

## ADDENDUM TO COMMERCIAL CONTRACT

THIS ADDENDUM to the Commercial Contract dated \_\_\_\_\_, (hereinafter the "Contract") between City of Key West, Florida ("Seller") and The Housing Authority of the City of Key West, Florida, a body politic organized under Chapter 421 of the Florida Statutes ("Buyer"), concerning the real property located at 5220, 5224, 5228, and 5230 College Road, Key West, Florida 33040 (the "Real Property").

IT IS HEREBY AGREED AS FOLLOWS:

1. Real Property. Seller acknowledges that the Real Property shall include a) all of Seller's right, title and interest, if any, in and to any and all easements, rights, privileges, air rights, and other rights, tenements, hereditaments, and appurtenances in any way belonging or appertaining to, or otherwise inuring to the benefit of, the Real Property or the improvements; and (b) all of Seller's right, title, and interest, if any, to the air space above the Real Property, and zoning entitlements, development rights, and appurtenances accruing to the Real Property, and/or related to the proposed development thereof, under, or by reason of, any applicable zoning ordinance or other law, rule, regulation, or ordinance (the "Development Rights"); and (ii) any and all tangible and intangible personal property of Seller located on, or related to, the Real Property, including, without limitation (a) all development rights for the Real Property, or any part thereof, which Seller has, including, without limitation, those relating to utilities, prepaid water and sewer connection fees, reservation fees and impact fees; (b) all right, title and interest of Seller in any approved site plans, development plans, development orders or development agreements as they relate to the Real Property; (c) all environmental, water, sewer, drainage, road, excavation, fill and all other construction and development applications, permits, licenses, and rights, contractual or otherwise, relating to the Real Property; (d) all rights and interests of Seller under any agreements relating to flood control, drainage, roads, water or sewer facilities or other infrastructure, construction and development for the Real Property; and (e) any and all right, title and interest of Seller in any environmental and/or wetlands mitigation relating to the Real Property, or any portion thereof.

2. Intentionally deleted.

3. Financing. This Contract is contingent upon Buyer obtaining financing in amount to be determined by Buyer, in Buyer's sole and absolute discretion, from Monroe County Land Authority, Florida Housing Finance Corporation and/or any other financial institutions that may be necessary to finance the purchase of the Real Property.

4. Closing Date. The Closing Date shall be ninety (90) days after approval of all necessary financing (with all time to appeal the Florida Housing Finance Corporation allocation(s) having expired and with no appeal then pending and no appeal instituted or petition filed) referenced in Paragraph 2; provided however, in no event shall the Closing Date be less than six (6) months from the Application Deadline (as defined in that certain RFA 2019-101-CDBG-DR Request for

Applications).

5. Closing Conditions. Seller and Buyer acknowledge and agree that the obligation of Buyer to consummate the transaction contemplated hereby is also subject to the satisfaction of the following conditions (the “Closing Conditions”), unless waived in writing by Buyer prior to Closing:

(a) At Closing, there shall have been no material, adverse change to the condition of the Real Property from the condition existing on the Effective Date, including, without limitation, any adverse change to the environmental condition of the Real Property.

(b) By Closing, Buyer shall have satisfied or waived in writing the “Florida Housing Finance Corporation Contingency.” For purposes of this Agreement, the term “Florida Housing Finance Corporation Contingency” means, collectively: (i) an award from Florida Housing Finance Corporation (“FHFC”) in connection with a Request for Applications (RFA 2019-101) issued by FHFC, for Community Development Block Grant-Disaster Recovery Financing (the “CDBG-DR”) in an amount sufficient, in Buyer's sole and absolute discretion, to enable Buyer to acquire the Real Property and construct its intended improvements on the Real Property, with all time to appeal such award having expired and with no appeal then pending and no appeal instituted or petition filed. If Buyer has not satisfied the Florida Housing Finance Corporation Contingency, as a result of not receiving an allocation of CDBG-DR for the acquisition and development of the Real Property, Buyer shall have the right to terminate this Contract upon delivering written notice thereof to Seller.

(c) By Closing, Seller shall have cured and/or closed, as applicable, any violations of applicable laws, ordinances, rules, requirements, or zoning, building, fire or other codes of any governmental agency, body or subdivision thereof with respect to the Property (collectively, “Code Violations”) and closed any open permits with respect to the Property (the “Open Permits”), and provide to Buyer documentation reasonably satisfactory to Buyer confirming that the Code Violations have been completely remedied and any Open Permits have been closed.

(d) In addition to any rights or remedies that Buyer may be entitled to under this Agreement, if any of the Closing Conditions are not satisfied by Closing, Buyer shall have the right to terminate this Agreement upon delivering written notice to Seller, in which event the escrow deposit, to the extent a deposit was paid, shall be returned to Buyer and all further obligations of the parties hereunder shall terminate, except those that expressly survive termination hereof.

5. Notices. All notices shall be in writing unless provided for elsewhere in the Contract, and shall be deemed delivered and received (i) on the date when personally delivered; (ii) on the date sent by email transmission sent to the party to receive such notice, provided, in either instance, that a copy is also sent via a nationally recognized carrier for delivery the next business day; (iii) on the date when actually received when delivered by a commercial express delivery service who obtains a receipt; or (iv) three (3) days after deposit in any post office or mail receptacle maintained or authorized by the United States Postal Service, certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

As to Seller: City of Key West, Florida  
ATTN: James K. Scholl  
1300 White Street  
[jscholl@cityofkeywest-fl.gov](mailto:jscholl@cityofkeywest-fl.gov)

With a copy to: Shawn Smith  
1300 White Street  
Key West, FL 33040  
[sdsmith@cityofkeywest-fl.gov](mailto:sdsmith@cityofkeywest-fl.gov)

As to Buyer: The Housing Authority of the City of Key West, Florida  
ATTN: Manuel Castillo  
1400 Kennedy Drive  
Key West, Florida 33040  
[castillom@kwha.org](mailto:castillom@kwha.org)

With a copy to: Spottswood, Spottswood, Spottswood & Sterling, PLLC  
ATTN: Jack Spottswood  
500 Fleming Street  
Key West, FL 33040  
[jack@spottswood.com](mailto:jack@spottswood.com)

6. Addendum Provisions to Control. To the extent that there is any inconsistency or conflict with any of the provisions contained in this Addendum with the Commercial Contract, the provisions set forth in this Addendum shall govern the understanding between the Seller and Buyer. All terms and conditions in the Commercial Contract not specifically referenced in or amended by this Addendum shall and do remain in full force and effect and are hereby ratified and confirmed by Seller and Buyer in all other respects.

*The remainder of this page has intentionally been left blank.  
Signature page to follow.*

SELLER: CITY OF KEY WEST, FLORIDA

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

BUYER: THE HOUSING AUTHORITY OF THE CITY OF KEY WEST, FLORIDA

By: \_\_\_\_\_

Printed Name: J. Manuel Castillo, Sr.

Its: Executive Director

DATE: \_\_\_\_\_