

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT (“Amendment”) is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **HABITAT FOR HUMANITY OF METRO DENVER, INC.**, a Colorado nonprofit corporation, whose address is 7535 E. Hampden Avenue, Suite 600, Denver, CO, Colorado, 80231 (the “Contractor”), each individually a “Party” and collectively the “Parties.”

WHEREAS, the City has been awarded funds pursuant to a Grant Agreement for SLFRF, as amended (“IHOI Grant”), between the City and the State of Colorado’s Department of Local Affairs (“DOLA”); and

WHEREAS, a purpose of the IHOI Grant is to promote the development of affordable housing in the City and County of Denver; and

WHEREAS, pursuant to the IHOI Grant, the Parties entered into an agreement dated February 22, 2023 (the “Agreement”) for the City to make a portion of the IHOI Grant funds available to Contractor for development related costs to ensure the development of affordable housing the City and County of Denver; and

WHEREAS, the IHOI Grant Agreement was amended to extend the term and make other amendments to the terms and conditions of the IHOI Grant Agreement, and the Parties desire to amend the Agreement to incorporate the revised terms of the IHOI Grant Agreement into the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the recitals set forth above and amend the Agreement as follows:

1. Exhibit A of the Agreement shall be replaced with Exhibit A-1, attached to this Amendment. The updated Scope of Work marked as Exhibit A-1 is incorporated into the Agreement by this reference and shall supersede and replace Exhibit A. All references to “Exhibit A” in the existing Agreement shall be amended to read “Exhibit A-1.”

2. Exhibit B-1, attached to this Amendment, is incorporated herein by reference into the Agreement. All references to “Exhibit B” in the existing Agreement shall be amended to read “Exhibit B and B-1, as applicable.”

3. Section 3 of the Agreement entitled “**TERM**” is amended to read as follows:

“**TERM**: This Agreement will commence upon final execution and will terminate on March 31, 2025, unless sooner terminated (the “Term).”

4. Section 21 of the Agreement, titled “**NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THIS AGREEMENT,**” is amended to read as follows:

“21. **INTENTIONALLY OMITTED.**”

5. Except as amended herein, the Agreement is affirmed and ratified in each and every particular.

6. This Amendment is not effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

Exhibit List

Exhibit A-1 – Scope of Work

Exhibit B-1 – SLFRF Grant Agreement Amendment

REMAINDER OF PAGE INTENTIONALLY BLANK

Contract Control Number:
Contractor Name:

HOST-202371625-01 / HOST-202266092-01
HABITAT FOR HUMANITY OF METRO DENVER, INC.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

HOST-202371625-01 / HOST-202266092-01
HABITAT FOR HUMANITY OF METRO DENVER, INC.

By: See attached signature page

Name: See attached signature page
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number:
Contractor Name:

HOST-202371625-01 / HOST-202266092-01
HABITAT FOR HUMANITY OF METRO DENVER, INC.

By: DocuSigned by: Jaime G Gomez
5D7700D5568F402...

Name: Jaime G. Gomez
(please print)

Title: Chief Executive Officer
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A-1

SCOPE OF WORK

DEPARTMENT OF HOUSING STABILITY

HABITAT FOR HUMANITY OF METRO DENVER

HOST-202371625-01

I. INTRODUCTION

Period of Performance Start and End Dates: August 8, 2022 – March 31, 2025

Project Description:

The purpose of this contract is to provide a Department of Housing Stability (HOST) grant award in the amount of \$736,183.00. These funds will be provided to the Habitat for Humanity of Metro Denver, Inc. (“Grantee”) to be utilized for the Affordable Housing Development Incentives Grant (IHOI) Program. The Incentives Grant Program provides grants to local governments to promote the development of affordable housing that is driven by community benefits and that focuses on critical housing needs as identified by the local government. As part of this Program, Grantee will use these grant funds to pay the cost of fees such as tap fees, permit fees, utility fees, etc. as well as infrastructure costs such as curb, street, gutter replacement, alley upgrades or expansions, utility line extensions, and transformer upgrades. These critical improvements will allow Grantee to build affordable Accessory Dwelling Units (“ADU”) that are restricted to households earning at or below 140% of the area median income (“AMI”) in the Villa Park neighborhood located at 1049 Stuart Street, 1066 Newton Street, 1076 Meade Street, 1077 Meade Street, and 1080 Meade Street.

Funding Source:	This Grant is funded, in whole or in part, with Federal funds made available pursuant to the Coronavirus State and Local Fiscal Recovery Funds program, a part of the American Rescue Plan
Federal Award Number	SLFRP0126
Project Name:	Villa Park Project
Contractor Address:	7535 E. Hampden Avenue, Suite 600 Denver, CO 80231
Organization Type:	A Colorado non-profit corporation

II. GRANTEE PERFORMANCE & REPORTING REQUIREMENTS

The Grantee shall comply with the following performance measures:

Milestone/Performance Measure/Grantee will:	By:
Begin work/Contractor mobilization	Within 60 days after the Effective Date of this Grant Agreement
Submit draft of Final Informal Memo to HOST for review	April 15, 2025
Provide HOST with Certificate of Occupancies	Prior to Project closeout
Submit Monthly Pay Requests	Monthly, not later than 10 days after each month of qualified expenses
Submit Quarterly Status Reports	Quarterly, due on the 1st of each month following the Quarter

III. GRANTEE BUDGET / USE OF FUNDS

Grantee will use Grant Funds as cash incentives to pay the cost of: fees such as tap fees, permit fees, and/or utility fees; infrastructure costs such as curb, street, and/or gutter replacement, alley upgrades or expansions, utility line extensions, and transformer upgrades; and gap funding for eligible Accessorily Dwelling Units (ADUs) on City-donated land in the Villa Park neighborhood and west Denver area. Eligible expenses shall include labor and materials costs, right-of-way acquisition costs, payment of fees, street and alley improvement costs, and infrastructure and utilities upgrade costs.

IV. REIMBURSEMENT REQUIREMENTS

1. **Retainage:** 5% of the grant amount will be retained. It will be paid upon substantial completion of the final ADU projects as determined by the City and County of Denver in its sole discretion, provided that the grantee has submitted, and Denver has accepted, all required reports to include:
 - i. A Final Informal Memo that contains analysis of the following: (a) lessons learned; (b) community impact; (c) units added; (d) number of persons impacted; and (e) any other pertinent data that addresses the housing crisis and/or impact these projects made to alleviate barriers to affordable housing construction.
2. Expenses incurred prior to August 8, 2022, shall not be eligible for reimbursement.
3. The following are required prior to the first disbursement of funds for the City's Monthly Request.
 - i. Beginning ten (10) days after the end of the first month following execution of this grant and for each month thereafter until termination of this Grant, Grantee shall submit Pay Requests using a form provided by Denver. Denver shall pay or reimburse the Grantee for actual eligible expenditures made in the performance of this Grant based on the submission of statements in the format prescribed by the State. The

Grantee shall submit Pay Requests setting forth a detailed description and provide documentation of the amounts and types of reimbursable expenses. Pay Requests are due within ten (10) days of the end of the month but may be submitted more frequently at the discretion of the City.

- ii. For months in which there are no expenditures to reimburse, Grantee shall indicate zero (0) requested in the Pay Request and describe the status of the Work in the Status Report. The report will contain an update of expenditure of funds by Expenditure Category as well as a projection of all Work expected to be accomplished in the following quarter, including an estimate of Grant Funds to be expended.
- iii. The City's grant will be funded based on reimbursement of actual expenses paid by the Grantee. The City's grant will not be funded into an escrow account at closing. All payments from the City will reflect retainage as described above.
- iv. All funds disbursed under the Grant shall be subject to the Grant Agreement, which shall contain such terms, covenants, conditions, and disbursement fees as shall be satisfactory to City. Grant funds shall be disbursed based upon invoices presented against the Budget above in Approved Budget / Use of Funds.

V. CLOSING & POST-CLOSING REQUIREMENTS

Closing Requirements: Execution of this Grant Agreement is contingent on satisfaction of all closing conditions listed in the Conditional Approval of Credit (CAC) for Villa Park dated October 10, 2022 for a loan in the amount of \$575,000.00 and the successful closing of the associated loan.

Post-Closing Requirements: In addition to the quarterly status reporting requirements above, a Final Informal Memo will be submitted that contains analysis of the following: 1) lessons learned; 2) community impact; 3) units added; 4) number of persons impacted; and 5) any other pertinent data that addresses the housing crisis and/or impact these projects made to alleviate barriers to affordable housing construction. This final report is due April 15, 2025.

VI. PERFORMANCE MONITORING

The city will monitor Grantee's performance based on goals and performance standards as stated above along with all other applicable federal, state, and local laws, regulations, and policies governing the funds provided under the contract.

EXHIBIT B-1

IHOI - SLFRF

CTGG1 NLAA 202300002087

SLFRF GRANT AGREEMENT AMENDMENT #2**COVER AND SIGNATURE PAGES**

State Agency DEPARTMENT OF LOCAL AFFAIRS (DOLA)		Amendment CMS Number 186470	
Grantee City and County of Denver		Previous CMS #(s) 176937, 178876, 183414	
UEI/SAMS Number NZT6W98N8CL3		Prior Grant Agreement Expiration Date March 31, 2024	
Agreement Maximum Amount Initial Term		Current Grant Agreement Expiration Date March 31, 2025	
State Fiscal Year 2023		\$1,429,993.00	\$71,499.00
Extension Terms			
State Fiscal Year 2024		\$1,429,993.00 less amount spent in FY23	\$0.00
State Fiscal Year 2025		\$1,429,993.00 less amount spent in FY23 and FY24	\$0.00
State Fiscal Year 20xx		\$0.00	\$0.00
Total for All State Fiscal Years		\$1,429,993.00	\$71,499.00
Agreement Authority This Intergovernmental Grant Agreement is funded, in whole or in part, with Federal funds made available pursuant to the Coronavirus State and Local Fiscal Recovery Funds program, a part of the American Rescue Plan (Pub L. No. 117-2 (March 11, 2021)).			
Agreement Title and Amendment Purpose <u>IHOI-INC014 Denver Villa Park/West Denver ADUs</u> The Parties entered into the Agreement to provide affordable housing development cash incentives for infrastructure costs and gap funding for construction of eligible accessory dwelling units (ADU) to be located in Denver, Colorado. This Amendment modifies the Work Description, reduces Grantee Matching/Other Funds, and extends the Grant Agreement Expiration Date.			
Exhibits and Order of Precedence In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:			
<ol style="list-style-type: none"> 1. Exhibit D, Federal Provisions 2. Exhibit E, Agreement with Subrecipient of Federal Recovery Funds 3. Any executed Amendment or Option Letter/Exhibit B to this Agreement 4. The provisions of the other sections of the main body of this Agreement 5. Exhibit A, Statement of Work 6. Exhibit H, PII Certification 7. Exhibit C, Budget 8. Exhibit F, SLFRF Subrecipient Quarterly Report 9. Exhibit G, SLFRF Reporting Modification Form 			
Principal Representatives For the State: Chantal Unfug, Director, Division of Local Government Department of Local Affairs 1313 Sherman Street, Room 521 Denver, CO 80203 chantal.unfug@state.co.us		For Grantee: Mike Johnston, Mayor City and County of Denver 1437 Bannock Street, Rm #350 Denver, CO 80202 stacey.Song@denvergov.org	

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 of the Agreement.

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<p style="text-align: center;">GRANTEE CITY AND COUNTY OF DENVER Mike Johnston, Mayor</p> <hr/> <p style="text-align: center;">Jennifer R. Biess</p> <hr/> <p style="text-align: center;">By: Name of Authorized Individual (print)</p> <hr/> <p style="text-align: center;">Interim Executive Director, Department of Housing and Community Development</p> <hr/> <p style="text-align: center;">Title: Official Title of Authorized Individual (print)</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>DocuSigned by: <i>Jennifer R. Biess</i></p> <p style="font-size: small;">8AE14A0FDCD74C8...</p> </div> <p style="text-align: center;">*Signature</p> <p style="text-align: center;">Date: <u>11/14/2023 9:14 PM MST</u></p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor DEPARTMENT OF LOCAL AFFAIRS Rick M. Garcia, Executive Director</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>DocuSigned by: <i>Dionne Stroter</i></p> <p style="font-size: small;">0920A67707B9482...</p> </div> <p style="text-align: center;">By: Rick M. Garcia, Executive Director</p> <hr/> <p style="text-align: center;">Date: <u>11/21/2023 11:35 AM MST</u></p>
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>DocuSigned by: <i>Jennifer R. Biess</i></p> <p style="font-size: small;">8AE14A0FDCD74C8...</p> </div> <p style="text-align: center;">*Signature</p> <p style="text-align: center;">Date: <u>11/14/2023 9:14 PM MST</u></p>	<p style="text-align: center;">PRE-APPROVED FORM REVIEWER</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>DocuSigned by: <i>kl McPerson</i></p> <p style="font-size: small;">C83887C0776744C...</p> </div> <p style="text-align: center;">By: Mitch Hendrick, IHOI Program Manager</p> <p style="text-align: center;">Date: <u>11/21/2023 11:15 AM MST</u></p>
<p style="text-align: center;">In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p>DocuSigned by: <i>Beulah Messick</i></p> <p style="font-size: small;">090ACD88A721474...</p> </div> <p style="text-align: center;">By: Beulah Messick, DOLA Controller Delegate</p> <p style="text-align: center;">Amendment Effective Date: <u>11/21/2023 6:42 PM MST</u></p>	

1. PARTIES

This Amendment (the “Amendment”) to the Original Grant Agreement shown on the Signature and Cover Pages for this Amendment (the “Agreement”) is entered into by and between the Grantee and the State.

2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement be construed and interpreted in accordance with the Agreement.

3. AMENDMENT EFFECTIVE DATE AND TERM

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Pages for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay Grantee for any Work performed or expense incurred under this Amendment either before or after of the Amendment term shown in **§3.B** of this Amendment.

B. Amendment Term

The Parties’ respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

4. PURPOSE

The Parties entered into the Agreement to provide affordable housing development cash incentives for infrastructure costs and gap funding for construction of eligible accessory dwelling units (ADU) to be located in Denver, Colorado. Grantee reports that, in the Agreement Budget, the Matching/Other Funds for the Project incorrectly includes expenditures that are related to but outside the scope of Work for this Project; this inclusion inaccurately skews the reimbursement pro rata. In addition, after revising their ADU regulations, Grantee reports there are more potential properties that are eligible to benefit from this program. Grantee requests the Work Description in Exhibit A be revised to clarify Grantee’s Match for this Project as In-kind Land contribution, the Budget Table and Matching/Other Funds in Exhibit C be reduced to accurately reflect only the cost of the In-kind Land contribution of the five (5) parcels of land that the Grantee donated to Habitat for Humanity for this Project, and the Time of Performance be extended to allow for a new round of publicity to a broader target audience. This Amendment modifies the Agreement as requested.

5. MODIFICATIONS

The Agreement and all prior amendments thereto, if any, are modified as follows:

- A. The Agreement Initial Contract Expiration Date on the Agreement’s Signature and Cover Page is hereby deleted and replaced with the Current Agreement Expiration Date shown on the Signature and Cover Page for this Amendment.
- B. The Agreement Maximum Amount table on the Agreement’s Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown on the Signature and Cover Page for this Amendment.

- C. The Agreement Cover and Signature Pages are hereby deleted and replaced with the Cover and Signature Pages for this Amendment.
- D. The first paragraph in **Exhibit A Statement of Work, Section 2. Description of the Project(s) and Work, §2.2. Work Description**, is hereby deleted:

“The City and County of Denver (“Grantee”) will use Grant Funds as cash incentives to pay the cost of: fees such as tap fees, permit fees, and/or utility fees; infrastructure costs such as curb, street, and/or gutter replacement, alley upgrades or expansions, utility line extensions, transformer upgrades; and gap funding for eligible Accessory Dwelling Units (ADUs) on Grantee-donated land in the Villa Park neighborhood and west Denver area.”

and is replaced with the following in lieu thereof:

“The City and County of Denver (“Grantee”) will use Grant Funds as cash incentives to pay the cost of: fees such as tap fees, permit fees, and/or utility fees; infrastructure costs such as curb, street, and/or gutter replacement, alley upgrades or expansions, utility line extensions, transformer upgrades; and gap funding for eligible Accessory Dwelling Units (ADUs) on Grantee-donated land in the Villa Park neighborhood and west Denver area. **Grantee Match reflects the value of the City-donated land in the Villa Park neighborhood and west Denver area at the time of transfer to Habitat for Humanity.**”

- E. The Project Final Report due date in **Exhibit A Statement of Work, Section 4. Deliverables, §4.3. Performance Measures** in in is hereby deleted:

“Submit Project Final Report	May 15, 2024”
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and is replaced with the following in lieu thereof:

“Submit Project Final Report	May 15, 2025”
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- F. The table in **Exhibit A Statement of Work, Section 4. Deliverables, §4.4.2. Specific submittal dates** is hereby deleted:

“Quarter	Year	Due Date	Pay Request Due	Status Report Due
3 rd (Jul-Sep)	2022	October 10, 2022	Yes	Yes
4 th (Oct-Dec)	2022	January 10, 2023	Yes	Yes
1 st (Jan-Mar)	2023	April 10, 2023	Yes	Yes
2 nd (Apr-Jun)	2023	JULY 10, 2023*	Yes	Yes
3 rd (Jul-Sep)	2023	October 10, 2023	Yes	Yes
4 th (Oct-Dec)	2023	January 10, 2024	Yes	Yes
1 st (Jan-Mar)	2024	April 10, 2024	Yes	Yes”

and is replaced with the following in lieu thereof:

“Quarter	Year	Due Date	Pay Request Due	Status Report Due
3 rd (Jul-Sep)	2022	October 10, 2022	Yes	Yes
4 th (Oct-Dec)	2022	January 10, 2023	Yes	Yes
1 st (Jan-Mar)	2023	April 10, 2023	Yes	Yes
2 nd (Apr-Jun)	2023	JULY 10, 2023*	Yes	Yes
3 rd (Jul-Sep)	2023	October 10, 2023	Yes	Yes
4 th (Oct-Dec)	2023	January 10, 2024	Yes	Yes

1 st (Jan-Mar)	2024	April 10, 2024	Yes	Yes
2 nd (Apr-Jun)	2024	JULY 10, 2024*	Yes	Yes
3 rd (Jul-Sep)	2024	October 10, 2024	Yes	Yes
4 th (Oct-Dec)	2024	January 10, 2025	Yes	Yes
1 st (Jan-Mar)	2025	April 10, 2025	Yes	Yes”

- G. The first sentence in **Exhibit C Budget, Section 3. Funding, §3.1. Matching/Other Funds** is hereby deleted:

“Grantee shall provide approximately 80% of the Total Project Cost as documented by Grantee and verified by DOLA at Project Closeout.”

and is replaced with the following in lieu thereof:

“Grantee shall provide approximately **43%** of the Total Project Cost as documented by Grantee and verified by DOLA at Project Closeout.”

- H. The Budget Table in **Exhibit C Budget, Section 3. Funding, §3.2. Budget** is hereby deleted:

“Budget Line(s)”		Total Project Cost	Grant Funds	Other Funds	Other Funds Source
Line #	Cost Category				
1	EC 6.1 - Provision of Government Services: Building or Facility Construction	\$7,126,797	\$1,429,993	\$5,696,804	Grantee
Total		\$7,126,797	\$1,429,993	\$5,696,804”	

and is replaced with the following in lieu thereof:

“Budget Line(s)”		Total Project Cost	Grant Funds	Other Funds	Other Funds Source
Line #	Cost Category				
1	EC 6.1 - Provision of Government Services: Building or Facility Construction	\$2,540,993	\$1,429,993	\$1,111,000	Grantee In-Kind Land
Total		\$2,540,993	\$1,429,993	\$1,111,000”	

6. LIMITS OF EFFECT AND ORDER OF PRECEDENCE

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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