

**WHEN RECORDED MAIL TO:**  
Department of Housing Stability  
Attention: Jeremy Brown  
201 W. Colfax Ave., Dept. 615  
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

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**SECOND AMENDMENT, MODIFICATION,  
ASSIGNMENT, AND ASSUMPTION AGREEMENT**

**THIS SECOND AMENDMENT, MODIFICATION, ASSIGNMENT, AND ASSUMPTION AGREEMENT** (the "Amendment") is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado ("City"), and **LINCOLN HOUSING PARTNERS, LLLP**, a Colorado limited liability limited partnership, whose address is 701 Fifth Avenue, Suite 5700, Seattle, Washington 98104, ("Lincoln Housing"), and **LINCOLN TERRACE APARTMENTS LLC**, a Colorado limited liability company, whose address is 139 E. 8<sup>th</sup> Avenue, Denver, Colorado 80203 ("Lincoln Terrace"), each individually a "Party" and collectively the "Parties."

**RECITALS:**

**WHEREAS**, the City and Lincoln Housing entered into an Agreement HOME Program dated May 22, 2007 (the "Loan Agreement") involving a loan of federal Home Investment Partnerships ("HOME") Program funds in the principal amount of \$750,000.00 (the "Loan"); and

**WHEREAS**, the City provided the HOME Program funds to Lincoln Housing to finance soft costs associated with the construction at property located at 507 N. Lincoln Street, Denver, Colorado 80203, and as legally described on **Exhibit C** (the "Property"), for use as affordable housing; and

**WHEREAS**, Lincoln Housing executed a Deed of Trust for the benefit of the City dated June 13, 2007, and recorded on August 30, 2007 at Reception No. 2007135063 (the "Deed of Trust") of the real property records of City and County of Denver, State of Colorado (the "County Records") encumbering the Property, which a partial release of the Deed of Trust was accomplished by a Partial Release of Deed of Trust and Release dated December 5, 2008 and recorded on December 15, 2008 at Reception No. 2008167825 of the County Records; and

**WHEREAS**, the Deed of Trust secured the repayment of the indebtedness evidenced by a Promissory Note executed by Lincoln Housing dated June 13, 2007 (the "Note"); and  
Lincoln Housing Partners, LLLP/  
Lincoln Terrace Apartments LLC  
Contract No. HOST-202476240-02 / GE7A011-02

**WHEREAS**, as a condition of the Loan Agreement, Lincoln Housing executed a Rental and Occupancy Covenant dated June 13, 2007, and recorded on August 30, 2007 at Reception No. 2007135062 (the “Covenant”) of the County Records encumbering the Property with certain use and affordability restrictions, which a partial release of the Covenant was accomplished by a Partial Release of Rental and Occupancy Covenant dated December 5, 2008 and recorded on December 12, 2008 at Reception No. 2008167519 of the County Records; and

**WHEREAS**, the City and Lincoln Housing entered into a First Amendment and Modification Agreement to Loan Agreement, Promissory Note, Deed of Trust, and Rental and Occupancy Covenant dated August 26, 2011 (the “First Amendment,” and together with the Original Loan Agreement, Deed of Trust (as partially released), Covenant (as partially released), and Promissory Note, the “Loan Documents”) to modify the repayment terms of the Loan and make other amendments to the Loan Documents; and

**WHEREAS**, Lincoln Housing desires to sell and convey the Property to Lincoln Terrace; and

**WHEREAS**, the City will allow the sale and conveyance of the Property upon Lincoln Terrace agreeing to assume the obligations of the Loan Documents; and

**WHEREAS**, the Parties desire to amend and assign the Loan Documents as set forth herein; and

**WHEREAS**, since the execution of the Loan Agreement, the City has reorganized the responsibilities of its departments and has transferred the responsibility for overseeing housing loans from the Division of Housing & Neighborhood Development (“DHND”) to the Department of Housing Stability (“HOST”).

**NOW THEREFORE**, in consideration of the promises herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. All of the recitals above are hereby confirmed and incorporated herein as part of this Amendment.
2. All references to “Division of Housing & Neighborhood Development” and “DHND” in the Loan Documents shall be replaced to read “Department of Housing Stability” and “HOST,” respectively.

3. This Amendment shall become effective upon the recording of this Amendment in the County Records (the “Effective Date”). The City shall deliver a fully executed copy of this Amendment to the title company handling the closing of the purchase of the Property. The title company will record this Amendment in the County Records concurrent with the closing of the purchase of the Property by Lincoln Terrace.

4. The City hereby consents to the transfer of the Property from Lincoln Housing to Lincoln Terrace.

5. Lincoln Housing hereby assigns, and Lincoln Terrace hereby assumes and agrees to perform the obligations of Lincoln Housing, in the manner and in all respects as provided in the Loan Documents and as amended by the Amendment; and to be bound by the terms of the Loan Documents, all as though the Loan Documents had been made, executed, and delivered by Lincoln Terrace. The City hereby consents to the assignment of the Loan Documents by Lincoln Housing and the assumption by Lincoln Terrace. As of the Effective Date, the City hereby fully and unconditionally releases Lincoln Housing from any and all obligations, duties, or liabilities under the Loan Documents, except for any liabilities or obligations relating to matters arising prior to the Effective Date.

6. All references to “Borrower” in the Loan Documents shall hereinafter mean “Lincoln Terrace Apartments LLC.”

7. Section 1 of the Loan Agreement, as amended, titled “**LOAN TO BORROWER**,” is deleted in its entirety and replaced with:

“1. **LOAN TO BORROWER**: Subject to the terms of this Agreement, the City agrees to lend Borrower the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00), to be due and payable on December 31, 2051 (the “Maturity Date”). Simple interest shall accrue at a rate of one percent (1%) beginning on the date of the Promissory Note. Principal and interest shall be due and payable, at such place as may be designated by City, in monthly installments of One Thousand Eight Hundred Ninety-Six Dollars and Forty-Two Cents (\$1,896.42), commencing on January 1, 2025, and then the first day of each month thereafter. The entire unpaid balance

of principal and accrued interest shall be due and payable on the Maturity Date.”

8. Section 14 of the Loan Agreement, as amended, titled “**EXAMINATION OF RECORDS/ANNUAL MONITORING**,” is deleted in its entirety and replaced with:

“14. **EXAMINATION OF RECORDS/REPORTING REQUIREMENTS/ANNUAL MONITORING; INSPECTIONS:**

A. Examination of Records and Audits: Any authorized agent of the City, including the City Auditor or his representative, has the right to access and the right to examine, copy and retain copies, at the City’s election in paper or electronic form, any pertinent books, documents, papers and records related to Borrower’s performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Borrower shall cooperate with the City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of five (5) years after final repayment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audit pursuant to this paragraph shall require Parties to make disclosures in violation of state or federal privacy laws. Parties shall at all times comply with D.R.M.C. 20-276.

B. Required Information and Reports. Borrower shall submit to the City the following information and reports on HOST approved forms or online system: (1) annual compliance statement; (2) report on rents and occupancy of HOME Units and Low HOME Units to verify compliance with affordability requirements and other

requirements of this Agreement; (3) data on evictions, termination of tenancies, or tenancies not renewed for individuals residing in HOME Units and Low HOME Units; (4) reports (including financial reports) that enable the City to determine the financial condition and continued financial viability of the rental project; (5) for floating units, reports on unit substitution and filing vacancies to ensure that the Property maintains the required unit mix; and (6) template lease agreements for HOME Units and Low HOME Units. The report required by subsection (2) of this Section shall include, but not be limited to, information related to monthly rent amount, lease term, household size, total annual household income, and race and other demographic information. The reports and information required by this Section shall be due within thirty (30) days of the City making a request for such reports and information. The failure to submit the reports and information requested by the City within thirty (30) days shall be considered a default of this Agreement.

C. Access and Inspections. For the purposes of assuring compliance with the Agreement, the City shall have the reasonable right of access to the Property, without charge or fees, during the period of the affordability Covenant. During the period of affordability, the City shall be entitled to conduct annual physical inspections of the Property. Borrower shall fully cooperate with the City in an annual monitoring of Borrower's performance and site inspection to verify compliance with the requirements of this Agreement."

9. Section 16 of the Loan Agreement entitled "**NO DISCRIMINATION IN EMPLOYMENT**," is deleted in its entirety and replaced with:

"In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise

qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.”

**10.** The following paragraph is amended into the Promissory Note:

“The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a Multifamily Note (and any schedules) in the original principal amount of \$5,640,000.00 executed by **Lincoln Terrace Apartments LLC**, a Colorado limited liability company, and payable to the order of **PGIM REAL ESTATE AGENCY FINANCING, LLC**, a Delaware limited liability company (“**Senior Lender**”), to the extent and in the manner provided in that certain Subordination Agreement between the payee of this Note, and Senior Lender (the “**Subordination Agreement**”). The Mortgage, Deed of Trust or Deed to Secure Debt (and any exhibits) securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Multifamily Mortgage, Deed of Trust or Deed to Secure Debt (and any exhibits) securing the Multifamily Note and the terms, covenants and conditions of the Multifamily Loan and Security Agreement evidencing the terms of the Multifamily Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage, Deed of Trust or Deed to Secure Debt (and any exhibits) securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by Subordinate Lender under the Subordination Agreement.”

11. The Secondary Financing Rider added to the Loan Agreement, Note, and Deed of Trust by the First Amendment is hereby deleted and removed from the Loan Agreement, Note, and Deed of Trust.

12. The Land Use Rider added to the Covenant is hereby deleted and removed from the Covenant.

13. The Loan Documents are hereby modified to reflect the amended terms of the Loan Agreement.

14. Except as herein amended, the Loan Documents shall continue in effect, and are affirmed and ratified in each and every particular.

15. The Executive Director of HOST, or the Executive Director's designee, is authorized to execute documents necessary to accomplish the intent of this Amendment so long as the documents are in a form satisfactory to the City Attorney.

16. The Amendment will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]  
[SIGNATURE PAGES TO FOLLOW]**

**Contract Control Number:**  
**Contractor Name:**

HOST-202476240-02 / GE7A011-02  
LINCOLN TERRACE APARTMENTS LLC  
LINCOLN HOUSING PARTNERS, LLLP

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_



**Contract Control Number:** HOST-202476240-02 / GE7A011-02  
**Contractor Name:** LINCOLN TERRACE APARTMENTS LLC  
LINCOLN HOUSING PARTNERS, LLLP

LINCOLN HOUSING PARTNERS, LLLP,  
a Colorado limited liability limited partnership

By: Madrona Lincoln Terrace GP LLC,  
a Washington limited liability company,  
its General Partner

By: See Attached Signature Pages  
Steve TeSelle  
Vice President

State of \_\_\_\_\_ )  
  ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Steve TeSelle, Vice President of Madrona Lincoln Terrace GP, LLC, the General Partner of Lincoln Housing Partners, LLLP.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_

Notary Public





**Contract Control Number:** HOST-202476240-02 / GE7A011-02  
**Contractor Name:** LINCOLN TERRACE APARTMENTS LLC  
LINCOLN HOUSING PARTNERS, LLLP

LINCOLN TERRACE APARTMENTS LLC,  
a Colorado limited liability

By: Lark Investment Partners LLC,  
its managing member

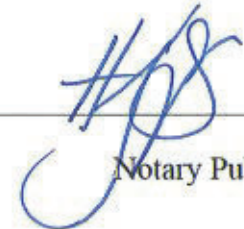
By: \_\_\_\_\_  
John Herr, Sole Member

State of COLORADO )  
                                  ) ss.  
County of DENVER )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of October 2024, by John Herr, Sole Member of Lark Investment Partners, LLC, the Managing Member of Lincoln Terrace Apartments, LLC.

Witness my hand and official seal.

My commission expires: 09/18/2027.

\_\_\_\_\_  
Notary Public

Holly Stecher  
State of Colorado  
Notary Public  
Commission No. 20044040988  
My Commission Expires 09/18/2027

## **EXHIBIT C**

### **LEGAL DESCRIPTION**

Residential Unit 1, Lincoln Terrace Condominiums, according to the Declaration for Lincoln Terrace Condominiums recorded December 8, 2008 in the office of the Clerk and Recorder of the City and County of Denver, Colorado, at Reception No. 2008165314, Amendment to Condominium Declaration for Lincoln Terrace Condominiums recorded September 17, 2013 at Reception No. 2013137082 and Second Amendment to Condominium Declaration for Lincoln Terrace Condominiums recorded January 9, 2015 at Reception No. 2015003021, and the Condominium Map for Lincoln Terrace Condominiums recorded December 8, 2008 in such office at Reception No. 2008165315.

Tax ID No.: 05101-02-021-021