

WHEN RECORDED MAIL TO:
Denver Economic Development & Opportunity
Attention: Loan Administration
101 W. Colfax Ave., Suite 850
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

AMENDMENT AND MODIFICATION AGREEMENT

THIS AMENDMENT AND MODIFICATION AGREEMENT (the “Amendatory Agreement”) 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 **MONTBELLO ORGANIZING COMMITTEE**, a Colorado non-profit corporation whose address is 12000 E. 47th Ave., Ste. 113, Denver, CO 80239 (the “Grantee” or “Contractor”). City and Grantee are hereinafter referred to collectively as the “Parties”.

WITNESSETH:

WHEREAS, the Parties entered into that certain Loan Agreement dated September 17, 2020, relating to a loan of \$700,000 to a selected business entity within a designated target area (collectively, the “Loan Agreement”); and

WHEREAS, the Loan Agreement allowed the Director to consent to a transfer of the Property (as defined in the Loan Agreement) to an affiliate of Grantee that will act as a declarant for a small planned community declaration with respect to the Property; and

WHEREAS, prior to the loan closing, the Grantee transferred the Property to its affiliate, Montbello Freshlo LLC (“Freshlo”); and

WHEREAS, at closing, Freshlo executed that certain Deed of Trust (the “Deed of Trust”) for the benefit of the City, dated October 22, 2020, and recorded on November 5, 2020, at Reception No. 2020184706 of the records of the City and County of Denver, State of Colorado, and encumbering property described in Exhibit A attached hereto; and

WHEREAS, the Deed of Trust secures the repayment of the indebtedness evidenced by that certain Promissory Note dated October 22, 2020 (the “Note”); and

WHEREAS, the Parties wish to modify the terms and conditions of the Loan Agreement, Note, Deed of Trust, and any other documents evidencing or securing the City’s loan (together, the “Loan Documents”), to allow the Grantee, through its affiliate(s), to further transfer the Property as described in this Amendatory Agreement; and

WHEREAS, the City wishes to authorize the Director to consent to such further transfers, and to execute documents necessary to complete such transfer(s), as described in this Amendatory Agreement.

NOW, THEREFORE, in consideration of the premises herein contained and other good and valuable consideration, the adequacy of which is acknowledged, the Parties hereby modify the Loan Documents as follows:

AGREEMENT:

1. Capitalized terms used but not defined herein shall have the meanings given them in the Loan Agreement.

2. Grantee’s address for purposes of Section 22 Notices of the Loan Agreement has changed to the address first above written in this Amendatory Agreement.

3. All references to "...**Exhibit A**..." in the Loan Agreement shall be amended to read: "...**Exhibit A-1**..." as applicable. **Exhibit A** Scope of Services attached to the Loan Agreement is hereby replaced in its entirety with the Scope of Services marked as **Exhibit A-1** attached to this Amendatory Agreement, which is hereby incorporated by reference.

4. **Exhibit D-1**, entitled “Form of Subordination Agreement”, attached hereto is incorporated herein by this reference.

5. Section 2 of the Loan Agreement, entitled “**TERM:**”, is hereby amended in its entirety as follows:

“2. **TERM:** This Agreement shall begin on July 7, 2020, and end on December 31, 2024, unless such time is extended by written agreement of the Parties, executed in the same manner as this Loan Agreement.”

6. In Section 10 of the Loan Agreement, entitled “**TIME OF PERFORMANCE; RESTRICTIONS ON USE OF PROPERTY:**”, Subsections A and B are hereby amended their entirety as follows:

“A. The Grantee agrees to use the Property as a non-profit community facility, for a period of nine (9) years commencing upon completion of construction of the Montbello FreshLo Hub on the Property, as described in **Exhibit A-1**. For value received, the Grantee shall pay to the City the principal sum of SEVEN HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$700,000.00), or the amount actually disbursed by the City, whichever is less, if and only if the Property ceases to be used as a non-profit community facility during such nine-year period. The Grantee agrees to execute a promissory note (the “Promissory Note”)

and deed of trust, containing terms and conditions satisfactory to the City, evidencing and securing such obligation.

“B. After nine (9) years from the date of completion of construction of the Montbello FreshLo Hub on the Property, presuming compliance by the Grantee with its obligations hereunder, the Promissory Note will be cancelled, and the deed of trust will be released by the City (at the Grantee’s expense). The Executive Director of DEDO (the “Director”), or the Director’s designee, may execute documents necessary to subordinate the lien of its deed of trust, so long as: (i) the Grantee is not then in default of its obligations hereunder; (ii) the subordination is a form substantially similar to the form Subordination Agreement attached hereto as **Exhibit D-1** and incorporated herein by this reference; and (iii) said Director concludes, in her/his sole discretion, that the City’s interests remain adequately protected.”

7. Section 12 of the Loan Agreement, entitled “**NO DISCRIMINATION IN EMPLOYMENT:**”, is hereby amended in its entirety as follows:

12. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this Loan Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.”

8. Section 20 of the Loan Agreement, entitled “**PUBLIC CONTRACTS FOR SERVICES:**”, is hereby amended in its entirety as follows:

“20. NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT:

“A. This Loan 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 Loan Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Loan Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Loan Agreement in the future.

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

“(3) It will 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 a worker without authorization to perform work under this Loan Agreement.

“(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Loan Agreement, and it is required 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 this Loan Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor shall also 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 worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

“(6) It will comply with a 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.

“B. It will comply with a 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.

“C. The Contractor is liable for any violations as provided in the Certification Ordinance. If the Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Loan Agreement for a breach of the Loan Agreement. If this Loan Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any 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 the Contractor from submitting bids or proposals for future contracts with the City.”

9. Section 25 of the Loan Agreement, entitled “**ASSIGNMENT AND SUBCONTRACTING:**”, is hereby amended in its entirety as follows:

“**25. ASSIGNMENT AND SUBCONTRACTING:** The City is not obligated or liable under this Agreement to any party other than the Grantee. The Grantee shall not assign, sublet or subcontract with respect to any of the rights, benefits, obligations or duties under this Agreement except upon prior written consent of the City. The Director or the Director’s designee is authorized to execute documents necessary to consent to one or more transfers of the Property so long as any such transferee is a low-income housing tax credit partnership directly or indirectly controlled by the Grantee that will develop, own, and operate an affordable housing project on the Property, and so long as the Grantee remains obligated under this Agreement and the promissory note, and any transferee takes title to the Property subject to the deed of trust.”

10. The Loan Documents are amended to reflect the amended terms of the Loan Agreement.

11. The Grantee consents to the use of electronic signatures by the City. This Amendatory 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 this Amendatory 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 this Amendatory 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.

12. Except as modified herein, the Loan Documents remain unmodified.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW.]**

Contract Control Number:
Contractor Name:

OEDEV-202366331-01[OEDEV-202054444]
MONTBELLO ORGANIZING COMMITTEE

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:

OEDEV-202366331-01[OEDEV-202054444]
MONTBELLO ORGANIZING COMMITTEE

By: Donna M. Garnett

Name: Donna M. Garnett
(please print)

Title: CEO/Executive Director
(please print)

MY COMMISSION EXPIRES DECEMBER 20, 2026
NOTARY ID 20224047471
STATE OF COLORADO
NOTARY PUBLIC
MARY ETTA CURTIS

ATTEST: [if required]

By: Mary Etta Curtis

Name: Mary Etta Curtis
(please print)

Title: Notary Public
(please print)

State of Colorado)
) ss.
County of Denver)

The foregoing instrument was acknowledged before this Jan day of 25,
2023, by Mary Etta Curtis, as _____ of MONTBELLO
ORGANIZING COMMITTEE.

(SEAL)

Mary Etta Curtis
Notary Public
My Commission Expires: December 20, 2026

AMENDED SCOPE OF SERVICES

Denver Economic Development & Opportunity (DEDO)
Division of Neighborhood Equity and Stabilization
2020 PUBLIC FACILITIES & IMPROVEMENTS (CPS No. 17)
Montbello Organizing Committee

Federal Award ID (FAIN) #: B-20-MC-0005
Federal Award Date: Anticipated June 2020
Federal Awarding Agency: U.S. Housing and Urban Development (HUD)
Pass-Through Entity: City and County of Denver
Awarding Official: Dept. of Housing and Urban Development (HUD)
Community Planning and Development
Region VIII
1670 Broadway Street
Denver CO 80202-4801

I. INTRODUCTION

Period of Performance Start and End Dates: Feb. 1, 2020 – July 1, 2027

AMENDED Period of Performance: Start and End Dates: Feb. 1, 2020 – nine years after completion of construction

Federal Project Description:

The purpose of this contract agreement is to provide a Community Development Block Grant for \$700,000.00 through the Denver Office of Economic Development and Opportunity. These funds will be provided to Montbello Organizing Committee to finance the acquisition of the real property located at 4690 Peoria Street, Denver, CO 80239 (aka 12300 E. Albrook Drive) for \$600,000 and \$100,000 for pre-development costs. The acquisition cost and a portion of the \$100,000 pre-development costs have been incurred prior to the effective date of this Agreement and may be reimbursed by the City as long as (i) the costs were incurred on or after February 1, 2020, and (ii) such costs appear in the Estimated Project Budget Summary attached hereto.

AMENDED Federal Project Description:

The purpose of this contract agreement is to provide a Community Development Block Grant for \$700,000.00 through the Denver Office of Economic Development and Opportunity. These funds will be provided to Montbello Organizing Committee to finance the acquisition of the real property located at 12444 East Albrook Drive (formerly known as 12300 E. Albrook Drive) for \$600,000 and \$100,000 for pre-development costs. This facility in the Montbello neighborhood will be developed into a multi-use development with affordable housing units, small retail spaces and community meeting spaces open to the public and will be called the Montbello FreshLo Hub.

A Promissory Note and a Deed of Trust on 12300 E. Albrook Drive real property will secure the performance-based loan. Subsequent to execution of the Loan Agreement, the property was rezoned and the current address is 12444 East Albrook Drive.

Funding Source: Amount:
[X] CDBG \$700,000.00 CFDA # and Name: 14.218

CDBG Matrix Code: 01 - Acquisition
CDBG Eligible Activity: 24 CFR 570.201(c): Public facilities and improvements. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in §570.207(a), carried out by the recipient or other public or private nonprofit entities.

EXHIBIT A-1

Accomplishment Type: 11 Public Facilities
Proposed Number of outcomes: 1

CDBG HUD National Objective:

24 CFR 570.208 (a)(1) – Area benefit activities. (i) An activity, the benefits of which are available to all the residents in a particular area where at least 51% percent of the residents are low and moderate-income persons.

Organization: Montbello Organizing Committee

EIN #: 81-4339690

DUNS#: 080967406

CCR (Central Contractor Registration) Expiration Date: 10/31/2020

Address: 12000 E. 47th Ave., Ste. 113, Denver, CO 80239

Contact Person: Donna Garnett, Executive Director

Phone: (720) 810-5475

Email: montbellofreshlo@gmail.com

Organization Type:

Non-Profit For-Profit Individual Partnership Corporation Publicly Owned Other

CDBG Contractor Relationship:

Unit of Government Public Agency Sub-awardee/Sub recipient Vendor Beneficiary
 Community Based Development Organization (CBDO)

Council District(s): 8 Neighborhood(s): Montbello Census Block(s):
(only required for Low Mod Area)
98.01
83.04
83.06
83.86
83.87
83.12
83.05

Project/activity located in a Target Area: Yes No
If yes, indicate type: Local Target Area Strategy Area (NRSA) CDFI Other

The Federal Funding Accountability and Transparency Act (FFATA)

- 1. In the business or organization's preceding completed fiscal year, the business or organization (the legal entity to which this specific CCR record, represented by a DUNS number, belongs) received: (1) 80 percent or more of annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, sub grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, sub grants, and/or cooperative agreements:
 Yes No
If YES, continue to statement 2.
- 2. The public has access to information about the compensation of the executives in the business or organization (the legal entity to which this specific CCR record, represented by a DUNS number, belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of

EXHIBIT A-1

1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986:

Yes No

If YES, stop here. If NO, continue to statement 3.

3. Provide the names and amounts of the five most highly compensated officers or executives:

- Program income (of any type, e.g., fees) will be generated by this activity. Yes No
- Contract will be funding architectural, engineering or other project soft cost. Yes No
- If yes, final project be completed within 24 months. Yes No
- Purpose of this activity is 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

II. ACTIVITY DESCRIPTION

Montbello Organizing Committee will acquire and develop the former RTD Park & Ride site located at 12444 East Albrook Dr. (formerly known as 12300 E. Albrook Drive), into a multi-use facility with affordable housing, retail spaces, and community meeting rooms open to the public. It will be called the Montbello FreshLo Hub.

1. Description of Activity:

After acquiring the real property, MOC will develop the property into a mixed-use facility to include affordable housing, retail spaces, and meeting rooms open to the public, with a total project cost of about \$32 million when completed.

The facility will be utilized for their operations to provide services and programs to its clientele and the Montbello community and its neighbors.

MOC and its tenants such as retail stores and affordable housing will open up the opportunities for employment and entrepreneurial opportunities for Montbello residents and businesses and its surrounding neighborhoods.

Facility will provide safe gathering spots and activity spaces for the community.

2. Funds will be used to finance the acquisition of 12300 E. Albrook Drive/12444 Albrook Drive, Denver, CO and for pre-development costs.

Amended: 12444 East Albrook Drive

3. Implementation Plan and Timeline

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

Task	Performance Dates
Acquire the real property located at 12300 E. Albrook Drive/12444 East Albrook Drive, Denver, CO	February/March 2020 with bridge loans from CO Enterprise Fund.
\$700,000 performance-based loan contract to be initiated by DEDO, approved by City Council and provide proceeds to pay off bridge loans.	April 2020 – July 2020. Approve request by DEDO, initiate contract process and pay off bridge loans when DEDO loan closes.
DEDO loan to close and pay-off bridge loans used to acquire real property.	July 2020 estimated
MOC apply for LIHTC and NMTC to help finance completion of project.	August 2020 – December 2020
Construction expected to begin	January 2021 AMENDED DATE: April 1, 2023 (Q2 2023)

EXHIBIT A-1

Completion of construction/project	Summer 2022 AMENDED DATE: Q4 2024
Occupancy of tenants to completed project	Last quarter of 2022 AMENDED DATE: Q1 2025
Performance-based loan ends 9 years from completion of construction	Estimated 2034 - Cancel promissory note and release of Deed of Trust if compliance is met.
Outcomes (select one)	

- Enhance Suitable Living Environment
- Promote Economic Activity

Outcomes (select one)

- Availability/Accessibility
- Affordability
- Sustainability

Indicators

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

Indicators – must be measurable
HUD Indicators:
Money Leveraged \$32 million from various sources including LIHTC, NMTC, other federal, state & local funding. Number of proposed outcomes: 1 (availability/accessibility of services and facility). Income Levels of people/family: N/A Race and Ethnicity- N/A
Specific Indicators: Specific to this particular scope of work
(1) Loan proceeds will be utilized to pay-off bridge loans used in the acquisition of the 12300 E. Albrook Drive/12444 East Albrook Drive real property. (2) Annual OPMR to provide information on # of people served and types of services provided and continue operating at the facility as a community facility for the \$700,000 performance-based loan and OPMR will happen when project is completed and occupied (scheduled for first quarter of 2024). Please note under description of activity referenced above, what MOC, its tenants and the community as a whole will utilize the E. Albrook Drive facility. (3) Loan to be secured by a Deed of Trust on E. Albrook Drive/12444 East Albrook Drive real property.

Housing and Neighborhood Development Outcomes (To be reported on the Outcome and Performance Measurement Report OPMR):
Monthly OPMR to be completed/submitted during construction and switch to annual OPMR after completion of the project to the end of the contract (i.e. 9 years from completion of construction).

AMENDED Neighborhood Outcomes (To be reported on the Outcome and Performance Measurement Report OPMR):

- Monthly OPMR to be completed/submitted during construction and switch to annual OPMR after completion of the project to the end of the contract cycle (9 years from the completion of construction).
- Annual OPMR to provide information on # of people served and types of services provided and continue operating at the facility as a community facility.
- OPMR is due when project is completed and occupied scheduled for last quarter of 2024. Please note under *Description of Activity* referenced above that MOC, its tenants and the community as a whole will have the ability to utilize the Peoria facility.

III. Budget

Please refer to the Cost Allocation Plan and budget narrative for a detailed estimated description and allocation of funds. Organization receives income from operations. Yes No If Yes, describe:
 Non-personnel costs are being funded. Yes No

IV. Reporting

Data collection is required and must be completed/reported toward meeting the indicators contained in this Scope of Services. Final disbursement of funds is contingent based on the ability to collect the required information.

Regardless of when the executed contract was received by the Contractor, Contractor is responsible for submitting a report from the start date of the contract; **even if no activity was conducted or expensed. Contractor should report “No Activity” or outline those activities reimbursed with grant funds. If the Contractor completes the project and all money is drawn, a final report will be submitted indicating “final report” and no further reports are required.**

Contractor will email the following report to the Program Specialist, and copy the Contract Administrator:

Outcome Performance Measurement Report

Frequency:

- Monthly by the 15th day Quarterly: 15 days after the end of the quarter Other: Annual Verification
 during construction/development of project after project completion to end of contract (i.e., 9 yrs. from completion of construction).

Program Income Report

Frequency:

- Monthly by the 15th day Quarterly: 15 days after the end of the quarter

IDIS Coordinator will provide the format of the performance report to the Contractor. The information reported must include progress on the indicators included in this Scope of Services. The report includes current and cumulative (year-to-date) indicator information. Information on the overall progress of the program and/or project should be reported in the narrative section of the report. If the project is not being performed in a timely manner, an explanation must be included in the narrative section of the report.

Annual Verification

Upon completion of the project and at the end of the first year, the Contractor will be required to respond to an annual request for verification that it is still operating as a nonprofit organization in the area that is serving at least 51 percent or more of low to moderate income people.

This verification will be required annually for the duration of the promissory note of seven years. Upon completion of the final annual verification the Promissory Note and/or Deed of Trust will be released to the organization.

AMENDED Annual Verification

Upon completion of the project and at the end of the first year, the Contractor will be required to respond to an annual request for verification that it is still operating as a nonprofit organization in the area that is serving at least 51 percent or more of low to moderate income people.

This verification will be required annually for **nine years after completion of construction**. Upon completion of the final annual verification the Promissory Note and Deed of Trust will be released to the Contractor.

V. Program Requirements and Responsibilities

- i. Sole Source Purchases – N/A
- Sole source purchases are made only when items or services are unique and possess specific characteristics that can be filled by only one source. Factors to be considered in sole source purchases include the following:
- Whether the vendor possesses exclusive and/or predominant capabilities or the items contained a patented feature providing superior utility not obtainable from similar products
 - Whether the product or service is unique and easily established as one of a kind
 - Whether the program requirements can be modified so that competitive products or services may be used
 - Whether the product is available from only one source and not merchandised through wholesalers, jobbers and retailers.
Whether items must be interchangeable or compatible with in-place items
 - Sole source purchases require the approval of the CEO/ Director of the Contractor.

VI.. Prohibitions Against the Use of Federally Debarred and Suspended Parties

Financial assistance exceeding \$25,000 shall not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension, or placement in ineligibility status. The Contractor is responsible for searching the Internet at <https://www.sam.gov> to determine that all first tier contractors are not currently debarred, suspended or otherwise ineligible. Written documentation must be maintained in the contractor's files.

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WHEREAS, the Loan Agreement allowed the Director to consent to a transfer of the Property (as defined in the Loan Agreement) to an affiliate of Grantee that will act as a declarant for a small planned community declaration with respect to the Property; and

WHEREAS, prior to the loan closing, the Grantee transferred the Property to its affiliate, Montbello Freshlo LLC (“Freshlo”); and

WHEREAS, at closing, Freshlo executed that certain Deed of Trust (the “Deed of Trust”) for the benefit of the City, dated October 22, 2020, and recorded on November 5, 2020, at Reception No. 2020184706 of the records of the City and County of Denver, State of Colorado, and encumbering property described in Exhibit A attached hereto; and

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and deed of trust, containing terms and conditions satisfactory to the City, evidencing and securing such obligation.

“B. After nine (9) years from the date of completion of construction of the Montbello FreshLo Hub on the Property, presuming compliance by the Grantee with its obligations hereunder, the Promissory Note will be cancelled, and the deed of trust will be released by the City (at the Grantee’s expense). The Executive Director of DEDO (the “Director”), or the Director’s designee, may execute documents necessary to subordinate the lien of its deed of trust, so long as: (i) the Grantee is not then in default of its obligations hereunder; (ii) the subordination is a form substantially similar to the form Subordination Agreement attached hereto as **Exhibit D-1** and incorporated herein by this reference; and (iii) said Director concludes, in her/his sole discretion, that the City’s interests remain adequately protected.”

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“B. The Contractor certifies that:

“(1) At the time of its execution of this Loan Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Loan Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Loan Agreement in the future.

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

“(3) It will 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 a worker without authorization to perform work under this Loan Agreement.

“(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Loan Agreement, and it is required 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 this Loan Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor shall also 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 worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

“(6) It will comply with a 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.

“B. It will comply with a 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.

“C. The Contractor is liable for any violations as provided in the Certification Ordinance. If the Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Loan Agreement for a breach of the Loan Agreement. If this Loan Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any 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 the Contractor from submitting bids or proposals for future contracts with the City.”

9. Section 25 of the Loan Agreement, entitled “**ASSIGNMENT AND SUBCONTRACTING:**”, is hereby amended in its entirety as follows:

“**25. ASSIGNMENT AND SUBCONTRACTING:** The City is not obligated or liable under this Agreement to any party other than the Grantee. The Grantee shall not assign, sublet or subcontract with respect to any of the rights, benefits, obligations or duties under this Agreement except upon prior written consent of the City. The Director or the Director’s designee is authorized to execute documents necessary to consent to one or more transfers of the Property so long as any such transferee is a low-income housing tax credit partnership directly or indirectly controlled by the Grantee that will develop, own, and operate an affordable housing project on the Property, and so long as the Grantee remains obligated under this Agreement and the promissory note, and any transferee takes title to the Property subject to the deed of trust.”

10. The Loan Documents are amended to reflect the amended terms of the Loan Agreement.

11. The Grantee consents to the use of electronic signatures by the City. This Amendatory 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 this Amendatory 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 this Amendatory 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.

12. Except as modified herein, the Loan Documents remain unmodified.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW.]**

Contract Control Number:
Contractor Name:

OEDEV-202366331-01[OEDEV-202054444]
MONTBELLO ORGANIZING COMMITTEE

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:

OEDEV-202366331-01[OEDEV-202054444]
MONTBELLO ORGANIZING COMMITTEE

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

State of Colorado)
) ss.
County of _____)

The foregoing instrument was acknowledged before this _____ day of _____,
2023, by _____, as _____ of MONTBELLO
ORGANIZING COMMITTEE.

(SEAL)

Notary Public
My Commission Expires: _____

AMENDED SCOPE OF SERVICES

Denver Economic Development & Opportunity (DEDO)
Division of Neighborhood Equity and Stabilization
2020 PUBLIC FACILITIES & IMPROVEMENTS (CPS No. 17)
Montbello Organizing Committee

Federal Award ID (FAIN) #: B-20-MC-0005
Federal Award Date: Anticipated June 2020
Federal Awarding Agency: U.S. Housing and Urban Development (HUD)
Pass-Through Entity: City and County of Denver
Awarding Official: Dept. of Housing and Urban Development (HUD)
Community Planning and Development
Region VIII
1670 Broadway Street
Denver CO 80202-4801

I. INTRODUCTION

Period of Performance Start and End Dates: Feb. 1, 2020 – July 1, 2027

AMENDED Period of Performance: Start and End Dates: Feb. 1, 2020 – nine years after completion of construction

Federal Project Description:

The purpose of this contract agreement is to provide a Community Development Block Grant for \$700,000.00 through the Denver Office of Economic Development and Opportunity. These funds will be provided to Montbello Organizing Committee to finance the acquisition of the real property located at 4690 Peoria Street, Denver, CO 80239 (aka 12300 E. Albrook Drive) for \$600,000 and \$100,000 for pre-development costs. The acquisition cost and a portion of the \$100,000 pre-development costs have been incurred prior to the effective date of this Agreement and may be reimbursed by the City as long as (i) the costs were incurred on or after February 1, 2020, and (ii) such costs appear in the Estimated Project Budget Summary attached hereto.

AMENDED Federal Project Description:

The purpose of this contract agreement is to provide a Community Development Block Grant for \$700,000.00 through the Denver Office of Economic Development and Opportunity. These funds will be provided to Montbello Organizing Committee to finance the acquisition of the real property located at 12444 East Albrook Drive (formerly known as 12300 E. Albrook Drive) for \$600,000 and \$100,000 for pre-development costs. This facility in the Montbello neighborhood will be developed into a multi-use development with affordable housing units, small retail spaces and community meeting spaces open to the public and will be called the Montbello FreshLo Hub.

A Promissory Note and a Deed of Trust on 12300 E. Albrook Drive real property will secure the performance-based loan. Subsequent to execution of the Loan Agreement, the property was rezoned and the current address is 12444 East Albrook Drive.

Funding Source: Amount: CFDA # and Name:
[X] CDBG \$700,000.00 14.218

CDBG Matrix Code: 01 - Acquisition
CDBG Eligible Activity: 24 CFR 570.201(c): Public facilities and improvements. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in §570.207(a), carried out by the recipient or other public or private nonprofit entities.

EXHIBIT A-1

Accomplishment Type: 11 Public Facilities
Proposed Number of outcomes: 1

CDBG HUD National Objective:

24 CFR 570.208 (a)(1) – Area benefit activities. (i) An activity, the benefits of which are available to all the residents in a particular area where at least 51% percent of the residents are low and moderate-income persons.

Organization: Montbello Organizing Committee

EIN #: 81-4339690

DUNS#: 080967406

CCR (Central Contractor Registration) Expiration Date: 10/31/2020

Address: 12000 E. 47th Ave., Ste. 113, Denver, CO 80239

Contact Person: Donna Garnett, Executive Director

Phone: (720) 810-5475

Email: montbellofreshlo@gmail.com

Organization Type:

Non-Profit For-Profit Individual Partnership Corporation Publicly Owned Other

CDBG Contractor Relationship:

Unit of Government Public Agency Sub-awardee/Sub recipient Vendor Beneficiary
 Community Based Development Organization (CBDO)

Council District(s): 8 Neighborhood(s): Montbello Census Block(s):
(only required for Low Mod Area)
98.01
83.04
83.06
83.86
83.87
83.12
83.05

Project/activity located in a Target Area: Yes No
If yes, indicate type: Local Target Area Strategy Area (NRSA) CDFI Other

The Federal Funding Accountability and Transparency Act (FFATA)

- 1. In the business or organization's preceding completed fiscal year, the business or organization (the legal entity to which this specific CCR record, represented by a DUNS number, belongs) received: (1) 80 percent or more of annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, sub grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, sub grants, and/or cooperative agreements:
 Yes No
If YES, continue to statement 2.

- 2. The public has access to information about the compensation of the executives in the business or organization (the legal entity to which this specific CCR record, represented by a DUNS number, belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of

EXHIBIT A-1

1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986:

Yes No

If YES, stop here. If NO, continue to statement 3.

3. Provide the names and amounts of the five most highly compensated officers or executives:

- Program income (of any type, e.g., fees) will be generated by this activity. Yes No
- Contract will be funding architectural, engineering or other project soft cost. Yes No
- If yes, final project be completed within 24 months. Yes No
- Purpose of this activity is 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

II. ACTIVITY DESCRIPTION

Montbello Organizing Committee will acquire and develop the former RTD Park & Ride site located at 12444 East Albrook Dr. (formerly known as 12300 E. Albrook Drive), into a multi-use facility with affordable housing, retail spaces, and community meeting rooms open to the public. It will be called the Montbello FreshLo Hub.

1. Description of Activity:

After acquiring the real property, MOC will develop the property into a mixed-use facility to include affordable housing, retail spaces, and meeting rooms open to the public, with a total project cost of about \$32 million when completed.

The facility will be utilized for their operations to provide services and programs to its clientele and the Montbello community and its neighbors.

MOC and its tenants such as retail stores and affordable housing will open up the opportunities for employment and entrepreneurial opportunities for Montbello residents and businesses and its surrounding neighborhoods.

Facility will provide safe gathering spots and activity spaces for the community.

2. Funds will be used to finance the acquisition of 12300 E. Albrook Drive/12444 Albrook Drive, Denver, CO and for pre-development costs.

Amended: 12444 East Albrook Drive

3. Implementation Plan and Timeline

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

Task	Performance Dates
Acquire the real property located at 12300 E. Albrook Drive/12444 East Albrook Drive, Denver, CO	February/March 2020 with bridge loans from CO Enterprise Fund.
\$700,000 performance-based loan contract to be initiated by DEDO, approved by City Council and provide proceeds to pay off bridge loans.	April 2020 – July 2020. Approve request by DEDO, initiate contract process and pay off bridge loans when DEDO loan closes.
DEDO loan to close and pay-off bridge loans used to acquire real property.	July 2020 estimated
MOC apply for LIHTC and NMTC to help finance completion of project.	August 2020 – December 2020
Construction expected to begin	January 2021 AMENDED DATE: April 1, 2023 (Q2 2023)

EXHIBIT A-1

Completion of construction/project	Summer 2022 AMENDED DATE: Q4 2024
Occupancy of tenants to completed project	Last quarter of 2022 AMENDED DATE: Q1 2025
Performance-based loan ends 9 years from completion of construction	Estimated 2034 - Cancel promissory note and release of Deed of Trust if compliance is met.
Outcomes (select one)	

- Enhance Suitable Living Environment
- Promote Economic Activity

Outcomes (select one)

- Availability/Accessibility
- Affordability
- Sustainability

Indicators

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

Indicators – must be measurable
HUD Indicators:
Money Leveraged \$32 million from various sources including LIHTC, NMTC, other federal, state & local funding. Number of proposed outcomes: 1 (availability/accessibility of services and facility). Income Levels of people/family: N/A Race and Ethnicity- N/A
Specific Indicators: Specific to this particular scope of work
(1) Loan proceeds will be utilized to pay-off bridge loans used in the acquisition of the 12300 E. Albrook Drive/12444 East Albrook Drive real property. (2) Annual OPMR to provide information on # of people served and types of services provided and continue operating at the facility as a community facility for the \$700,000 performance-based loan and OPMR will happen when project is completed and occupied (scheduled for first quarter of 2024). Please note under description of activity referenced above, what MOC, its tenants and the community as a whole will utilize the E. Albrook Drive facility. (3) Loan to be secured by a Deed of Trust on E. Albrook Drive/12444 East Albrook Drive real property.

Housing and Neighborhood Development Outcomes (To be reported on the Outcome and Performance Measurement Report OPMR):
Monthly OPMR to be completed/submitted during construction and switch to annual OPMR after completion of the project to the end of the contract (i.e. 9 years from completion of construction).

AMENDED Neighborhood Outcomes (To be reported on the Outcome and Performance Measurement Report OPMR):

- Monthly OPMR to be completed/submitted during construction and switch to annual OPMR after completion of the project to the end of the contract cycle (9 years from the completion of construction).
- Annual OPMR to provide information on # of people served and types of services provided and continue operating at the facility as a community facility.
- OPMR is due when project is completed and occupied scheduled for last quarter of 2024. Please note under *Description of Activity* referenced above that MOC, its tenants and the community as a whole will have the ability to utilize the Peoria facility.

III. Budget

Please refer to the Cost Allocation Plan and budget narrative for a detailed estimated description and allocation of funds. Organization receives income from operations. Yes No If Yes, describe:
 Non-personnel costs are being funded. Yes No

IV. Reporting

Data collection is required and must be completed/reported toward meeting the indicators contained in this Scope of Services. Final disbursement of funds is contingent based on the ability to collect the required information.

Regardless of when the executed contract was received by the Contractor, Contractor is responsible for submitting a report from the start date of the contract; **even if no activity was conducted or expensed. Contractor should report “No Activity” or outline those activities reimbursed with grant funds. If the Contractor completes the project and all money is drawn, a final report will be submitted indicating “final report” and no further reports are required.**

Contractor will email the following report to the Program Specialist, and copy the Contract Administrator:

Outcome Performance Measurement Report

Frequency:

- Monthly by the 15th day Quarterly: 15 days after the end of the quarter Other: Annual Verification
 during construction/development of project after project completion to end of contract (i.e., 9 yrs. from completion of construction).

Program Income Report

Frequency:

- Monthly by the 15th day Quarterly: 15 days after the end of the quarter

IDIS Coordinator will provide the format of the performance report to the Contractor. The information reported must include progress on the indicators included in this Scope of Services. The report includes current and cumulative (year-to-date) indicator information. Information on the overall progress of the program and/or project should be reported in the narrative section of the report. If the project is not being performed in a timely manner, an explanation must be included in the narrative section of the report.

Annual Verification

Upon completion of the project and at the end of the first year, the Contractor will be required to respond to an annual request for verification that it is still operating as a nonprofit organization in the area that is serving at least 51 percent or more of low to moderate income people.
 This verification will be required annually for the duration of the promissory note of seven years. Upon completion of the final annual verification the Promissory Note and/or Deed of Trust will be released to the organization.

AMENDED Annual Verification

Upon completion of the project and at the end of the first year, the Contractor will be required to respond to an annual request for verification that it is still operating as a nonprofit organization in the area that is serving at least 51 percent or more of low to moderate income people.

This verification will be required annually for **nine years after completion of construction**. Upon completion of the final annual verification the Promissory Note and Deed of Trust will be released to the Contractor.

V. Program Requirements and Responsibilities

- i. Sole Source Purchases – N/A
- Sole source purchases are made only when items or services are unique and possess specific characteristics that can be filled by only one source. Factors to be considered in sole source purchases include the following:
- Whether the vendor possesses exclusive and/or predominant capabilities or the items contained a patented feature providing superior utility not obtainable from similar products
 - Whether the product or service is unique and easily established as one of a kind
 - Whether the program requirements can be modified so that competitive products or services may be used
 - Whether the product is available from only one source and not merchandised through wholesalers, jobbers and retailers.
Whether items must be interchangeable or compatible with in-place items
 - Sole source purchases require the approval of the CEO/ Director of the Contractor.

VI.. Prohibitions Against the Use of Federally Debarred and Suspended Parties

Financial assistance exceeding \$25,000 shall not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension, or placement in ineligibility status. The Contractor is responsible for searching the Internet at <https://www.sam.gov> to determine that all first tier contractors are not currently debarred, suspended or otherwise ineligible. Written documentation must be maintained in the contractor's files.