

SECOND AMENDMENT AND MODIFICATION AGREEMENT

THIS SECOND AMENDMENT AND MODIFICATION AGREEMENT (the “Amendment”) is made and entered by and 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 3245 Eliot Street, Denver, Colorado 80211 (“Borrower”), each individually a “Party” and collectively the “Parties.”

RECITALS:

WHEREAS, the Parties entered into a loan agreement dated April 17, 2018 (the “Loan Agreement”) relating to a loan to Borrower in the original principal amount of One Million Seven Hundred Fifty Thousand and No/100 Dollars (\$1,750,000.00) (the “Loan”) for the development of an affordable housing project; and

WHEREAS, the Parties entered into a promissory note dated August 9, 2018 evidencing the terms of the Loan (the “Promissory Note”); and

WHEREAS, repayment of the Promissory Note was secured by a deed of trust dated August 9, 2018 and recorded on August 13, 2018 at Reception No. 2018011537 of the records of the City and County of Denver, State of Colorado, and encumbering the the following described property:

LOTS 1 THROUGH 16, BLOCK E, MOUAT’S RESUBDIVISION OF PART OF SWANSEA, AND BLOCK 67, FIRST ADDITION TO SWANSEA, CITY AND COUNTY OF DENVER, STATE OF COLORADO

Also know and numbered as 4301 Elizabeth Street, 4349 Elizabeth Street, 4348 Columbine Street, and 2500 East 44th Street in Denver, Colorado (collectively the “Property”); and

WHEREAS, collectively, the Loan Agreement, Promissory Note, Covenant, and Deed of Trust are referred to herein as the “Loan Documents;” and

WHEREAS, the City and Borrower entered into an Amendment and Modification Agreement on January 10, 2019 (the “First Amendment”) to increase the Loan amount to Two Million Two Hundred Fifty Thousand Dollars and NO/100 (\$2,250,000.00) and to modify other terms of the Loan Documents; and

WHEREAS, since the execution of the Loan Agreement, the City has reorganized the responsibilities of its departments and has transferred the responsibility for overseeing housing loans from the Office of Economic Development (“OED”) to the Department of Housing Stability (“HOST”); and

WHEREAS, the Parties wish to amend and modify the terms and conditions of the Loan Documents; and

NOW THEREFORE, in consideration of the premises herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. All references to the “Office of Economic Development” and “OED” in the Loan Documents shall be replaced to read “Department of Housing Stability” and “HOST,” respectively.

2. Subparagraph A. of Paragraph 5 of the Loan Agreement, as amended by the First Amendment, is replaced with the following:

“5. RESTRICTIONS ON USE OF PROPERTY:

A. Borrower agrees that each of the thirty-two (32) units created shall be sold to low/moderate income households (“Units”). For the initial sale of a Unit, low/moderate income households mean a household with an annual income at or below 80% of the Denver Area Media Income (“AMI”). For all sales after the initial sale, low/moderate income households mean a household with an annual income at or below 100% of the AMI. AMI means the area median income for the Denver metropolitan statistical area, adjusted for the household size, as calculated from time to time by the U.S. Department of Housing and Urban Development. In the event the Borrower violates the provisions of this paragraph, Borrower shall immediately pay to the City the greater of (a) all sums due hereunder in accordance with the Paragraph below entitled “Default and Acceleration,” and (b) an amount equal to the current market value of the Unit acquired or improved with funding

hereunder less any portion of the value attributed to expenditures of non-General Fund funds for the development of the Property. All purchasers of a Unit shall be required to execute a Memorandum of Notice of Voidable Title, Acceptance of Covenant and Assumption of Deed of Trust, a form of which shall be attached to the Covenant, or a similar document approved by the City wherein the purchaser expressly acknowledges the Covenant.”

3. The last sentence of the first paragraph of Paragraph 10 is amended by replacing “Memorandum of Acceptance of Notice of Voidable Title Transfer and Master Covenants” with “Memorandum of Notice of Voidable Title, Acceptance of Covenant and Assumption of Deed of Trust or similar document approved by the City wherein purchaser expressly acknowledges the Covenant.”

4. The Loan Documents are hereby modified to reflect the amended terms of the Loan Agreement.

5. Except as herein amended, the Loan Documents continue in effect, and are affirmed and ratified in each and every particular.

6. This Amendment will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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[SIGNATURE PAGES TO FOLLOW]

Contract Control Number:
Contractor Name:

HOST-202053100-02, 201736287-02
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-202053100-02, 201736287-02
HABITAT FOR HUMANITY OF METRO DENVER INC

By: 

Name: JAVAN D. OTTOSON
(please print)

Title: Board President
(please print)

ATTEST: [if required]

By: 

Name: Christine Koleski
(please print)

Title: Executive Assistant
(please print)