

AGREEMENT

THIS AGREEMENT is made this ____ day of May, 2018, by and between the City of Lawrence, Kansas, a municipal corporation, and Lawrence Habitat for Humanity, Inc., a Kansas not for profit corporation.

RECITALS

- A.** In 2015, the City of Lawrence, Kansas ("City"), a municipal corporation, established the Affordable Housing Advisory Board to make recommendations to the Governing Body regarding the Affordable Housing Trust Fund.
- B.** At its July 10, 2017, meeting, the Affordable Housing Advisory Board recommended that the Governing Body approve a proposal from Lawrence Habitat for Humanity, Inc., a Kansas not for profit corporation ("Grantee"), to use \$75,000.00 from the Affordable Housing Trust Fund to help fund the construction of two affordable homes, located at 1901 East 17th Street and 1905 East 17th Street, Lawrence, Douglas County, Kansas, which houses have since been constructed ("the Completed Project").
- C.** At its January 16, 2018, public meeting, the Governing Body approved the recommendation of the Affordable Housing Advisory Board and authorized the City Manager to enter into an agreement with Grantee, whereby Grantee would receive a grant from the Affordable Housing Trust Fund in the amount of \$75,000.00 to reimburse Grantee for a portion of the costs of the Completed Project.
- D.** This Agreement memorializes the terms of such Agreement and grants to Grantee the sum of \$75,000.00 from the City's Affordable Housing Trust Fund for reimbursement of a portion of the costs of the Completed Project, subject to Grantee's execution of this Agreement and compliance with its terms.

TERMS

NOW, THEREFORE, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

SECTION 1. Grant of Funds. In consideration of the Completed Project and in accordance with the recommendation of the Affordable Housing Advisory Board, as approved by the Governing Body, the City hereby grants to Grantee the sum of **SEVENTY-FIVE THOUSAND AND NO DOLLARS** (\$75,000.00) to reimburse Grantee for a portion of the costs of the Completed Project.

SECTION 2. Grantee's Covenants. As consideration for receipt of the grant, Grantee agrees and covenants that it has already expended that amount as a portion of the costs

of the Completed Project for which it is being reimbursed herein, and that it has and will comply with the following:

- (a) All applicable federal, state, and local laws.
- (b) The recommendation of the Affordable Housing Advisory Board, as approved by the Governing Body, which provides said funds to reimburse Grantee for a portion of the costs of the Completed Project.

SECTION 3. Disbursement of Funds.

- (a) The Grantee shall, in writing, request the disbursement of funds in a lump sum on Grantee's official letterhead.
- (b) Together with its request for disbursement of funds, Grantee shall submit to the City Manager's Office those items required by Section 4, *infra*.
- (c) Upon receipt of the request in writing and review of Grantee's final report, the City shall, if Grantee has complied with all of its covenants herein, disburse to Grantee the grant in a lump sum payment.
- (d) In accordance with the Kansas Cash-Basis Law of 1933, codified as amended at K.S.A. 10-1101 *et seq.*, the City retains the right to unilaterally adjust the amount of the disbursement if the Governing Body determines that insufficient public funds exist to fully fund Grantee at level set forth in this agreement.

SECTION 4. Reporting Requirements. The Grantee shall deliver to the City Manager's Office a final report, which final report shall include photographs of the Completed Project, a narrative describing in detail what was accomplished and the nature of the Completed Project, and documentation showing Grantee's full accounting for the Completed Project.

SECTION 5. Term. This Agreement will terminate five years from the date of this Agreement or upon the joint agreement of the parties, whichever occurs earlier. The parties agree that the Indemnity provision, as set forth in Section 7, and the Claw-back Provision, as set forth in Section 9, shall survive any early termination of this Agreement upon the joint agreement of the parties.

SECTION 6. Compliance with Equal Opportunity Laws, Regulations, and Rules

- (a) Grantee agrees that it will comply with all provisions of the Kansas Acts Against Discrimination of 1953 ("KAAD"), codified as amended at K.S.A. 44-1001 *et seq.*, and the Kansas Age Discrimination in Employment Act of 1983 ("KADEA"), codified as amended at K.S.A. 44-1111 *et seq.* and shall not discriminate against any person, in the course of performing under this Agreement, because of that person's race, religion, sex, disability, national origin, ancestry, sexual orientation, familial status, or age.
- (b) In all solicitations or advertisements for employees, Grantee shall include the phrase "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("KHRC").
- (c) In any subcontract, grantee agrees to include the language of this Section applicable to any subcontractor hereunder.
- (d) Grantee also agrees to comply with the American with Disabilities Act of 1990 ("ADA"), codified as amended at 42 U.S.C. § 12101 *et seq.*, as well as all other federal, state, and local laws, ordinances, rules, and regulations applicable to this project and to furnish any and all certification that may be required by federal, state, or local governmental agencies in connection therewith.
- (e) If Grantee is found guilty or liable for any violation of the KAAD or the KADEA by way of a final decision or order of the KHRC, then Grantee shall be deemed to have breached the present Agreement and the City may take whatever legal action may be necessary.

SECTION 7. Indemnification. Grantee agrees to defend, indemnify, and otherwise hold harmless the City, its commissioners, officers, employees, and agents from any and all claims, actions, damages, costs, liabilities, settlements, judgments, expenses, or lawsuits, including attorneys' fees, but only to the extent that such are caused by Grantee's breach of this Agreement or by Grantee's negligence in performing the Completed Project.

SECTION 8. Entire Agreement.

- (a) This Agreement represents the entire and integrated agreement between the City and Grantee and supersedes all prior negotiations, representations, or agreements between the parties, whether written or oral. This Agreement may be amended only by a written instrument signed by both the City and the Grantee.
- (b) No oral orders, objections, claims, or notices by any party to the other shall affect or modify any of the terms or obligations set forth in this Agreement;

and none of its provisions shall be deemed waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver, modification, or amendment made in writing and signed by both parties.

SECTION 9. Claw-back Provision. Notwithstanding any provision herein to the contrary, in the event that, within five years after the date of this Agreement, the City discovers that Grantee has violated any terms of this Agreement, then the City shall have the right to clawback, and Grantee shall be obligated to return, the amount granted herein.

SECTION 10. Assignment. This Agreement is non-assignable by the Grantee or by the City.

SECTION 11. Authorizations. Each person executing this Agreement in behalf of the City and Grantee hereby represents and warrants that he or she has the authority to bind his or her respective party hereto and that all acts requisite to confer authorization to enter into this Agreement have been taken and completed.

SECTION 12. Independent Contractor. In no event, while performing under this Agreement, shall Grantee, its officers or principal, its employees, its agents, its subcontractors, or its vendors be deemed to be acting as an employee or as employees of the City; rather, Grantee, its officers or principal, its employees, its agents, its subcontractors, and its vendors shall be deemed to be an independent contractor or independent contractors. Nothing expressed herein or implied herein shall be construed as creating between Grantee and the City the relationships of employer and employee, principal and agent, a partnership, or a joint venture.

SECTION 13. Force Majeure. Neither party shall be deemed to be at default under this Agreement to the extent that any delay in performance results from any cause beyond its reasonable control and without its intentional act or negligence.

SECTION 14. Captions. The Captions of this Agreement are for convenience only and are not meant by the parties to define, limit, or enlarge the scope of this Agreement or its terms.

SECTION 15. Recitals. The recitals set forth at the beginning of this Agreement are adopted and incorporated herein by reference as if set forth in full and shall be effective as if repeated *verbatim*.

SECTION 16. Governing Law. This Agreement, the rights and obligations of the parties, and any claim or dispute arising hereunder shall be construed in accordance with the laws of the State of Kansas.

SECTION 17. Severability. In the event that any provision of this Agreement shall be held invalid and unenforceable, the remaining portions of this contract shall remain valid and binding upon the parties.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date noted above.

CITY:
City of Lawrence, Kansas, a
municipal corporation

THOMAS M. MARKUS
City Manager

ACKNOWLEDGMENT

THE STATE OF KANSAS)
)
THE COUNTY OF DOUGLAS) ss:

BE IT REMEMBERED, that on this ____ day of _____, 2018, before me the undersigned, a notary public in and for the County and State aforesaid, came Thomas M. Markus, as City Manager of the City of Lawrence, Kansas, who is personally known to me to be the same person who executed this instrument in writing, and said person fully acknowledged this instrument to be the act and deed of the aforementioned entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last written above.

Notary Public

My Appointment Expires:

GRANTEE:

**Lawrence Habitat for Humanity, a
Kansas not-for-profit corporation**

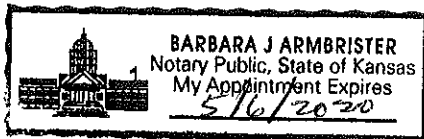

Erika Zimmerman
Executive Director

ACKNOWLEDGMENT

THE STATE OF KANSAS)
)
THE COUNTY OF DOUGLAS) ss:

BE IT REMEMBERED, that on this 18 day of April, 2018, before me the undersigned, a notary public in and for the County and State aforesaid, came Erika Zimmerman, as Ex. Director of Lawrence Habitat for Humanity, a Kansas not for profit corporation, who is personally known to me to be the same person who executed this instrument in writing, and said person fully acknowledged this instrument to be the act and deed of the aforementioned entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last written above.




Notary Public

My Appointment Expires: