NEIGHBORHOODS DEPARTMENT
Housing and Community Development Division

Jacksonville
Where Florida Begins.

MEMORANDUM

DATE: December 28, 2016

TO: Gregory Pease, Chairman
Professional Services Evaluation Committee

FROM: Diana Seydlorsky, Chief
Housing and Community Development Division

THROUGH: Dayatra Coles, Affordable Housing Administrator
Housing and Community Development Division

SUBJECT: P-08-11 – Neighborhood Stabilization Program-3 (NSP-3)
Wealth Watchers, Inc. (Project: First Street East)
Amendment #4 to Contract #8697-25

On February 13, 2013, the City of Jacksonville and Wealth Watchers, Inc. entered into NSP-3 Contract #8697-25, as amended by that certain First Amendment to Contract dated as of March 4, 2015, that certain Second Amendment to Contract dated as of August 30, 2015, and that certain Third Amendment to Contract dated as of April 8, 2016, (collectively the "Contract"), for the acquisition and construction costs associated with the project located at First Street East, Jacksonville, Florida (the "Project"). Due to delays associated with Hurricane Matthew and modification of engineering to meet the unique needs of the site, an extension to September 30, 2017 is needed in order to complete construction of the Project. Accordingly, the Housing and Community Development Division requests approval of the following:

1. Amend the Contract as follows:

   a) Extend the funding period from December 31, 2016 to September 30, 2017;

   b) Incorporate the attached Project Description and General Scope of Services Requirements identified as "Fourth Revised Attachment A";

   c) Incorporate the attached Project Development Schedule, identified as "Fourth Revised Attachment A-9."

2. Amend any of the Project's loan documents with any necessary changes.

Your favorable consideration to this request is appreciated. Thank you.

Attachments: Fourth Revised Attachment A: Project Description and General Scope of Services
Fourth Revised Attached A-9: Project Development Schedule
Copies of Contract and Amendments

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FOURTH REVISED ATTACHMENT A
Project Description and General Scope of Services Requirements

Recipient: **WEALTH WATCHERS, INC.**
1225 West Beaver Street
Jacksonville, Florida 32204

Funding Amount: **$2,750,000.00**

Name of Project – The Recipient's acquisition, predevelopment of a vacant parcel for the development and construction of a **twenty-four (24) unit** multifamily rental project on the property more particularly described below (the "Project"):

Lots 1, 2, 3, 24, 25 and 26, Block 4, CAMPBELLS ADDITION TO JACKSONVILLE, as per plat thereof, recorded in Plat Book 2, page 21, of the current public records of Duval County, Florida.

(also known as First Street East, Jacksonville, Florida 32206)

The remainder of this **Attachment A** concerns the purpose for which the Recipient conducts its business and the general requirements relating to the Scope of Services.

SCOPE OF SERVICES

The grant amount provided by the City, pursuant to this Contract is **$2,750,000.00**, and shall be used solely and exclusively for payment of acquisition, and predevelopment, and construction costs within Duval County, Florida. Funds will be provided for the acquisition and predevelopment of rental housing units in accordance with the City's NSP-1, NSP-3, HOME, and SHIP program policies and applicable law. The Recipient shall commence the acquisition and predevelopment of the Project upon the execution of this Contract and complete the construction of the Project in accordance with the Project Schedule (**Revised Attachment A-9**), the Project Redevelopment Plan and Specifications (**Attachment A-1**) and the Project Pro Forma Budget (**Revised Attachment A-6**) attached hereto. It is the intent of this activity to emphasize the upgrading of low, moderate and middle income rental conditions by increasing the funds available for reconstruction of deteriorated units. The combined total amount of repairs per unit may not exceed the amount calculated in the cost allocation and subsidy layering analysis.

Prior to commencement of the reconstruction, the Recipient shall supply and furnish to the City at least one (1) copy of the final plans and specifications for the rehabilitation, including without limitation, all maps, sketches, diagrams, surveys, drawings and lists of materials. The plans and specifications shall be prepared by an architect acceptable to the City and shall be subject to approval in advance by the City. No amendments, modifications or other changes to the plans and specifications may be made without the prior written consent of the City (which may be withheld in its sole discretion).

Number of Units to Complete: Multifamily project consisting of twenty-four (24) rental units

Duration of Project: Effective Date through September 30, 2037

Duration of Funding: Effective Date through September 30, 2017

Location of Project: First Street East, Jacksonville, Florida

1. **Use of Grant Proceeds**. The total deferred payment loan amount provided by the City, pursuant to this Contract is **$2,750,000.00** (the "Proceeds"). The Proceeds shall be used for the acquisition, predevelopment costs, and construction costs associated with the construction of a multifamily project consisting of **twenty-four (24) rental units** for low, moderate and middle income persons or families located at the address above (collectively and individually the "Rental Units" or "Rental Unit"), as encumbered by a mortgage set forth in **Attachment A-2**, the restrictive covenants set forth in **Attachment A-3**, the collateral assignment of rents and leases set forth in **Attachment A-5**, and the indebtedness of the deferred payment loan evidenced by the City Note set forth in **Attachment A-4.** The Proceeds shall be used strictly in compliance with the Project Sources and Uses of Funds, attached hereto as **Attachment A-7** and incorporated herein by this reference and shall not be used for any other purpose or manner.

2.1 **Affordable Housing Requirements**.

a. The Rental Units will be occupied by households whose annual incomes **do not exceed one-hundred twenty percent (120%) of the Area Median Income ("AMI") for Jacksonville, Florida, except that not less than eight (8) of the twenty-four units shall be set aside for the exclusive use of households at or below eighty (80%) of the AMI for Jacksonville, Florida, and six (6) of the twenty-four (24) units shall be set aside for the exclusive use of households at or below fifty percent (50%) of the AMI for Jacksonville, Florida,** as determined by HUD and as shown in the table attached hereto as **Attachment D**, with adjustments for smaller and larger families.

b. The Rental Units will not be refused for leasing to the holder of a certificate of family participation under 24 C.F.R. Part 882 (Rental Certificate Program) or the holder of a rental voucher under 24 C.F.R. Part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in an NSP, HOME and/or SHIP tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate of family participation, rental voucher, or comparable NSP, HOME and/or SHIP tenant-based assistance document.

c. The City will review and approve the rents proposed by the Recipient of the Rental Units, as well as the monthly allowance proposed by the Recipient for utilities and services to be paid by the tenant. The Initial Rent Schedule and Initial Utility Allowance Schedule for such units are attached hereto as **Attachment A-8**. The Recipient will re-examine the income of each tenant household living in very low or low-income units at least annually. The maximum monthly rent will be recalculated by the Recipient and reviewed and approved by the City annually, and may change as changes in the applicable gross rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increase in rent for lower income units is subject to the provisions of outstanding leases, and in any event, the Recipient must provide tenants of those units not less than thirty (30) days prior written notice before implementing any increase in rent. However, the City's approval of adjustments to rents and utility allowances does not negate any requirements for seeking HUD's prior written approval of rent and utility allowance adjustments as required under the Housing Assistance Payment (HAP) Contract, if applicable.

d. Rental housing qualifies as affordable housing despite a temporary noncompliance if the noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this contract until the noncompliance is corrected. Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law, or thirty percent (30%) of the family's adjusted monthly income, as recertified annually.

e. Changes in fair market rents and in the AMI over time should be sufficient to maintain the financial viability of the Project within the qualifying rent standards in paragraph 2.1 herein. Regardless of changes in fair market rents and in the AMI over time, the qualifying rents are not required to be lower than the rent for the Project that is in effect at the time of Project commitment.

The City, with prior HUD approval, may adjust the qualifying rents established for the Rental Units under 2.1 only if the City and HUD find that an adjustment is necessary to support the continued financial viability of the Project and only by an amount that the City and HUD determine is necessary to maintain continued viability of the Project.

f. In the event that requirements of 24 C.F.R. Part 92 will become less restrictive with respect to the income levels for eligibility for occupancy of Rental Units, the requirements of the then-applicable governmental regulations will prevail over those stated in this contract.

2.2 **Non-Discrimination.** The Recipient will not discriminate against any person or family on the ground of race, color, national origin, sex, religion, family status, or handicap in the use, lease, rental, sale, or occupancy of any residential unit in the Project. Age discrimination and discrimination against minor dependents are also not permitted. The Recipient will further meet the equal opportunity and fair housing requirements of 24 CFR 92.257.

3. The Project shall meet all relevant requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 110-289, HUD Docket No. FR-5447-N-01, HERA, Public Law 110-289, HUD Docket No. FR-5255-N-01, HUD Docket No. FR-5255-N-02, the City's NSP Substantial Amendment to the Consolidated Plan, HOME program requirements, and SHIP program requirements as to the following:

Maximum per unit subsidy shall not exceed (Effective January 1, 2015, as amended from time to time):

0-Bedroom	$140,107
1-Bedroom	$160,516
2-Bedroom	$195,304
3-Bedroom	$252,662
4-Bedroom	$277,344

__X__ Property Maintenance Standards;
__X__ Qualification as affordable housing and income targeting; rental housing;
__X__ Tenant and participant protections:
__X__ Mixed-income project;
_____ Mixed-use project

4. **Performance Schedule*** All expenditures must be completed by **September 30, 2017.** See the attached Draw Schedule entitled **Fourth Revised Attachment A-9.**

All draws are contingent upon passing an inspection by the Housing and Community Development Division and the Building Inspection Department, and Recipient's satisfactory completion of the requirements set forth in **Attachment B-2, and Attachment E.*

5. **Special Terms and Conditions**: Schedule for Completing Tasks: The construction schedule for the Project is set forth in the attached **Fourth Revised Attachment A-9**. Additionally, the Recipient shall ensure that the construction of the Project shall meet the current edition of the Model Energy Code published by the Council of American Building Officials, and, to the greatest extent possible, shall meet the standards established by the United States Environmental Protection Agency, in the publication titled *A Green Home Begins with ENERGY STAR Blue* or in the Version 6.0 Standard of the Florida Green Building Coalition (**www.floridagreenbuilding.org**). At minimum, in accordance with NSP-3 regulations, the Recipient shall comply with the following:

a. All gut rehabilitation or new construction up to three stories must meet the Energy Star Qualified New Homes standard.

b. Where relevant, housing must be improved to mitigate the impact of disasters.

c. All gut rehabilitation or new construction of mid- or high-rise multi-family housing must meet ASHRAE 90.1-2004, Appendix G plus 20% (which is the Energy Star standard for multifamily buildings piloted by the EPA and DOE).

d. Other rehabilitation must meet these standards to the extent possible, e.g. through use of Energy Star products to replace older obsolete products and appliances, and use of water-efficient fixtures such as the WaterSense label.

e. Compliance with disabled accessibility standards of 24 CFR part 8 must be incorporated into rehabilitation standards.

6. **Resale**: The NSP-3 Units to be rehabilitated/constructed in connection with the Project are to remain affordable for a minimum term (the "Affordability Period"), as defined in the Declaration of Covenants and Restrictions (**Attachment A-3**).

7. **Affirmative Marketing and Leasing Requirements**. The Recipient shall comply with the affirmative marketing requirements set forth in **Attachment F**, the Section 3 requirements set forth in **Attachment G**, and the leasing requirements set for on **Attachment H**.

8. **Occupancy of Rental Units**. Failure of the Recipient to show due care and diligence in keeping the NSP-3 Units maintained and occupied during the term of this Contract or if the Rental Units have not been rented for a continuous period of **six (6) months** shall constitute a material breach of this Contract. It is understood by the City that vacancies may occur during the term of this Contract. However, the Recipient agrees to make adequate repairs to the units and to place them on the market in a timely manner to seek new eligible tenants. The Recipient shall inform the City in writing of any vacancies on a monthly basis and of the steps being taken by the Recipient to rent and occupy the Rental Units.

9. **Reporting Requirements**. Annually on the anniversary of the loan documents, the Recipient shall submit to the City a report that includes:

a. Annual Financial Statement including reserve account balances

b. Occupancy and Rental Rate Information

c. Current Tenant Selection Policy

d. Marketing Material utilized during proceeding year

e. Current Standard Lease

f. Copies of any inspections undertaken by 3rd parties

g. Insurance Binder with City as additional insured

10. **Project Feasibility Review**. Prior to initial occupancy and thereafter annually, on the anniversary of the mortgage, the City will review the financial viability of the project through the submission of a profit and loss statement by the Recipient. The profit and loss statement must be prepared by an independent Certified Public Accountant (CPA). The City shall also review the financial condition of the Recipient to ensure that Recipient is able to continue the management of the property.

11. **Recipient Allowed Project Profit**

Upon completion of the acquisition, predevelopment and construction of the Project, the Recipient shall be allowed to receive a fee of no greater than what is allowed by program guidelines, which shall not to exceed 16% of the total approved Project costs for the acquisition, soft costs, predevelopment, and construction services.

12. **Exit Strategy**. Notwithstanding any provision to contrary contained herein, if any of the following events occur: (i) breach of this Contract by the Recipient pursuant to Sections 6.2 and 6.3 of this Contract; (ii) the NSP grant funds or any portion thereof should fail to be or cease to be provided by HUD for whatever reason; or (iii) the Recipient and/or the City are unable to obtain the additional funding sources as shown on the Project Sources and Uses of Funds to complete the redevelopment and construction of the Project in accordance with **Attachment A-1** on or before **September 30, 2017**, then the Recipient shall upon receipt of written notice from the City the occurrence of one of the events above either:

(i) convey the property to the City free and clear of all liens and encumbrances (including Recipient's prorated real estate taxes) except for the City's Loan Documents by way of a deed in lieu of foreclosure on a form of deed approved and provided by the City; or

(ii) pay in full the outstanding principal balance of the City Note minus the allowed Developer's profit fee of 3% as shown on the Project Pro Forma Budget upon the City Note maturity date. If the Recipient fails to pay in full the outstanding principal balance of the City Note within ten (10) days following the maturity date, then the Recipient shall convey the property to the City pursuant to Section 12(i) above upon receipt of City's written demand of the same.

This Section 12 shall survive the termination of this Contract.

Project Schedule

Phase	Benchmark	Benchmark Date
Acquisition	100% Expended	At Closing
Construction Progress	40% Completed	January 30, 2017
Construction Progress	80% Completed	March 31, 2017
Construction Progress	100% Completed	September 30, 2017