

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, (the "City"), and **DENVER NEIGHBORHOOD REVITALIZATION, INC.**, a Colorado nonprofit corporation, with an address of 1555 California Street, 2nd Floor, Denver, Colorado 80202, (the "Contractor").

BACKGROUND:

A. The City and the Contractor entered into an Agreement dated March 2, 2010, to provide funds given to the City under the State NSP Grant to the Contractor to be utilized for implementing program activities related to the State NSP Grant (the "Agreement"); and

B. The City and Contractor desire to amend the Agreement to revise the scope of services, and otherwise amend the Agreement as stated below.

NOWHEREFORE, in consideration of the premises and the mutual covenants and agreements contained in the Agreement and herein contained the parties agree as follows:

1. The revised Scope of Services and Program Requirements and Responsibilities are attached hereto and incorporated herein as **Exhibit A-1** and **Attachment A-2**, respectively. All references to "Exhibit A" in the Agreement are hereby amended to read "Exhibit A-1", and all references to "Attachment A-1" in the Agreement are hereby amended to read "Attachment A-2."

2. Subsection F of Section 7 of the Agreement entitled "**INSURANCE**," is amended to read as follows:

"F. WORKERS' COMPENSATION/EMPLOYER'S LIABILITY INSURANCE: The parties recognize and agree that the Contractor is engaged in an independent occupation and profession and is free from control and direction in the performance of the services contracted for herein consistent with that mandated by C.R.S. 8-40-202(2)(a). It is understood and agreed by the parties that the City does not (1) require the Contractor to work exclusively for the City, provided that the Contractor may have elected to work exclusively for the City for the period of time specified in the term of this Agreement; (2) establish a quality standard for the Contractor, provided that the parties agree that while the City may provide plans regarding its expectancy of the work to be performed by the Contractor, the City will not oversee the actual work of the Contractor or instruct the Contractor as to how the work will be performed; (3) pay a salary or hourly wage to the Contractor instead of the fixed contract rate stated herein; (4) terminate the work of the Contractor for cause during the term of this Agreement unless the Contractor violates the terms of the Agreement or fails to produce a

work product or result that meets the specific terms provided in the Agreement; (5) provide any training for the Contractor other than minimal orientation to the site or other parameters of the Contractor activity; (6) provide tools or benefits to the Contractor; (7) dictate the time of performance; except that the Agreement completion date together with the range of negotiated and mutually agreeable work hours has been established herein; (8) pay the Contractor personally instead of making City warrants payable to the professional name of the Contractor, except that in this Agreement the Contractor is an individual and sole proprietor; and (9) combine the regular operation of the City in any way with the professional or business operations of the Contractor instead of maintaining office operations separately and distinctly.”

3. Subsection H of Section 7 of the Agreement entitled “**INSURANCE**,” is amended to read as follows:

“H. **AUTOMOBILE LIABILITY:** Contractor represents, as material representations upon which the City is relying, that Contractor does not own any motor vehicles and that in performing Services under the Agreement, Contractor’s owners, officers, directors, and employees, if it has any, use their personal vehicles. Contractor shall ensure that any person operating a motor vehicle in performing Services under the Agreement shall keep in full force Personal Auto Liability coverage with minimum required limits.

4. Section 22 of the Agreement entitled, “**PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS AGREEMENT**,” is amended to read as follows:

“22. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS AGREEMENT:

(a) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

(b) The Contractor certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(c) The Contractor also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

(d) The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.”

5. Section 23 of the Agreement entitled, “**PASS-THROUGH OF CITY OBLIGATIONS PURSUANT TO THE APPLICANT VERIFICATION STATUTE**,” is deleted in its entirety.

6. A new section, entitled “**ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**,” is added to the Agreement and reads as follows:

“**30. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.”

7. Except as herein amended, the Agreement is affirmed and ratified.

[SIGNATURE PAGE FOLLOWS]

Contract Control Number:

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:

By _____

By _____

By _____



Contract Control Number: OEDEV-GE94050-01

Contractor Name: DENVER NEIGHBORHOOD REVITALIZATION
INC

By: Jay Nelson

Name: Toya Nelson
(please print)

Title: Chair
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A-1

OFFICE OF ECONOMIC DEVELOPMENT
DIVISION OF BUSINESS AND HOUSING SERVICES

DENVER NEIGHBORHOOD REVITALIZATION, INC.
STATE OF COLORADO NEIGHBORHOOD STABILIZATION PROGRAM
SCOPE OF SERVICES

Changes are in BOLD

I. INTRODUCTION

The purpose of this amendatory agreement is to revise provisions for the Neighborhood Stabilization Program granted through the Office of Economic Development Business and Housing Services (BHS) to Denver Neighborhood Revitalization, Inc. (DNRI) (the "Contractor").

Funding Source: Amount: CFDA #: 14.228
CDBG \$
HOME \$
NSP \$ 1,060,000.00 (No additional funds)

HUD Matrix Code: 1: Acquisition of Real Property
2: Disposition
12: Construction of Housing
14A: Rehabilitation: Single-unit Residential
14B: Rehabilitation: Multi-unit Residential
17A: CI Land Acquisition/Disposition

HUD Eligible Activity: 570.201; 570.202; 570.206
Accomplishment Code: 10: Housing Units

CDBG - Only
HUD National Objective: LMH: Low/mod housing benefit to improve permanent residential housing.

Organization: Denver Neighborhood Revitalization, Inc. EIN: 27-0232125
Address: 1555 California Street, Suite 200, Denver, CO 80202
Contact Person: Marianne LeClair
Phone: 303-534-3872
Email: mleclair@renewdenver.org
DUNS Number: 964244011
Organization Type: [X] Non-profit [] For-profit [] Quasi-Governmental Agency

Is the organization a Faith-based/Community Initiative? [] Yes [X] No
Is the organization woman owned? [] Yes [X] No

Contract Relationship:
[] Sub recipient [] Vendor [X] Developer/Beneficiary [] Community Based Development Organization
[] Community Housing Development Organization

Council District(s): CW Neighborhood(s): CW Census Tracts: CW

Is the purpose of this activity to:

- Help prevent homelessness? Yes No
- Help the homeless Yes No
- Help those with HIV/AIDS Yes No
- Primarily help persons with disabilities Yes No

Contract Period: October 1, 2009 – March 10, 2013

- Will program income be generated by this activity? Yes No
- Will activity be carried out by an entity other than grantee? Yes No

If yes, please list entity: Denver Neighborhood Revitalization, Inc. will be the contracting entity. The DNRI team is comprised of the Denver Urban Renewal Authority, the Colorado Housing Assistance Corp. and Habitat for Humanity of Metro Denver.

II. ACTIVITY DESCRIPTION

1. Purpose

Purpose/Description of Activity: To implement activities under the State of Colorado Neighborhood Stabilization Program Substantial Amendment Plan.

Funds will be used to Acquire, rehabilitate and resell foreclosed properties. Develop and redevelop low income rental and homeownership housing. **Land Banking will not be an eligible activity.**

2. Program Requirements and Responsibilities: SEE ATTACHMENT A-2

3. Performance Objectives & Outcomes

The intent of this activity is to acquire, rehabilitate and/or demolish and resell or redevelop foreclosed properties. (Select Objectives with Outcomes)

Availability / Accessibility

- Enhance Suitable Living Environment Through New/Improved Accessibility
- Create Decent Housing with New/Improved Availability
- Promote Economic Activity Through New/Improved Sustainability

Affordability

- Enhance Suitable Living Environment Through New/Improved Accessibility
- Create Decent Housing with New/Improved Availability
- Promote Economic Activity Through New/Improved Sustainability

Sustainability

- Enhance Suitable Living Environment Through New/Improved Accessibility
- Create Decent Housing with New/Improved Availability
- Promote Economic Activity Through New/Improved Sustainability

4. Indicators

The following indicators will be used to measure the success of the contract/activity.

Indicators
Rehabilitation Loan Program
Number of homeownership units estimated to be acquired rehabbed and sold or redeveloped: 7 (2@50%AMI, 5 @ 120% AMI)
Number of rental units estimated to be provided : 0
Number of units estimated to be developed through acquisition and land banking: 0
Amount of money estimated leveraged: \$1,000,000
NOTE: These estimates are based on expenditure of initial program funding and program income through March 10, 2013

5. Implementation Plan and Timeline

The following table outlines the implementation plan and time lines for this contract.

Task	Projected Beginning & End Dates
Secure appraisals for proposed acquisitions	October 1, 2009 – March 10, 2013
Complete rehabilitation inspections for proposed acquisitions	
Complete demolition on blighted acquisitions	
Close acquisitions of targeted properties	
Provide assemblage assistance for land bank organizations	
Provide homeownership development parcels	
Coordinate redevelopment activities of non-profit and for-profit developers	
Ensure adequate property management for acquired properties	
Coordinate and contract for ancillary services	
Ensure completion of homebuyer counseling component	
Ensure all affordability restrictions are met	
Coordinate all property sales and lease purchases	
Coordinate marketing activities with the Office of Economic Development	
Complete all acquisition, rehabilitation and resale development of properties	
Land Banking will not be an eligible activity	

III. BUDGET:

No additional funds for this amendment.

<u>PROGRAM ACTIVITY</u>	<u>ORIGINAL BUDGET</u>	<u>AMENDMENT 1 BUDGET</u>
Acquisition	\$740,963.00	\$648,472.13
Eligible Pre-Contract Costs	\$ 15,937.00	\$ 7,514.40
Rehabilitation	\$159,368.00	\$260,281.47
Rehabilitation Contingency	\$ 21,249.00	\$ 21,249.00
Project Delivery Costs	\$ 15,937.00	\$ 15,937.00
Developer Fee	\$106,246.00	\$106,246.00
CDOH Final Payment (Rehab)	<u>\$ 300.00</u>	<u>\$ 300.00</u>
Total	<u>\$1,060,000.00</u>	<u>\$1,060,000.00</u>

If program income is generated, how will income be used? **Program Income is not anticipated to be generated. Revenues will be generated through homes sales and rental property income. Revenues generated must be used to acquire, rehabilitate and/or demolish and resell additional foreclosed homes or redevelop other foreclosed properties for housing purposes. The Contractor has been designated a “Developer” under this contract. This allows the Developer to keep any revenue generated by this contract and those funds are not designated “program income” under the traditional HUD definition. Revenue generated under this contract will be considered program revenue and shall be used for additional NSP eligible activities as outlined in the contract. Monthly reporting will be required until funds have been depleted.**

As of February 10, 2012, all existing unencumbered program income and/or program revenue and any additional program income/program revenue generated from the sale of a home funded with NSP1 State funding must be returned to the City and County of Denver.

IV. REPORTING

The *Contractor Neighborhood Stabilization Program* will provide the following monthly reports to BHS:

1. The *Statement of Household Income/Demographics* for each program participant (signed by each program participant and kept on file at DNRI).
2. The *Outcome Performance Measurement Report*
3. The *Race/Ethnicity Report* which will be a monthly cumulative report.
4. Other reporting as requested by BHS/CPM (such as quarterly narrative reports).
5. HUD requires reporting of NSP activities in the Disaster Recovery Grant Reporting system. Final requirements of the DRGR have not been received. City will provide reporting format and review with Contractor when available and upon receipt of the format by Contractor, Contractor will provide this report.
6. Most acquisition and rehabilitation activities will be completed within 48 months. HUD allows land banking activities to be completed in 10 years, requiring a 10 year contract period. As the contract progresses, reporting will only be required for continuing activities.

Is the Outcome Performance Measurement Report attached? Yes No
Type of income verification utilized: Self-Certified Verification Not Applicable
Self-certification is sufficient for counseling activities; however, verification is required for homebuyers or renters.

**ATTACHMENT A-2
PROGRAM REQUIREMENTS AND RESPONSIBILITIES**

I. PROGRAM ACTIVITIES

Land Banking has been deleted as an eligible activity.

II. NEIGHBORHOODS

Contractor will conduct NSP activities in certain target neighborhoods. The following neighborhoods shall be the target neighborhoods for Contractor for NSP activities: Athmar Park, Barnum, Barnum West, Chaffee Park, Clayton, Cole, College View, East Colfax, Elyria/Swansea, Five Points, Globeville, Green Valley Ranch, Harvey Park, Jefferson Park, Mar Lee, Montbello, Northeast Park Hill, North Park Hill, Ruby Hill, Skyland, Sunnyside, Villa Park, West Colfax, Westwood, and Whittier.

Additional neighborhoods may be considered for inclusion in Contractor's NSP 1 work plan, but any expansion or alteration from the areas listed here must be pre-approved through written approval by the BHS Director and an officer of Contractor and must be posted as a change to Denver's Substantial Amendment prior.

III. AFFORDABILITY REQUIREMENTS

The City will ensure long-term affordability for NSP 1 units through the use of a Promissory Note and Deed of Trust and/or Covenants that will be recorded against NSP-assisted property in favor of the Contractor or an entity named by the Contractor. Promissory Note and Deed of Trust shall be in a form consistent with traditional lending documents. Covenants will not typically be eligible for subordination, but specific requests for subordination of covenants will be reviewed by the City for possible allowance based upon the circumstances surrounding each specific request. The initial sales of residences under NSP must be to households earning up to 120% of AMI. Subsequent sales by the purchaser are not subject to a limit based on AMI of the purchaser. Based on the level of investment of NSP funds, recapture periods will be established to comply with NSP requirements.

Any previously executed Promissory Notes and Deeds of Trust specifying the City and County of Denver as the Beneficiary will be assigned to DNRI or their designee.