

FIRST AMENDATORY AGREEMENT

THIS FIRST AMENDATORY AGREEMENT (the “Amendment”) 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 the **HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO**, a public body corporate and politic (the “Contractor”), collectively the “Parties.”

RECITALS:

- A.** The Parties entered into an Agreement on May 22, 2019 (the “Agreement”); and
- B.** The Agreement expired by its terms on January 1, 2021, and rather than enter into a new agreement, the Parties desire to revive and reinstate all terms and conditions of the Agreement as they previously existed prior to the expiration of the term and to amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the premises 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 Agreement shall be replaced to read “Department of Housing Stability” and “HOST,” respectively
- 2. Exhibits A of the Agreement shall be replaced with Exhibit A attached to this Amendment. The updated Scope of Services marked as Exhibit A that is attached hereto is incorporated herein by this reference and shall supersede the Exhibit A attached to the Agreement.
- 3. Section 3 of the Agreement entitled “**TERM**” is amended to read as follows:

“The Agreement will commence on January 1, 2019 and will expire on December 31, 2022 (the “Term”). Subject to the Executive Director’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.”
- 4. Except as herein amended, the Agreement continues in effect, and is affirmed and ratified in each and every particular.

5. 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.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

Contract Control Number:
Contractor Name:

HOST-202158313-01 / OED-201846549-01
The Housing Authority of the City and County of Denver

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

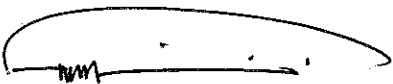
By:

By:

By:

Contract Control Number:
Contractor Name:

HOST-202158313-01 / OED-201846549-01
The Housing Authority of the City and County of Denver

By:  _____

Name: DAVID NISIVOLLA
(please print)

Title: EXECUTIVE DIRECTOR
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A

SCOPE OF SERVICES DENVER HOUSING AUTHORITY WEST DENVER RENAISSANCE COLLABORATIVE – SINGLE FAMILY PLUS PROGRAM

PROJECT DESCRIPTION

The purpose of this agreement is to provide \$500,000 to Denver Housing Authority's West Denver Renaissance Collaborative ADU Pilot program to support the construction of 17 (seventeen) Accessory Dwelling Units ("ADU") to be used as housing (i) on properties owned by income qualified households or (ii) rented to income qualified households.

Funding Amount: \$500,000

Period of Performance Start and End Dates: 01/01/2019 – 12/31/2022

Funding Source: Affordable Housing Fund – Property Tax

Organization: Housing Authority of the City and County of Denver

EIN#: 84-6002414

1035 Osage St

Denver, CO 80204

Contact: Renee Martinez-Stone

Phone: 720-932-3136

Email: rmarti@denverhousing.org

Council District(s):

Neighborhood(s): No fewer than twelve (12) ADUs in West Colfax, Sun Valley, Lincoln Park, Villa Park, Barnum West, Barnum, Valverde, Westwood, and Athmar Park; No more than five (5) may be built Citywide

I. OVERVIEW

The Department of Housing Stability is providing \$500,000 to the Housing Authority of the City and County of Denver ("DHA") for its **West Denver Renaissance Collaborative's ("WDRC") Single Family Plus ("WDSF+") Accessory Dwelling Unit ("ADU") Pilot** program. WDRC's ADU Pilot Program was created by DHA and other partners to mitigate involuntary displacement of low- and moderate-income residents within nine (9) west Denver neighborhoods by increasing affordable housing choices, stabilizing homeowners, and building wealth. The ADU Pilot provides development, referrals to custom ADU financing, and construction services to support the construction of ADUs for homeowners. DHA requires deed restricted affordability for all ADUs constructed through the WDSF+ program.

The City's funding can be used for soft and hard costs related to the development of the ADUs. The City will provide up to \$30,000 per ADU to DHA for the development of seventeen (17) units. For the purpose of this agreement, the term "participants" refers to homeowners who are recipients of City funding. DHA will lend City funds to the participant at the closing of the ADU financing or prior to the construction escrow close out. Funding will be secured by a DHA deed of trust and rental and occupancy covenant stating that no payments are required, but funds may be repaid by the homeowner if the property is sold prior to the 25-year affordability period or following a breach in the *ADU Pilot Program Affordability Covenant and Restrictions*.

II. DHA RESPONSIBILITIES

DHA, through WDRC, is responsible for providing design and permitting, financing, and construction management services to participants in a manner satisfactory to the City and consistent with all standards required as a condition of receiving these funds. Additionally, DHA, through WDRC, is responsible for monitoring and compliance of resales and repayments of program income throughout the period of affordability of each unit.

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1. Each ADU developed under this agreement must be occupied for residential use. It may not be used as an office, workspace, short-term rental, or other non-dwelling use.
2. The maximum subsidy allowed is \$30,000 per ADU.
3. No fewer than seventeen (17) units must be constructed or in construction during the performance period.
4. No fewer than twelve (12) ADUs must be constructed in the nine (9) West Denver neighborhoods targeted by WDRC and specified above in the Project Description. No more than five (5) ADUs may be developed in any neighborhood within the city on parcels with ADU zoning.
5. DHA is responsible for marketing, selection, and income qualification of participants.
6. To receive City funding, participants must complete an income verification process. Either the homeowner or ADU renter must have incomes at or below 80% of the area median income (“AMI”), as determined by the U.S. Department of Housing and Urban Development (“HUD”).
 - a. Homeowners with incomes at or below 80% of the AMI at the time of application may receive City funding. No subsequent income verification of the homeowner is required.
 - b. Homeowners with incomes above 81% of the AMI may receive City funding provided that the ADU is rented to households with incomes at or below 80% AMI for 25 years.
7. DHA will provide technical assistance to the participant with securing financing for the development of the ADU.
8. DHA will manage the planning and permitting for participants, including the completion of all due diligence, required or implied, to ensure permitting approval, including but not limited to:
 - Environmental studies
 - Appraisal and appraisal review services
 - Physical Needs Assessments
 - Title services
 - Zoning Compliance
 - Conveyance document preparation
 - Surveys, maps and legal descriptions
 - Construction bids and drawings
 - Securing all required permits
9. DHA, or its designee, will manage the construction of the ADUs on behalf of participants through issuance of Certificate of Occupancy.
 - a. Construction must be performed by licensed general or specialty contractors.
 - b. All City code requirements must be met.
 - c. Upon completion of construction, but prior to occupancy, the ADU must pass a HOST Housing Completion Inspection.

III. REIMBURSEMENT REQUIREMENTS

1. No more than \$30,000 per ADU will be provided to WDRC, through DHA, at the participant’s financing closing or prior to the construction escrow close out.
2. DHA must record a DHA Deed of Trust on the property covering the amount provided by the City. The Deed of Trust may be subordinate to the lien of the primary and/or other lenders.

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3. DHA must record DHA's *ADU Pilot Program Affordability Covenant and Restrictions* that encumbers the property for twenty-five (25) years.
4. DHA must provide a settlement statement listing all financing sources, final ADU line item construction cost, income qualification for the participant, deed of trust, and covenant as a condition of funding.
5. The per unit subsidy level and total units developed may be adjusted upon approval of the Executive Director of HOST, but the Maximum Contract Amount may not be increased without an amendment to the Agreement.

IV. LONG TERM COMPLIANCE

1. Payment on Event of Sale or Default - Acceleration: If a home is sold or falls out of compliance prior to the end of the twenty-five (25) year covenant period, DHA must declare the entire unpaid principal immediately due and payable according to the Payment Schedule in the borrower's Promissory Note. All repaid funds must be used to support subsequent ADU development for homeowners under the terms of this agreement.
 - a. Any amount repaid will become program income to support the construction of ADUs for future homeowners under the terms of this agreement.
 - b. Any repaid funds that cannot be used under the terms of this agreement must be returned to the City.
2. Resale to income qualified buyer: If a property is resold to an income qualified homebuyer or affordable housing agency that will keep the affordability restriction for the balance of the 25-year covenant period, Payment on Event of Default, as described in Section IV.1., is not required. . The City must approve any assignment or new subordination of the DHA Deed of Trust and Affordability Covenant and Restrictions.
3. ADU Rental Occupancy: When the renter of an ADU is subject to the income qualification requirement in Section II.6.a., DHA is responsible for ensuring compliance with the DHA Rental and Occupancy requirements for the 25-year compliance period.
4. Security Requirements: DHA will ensure that the approved DHA Deed of Trust is recorded on the recipient's property prior to construction of the ADU.
5. City Right to Audit: The City will audit DHA's income qualification process prior to the first request for reimbursement. Additionally, the City will monitor the income qualification summary for each participant upon provision of funding to DHA or prior to occupancy of the ADU by an income-qualified renter. Subsequent monitoring of income qualifications will occur annually, as needed. The documentation must be sufficient to demonstrate that either the homeowner's or ADU renter's household income did not exceed 80% of the HUD AMI based on household size at the time of qualification.
6. Notification of Sale: DHA must provide the City with notification of any sales of properties that received funding pursuant to this agreement semi-annually, along with the amounts paid at each sale under the requirements of Section IV.1. HOST may, at its option, revise the frequency of notifications.

V. EXCLUDED ACTIVITIES

1. Any rehabilitation of the primary unit.
2. Luxury improvements (i.e. swimming pools, hot tubs, etc.).
3. Payment or retirement of existing debt service.

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DENVER HOUSING AUTHORITY
WEST DENVER RENAISSANCE COLLABORATIVE – SINGLE FAMILY PLUS PROGRAM**

VI. PERFORMANCE MONITORING

1. The City will monitor DHA's performance based on goals and performance standards as stated above along with all other applicable federal, state and local laws, regulations, and policies governing the funds provided under this contract.