



First Amendment to the Program Administration Agreement

This is an Amendment (“First Amendment”) to that certain Program Administration Agreement dated February 1, 2013 (the “Agreement”), by and between Housing and Development Services, Inc. d/b/a eHousingPlus (the “Administrator”), a Florida corporation located at 3050 Universal Boulevard, Suite 190, Weston, FL 33331, and City and County of Denver, Colorado, (the “Authority”), located at 201 West Colfax Avenue, Denver, CO 80202, (together the Administrator and the Authority shall be referred to herein as the “Parties”) and is effective as of January ____, 2019.

WHEREAS, the Authority wishes to add a new program that will be administered by the Administrator and will be subject to the terms of the Agreement and this First Amendment; and

WHEREAS, the Agreement allows for amendment with the written consent of the Parties;

NOW THEREFORE, the Parties agree as follows:

1. The above introductory paragraphs including the “Whereas” and “Now Therefore” provisions are incorporated into the body of this First Amendment as if stated herein in their entirety.
2. Addendum “A” to the Agreement entitled Fees and Addendum “C” to the Agreement entitled Program Scope are hereby amended to incorporate the new Metro Mortgage Assistance (MMA) Plus Program, described in more detail in Addendum C-1 attached to this First Amendment and incorporated herein by reference.
3. The new Metro Mortgage Assistance (MMA) Plus Program shall be effective February 1, 2019.
4. This First Amendment may be supplemented, amended or modified only by the mutual agreement of the Parties. No supplement, modification or amendment of this Amendment shall be binding unless it is in writing and signed by the Parties.
5. Unless otherwise specified, all capitalized terms have the meanings attributed to them in the Agreement.
6. The Parties represent and warrant that the individuals signing on their respective behalves have the authority and any necessary approvals to execute this First Amendment and bind the Parties accordingly.



7. The Agreement may be further amended or modified with the written consent of the Chief Financial Officer of the Authority, or in the absence of the Chief Financial Officer, the Executive Director of the Office of Economic Development of the Authority, or their designees, and the Administrator.

8. The Agreement is hereby amended as follows:

a. Section 10, **Confidential Information; Non-Disclosure**, is hereby amended by adding the following after the second paragraph:

“Administrator acknowledges and accepts that, in performance of all work under the terms of this Agreement, Administrator may have access to Proprietary Data or confidential information that may be owned or controlled by the City and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Administrator agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Administrator shall be held in confidence and used only in the performance of its obligations under this Agreement. Administrator shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent consultant would to protect its own proprietary or confidential data. For purposes of this paragraph, “Proprietary Data” shall mean any materials or information which may be designated or marked “Proprietary” or “Confidential”, or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance and provided or made available to Administrator by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.”

b. Section 10, **Confidential Information; Non-Disclosure**, is hereby amended by adding the following after subparagraph vii.:

“Notwithstanding the foregoing, the parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, et seq., C.R.S. (2003). In the event of a request to the City for disclosure of such information, the City shall advise Administrator of such request in order to give Administrator the opportunity to object to the disclosure of any of its documents which it marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Administrator agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. Administrator further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of Administrator’s



intervention to protect and assert its claim of privilege against disclosure under this Article including but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.”

- c. Paragraph E of Section 11, **Governing Law**, is hereby deleted in its entirety and replaced by the following:

“**E. Governing Law and Venue**. Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Program Administrator Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

- d. Section 11 is hereby amended by adding the following paragraphs:

“**L. Professional Liability Insurance**. Administrator shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion).

M. No Discrimination in Employment. In connection with the performance of all work under the Agreement, the Administrator agrees not to refuse to hire, discharge, promote, or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all contracts entered into in furtherance of this Program Administrator Agreement.

N. Waiver. No rights may be waived except by an instrument of writing signed by the party charged with such waiver. No assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.”

9. There are no other changes to the Agreement, except as specified in this First Amendment. In the event of any conflict between this First Amendment and the Agreement, the terms of this First Amendment shall govern.
10. Copies of this First Amendment have the same force and effect as the original executed First Amendment.



IN WITNESS WHEREOF, the parties have executed and affixed their seals, if any, at Weston, Florida and Denver, Colorado respectively as of the date referenced in the first paragraph (“**Effective Date**”).

HOUSING AND DEVELOPMENT SERVICES, INC. d/b/a eHousingPlus

By: _____

Print: _____

Title: _____

CITY AND COUNTY OF DENVER

By: _____

Debra Johnson,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By: _____

Michael B. Hancock, MAYOR

APPROVED AS TO FORM:

KRISTIN M. BRONSON, Attorney
For the City and County of Denver

REGISTERED AND COUNTERSIGNED:

By: _____

Assistant City Attorney

By: _____

Brendan J. Hanlon, CFO

By: _____

Timothy O’Brien, Auditor



Addendum # C-1

Program Scope of Work and Fees

The Program Scope Exhibit # 1, details the specific requirements, and fees related to the Program, extensions, or services described below.

Agency: City and County of Denver

Agency contact name: Michael Kerrigan

contact phone: 720-913-5550

contact e-mail: Michael.Kerrigan@DenverGov.org

Program type(s): MRB MRB MRB with calculated assistance

Specify: Calculated assistance: 3 year forgivable 2nd liens; Government Loans – 3% and 4% of the first mortgage; Freddie Mac Loans – 3%, 4%, and 5% of the first mortgage loan amount.

Program details

Program name: Denver Metro Mortgage Assistance (MMA) Plus Program

Program start date: City to Provide Notice to Administrator

source of funding allocation: N/A No First-Time Homebuyer Requirement

Income limits: \$134,850 per household

acquisition limits: No purchase price limits

first-time homebuyer requirement: No first-time homebuyer requirement

eligible loan types: Government Loans – FHA, USDA, VA; Conventional Loans – Freddie Mac HFA Advantage Loans

Fees: specialized fees structure... Compliance/Admin Fee (1) Tier 1 \$225 up to 6 daily rate offerings (2) Tier 2 \$250 up to 11 daily rate offerings.

As a courtesy to the City of Denver for our long standing partnership, eHousingPlus is maintaining the rate of \$225 for up to 6 daily rate offerings and \$250 for up to 11 daily rate offerings. This is a savings of \$25 - \$50 per file from the current per file fees for the management of daily program modifications and rate changes.

As Program Administrator, eHousingPlus will continue to provide program consulting, lender guidance and training, program and lender customer support, publish program and administrator guidelines, manage loan compliance activities services, and provide access to eligible participants to the eHPortal System™.

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Scope of work notes:

eHousingPlus will provide the program compliance required forms through eHForms™ accessible by participating lenders with access to the eHPortal™. As an additional service, eHousingPlus will facilitate the DPA required closing documents to be delivered by the lender in the mortgage file. These include; Forgivable Loan Disclosure, Mortgagor’s Acknowledgement, 2nd Lien Note, 2nd Lien DOT, Partial Exemption Disclosure Form.

participating Lenders will be approved and provided by the City and County of Denver

Program Purchaser contact: HDS, Inc. CNDA is on file for access to eHousingPlus Systems and Services

contact name: George K. Baum
C. Scott Riffle, Elizabeth Barber, Alec Lehrer, Jeremiah Miller, Jamie De Sena, Casey, DeDe Cross
contact phone: on file **contact e-mail:** on file

Program Servicer contact: HDS, Inc. CNDA is required for access to eHousingPlus Systems and Services

contact name: Jason Hubbard **company:** USBank
contact phone: 216-475-8620 **contact e-mail:** Jason.hubbard2@usbank.com

Please provide any additional Program working member contact information. The HDS, Inc. CNDA is required for access to eHousingPlus Systems and Services

contact name: David Jones **company:** CSG Advisors
contact phone: 678-319-1911 **contact e-mail:** djones@csgadvisorys.com

City and County of Denver

Housing and Development Services, Inc.
D/B/A eHousingPlus

By:
Title:

Elena Miranda
VP Business Development