

FIRST AMENDMENT TO HOME PROGRAM AGREEMENT
between
THE CITY OF ORLANDO
and
HABITAT FOR HUMANITY OF GREATER ORLANDO, INC.
(OWNER, DEVELOPER, SPONSOR)

THIS FIRST AMENDMENT to HOME Program Agreement (hereinafter referred to as the “Amendment”) is entered into by and between the **CITY OF ORLANDO**, a Florida municipal corporation, with a principal address of 400 South Orange Avenue, Orlando, Florida, 32802, and **HABITAT FOR HUMANITY OF GREATER ORLANDO, INC.**, a Florida non-profit corporation, with a principal address of 4116 Silver Star Road, Orlando, FL, 32808 (hereinafter referred as “Habitat” or “Borrower”).

WITNESSETH:

WHEREAS, pursuant to Title II of the Cranston Gonzalez National Affordable Housing Act of 1990, as amended, the United States Department of Housing and Urban Development (“HUD”) has designated the City as a participating jurisdiction under the HOME Investment Partnerships Program (hereinafter referred to as “HOME”) and has allocated HOME funds to the City in furtherance of its goal of encouraging the production of decent, safe, sanitary, and affordable housing for all of the citizens of Orlando;

WHEREAS, on June 20, 2016, the City and Habitat entered into a HOME Program Agreement whereby the City agreed to loan the sum of *Six-Hundred Eighty-Seven Thousand Three Hundred Ninety-Five Dollars and No 00/100 (\$687,395.00)* in HOME funds to Habitat to construct sixteen (16) homes in the Butler’s Preserve subdivision, which is generally located at Willie Mays Parkway and College Drive, Orlando, Florida 32811, and more particularly described in the legal description attached as **Exhibit “A”** to the HOME Program Agreement (hereinafter referred to as the “Property”) for sale to First Time Homebuyers who are Low-income families as Affordable housing;

WHEREAS, in proceeding through the construction and sales process, Habitat has encountered some small changes that need to be made to the HOME Program Agreement. Habitat anticipated needing fifteen (15) 3 bedroom/1 bath units and one (1) 5 bedroom/2 bath unit; however, the 5 bedroom/2 bath unit is no longer needed and will be changed to a 2 bedroom/1 bath handicapped accessible unit. Consequently, 15 units will be 3 bedroom/1 bath and approximately 1100 square feet and one (1) unit will be 2 bedroom/1 bath handicapped accessible and approximately 1200 square feet. Additionally, some HOME-assisted units have required different modifications than others, and likewise, the amount of HOME subsidy in each unit varies to some extent between the HOME-assisted units;

WHEREAS, the construction of the 16 HOME-assisted units for sale to Low-income families as Affordable housing is an eligible activity under the HOME program;

WHEREAS, the parties desire to amend the HOME Program Agreement (hereinafter the HOME Program Agreement and this First Amendment will collectively be referenced to as the “Agreement”) to provide for these changes.

NOW THEREFORE, in consideration of the premises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Habitat agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated herein.

2. Section 1, entitled Definitions and Number 12 entitled “Project” is hereby amended as follows:

12. Project - The second sentence is amended to read as follows:

These HOME-assisted units are to be constructed as follows: fifteen (15) units will be 3 bedroom/1 bath and approximately 1100 square feet and one (1) unit will be a 2 bedroom/1 bath handicapped accessible unit and approximately 1200 square feet.

Except as set forth herein, the definition of “Project” remains the same.

3. Section 2, Number 2, entitled “Use of HOME Funds” is hereby amended as follows:

This paragraph is amended to reflect that 15 units are 3bedroom/1 bath and 1 unit is a handicapped accessible 2bedroom/1 bath unit and reflect that the amount per unit of \$42,481.00 is approximate depending on the ultimate construction costs of each Home-assisted unit, as some homes, for example, may need different modifications. Consequently, the fourth – sixth paragraphs are deleted in their entirety and restated as follows:

HABITAT will obtain an independent appraisal of these HOME-assisted units to determine its fair market value which price HABITAT will reduce to qualify the HOME-assisted unit as Affordable housing for Eligible Persons who will purchase the homes through HABITAT’s interest free mortgage program. Each of the HOME-assisted units must be sold to Eligible Persons at sales prices as set forth in this Agreement. Any amount that reduces the price of the HOME-assisted unit below the fair market value to make the housing Affordable shall be secured by a note and mortgage as described in §92.254(a)(5)(ii), which will result in a direct subsidy to the Eligible Person. The estimated appraised value of the 3 bedroom/1 bath HOME-assisted units is \$140,000 and the estimated appraisal of the 2 bedroom/1 bath handicapped accessible unit is \$138,000; however, HABITAT will obtain an appraisal to determine the actual appraised value of each HOME-assisted unit. The amount of the City’s HOME subsidy for each of the three (3) bedroom/1 bath HOME-assisted units and the 2 bedroom/1 bath handicapped accessible HOME-assisted unit is approximately \$42,481.00. HABITAT will reduce the appraised fair market value by this approximated

\$42,481.00, so that the HOME-assisted units qualify as Affordable housing as described in this Agreement. This HOME subsidy of approximately \$42,481.00 for the 16 HOME-assisted units as the reduction in the purchase price are considered a direct subsidy to the Eligible Persons subject to recapture by the City.

HABITAT agrees to have each Eligible Person execute a promissory note and mortgage payable to the City for the full amount of the direct subsidy assistance (approximately \$42,481.00 for the 3 bedroom/1 bath HOME-assisted units and the 2 bedroom/1 bath unit). HABITAT shall also require each Eligible Person to execute a declaration of restrictive covenant and HOME Program Homebuyer Agreement detailing the terms of the HOME assistance, the sales price, and the HOME subsidy, and imposing recapture provisions of the HOME subsidy. This note, mortgage, and HOME Program Homebuyer Agreement provide that if the HOME-assisted unit is no longer the primary residence of the Eligible Person or upon sale, transfer, or lease of the HOME-assisted unit, the entire HOME subsidy of the homebuyer assistance loan must be paid in full, subject to the limitation that when the recapture is triggered by a sale (voluntary or involuntary), the amount recaptured cannot exceed the net proceeds, if any, as more fully described herein.

As the primary lender for the Eligible Persons, HABITAT will place a first mortgage on each HOME-assisted unit anticipated to be approximately \$97,519.00 (\$140,000.00-\$42,481.00) for each 3 bedroom/1 bath HOME-assisted units and \$ 95,519.00 (\$138,000.00 -\$42,481.00) for the 2 bedroom/1 bath HOME-assisted unit. HABITAT will ensure that the City's homebuyer mortgage will be recorded in a second lien position as a second mortgage. No other loans or financing is permitted, unless approved by the City.

Except as set forth herein, this Section 2, Number 2 remains the same.

4. Exhibit "C" entitled Overview is amended to reflect the change to construct fifteen (15) 3 bedroom/1 bath units and one (1) 2 bedroom/1 bath handicapped accessible unit. The second paragraph of Exhibit "C" is amended as follows:

These HOME-assisted units will be modestly-sized (< 1500 sq ft. including areas for utilities and storage), single story homes with 3 bedrooms/1 bath for 15 units and one 2 bedroom/1 bath handicapped accessible unit.

Except as set forth herein, this Exhibit "C" remains the same.

5. Exhibit "D" entitled Budget and Unit Mix Breakdown is hereby amended to reflect the change to construct fifteen (15) 3 bedroom/1 bath units and one (1) 2 bedroom/1 bath handicapped accessible unit and reflect that the subsidy amounts are approximately \$42,481 per unit. Exhibit "D" is amended as follows:

<u>Low-income (80%)</u>	<u>Low-income (80%)</u>
<p align="center">15 Units Low-income 3 Bedroom/ 1 Bath FMV (Appraisal) Sales Price – \$140,375.00 Reduction in price (direct HOME subsidy) – approx. \$42,481 Approx. Sales Price to Eligible Person - \$97,894.00</p>	<p align="center">1 Unit Low-income 2 Bedroom/1 bath Handicapped accessible FMV (Appraisal) Sales Price \$138,000.00 Reduction in price (direct HOME subsidy) approx. \$42,481 Approx. Sales Price to Eligible Person - \$95, 519.00</p>

The requested funds will be used to buy materials for the new construction of the sixteen (16) HOME-assisted units for Eligible Persons. Fifteen (15) of the HOME-assisted units are three (3) bedroom and one (1) bath and one (1) HOME-assisted unit is 2 bedroom/1 bath handicapped accessible. As detailed in the budget, the materials for the new construction will include, but not necessarily be limited to material for: landscaping, appliances, cabinets, carpet, drywall, dumpster, electrical fixtures, insulation, plumbing, windows, trusses, and roofing.

Except as set forth herein, this Exhibit “D” remains the same.

6. Exhibit “G” entitled Declaration of Restrictive Covenant Containing Income and Principal Residency Restrictions is hereby amended to change paragraph One entitled “Restrictions of Use to Affordable Housing” to construct fifteen (15) 3 bedroom/1 bath HOME-assisted units and one (1) 2 bedroom/1 bath HOME-assisted unit. Habitat will execute an amended restrictive covenant provided by the City to reflect this change.

Except as set forth herein, Exhibit “G” remains the same.

7. Exhibit “K” entitled Home-assisted Units is hereby amended to reflect that 15 HOME-assisted units will be 3 bedroom /1 bath and one HOME-assisted unit will be a handicapped accessible 2 bedroom/1 bath unit. Exhibit “K” is amended as follows:

<u>Low-income (80%)</u>
16 HOME-assisted units
(15 Units) 3-bedroom/1 bath
(1 Unit) 2-bedroom/1 bath Hand. Accessible .

Except as set forth herein, Exhibit “K” remains the same.

8. Except as set forth herein, all of the terms and conditions set forth in the original HOME Program Agreement executed June 20, 2016, shall remain in full force and effect.

IN WITNESS THEREOF, the parties have executed this First Amendment on the _____ day of _____, 2017.

**Habitat for Humanity of Greater Orlando, Inc.,
a Florida non-profit corporation (SEAL)**

By: _____
Catherine S. McManus, President

Date: _____

SIGNATURES CONTINUE NEXT PAGE

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this ___ day of _____, 2017 by _____ Catherine S. McManus, as President of Habitat for Humanity of Greater Orlando, Inc. She is personally known to me and did take an oath.

Name
Notary Public

ATTEST:

**CITY OF ORLANDO, FLORIDA,
a municipal corporation**

By: _____
Denise Aldridge, City Clerk

By: _____
Mayor / Mayor Pro Tem

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this ___ day of _____, 2017 by _____, Mayor Pro Tem and _____, City Clerk, who are personally known to me who did (did not) take an oath.

Name
Notary Public

Serial Number: _____
My Commission Expires: _____

Approved as to form and legality for the
use and reliance of the City of Orlando,
Florida only

_____, 2017

By: _____
Chief Assistant City Attorney