

SECOND AMENDATORY AGREEMENT

THIS SECOND AMENDATORY AGREEMENT (the “Amendment”) is made and entered into by and 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, with an address of 7535 E Hampden Ave., Ste. 600, Denver, CO 80217 (the “Grantee”), collectively the “Parties” and each individually a “Party.”

RECITALS:

A. The Parties entered into an Agreement on May 27, 2020 and a First Amendatory Agreement on June 7, 2022 for the City to provide funding to the Grantee for the Grantee to acquire detached and attached single family units to be used for affordable housing (the “Agreement”); and

B. The Agreement expired on by its terms on April 30, 2023, and rather than enter into a new agreement, the Parties desire to revive and reinstate all terms and conditions of the Agreement as they existed prior to the expiration of the term and to amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. Effective upon execution, all references to “Exhibit A or A-1, as applicable” in the Agreement shall be amended to read “Exhibit A, A-1, or A-2, as applicable.” Exhibit A-2 is attached to this Amendment and is incorporated into the Agreement by this reference.

2. Section 2 of the Agreement entitled “**TERM**” is amended to read as follows:

“The Agreement shall begin on the Effective Date, and end on June 30, 2024, unless such time extended by written agreement of the Parties, executed in the same manner as this Agreement.”

3. Section 5 of the Agreement entitled “**DEADLINE FOR DISBURSEMENT OF FUNDS**” is amended to read as follows:

“Grantee further agrees that documentation for all draw down requests will be submitted no later than June 30, 2024. The deadline may be extended with the written approval of HOST.”

4. A new Section 23 is added to the Agreement as follows:

“23. **COMPLIANCE WITH DENVER WAGE LAWS:** To the extent applicable to the Grantee’s provision of Services hereunder, the Grantee shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City’s Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Grantee expressly acknowledges that the Grantee is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Grantee, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.”

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

6. This Amendment will not be 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.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

Contract Control Number:
Contractor Name:

HOST-202472113-02 / HOST-202053865-02
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-202472113-02 / HOST-202053865-02
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-202472113-02 / HOST-202053865-02
HABITAT FOR HUMANITY OF METRO DENVER, INC.

DocuSigned by:
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-2

SCOPE OF SERVICES
Department of Housing Stability

PROJECT NAME: Habitat for Humanity of Metro Denver Home Preservation
ACTIVITY NAME: Property Acquisition Support

I. INTRODUCTION

Period of Performance Start and End Dates: 5/27/2020 – 6/30/2024

Project Description:

The purpose of this agreement is to provide funding from the Department of Housing Stability ("HOST") to Habitat for Humanity of Metro Denver ("Habitat") to acquire homes in the form of detached or attached single-family properties to be renovated and sold to income qualified households earning no more than 80% of the Denver Area Median Income (AMI) at initial sale and 100% AMI at subsequent sales.

Amount: \$1,455,000.00
Funding Source: Affordable Housing Property Tax and Other Local Revenue Fund
Organization: Habitat for Humanity of Metro Denver
EIN#: 74-2050021
Address: 7535 E. Hampden Ave, Suite 600
Denver, CO 80217
Contact Person: Tricia Schumuki
Phone: 303-534-2727
Email: tschmuki@habitatmetrodenver.org

Organization Type:

[X] Non-Profit [] For-Profit [] Individual [] Partnership [] Corporation [] Publicly Owned [] Other

Council District(s): Neighborhood(s): Citywide Census Block(s): Citywide

Project/activity located in a Target Area: [] Yes [X] No

II. ACTIVITY DESCRIPTION

A. Description of Activity: Habitat has acquired or will acquire fourteen (14) detached or attached single-family properties for renovation (as needed) and placement into or preservation of affordable housing. Initial sale of these properties will be restricted to buyers with household incomes no more than 80% of Area Median Income ("AMI") based on the Department of Housing and Urban Development ("HUD") annual published incomes for the City and County of Denver. Subsequent sales will be restricted to 100% of Denver AMI. These restrictions will be secured by Habitat's long-term affordability covenant, Notice of Voidable Title Transfer and Covenant for the Occupancy and Resale Price Restrictions and Right of Repurchase ("Covenant") that will restrict occupancy for ninety years.

B. Program Requirements and Responsibilities

1. General: The City and County of Denver will provide \$69,286 per unit during the Period of Performance (as specified in this Exhibit A-2) that Habitat acquires, renovates (as needed), and sells to a homebuyer with an income at or below 80% AMI at initial sale. Properties may be unrestricted at the time of acquisition or have an existing affordability restriction (preservation). Habitat will record their Covenant on each unit that restricts subsequent sales to buyers with household income at or below 100% AMI for a period of 90 years. Habitat will be responsible for the income qualification of the initial homebuyers, establishing the resale price of each unit, and ensuring that the unit, at the time of resale, is sold only to a qualified homebuyer whose income is at or

EXHIBIT A-2

below 100% AMI. Habitat will also be responsible for ensuring that the low-income homeowners occupy the unit as their principal residence. The funds will be secured by the Covenant on each individual unit guaranteeing its affordability at resale for a period of 90 years. The administrative overhead for managing the compliance will be the responsibility of Habitat.

2. **Unit Requirements:** Properties may be detached or attached single-family units, townhomes, rowhomes, or condominiums and must be located within the City and County of Denver.
3. **Maximum Use of Funds:** The amount of subsidy from HOST during the Period of Performance (as specified in this Exhibit A-2) is limited to \$69,286 per acquisition. Habitat for Humanity is responsible for all other funding necessary to complete each acquisition or any required renovation to prepare the unit for sale. Changes to HOST's per unit subsidy level may be adjusted upon approval of the Chief Housing Officer.
4. **Habitat for Humanity Responsibilities.** Habitat's responsibilities for program implementation will include:
 - a. The acquisition of 8 units during the Period of Performance (as specified in this Exhibit A-2), either market rate or with existing affordability restrictions, and the sale of the 6 units identified in section II.B.1 to income qualified households;
 - b. Recording the City-approved Habitat 90-year Covenant upon acquisition and/or sale to qualified homebuyers;
 - c. Setting the maximum sales price for initial sale to ensure that the initial sale price is affordable to a homebuyer whose household income is at or below 80% AMI;
 - d. Setting the maximum sales price for subsequent sales after initial sale to ensure that the sale price is affordable to a homebuyer whose household income is at or below 100% AMI
 - e. Qualifying homebuyers to purchase each unit according to Section C below for the initial sale and all subsequent sales for a period of 90 years in accordance with the Covenant.
 - f. **Outcomes Reporting Requirements:** Twenty-four months after sale to the initial buyer, Habitat will conduct a follow-up survey of each homeowner measuring outcomes following the purchase of a unit acquired under this agreement. The survey shall determine if the homeowners are able to maintain timely monthly mortgage payments and determine if any units have been subject to foreclosure or loan default. Bilingual surveys must be made available as needed.
 - g. **Fair Housing Requirements:** Habitat will ensure that the Activity is executed according to Fair Housing requirements that protect every person in the United States from discrimination on the basis race, color, religion or creed, national origin, ancestry, age, sex, gender, sexual orientation, gender identity or gender expression, marital or familial status, military status or physical or mental disabilities.

- C. **Homebuyer Proof of Income Requirements:** Homebuyers must be low-to-moderate income, with household income defined as at or below the current HUD 80% AMI for initial sales and 100% AMI for subsequent sales, as provided and updated annually here: <https://www.huduser.gov/portal/datasets/il.html>.

Written 3rd-party proof of income is preferred and may include the following:

- Pay stubs (wages, salary, armed forces income)
- Proof of unemployment application
- State or benefit notice
- Court order (alimony, child support)
- Federal or state tax return
- Dividend interest statement
- Other written verification of income:
 - Name of income source, and applicant name
 - Income amount and frequency
 - Contact information for authorized income source representative
 - Signed and dated by authorized income source representative
- Self-declaration (only if written 3rd-party verification cannot be obtained) of income: Habitat will accept self-declaration of income ONLY in very limited circumstances. Self-declarations will be clearly documented in the homebuyer file, including all attempts to obtain 3rd-party verification,

EXHIBIT A-2

and will include a signed Affidavit that the declared income is accurate.

- D. **Reimbursement Requirements:** The City will provide Habitat \$69,286 upon acquisition of a unit to be placed into Habitat's portfolio, sale to an income qualified homebuyer, and recordation of the Covenant. Upon sale to initial homebuyer, the buyer will execute and Habitat will record the *Memorandum of Notice of Voidable Title, Acceptance of Covenant and Assumption of Deed of Trust*. Documents required for reimbursement will include:
1. Closing Statement showing purchase price and all funding used for acquisition;
 2. Copy of Warranty Deed;
 3. Copy of recorded Habitat Covenant.
- E. **Ineligible Activities:** Ineligible activities include:
1. Construction of new units;
 2. Acquisition of rental units for continued use as rental;
Conversion of homeownership units to rental units.
- F. **HOST Outcome:** Increase or preserve affordable homeownership opportunities for households with incomes at or below 80% AMI (initial sales) and at or below 100% AMI (subsequent sales).
- G. **Use of Funds:** Funds will be used to reimburse Habitat for Humanity only for costs related to the acquisition and sale of 14 units as required by this Scope of Services.
- H. **Performance Period:** 5/27/2020 – 6/30/2024

III. BUDGET

Acquisition of 14 units as required by this Scope of Services: \$1,455,000.00

IV. REPORTING

- A. **Performance Period Reporting:** Habitat shall maintain a file for each unit acquired or preserved under this program that includes the following data:
1. Acquisition documents, including closing statement, warranty deed, and recorded Covenant;
 2. Initial and subsequent buyer income qualification summary documents and AMI calculation.
 3. Copy of the Recorded Memorandum of Acceptance.

Habitat will email a summary of the data ("Performance Report") to the Housing Development Officer during the performance period. The summary Report must be submitted quarterly, with the first report due on August 15, 2022.

- B. **Annual Reporting:** At the expiration of the performance period, Habitat must submit an annual Performance Report, containing information on every unit sold within the prior calendar year. Required information includes:
1. Address of unit sold, date of sale, and sale price;
 2. Summary of income eligibility, including calculation method and AMI level, of subsequent buyers.
 3. Copy of the Recorded Memorandum of Acceptance.

V. OTHER CITY REQUIREMENTS

1. The City has the right to audit buyer income qualification documentation;
2. The City may enforce the terms of the Covenant per the terms of Section 7.7 of the Covenant.