

**LOAN AGREEMENT  
(PROPERTY TAX FUND)**

**THIS LOAN AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (“City”), and **HABITAT FOR HUMANITY OF METRO DENVER, INC.**, a Colorado nonprofit corporation, whose address is 7535 E. Hampden Ave, Suite 600, Denver, Colorado 80231 (“Borrower”), each individually a “Party” and collectively the “Parties.”

**WITNESSETH:**

**WHEREAS**, the Borrower acquired the Property (as defined in Section 2) from the City pursuant to a Purchase and Sale Agreement dated April 20, 2022;

**WHEREAS**, the Property consists of five (5) parcels, and borrower recorded a Notice of Voidable Title Transfer and Covenant for the Occupancy and Resale Price Restrictions and Right of Repurchase against each parcel (each a “Covenant”);

**WHEREAS**, the purpose of this Loan Agreement is for the City to provide financing costs related to the development and construction of six (6) income restricted single-family dwellings located on the Property (the “Project”);

**WHEREAS**, the City is making certain monies available to ensure the development the Project; and

**WHEREAS**, the Borrower is eligible to receive funds from the City, and is ready, willing and able to meet the conditions associated therewith.

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained, the Parties agree as follows:

**1. LOAN TO BORROWER:** Subject to the terms of this Loan Agreement, the City agrees to lend Borrower the sum of Five Hundred Seventy-Five Thousand Dollars and No/100 (\$575,000.00) (the “Loan”). In addition to this Loan Agreement, the Borrower will execute a promissory note in a form satisfactory to the City evidencing this Loan (the “Promissory Note”). Simple interest at a rate of zero percent (0%) per annum shall commence accruing on the outstanding principal balance of the Promissory Note on the date on which the first draw on the Loan is made. Principal and any interest accrued on the Loan shall mature and be due and payable sixty (60) months following the date of execution of the Promissory Note (the “Maturity Date”), if not sooner paid. Repayment shall be forgiven by the City on the Maturity Date so long as Borrower is in compliance with all terms and conditions of this Loan Agreement and the Covenant.

2. **SECURITY**: Repayment of the Promissory Note shall be secured by a Deed of Trust (the “Deed of Trust”), in form satisfactory to City, granted by Borrower and encumbering the real property known and numbered as 1049 Stuart Street, 1060 Newton Street, 1076 Meade Street, 1077 Meade Street, and 1086 Meade Street and legally described as set forth in Exhibit A (the “Property”). The City shall execute a partial release of the Deed of Trust upon the sale of each Unit (as defined below) so long as the Unit is being sold to a household whose combined annual income does not exceed eighty percent (80%) of AMI, as published by the U.S. Department of Housing and Urban Development (“HUD”).

3. **INTENTIONALLY OMITTED**

4. **USE AND DISBURSEMENT OF FUNDS**:

A. Loan proceeds will be used to finance costs associated with development of the Property for use as affordable housing. Loan proceeds may be used for hard construction costs.

B. The Borrower shall submit to the City requisitions with documentation of incurred costs on HOST approved forms, and otherwise comply with the disbursement terms and conditions set forth in **Exhibit B** attached hereto and incorporated herein.

C. Where the City’s funds are disbursed for construction, (i) the City shall monitor the construction activities for the purpose of verifying eligible costs, and (ii) the City shall retain ten percent (10%) of each disbursement of funds, which retainage shall be released upon compliance with the requirements of Exhibit B.

D. In addition to the retainage specified above, HOST shall retain Ten Thousand Dollars and No/100 Dollars (\$10,000.00) of the total funds to be disbursed under this Loan Agreement (the “Compliance Retainer”), which retainage shall be released upon compliance with the requirements of Exhibit B.

E. Expenses incurred prior to July 7, 2022 are not eligible for reimbursement.

5. **DEADLINE FOR DISBURSEMENT OF FUNDS; REQUIRED DOCUMENTATION**:

A. Borrower must satisfy all conditions set forth in this Loan Agreement on or before October 10, 2023 (the “Closing Deadline”). Failure to meet this deadline may result in the termination of this Loan Agreement at the Executive Director’s sole discretion. No funds shall be disbursed under this Loan Agreement until such time as (i) all conditions of this Loan Agreement have been met and (ii) Borrower has closed on all financing necessary to complete the Project.

B. Borrower agrees that (a) documentation for all draw down requests will be

submitted no later than twenty-four (24) months after the date of the Promissory Note and (b) Borrower shall complete the Project within a twenty-four (24) month period after the date of the Promissory Note. These deadlines may be extended with the written approval of HOST. Borrower must submit quarterly status reports during the period of construction. All cost overruns and/or funding shortfalls shall be the sole responsibility of the Borrower.

C. The Executive Director is authorized to extend or modify any deadlines or schedules (other than repayment deadlines or schedules) set forth herein, provided that the Borrower also consents to any such change and that such changes are made in writing.

**6. RESTRICTIONS ON USE OF PROPERTY:**

A. Affordability Limitations. Borrower agrees to construct six (6) residential units for single family dwelling uses on the Property and further agrees that such units shall be sold only to low/moderate income households ("Units"). Borrower shall sell to a household whose combined annual income does not exceed eighty percent (80%) of AMI, as published by HUD at the time of the initial sale of a Unit (the "Initial Sale"); and (ii) for any sale after the Initial Sale, Borrower shall sell to a household whose combined annual income does not exceed one hundred percent (100%) of AMI at the time of such subsequent purchase of a Unit. A prospective purchaser of a Unit must have had their income verified by Borrower within a one-year period prior to a closing. Any prospective purchaser whose income was verified by Borrower outside of the one-year period prior to a closing must have their income recertified. All purchasers of a Unit shall execute a document stating that the purchaser is aware of and will be bound by the restrictions on the Unit and shall provide an address for notices to be sent to the purchaser ("Memorandum of Acceptance"), a form of which shall be attached to the Covenant. In the event that a Unit is sold or otherwise transferred in violation of the Covenant, Borrower shall seek to void the sale or transfer and seek other remedies as provided under the terms of the Covenant. If Habitat does not commence an action within thirty (30) days of becoming aware of a prohibited sale or transfer, the City may, but is not obligated to, seek to enforce the provisions of the Covenant

B. Unit Requirements. Borrower shall deliver the Units in the number and types set forth below and sell the Units to purchasers at the Initial Sale at a price that does not exceed the then current maximum sales price published by HOST. If Borrower is the senior lender to a prospective purchaser, Borrower may seek written approval from HOST to sell a Unit in excess of the published maximum sales price.

Unit Type	Number of Units	Approx. Sq. Ft. of Units
2 Bedroom	1	576 sq. ft.
3 Bedroom	1	860 sq. ft.
4 Bedroom	1	1300 sq. ft.
4 Bedroom w/ ADU	3	1930 sq. ft.

C. Covenant Running with the Land. Prior to the execution of this Loan Agreement, Borrower executed a Covenant setting forth the restrictions in Subsection A above. The Covenant encumbers the Property for a period of ninety (90) years from the date of recording. Violation of the Covenant shall be enforceable as an event of default pursuant hereto.

**7. EXAMINATION OF RECORDS/REPORTING REQUIREMENTS/ ANNUAL MONITORING; INSPECTIONS:**

A. Examination of Records: The Borrower agrees that the City, or any of its duly authorized representatives shall, until the expiration of five (5) years after the expiration of the affordability period set forth in Section 6, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Borrower involving transactions related to this Loan Agreement. Borrower must also require its contractors and subcontractors to allow access to such records when requested. The records maintained by Borrower shall include, without limitation, (i) records evidencing the income of each household purchasing Unit, and (ii) the purchase price of a Unit.

B. Required Information and Reports. Upon the Initial Sale of each Unit and for each resale during the term of the Covenant, Borrower shall submit to HOST notice of the sale and documents evidencing the income of the initial purchaser of the Unit and the purchase price of the Unit.

C. Access and Inspections. For the purposes of assuring compliance with the Loan Agreement, the City shall have the reasonable right of access to the Property, without charges or fees, during the period of construction and prior to the Initial Sale.

**8. FINANCIAL STATEMENTS:** Borrower must furnish to the City annually, within ninety (90) days following the end of each calendar year, financial statements of the Borrower audited by an independent certified public accountant, which must include an annual balance sheet and profit and loss statement of the Borrower, in a form reasonably required by the City.

**9. CONDITIONS PRECEDENT TO CLOSING LOAN:** In addition to any other conditions stated in the Loan Agreement, the following conditions must be satisfied at prior to the

Closing Deadline:

A. **Environmental Reports.** The Borrower must provide the City with a Phase I Environmental Site Assessment (“ESA”) and, if necessary, a Phase II ESA in form and substance acceptable to the City. If the ESA is not in the City’s name, the City must be provided with a reliance letter in the name of the City from the environmental engineer, which must be satisfactory to the City.

B. **Title Insurance.** Borrower must obtain, on behalf of the City, a lenders title policy insuring the City in the principal amount of the Loan. Borrower must provide the City with a copy of the lenders title policy within thirty (30) days of closing.

C. **Appraisal.** Borrower must provide the City with an as-built appraisal of the Property, which must be satisfactory in form and substance to the City.

D. **Organizational Documents.** Borrower must provide the City with (i) evidence that it is a Colorado nonprofit corporation in good standing and authorized to transact business in the State of Colorado; (ii) evidence in a form satisfactory to the City that the person executing this Loan Agreement and any other documents related to the Loan has the full power and authority to bind Borrower; and (iii) all organizational documents related to Borrower, which must be acceptable to the City. Organization documents include, but are not limited to, Articles of Incorporation, bylaws, and, if a nonprofit corporation, tax exempt letter from the Internal Revenue Service and a list of board members, and a certificate of good standing.

E. **Intentionally Omitted.**

F. **Survey.** Borrower must provide the City with a current ALTA survey of the Property. The ALTA survey must be prepared by a licensed land surveyor, certified to the City, and satisfactory to the City.

G. **Promissory Note; Deed of Trust.** Borrower must execute and deliver to the closing agent the Promissory Note.

H. **Evidence of Financing.** Borrower must provide such information and documentation sufficient to satisfy the City, in the City’s sole discretion, that the Borrower has secured all financing necessary to complete the Project. Documentation sufficient to satisfy the City may include, but not be limited to, commitment letters for all other financing or funding.

I. **Insurance.** Borrower must provide the City with certificates of insurance or copies of the policies of insurance required under this Loan Agreement.

J. **Construction; Timeline.** Borrower must provide the City with a certified

copy of the construction budget and development timeline, which must be satisfactory in form and substance to the City.

**10. COSTS AND EXPENSES:** The Borrower agrees to pay all direct costs, expenses and attorney fees reasonably incurred by the City in connection with the Borrower's breach or default of this Loan Agreement or the Promissory Note, Deed of Trust, or Covenant. Borrower agrees to pay reasonable loan closing costs, including all recording charges, title insurance charges, costs of surveys, costs for certified copies of instruments, costs incurred for obtaining any documents or reports required pursuant to this Loan Agreement, and all other costs incurred by the City in connection with the Loan.

**11. CONDITIONS:**

A. The obligation of the City to lend the above sums is limited to funds appropriated for the purpose of this Loan Agreement and paid into the City treasury.

B. This Loan Agreement is subject to the provisions of the City Charter and Revised Municipal Code as the same may be amended from time.

**12. INSURANCE:** Borrower or its contractor(s) shall procure and maintain insurance in the following types and amounts:

A. Where loan proceeds are disbursed for construction, Builders Risk Insurance or an Installation Floater in the amount of the value of the Property as improved and renovated, with the City and County of Denver named as loss payee.

B. Commercial General Liability Insurance covering all operations by or on behalf of Borrower, on an occurrence basis with limits not less than \$1,000,000 per occurrence, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate. Borrower's contractor shall include all subcontractors as insureds under its policy or shall furnish separate certificates of insurance for each subcontractor.

C. Worker's Compensation and Employer's Liability Insurance at statutory limits and otherwise sufficient to ensure the responsibilities of Borrower and its contractor under Colorado law.

D. Borrower shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

E. Property insurance satisfactory to the City in the amount of the value of the property subject to the Deed of Trust and Covenant, with the City named as loss payee.

F. Certificates of Insurance evidencing the above shall be submitted prior to the Closing Deadline. Policies shall include a waiver of subrogation and rights of recovery against the City. Insurance companies providing the above referenced coverage must be authorized and licensed to issue insurance in Colorado and be otherwise acceptable to the Risk Management Office.

**13. DEFENSE & INDEMNIFICATION:**

A. Borrower agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Loan Agreement (“Claims”), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Borrower or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Borrower’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Borrower’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/ or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

C. Borrower will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

D. Insurance coverage requirements specified in this Loan Agreement shall in no way lessen or limit the liability of the Borrower under the terms of this indemnification obligation. The Borrower shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Loan Agreement.

**14. DEFAULT AND ACCELERATION:**

A. Default. The occurrence of any of the following events shall constitute a

default by the Borrower:

- i. Any breach of this Loan Agreement, the Promissory Note, the Deed of Trust, or the Covenant;
- ii. The City determines that any warranty, representation, or statement made or furnished to the City by or on behalf of Borrower in connection with this Loan Agreement proves to have been false in any material respect when made or furnished;
- iii. Borrower becomes delinquent to the City Loan or on any other contractual or tax obligations as due;
- iv. Borrower fails to comply with any rule, regulation or provision referred to in the Loan Agreement;
- v. Borrower is generally unable to pay its debts as they become due, or shall make an assignment for the benefit of creditors; or the Borrower applies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such a receiver, trustee or similar officer is appointed without the application or consent of the Borrower, and such appointment continues undischarged for a period of ninety (90) days; or the Borrower institutes (by petition, application, answer or otherwise) any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution, liquidation or similar proceedings under the laws of any jurisdiction; or any such proceeding shall be instituted against the Borrower; or the Borrower terminates or dissolves.

B. Cure Period. Upon a default, the City shall give written notice of the default to Borrower and other persons entitled to notice of a default pursuant to this Loan Agreement. After Borrower's receipt of the written notice, Borrower or a person on behalf of Borrower shall have ten (10) calendar days to cure any monetary default and thirty (30) calendar days to cure any nonmonetary default (collectively, the "Cure Period"). If a nonmonetary default is not a type which can be cured within the Cure Period, the City, at its reasonable discretion, may extend the cure period if the Borrower provides the City with a reasonably detailed written plan of how the Borrower will cure the nonmonetary default and the Borrower, at all times within such additional time period, actively and diligently pursues such plan. For purposes of this Loan Agreement, the term "monetary default" means a failure by Borrower to make any payment required of it pursuant to the applicable Promissory Note or any other Loan document, and the term "nonmonetary default" means a failure by Borrower or any other person to perform any obligation contained in the Loan Agreement,

Covenant, Deed of Trust, or Promissory Note, other than the obligation to make payments provided for in the Promissory note or Loan documents.

C. Acceleration; Interest Upon Default; and Withholding Disbursements. Upon the existence of a default and the failure to cure within the Cure Period, and without necessity of further notice, presentment, demand, protest, or notice of protest of any kind, all of which are expressly waived by the Borrower, the City shall have the right to accelerate any outstanding obligations of the Borrower, which shall be immediately due and payable, including payments under the Promissory Note, to foreclose upon the Property, and to enforce or assign its rights under the Deed of Trust. Borrower agrees to pay a late charge of five percent (5%) of any installment not received on or before the day the installment is due. Upon default and if the default remains after the Cure Period, the principal shall draw interest at the rate of fifteen percent (15%) per annum. If any of the Loan funds have not been disbursed to Borrower, the City may suspend or terminate the Loan Agreement, in whole or in part, and withhold one hundred percent (100%) of any undisbursed funds.

D. Effect of Default on Eligibility for Further Funding. If Borrower is in default, the City may declare the Borrower ineligible for any further participation in City funding, in addition to other remedies as provided by law.

**15. NOTICES:** All notices required by the terms of this Loan Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Borrower at the address:

Habitat for Humanity of Metro Denver, Inc.  
7535 E. Hampden Ave, Suite 600  
Denver, Colorado 80231

Or, if sent by mail, at:

Habitat for Humanity of Metro Denver, Inc.  
PO Box 5667  
Denver, Colorado 80217-5667

And if to the City at:

Executive Director of the Department of Housing Stability  
City and County of Denver  
201 West Colfax Avenue, Dept. 615  
Denver, Colorado 80202

With a copy to:

Denver City Attorney's Office  
1437 Bannock St., Room 353  
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

**16. DISPUTES:** All disputes between the City and Borrower arising out of or regarding this Loan Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director.

**17. ASSIGNMENT AND SUBCONTRACTING:** The City is not obligated or liable under this Loan Agreement to any party other than the Borrower. The Borrower shall not assign, sublet or subcontract with respect to any of the rights, benefits, obligations or duties under this Loan Agreement except upon prior written consent of the City.

**18. CITY NOT PARTY TO CONSTRUCTION CONTRACT:** The City is not, and nothing in this Loan Agreement shall be construed to constitute the City, a party to any construction contract pursuant to which the loan or grant proceeds hereof are expended

**19. PUBLICATIONS/ANNOUNCEMENTS:** HOST approval must be obtained prior to publicizing activities or projects funded by HOST or prior to any radio or television announcements, newspaper advertisements, press releases, pamphlets, mail campaigns, or any other marketing methods for any activities or projects funded by HOST. In any event, all such publicizing activities must include the following statement: “The funding source for this activity is the City and County of Denver, Department of Housing Stability.” HOST shall be acknowledged in any events regarding the project being funded, including groundbreaking and openings.

**20. ACKNOWLEDGEMENT OF FUNDING:** Borrower will provide and install at the Property signs, in a form mutually agreeable to the Executive Director and the Borrower, acknowledging the participation of the City and the City funding of the Project.

**21. WAIVER:** No waiver of any breach or default under this Loan Agreement shall be held to be a waiver of any other or later breach or default. All remedies afforded in this Loan Agreement shall be construed as cumulative, in addition to every other remedy provided herein or by law.

22. **DURATION/BINDING EFFECT:** This Loan Agreement shall remain in effect until the repayment or forgiveness of the Loan and shall be binding upon the parties and shall inure to the benefit of their respective successors, assignees, representatives, and heirs.

23. **COUNTERPARTS:** This Loan Agreement may be executed in multiple counterparts, each of which, when executed and delivered, shall be deemed to be an original and, taken together, shall constitute one and the same instrument.

24. **NONRECOURSE:** Notwithstanding any other provision contained herein, or the Promissory Note, the Deed of Trust, or the Covenant, it is agreed that the execution of this Loan Agreement, the Promissory Note, the Deed of Trust, and the Covenant shall impose no personal liability on Borrower or any partner, member or manager of Borrower for payment of any of the obligations described herein or therein, and the City's sole recourse shall be against the Project.

25. **NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Loan Agreement, the Borrower 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 Borrower shall insert the foregoing provision in all subcontracts.

26. **RECITALS:** All of the recitals above are hereby confirmed and incorporated herein as part of this Loan Agreement.

27. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Borrower consents to the use of electronic signatures by the City. This Loan 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 Loan 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 Loan 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.

**List of Exhibits to Loan Agreement**

Exhibit A – Legal Description of Property

Exhibit B – Disbursement Terms and Conditions

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**Contract Control Number:**  
**Contractor Name:**

HOST-202265752-00  
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-202265752-00  
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]

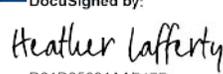
By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**Contract Control Number:**  
**Contractor Name:**

HOST-202265752-00  
HABITAT FOR HUMANITY OF METRO DENVER, INC.

By: DocuSigned by:  
  
D64D26601AAE47F...

Name: Heather Lafferty  
(please print)

Title: CEO  
(please print)

ATTEST: [if required]

By: DocuSigned by:  
  
B5D980B1FC144D7...

Name: Christine Koleski  
(please print)

Title: Sr. Executive Assistant  
(please print)

## **EXHIBIT A**

### **Legal Descriptions and Depictions of the Property (1, 2, 3, 4, and 5)**

*Villa Park consists of 5 parcels known by the street addresses below:*

1. *1049 Stuart Street, Denver, CO (tax title)*
2. *1060 Newton Street, Denver, CO*
3. *1076 Meade Street, Denver, CO (tax title)*
4. *1077 Meade Street, Denver, CO*
5. *1086 Meade Street, Denver, CO*

# EXHIBIT "A" LAND DESCRIPTION

SHEET 1 OF 2

A PARCEL OF LAND BEING A PORTION OF LOTS 35 THROUGH 37, BLOCK 9, WEST VILLA PARK, AND SITUATED IN THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A RANGE POINT IN THE INTERSECTION OF STUART STREET AND WEST 10TH AVENUE BEING A NUMBER 5 REBAR FROM WHENCE A RANGE POINT IN THE INTERSECTION OF TENNYSON STREET AND WEST 10TH AVENUE BEING AN AXLE BEARS NORTH 89°39'45" WEST, A DISTANCE OF 305.08 FEET WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 03°54'36" WEST, A DISTANCE OF 270.59 FEET TO THE SOUTHEAST CORNER OF SAID LOT 35 AND THE POINT OF BEGINNING;

THENCE NORTH 89°39'45" WEST ALONG THE SOUTH LINE OF SAID LOT 35, A DISTANCE OF 125.08 FEET TO THE SOUTHWEST CORNER OF SAID LOT 35;

THENCE NORTH 00°19'43" EAST ALONG THE WEST LINE OF SAID LOTS 35 THROUGH 37, A DISTANCE OF 54.95 FEET;

THENCE NORTH 45°19'45" EAST, A DISTANCE OF 28.28 FEET TO THE NORTH LINE OF SAID LOT 37;

THENCE SOUTH 89°39'45" EAST ALONG THE NORTH LINE OF SAID LOT 37, A DISTANCE OF 105.08 FEET TO THE NORTHEAST CORNER OF SAID LOT 37;

THENCE SOUTH 00°19'43" WEST ALONG THE EAST LINE OF SAID LOTS 35 THROUGH 37, A DISTANCE OF 74.96 FEET TO THE SOUTHEAST CORNER OF SAID LOT 35 AND THE POINT OF BEGINNING.

CONTAINING: 9,172 SQUARE FEET, 0.211 ACRES OF LAND, MORE OR LESS.

PREPARED BY:  
JEFFREY J. MACKENNA P.L.S. 34183 DATE: 11/01/2021  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
(303)202-1560

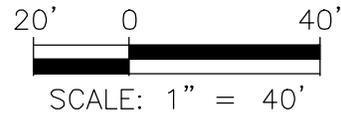
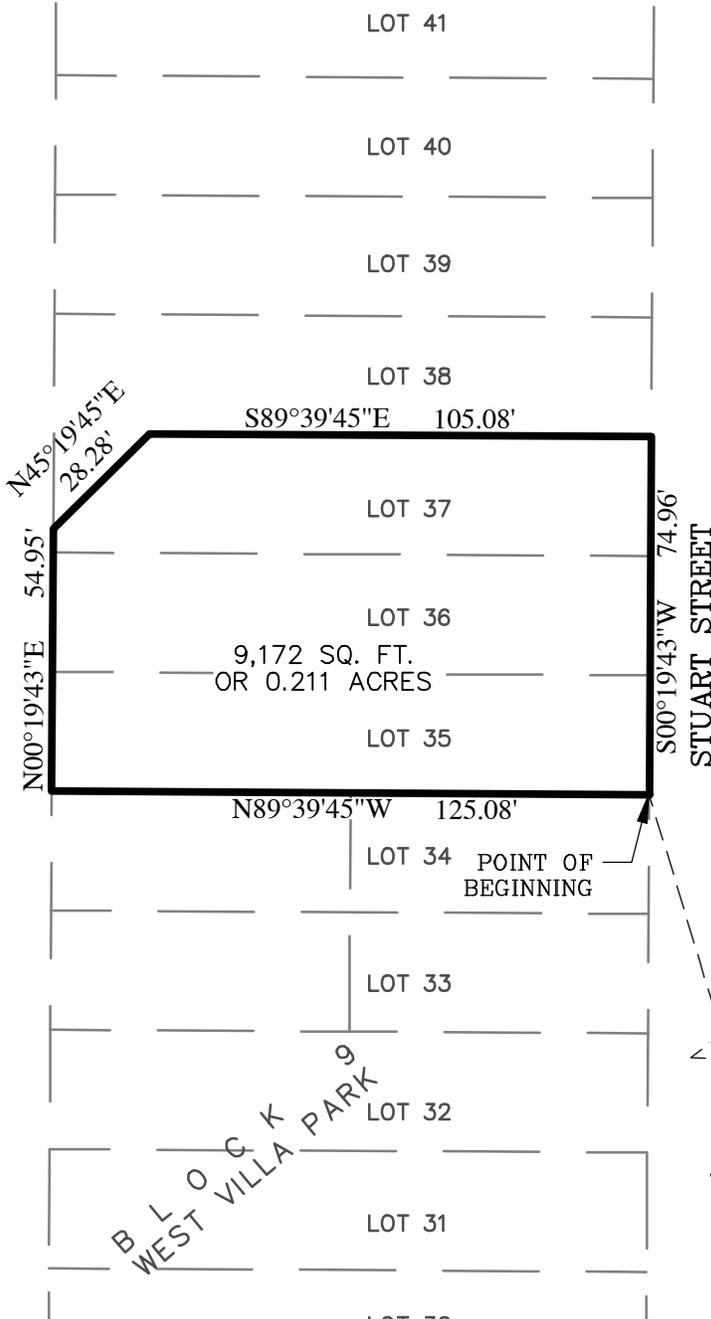


PREPARED BY: FALCON SURVEYING, INC., 9940 WEST 25TH AVE, LAKEWOOD CO 80215 (303)202-1560

# EXHIBIT "A"

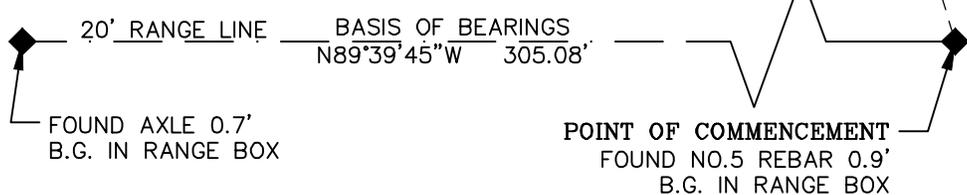
SITUATED IN THE NE 1/4, SECTION 6, T4S, R68W, OF THE 6TH P.M.  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 2 OF 2



THIS ILLUSTRATION DOES NOT REPRESENT A MONUMENTED SURVEY.  
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

PREPARED BY: *[Signature]* DATE: 11/01/2021  
 JEFFREY J. MACKENNA P.L.S. 34183  
 FOR FALCON SURVEYING, INC.  
 9940 WEST 25TH AVENUE  
 LAKEWOOD COLORADO, 80215  
 (303)202-1560



# EXHIBIT "A" LAND DESCRIPTION

SHEET 1 OF 2

A PARCEL OF LAND BEING A PORTION OF LOTS 39 THROUGH 42, BLOCK 15, WEST VILLA PARK, AND SITUATED IN THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 20699" FROM WHENCE THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 34986" BEARS NORTH 00°28'11" WEST, A DISTANCE OF 1319.17 FEET WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 44°05'33" WEST, A DISTANCE OF 531.74 FEET TO THE SOUTHEAST CORNER OF SAID LOT 39 AND THE POINT OF BEGINNING;

THENCE NORTH 89°39'59" WEST ALONG THE SOUTH LINE OF SAID LOT 39, A DISTANCE OF 125.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 39;

THENCE NORTH 00°19'54" EAST ALONG THE WEST LINE OF SAID LOTS 39 THROUGH 41, A DISTANCE OF 64.13 FEET;

THENCE 29.97 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 275.00 FEET, A DELTA OF 06°14'41", AND A CHORD WHICH BEARS NORTH 71°57'00" EAST, 29.96 FEET;

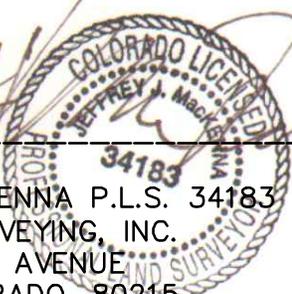
THENCE NORTH 75°04'20" EAST, A DISTANCE OF 87.03 FEET;

THENCE SOUTH 14°50'01" EAST, A DISTANCE OF 48.20 FEET TO THE NORTHEAST CORNER OF SAID LOT 40;

THENCE SOUTH 00°19'54" WEST ALONG THE EAST LINE OF SAID LOTS 39 AND 40, A DISTANCE OF 49.97 FEET TO THE SOUTHEAST CORNER OF SAID LOT 39 AND THE POINT OF BEGINNING.

CONTAINING: 10,029 SQUARE FEET, 0.232 ACRES OF LAND, MORE OR LESS

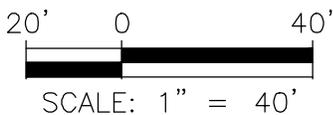
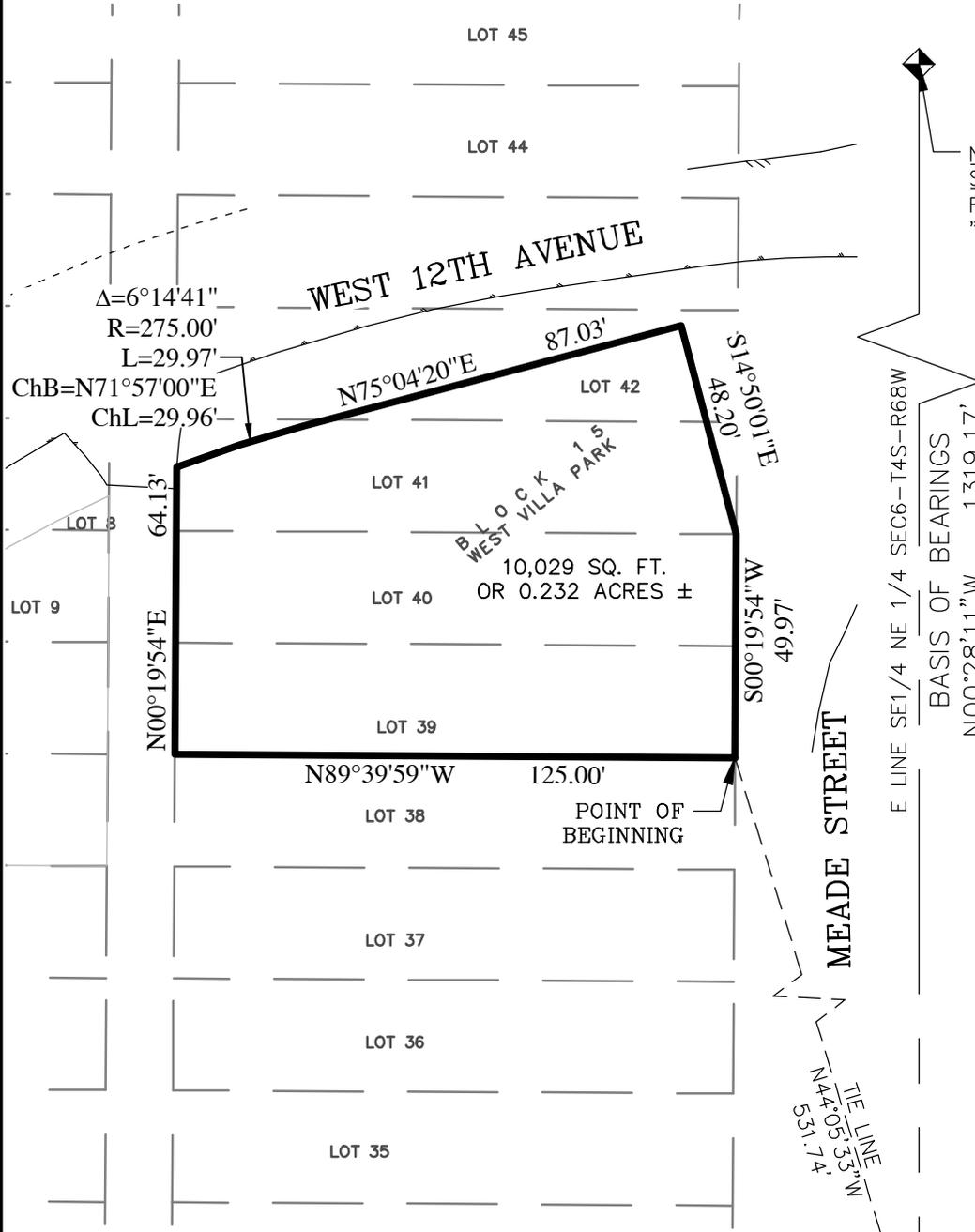
  
PREPARED BY: JEFFREY J. MACKENNA P.L.S. 34183 DATE: 11/01/2021  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
(303)202-1560



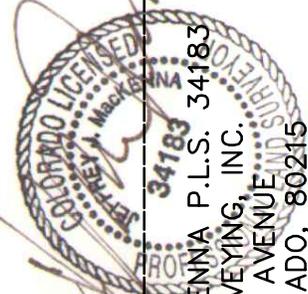
# EXHIBIT "A"

SITUATED IN THE NE 1/4, SECTION 6, T4S, R68W, OF THE 6TH P.M.  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 2 OF 2



POINT OF COMMENCEMENT  
EAST 1/4 SEC 6-T4S-68W  
FOUND 3.25" ALUM. CAP  
"PLS 20699"



PREPARED BY: *Jeffrey J. Mackenna*  
JEFFREY J. MACKENNA P.L.S. 34183  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
(303)202-1560

DATE: 11/01/2021

THIS ILLUSTRATION DOES NOT REPRESENT A MONUMENTED SURVEY.  
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

# EXHIBIT "A" LAND DESCRIPTION

SHEET 1 OF 2

A PARCEL OF LAND BEING A PORTION OF LOTS 8 THROUGH 11, BLOCK 15, WEST VILLA PARK, AND SITUATED IN THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 20699" FROM WHENCE THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 34986" BEARS NORTH 00°28'11" WEST, A DISTANCE OF 1319.17 FEET WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 54°57'36" WEST, A DISTANCE OF 623.07 FEET TO THE SOUTHEAST CORNER OF SAID LOT 11 AND THE POINT OF BEGINNING;

THENCE NORTH 89°39'59" WEST ALONG THE SOUTH LINE OF SAID LOT 11, A DISTANCE OF 111.25 FEET;

THENCE 8.84 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 75.00 FEET, A DELTA OF 06°45'05", AND A CHORD WHICH BEARS NORTH 46°14'11" EAST, 8.83 FEET;

THENCE NORTH 49°36'44" EAST, A DISTANCE OF 54.56 FEET;

THENCE 75.87 FEET ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 275.00 FEET, A DELTA OF 15°48'25", AND A CHORD WHICH BEARS NORTH 57°30'56" EAST, 75.63 FEET TO THE EAST LINE OF LOT 8;

THENCE SOUTH 00°19'54" WEST ALONG THE EAST LINE OF SAID LOTS 8 THROUGH 11, A DISTANCE OF 82.73 FEET TO THE SOUTHEAST CORNER OF SAID LOT 11 AND THE POINT OF BEGINNING.

CONTAINING: 5,098 SQUARE FEET, 0.117 ACRES OF LAND, MORE OR LESS.

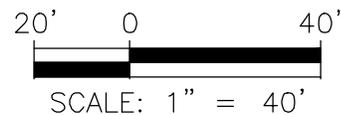
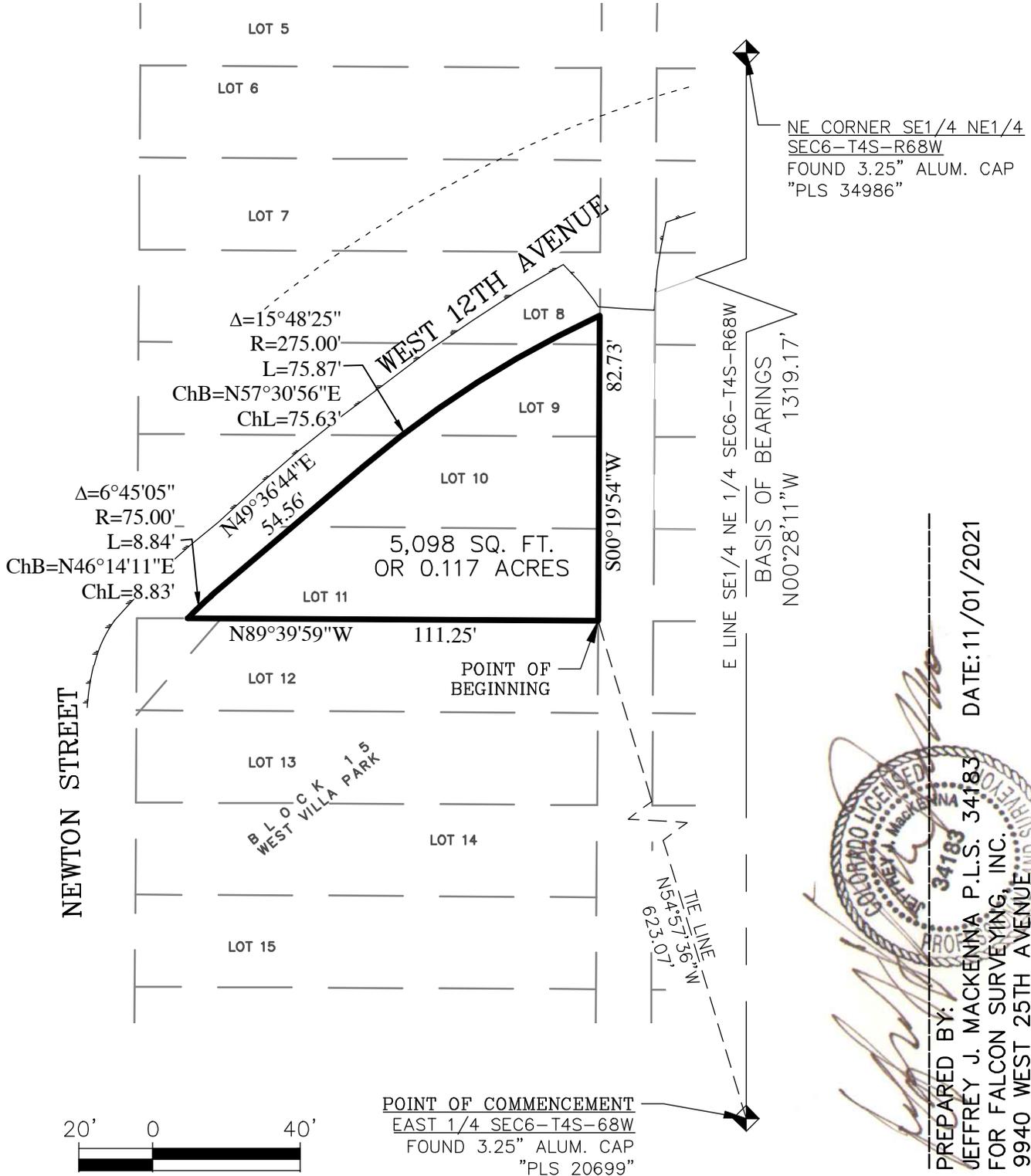
  
PREPARED BY: JEFFREY J. MACKENNA P.L.S. 34183 DATE: 11/01/2021  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
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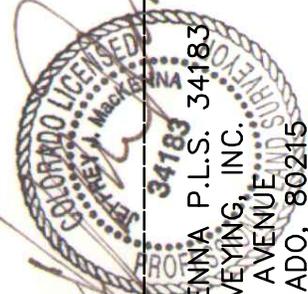
# EXHIBIT "A"

SITUATED IN THE NE 1/4, SECTION 6, T4S, R68W, OF THE 6TH P.M.  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 2 OF 2



POINT OF COMMENCEMENT  
EAST 1/4 SEC6-T4S-68W  
FOUND 3.25" ALUM. CAP  
"PLS 20699"



PREPARED BY: *Jeffrey J. Mackenna*  
JEFFREY J. MACKENNA P.L.S. 34183  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
(303)202-1560

DATE: 11/01/2021

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# EXHIBIT "A" LAND DESCRIPTION

SHEET 1 OF 3

## PARCEL A

A PARCEL OF LAND BEING A PORTION OF LOTS 1 THROUGH 7, BLOCK 16, WEST VILLA PARK, AND SITUATED IN THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 20699" FROM WHENCE THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 34986" BEARS NORTH 00°28'11" WEST, A DISTANCE OF 1319.17 FEET WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 21°30'15" WEST, A DISTANCE OF 489.85 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7 AND THE POINT OF BEGINNING;

THENCE NORTH 89°39'59" WEST ALONG THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 113.06 FEET;

THENCE NORTH 31°33'32" EAST, A DISTANCE OF 27.04 FEET;

THENCE NORTH 34°51'10" EAST, A DISTANCE OF 31.80 FEET;

THENCE NORTH 37°09'34" EAST, A DISTANCE OF 25.75 FEET;

THENCE NORTH 38°49'03" EAST, A DISTANCE OF 47.71 FEET;

THENCE NORTH 37°54'41" EAST, A DISTANCE OF 40.09 FEET;

THENCE NORTH 43°16'29" EAST, A DISTANCE OF 16.80 FEET TO THE EAST LINE OF SAID LOT 1;

THENCE SOUTH 00°19'54" WEST ALONG THE EAST LINE OF SAID LOTS 1 THROUGH 7, A DISTANCE OF 151.35 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7 AND THE POINT OF BEGINNING

CONTAINING: 9,039 SQUARE FEET, 0.208 ACRES OF LAND, MORE OR LESS.

PREPARED BY:

JEFFREY J. MACKENNA P.L.S. 34183

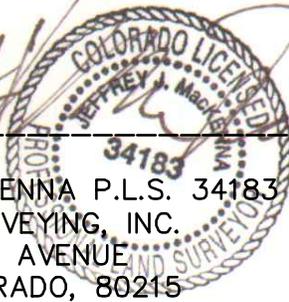
FOR FALCON SURVEYING, INC.

9940 WEST 25TH AVENUE

LAKEWOOD COLORADO, 80215

(303)202-1560

DATE: 10/30/2021



# EXHIBIT "A" LAND DESCRIPTION

SHEET 2 OF 3

## PARCEL B

A PARCEL OF LAND BEING A PORTION OF LOTS 8 THROUGH 10, BLOCK 16, WEST VILLA PARK, AND SITUATED IN THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 20699" FROM WHENCE THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 6 BEING A FOUND 3.25" ALUMINUM CAP "PLS 34986" BEARS NORTH 00°28'11" WEST, A DISTANCE OF 1319.17 FEET WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 25°17'57" WEST, A DISTANCE OF 421.19 FEET TO THE SOUTHEAST CORNER OF SAID LOT 10 AND THE POINT OF BEGINNING;

THENCE NORTH 89°39'59" WEST ALONG THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 125.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10;

THENCE NORTH 00°19'54" EAST ALONG THE WEST LINE OF SAID LOTS 8 THROUGH 10, A DISTANCE OF 50.93 FEET;

THENCE NORTH 24°06'43" EAST, A DISTANCE OF 13.82 FEET;

THENCE NORTH 29°31'04" EAST, A DISTANCE OF 12.65 FEET;

THENCE NORTH 31°33'32" EAST, A DISTANCE OF 0.38 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 8;

THENCE SOUTH 89°39'59" EAST ALONG THE NORTH LINE OF SAID LOT 8, A DISTANCE OF 113.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 8;

THENCE SOUTH 00°19'54" WEST ALONG THE EAST LINE OF SAID LOTS 8 THROUGH 10, A DISTANCE OF 74.96 FEET TO THE SOUTHEAST CORNER OF SAID LOT 10 AND THE POINT OF BEGINNING.

CONTAINING: 9,235 SQUARE FEET, 0.212 ACRES OF LAND, MORE OR LESS.

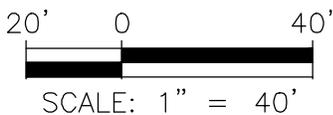
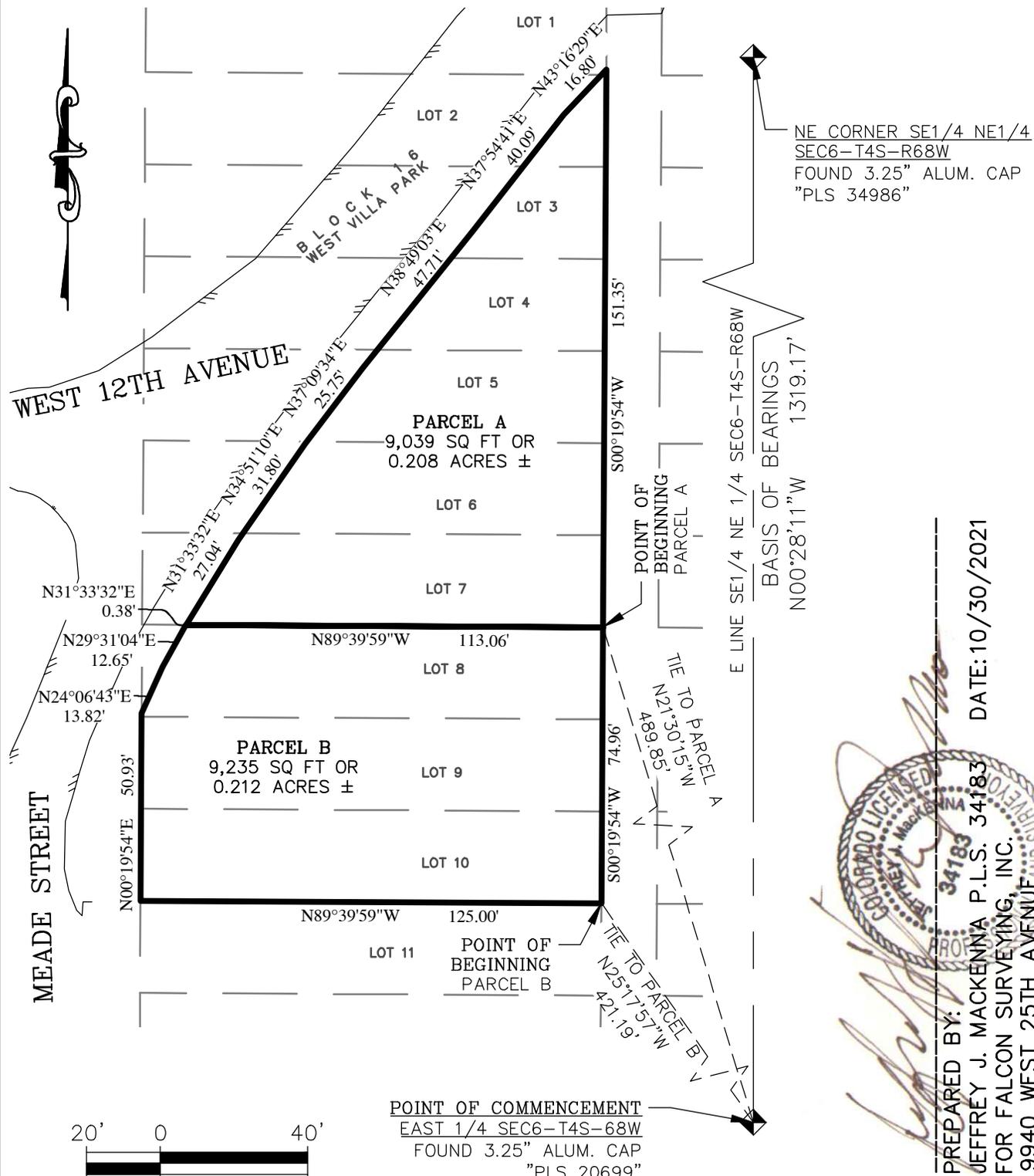
  
PREPARED BY: JEFFREY J. MACKENNA P.L.S. 34183 DATE: 10/30/2021  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
(303)202-1560



# EXHIBIT "A"

SITUATED IN THE NE 1/4, SECTION 6, T4S, R68W, OF THE 6TH P.M.  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

SHEET 3 OF 3



PREPARED BY: *Jeffrey J. Mackenna*  
JEFFREY J. MACKENNA P.L.S. 34183  
FOR FALCON SURVEYING, INC.  
9940 WEST 25TH AVENUE  
LAKEWOOD COLORADO, 80215  
(303)202-1560

DATE: 10/30/2021

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## EXHIBIT B

### DISBURSEMENT TERMS AND CONDITIONS

#### I. **Disbursement Request Procedures**

- a. Disbursements shall be processed through the Department of Housing Stability (“HOST”) and the Department of Finance (“DOF”).
- b. HOST will disburse Loan funds to the Borrower for “hard” and “soft” expenses (“Disbursement”) upon the Borrower’s written request delivered to HOST (the “Disbursement Request”). The Disbursement Request shall be in the form approved or required by HOST and DOF and may be submitted no more frequently than once every month. Disbursement Requests must be submitted by Borrower electronically to the assigned HOST staff member who will review the submission for completeness and accuracy.
- c. Prior to the first Disbursement Request, Borrower must provide to the City for review and approval, if necessary, the following items:
  - i. A completed ACH form with a voided check or deposit slip.
  - ii. A partnership agreement, operating agreement, corporate resolution, or other corporate documentation to demonstrate who has authority for the Borrower to submit Disbursement Requests.
  - iii. The affirmative marketing plan.
  - iv. The tenant selection plan.
  - v. The form lease agreement for dwelling units at the Project, which contains no prohibited provisions as described in the Loan Agreement.
- d. All Disbursements will be via ACH, unless a physical check or other method of disbursement is requested.
- e. Disbursements involving federal funds must have satisfied all environmental review requirements under 24 C.F.R. Part 58.
- f. The Borrower may not make a Disbursement Request until such funds are needed to pay costs of the Project. The amount of each Disbursement Request must be limited to the amount needed to pay costs actually incurred by the Borrower at the time of the Disbursement Request. The Disbursement Request may not include items previously submitted to and reimbursed by other lenders, amounts for prospective or future needs, funds to be placed into escrow accounts, or advances in lump sums to the Borrower.
- g. Each Disbursement Request must be accompanied by documentation acceptable to HOST and DOF that evidence payments for which a disbursement request has been made. HOST and DOF will review documentation for incurred costs that match the Disbursement Request. Documentation to be submitted with a Disbursement Request shall include, but not be limited to:

## EXHIBIT B

- i. A completed HOST expense certification form.
  - ii. For hard cost draws, a completed standard AIA Form G702 and Form G703 certified by the architect and signed and notarized by the general contractor. If the Disbursement Request includes costs for minor construction not shown on the G702 and G703, the scope of work and contractor invoices must be submitted.
  - iii. Invoices and other evidence satisfactory to HOST and DOF for “hard” or direct costs provided to the Project with respect to the Disbursement Request. All invoices must show the Project name and address.
  - iv. Invoices and other evidence satisfactory to the City for “soft” or indirect costs provided to the Project with respect to the Disbursement Requests. All invoices must show the Project name and address.
  - v. Evidence satisfactory to HOST and DOF to demonstrate proof of payment of any cost or expense contained on a Disbursement Request. Evidence of proof of payment may include, but not be limited to: cancelled checks; copies of checks; documentation of cost or expense in a general ledger; credit or debit card statements; final signed settlement statements, wire transfer records, or bank statements.
  - vi. An updated itemized budget.
  - vii. Updated certificates of insurance at least 30 days prior to expiration.
  - viii. Project update summarizing construction progress, delays, timeframe to completion, and if remaining funding is sufficient to finish the project.
  - ix. Lien waivers from all applicable contractors, subcontractors, and suppliers.
  - x. Updated title policy with date down endorsement or copy of date down endorsement for senior lender dated within 15 days of draw request.
  - xi. Copy of construction inspection report (if available)
  - xii. For loan agreements receiving federal funding and to which the Davis-Bacon Act applies, Borrower must be current in submissions of all paperwork and documentation requested by the City to demonstrate compliance with the requirements of the Davis-Bacon Act.
  - xiii. For Disbursement Requests being funded at loan closing, the following items will be required: a) Preliminary closing statement; b) wire instructions on bank letterhead including date wire is required; and c) final settlement statement and recorded documents after closing.
- h. The Borrower must cooperate with HOST in obtaining or providing any additional documentation that may be required by HOST, DOF, or any other agency of the City.
  - i. The City will retain the first \$10,000.00 of Disbursements for the purposes of the Compliance Retainer as set forth in the Loan Agreement. The \$10,000.00 that is retained pursuant to this provision will be released under the terms described in Section II.

## EXHIBIT B

- j. The City will disburse to the Borrower 90% of hard expenses for each Disbursement and all of the soft expenses. The retained 10% of hard expense (the “Retainage”) shall be disbursed as all or part of the final Disbursement under the terms described in Section II.
- k. At all times during the construction of the Project, the City shall have the right, but not the obligation, to enter and inspect all work done, and all materials, equipment, and other matters relating to the Project.
- l. HOST reserves the right, in its sole and absolute discretion, to revise or modify the processes, procedures, and requirements related to the disbursement procedures. HOST will notify Borrower of any such changes to the disbursement procedures.
- m. The City will not make any Disbursements of Loan proceeds to the Borrower for costs or expenses that:
  - i. Are prohibited by Federal or City regulations related to the funding source.
  - ii. Are not requested or otherwise not in accordance with Loan Agreement or the procedures for a Disbursement Request set forth herein.
  - iii. Were requested or incurred, or both, after the termination of the Loan Agreement or outside the time periods set forth in the Loan Agreement.
  - iv. Were requested during the occurrence and continuation of an event of default specified in the Loan Agreement.

### II. **Disbursement of Compliance Retainer and Retainage**

- a. *Compliance Retainer.* For the City to release the Compliance Retainer, a Disbursement Request must be submitted along with the following information:
  - i. A completed HOST expense certification form.
  - ii. For loans funded with federal funds, an Integrated Disbursement and Information System (“IDIS”) set up form. The City must review and approve any completed IDIS set up form for any federally funded loan agreement.
  - iii. All documents or items required to be submitted to the City pursuant to the Loan Agreement not previously provided.
  - iv. A certificate of occupancy or a temporary certificate of occupancy.
  - v. Updated certificates of insurance at least 30 days prior to expiration
  - vi. Updated title policy with date down endorsement or copy of date down endorsement for senior lender dated within 15 days of draw request.
  - vii. The Project must pass a Housing Quality Standards (“HQS”) inspection performed by the City. In the event the City cannot perform the inspection, the Borrower will provide a signed authorization providing the City with the right to inspect the Project and a sample of the fully constructed dwelling units in the future.

## EXHIBIT B

- viii. Lease-up information on the City Units or HOME Units, as applicable. The information must include number of bedrooms in the unit, household size, tenant household incomes, date of income certification, tenant paid portion of rent, total lease rent, voucher amounts, voucher type (project based or tenant based), utility allowance amount, lease start and end dates, and demographic data. HOST will review this information to confirm the Project's lease-up is in compliance with the affordability restrictions contained in the Loan Agreement and Rental & Occupancy Covenant.
  
- b. *Retainage*. For the City to release the Retainage, a Disbursement Request must be submitted along with the following information:
  - i. A completed HOST expense certification form.
  - ii. Final lien waivers or proof of release of liens in form and substance satisfactory to the City from all applicable contractors, subcontractors, and suppliers, as applicable.
  - iii. A copy of the completed AIA G704 Form for the senior lender, signed by the architect, general contractor, and Borrower that shows -\$0.00- as the cost estimate of work that is incomplete or defective.
  - iv. A copy of the completed AIA G706 Form for the senior lender, signed by the general contractor and notarized, verifying that all debts and claims have been settled.
  - v. A copy of the completed AIA G706A Form for the senior lender, signed by the general contractor and notarized, stating that all releases or waivers of liens have been received.
  - vi. All documents or items required to be submitted to the City pursuant to the Loan Agreement not previously provided.
  - vii. A certificate of occupancy or a temporary certificate of occupancy.
  - viii. Updated certificates of insurance at least 30 days prior to expiration
  - ix. Updated title policy with date down endorsement or copy of date down endorsement for senior lender dated within 15 days of draw request.
  - x. The Project must also pass a Housing Quality Standards ("HQS") inspection performed by the City. In the event the City cannot perform the inspection, the Borrower will provide a signed authorization providing the City with the right to inspect the Project and a sample of the fully constructed dwelling units in the future.
  - xi. Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA") Determination, as applicable.
  - xii. Final approved OPMR, as applicable.
  - xiii. Environmental mitigation memorandum of understanding, as applicable.
  - xiv. Any other documents required by HOST.

### III. **Conditions Precedent to All Disbursements**

- a. The making of each Disbursement shall be subject to the satisfaction of each of the following additional conditions precedent, and a waiver of any condition to any Disbursement shall not constitute a waiver as to any subsequent

## EXHIBIT B

Disbursement. The City may, in its sole discretion, withhold all or a portion of a Disbursement if any of the following conditions have not been satisfied or if the Borrower has not submitted the required documentation and information required by the Loan Agreement, including the documentation and information required by these terms and conditions.

- i. *No Default.* The Borrower must be in full compliance with, and must not be in default under the Promissory Note, the Deed of Trust, or the Covenant or any other document executed by the Borrower in connection with the Loan.
- ii. *Time to Complete the Project.* In the sole opinion of the City, there must be sufficient time remaining to complete the construction of the Project in accordance with Exhibit A, and in conformance with federal regulations and requirements for federally funded loans.
- iii. *Sufficient Funds Available to Complete the Project.* If requested by the City, the Borrower shall furnish evidence satisfactory to the City, in its sole discretion, that the amount of the Loan yet to be disbursed, together with any other sources of funds available to the Borrower and not yet disbursed, will be sufficient to complete the Project in compliance with the Loan Agreement and to pay all costs therefore, and all other direct or indirect costs relating to the Loan and the Project.
- iv. *Lien waivers.* If requested by the City, the Borrower shall furnish data in a form satisfactory to the City with respect to prior Disbursements and expenditures relating to the Project, and shall furnish lien waivers from the contractor and all subcontractors for work done and materials supplied to the Project to the date of the Disbursement Request.
- v. *Use of Funds.* Subject to the terms of the Loan Agreement, the Borrower shall use the proceeds of the Loan exclusively for the costs of the Project.
- vi. *Compliance with Federal Requirements.* As applicable, Borrower must be compliant with all federal requirements, including, but not limited to, compliance with the Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968, and all reporting obligations under any such federal requirements.
- vii. *Pass-Through Loans.* If the Loan Agreement is structured as a “pass-through” loan, Borrower must demonstrate that Borrower has the authority to submit disbursement requests on behalf of the Project owner, which may be done by providing HOST with an operating agreement or partnership agreement establishing such authority. A “pass-through” loan is defined as a loan made by the City to the Borrower where Loan proceeds will be granted or loaned by the Borrower to the developer or owner of the Project for construction and development costs.

#### IV. Financial Management Systems

**The Borrower must maintain financial systems that meet the following standards:**

## **EXHIBIT B**

- a. Financial reporting must be accurate, current, and provide a complete disclosure of the financial results of financially assisted activities and be made in accordance with federal financial reporting requirements.
- b. Accounting records must be maintained which adequately identify the source and application of the funds provided for financially assisted activities. The records must contain information pertaining to contracts and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Accounting records shall provide accurate, separate, and complete disclosure of fund status.
- c. Effective internal controls and accountability must be maintained for all contract cash, real and personal property, and other assets. Adequate safeguards must be provided on all property and it must be assured that it is used solely for authorized purposes.
- d. Actual expenditures or outlays must be compared with budgeted amounts and financial information must be related to performance or productivity data, including the development of cost information whenever appropriate or specifically required.
- e. For contracts subject to Federal Agreements, applicable 2 C.F.R. Part 200 cost principles, agency program regulations, and the terms of the agreement will be followed in determining the reasonableness, allowability and allocability of costs.
- f. Source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc., shall be provided for all disbursements. The Borrower will maintain auditable records, i.e., records must be current and traceable to the source documentation of transactions.
- g. For contracts subject to Federal Agreements, the Borrower shall maintain separate accountability for HOST funds as referenced in 2 C.F.R. Part 200.
- h. The Borrower must properly report to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.
- i. A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.
- j. The Borrower shall participate, when applicable, in HOST provided staff training sessions in the following financial areas including, but not limited to (1) Budgeting and Cost Allocation Plans; (2) Vouchering Process.

### **V. Audit Requirements**

## **EXHIBIT B**

- a. For contracts subject to Federal Agreements, if the Borrower expends seven hundred and fifty thousand dollars (\$750,000) or more of federal awards in the Borrower's fiscal year, the Borrower shall ensure that it, and its sub recipients(s), if any, comply with all provisions of the 2 C.F.R. Part 200.
- b. A copy of the final audit report must be submitted to the HOST Financial Manager within the earliest of thirty (30) calendar days after receipt of the auditor's report; or nine (9) months after the end of the period audited.
- c. A management letter, if issued, shall be submitted to HOST along with the reporting package prepared in accordance with the Single Audit Act Amendments and the 2 C.F.R. Part 200. If the management letter is not received by the subrecipient at the same time as the Reporting Package, the Management Letter is also due to HOST within thirty (30) days after receipt of the Management Letter, or nine (9) months after the end of the audit period, whichever is earlier. If the Management Letter has matters related to HOST funding, the Contactor shall prepare and submit a Corrective Action Plan to HOST in accordance with the Single Audit Act Amendments and the 2 C.F.R. Part 200, as set forth in 2 C.F.R. 200.511(c) for each applicable management letter matter.
- d. All audit related material and information, including reports, packages, management letters, correspondence, etc., shall be submitted to **HOST Financial Services Team**.
- e. The Borrower will be responsible for all Questioned and Disallowed Costs.
- f. The Borrower may be required to engage an audit committee to determine the services to be performed, review the progress of the audit and the final audit findings, and intervene in any disputes between management and the independent auditors. The Borrower shall also institute policy and procedures for its sub recipients that comply with these audit provisions, if applicable.

### **VI. Procurement**

- a. The Borrower shall follow the City Procurement Policy to the extent that it requires that at least three (3) documented quotations be secured for all purchases or services (including insurance) supplies, or other property that costs more than ten thousand dollars (\$10,000) in the aggregate.
- b. The Borrower will maintain records sufficient to detail the significant history of procurement. These records will include, but are not limited to the following: rationale for the method of procurement, selection of contract type, Borrower selection or rejection, and the basis for the contract price.
- c. If there is a residual inventory of unused supplies exceeding five thousand dollars (\$5,000) in total aggregate upon termination or completion of award, and if the

## **EXHIBIT B**

supplies are not needed for any other federally sponsored programs or projects the Borrower will compensate the awarding agency for its share.

### **VII. Bonding**

- a. HOST may require adequate fidelity bond coverage, in accordance with 2 C.F.R. 200.304(b), where the subrecipient lacks sufficient coverage to protect the Federal Government's interest.
- b. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.

### **VIII. Collection of amounts due**

- a. Any funds paid to a Borrower in excess of the amount to which the Borrower is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government and/or the City. If not paid within a reasonable period after demand, HOST may: 1) Make an administrative offset against other requests for reimbursements, 2) Withhold advance payments otherwise due to the Borrower, or 3) Pursue other action permitted by law.