

THIS INSTRUMENT PREPARED BY:
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Goren, Cherof, Doody & Ezrol PA
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**DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY AND
HABITAT FOR HUMANITY OF SOUTH PALM BEACH COUNTY, INC.
AMENDED AND RESTATED REPURCHASE AGREEMENT**

THIS AMENDED AND RESTATED REPURCHASE AGREEMENT ("Amendment") is made this ____ day of May, 2022, by DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY, a Florida public body corporate and politic created pursuant to Section 163.356 F.S. (hereafter the "Seller"), and HABITAT FOR HUMANITY OF SOUTH PALM BEACH COUNTY, INC., a Florida not-for-profit corporation, (hereinafter the "Purchaser").

W I T N E S S E T H :

WHEREAS, Seller and Purchaser are parties to that certain Repurchase Agreement, dated November 5, 2019 and recorded November 8, 2019 in OR Book 31014, Page 1506, of the Public Records of Palm Beach County, Florida (the "Repurchase Agreement"), pursuant to which Purchaser was to obtain a certificate of occupancy for the residences to be constructed on certain real property located in the City of Delray Beach, Palm Beach County, Florida, more particularly described on Exhibit "A" attached hereto (the "Property") within seven hundred thirty (730) calendar days subsequent to the purchase of the Property from the Seller;

WHEREAS, Purchaser applied for two building permits in November of 2020 but was informed by the Delray Beach Development Services Department that the Property would need to be re-platted in order for Purchaser to receive permit approval.

WHEREAS, this Amendment serves to amend and restate the Repurchase Agreement for the purpose of extending the time for Purchaser to obtain a certificate of occupancy for the Property;

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, Purchaser and Seller agree and covenant as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Seller expressly reserves the right at its sole option and election, to repurchase the Property for the same Purchase Price as paid by Purchaser to Seller hereunder, in the event the Purchaser shall fail to develop the Property and obtain a certificate of occupancy for the two (2) single family residences to be constructed on the Property, pursuant to the terms and conditions contained in this Amendment; subject, however, to extensions for delays attributable to Force Majeure as defined herein below.
3. Purchaser shall have five hundred forty seven (547) calendar days or eighteen (18) months from the date of this Amendment to obtain a certificate of occupancy for each of the two (2) single family residential homes. In the event Purchaser obtains a certificate of occupancy for only one of the residential

homes but not the second residential home, Seller shall still have the right to repurchase the subdivided Property.

4. Seller shall have seven hundred thirty (730) calendar days or twenty-four (24) months from the date of this Amendment to repurchase the Property in the event Purchaser does not obtain a certificate of occupancy for the two (2) residential homes in the time period referenced in Section 3 above.

5. The Seller shall have the right to review and approve the construction plans for the single family home to be constructed on the Property. Purchaser shall not commence construction of the single family home until the Seller has provided written approval of the plans for the single family home. "Commence construction" shall mean the initiation and continuance by Purchaser of site preparation work for the Project which shall include excavation, fencing of the site, installation of the construction trailer, clearing and relocation of utilities on the Project.

6. In the event the Purchaser fails to obtain the certificate of occupancy as required by the terms and provisions of this Amendment, then the Seller may elect to exercise its right to repurchase the Property by providing written notice to the Purchaser of the failure, and an opportunity to cure said failure within thirty (30) days of the written notice. The closing effectuating the repurchase shall occur within thirty (30) days of the date of the Purchaser's failure to cure and written notice to Purchaser of the Seller's election to repurchase the Property. The re-conveyance shall be effectuated by a Special Warranty Deed subject to good and marketable title. All costs associated with the reconveyance of the property to the Seller, including, but not limited to, recording fees, documentary stamps, unpaid taxes, and assessments, both ad valorem, and non-advalorem, shall be borne by the Purchaser. In the event the Purchaser fails to execute the Special Warranty Deed to reconvey the Property to the Seller, the Seller shall have the right to pursue all legal remedies, including specific performance. In the event the Seller must file suit to require the Purchaser to reconvey the Property, the Purchaser shall pay all costs, expenses, reasonable attorney's fees and paralegal expenses incurred by the Seller at both the trial and appellate levels.

7. Acknowledgments. Seller and Purchaser hereby, agree and acknowledge as follows:

(a) The date for issuance of the certificate of occupancy may be extended on a day for day basis for delays occasioned by acts of God, catastrophe and inclement weather which is in excess of those days normally forecasted by the National Weather Service for the given month in South Florida which interfere with construction, unforeseen physical conditions on the site, unavailability or shortages of material or labor, labor dispute, governmental approvals or restrictions and any appeals thereof, claims or lawsuits by any third party (whether individual or otherwise) threatened or instituted to prevent the issuance of any approvals or permits, the commencement of construction or otherwise stop construction of the development after commencement, or other matters beyond the reasonable control of Purchaser (collectively, "Force Majeure").

(b) By the tenth (10) business day of each month, Purchaser shall deliver, or cause to be delivered to Seller a list of the days during each proceeding month as to which Purchaser believes the Force Majeure provisions apply and the reasons therefore. Seller shall, within ten (10) business days after receipt of any such list provide notice to Purchaser as to whether Seller disputes that any of the days set forth on that list would give rise to an extension of time for Purchaser's performance based on Force Majeure. Any days claimed to be subject to the foregoing Force Majeure provision by Purchaser which are not so disputed by Seller within said time period shall be deemed approved by Seller.

(c) In the event of a dispute between SELLER and PURCHASER as to whether a claim for delay is valid or otherwise in connection with this Amendment and the transactions contemplated thereby shall be endeavored to be resolved and settled by mediation using a mutually acceptable third-party mediator.

Such mediator shall be appointed upon the written demand of either party. Upon such appointment, the mediation shall be held within fifteen (15) days at a mutually agreeable site in Palm Beach County, Florida. The fees and expenses of such mediator shall be born equally by the parties hereto. In the event of the failure of the parties to settle the dispute by mediation, either party may bring the dispute for legal redress before the City Court in and for Palm Beach County, Florida.

(d) Purchaser and Seller agree that Seller's right to repurchase the Property (the "Repurchase Right") shall terminate upon the Seller's execution of a Termination of Repurchase Right. Upon the satisfaction of the conditions set forth in Section 3 herein, Seller shall execute a Termination of Repurchase Right. Upon execution of the Termination of Repurchase Right, this Amendment shall also terminate and be of no further force and effect.

(e) For avoidance of doubt, Purchaser and Seller agree that Seller's right to repurchase the Property shall automatically terminate and be of no further force or effect upon the issuance of a Certificate of Occupancy ("C.O.").

(f) Each party, by signing this Amendment, certifies that it has full authority to enter into this Amendment, and the execution, delivery, and performance of this Amendment have each been duly authorized pursuant to all requisite authority, and this Amendment constitutes the legal, valid, and binding obligations of Purchaser and Seller, each enforceable in accordance with its respective terms.

(g) The provisions of this Amendment shall be binding upon and inure to the benefit of Purchaser and Seller and their respective successors and assigns.

(h) This Amendment shall be governed by and construed in accordance with the laws of the State of Florida.

(i) This Amendment may be executed in several counterparts each of which when executed and delivered is an original, but all of which together shall constitute one instrument.

(j) Signatures transmitted by facsimile transmission or otherwise appearing on a facsimile transmission of this Amendment shall be treated in all manner and respects and have the same binding legal effect as original signatures. The parties hereto hereby agree that none shall raise the use of a facsimile machine as a defense to the enforceability of this Amendment and forever waive such defense.

(k) The Seller and Purchaser may agree to an extension of any time period contained in this Amendment pursuant to the execution of a Second Amendment to the Repurchase Agreement.

[Space Left Intentionally Blank; Signature Page to Follow]



IN WITNESS WHEREOF, Purchaser and Seller have executed this Amendment as of the date first above written.

WITNESSES:

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

Print Name: _____

By: _____
Shirley E. Johnson, Chair

Print Name: _____

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ___ online notarization or ___ physical presence this ___ day of May, 2022, by Shirley E. Johnson, as Chair of the Delray Beach Community Redevelopment Agency, on behalf of the Agency, who () is personally known to me or () has produced a Florida driver's license as identification.

My Commission expires:

Notary Public, State of Florida

Printed Name of Notary Public

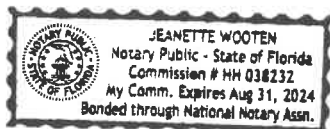
HABITAT FOR HUMANITY OF SOUTH
PALM BEACH COUNTY, INC., a Florida
not-for-profit corporation

By: Jeff Fengler
Print Name: Jeff Fengler
Title: Director of Construction

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ___ online notarization or ☒ physical presence this 19th day of May, 2022, by Jeff Fengler, as Director of Construction of Habitat for Humanity of South Palm Beach County, Inc., a Florida not-for-profit corporation, on behalf of the corporation, who (☒) is personally known to me or () has produced Florida driver's licenses as identification.

My commission Expires:



Jeanette Wooten
Notary Public, State of Florida
Jeanette I. Wooten
Printed Name of Notary Public

EXHIBIT "A"

The South 90 feet of the North 150 feet of the East 135 feet of Block 10, Map of The Town of Linton n/k/a Delray Beach, according to the map or plat thereof as recorded in Plat Book 1, Page 3, Public Records of Palm Beach County, Florida.

