

**AGREEMENT BETWEEN THE CITY OF PEORIA, ILLINOIS**  
**AND**  
**HABITAT FOR HUMANITY GREATER PEORIA AREA**  
**FOR**  
**CHDO PROGRAM FUNDS**

**1030 NE Monroe (1803309015)**  
**1020/1022 NE Monroe (1803309010/1803309011)\* Lots to be combined into one parcel**  
**912 NE Monroe (1803308005)**

Project # 17CH01  
 IDIS # 4665  
 Affordable Units to be Developed: 3  
 Total Project Funding: \$302,738

Approved by the Peoria City Council on 7/25/17  
 Council Agenda Item # 17-172

This Agreement entered into by and between The City of Peoria ("City"), an Illinois municipal corporation and HABITAT FOR HUMANITY GREATER PEORIA AREA ("Habitat"), an Illinois non-profit corporation, entered into this 2 day of August, 2017.

WHEREAS, the City is a recipient of funds from the United States Department of Housing and Urban Development ("HUD"), as administrator of the HOME Investment Partnerships Program ("HOME Program") pursuant to which HUD has agreed to make a grant to the City, the Proceeds (as hereinafter defined) of which are used to develop affordable housing and homeownership affordability by Community Housing Development Organizations ("CHDO") through new construction with acquisition by eligible Homebuyers (as hereinafter defined) of three (3) Residences (as hereinafter defined) under the City's Habitat for Humanity CHDO ("Program"); and

WHEREAS, Habitat is a CHDO with one of its purposes to provide decent housing that is affordable to low-income and moderate-income persons;

WHEREAS, Habitat will serve as the Developer of three (3) Residences under the Program;

In consideration of the recitals set forth above and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

- I. **RECITALS**. The foregoing recitals are made a part of this Agreement.
- II. **PURPOSE**. The purpose of this Agreement is to reimburse Habitat for eligible project expenses it incurs in order to construct and sell three (3) new homes in the boundaries of the City of Peoria, Illinois. This Agreement and the Proceeds shall be subject to the terms and conditions of the HOME Investment Partnership Act [42 U.S.C. § 12701 *et seq*] and the Code of Federal Regulations Title 24, Volume 1 [24CFR92.1 *et seq*]; Code of Federal Domestic Assistance 14.239.

III. **TERMS AND SECURITY.**

- A. For the purposes of this Agreement, the "HOME Affordability Period" shall mean fifteen (15) years from date of completion of Activity #2 described in Section IV.; the date the Project is identified as "completed" in HUD's Integrated Disbursement Information System.
- B. The term "Residences" shall mean single-family residential detached Residences located within the corporate boundaries of the City.
- C. The term "Homebuyers", as defined by HUD, is an individual whose household has a gross annual income, as adjusted for family size, that is less than or equal to eighty percent (80%) of the median income for the metropolitan statistical area or county.

IV. **SCOPE OF SERVICE.**

A. Activities

Habitat shall construct and sell three (3) Residences, in a manner satisfactory to the City and consistent with any standards required by HUD as a condition of providing these funds. Such funds will include reimbursement for the following eligible activities under the HOME Program:

Activity #1: The construction of three (3) Residences for the purpose of providing affordable housing units for low-and moderate-income individuals and/or families. The completion of construction should occur within eighteen (18) months from the execution of this Agreement.

Activity #2: The sale of three (3) Residences to low- and moderate-income individuals/families according to all applicable HUD laws, regulations, and rules. This should occur within six (6) months from the completion of Activity #1 described above.

Activity #3: The furnishing of information regarding the three (3) new Residences upon City's request to ensure monitoring compliance with the applicable HUD laws, regulations, and rules concerning the HOME Affordability Period and guidelines.

B. Performance Monitoring

The City will monitor the performance of Habitat according to the goals and performance standards contained in this Agreement. The City may visit Habitat on its site and review applicable records and procedures. Substandard performance as determined by the City will constitute non-compliance with this Agreement.

Participation in any prohibited activities as defined in 24 CFR 92.214 (a-b) shall constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Habitat within 60 days after being notified by the City, termination of the Agreement will be initiated and all HOME Program funds, as defined in Section V. hereof, must be returned to the City.

C. Construction Monitoring

The City will monitor the performance of Habitat regarding the new construction and sale of three (3) Residences. The City reserves the right to review and approve all general contractors and sub-contractors that shall participate in the Program. No contractors can be utilized who are barred from participating in a HUD program.



Habitat must develop all three (3) Residences under this Agreement as Energy Star compliant and provide such certification to the City at property sale.

Habitat will secure all appropriate building permits, zoning permits, and all required approvals from the City of Peoria. All plans must utilize new construction materials or equivalent grade materials as authorized by City staff.

During the construction phase of the project, Habitat agrees to allow City staff access to the project at all reasonable times for the purpose of inspection. The primary purpose of the inspection will be to ensure that the new construction meets all applicable City, State of Illinois, and HUD property standards, codes, regulations, and laws. Moreover, Habitat agrees to allow City Building Inspectors access for required building inspections such as, but not limited to plumbing and electrical inspections.

V. **PAYMENT.**

A. Budget.

<b>TOTAL DEVELOPMENT BUDGET</b>	
Construction Costs	\$294,000
Soft Costs	\$11,400
Developer Fee	\$45,000
<b>TOTAL</b>	<b>\$350,400</b>

<b>TOTAL CHDO BUDGET</b>	
Construction Costs	\$287,738
Soft Costs	\$6,000
Developer Fee	\$9,000
<b>TOTAL CHDO AWARD</b>	<b>\$302,738</b>

**CHDO BUDGET FOR INDIVIDUAL BUILDS:**

<b>PROJECT BUDGET FOR 912 NE MONROE PROPERTY BUILD</b>	
Construction Costs	\$95,913
Soft Costs	\$2,000
Developers Fee	\$3,000
<b>TOTAL PER PROPERTY</b>	<b>\$100,913</b>

<b>PROJECT BUDGET FOR 1020/1022 NE MONROE PROPERTY BUILD</b>	
Construction Costs	\$95,913
Soft Costs	\$2,000
Developers Fee	\$3,000
<b>TOTAL PER PROPERTY</b>	<b>\$100,913</b>

<b>PROJECT BUDGET FOR 1030 NE MONROE PROPERTY BUILD</b>	
Construction Costs	\$95,912
Soft Costs	\$2,000
Developers Fee	\$3,000
<b>TOTAL PER PROPERTY</b>	<b>\$100,912</b>

*Total project funds per property shall not exceed the per unit subsidy limits based on the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects, which include the 240% high cost percentage multiplier as an alternative to the Section 221(d)(3) limits.*

**B. Reimbursement Procedures**

It is expressly agreed and understood that the total amount to be reimbursed by the City under this Agreement shall not exceed Three Hundred Two Thousand, Seven Hundred Thirty Eight Dollars (\$302,738.00) of HOME Program funds, specifically CHDO set-aside funds allocated from the 2016 HOME entitlement grant award.

The City will reimburse Habitat for eligible activity expenses as defined by 24 CFR Part 92.300 (a-f) and 92.301 (a-b), based upon program and budget information submitted by Habitat, and consistent to City policy and procedures concerning reimbursement. The City will make reimbursements to Habitat **after** satisfactory completion of the environmental assessment according to 24 CFR Part 92.352 (a-b).

Habitat may not request the reimbursement of funds under this Agreement until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Habitat shall also secure all lien waivers prior to reimbursement for all suppliers and all trades. Such lien waivers may be subject to City review prior to reimbursement.

All reimbursements must be accompanied by corresponding documentation that shows amounts, items, descriptions, and any other necessary information to demonstrate eligibility. Appropriate documentation includes, but is not limited to, a contractor's affidavit or bill and proof of payment by Habitat if already paid.

Specific questions regarding reimbursement documentation may be directed to the Community Development Director or his/her designee.

**C. Retention of CHDO Proceeds**



Habitat is permitted to retain proceeds resulting from the expenditure of HOME Program funds. Habitat must use any CHDO proceeds for HOME-eligible or other housing activities to benefit low-income families, as required by 24 CFR 92.300(a)(2).

VI. **RESALE REQUIREMENTS.**

A. **Purchase Price Limits**

Pursuant to Section 92.254(a)(2)(iii) of the Final Rule of the HOME Program, HUD has established new homeownership value limits in place of the maximum Property Value Limit for a one-family dwelling, under the Federal Housing Administration (FHA) 203(b) schedule.

The purchase price limit for newly constructed HOME units is 95 percent of the median purchase price for the Peoria area based on Federal Housing Administration (FHA) single family mortgage program data. The purchase price limit is issued annually by HUD; for 2017 the limit is \$224,000 per property effective on March 1, 2017.

The purchase price for each of the three (3) Residences will not exceed the annual purchase price limit issued by HUD. The City will provide the purchase price limit to Habitat. Habitat agrees to partner with the City to set the purchase price of each of the three (3) Residences in accordance with the property appraised value, Homebuyer's household income and HOME regulations.

B. **Resale Provisions.**

At time of property sale, the City will execute a Homebuyer Agreement with the Homebuyer to secure the Affordability Period. The City has adopted a Resale Policy based upon the guidance found in Code of Federal Regulations Title 24, Section 92.254.

- a. The Homebuyer agrees, among other things, within the HOME Affordability Period, (a "Resale Event"): (i) to notify the City of any proposed sale of the Residence and (ii) to only sell, convey or otherwise transfer the Residence to a Low-income Buyer for a Sale Price that is affordable and provides a Fair Return on Homebuyer Investment (as hereinafter defined), excluding any one or more of the following (each, a "Permitted Transfer"): any sale, conveyance or transfer (A) to a spouse upon a dissolution of marriage, (B) to the surviving spouse upon the death of a joint tenant owner, (C) by will to a Low-income Buyer, or (D) upon foreclosure, provided however the HOME Affordability Period has not expired and any resale of the Residence is to a Low-income Buyer who will occupy the Residence for the remainder of the HOME Affordability Period.
- b. In the event of a Resale Event to a Low-income Buyer, the Low-income Buyer shall occupy the Residence as his principal residence and assume the remaining Resale Provisions of the Residence until the expiration of the HOME Affordability Period. However, the original HOME Affordability Period can be terminated and a new HOME Affordability Period will begin if additional HOME Program funds are contributed to the Residence as a result of the Resale Event.
- c. For the purposes of this Agreement, the term a "Low-income Buyer" has a gross annual income, as adjusted for family size, that is less than or equal to eighty percent (80%) of the median income for Peoria County, as determined by HUD. The "Sale Price" must be affordable to low-income buyers. In this instance, the affordable price results in a monthly housing cost for principal, interest, taxes and



insurance of not more than 30% of the gross monthly income for a low-income buyer. "Homebuyer Investment" shall be the sum of down payment and capital improvement investment made by the seller since the original purchase.

- d. At the time of resale, Net proceeds from the sale must provide the original homebuyer, now the home seller, a "fair return" on his/her investment (including any down payment and capital improvement investment made by the seller since purchase). The sales price may encompass the following in its formula:
- i. The cost of any capital improvements, documented with receipts including but not limited to the following:
    1. Any additions to the home such as a bedroom, bathroom, or garage;
    2. Replacement of heating, ventilation, and air conditioning systems;
    3. Accessibility improvements such as bathroom modifications for disabled or elderly which were not installed through a federal, state, or locally-funded grant program; and
    4. Outdoor improvements such as a new driveway, walkway, retaining wall, or fence.
  - ii. The increase in the value of owner equity and investment as calculated by the cumulative percentage of change which is calculated by the Housing Price Index (HPI) calculator of the Federal Housing Finance Agency (X) plus 1.00 times the total owner investment at time of purchase (Y) plus the documented improvements as described above (Z).
    1. *(Example - Home purchased in 2000 for \$50,000. The HPI for 2000-2004 stayed the same at +.03 for each year, which calculates to a cumulative percentage of .12. To calculate "fair return" one must multiply \$50,000 x 1.12 = \$56,000, plus the documented improvements of \$4,000 would total \$60,000. The "fair return" to the seller would be the increase in value of \$60,000, minus the original investment of \$50,000 to equal a \$10,000 fair return.)*
- e. If none of the events described in clauses (a), (b), (c), or (d) above occurs prior to the expiration of the HOME Affordability Period, or if any sale, conveyance or transfer of the Residence occurs due to a Permitted Transfer, the provisions of the Homebuyer Agreement shall be forgiven in their entirety.

C. Residency Status. In accordance with Section 92.254, Title 24 of the Code of Federal Regulations, the Residence shall remain the principal residence of the Homebuyer throughout the HOME Affordability Period.

- a. The Homebuyer agrees, among other things, within the HOME Affordability Period: to not vacate and then lease the Residence.
- b. In the event that the Homebuyer should vacate and then lease the Residence within the HOME Affordability Period, the Homebuyer agrees, upon written demand from the City sent to the Homebuyer's last known address, to re-occupy the Residence within a reasonable time as determined by the City and remain in the Residence until the expiration of the HOME Affordability Period.
- c. If re-occupancy, described in clause b, does not occur the Homebuyer agrees to repay the total amount of the HOME funds invested in the property, as set forth in Section IV, A. Budget, to the City. The repayment shall become due and payable upon the City's demand.
- d. If none of the events described in clauses (a), (b) or (c) above occurs prior to the expiration of the HOME Affordability Period, the provisions of the Homebuyer Agreement shall be forgiven in their entirety.

VII. **NOTICES**

Communication and details concerning this Agreement shall be directed to the following representatives:

<u>CITY</u>	<u>HABITAT FOR HUMANITY GREATER PEORIA AREA</u>
Community Development Director (or his/her designee)	Lea Anne Schmidgall Executive Director
City Hall	Habitat for Humanity, Greater Peoria Area
419 Fulton Street, Suite 300	931 N. Douglas Street
Peoria, IL 61602	Peoria, IL 61606
309-494-8600	309- 676-6729

VIII. **GENERAL CONDITIONS**A. Hold Harmless

Habitat shall hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of Habitat's performance or nonperformance of the services or subject matter called for in this Agreement.

B. Worker's Compensation

Habitat shall provide Worker's Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

C. Insurance

## 1. General Coverage

Habitat shall carry sufficient insurance coverage to protect contract assets, including but not limited to the property and the structure, from loss due to theft, fraud, and/or undue physical damage. If Habitat uses a general contractor and/or other sub-contractors, Habitat must require them to carry appropriate insurance. Minimum amounts of contractor's insurance is as follows:

<b>COVERAGE</b>	<b>BODILY INJURY</b>	<b>PROPERTY DAMAGE</b>
General Liability	\$300,000	\$100,000
Contractor's Liability	\$300,000	\$100,000
Automobile Liability	\$100,000/\$300,000	\$50,000
Workman's Compensation	Statutory Limits	-

All insurance policies must remain in full coverage until City staff sign off that the project is completed. It shall be the responsibility of the Habitat to provide City staff with all required certificates and/or proof of insurance.

## 2. Builder's Risk Insurance

Habitat shall require that its general contractor carry Builder's Risk Insurance to insure the completion of the structure. The amount of coverage shall equal the total projected value of the new home. Moreover, Habitat shall require the general contractor to provide proof of such insurance. Habitat and the City shall be name as additional insured of the Builder's Risk Insurance for this project.



**D. Amendments**

The City or Habitat may amend this Agreement at any time and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Habitat from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state, and local governmental guidelines, policies, and available funding amounts, or for other similar reasons. If such amendments result in a change in funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by the City and Habitat.

**E. Suspension or Termination**

The City may suspend or terminate this Agreement, in whole or in part, if Habitat materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein; and the City may declare Habitat ineligible for any further participation in the City's programs, in addition to other remedies as provided by law. In the event there is reason to believe Habitat is in noncompliance with any applicable rules or regulations, the City will suspend ALL reimbursement of the said Agreement funds until such time as Habitat is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

**F. Verification of Income**

Habitat is responsible for verifying the Homebuyer's income. Habitat shall use an application, approved by the City, for each potential homebuyer. Habitat shall determine the Homebuyer's income by examining documents such as wage statements, tax returns, interest statements, unemployment compensation statements, and Social Security statements. Annual income shall be defined as it is in 24 CFR Part 92.203 (b)(3). Upon a Resale Event, Habitat shall re-certify the new Homebuyers' income. The City will provide HUD income limits to Habitat.

Additionally, Habitat shall maintain all client data demonstrating eligibility for services provided. Such data include, but is not limited to, client name, full address, elderly, head of household, income, race, and a description of service(s) provided. Such information shall be made available to the City or their designees for review upon request.

**IX. ADMINISTRATIVE REQUIREMENTS****A. Financial Management**

Habitat acting as a Developer and as a certified Community Housing Development Organization agrees to have financial management systems that meet the standards of 24 CFR Part 200.302 & 200.303. Habitat is required to certify that their organization's standards for financial accountability meet these regulatory requirements and provide supporting documentation for this certification.

These standards include but are not limited to a financial management system sufficient to permit reports, tracing of funds, disclosure, record-keeping and account control so as to meet the requirements of the Federal statutes, regulations and terms and conditions of the award.



## B. Documentation and Record Keeping

### 1. Records to be Maintained

Habitat shall maintain all records required by the Federal regulations specified in 24 CFR Part 92.508, HOME Investment Partnerships Program, Final Rule that are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records required to document the eligibility of activities;
- c. Records required to document the eligibility of activities, specifically:
  - i. Records demonstrating that each individual/family is income eligible in accordance with 24 CFR Part 92.203;
  - ii. Records demonstrating that each project meets the property standards of 24 CFR Part 92.251 and the lead-based paint requirements of 24 CFR Part 92.355;
- d. Records required to document the acquisition, including property inventory records which clearly identify properties purchased, improved, or sold with HOME funds;
- e. Records documenting compliance with Fair Housing and Equal Opportunity components of the HOME Program;
- f. Financial records as required by 2 CFR 200.

### 2. Retention

Habitat shall retain all records pertinent to expenditures incurred under this contract for a period of five (5) years after the expiration of the Affordability Period under this Agreement. If there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until the completion of the action and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

### 3. Audits and Inspections

Habitat's records with respect to any matters covered by this Agreement shall be made available to the City and its designees, or HUD and its designees, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make copies of all relevant data. Any deficiencies noted in audit reports must be fully corrected by Habitat within 30 days. Failure of Habitat to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

In addition, Habitat understands that all aspects of the sponsored activity(ies) or program will be open to inspection by employees or agents of the City, State and/or Federal governments.

### 4. Monthly Reports

Habitat shall submit a monthly budget and report regarding the budget and expenditures of the HOME project. The City will provide Habitat with the reporting forms. The reports shall be submitted to the Community Development Director (or his/her designee) no later than the 10<sup>th</sup> day of the month as long as funds remain to be expended. If no funds are used in a particular month and no progress was made toward the completion of the project's

objectives, then Habitat will submit a budget and program report showing that no funds were expended.

X. **OTHER PROGRAM REQUIREMENTS**

A. **Property Standards**

The housing funded by HOME funds must meet the property standards of 24 CFR 92.251, including compliance with all City of Peoria housing, building and zoning codes. The housing must meet the accessibility requirements of 24 CFR part 8.

B. **Conflict of Interest**

Habitat understands and agrees that no person, who is an employee, agent, consultant, or officer of Habitat may obtain an interest, financial or otherwise, or benefit from a HOME assisted activity or have any interest in any contract, subcontract, or agreement with respect to any HOME assisted activity pursuant to 24 CFR 92.356. This prohibition applies to employees, agents, consultants, or officers of Habitat or those with whom they have family or business ties during their entire employment/business relationship with Habitat and for one (1) year after the expiration of their employment/business relationship with Habitat.

C. **Nondiscrimination**

Habitat will not discriminate against anyone because of race, color, creed, religion, sexual orientation, gender identity, ancestry, national origin, sex, disability, or other handicap, age, marital or familial status, or status with regard to public assistance. Habitat will take affirmative action to insure that all practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Habitat agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

Specifically, Habitat must show proof of valid City EOO Certification prior to any request for the reimbursement of funds.

D. **Religious Organization**

Habitat agrees that funds provided under this contract will not be used for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR Part 92.257.

E. **Prohibition Against hiring City Employees**

Habitat agrees, as a condition of accepting this Agreement with the City, that for a period of one year following completion of this Agreement, that it shall be prohibited from hiring, directly or indirectly, any City employee or official who was involved, directly or indirectly in: (1) the selection and/or recommendation to select the Habitat for performance of this Agreement; (2) coordinating the efforts of the Habitat in the consummation or completion of this Agreement; or (3) monitoring or determining the performance of the Habitat. Habitat further acknowledges and agrees that upon the City's determination that a violation of this provision has occurred, the penalty imposed, at the sole discretion of the City, may include one or more of the following; (1) cancellation of any other contract(s) between the City and the Habitat; (2) disqualification of the



Habitat from bidding or being awarded future contracts with the City for a period of 2 years; and/or (3) payment of liquidated damages to the City in the amount of \$25,000.

XI. **ENVIRONMENTAL REQUIREMENTS**

A. **Environmental Assessment**

The City shall conduct an environmental assessment pursuant to 24 CFR, Part 58 prior to approving any requests for the release of funds by Habitat. Habitat understands and agrees that it may not receive any funds until the City has conducted an Environmental Assessment pursuant to 24 CFR Part 58 and approved accordingly.

B. **Lead-Based Paint Requirements**

Habitat agrees to comply with the lead-based paint provision of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821, et seq. and the lead-based paint requirements in 24 CFR Part 92.355 and 24 CFR Part 35.

XII. **SEVERABILITY**

If any provision of the Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. **ENFORCEMENT OF THIS AGREEMENT**

If Habitat fails to comply with the requirements and covenants contained herein, the same shall constitute a breach of this Agreement and the City shall be entitled to all remedies under Illinois law at the time of the breach.

[Signatures on Next Page]

APPROVED AND EXECUTED AS OF THIS 2 DAY OF \_\_\_\_\_ August \_\_\_\_\_ 2017.

CITY OF PEORIA, an Illinois  
Municipal Corporation

By: [Signature]  
City Manager Acting 8-2-17

Habitat for Humanity Greater Peoria Area,  
a Non-Profit Organization

By: [Signature] 8/2/2017  
ITS: Executive Director

Attest: [Signature]  
City Clerk

Approved as to Content:  
[Signature] 8-2-17  
Corporation Counsel

Approved as to Form:  
[Signature] 08.02.2017  
Community Development Department