO further agrees to maintain all units receiving a HOME subsidy in good condition and repair in accordance with Section 12-1, Code of Ordinances, Lexington-Fayette Urban County Government, as amended, for the full 20-year Period of Affordability.. Upon written notification of violations of maintenance requirements, CHDO shall make corrections within 60 days. Code of Ordinances Section 12-1 is available at [www.lfucg.com/council\\_clerk/index.asp](http://www.lfucg.com/council_clerk/index.asp).

### ***Reports***

The CHDO agrees to provide any reports and information as required by the GOVERNMENT. The CHDO shall be responsible for providing the following data: the number of affordable units developed, size of units (number of bedrooms), years of affordability, the number of units meeting Energy Star standards, the number of units made fully accessible under Section 504 accessibility standards, and the number of units occupied by elderly households (either the head or co-head is age 62 or older). In addition, an annual report shall also provide the following information about the employees of the CHDO'S organization: race, ethnicity, national origin, age, gender, and disability. The annual report shall be submitted to the GOVERNMENT no later than thirty days after the end of the GOVERNMENT'S fiscal year.

### ***Request for Disbursement of Funds***

The CHDO agrees that it shall not request disbursement of funds from the GOVERNMENT until the funds are needed for payment of eligible costs and shall request only the amount of funds needed. The CHDO further agrees that any federal funds received and not used by the CHDO within fifteen days of receipt will be returned to the government immediately.

### ***Reversion of Assets***

The CHDO agrees that in the event that it ceases to operate as a CHDO, it shall transfer to the GOVERNMENT any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

### ***Sale of Property***

All sales of property during the period of affordability must have the prior written approval of the GOVERNMENT'S Division of Grants and Special Programs. No property sales will be approved that do not maintain the tenant income eligibility requirements and rent restrictions provided by the period of affordability. With the prior written approval of the GOVERNMENT'S Division of Grants and Special Programs, properties may be sold to income-eligible tenants for homeownership.

### ***Project Proceeds***

All proceeds from the sale of property ("Project Proceeds") by the CHDO shall be retained by the CHDO and shall be used exclusively for other HOME-eligible activities including acquisition

and/or rehabilitation and the new construction of homebuyer properties or rental housing; homeowner rehabilitation and tenant based rental assistance. Any projects funded with Project Proceeds are not reported as HOME assisted units and not subject to HOME regulations. The CHDO agrees to provide a quarterly report detailing the amount received, date received, source of proceeds, and use of proceeds to the GOVERNMENT by the 15<sup>th</sup> of the following quarter, until all funds have been expended.

***Program Income and Recaptured Funds***

All Program Income and Recaptured funds must be returned within 10 days of receipt. Funds recaptured because housing no longer meets affordability requirements are not Project Proceeds.

***Definition of Community Housing Development Organization (CHDO)***

The CHDO agrees that throughout the term of this agreement it will conform to the definition of a Community Housing Development Organization as stated in the HOME Investment Partnerships Program regulations codified at 24 CFR 92.2.

**ARTICLE II: Other Federal Requirements**

**Fair Housing and Equal Opportunity:** Under any program funded in whole or in part with HOME funds, the CHDO shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the grounds of race, color, national origin, religion, sex, familial status or disability.

The CHDO agrees to comply with the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR, part 100; Executive Order 11063, as amended by executive Order 12259 (3CFR, 1958-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1.

The CHDO agrees to comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146: the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

**Employment and Equal Opportunity:** The CHDO agrees to comply with the requirements of Equal Employment Opportunity, Executive Order 11246, as amended (3CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR chapter 60; and the requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u).

**Affirmative Marketing:** As it may be applicable, SUBRECIPIENT agrees to comply with the *Affirmative Marketing Plan* as adopted by the GOVERNMENT and as approved by HUD. The Affirmative Marketing Plan is located in the consolidated plan/annual action plan.

**Minority/Women-Owned Businesses:** To the maximum extent possible, the CHDO agrees to afford minority- and women-owned business enterprises the opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians.

**Uniform Relocation and Real Property Acquisition Act:** The CHDO agrees to conduct housing acquisition, rehabilitation, and demolition activities in such a manner as to minimize the displacement of persons. The CHDO further agrees to comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR part 24.

**Environmental Review:** CHDO agrees to provide property addresses and work specifications to the GOVERNMENT prior to commitment of HOME Funds for purposes of completing environmental review requirements under 24 CFR Part 58. The CHDO agrees to comply with the Advisory Council on Historic Preservation's Rules and Regulations for the Protection of

Historic and Cultural Properties (36 CFR, Part 800) pursuant to the National Historic Preservation Act of 1966, The National Environmental Policy Act of 1969, and Executive Order 11593.

**Conflict of Interest:** The CHDO agrees to comply with the conflict of interest provisions in 24 CFR 84.42 regarding written standards governing the performance of its officers, employees, and agents engaged in awarding and administering contracts. The CHDO further agrees to comply with the conflict of interest provisions at 24 CFR 92.356.

**Labor:** The CHDO acknowledges that all laborers and mechanics, etc., employed in the construction of any project containing twelve (12) or more dwelling units and assisted with HOME funds, whether employed by CHDO, contractors, or subcontractors, shall be paid wages complying with the Davis-Bacon Act (40 U.S.C. Section 276(A)-7). The CHDO further agrees to comply with the applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-333), the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.), and the Copeland (Anti-Kickback) Act (40USC 276c).

**Debarred Contractors:** The CHDO shall require all of its contractors and subcontractors to certify that neither they nor their principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federally funded activities.

**Lead-Based Paint:** The CHDO agrees to comply with the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), The Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR 35, subparts A,B,J, K, M and R. The CHDO is responsible for testing and abatement activities as may be required.

**Accounting Standards and Cost Principles:** The CHDO agrees to comply with 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation for all costs incurred. Additionally, the SUBRECIPIENT shall administer its program in conformance with 2 CFR 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

**Standards for Financial Management System:** In accordance with 2 CFR 200.302, all grant recipients must have financial management systems that include written procedures for ensuring all expenditures conform to the terms and conditions of the grant as well as the Uniform Guidance Cost Principles. The CHDO agrees to comply with the requirements at 2 CFR 200.302, "Financial Management."

**Establishment and Maintenance of Records:** The CHDO agrees to establish and maintain records sufficient to document compliance with the grant requirements of the HOME Investment Partnerships Program. As applicable, the CHDO will maintain project records as identified in 24 CFR 92.508 (a)(5).

The CHDO agrees that officials of the GOVERNMENT, officials of HUD, officials of the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the CHDO which are directly pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

The CHDO further agrees to retain records for five years after the expiration of the period of affordability; and in the event that the CHDO discontinues operating as a legal entity, said records shall be delivered to the GOVERNMENT.

### **ARTICLE III: Obligations of the Government**

In accordance with 24 CFR 92.300-301, the GOVERNMENT agrees to reserve \$138,027 from its 2020 and 2021 HOME allocations for use by the CHDO for completion of the Project as herein defined.

The GOVERNMENT agrees to monitor the performance of the CHDO to assure compliance with all applicable federal regulations; however, monitoring does not relieve the CHDO of primary responsibility for compliance.

The GOVERNMENT agrees to prepare and submit any and all required reports to HUD.

The GOVERNMENT agrees to provide technical assistance to the CHDO in fulfilling its obligations under this agreement.

The GOVERNMENT agrees to make reasonable, allowable disbursements from its local HOME Investment Trust Fund to the CHDO when a need for payment is documented.

The GOVERNMENT agrees to notify the CHDO with any changes in the HOME regulations, program limits for income, rent and property value, and all other pertinent information received in regards to the program.

#### **ARTICLE IV: Additional Provisions**

No right, benefit, or advantage inuring to the CHDO and no burden imposed on the CHDO hereunder may be assigned or otherwise transferred without the prior written approval of the GOVERNMENT.

This agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the GOVERNMENT and the CHDO.

This agreement, in accordance with 24 CFR 85.43 can be terminated if the CHDO fails to comply with any term of the agreement. This agreement may be terminated for convenience in accordance with 24 CFR 85.44 upon written notice by the GOVERNMENT.

The failure to perform or comply with any of the covenants, warranties, terms or conditions as set forth in this agreement shall constitute events of breach and default entitling the GOVERNMENT to take all action set out in this agreement or as otherwise allowed by law, including an action for specific performance.

The CHDO agrees to indemnify and hold harmless the GOVERNMENT for all lawfully proven claims, losses, actions, and expenses (including legal expenses), including claims against the GOVERNMENT, arising from the performance of the terms of this agreement in accordance with the requirements of the HOME Investment Partnerships Program but excepting any such claims, losses, causes of action and expenses arising as a result of fault on the part of the GOVERNMENT, its officers, agents and employees. The CHDO is not responsible for negligent acts of the GOVERNMENT, its officers, agents, and employees.

All notices hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, return receipt requested, to the parties at the following addresses:

GOVERNMENT:  
Lexington-Fayette Urban County Government  
Division of Grants and Special Programs  
200 East Main Street, 6<sup>th</sup> floor  
Lexington, Kentucky 40507  
ATTN: Theresa Reynolds, Director

CHDO  
REACH, Inc.  
733 Red Mile Road  
Lexington, Kentucky 40504  
ATTN: Tina Burns

This agreement will remain in effect during the relevant period of affordability of any housing developed with HOME financial assistance under the provisions of this agreement and in accordance with the requirements of the HOME regulations at 24 CFR 92, or for as long as federal regulations may require compliance.

The CHDO acknowledges receipt of the HOME Investment Partnerships Program regulations codified at 24 CFR Part 92.84.

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky the day and year first above written.

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**

BY: *Linda Gorton*  
Linda Gorton, Mayor

DATE: *11/1/2022*

**ATTEST:**

*deputy*  
*Mackenzie Stock*  
Clerk of Urban County Council

**REACH, INC.**

BY: *Tina Burns*  
Tina Burns, Executive Director

DATE: *11/01/2022*