8697-25
Amd 2

SECOND AMENDMENT TO CONTRACT BETWEEN THE CITY OF JACKSONVILLE AND WEALTH WATCHERS, INC.

(Project: First Street East, Jacksonville, Florida 32206)

THIS SECOND AMENDMENT TO CONTRACT BETWEEN THE CITY OF JACKSONVILLE AND WEALTH WATCHERS, INC. ("Second Amendment"), is made effective as of August 30, 2015, by and between the **CITY OF JACKSONVILLE**, a Florida municipal corporation, whose address is c/o Planning and Development Department, Housing and Community Development Division, 214 North Hogan Street, Jacksonville, Florida 32202 (the "City"), and **WEALTH WATCHERS, INC.**, a Florida non-profit corporation, whose address is 1225 Beaver Street, Jacksonville, Florida 32204 ("Recipient").

RECITALS:

WHEREAS, the Recipient and the City entered into that certain Neighborhood Stabilization Program 3 **Contract #8697-25**, dated effective as of February 13, 2013, as amended by that certain First Amendment to Contract dated effective as of March 4, 2015 (collectively the "Loan Agreement"), for the Recipient to construct the Project (as defined in the Loan Agreement), in accordance with the terms and conditions contained therein utilizing funding received by the City from the United States Department of Housing and Urban Development ("HUD") through the Neighborhood Stabilization Program; and

WHEREAS, the City and the Recipient desire to further amend the Loan Agreement and the City Loan Documents to: 1) extend the funding term to July 30, 2016; and 3) to revise the Scope of Services, the Detailed Development Budget, the Sources and Uses of Funds, and Project Development Schedule, pursuant to the appropriation authority set forth in Ordinances 2011-299-E, 2013-0599-E, and 2014-0006-E, the Professional Services Evaluation Committee ("PSEC") Award Letter dated September 10, 2015, and approved on September 14, 2015, for RFP No. P-08-11, to allow to further amend the Loan Agreement as set forth in this Second Amendment.

NOW, THEREFORE, in mutual consideration of the provisions contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Loan Agreement as follows:

1. **Background Facts.** The Background Facts as set forth above are agreed to be true and correct and incorporated herein by this reference.

2. **Capitalized Terms.** Unless otherwise defined herein, all capitalized terms shall have the meanings given to them in the Loan Agreement.

3. **Modification to Section 3.2 of Article III (Funding).** Section 3.2 of Article III (Funding) are deleted in its entirety and the following revised Section 3.2 is inserted in its place:

> 3.2 The City shall pay the maximum indebtedness of this Contract pursuant to Section 3.1 above **commencing on the Effective Date and ending July 30, 2016,** to the Recipient for services rendered herein on a reimbursement basis and in accordance with the provisions of this Contract and as set forth in the **Second Revised Attachment A** (notwithstanding the City's funding through July 30, 2016, the service period of this Contract shall commence on the Effective

Date and end on July 30, 2016 and all other terms of this Contract shall be coterminous with the City Loan Documents). In no event shall the City be required to advance any of such funds. The Recipient shall expend the funds solely and exclusively for the acquisition, demolition and reconstruction as described in this Contract. The Recipient shall not expend or otherwise use any of the funds for any other purpose.

4. **Modification to Section 6.1 of Article VI (Contract Period and Termination).** Section 6.1 of Article VI (Contract Period and Termination) is deleted in its entirety and the following revised Section 6.1 is inserted in its place:

6.1 This Contract shall have a service period effective beginning on the Effective Date and **shall terminate on July 30, 2016,** unless canceled sooner as provided by the provisions of this Contract, but all other provisions of this Contract shall be coterminous with the City Loan Documents. Notwithstanding the foregoing however, the City's obligation to fund disbursements of the grant to the Recipient for the Project shall be limited to expenditures by Recipient made on or before **July 30, 2016**, and provided that the City's obligation to fund disbursements of the grant to the Recipient for the Project shall be **sixty days thereafter.**

5. **Modification Attachment A (Project Description and General Scope of Services Requirements).** Attachment A (Project Description and General Scope of Services Requirements) to the Loan Agreement is deleted in its entirety and the attached Second Revised Attachment A shall be inserted in its place.

6. **Modification Attachment A-9 (Project Construction Schedule).** Attachment A-9 (Project Construction Schedule) to the Loan Agreement is deleted in its entirety and the attached Second Revised Attachment A-9 shall be inserted in its place.

7. **Modification Attachment E (Additional Covenants).** Section 1.1 of Attachment E (Additional Covenants) to the Loan Agreement is deleted in its entirety and the follow revised Section 1.1 is inserted in its place:

1.1. Completion of the Reconstruction. The Recipient shall complete the reconstruction **no later than July 30, 2016**. For purposes of this Contract, completion of the reconstruction shall be deemed to have occurred only when the following conditions (the "Project Completion Conditions") shall have been satisfied:

(a) Recipient shall furnish to the City a certificate of occupancy or its equivalent (if available in the jurisdiction) or such other permits and/or certificates (including a certificate of substantial completion from the architect) as shall be required to establish to the City's satisfaction that the Project, including the reconstruction, has been properly completed and are not subject to any violations or uncorrected conditions noted or filed in any municipal department;

(b) Recipient shall submit to the City a proper contractor's final affidavit and full and complete releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to the City, confirming that final payment has been made for all materials supplied and labor furnished in connection with the reconstruction (see Attachments E-1 and E-2 for sample documents);

(c) The Project shall have been finally completed in all respects in accordance with the plans and specifications, as verified by a final inspection report satisfactory to the City from the City Inspector, certifying that the Project and/or reconstruction have been constructed in a good and workmanlike manner and is in satisfactory condition, and that all mechanical, electrical, plumbing, structural and roof systems are in acceptable operating condition. In the event City determines that there is a deficiency with the Project and/or reconstruction, the City reserves the right to require that an escrow be established in an amount satisfactory to the City to remedy such deficiency.

8. **Authority**. The Recipient represents and warrants to the City that the Recipient has full right and authority to execute and perform its obligations under the Loan Agreement, as amended by this Second Amendment, and the Recipient and the person signing this Second Amendment on the Recipient's behalf represents and warrants to the City that such person is duly authorized to execute this Second Amendment on the Recipient's behalf without further consent or approval by anyone. The Recipient shall deliver to the City promptly upon request all documents reasonably requested by the City to evidence such authority.

9. **Effectiveness; Ratification of the Declaration**. The Effective Date shall be as first written above. The provisions of the Loan Agreement shall remain in full force and effect except as expressly provided in this Second Amendment.

10. **Entire Agreement**. This Second Amendment is the entire agreement of the parties regarding the modifications to the Loan Agreement provided herein, and supersedes all prior agreements and understandings regarding such subject matter, and may be modified only by a writing executed by the party against whom the modification is sought to be enforced, and shall bind and benefit the parties and their respective successor, legal representatives and assigns.

[The remainder of this document was left blank intentionally. Signature pages to follow.]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals or caused the same to be executed by their duly authorized officers, effective as of the Effective Date.

WEALTH WATCHERS, INC., a Florida non-profit corporation

By: _____
Carrie Davis as Executive Director

DATED: 9/25/2015

RECIPIENT INFORMATION

Name: Wealth Watchers, Inc.
Contact: Carrie Davis
Address: 1225 West Beaver Street, Suite 110
Jacksonville, Florida 32204
Telephone: (904) 380-0292
Fax: (904) 265-1908
Email: carriedavis@wealthwatchersfl.com
Federal Tax Identification Number: 01-0638984
Data Universal Number System (DUNS Number): 179314666
Central Contractor Registration (CCR Number): 5SRV0

(Signature page for the City of Jacksonville immediately follows this page).

ATTEST:

CITY OF JACKSONVILLE, a Florida municipal corporation

By: _____
James R. McCain, Jr.
As Corporation Secretary

By: _____
Lenny Curry as Mayor

(Corporation Seal)

Sam E. Mousa
Chief Administrative Officer
For: Mayor Lenny Curry
Under Authority of:
Executive Order No. 2015-05

In compliance with Section 24.103(e) of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is or will be an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing contract in accordance with the terms and conditions thereof and that provision has been made for the payment of the monies provided therein to be paid.

_____
Director Finance
Contract #8697-25 Amendment #1

Account #:	HNHS1A3HPNC
Sub-Object:	09995
Project #:	NSP005
Grant #:	PDC023 Grant Detail #: 09
Amount:	**$712,248.00**

Account #:	HNHS1A3HPNC
Sub-Object:	09995
Project #:	NSP305
Grant #:	PDC023 Grant Detail #: 11
Amount:	**$783,439.00**

Account #:	ERCD1N5
Sub-Object:	08301
Project #:	_____
Grant #:	PDC010 Grant Detail #: 13
Amount:	**$754,313.00**

Account #:	#ERCD1N7
Sub-Object:	08304
Project #	N/A
Grant #:	HCS001 Grant Detail #: 1302
Amount:	**$242,799.00**

Account #:	ERCD1N7
Sub-Object:	08304
Project #:	N/A
Grant #:	HCS001 Grant Detail #: 1404
Amount:	**$257,201.00**

FORM APPROVED:

By: _____
Office of General Counsel

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C:\Users|Sandra Stockwell\Documents\Housing\WW amendment 2

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

Recipient: **WEALTH WATHCERS, 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 **Revised 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 July 30, 2036

Duration of Funding: Effective Date through July 30, 2016

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 **Revised 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, 2012, as amended from time to time):

0-Bedroom	$132,814
1-Bedroom	$152,251
2-Bedroom	$185,186
3-Bedroom	$239,506
4-Bedroom	$262,903

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 **July 30, 2016.** See the attached Draw Schedule entitled **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 **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 **July 30, 2016**, 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	25% Completed	November 30, 2015
Construction Progress	75% Expended	February 28, 2016
Construction Progress	100 % Expended	July 30, 2016

PROCUREMENT DIVISION

Jacksonville
Where Florida Begins.

September 10, 2015

The Honorable Lenny Curry, Mayor
City of Jacksonville
4th Floor, St. James Building
Jacksonville, FL 32202

Dear Mayor Curry:

Ref: P-08-11 Neighborhood Stabilization Program-3 (NSP3) (Amendment No. 2)
Planning and Development Department/Housing and Community Development Division

The Professional Services Evaluation Committee met today in Board Room 851 on the eighth floor of the Ed Ball Building, for the purpose of amending the above-referenced contract.

The following motion and/or recommendation was **adopted**:

That Contract No. 8697-25 between the City of Jacksonville and Wealth Watchers, Inc., for NSP3 Services Project: First Street East; is amended to: (i) Ratify the Contract from August 30, 2015 to September 10, 2015; (ii) Extend the period of services to July 30, 2016; (iii) Incorporate the attached revised Project Description and General Scope of Services Requirements identified as "Second Revised Attachment A"; (iv) Incorporate the attached revised Project Development Schedule, identified as "Second Revised Attachment A-9"; (v) Amend any of the Project's loan documents with any necessary changes. All other terms and conditions, as previously amended, shall remain the same. Nothing contained herein shall be amended, modified, or otherwise revised, without prior approval from the PSEC and the Mayor.

If the foregoing meets your approval, please affix your signature and return to my office.

Respectfully submitted,

Gregory Pease, Chief
Procurement Division
Chairman, Professional Services
Evaluation Committee

APPROVED:

Lenny Curry, Mayor

This 14th day of Sept., 2015

GP: ob

cc: Council Auditor
James McCain, OGC
Philip Boston, GAD
Subcommittee Members

Sam E. Mousa
Chief Administrative Officer
For: Mayor Lenny Curry
Under Authority of:
Executive Order No. 2015-05