

**CITY LOAN AGREEMENT
(PROPERTY TAX)**

THIS LOAN AGREEMENT (“City Loan Agreement”) is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (“City”), **WOLFF 23 LLC**, a Colorado limited liability company, whose address is 6007 S. Saint Paul Way, Centennial, Colorado 80121 (“Borrower”), and **SCOTT SPEIL** and **GARRETT BESERRA** in their individual capacities (each a “Guarantor”).

WITNESSETH:

WHEREAS, the Property (as defined below) is currently owned by Borrower; and

WHEREAS, the purpose of this City Loan Agreement is for the City to provide financing costs related to the construction of twenty-three (23) affordable condominium units located on the Property (the “Project”); and

WHEREAS, the City is making certain monies available to ensure the development the Project; and

WHEREAS, the Borrower is eligible to receive funds from the City, and is ready, willing and able to meet the conditions associated therewith;

WHEREAS, each Guarantor is desirous that Borrower receive the loan described herein, will be benefited thereby, and is willing to personally guarantee repayment of the loan under the terms described herein;

WHEREAS, the City received a grant from the State of Colorado, through the Department of Local Affairs (“DOLA”), to provide additional funding for the Project;

WHEREAS, the City and the Borrower have entered into that certain Funding Agreement whereby the City provided grant funds received from the State to provide additional funding (“State Funding”) for the Project; and

WHEREAS, the Borrower has or will enter into a construction loan evidenced by a promissory note and deed of trust in the original principal amount of up to approximately \$5,700,000 (“Construction Loan”), payable by Borrower to the Colorado Housing and Finance Authority (“CHFA”) (the “CHFA Loan”).

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties agree as follows:

1. **LOAN TO BORROWER**: Subject to the terms of this Loan Agreement, the City agrees to lend Borrower the sum of One Million Seven Hundred Twenty-Five Thousand dollars and NO/100 (\$1,725,000.00) (the “Loan”). In addition to this Loan Agreement, the Borrower will execute a promissory note in a form satisfactory to the City evidencing this Loan (the “Promissory Note”). Simple interest at a rate of zero percent (0%) per annum shall commence accruing on the outstanding principal balance of the Promissory Note on the date on which the first draw on the Loan is made. Principal and any interest accrued on the Loan shall mature and be due and payable on the fifth (5th) anniversary of the date of the Promissory Note (the “Maturity Date”), if not sooner paid. Repayment of the Loan shall be forgiven by the City on the Maturity Date so long as Borrower is in compliance with all terms and conditions of this Loan Agreement.

2. **SECURITY**: Repayment of the Promissory Note shall be secured by a second Deed of Trust (the “Deed of Trust”), in form satisfactory to City, granted by Borrower and encumbering the real property known and numbered as 4801 W 10th Ave., Denver, Colorado 80204 and legally described as set forth in Exhibit D (the “Property”). Additionally, subject to the terms of this City Loan Agreement, each Guarantor shall execute a guaranty in a form acceptable to the City guaranteeing the repayment of the Loan (the “Guarantee”).

3. **SUBORDINATION**:

A. The Executive Director, or the Executive Director’s designee (the “Executive Director”), of the City’s Department of Housing Stability (“HOST”) is authorized to execute documents necessary to subordinate the lien of the City’s Deed of Trust so long as (i) the subordination agreement is substantially in the form attached hereto as **Exhibit E**; (ii) encumbrances prior to the City’s Deed of Trust do not exceed Six Million Five Hundred Thousand Dollars No/100 (\$6,500,000.00) under the construction loan(s) (except as permitted pursuant to the subordination agreement among Borrower, the City and Colorado Housing and Finance Authority (“CHFA”)); (iii) Borrower is not then in default of its obligations pursuant to this City Loan Agreement, the Promissory Note, the Deed of Trust or the Covenant; and (iv) all additional financing for the Project is committed.

B. The Executive Director is authorized to execute documents necessary to subordinate the City’s Deed of Trust and Covenant to land use restriction agreements (“LURAs”), such as the LURA required by the Colorado Housing and Finance Authority, so long as (i) the subordination agreement is in the form acceptable to the City Attorney; (ii) encumbrances prior to the City’s Deed

of Trust do not exceed Six Million Five Hundred Thousand Dollars No/100 (\$6,500,000.00) under the construction loan(s) (except as permitted pursuant to the subordination agreement among Borrower, the City and CHFA); and (iii) Borrower is not in default of its obligations pursuant to this Agreement, the Deed of Trust, or the Covenant.

C. The Executive Director, or his or her designee, is authorized to execute documents necessary to accomplish the Loan, as set forth herein, so long as (i) such documents are in a form satisfactory to the City Attorney; (ii) encumbrances prior to the City’s Deed of Trust do not exceed Six Million Five Hundred Thousand Dollars No/100 (\$6,500,000.00) under the construction loan(s) (except as permitted pursuant to the subordination agreement among Borrower, the City and CHFA); and (iii) Borrower is not in default of its obligations pursuant to this City Loan Agreement, the Deed of Trust, or the Covenant.

4. USE AND DISBURSEMENT OF FUNDS:

A. Loan proceeds may be used for soft costs and hard construction costs of the Project. Loan proceeds will not be funded for hard costs until all funds under a separate subgrant of state affordable homeownership opportunity program (“AHOP”) funds are fully expended. Loan proceeds may be disbursed for approved costs other than hard costs prior to expenditure of AHOP funds. The budget for the Loan proceeds will be substantially as follows:

Uses	Budget	Source
Land Acquisition	\$1,024,201	Other Sources
Interim Costs (incl. interest)	\$979,065	
Developer Fees	\$1,024,201	
Site Work	\$613,670	Approved for City Loan Funds
Hard Costs	\$5,563,492	
Soft Costs	\$188,170	
Professional Fees	\$865,799	
Total	\$10,258,598	

B. The budget may be revised with the written approval of the Executive Director, so long as the Loan amount is not exceeded.

C. Borrower shall submit to the City requisitions with documentation of incurred costs on HOST approved forms, and otherwise comply with the disbursement terms and conditions set

forth in **Exhibit B** attached hereto and incorporated herein. Borrower may not request disbursement of funds until the funds are needed for payment of eligible costs.

D. Where the City's funds are disbursed for construction, (i) the City shall monitor the construction activities for the purpose of verifying eligible costs, and (ii) the City shall retain five percent (5%) of each disbursement of funds, which retainage shall be released upon (a) final inspection and approval of the Project by the City; (b) receipt of proof of release of liens from all applicable contractors, subcontractors, and suppliers; (c) the issuance of a certificate of occupancy or a temporary certificate of occupancy; (d) an approved affirmative fair housing marketing plan; and (e) any other items required by **Exhibit B**.

E. In addition to the retainage specified in subparagraph D above, HOST shall retain Ten Thousand Dollars and No/100 Dollars (\$10,000.00) of the total funds to be disbursed under this City Loan Agreement. This amount shall be released upon receipt from Borrower of all information necessary for the City's reporting requirements, including but not limited to documentation of sales to income-qualified buyers in compliance with the requirements of this Agreement.

F. Expenses incurred prior to August 28, 2025, are not eligible for reimbursement.

G. Borrower must complete construction and sale of all units to eligible buyers as set forth in this Agreement prior to the Maturity Date.

5. DEADLINE FOR DISBURSEMENT OF FUNDS; REQUIRED DOCUMENTATION:

A. Borrower must satisfy all conditions set forth in this City Loan Agreement for the closing of the Loan pursuant to Section 12 on or before September 9, 2026 (the "Closing Deadline"). Failure to meet this deadline may result in the termination of this City Loan Agreement at the Executive Director's sole discretion. No funds shall be disbursed under this City Loan Agreement until such time as (i) all conditions of this City Loan Agreement have been met and (ii) Borrower has closed on all financing necessary to complete the Project.

B. Borrower agrees that (a) documentation for all draw down requests will be submitted no later than twenty-four (24) months after the date of the Promissory Note and (b) Borrower shall complete the Project within a twenty-four (24) month period after the date of the Promissory Note. These deadlines may be extended with the written approval of HOST. All cost overruns and/or funding shortfalls shall be the sole responsibility of the Borrower.

C. Borrower must submit monthly status reports during the period of construction.

Borrower may submit either an American Institute of Architects (AIA) G702 progress billing form or use a form provided by HOST. Status reports must be submitted even if all Loan proceeds have been disbursed by the City to Borrower.

D. All cost overruns and/or funding shortfalls shall be the sole responsibility of Borrower.

E. The Executive Director is authorized to extend or modify any deadlines or schedules (other than repayment deadlines or schedules) set forth herein, provided that the Borrower also consents to any such change and that such changes are made in writing.

6. RESTRICTIONS ON USE OF PROPERTY:

A. Affordability Limitations. Each of the twenty-three (23) units created pursuant to this City Loan Agreement (each a “Unit”) shall be sold and resold to Low/Moderate Income Households. Low/Moderate Income Households means a household with an annual income at or below eighty percent (80%) of the Denver area median income, as published by the United States Department of Housing and Urban Development (“HUD”). The initial sale and all subsequent sales of Units may not exceed the maximum sales price as published by HOST. Borrower shall deliver the Units in the number and of the types as follows:

Unit Type	No. of Units	AMI Restrictions
1-Bedroom	20	80%
2-Bedroom	3	80%
Total:	23	

B. Covenant Running with the Land.

1. Borrower shall record a covenant substantially in the form attached as Exhibit C (“City Covenant”) at the closing on the initial sale of each unit setting forth the affordability limitations described in this Agreement, which shall be recorded in the real property records of the City and County of Denver, and which shall constitute a covenant running with the land. Each City Covenant shall encumber the Property for at least seventy (70) years. The City Covenant shall be enforceable by the City. The City shall execute a partial release of the Deed of Trust in a form satisfactory to the City upon each sale. The Borrower shall confirm that the City has the necessary documentation to complete the partial release for each unit sale.

2. The Borrower shall designate eight (8) units at the Project as AHOP-

assisted units in accordance with the Funding Agreement. At the closing on the initial sale of each AHOP-assisted unit, in addition to the City Covenant, the Borrower shall record an AHOP Covenant as required by the Funding Agreement for a period of thirty (30) years. At the expiration of that period the AHOP-assisted units shall remain subject to the City Covenant for the duration of the City Covenant's term. In the event of a conflict between the AHOP Covenant and the City Covenant, the most restrictive covenant prevails.

C. Initial Sale Price.

1. The initial sale of each Unit by Borrower to a purchaser (the "Initial Sale") shall not exceed the HOST Maximum Initial Sale Prices (published annually), or ninety-five percent (95%) of the median purchase price for the area as determined by HUD, whichever is lower.

2. Every Unit shall be offered solely to Low/Moderate Income Households to be used for the buyer's primary residence.

3. During the initial sale period, the Units shall be offered to Low/Moderate Income Households through a fair and equitable system. The Borrower shall use reasonable, good-faith efforts to enter into contracts with Low/Moderate Income Households and in marketing to those households.

4. The Borrower shall not sell any unit unless the buyer is income verified by HOST. HOST shall provide confirmation of each income verification and shall maintain a copy in its files

7. **PRIORITIZATION OF INCOME-RESTRICTED AFFORDABLE HOUSING ORDINANCE:** Borrower must comply with the City's Prioritization of Income-Restricted Affordable Housing Ordinance, codified at D.R.M.C. §§ 27-241 *et seq*, and the ordinance's implementing rules and regulations.

8. **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 or her representative, has the right to access, and the right to examine, copy and retain copies, at 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 City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the 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 audits pursuant to this paragraph shall require Borrower to make disclosures in violation of state or federal privacy laws. Borrower shall at all times comply with D.R.M.C. 20-276.

B. Required Information and Reports. Borrower shall submit to the City a quarterly report on the Units until all Units are sold. The report shall include, but not be limited to, (i) the number of Units sold, (ii) the income of each household purchasing a Unit, (iii) records evidencing the income of each household purchasing a Unit, and (iv) the purchase price of each Unit sold.

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 charges or fees, (i) during the period of construction and (ii) before the initial sale of each Unit. The Property must pass inspection by HOST prior to the first sale of a Unit. Borrower shall fully cooperate with the City in an regular monitoring of Borrower's performance and site inspection to verify compliance with the requirements of this Agreement

9. FINANCIAL STATEMENTS:

A. Borrower must furnish to the City annually, within ninety (90) days following the end of each calendar year, financial statements of the Borrower and the Project audited by an independent certified public accountant, which must include an annual balance sheet and profit and loss statement of the Borrower, in a form reasonably required by the City.

B. Each Guarantor shall each furnish to the City annually, within ninety (90) days following filing of their federal tax return, but in no event later than June 1 of each calendar year, individual financial reports in a form satisfactory to the City.

C. Borrower and each Guarantor agree to provide such additional reports as further defined in the Loan Documents and requested by the City.

D. The reporting obligations in this section terminate when the Borrower and each

Guarantor provide the required reports for the calendar year in which the loan is forgiven or repaid in full as provided in Section 1, above.

10. TRANSFERS: Borrower acknowledges that the City has examined and relied on the experience of Borrower and its general partners, directors, and members in owning and developing affordable housing projects, such as the Project, in agreeing to make the Loan, and the City will continue to rely on Borrower's ownership and control of the Property and Project as a means of developing and completing the project and maintaining the value of the Property as security for repayment of the Loan. Without the prior written consent of the City, which may not be unreasonably withheld, Borrower shall not: (i) sell, convey, assign, or otherwise transfer or dispose of the Property or any part thereof (other than the sale of Units to qualified buyers in accordance with the terms of the Loan Documents), or (ii) sell, convey, assign, or otherwise transfer any interest in Borrower; or (iii) prior to the sale of the last Unit and submission of the final reports required by this Agreement, change the control or management of Borrower. Notwithstanding the foregoing, following construction completion, Borrower will impose on the Property a condominium regime under the Colorado Common Interest Ownership Act to be governed by a to-be-formed homeowners association called the "10th & Wolff Condominiums Association, Inc." (the "Association") pursuant to a declaration to be recorded in the real property records (the "Declaration"). Borrower may transfer to the Association its interests in those portions of the Property designated as common elements in the Declaration without further consent. The City shall reasonably cooperate in executing any documents required to be filed in conjunction with the formation of the condominium regime.

11. LEAD-BASED PAINT HAZARDS: Housing funded, in part, by funds provided through this Agreement shall be subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 *et seq.*), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852 *et seq.*), and is therefore subject to 24 C.F.R. Part 35; the owner of the Project shall comply with these provisions in the construction of the Project.

12. CONDITIONS PRECEDENT TO CLOSING LOAN: In addition to any other conditions stated in the City Loan Agreement, the following conditions must be satisfied at prior to the Closing Deadline:

A. **Environmental Reports**. The Borrower must provide the City with a Phase I Environmental Site Assessment ("ESA") in form and substance acceptable to the City. If the ESA is not in the City's name, the City must be provided with a reliance letter in the name of the City

from the environmental engineer, which must be satisfactory to the City.

B. **Title Insurance.** Borrower must obtain, on behalf of the City, a lenders title policy insuring the City in the principal amount of the Loan. Borrower must provide the City with a copy of the lenders title policy within thirty (30) days of closing.

C. **Appraisal.** Borrower must provide the City with an appraisal of the Property, which must be satisfactory in form and substance to the City.

D. **Organizational Documents.** Borrower and Guarantor, as applicable, must provide the City with (i) evidence that it is a Colorado limited liability company in good standing and authorized to transact business in the State of Colorado; (ii) evidence in a form satisfactory to the City that the person executing this City Loan Agreement and any other documents related to the Loan has the full power and authority to bind Borrower; and (iii) all organizational documents related to Borrower and Guarantor, which must be acceptable to the City. Organization documents include, but are not limited to, Articles of Organization, an operating agreement, and a certificate of good standing.

E. **Survey.** Borrower must provide the City with a current ALTA survey of the Property. The ALTA survey must be prepared by a licensed land surveyor, certified to the City, and satisfactory to the City.

F. **Promissory Note; Deed of Trust; Covenant; Guaranty.** Borrower must execute and deliver to the City the Promissory Note. Borrower must execute and record the Deed of Trust. Each Guarantor must execute and deliver to the City the Guarantee.

G. **Evidence of Financing.** Borrower must provide such information and documentation sufficient to satisfy the City, in the City's sole discretion, that the Borrower has secured all financing necessary to complete the Project. Documentation sufficient to satisfy the City may include, but not be limited to, commitment letters for all other financing or funding.

H. **Insurance.** Borrower must provide the City with certificates of insurance or copies of the policies of insurance required under this City Loan Agreement.

I. **Construction; Timeline.** Borrower must provide the City with a certified copy of the construction budget and development timeline, which must be satisfactory in form and substance to the City, evidence that the Property is properly zoned for the Project, and a copy of the general contractor guaranteed maximum price contract.

13. **COSTS AND EXPENSES:** The Borrower agrees to pay all direct costs, expenses

and attorney fees reasonably incurred by the City in connection with the Borrower's breach or default of this City Loan Agreement or the Promissory Note, Deed of Trust, or Covenant. Borrower agrees to pay reasonable loan closing costs, including all recording charges, title insurance charges, costs of surveys, costs for certified copies of instruments, costs incurred for obtaining any documents or reports required pursuant to Section 19, and all other costs incurred by the City in connection with the Loan.

14. CONDITIONS:

A. The obligation of the City to lend the above sums is limited to funds appropriated by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. This Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

B. Borrower shall comply with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver, as the same may be amended from time to time. These laws, regulations, and other authorities are incorporated by reference herein to the extent that they are applicable and required by law to be so incorporated.

15. INSURANCE: Borrower or its contractor(s) shall procure and maintain insurance in the following types and amounts:

A. Where loan proceeds are disbursed for construction, Builders Risk Insurance or an Installation Floater in the amount of the value of the Property as improved and renovated, with the City and County of Denver named as loss payee.

B. Commercial General Liability Insurance covering all operations by or on behalf of Borrower, on an occurrence basis, with limits not less than \$1,000,000 per occurrence, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate. Borrower's contractor shall include all subcontractors as insureds under its policy or shall furnish separate certificates of insurance for each subcontractor.

C. Worker's Compensation and Employer's Liability Insurance at statutory limits and otherwise sufficient to ensure the responsibilities of Borrower and its contractor under Colorado law.

D. Property insurance satisfactory to the City in the amount of the value of the property

subject to the Deed of Trust and Covenant, with the City named as loss payee.

E. Certificates of Insurance evidencing the above shall be submitted prior to the Closing Deadline. Policies shall include a waiver of subrogation and rights of recovery against the City. Insurance companies providing the above referenced coverage must be authorized and licensed to issue insurance in Colorado and be otherwise acceptable to the Risk Management Office.

16. DEFENSE & INDEMNIFICATION:

A. Borrower agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this City Loan Agreement (“Claims”), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Borrower or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Borrower’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Borrower’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/ or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

C. Borrower will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

D. Insurance coverage requirements specified in this City Loan Agreement shall in no way lessen or limit the liability of the Borrower under the terms of this indemnification obligation. The Borrower shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

E. This defense and indemnification obligation shall survive the expiration or

termination of this City Loan Agreement.

17. DEFAULT AND ACCELERATION:

A. Default. The occurrence of any of the following events shall constitute a default by the Borrower:

1. Any breach of this City Loan Agreement, the Promissory Note, the Deed of Trust, or the Funding Agreement;

2. The City determines that any warranty, representation, or statement made or furnished to the City by or on behalf of Borrower in connection with this City Loan Agreement proves to have been false in any material respect when made or furnished;

3. Borrower becomes delinquent to the City Loan or on any other contractual or tax obligations as due;

4. Borrower fails to comply with any rule, regulation or provision referred to in the City Loan Agreement;

5. Borrower fails to maintain a cash balance that is sufficient to cover sixty (60) days' of Borrower's operating expenses; and

6. Borrower is generally unable to pay its debts as they become due, or shall make an assignment for the benefit of creditors; or the Borrower shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such a receiver, trustee or similar officer shall be appointed without the application or consent of the Borrower, and such appointment shall continue undischarged for a period of ninety (90) days; or the Borrower shall institute (by petition, application, answer or otherwise) any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution, liquidation or similar proceedings under the laws of any jurisdiction; or any such proceeding shall be instituted against the Borrower; or the Borrower shall terminate or dissolve.

B. Cure Period. Upon a default, the City shall give written notice of the default to Borrower and other persons entitled to notice of a default pursuant to Section 18. After Borrower's receipt of the written notice, Borrower or a person on behalf of Borrower shall have ten (10) calendar days to cure any monetary default and thirty (30) calendar days to cure any nonmonetary default (collectively, the "Cure Period"). If a nonmonetary default is not a type which can be cured within the Cure Period, the City, at its reasonable discretion, may extend the cure period if the Borrower

provides the City with a reasonably detailed written plan of how the Borrower will cure the nonmonetary default and the Borrower, at all times within such additional time period, actively and diligently pursues such plan. For purposes of this City Loan Agreement, the term “monetary default” means a failure by Borrower to make any payment required of it pursuant to the applicable Promissory Note or any other Loan document, and the term “nonmonetary default” means a failure by Borrower or any other person to perform any obligation contained in the City Loan Agreement, Covenant, Deed of Trust, or Promissory Note, other than the obligation to make payments provided for in the Promissory note or Loan documents.

C. Acceleration; Interest Upon Default; and Withholding Disbursements. Upon the existence of a default and the failure to cure within the Cure Period, and without necessity of further notice, presentment, demand, protest, or notice of protest of any kind, all of which are expressly waived by the Borrower, the City shall have the right to accelerate any outstanding obligations of the Borrower, which shall be immediately due and payable, including payments under the Promissory Note, to foreclose upon the Property, and to enforce or assign its rights under the Deed of Trust. Upon default and if the default remains after the Cure Period, the principal shall draw interest at the rate of fifteen percent (15%) per annum. If any of the Loan funds have not been disbursed to Borrower, the City may suspend or terminate the City Loan Agreement, in whole or in part, and withhold one hundred percent (100%) of any undisbursed funds.

D. Effect of Default on Eligibility for Further Funding. If Borrower is in default, the City may declare the Borrower ineligible for any further participation in City funding, in addition to other remedies as provided by law.

18. NOTICES: All notices required by the terms of this City Loan Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Borrower at the address:

Wolf 23 LLC
6007 S Saint Paul Way
Centennial, Colorado, 80121

With a copy to:

Treasa Burke
Reinhart Boerner Van Deuren sc
1500 Wynkoop Street, Suite 202
Denver, CO 80202

and if to the City at:

Executive Director of the Department of Housing Stability
City and County of Denver
201 West Colfax Avenue, Dept. 1101
Denver, Colorado 80202

With a copy to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

19. ASSIGNMENT AND SUBCONTRACTING: The City is not obligated or liable under this City Loan Agreement to any party other than the Borrower. Except as provided herein, the Borrower shall not assign, sublet or subcontract with respect to any of the rights, benefits, obligations or duties under this City Loan Agreement except upon prior written consent of the City.

20. NONRECOURSE TO BORROWER: Notwithstanding any other provision contained herein, or the Promissory Note, the Deed of Trust, or any City Covenant, it is agreed that the execution of this City Loan Agreement, the Promissory Note, the Deed of Trust, and the Covenant shall impose no personal liability on Borrower or any partner, member or manager of Borrower other than the Guarantors under the terms of the Guaranty for payment of any of the obligations described herein or therein, and the City's sole recourse shall be against the Guarantors under the terms of the Guaranty and the Project.

21. CITY NOT PARTY TO CONSTRUCTION CONTRACT: The City is not, and nothing in this City Loan Agreement shall be construed to constitute the City, a party to any construction contract pursuant to which the loan or grant proceeds hereof are expended

22. PUBLICATIONS/ANNOUNCEMENTS: HOST approval must be obtained prior to publicizing activities or projects funded by HOST or prior to any radio or television announcements, newspaper advertisements, press releases, pamphlets, mail campaigns, or any other marketing methods for any activities or projects funded by HOST. In any event, all such publicizing activities must include the following statement: “The funding source for this activity is the City and County of Denver, Department of Housing Stability.” HOST shall be acknowledged in any events regarding the project being funded, including groundbreakings and openings.

23. ACKNOWLEDGEMENT OF FUNDING: Borrower will provide and install at the Property signs, in a form mutually agreeable to the Executive Director and the Borrower, acknowledging the participation of the City and the City funding of the Project.

24. WAIVER: No waiver of any breach or default under this City Loan Agreement shall be held to be a waiver of any other or later breach or default. All remedies afforded in this City Loan Agreement shall be construed as cumulative, in addition to every other remedy provided herein or by law.

25. DURATION/BINDING EFFECT: This City Loan Agreement shall remain in effect for the period of affordability specified in Section 6 above, and shall be binding upon the parties and shall inure to the benefit of their respective successors, assignees, representatives, and heirs.

26. COUNTERPARTS: This City Loan Agreement may be executed in multiple counterparts, each of which, when executed and delivered, shall be deemed to be an original and, taken together, shall constitute one and the same instrument.

27. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this City Loan Agreement, the Borrower agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

28. RECITALS: All of the recitals above are hereby confirmed and incorporated herein as part of this City Loan Agreement.

29. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:

Borrower consents to the use of electronic signatures by the City. This City Loan Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this City Loan Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this City Loan Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

List of Exhibits to City Loan Agreement

Exhibit A – Intentionally Omitted

Exhibit B – HOST Financial Administration Requirements

Exhibit C – Form of Covenant

Exhibit D – Legal Description of Property

Exhibit E – Form of Subordination Agreement

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Contract Control Number: HOST-202582195
Contractor Name: WOLFF 23 LLC

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:
Contractor Name:

HOST-202582195
WOLFF 23 LLC

By:  Signed by:
SCOTT SPEIL
93A575B99D6C4CC...

Name: SCOTT SPEIL

(please print)

Title: Manager

(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A
INTENTIONALLY OMITTED

EXHIBIT B

DISBURSEMENT TERMS AND CONDITIONS

I. Disbursement Request Procedures

- a. Disbursements shall be processed through the Department of Housing Stability (“HOST”) and the Department of Finance (“DOF”).
- b. HOST will disburse loan or grant funds to the Borrower or Grantee (referred to herein as the “Borrower”) for “hard cost expenses,” “soft cost expenses,” and “acquisition cost expenses” (“Disbursement”) upon the Borrower’s written request delivered to HOST (the “Disbursement Request”). The Disbursement Request shall be in the form approved or required by HOST and DOF and may be submitted no more frequently than once every month. Disbursement Requests must be submitted by Borrower electronically to the assigned HOST staff member who will review the submission for completeness and accuracy.
- c. Prior to the first Disbursement Request, Borrower must provide to the City for review and approval, if necessary, the following items:
 - i. A partnership agreement, operating agreement, corporate resolution, or other corporate documentation to demonstrate who has authority for the Borrower to submit Disbursement Requests.
 - ii. The affirmative marketing plan.
 - iii. The tenant selection plan.
 - iv. The form lease agreement for dwelling units at the Project, which contains no prohibited provisions as described in the Agreement.
- d. All Disbursements will be via check sent by regular mail unless ACH or other method of disbursement is requested.
- e. Disbursements involving federal funds must have satisfied all environmental review requirements under 24 C.F.R. Part 58.
- f. The Borrower may not make a Disbursement Request until such funds are needed to pay costs of the Project. The amount of each Disbursement Request must be limited to the amount needed to pay costs actually incurred by the Borrower at the time of the Disbursement Request. The Disbursement Request may not include items previously submitted to and reimbursed by other lenders, amounts for prospective or future needs, funds to be placed into escrow accounts, or advances in lump sums to the Borrower.
- g. Each Disbursement Request must be accompanied by documentation acceptable to HOST and DOF that evidence payments for which a disbursement request has been made. HOST and DOF will review documentation for incurred costs that match the Disbursement Request. Documentation to be submitted with a Disbursement Request shall include, as applicable, but not be limited to:

EXHIBIT B

- i. A completed and signed HOST expense certification form.
 - ii. For hard cost draws, a completed standard AIA Form G702 and Form G703 certified by the architect and signed and notarized by the general contractor. If the Disbursement Request includes costs for minor construction not shown on the G702 and G703, the scope of work and contractor invoices must be submitted.
 - iii. Invoices and other evidence satisfactory to HOST and DOF for “hard” or direct costs provided to the Project with respect to the Disbursement Request. All invoices must show the Project name and address.
 - iv. Invoices and other evidence satisfactory to the City for “soft” or indirect costs provided to the Project with respect to the Disbursement Requests. All invoices must show the Project name and address.
 - v. Evidence satisfactory to HOST and DOF to demonstrate proof of payment of any cost or expense contained on a Disbursement Request. Evidence of proof of payment may include, but not be limited to: cancelled checks; copies of checks; documentation of cost or expense in a general ledger; credit or debit card statements; final signed settlement statements, wire transfer records, or bank statements.
 - vi. An updated itemized budget.
 - vii. Current certificates of insurance.
 - viii. Lien waivers from all applicable contractors, subcontractors, and suppliers.
 - ix. For agreements receiving federal funding and to which the Davis-Bacon Act applies, Borrower must be current in submissions of all paperwork and documentation requested by the City to demonstrate compliance with the requirements of the Davis-Bacon Act.
 - x. For acquisition Disbursement Requests being funded at a scheduled closing, the following items will be required: a) Preliminary closing statement; b) wire instructions on bank letterhead including date wire is required; and c) final settlement statement and recorded documents after closing.
- h. The Borrower must cooperate with HOST in obtaining or providing any additional documentation that may be required by HOST, DOF, or any other agency of the City.
- i. The City will retain the first \$10,000.00 of Disbursements for the purposes of the Compliance Retainer as set forth in the Agreement. The \$10,000.00 that is retained pursuant to this provision will be released under the terms described in Section II.
- j. The City will disburse to the Borrower 95% of hard expenses for each Disbursement and all of the soft expenses. The retained 5% of hard expense (the “Retainage”) shall be disbursed as all or part of the final Disbursement under the terms described in Section II.

EXHIBIT B

- k. At all times during the construction of the Project, the City shall have the right, but not the obligation, to enter and inspect all work done, and all materials, equipment, and other matters relating to the Project.
- l. HOST reserves the right, in its sole and absolute discretion, to revise or modify the processes, procedures, and requirements related to the disbursement procedures. HOST will notify Borrower of any such changes to the disbursement procedures.
- m. The City will not make any Disbursements of loan or grant proceeds to the Borrower for costs or expenses that:
 - i. Are prohibited by Federal or City regulations related to the funding source.
 - ii. Are not requested or otherwise not in accordance with Agreement or the procedures for a Disbursement Request set forth herein.
 - iii. Were requested or incurred, or both, after the termination of the Agreement or outside the time periods set forth in the Agreement.
 - iv. Were requested during the occurrence and continuation of an event of default specified in the Agreement.

II. Disbursement of Compliance Retainer and Retainage

- a. *Compliance Retainer.* For the City to release the Compliance Retainer, a Disbursement Request must be submitted along with the following information, as applicable:
 - i. A completed HOST expense certification form.
 - ii. For agreements funded with federal funds, any required federal forms or reports. The City must review and approve any completed federal forms or reports for any federally funded agreement.
 - iii. All documents or items required to be submitted to the City pursuant to the Agreement not previously provided.
 - iv. A certificate of occupancy.
 - v. Current certificates of insurance.
 - vi. Updated title policy with date down endorsement or copy of date down endorsement for senior lender.
 - vii. The Project must pass a HUD standard inspection performed by the City.
 - viii. Lease-up information on all units restricted by the City through the use of City funds or Federal funds, as applicable. The information must include number of bedrooms in the unit, household size, tenant household incomes, date of income certification, tenant paid portion of rent, total lease rent, voucher amounts, voucher type (project based or tenant based), utility allowance amount, lease start and end dates, and demographic data. HOST will review this information to confirm the Project's lease-up is in compliance with the affordability restrictions contained in the Agreement and Rental & Occupancy Covenant.
 - ix. Any other documents required by HOST.

EXHIBIT B

- b. *Retainage.* For the City to release the Retainage, a Disbursement Request must be submitted along with the following information, as applicable:
 - i. A completed HOST expense certification form.
 - ii. Final unconditional lien waivers or proof of release of liens in form and substance satisfactory to the City from all applicable contractors, subcontractors, and suppliers, as applicable.
 - iii. A copy of the completed AIA G704 Form for the senior lender, signed by the architect, general contractor, and Borrower that shows -\$0.00- as the cost estimate of work that is incomplete or defective, as applicable.
 - iv. A copy of the completed AIA G706 Form for the senior lender, signed by the general contractor and notarized, verifying that all debts and claims have been settled, as applicable.
 - v. A copy of the completed AIA G706A Form for the senior lender, signed by the general contractor and notarized, stating that all releases or waivers of liens have been received, as applicable.
 - vi. All documents or items required to be submitted to the City pursuant to the Agreement not previously provided.
 - vii. A certificate of occupancy.
 - viii. Current certificates of insurance.
 - ix. Updated title policy with date down endorsement or copy of date down endorsement for senior lender.
 - x. The Project must also pass a HUD standard inspection performed by the City.
 - xi. Uniform Relocation Assistance and Real Property Acquisition Policies Act (“URA”) Determination, as applicable.
 - xii. Environmental mitigation memorandum of understanding, as applicable.
 - xiii. Any other documents required by HOST.

III. Conditions Precedent to All Disbursements

- a. The making of each Disbursement shall be subject to the satisfaction of each of the following additional conditions precedent, and a waiver of any condition to any Disbursement shall not constitute a waiver as to any subsequent Disbursement. The City may, in its sole discretion, withhold all or a portion of a Disbursement if any of the following conditions have not been satisfied or if the Borrower has not submitted the required documentation and information required by the Agreement, including the documentation and information required by these terms and conditions.
 - i. *No Default.* The Borrower must be in full compliance with and must not be in default under the Promissory Note, the Deed of Trust, or the Covenant or any other document executed by the Borrower in connection with the Agreement.
 - ii. *Time to Complete the Project.* In the sole opinion of the City, there must be sufficient time remaining to complete the construction of the Project in accordance with the terms of the Agreement, and in conformance with federal regulations and requirements for federally funded agreements.

EXHIBIT B

- iii. *Sufficient Funds Available to Complete the Project.* If requested by the City, the Borrower shall furnish evidence satisfactory to the City, in its sole discretion, that the amount of the loan or grant yet to be disbursed, together with any other sources of funds available to the Borrower and not yet disbursed, will be sufficient to complete the Project in compliance with the Agreement and to pay all costs therefore, and all other direct or indirect costs relating to the loan or grant and the Project.
- iv. *Lien waivers.* If requested by the City, the Borrower shall furnish data in a form satisfactory to the City with respect to prior Disbursements and expenditures relating to the Project and shall furnish lien waivers from the contractor and all subcontractors for work done and materials supplied to the Project to the date of the Disbursement Request.
- v. *Use of Funds.* Subject to the terms of the Agreement, the Borrower shall use the proceeds of the loan or grant exclusively for the costs of the Project.
- vi. *Compliance with Federal Requirements.* As applicable, Borrower must be compliant with all federal requirements, including, but not limited to, compliance with the Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968, and all reporting obligations under any such federal requirements.
- vii. *Pass-Through Loans.* If the Agreement is structured as a “pass-through” loan, Borrower must demonstrate that Borrower has the authority to submit disbursement requests on behalf of the Project owner, which may be done by providing HOST with an operating agreement or partnership agreement establishing such authority. A “pass-through” loan is defined as a loan made by the City to a borrower where loan proceeds will be granted or loaned by the borrower to the developer or owner of the Project for construction and development costs.

IV. Financial Management Systems – The Borrower must maintain financial systems that meet the following standards:

- a. Financial reporting must be accurate, current, and provide a complete disclosure of the financial results of financially assisted activities and be made in accordance with federal financial reporting requirements.
- b. Accounting records must be maintained which adequately identify the source and application of the funds provided for financially assisted activities. The records must contain information pertaining to contracts and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Accounting records shall provide accurate, separate, and complete disclosure of fund status.
- c. Effective internal controls and accountability must be maintained for all contract cash, real and personal property, and other assets. Adequate safeguards must be provided on all property, and it must be assured that it is used solely for authorized purposes.

EXHIBIT B

- d. Actual expenditures or outlays must be compared with budgeted amounts and financial information must be related to performance or productivity data, including the development of cost information whenever appropriate or specifically required.
- e. For contracts subject to federal agreements, applicable 2 C.F.R. Part 200 cost principles, agency program regulations, and the terms of the agreement will be followed in determining the reasonableness, allowability and allocability of costs.
- f. Source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc., shall be provided for all disbursements. The Borrower will maintain auditable records, i.e., records must be current and traceable to the source documentation of transactions.
- g. For contracts subject to federal agreements, the Borrower shall maintain separate accountability for HOST funds as referenced in 2 C.F.R. Part 200.
- h. The Borrower must properly report to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.
- i. A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.
- j. The Borrower shall participate, when applicable, in HOST provided staff training sessions in the following financial areas including, but not limited to (1) Budgeting and Cost Allocation Plans; (2) Vouchering Process.

V. **Audit Requirements**

- a. For contracts subject to federal agreements, if the Borrower expends seven hundred and fifty thousand dollars (\$750,000) or more of federal awards in the Borrower's fiscal year, the Borrower shall ensure that it, and its sub recipients(s), if any, comply with all provisions of the 2 C.F.R. Part 200.
- b. A copy of the final audit report must be submitted to the HOST Financial Manager within the earliest of thirty (30) calendar days after receipt of the auditor's report; or nine (9) months after the end of the period audited.
- c. A management letter, if issued, shall be submitted to HOST along with the reporting package prepared in accordance with the Single Audit Act Amendments and the 2 C.F.R. Part 200. If the management letter is not received by the subrecipient at the same time as the Reporting Package, the Management Letter is also due to HOST within thirty (30) days after receipt of the Management Letter, or nine (9) months after the end of the audit period, whichever is earlier. If the

EXHIBIT B

Management Letter has matters related to HOST funding, the Contactor shall prepare and submit a Corrective Action Plan to HOST in accordance with the Single Audit Act Amendments and the 2 C.F.R. Part 200, as set forth in 2 C.F.R. 200.511(c) for each applicable management letter matter.

- d. All audit related material and information, including reports, packages, management letters, correspondence, etc., shall be submitted to HOST.
- e. The Borrower will be responsible for all Questioned and Disallowed Costs.
- f. The Borrower may be required to engage an audit committee to determine the services to be performed, review the progress of the audit and the final audit findings, and intervene in any disputes between management and the independent auditors. The Borrower shall also institute policy and procedures for its sub recipients that comply with these audit provisions, if applicable.

VI. Procurement

- a. The Borrower shall follow the City Procurement Policy to the extent that it requires that at least three (3) documented quotations be secured for all purchases or services (including insurance) supplies, or other property that costs more than ten thousand dollars (\$10,000) in the aggregate.
- b. The Borrower will maintain records sufficient to detail the significant history of procurement. These records will include, but are not limited to, the following: rationale for the method of procurement, selection of contract type, Borrower selection or rejection, and the basis for the contract price.
- c. If there is a residual inventory of unused supplies exceeding five thousand dollars (\$5,000) in total aggregate upon termination or completion of award, and if the supplies are not needed for any other federally sponsored programs or projects the Borrower will compensate the awarding agency for its share.

VII. Bonding

- a. HOST may require adequate fidelity bond coverage, in accordance with 2 C.F.R. 200.304(b), where the subrecipient lacks sufficient coverage to protect the Federal Government's interest.
- b. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.

VIII. Collection of amounts due

- a. Any funds paid to a Borrower in excess of the amount to which the Borrower is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government and/or the City. If not paid within a reasonable period after demand, HOST may: 1) Make an administrative offset against other requests

EXHIBIT B

for reimbursements, 2) Withhold advance payments otherwise due to the Borrower, or 3) Pursue other action permitted by law.

EXHIBIT C

WHEN RECORDED MAIL TO:

Department of Housing Stability
Attention: _____ -
201 W. Colfax Ave., Dept. 615
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

CITY AND COUNTY OF DENVER USE AND OCCUPANCY CITY COVENANT

THIS USE AND OCCUPANCY CITY COVENANT (“City Covenant”) is made this
____ day of _____, 202_, by _____, a
_____ company (“Grantor”).

RECITALS:

WHEREAS, the Grantor is the owner of certain real property located in the City and County of Denver, Colorado and further described on Exhibit A attached hereto and incorporated herein by this reference (“Unit”);

WHEREAS, the Unit is a part of a residential housing project (“Project”) developed by Grantor that is subject to that certain Declaration recorded on _____ at Reception No. _____ in the real estate records of the City and County of Denver, Colorado (“Sub-Declaration”), and that certain Condominium Map recorded on _____ at Reception No. _____ in the real estate records of the City and County of Denver, Colorado;

WHEREAS, the Grantor has voluntarily entered into a loan agreement with the City and County of Denver (the “City”) dated _____, 202_ (the “City Loan Agreement”) and is the recipient of local funds to be used to finance the costs associated with the development and construction of the Property for use as affordable housing;

WHEREAS, pursuant to the City Loan Agreement, the Grantor agreed to construct the condominiums to be used as affordable housing for a term of seventy (70) years;

WHEREAS, the intent of Grantor is to preserve through this City Covenant the affordability of the Unit described herein for persons of low- to moderate-income, and to assign to the City the right to enforce compliance with this City Covenant.

WHEREAS, the City received a grant from the State of Colorado, through the Department of Local Affairs, to provide additional funding for the Project from the Affordable Homeownership Program (“AHOP”); and

WHEREAS, the Grantor voluntarily entered into that certain Funding Agreement whereby the City provided grant funds received from the State to Grantor for the Project (“AHOP Funding”) for the Project; and

EXHIBIT C

WHEREAS, the Grantor is required by the Funding Agreement to also record an additional covenant in favor of the state (“State Covenant”) on certain Units at the project that are supported by AHOP Funding; and

NOW THEREFORE, in consideration of the benefits received by the Grantor, the sufficiency of which is hereby acknowledged, the Grantor establishes the following as covenants running with the land:

ARTICLE I DEFINITIONS

"AMI" means the Area Median Income reported annually for single persons and households of various sizes by HUD for the metropolitan statistical area that includes the County.

"City" means the City and County of Denver, Colorado, its agencies, and its successors and assigns.

"Control Period" means a period beginning upon the date of the recordation of a deed evidencing the initial sale of the Unit by the Grantor to a Qualified Buyer, and terminating seventy (70) years thereafter; *provided, however*, that such termination shall be subject to the continuing obligations specifically set forth under Article VII herein.

"CPI-U" means the most recent United States Department of Labor (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers for the consolidated metropolitan statistical area that includes the County. In the event that the CPI-U is substantially changed, re-named, or abandoned by the United States Government, then in its place shall be substituted the index established by the United States Government that most closely resembles the CPI-U.

"County" means the City and County of Denver, Colorado.

"Designated Preservation Partner" means a HOST-approved affordable housing developer or development organization, the Denver Housing Authority (DHA), the Colorado Housing Finance Agency (CHFA,) or quasi-governmental entity.

"Eligible Capital Improvements" means those certain capital improvements to the Unit that are specifically designated by HOST (as defined below) as eligible for purposes of determining the Maximum Sale Price of the Unit pursuant to Article VI hereof. To qualify for an Eligible Capital Improvement the Owner must submit to HOST, in advance of commencing the installation or construction of the improvement, a request for approval of any proposed capital improvement, and obtain that approval from HOST.

"Executive Director" means the Executive Director of HOST, or the Executive Director's designee.

"First Mortgage" means any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the Clerk and Recorder of the County, for the original benefit

EXHIBIT C

of an Institutional Lender, encumbering the Unit having priority of record over all other recorded liens except those liens made superior by statute.

“First Mortgage” means and includes the holder or beneficiary of any First Mortgage.

“HOST” means the City’s Department of Housing Stability or any successor agency.

“Household” means: (1) a single person; or (2) any number of persons bearing to each other the relationship of husband, wife, mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece, living together as a single nonprofit housekeeping unit; or (3) two (2) unrelated adults over the age of eighteen (18) years plus, if applicable, any persons bearing to either of the two (2) unrelated adults the relationship of son, daughter, stepson, stepdaughter, mother, father, grandmother, grandfather, grandson, granddaughter, sister, brother, living together as a single nonprofit housekeeping unit.

“HUD” means the United States Department of Housing and Urban Development, and its successors or assigns.

“Income” means the definition of income set forth in 24 C.F.R. § 5.609, or any successor regulation, or any other definition determined by the City pursuant to Denver Revised Municipal Code § 27-101 *et seq*, or any successor ordinance.

“Institutional Lender” means a federally- or state-chartered bank or savings and loan or a recognized mortgage banking institution.

“Low-Income Household” means a household whose annual income does not exceed eighty percent (80%) of the median income for the area (“AMI”), as determined by HUD, with adjustments for smaller and larger households. In determining the income eligibility of the household, the income of all persons living in the housing must be included. The AMI limits for this Project are published annually on the website of the Colorado Housing and Finance Authority (“CHFA”), or if no longer published by CHFA, an equivalent index will be designated by the Colorado Department of Local Affairs or HOST. HOST shall verify or pre-verify household income levels to determine eligibility, based on the household’s income at the time of execution of a contract for purchase of a Unit

“Maximum Sale Price” shall have the meaning set forth in Article VI hereof.

“Memorandum of Acceptance” means a document signed by each Unit purchaser stating the purchaser is aware of and will be bound by the Unit restrictions and providing an address for notices to the purchaser.

“Mortgage” means any recorded mortgage, deed of trust or other interest in the Unit held solely as security for the performance of an obligation.

EXHIBIT C

“Mortgagee” means any person or entity named as the mortgagee or beneficiary under any Mortgage, or their allowed assignees.

“Owner” means any person or entity at any time being the record owner of the Unit in compliance with the terms and provisions of this City Covenant; it being understood that such person or persons shall be deemed an “Owner” hereunder only during the period of his, her or their recorded ownership interest in the Unit. “Owner” does not include a person whose interest is solely that of a Mortgagee.

“Project” means the land and the improvements that are subject to the Declaration (as defined in the Recitals above), of which the Unit is a part.

“Qualified Buyers” means a person or persons whose household qualifies as a low-income household. The verification of eligibility shall be calculated based on Income at the time of execution of a contract for purchase of the Unit. If the Unit is not subject to a State Covenant, a designated preservation partner may also be a qualified buyer when approved by the City in its sole discretion.

ARTICLE II COVENANT BINDS THE PROJECT

A. This City Covenant shall constitute covenants running with title to the Unit as a burden thereon, for the benefit of, and enforceable by, the City. This City Covenant shall bind the Grantor and all Owners. Each Owner, upon acceptance of a deed to the Unit, shall be personally obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during the Owner’s period of ownership of the Unit, and the Owner shall execute a Memorandum of Acceptance as set forth on Exhibit B attached hereto. Each and every conveyance of the Unit, for all purposes, shall be deemed to include and incorporate by this reference, the terms and conditions contained in this City Covenant, even without reference to this City Covenant in any document of conveyance. The failure of an Owner or buyer to execute or record a Memorandum of Acceptance shall not impair, terminate, or otherwise affect the validity or enforceability of this City Covenant against the Unit.

B. If a Unit is designated as a Unit supported by AHOP Funding under the Funding Agreement, upon initial sale of the Unit, Declarant and the Owner shall record a State Covenant in addition to this City Covenant. During the term of the State Covenant, in the event of a conflict between the State Covenant and this City Covenant, the most restrictive term shall prevail. When the State Covenant expires, the Unit will remain subject to this City Covenant for the remainder of the term as set forth in Article X, below.

ARTICLE III QUALIFIED BUYERS

EXHIBIT C

A. Qualified Buyers. Except as otherwise provided herein, the ownership, use and occupancy of the Unit shall be limited exclusively to housing for natural persons who meet the definition of Qualified Buyers.

B. Exceptions. Notwithstanding the foregoing paragraph, a transfer of ownership of the Unit resulting from the death of an Owner where the transfer is to at least one (1) person taking title by will or by operation of law shall not be subject to Article V (Voluntary Sale By Owner) and Article VI (Maximum Sale Price), so long as the transferee shall occupy the Unit as his or her permanent residence as defined in Article IV.B., below.

ARTICLE IV RESTRICTIONS

A. Occupancy. Owners shall not engage in any business activity on, in, or about the Unit; *provided, however,* that Owners may use the Unit as a home office, except as otherwise limited by or pursuant to local zoning or the Declaration. The Grantor and the Owners shall not permit a use or occupancy of the Unit that is not in compliance with this City Covenant.

B. Unit Must Be Permanent Residence. The Unit shall at all times be used as the permanent residence of the Owner. A “permanent residence” means the home or place in which one’s habitation is fixed and to which one, whenever he or she is absent, has a present intention of returning after a departure or absence therefrom, regardless of the duration of the absence. In determining what is a permanent residence, the following circumstances relating to the Owner may be taken into account: business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse and children, if any, location of personal and real property, and motor vehicle registration. This residency requirement does not apply to Designated Preservation Partners, although such entities shall use the Unit for affordable housing purposes.

C. Rental. The Owner of a Unit may share occupancy of the Unit with non-owners on a rental basis provided that the Owner continues to reside in the Unit as the Owner’s permanent residence and to meet the obligations contained in this City Covenant.

D. No Discrimination. In the sale of the Unit, there shall be no discrimination on the basis of age, race, creed, color, sex, gender, familial status, military status, sexual orientation, disability, religion, national origin or marital status.

E. Maintenance of Unit. The Owner shall maintain the Unit in good, safe, and habitable condition in all respects, except for normal wear and tear, and in full compliance with all applicable laws, ordinances, and rules and regulations of any governmental authority and any homeowners association(s) with jurisdiction over matters concerning the condition of the Unit.

ARTICLE V VOLUNTARY SALE BY OWNER

A. Notice. In the event that the Owner (other than Grantor, it being understood and agreed that the provisions of this Article V shall not apply to Grantor’s initial sale of the Unit to a Qualified

EXHIBIT C

Buyer) desires to sell the Unit, the Owner shall provide written notice to HOST of such Owner's intent to sell at least fifteen (15) days prior to engaging a broker to list the Unit for sale or otherwise offering the Unit for sale. Said notice to HOST shall include the original or duplicate receipts for all claimed Eligible Capital Improvements to verify the costs of such improvements, and an affidavit from the Owner verifying that the receipts are valid and correct. HOST may keep a list of interested purchasers, and may provide same to any selling Owner, in HOST's sole discretion. HOST shall notify the selling owner of the Maximum Sale Price determined in accordance with Article VI below, and the selling owner may then commence to market the Unit as further set forth below.

B. Sales Contract. After providing the notice required in paragraph A. above, the selling Owner may list the Unit for sale with a real estate agent licensed in the State of Colorado or the selling Owner may market the Unit as a so-called "for sale by owner", and may enter into a contract for the sale of the Unit upon such terms and conditions as the selling Owner shall, in the selling Owner's discretion, deem acceptable, *provided, however*, that:

- (1) the purchase price shall not exceed the Maximum Sales Price;
- (2) the selling Owner must believe in good faith that the purchaser is a Qualified Buyer and that the purchase price does not exceed the Maximum Sales Price;
- (3) the contract must state as a contingency to closing that the purchaser will submit the application described in paragraph C. below to HOST within three (3) days after contract acceptance, and that the closing of the sale is expressly contingent upon the City's determination that the purchaser is a Qualified Buyer and that the purchase price does not exceed the Maximum Sales Price as evidenced by issuance of the Verification described in paragraph C. below; and
- (4) the terms comply with the Maximum Mortgage Payment as set forth in Article VI.B.

C. Verification. Within three (3) days after contract acceptance (defined as the date of last execution of the contract by the purchaser or the selling Owner), the purchaser shall complete and submit an application form to HOST requesting a determination that the purchaser is a Qualified Buyer (unless the buyer is prequalified by HOST as a Qualified Buyer), that the purchase price does not exceed the Maximum Sales Price, and that the terms comply with the Maximum Mortgage Payment. HOST shall promulgate the form of such application, which shall request only such information as is necessary to determine whether the purchaser is a Qualified Buyer, whether the purchase price exceeds the Maximum Sales Price, and whether the terms comply with the Maximum Mortgage Payment. HOST shall make its eligibility determination of the purchaser within ten (10) days after receipt of the completed application, as evidenced either by (i) the issuance of a verification, signed by HOST and in recordable form, stating that the purchaser is a Qualified Buyer, the amount of the purchase price and that the purchase price does not exceed the Maximum Sales Price, and that the terms comply with the Maximum Mortgage Payment ("Verification"); or (ii) delivering a notice to seller and purchaser that a Verification cannot be issued and stating the reason(s) therefor. Failure by HOST to make its determination and deliver the Verification or the notice as described above within the 10-day period will be deemed an

EXHIBIT C

approval of the purchaser and the purchase price, and HOST shall thereafter issue a Verification with respect to the transaction promptly upon request therefor by the selling Owner or the purchaser.

D. Recordation. Upon the Transfer of the Unit, the Verification shall be recorded in the real estate records of the City and County of Denver, Colorado, along with the Memorandum of Acceptance and the deed for the Unit, and if the Verification is not so recorded, then the Transfer shall be null and void, subject to Article VIII.E. below.

E. Waiver. The Executive Director may waive the restrictions on the resale prices for the Unit if the Executive Director finds that the restrictions conflict with regulations of federal or state housing programs and thus prevent Qualified Buyers from buying the Unit, provided that the Executive Director also determines that the waiver complies with any applicable restriction of AHOP funding or the State Covenant, if applicable. Any waiver shall be in writing, shall reference the recorded covenant, and shall be recorded in the records of the Clerk and Recorder for the City and County of Denver, Colorado.

ADDITIONAL TERMS AND CONDITIONS OF RE-SALE OF THE UNIT MAY BE SET FORTH IN THE CITY'S DEPARTMENT OF HOUSING STABILITY RULES AND REGULATIONS, IF ANY, AS AMENDED FROM TIME TO TIME.

ARTICLE VI MAXIMUM SALE PRICE

A. Calculation of Maximum Sale Price. For the duration of the Control Period, the price of the Unit at resale must ensure the Owner receives a 'fair return on investment' (including the homeowner's investment and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The Maximum Sale Price for subsequent sales shall be calculated as set forth in paragraph A, below, and is subject to the Maximum Mortgage Payment as set forth in paragraph B, below. In the event that the resale price necessary to provide a 'fair return' is not affordable to the subsequent buyer or cannot comply with the Maximum Mortgage Payment, HOST and Owner shall follow the procedures set forth in the State of Colorado's Consolidated Plan. The Maximum Sale Price is calculated as follows:

(1) Start with the purchase price paid by the selling Owner, approved by the City and for which such Owner purchased the Unit according to the Owner's purchase contract for the Unit;

(2) For each year from the date that the selling Owner acquired the Unit multiply the selling Owner's purchase price by the percentage change over the prior year in the CPI-U up to a maximum increase for any given year of 3.5 percent or a maximum decrease for any given year of 3.5 percent;

(3) For each such year add the product of the multiplication described in (ii) above to the selling Owner's purchase price;

EXHIBIT C

(4) Add the costs of Eligible Capital Improvements that have been approved by the City up to the time of Transfer;

(5) Add the amount of the sale commission paid by the Owner, provided that this amount may not exceed the maximum allowable sales commission published by HOST on an annual basis;

(6) Add any accrued negative amortization if the Unit was financed with a graduated payment mortgage; and

(7) Add any applicable transfer assessment to be made, in connection with the sale, by the 10th & Wolff Condominiums Association, Inc., pursuant to the Declaration.

THE MAXIMUM SALES PRICE IS ONLY AN UPPER LIMIT ON THE RESALE PRICE FOR THE UNIT, AND NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION, WARRANTY OR GUARANTEE BY THE GRANTOR OR THE CITY THAT UPON TRANSFER THE OWNER SHALL OBTAIN THE MAXIMUM SALES PRICE. DEPENDING UPON CONDITIONS AFFECTING THE REAL ESTATE MARKET, THE OWNER MAY OBTAIN LESS THAN THE MAXIMUM SALES PRICE FOR THE UNIT UPON RESALE.

B. Maximum Mortgage Payment. In order to ensure that the Property is affordable to a reasonable range of low-income homebuyers, the total of all monthly mortgage payments of the Qualified Buyer, including principal, interest, taxes and insurance (“PITI”), plus any land lease fees or homeowners association fees, shall not exceed thirty-five percent (35%) of the gross income of the Qualified Buyer at the time the Qualified Buyer acquires the Property. This restriction shall apply to the initial sale and all subsequent re-sales of the Property made during the Affordability Period. Qualified Buyers and Owners shall not permit any additional liens or mortgages to be placed against the Property without the prior written consent of the City, other than the mortgage(s) or other liens(s) used to purchase the Property

C. Other Improvements. Nothing in this City Covenant shall prohibit an Owner from making an improvement to the Unit which does not qualify as an Eligible Capital Improvement. However, only Eligible Capital Improvements may be included in the calculation of the Maximum Sales Price.

D. Buyers May Not Pay Owner’s Costs. No Owner shall permit any prospective buyer to assume any or all of the Owner’s customary closing costs or accept any other consideration which would cause an increase in the purchase price above the bid price so as to induce the Owner to sell to such prospective buyer.

ARTICLE VII FIRST SALE AFTER CONTROL PERIOD ENDS

A. City Option. When the Unit is offered for sale for the first time after the expiration of the Control Period, the City shall have the option (“Option”) to either (a) purchase the Unit at the

EXHIBIT C

Maximum Sale Price, or, in the alternative, (b) permit a sale of the Unit on the open market. The City may, in its sole discretion, assign its Option to purchase the Unit at the Maximum Sale Price to a Designated Preservation Partner.

B. Notice. When the Unit is to be offered for sale for the first time after the expiration of the Control Period, the Owner shall notify the City of the intended sale (“Notice of Intent to Sell”) at least thirty (30) days prior to the Unit being offered for sale. Such Notice of Intent to Sell, sent to the City, shall set forth: (a) the legal description for the Unit; (b) the Owner's original purchase price for the Unit; (c) the date Owner purchased the Unit; (d) the cost and date of Eligible Capital Improvements undertaken by the Owner, if any, along with supporting documentation of such costs required as described elsewhere in this City Covenant; (e) the date on which the Owner intends to offer the Unit for sale on the open market; and (f) an address and phone number at which the Owner may be contacted by the City.

C. City’s Election. Within thirty (30) days from and after the City’s receipt of the Notice of Intent to Sell and all information required by paragraph B. above, the City shall deliver a notice to the Owner (“City’s Notice of Maximum Sale Price & Election”) setting forth: (a) the Maximum Sale Price (as determined by the City in accordance with Article VI); and (b) a statement regarding whether the City elects to either (i) purchase the Unit at the Maximum Sale Price, (ii) assign its Option to a Designated Preservation Partner; or (iii) permit the sale of the Unit on the open market. The Maximum Sale Price set by the City hereunder shall include the Eligible Capital Improvement credits only if the Owner delivers to the City the information required hereunder with the Owner’s Notice of Intent to Sell.

D. City Purchase. In the event that the City elects to purchase the Unit, the City’s Notice of Maximum Sale Price & Election shall set forth the terms of the purchase, including the date, time and place of closing. The City shall set the closing no later than forty-five (45) calendar days after the date of the City’s Notice of Maximum Sale Price & Election. At the closing of the purchase of the Unit, the City shall pay the Maximum Sale Price determined hereunder, and the Owner shall execute and deliver a special warranty deed to the City and surrender possession of the Unit to the City, free and clear of all encumbrances except any that are expressly assumed in writing by the City. At the closing of the sale of the Unit hereunder, Owner shall also provide and pay for a title insurance policy to the City from a title insurance company acceptable to the City insuring marketable title in the City consistent with the terms of the purchase of the Unit by the City. If the Owner fails or refuses to execute and deliver such a deed and title insurance policy at closing, the City may execute and deliver said deed, and secure such title policy at Owner’s cost, on behalf of the Owner as the Owner’s attorney-in-fact, and the Owner, by accepting title to the Unit, hereby irrevocably appoints the City as its attorney-in-fact for the herein purposes.

E. Assignment to Designated Preservation Partner. In the event that the City elects to assign the Option to purchase the Unit to a Designated Preservation Partner, the Designated Preservation Partner shall, within thirty (30) days of the City’s Notice of Maximum Sale Price & Election, provide a notice (“Designated Preservation Partner’s Notice”) to the Owner that either states the Designated Preservation Partner declines the Option, or sets forth the terms of the purchase, including the date, time and place of closing. The Designated Preservation Partner shall set the closing no later than forty-five (45) calendar days after the date of the Designated Preservation

EXHIBIT C

Partner's Notice. At the closing of the purchase of the Unit, the Designated Preservation Partner shall pay the Maximum Sale Price determined in the City's Notice of Maximum Sale Price & Election, and the Owner shall execute and deliver a special warranty deed to the Designated Preservation Partner and surrender possession of the Unit to the Designated Preservation Partner, free and clear of all encumbrances except any that are expressly assumed in writing by the Designated Preservation Partner. At the closing of the sale of the Unit hereunder, Owner shall also provide and pay for a title insurance policy to the Designated Preservation Partner from a title insurance company acceptable to the Designated Preservation Partner insuring marketable title in the Designated Preservation Partner consistent with the terms of the purchase of the Unit by the Designated Preservation Partner. If the Owner fails or refuses to execute and deliver such a deed and title insurance policy at closing, the Designated Preservation Partner may execute and deliver said deed, and secure such title policy at Owner's cost, on behalf of the Owner as the Owner's attorney-in-fact, and the Owner, by accepting title to the Unit, hereby irrevocably appoints the Designated Preservation Partner as its attorney-in-fact for the herein purposes.

F. Permit to Sell. In the event that the City elects not to purchase the Unit and instead permits the sale of the Unit on the open market, as provided in paragraph C. above, then the Owner shall promptly deliver to the City any and all contracts for the sale of the Unit, and all amendments thereto.

G. Untimely Election. If the City fails to timely deliver the City's Notice of Maximum Sale Price & Election, the City shall have no option to buy the Unit, and it shall be deemed that the City elects to permit the Owner to sell the Unit on the open market. If the Owner fails to deliver the Notice of Intent to Sell required hereunder, the City shall have such remedies against the selling Owner as are set forth in Article VIII hereof.

H. Post-Control Period. The period extending from the end of the Control Period, through the first sale of the Unit after the Control Period, and ending on the date that the City either purchases the Unit or permits the sale of the Unit on the open market, shall be referred to herein as the "Post-Control Period".

ARTICLE VIII REMEDIES IN THE EVENT OF BREACH

A. Inspection. In the event that the City and/or HOST has reasonable cause to believe that Owner is violating the provisions of this City Covenant, the City and/or HOST, by its authorized representative, may inspect the Unit between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after a reasonable attempt to provide such Owner with twenty-four (24) hours advance written notice.

B. Cure/Hearing. In the event a violation of this City Covenant is discovered, the City and/or HOST shall send a notice of violation to Owner detailing the nature of the violation and allowing Owner fifteen (15) days to cure such default. Said notice shall state that Owner may request a hearing before the City or HOST (as determined by the City or HOST) pursuant to Denver Revised Municipal Code Section 27-115 and 27-116 *et seq.*, or any successor ordinance. If no hearing is requested and the violation is not cured within the fifteen (15) day period, Owner shall be considered in violation of this City Covenant. If a hearing is held before the City or HOST, the

EXHIBIT C

decision of the City or HOST based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

C. Enforcement. There is hereby reserved to the City the right to enforce this City Covenant, including any and all remedies provided pursuant to the Denver Revised Municipal Code.

D. Voiding Transfers. In the event the Unit is Transferred in a manner that is not in full compliance with the terms and conditions of this City Covenant, such Transfer shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every Transfer of the Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, regardless of reference therein to this City Covenant.

E. HUD. Notwithstanding anything in this City Covenant to the contrary, in the event that the Unit is encumbered by a HUD-insured mortgage, the City's remedies shall specifically not include remedies prohibited by HUD, such as: (i) voiding a conveyance, including a lease, by the Owner; (ii) terminating the Owner's interest in the Unit; (iii) limiting the amount of sales proceeds retainable by the Owner to an amount less than that set forth pursuant to Article VI; or (iv) subjecting the Owner to contractual liability including damages, specific performance or injunctive relief, other than requiring repayment at a reasonable rate of interest of assistance provided to make the Unit affordable as low or moderate income housing.

ARTICLE IX

RELEASE OF CITY COVENANT IN FORECLOSURE: CITY'S OPTION TO BUY

A. Foreclosure. The City shall release this City Covenant of record and waive its ability to enforce the provisions of this City Covenant with respect to the Unit in the event that title to the Unit is conveyed by way of foreclosure, or delivery of a deed in lieu of foreclosure with respect to the Unit, to a First Mortgagee (which shall be the only party (including HUD as provided below) entitled to take the Unit free of this City Covenant pursuant to the provisions of this Article IX). In the event that the City (or a designee empowered to hold title to real property) purchases the Unit at foreclosure, the City, or its designee, may sell the Unit to Qualified Buyers, or rent the Unit until such time that the Unit can be sold to a Qualified Buyer in accordance with this City Covenant. This City Covenant shall automatically and permanently terminate upon assignment to HUD of a first deed of trust encumbering the Unit.

B. Notice of Foreclosure. In the event of (i) a foreclosure action being brought by the First Mortgagee (including assigns of the First Mortgagee), or (ii) the request for the First Mortgagee to accept title to the Unit by deed in lieu of foreclosure, the Owner shall deliver a copy of any notice of intent to foreclose or request for deed in lieu to the City within ten (10) days of receipt of such notice or request. Notice to the City shall be to the address of the City as provided in this City Covenant. In the event that the First Mortgagee takes title to the Unit pursuant to a deed in lieu of foreclosure, the Owner shall give notice to the City upon the vesting of title to the Unit in the First Mortgagee.

ARTICLE X

TERM OF RESTRICTION

EXHIBIT C

This City Covenant shall be effective and binding during the Control Period, and thereafter for the Post-Control Period, and as provided in Article VII.H., except as otherwise specifically provided herein. Notwithstanding the foregoing, any and all claims of the City available hereunder against the Owner personally shall survive any release or termination of this City Covenant.

ARTICLE XI GENERAL PROVISIONS

A. Notices. All notices and demands required or permitted under this City Covenant shall be in writing, as follows: (1) by personal delivery of the notice to the party entitled to receive it; (2) by mailing such notice by certified mail, return receipt requested, in which case the notice shall be deemed to be delivered three days after the date of its mailing; or (3) by Federal Express or any other overnight carrier, in which case the notice shall be deemed to be delivered as of the date it is sent. All notices which concern this City Covenant shall be sent to the address of the appropriate party as set forth below, except if changed by a party by notice pursuant hereto, and except if a separate memorandum of this City Covenant is recorded against the Unit by the City summarizing the City's rights hereunder, then to the address set forth in such memorandum.

To the City: Department of Housing Stability
201 W. Colfax Avenue, Dept. 1101
Denver, Colorado 80202
Attn: Director

and a copy to: City Attorney
City of Denver
201 W. Colfax Avenue, Dept. 1207
Denver, Colorado 80202
Attn: Municipal Operations Section

To the Grantor: _____

To the Qualified Buyer/Owner: To the Unit address.

B. Owner's Disclosure. Each Owner who takes title from Grantor and every subsequent Owner of the Unit shall execute and record a Memorandum of Acceptance in the form attached hereto as Exhibit B (completed with the appropriate information relating to the Unit and such Owner) coincident with such Owner's deed to his or her Unit in the real property records of the City and County of Denver, Colorado, and such Owner shall promptly deliver a copy of same to HOST.

C. Severability. Whenever possible, each provision of this City Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such

EXHIBIT C

provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this City Covenant.

D. Choice of Law. This City Covenant shall be governed and construed in accordance with the laws of the State of Colorado.

E. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this City Covenant shall be valid against the City except on the basis of a written instrument executed by the City.

F. Further Actions. The parties to this City Covenant agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this City Covenant or any agreement or document relating hereto or entered into in connection herewith.

G. Modifications. Except as otherwise provided herein, any modification to this City Covenant shall be effective only when made in a writing signed by the Owner and the City and recorded with the Clerk and Recorder of the County.

H. No Third Party Beneficiaries. This City Covenant is made and entered into for the sole protection and benefit of the City and County of Denver, the Owner and the Grantor. No other person, persons, entity or entities, including without limitation prospective buyers of the Unit, shall have any right of action with respect to this City Covenant or right to claim any right or benefit from the terms provided in this City Covenant or be deemed a third party beneficiary of this City Covenant.

(INTENTIONALLY LEFT BLANK)

EXHIBIT C

IN WITNESS WHEREOF, the Grantor has caused this City Covenant to be duly executed as of the day and year first above written.

GRANTOR

GRANTOR NAME

a _____

By: _____

Name:

Title:

STATE OF COLORADO)
CITY AND)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 202_ by _____ as _____ of _____, a _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

EXHIBIT C

EXHIBIT A LEGAL DESCRIPTION

The following real property located in the City and County of Denver, State of Colorado:

[Insert legal description]

For informational purposes only:

EXHIBIT C

EXHIBIT B

MEMORANDUM OF ACCEPTANCE

Notice of Voidable Title Transfer and City and County of Denver Use and Occupancy Covenant for

Wolff Flats

WHEREAS, _____, the Buyer(s), purchased _____, Denver, Colorado _____ (the "Unit") on the date of _____ 20__ from _____, Seller, more fully described as:.

INSERT LEGAL DESCRIPTION

WHEREAS, the maximum resale price of the Unit is \$_____ as of _____, 20__.

WHEREAS, the Seller of the Unit is requiring as a prerequisite to the sale transaction, that the Buyer acknowledge and agree to the terms, conditions and restrictions found in that certain instrument entitled "CITY AND COUNTY OF DENVER USE AND OCCUPANCY COVENANT", recorded on _____ under Reception No. _____ in the real property records of the City and County of Denver, Colorado (the "City Covenant").

NOW, THEREFORE, as an inducement to the Seller to sell the Unit, the Buyer:

1. Acknowledges that Buyer has carefully read the entire City Covenant that applies to the property and has had the opportunity to consult with legal and financial counsel concerning the City Covenant and fully understands the terms, conditions, provisions, and restrictions contained in the City Covenant.
2. Acknowledges the City Covenant **voids title passage** if a transfer is attempted which is non-compliant with the affordability restrictions in the City Covenant. The failure to transfer for a restricted price, to a qualified buyer, in accordance with the maximum mortgage payment under the City Covenant means title is not transferred (void) and the buyer has no title or ownership of the property.
3. Acknowledges that, before selling this affordable home in the future, it is mandatory that approval is obtained **in writing** from the City and County of Denver, Department of Housing Stability, 201 West Colfax Ave., Dept. 1101, Denver, Colorado 80202.
4. Acknowledges that the terms of the City Covenant restrict the resale price of the Unit and may require sale of the Unit to the City or a designated partner of the City at the restricted price at

EXHIBIT C

the end of the control period set forth in the City Covenant. Maximum resale price information is available only from the City and County of Denver.

5. Acknowledges that the terms of the City Covenant restrict purchasers to households earning no more than 80% of Area Median Income (“AMI”). Allowable income maximums are available only from the City and County of Denver.

6. Acknowledges that if Buyer subsequently resells the Unit and does not comply with all terms of the City Covenant, the City and County of Denver may recover as financial penalty all amounts overpaid to the Buyer and require the subsequent purchaser to sell the property for the restricted price to a qualified buyer. The City’s recovery of a penalty does not limit any action a subsequent purchaser or other injured party may have to recover their damages from the Buyer resulting from the noncompliant resale.

7. Acknowledges that the terms of the City Covenant prohibit rentals except in limited circumstances.

8. Acknowledges that the City and County of Denver may recover as financial penalty all rents paid for and require the purchaser to sell the property at the restricted price to a qualified buyer. The City’s recovery of a penalty does not limit any action a tenant or other injured party may have to recover their damages from the landlord.

9. Notice to Buyer, pursuant to Subsection Article XI, (A) of the City Covenant, should be sent to:

10. In addition to the above, the City and County of Denver may seek any remedy allowed to it for violations of Article IV, Chapter 27, Denver Revised Municipal Code (including any adopted rules and regulations), or any successor ordinance, or the City Covenant.

11. Directs that this memorandum be placed of record in the real estate records of the City and County of Denver, Colorado and a copy provided to Department of Housing Stability.

IN WITNESS WHEREOF, the parties hereto have executed this instrument of the day and year first above written.

BUYER(S): _____

By: _____

Name: _____

EXHIBIT C

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of June 20__ by

Witness my hand and official seal.

Notary Public

My commission expires: _____

Exhibit D

LEGAL DESCRIPTION

The following real property located in the City and County of Denver, State of Colorado:

A PARCEL OF LAND LOCATED IN THE SOUTH ½ OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 6 TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ¼ CORNER OF SAID SECTION 6, FROM WHENCE THE EAST ¼ CORNER OF SAID SECTION 6 BEARS S89°39'45"E, A DISTANCE OF 5245.22 FEET; THENCE ON SAID SECTION LINE, S89°39'45"E, A DISTANCE OF 1299.52 FEET; THENCE N00°20'15"E, A DISTANCE OF 36.00 FEET TO A POINT ON THE NORTH LINE OF A PARCEL OF LAND CONVEYED TO THE CITY AT RECEPTION NO. 2024046212, DATED MAY 22, 2024, AND TO THE POINT OF BEGINNING;

THENCE N00°24'54"W, A DISTANCE OF 175.72 FEET;

THENCE S89°30'16"E, A DISTANCE OF 76.01 FEET TO THE NORTHWEST CORNER OF SAID CONVEYANCE; THENCE ON THE WEST LINE OF SAID CONVEYANCE, S00°24'54"E, A DISTANCE OF 175.51 FEET;

THENCE ON THE NORTH LINE OF SAID CONVEYANCE, N89°39'45"W, A DISTANCE OF 76.01 FEET TO THE POINT OF BEGINNING.

CITY AND COUNTY OF DENVER, STATE OF COLORADO.

Purported address (for information only): 4801 W 10th Ave., Denver, Colorado 80204

EXHIBIT E

CHFA Loan No.: 5009607

After Recording Return To:
Colorado Housing and Finance Authority
Attn: Legal Operations
1981 Blake Street
Denver, Colorado 80202-1272

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") dated [INSERT DATE], is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, the present holder of a certain deed of trust and covenant, whose address is Department of Housing Stability, 201 W. Colfax Ave., Dept. 615, Denver, Colorado 80202 (the "Junior Lender") and **COLORADO HOUSING AND FINANCE AUTHORITY**, a body corporate and political subdivision of the State of Colorado whose address is 1981 Blake Street, Denver, Colorado 80202 (the "Senior Lender").

PRELIMINARY STATEMENTS

A. The Junior Lender has made a loan to WOLFF 23 LLC, a Colorado limited liability company (the "Borrower") in the principal amount of \$1,725,000, evidenced by that certain Promissory Note, dated as of [INSERT DATE OF PROMISSORY NOTE], made by the Borrower and payable to the Junior Lender and secured by that certain Deed of Trust (the "Junior Deed of Trust") made as of [INSERT DATE OF DEED OF TRUST] and recorded on [INSERT RECORDATION DATE] at Reception No. [INSERT RECEPTION NUMBER] of the real property records in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado (the "Junior Deed of Trust" and together with the Promissory Note and all other documents evidencing, securing or executed in connection with the Junior Obligations (defined below), are collectively, the "Junior Loan Documents"), encumbering the following described property (the "Mortgaged Property"):

See Exhibit A attached hereto and incorporated herein by this reference.

B. In connection with the loan to Borrower from Junior Lender referenced above, Borrower has also executed a Rental and Occupancy Covenant dated _____, 2022 (the "City Covenant") and recorded on _____, 2022 at Reception No. _____ of the real property records in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado

C. The Senior Lender plans to grant or has granted Borrower a loan of \$5,700,000.00, which loan will be evidenced by that certain Promissory Note (the "Senior Note") in like amount and secured by that certain Deed of Trust, Security Agreement, Financing Statement, Fixture Filing and Assignment of Rents and Leases (the "Senior Deed of Trust") and that certain Declaration of Covenant (the "CHFA Covenant") which will cover and encumber all of the Mortgaged Property (the "Senior Note," and together with the Senior Deed of Trust, the CHFA Covenant, and all other documents evidencing, securing or executed in connection with the Senior

Obligations (defined below) are collectively, the "Senior Loan Documents"); and the Senior Deed of Trust and the CHFA Covenant will be recorded in the records of the office of the Clerk and Recorder of the City and County of Denver, State of Colorado.

D. It is the desire of the parties and to the mutual benefit of all parties that the lien of the Junior Deed of Trust and Junior Obligations be subordinated to the lien of the Senior Deed of Trust, the CHFA Covenant, and all other Senior Obligations (defined below).

AGREEMENT

For and in consideration of the mutual benefits accruing to the parties hereto, and the promises set forth, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Junior Deed of Trust. As used herein, the following terms shall have the meanings assigned to them:

"Senior Obligations" means each and every debt, liability and obligation of every type and description that the Borrower may now or at any time hereafter owe to the Senior Lender in connection with the Senior Deed of Trust, the CHFA Covenant, and Senior Loan Documents, whether such debt, liability or obligation now exists or is hereafter assumed, created or incurred and whether it is or may be direct or indirect, due or to become due, or absolute or contingent.

"Junior Obligations" means any deed of trust or other mortgage, lien or encumbrance made by the Borrower to and for the benefit of the Junior Lender, including, without limitation, the Junior Deed of Trust, the City Covenant, and any and all security interests, liens or other encumbrances granted in connection with the loan by the Borrower and in favor of the Junior Lender.

2. Subordination. All Junior Obligations and Junior Loan Documents are hereby expressly subordinated to the extent and in the manner hereinafter set forth to the payment in full of the Senior Obligations, the terms of the Senior Loan Documents, and all extensions, renewals, or modifications of the Senior Loan Documents. The Junior Lender hereby agrees that (regardless of any priority otherwise available to the Junior Lender by law or by agreement) any security interest that the Junior Lender might now hold in the Mortgaged Property, is fully subordinate to any security interest that the Senior Lender may now or hereafter hold in the Mortgaged Property. No amendment of any of the Junior Obligations shall directly or indirectly modify the provisions of this Agreement or impair the subordination of the Junior Obligations and Junior Loan Documents to the Senior Obligations and Senior Loan Documents.

3. Collateral and Security Interest. Until all of the Senior Obligations have been paid in full, the Junior Lender shall not demand, receive or accept, except as otherwise described in this

Agreement, (i) a pledge of any of the Mortgaged Property as security for the Junior Obligations, or (ii) a grant of any security interest or any other right or interest in any of the Mortgaged Property.

4. Payments Before Default Under Senior Loan Documents. Until the Junior Lender receives notice from the Senior Lender that a default has occurred in connection with the Senior Loan Documents as set forth in Section 8 herein, the Junior Lender shall be entitled to retain for its own account all payments made in connection with the Junior Obligations.

5. Waiver and Consent. The Senior Lender shall have no obligation to the Junior Lender with respect to the Mortgaged Property or the Senior Obligations. The Senior Lender may in accordance with the Senior Deed of Trust (a) exercise collection rights, (b) take possession of, sell or dispose of, and otherwise deal with, the Mortgaged Property, (c) in the Senior Lender's name or in the Borrower's name, demand, sue for, collect or receive any money or property at any time payable or receivable on account of, the Mortgaged Property; (d) prosecute, settle and receive proceeds on any insurance claims relating to the Mortgaged Property, and (e) exercise and enforce any right or remedy available to the Senior Lender with respect to the Mortgaged Property, whether available before or after the occurrence of any default; all without notice to or consent by anyone except as specifically required by law. The Senior Lender may apply the proceeds of the Mortgaged Property in any order the Senior Lender deems appropriate in its sole discretion, except as required by law.

6. No Action. Except to the extent that Junior Lender obtains Senior Lender's permission pursuant to the following sentence, the Junior Lender will not commence any action or proceeding with respect to the Mortgaged Property or against the Borrower, will not take possession of, sell or dispose of, or otherwise deal with, the Mortgaged Property, and will not exercise or enforce any other right or remedy that may be available to the Junior Lender against the Borrower or with respect to the Mortgaged Property upon Borrower's default with respect to the Junior Obligations, without the Senior Lender's prior written consent, which shall not be unreasonably withheld or delayed. In addition, and without limiting the generality of the foregoing, if the Borrower is in default under the Senior Loan Documents and the Senior Lender forecloses on the Mortgaged Property or accepts a deed in lieu of foreclosure, the Junior Lender shall, upon the Senior Lender's request, promptly execute and deliver such instruments as may reasonably be necessary to terminate and release any security interest, lien or covenant the Junior Lender acquired in connection with Junior Loan.

7. Notice of Default to Senior Lender. Any notice provided to Borrower by the Junior Lender of any default under the Junior Obligations shall also be sent to Senior Lender. Junior Lender shall afford Senior Lender the right but not the obligation to cure any default or Event of Default within sixty (60) days after Senior Lender receives such notice, and Junior Lender agrees to accept such performance as if it were undertaken by Borrower.

8. Notice of Default to Junior Lender. Senior Lender shall deliver to the Junior Lender a default notice within ten business days in each case where Senior Lender has given a default notice to the Borrower. The Junior Lender shall have the right, but not the obligation, to cure any

default under the Senior Loan Documents within the same time, and the same manner, as the Borrower pursuant to the Senior Loan Documents. All amounts paid by the Junior Lender to Senior Lender to cure a default under the Senior Loan Documents shall be deemed to have been advanced by the Junior Lender pursuant to, and shall be secured by the lien of, the Junior Deed of Trust.

9. Default under Senior Loan Documents. Junior Lender agrees that a default under the Senior Loan Documents shall not constitute a default under the Junior Loan Documents if no other default has occurred and is continuing under the Junior Loan Documents until either (i) Senior Lender has accelerated the maturity of the Senior Note or Senior Deed of Trust, or (ii) Senior Lender has taken affirmative action to exercise its rights under the Senior Loan Documents to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Senior Deed of Trust. If at any time Borrower cures any default under the Senior Loan Documents to the satisfaction of Senior Lender, as evidenced by written notice from Senior Lender to Junior Lender, any default under the Junior Loan Documents arising therefrom shall be deemed cured and the Junior Obligations shall be retroactively reinstated as if such default had never occurred.

10. No Representations or Warranties Concerning Mortgaged Property. Neither the Junior Lender nor the Senior Lender (i) makes any representation or warranty concerning the Mortgaged Property or the validity, perfection or (except as to the subordination effected hereby) priority of any security interest therein, or (ii) shall have any duty to preserve, protect, care for, insure, take possession of, collect, dispose of or otherwise realize upon any of the Mortgaged Property.

11. Junior Lender Representations. Junior Lender further represents and warrants that each of the following is true as of the date of this Agreement: (i) the Junior Loan Documents are now in full force and effect; (ii) the Junior Loan Documents have not been modified or amended; (iii) no Junior Deed of Trust Default has occurred; (iv) Junior Lender is the beneficiary of the Junior Loan Documents; (v) none of the rights of Junior Lender under any of the Junior Loan Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise; and (vi) the person signing this Agreement on behalf of Junior Lender has the appropriate authority and/or authorization to bind the Junior Lender.

12. Binding Effect; Miscellaneous. This Agreement shall be binding upon the Junior Lender and its respective successors and assigns and shall inure to the benefit of the Senior Lender and its participants, successors and assigns, but neither the Borrower nor any other secured party shall be entitled to rely on or enforce this Agreement. This Agreement cannot be waived or changed or ended, except by a writing signed by the party to be bound thereby. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Colorado. Each party consents to the personal jurisdiction of the state and federal courts located in the State of Colorado in connection with any controversy related to this Agreement, waives any argument that venue in any such forum is not convenient, and agrees that any litigation initiated by either of them in connection with this Agreement shall be venued in the City and County of

Denver. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. The Junior Lender waives notice of the Senior Lender's acceptance hereof.

13. Notice. Any notice required under this Agreement shall be deemed to have been given when mailed by certified mail, return receipt requested, or by overnight express mail or courier service, to the addresses of the Junior Lender or the Senior Lender, as the case may be, set out in the first paragraph of this Agreement.

14. Term. This Agreement shall continue until the earliest to occur of the following events: (i) the payment of all principal, interest, and other amounts payable under the Senior Obligations; (ii) the payment of all principal, interest and other amounts payable under the Junior Obligations; (iii) the acquisition by Senior Lender of title to the Mortgaged Property pursuant to a foreclosure, or deed in lieu of foreclosure, or the exercise of a power of sale contained in the Senior Deed of Trust; or (iv) the acquisition by Junior Lender of title to the Mortgaged Property pursuant to a foreclosure, or a deed in lieu of foreclosure, or the exercise of a power of sale contained in the Junior Deed of Trust, but only if such acquisition of title does not violate any of the terms of this Agreement.

15. Enforceability. If any provision of this Agreement shall be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

16. Further Assurances. Subject to the Charter for the City and County of Denver, the Denver Revised Municipal Code, and the policies and procedures of the Junior Lender, the Junior lender hereby agrees to execute such documents and/or take such further action as Senior Lender may at any time or times reasonably request in order to carry out the provisions and intent of this Agreement, including, without limitation, ratifications and confirmation of this Agreement from time to time hereafter, as and when requested by Senior Lender.

17. Entire Agreement. This Agreement contains the entire agreement between and among the parties hereto with respect to the subordination of the Junior Obligations and the Junior Loan Documents as to the Senior Obligations, and the Senior Loan Documents.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CHFA Loan No.: 5009607

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

“JUNIOR LENDER”

CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado

By: _____

Title: _____, Department of Housing Stability

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was subscribed to and acknowledged before me this ____ day of _____, 2026, by _____ as _____ of Department of Housing Stability for the City and County of Denver, a municipal corporation of the State of Colorado, for and on behalf of the City.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

CHFA Loan No.: 5009607

Acknowledged by BORROWER:

WOLFF 23 LLC,
a Colorado limited liability company

By: Osina Development LLC,
a Colorado limited liability company,
its Manager

By: _____
Scott Speil, Manager

By: LLB Investments, LLC,
a Colorado limited liability company,
its Manager

By: _____
Garrett Beserra, Manager

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SOUTH ½ OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 6 TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST ¼ CORNER OF SAID SECTION 6, FROM WHENCE THE EAST ¼ CORNER OF SAID SECTION 6 BEARS S89°39'45"E, A DISTANCE OF 5245.22 FEET; THENCE ON SAID SECTION LINE, S89°39'45"E, A DISTANCE OF 1299.52 FEET; THENCE N00°20'15"E, A DISTANCE OF 36.00 FEET TO A POINT ON THE NORTH LINE OF A PARCEL OF LAND CONVEYED TO THE CITY AT RECEPTION NO. 2024046212, DATED MAY 22, 2024, AND TO THE POINT OF BEGINNING;

THENCE N00°24'54"W, A DISTANCE OF 175.72 FEET;

THENCE S89°30'16"E, A DISTANCE OF 76.01 FEET TO THE NORTHWEST CORNER OF SAID CONVEYANCE;

THENCE ON THE WEST LINE OF SAID CONVEYANCE, S00°24'54"E, A DISTANCE OF 175.51 FEET;

THENCE ON THE NORTH LINE OF SAID CONVEYANCE, N89°39'45"W, A DISTANCE OF 76.01 FEET TO THE POINT OF BEGINNING.

CITY AND COUNTY OF DENVER, STATE OF COLORADO