

Executive Summary - Proposed Amendment to Purchase and Sale Agreement

The Department of Finance, Division of Real Estate proposes an Amendment to a Purchase and Sale Agreement by and between the City and County of Denver, as seller and Mercy Housing Mountain Plains, Inc., as buyer. This amendment serves to modify the legal description of the property to be sold, and also make technical changes to Exhibit A to the Purchase and Sale Agreement (Low-Income Housing Land Use Restriction Agreement).

Background

- The City acquired both the Colfax and Valentia Street parcels in 2017, with the specific intention of fostering the development of critically needed affordable housing.
- HOST conducted a robust RFP and selected Mercy Housing as the partner most qualified to successfully complete the project. Mile High Early Learning will lease space in the project from Mercy Housing and provide early childhood educational resources on-site.
- The City and Mercy Housing entered into a Purchase and Sale Agreement on August 12, 2020 for the acquisition of both parcels. Post-closing, Mercy Housing intends to reconfigure the two parcels into one parcel to provide a property footprint supporting the construction of 82 of affordable housing. Necessary property reconfiguration requires the City to reserve a small amount of land for future Right-of-Way. To accomplish this, the conveyance legal description will be modified to reflect that reservation of land.
- The City's agreement to transfer the Property to Mercy Housing is specifically made in reliance on their commitment to construct and operate on a long-term basis 82 affordable residential dwelling units. Pursuant to the terms of the original Purchase and Sale Agreement, in order to achieve ensure project affordability, the City will impose a 99-year use restriction on the property through the recordation of a Low-Income Housing Land Use Restriction Agreement. This Agreement will have a lien priority senior to any loan or mortgage. In the original Purchase and Sale Agreement, the affordability restrictions are found as a restrictive covenant in the sale deed but will for technical reasons be relocated into the Land Use Agreement to achieve the same end.

Proposed Amendment Changes

- A new legal description will be attached as an exhibit to carve out required Right-of Way.
- In order to properly align with other terms of the Purchase and Sale Agreement, the language that imposes the affordable housing obligations will be moved from the conveyance deed into the Land Use Restriction Agreement. As such, a revised quit claim deed will be attached as an exhibit with the affordable housing restrictions removed as they will appear in a revised Land Use Restriction Agreement attached to the Purchase and Sale Agreement as a replacement exhibit.

City Council Request

The Department of Finance requests approval of a First Amendment to the Purchase and Sale Agreement in order to make technical corrections to both the legal description of the property to be conveyed and to delete affordable housing restrictions from the conveyance deed and into to a revised Low-Income Housing Land Use Restriction Agreement, to achieve greater long-term affordability.