

**LOAN AGREEMENT
GENERAL FUND**

THIS 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”), and **THE HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO**, a public body corporate and politic under the laws of the State of Colorado, whose address is 777 Grant Street, Denver, CO 80203 (“**Borrower**” or “**Contractor**”).

WITNESSETH:

WHEREAS, the City is making certain monies available for use in the construction of an affordable housing project to be known as Sun Valley Gateway South that will provide 58 affordable units (the “**Project**”); and

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

WHEREAS, the Borrower is the sole member of SVH 2 South, LLC, a Colorado limited liability company; and

WHEREAS, SVH 2 North, LLC is the general partner of Gateway South Housing Partners LLLP, a Colorado limited liability limited partnership (the “**Partnership**”); and

WHEREAS, Wells Fargo Affordable Housing Community Development Corporation (the “**Tax Credit Investor**”) is the limited partner of the Partnership; and

WHEREAS, the Partnership will be developing and operating the Project on the parcel of land owned by Borrower and located at 2800 West 10th Avenue, Denver, Colorado 80204 (the “**Property**”);

WHEREAS, the funds provided hereunder to Borrower will be passed through to the Partnership for development of the Project;

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

1. **LOAN TO BORROWER**: The City agrees to lend Borrower the sum of Five Hundred Eighty Thousand and No/100 Dollars (\$580,000.00) in accordance with the terms and conditions of this Loan Agreement (the “**Loan**”). In addition to this Loan Agreement, the City and Borrower will enter into a promissory note in form satisfactory to the City evidencing this

Loan (the “**Promissory Note**”), and the Borrower will execute a covenant securing the Property for use as affordable housing as required by Section 6 hereof (the “**Covenant**”). The Partnership shall consent to the Covenant. The Borrower shall lend to the Partnership the entirety of the loan proceeds for development of the Project in accordance with **Exhibit A**, which will be evidenced by a loan agreement, a promissory note, an assignment of leases and rents, and a deed of trust on the Property described below (the “**Deed of Trust**”) (collectively, the “**Project Loan Documents**”). The Loan shall mature and be due and payable on the sixtieth (60th) anniversary of the date of the Promissory Note (“**Maturity Date**”) if not sooner paid. The outstanding principal balance of the Loan shall bear simple interest at a rate of zero percent (0%) per annum until paid in full or forgiven in accordance with the terms hereof. Repayment shall be forgiven by the City on the Maturity Date so long as Borrower is in compliance with the terms and conditions of this Loan Agreement and the Covenant.

2. **SECURITY**: Repayment of the Promissory Note shall be secured by an assignment of Borrower’s interest in the Project Loan Documents to the City pursuant to a Collateral Assignment of Deed of Trust and Assignment of Leases and Rents (the “**Assignment**”), in form satisfactory to City. Borrower agrees that the Deed of Trust shall be subject to prior encumbrances not exceeding Twenty-Five Million and No/100 Dollars (\$25,000,000.00) in principal amount.

3. **SUBORDINATION**: The Executive Director (the “Executive Director”) of the City’s Office of Economic Development (“OED”), or permitted designee, is authorized to consent to the Borrower subordinating the lien of its Deed of Trust so long as (i) the subordination agreement is substantially in the form attached hereto as **Exhibit D**; (ii) encumbrances prior to the Deed of Trust do not exceed \$25,000,000; and (iii) Borrower is not then in default of its obligations pursuant to this Loan Agreement, the Promissory Note, or the Assignment.

4. **USE AND DISBURSEMENT OF FUNDS**: Loan proceeds will be used to finance costs associated with development of the Property for use as affordable housing, in accordance with **Exhibit A**, attached hereto and incorporated herein. The Borrower shall submit to the City requisitions with documentation of incurred costs on OED approved forms, and otherwise comply with the financial administration requirements set forth in **Exhibit B** attached hereto and incorporated herein. 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 ten percent (10%) of each disbursement of funds, which retainage shall be released upon final inspection and approval of the City and receipt of proof of release of liens from all applicable contractors, subcontractors, and suppliers. In addition, OED shall retain Ten Thousand and No/100 Dollars (\$10,000.00) of the total funds to be disbursed under this Loan Agreement, which retainage shall be released upon receipt from Borrower of all information necessary for the City's reporting requirements. These budget items may be revised with the written approval of OED, provided the revised budget does not exceed the amount of the loan. Expenses incurred prior to September 26, 2018 are not eligible for reimbursement.

5. **DEADLINES FOR DISBURSEMENT OF FUNDS:** Borrower must provide evidence of private funding commitments necessary to develop the affordable housing project on the Property, the final executed partnership agreement for the Partnership, and the loan agreement by and between the Borrower and the Partnership (passing through Borrower's obligations hereunder) on or before November 1, 2019. Failure to meet this deadline shall result in the termination of this Loan Agreement. No funds shall be disbursed under this Loan Agreement until such time as these conditions are met. Further, all cost overruns and/or funding shortfalls shall be the sole responsibility of the Borrower and/or the Partnership.

Borrower further agrees that documentation for all draw down requests will be submitted no later than twenty-four (24) months after the date of the Promissory Note. This timeline includes requests for disbursement of the Ten Thousand and No/100 Dollars (\$10,000.00) retainage set forth in Section 4, above. These deadlines may be extended with the written approval of OED.

6. **RESTRICTIONS ON USE OF PROPERTY:**

A. **Affordability limitations.** Fifteen (15) of the units at the Property (the "60% Units") shall have rents not exceeding the fair market rent for comparable units in the area ("Fair Market Rent") as established by the Housing Authority of the City and County of Denver, Colorado ("DHA") Section 8 Department and the portion of rent charged to a qualified tenant shall not exceed 30% of the adjusted income of a family whose annual income equals 60% of the median income for the Denver area, as published by the Colorado Housing and Finance Authority ("CHFA"), with adjustments for number of bedrooms in the unit. Nineteen (19) of the units at the Property (the "50% Units") shall have rents not exceeding the established Fair Market Rent and the portion of rent charged to a qualified tenant shall not exceed 30% of the adjusted income of a family whose annual income equals 50% of the median income for the Denver area, as published

by CHFA, with adjustments for number of bedrooms in the unit. Twelve (12) of the units at the Property (the “40% Units”) shall have rents not exceeding the established Fair Market Rent and the portion of rent charged to a qualified tenant shall not exceed 30% of the adjusted income of a family whose annual income equals 40% of the median income for the Denver area, as published by CHFA, with adjustments for number of bedrooms in the unit. Twelve (12) of the units at the Property (the “30% Units”) shall have rents not exceeding the established Fair Market Rent and the portion of rent charged to a qualified tenant shall not exceed 30% of the annual income of a family whose income equals 30% of the median income for the area, as published by CHFA, with adjustments for number of bedrooms in the unit. By executing this Loan Agreement, Borrower acknowledges receipt of CHFA's current rent and income guidelines from the OED. It shall be Borrower's responsibility to obtain updated guidelines from OED or CHFA to confirm the annual calculation of the maximum rents for the Denver area. The 60% Units, 50% Units, 40% Units and 30% Units shall be referred to collectively herein as the “City Units”.

The City shall determine maximum monthly allowances for utilities and services annually using the CHFA model. Rents shall not exceed the maximum rents as determined above minus the monthly allowance for utilities and services not paid for by the Partnership.

The City shall review rents for compliance within ninety (90) days after OED requests rent information from the Borrower.

B. Occupancy/Income Limitations. The 60% Units shall be occupied by tenants whose incomes are at or below sixty percent (60%) of the median income for the Denver area as published by CHFA with adjustments for family size. The 50% Units shall be occupied by tenants whose incomes are at or below fifty percent (50%) of the median income for the Denver area as published by CHFA with adjustments for family size. The 40% Units shall be occupied by tenants whose incomes are at or below forty percent (40%) of the median income for the Denver area as published by CHFA with adjustments for family size. The 30% Units shall be occupied by tenants whose incomes are at or below thirty percent (30%) of the median income for the Denver area as published by CHFA with adjustments for family size. By executing this Loan Agreement, Borrower acknowledges receipt of CHFA's current income guidelines from OED. It shall be Borrower's responsibility to obtain updated guidelines from OED or CHFA and comply with same.

C. Designation of Units. All of the City Units are floating, and are designated as

follows:

BEDROOMS	60% Units	50% Units	40% Units	30% Units
1 Bedroom	9	11	4	3
2 Bedroom	6	8	8	9
TOTAL	15	19	12	12

D. Covenant Running with the Land. At closing, Borrower shall execute a covenant in form satisfactory to the City (“Covenant”), setting forth the rental and occupancy limitations described in subparagraphs A and B above, which shall be recorded in the real estate records of the City and County of Denver and which shall constitute a covenant running with the land. The Partnership shall consent to the Covenant. The Covenant shall encumber the Property for a period not less than sixty (60) years from the date of the Covenant. Violation of said Covenant shall be enforceable as an event of default pursuant hereto. The Covenant and any rent and occupancy/income limitations will terminate upon foreclosure on or transfer by deed in lieu of foreclosure of the Property.

7. **LEASES**: Borrower shall cause the Partnership to enter into a written lease with the tenant for a period of not less than one year, unless by mutual agreement between the tenant and the Borrower a shorter period is specified.

8. **PROHIBITED LEASE TERMS**: Leases or other instruments pursuant to which City Units are occupied may not contain any of the following provisions:

A. Agreement to Be Sued. Agreement by the tenant to be sued, admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.

B. Treatment of Property. Agreement by the tenant that the owner may take, hold or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. However, the owner may dispose of personal property remaining in the unit after the tenant has moved out, in accordance with Colorado law.

C. Excusing Owner from Responsibility. Agreement by the tenant not to hold the owner or the owner’s agents legally responsible for actions or failure to act, whether intentional or negligent.

D. Waiver of Notice. Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant.

E. Waiver of Legal Proceedings. Agreement by the tenant that the owner may

evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

F. Waiver of Jury Trial. Agreement by the tenant to waive any right to a trial by jury.

G. Waiver of Right to Appeal. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge a court decision in connection with the lease.

H. Tenant Chargeable with Cost of Legal Actions Regardless of Outcome. Agreement by tenant to pay attorney fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant.

I. Mandatory Supportive Services. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered, if any. Notwithstanding the foregoing, the Borrower may offer supportive services to tenants so long as they are not mandated.

9. **PROHIBITION OF CERTAIN FEES**: Borrower is prohibited from causing the Partnership to charge fees that are not customarily charged in rental housing (e.g. laundry room access fees), except that Partnership may charge the following; reasonable application fees to prospective tenants; parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood, and; fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.

10. **TERMINATION OF TENANCY**: Borrower shall ensure that the Partnership does not terminate the tenancy or refuse to renew the lease of a tenant of any of the City Units except for serious or repeated violations of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; or for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days by Partnership's service upon the tenant of a written notice specifying the grounds for the action except in cases involving a risk to health, safety or property where a shorter notice period is explicitly permitted by DHA's policies. Any termination of a tenancy in any of the City Units must also be in compliance with Section 42 of the U.S. Code.

11. **MAINTENANCE AND REPLACEMENT**: Borrower shall cause the Partnership to maintain the Property in compliance with all applicable housing quality standards and local code requirements. Newly constructed or substantially rehabilitated housing must meet

applicable requirements referenced at 24 C.F.R. 92.251.

12. TENANT SELECTION: Borrower shall cause the Partnership to adopt written tenant selection policies and criteria that:

A. Are consistent with the purpose of providing housing for very low-income and low-income families;

B. Are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

C. Give reasonable consideration to the housing needs of families that would have a preference under federal selection preferences for admission to public housing;

D. Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, with prompt written notification to any rejected applicant of the grounds for any rejection.

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

14. AFFIRMATIVE MARKETING: Borrower shall cause the Partnership to comply with the affirmative marketing procedures outlined in the marketing plan, attached hereto as **Exhibit C** and incorporated herein, to provide information and otherwise attract eligible tenants from all racial, ethnic, and gender groups in the Property's housing market area in accordance with 24 CFR 92.351. Except Borrower may allow the Partnership to limit eligibility or give preference to a particular segment of the population in accordance with 24 CFR 92.253(d).

15. EXPENSE: 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 Loan Agreement or the Promissory Note, Deed of Trust, or Covenant, and agrees to pay reasonable loan closing costs, including the costs of title insurance or guarantee as determined by City.

16. PUBLICATIONS/ANNOUNCEMENTS: Borrower shall first receive approval from OED before using radio or television announcements, newspaper advertisements, press releases, pamphlets, mail campaigns, or any other marketing methods funded by OED, or publicizing activities or projects funded by OED. 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, Office of Economic Development.” OED shall be acknowledged in any events regarding the project being funded, including groundbreakings and openings.

17. EXAMINATION OF RECORDS/ANNUAL MONITORING: The Borrower agrees that the City, or any of its duly authorized representatives shall, until the expiration of five (5) years after the expiration of the affordability period set forth in the section above entitled “**RESTRICTIONS ON USE OF PROPERTY,**” have access to and the right to examine any directly pertinent books, documents, papers, and records of the Borrower and the Partnership involving transactions related to this Loan Agreement. Borrower must also require its and the Partnership’s contractors and subcontractors to allow access to such records when requested. Borrower shall, and shall cause the Partnership to, fully cooperate with City in an annual monitoring of Borrower’s and the Partnership’s performance and site inspection to verify compliance with the requirements of this Loan Agreement. The records maintained by Borrower shall include, without limitation, (i) records evidencing the income of each family occupying a City Unit, and (ii) a copy of the lease pursuant to which each City Unit is occupied.

Borrower shall submit to the City the following reports: (1) annual report on rents and occupancy of City Units to verify compliance with affordability requirements in Paragraph 6; (2) reports (including financial reports) that enable the City to determine the financial condition and continued financial viability of the Project; and (3) for floating units, information on unit substitution and filling vacancies to ensure that the Property maintains the required unit mix.

18. CONDITIONS:

A. The obligation of the City to lend the above sums is limited to funds appropriated for the purpose of this Loan Agreement and paid into the City treasury.

B. This Loan Agreement is also subject to the provisions of the City Charter and Revised Municipal Code as the same may be amended from time.

19. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this 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.

20. INSURANCE: Borrower, the Partnership, or its contractor(s) shall ensure the

procurement and maintenance of 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 or the Partnership, on an occurrence basis with limits not less than \$1,000,000 per occurrence, \$1,000,000 for each personal and advertising injury claims, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate. Borrower's and/or the Partnership'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 the Partnership and its contractor under Colorado law.

D. Special cause of loss form 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 to OED prior to the disbursement of funds hereunder. Policies shall include a waiver of subrogation and rights of recovery as against the City. Insurance companies providing the above referenced coverage must be authorized to issue insurance in Colorado and be otherwise acceptable to the Director of Risk Management.

21. LIABILITY: Each Party will be responsible for any and all claims, damages, liability and court awards, including costs, expenses and attorney fees, incurred as a result of its actions or omissions or any action or omission of its officers, employees, and agents in connection with the subject matter of this Agreement or any amendment hereto. Nothing in this Section 21 or any other provision of this Agreement or any Addendum shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the City or Borrower may have under the Colorado Governmental Immunity Act (§24-10-101, C.R. S., et seq.) or to any other defenses, immunities, or limitations of liability available to the City or Borrower by law.

22. DEFAULT AND ACCELERATION: Borrower expressly agrees that any breach of this Loan Agreement, the Promissory Note, the Covenant or the Assignment, if not cured within

thirty (30) days after notice of such breach, shall constitute a default. The City also may declare a default if any warranty, representation or statement known to be false, intentionally or willfully made or furnished to the City by or on behalf of Borrower in connection with this Loan Agreement proves to have been false in any material respect when made or furnished. Upon the existence of a default, 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 Assignment. Upon default, the principal shall draw interest at the rate of fifteen percent (15%) per annum.

The City may also suspend or terminate this Loan Agreement in whole or in part, if Borrower materially fails to comply with any term of this Loan Agreement, including if Borrower becomes delinquent to the City on loan, contractual, or tax obligations as due, or with any rule, regulation or provision referred to herein; and the City may declare the Borrower ineligible for any further participation in City funding, in addition to other remedies as provided by law. In the event there is probable cause to believe the Borrower is non-compliant with any applicable rules, laws, regulations, or Loan Agreement terms, and only after the City provides a 30 day notice to cure that remains uncured by the Borrower, the City may withhold up to one hundred (100%) percent of said Loan Agreement funds until such time as the Borrower is found to be in compliance, or to exercise the City's rights under any security interest arising hereunder.

Notwithstanding anything to the contrary herein, any cure of any breach made or tendered by the Tax Credit Investor shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

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

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

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

by law.

26. **CITY NOT PARTY TO CONSTRUCTION CONTRACT**: The City is not, and nothing in this 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.

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

28. **COUNTERPARTS**: This 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.

29. **NOTICES**: All notices required by the terms of this 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, as set forth below

the Borrower:

Housing Authority of the City and County of Denver
777 Grant Street, 6th Floor
Denver, Colorado 80203
Attn: Ismael Guerrero, Executive Director

the Tax Credit Investor:

Wells Fargo Affordable Housing Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte North Carolina 28288
Attention: Director of Asset Management

and if to the City at:

Executive Director of the Office of Economic Development or Designee
City and County of Denver
201 West Colfax Avenue, Dept. 1011
Denver, Colorado 80202

With a copy of any such notice 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.

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

31. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**: Borrower consents to the use of electronic signatures by the City. This 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 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 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.

32. **HUD LIMITATIONS**: Borrower's obligations in this Agreement are subject to applicable limitations on public housing authorities imposed by the U.S. Department of Housing and Urban Development. The City acknowledges and agrees that Borrower's obligations may be satisfied solely from its unrestricted non-federal funds.

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Contract Control Number: OEDEV-201951285-00
Contractor Name: THE HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO

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: OEDEV-201951285-00
Contractor Name: THE HOUSING AUTHORITY OF THE CITY AND
COUNTY OF DENVER, COLORADO

By: 

Name: Ismael Guerrero
(please print)

Title: Executive Director
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A

Project Timeline – Sun Valley Gateway North
1005 Decatur Street, Denver, CO 80204

Construction financing closes	August 15, 2019
General Contractor notice to proceed	August 15, 2019
Construction completion	December 15, 2020
Lease-up completion date of restricted units	March 15, 2021

Sources and Uses

Sources	Total	%
Permanent Loan	\$12,750,000	31.33%
LIHTC Equity - 4%	\$16,352,880	40.19%
Deferred Developer Fee	\$2,287,369	5.62%
DHA Sub Loan: CNI	\$2,500,000	6.14%
DHA Sub Loan: Program Funds	\$1,875,000	4.61%
DHA Sub Loan: State Funds	\$950,000	2.33%
DHA Sub Loan: City Funds	\$2,375,000	5.84%
DHA Sub Loan: FHLB AHP	\$1,600,000	3.93%
Total	\$40,690,249	100.00%

Sources	Total	%
Construction Contract	\$29,184,713	71.72%
Construction Costs - Non GC	\$1,658,823	4.08%
Materials Testing	\$98,764	0.24%
Bank Due Diligence Costs	\$15,000	0.04%
Other Construction Interim Costs	\$343,062	0.84%
Professional and Predevelopment Fees	\$1,370,388	3.37%
Other Permanent Financing Costs	\$397,000	0.98%
Soft Costs Tax Credit Eligible	\$71,829	0.18%
Soft Costs Tax Credit Ineligible	\$302,923	0.74%
Syndication Costs	\$11,172	0.03%
Construction Loan Eligible Interest	\$683,568	1.68%
Interest Expense Tax Credit Ineligible	\$998,863	2.45%
Developer Fee & Consultants Category	\$4,214,724	10.36%
Project Reserves/Other	\$534,000	1.31%
Total	\$40,690,249	100.00%

EXHIBIT A

Project Activities

Sources		Total	%
Construction Contract	Combined use of funds: \$2,375,000	\$29,184,713	71.72%
Professional and Predevelopment Fees		\$1,370,388	3.37%
Construction Costs - Non GC		\$1,658,823	4.08%
Materials Testing		\$98,764	0.24%
Bank Due Diligence Costs		\$15,000	0.04%
Other Construction Interim Costs		\$343,062	0.84%
Other Permanent Financing Costs		\$397,000	0.98%
Soft Costs Tax Credit Eligible		\$71,829	0.18%
Soft Costs Tax Credit Ineligible		\$302,923	0.74%
Syndication Costs		\$11,172	0.03%
Construction Loan Eligible Interest		\$683,568	1.68%
Interest Expense Tax Credit Ineligible		\$998,863	2.45%
Developer Fee & Consultants Category		\$4,214,724	10.36%
Project Reserves/Other		\$534,000	1.31%
Total		\$40,690,249	100.00%

EXHIBIT B

FINANCIAL ADMINISTRATION:

1.1 Compensation and Methods of Payment

- 1.1.1 Disbursements shall be processed through the Office of Economic Development (OED) - Financial Management Unit (FMU) and the City and County of Denver's Department of Finance.
- 1.1.2 The method of payment to the Contractor by OED shall be in accordance with established FMU procedures for line-item reimbursements. The Contractor must submit expenses and accruals to OED on or before the last day of each month for the previous month's activity. Voucher requests for reimbursement of costs should be submitted on a regular and timely basis in accordance with OED policies. Vouchers should be submitted within thirty (30) days of the actual service, expenditure or payment of expense, except for the final voucher for reimbursement.
- 1.1.3 The Contractor shall submit the final voucher for reimbursement no later than **forty-five (45) days after the end of the contract period.**
- 1.1.4 The Contractor shall be reimbursed for services provided under this Agreement according to the approved line-item reimbursement budget attached to and made a part of this Agreement (Exhibit A).

1.2 Vouchering Requirements

- 1.2.1 In order to meet Federal Government requirements for current, auditable books at all times, it is required that all vouchers be submitted monthly to OED in order to be paid.
 - a. The first exception will be that expenses cannot be reimbursed until the funds under this contract have been encumbered.
 - b. The second exception will be that costs cannot be reimbursed until they total a minimum of \$35 unless it is a final payment voucher, or the final voucher for the fiscal year (ending December 31).
- 1.2.2 No more than six (6) vouchers may be submitted per contract per month, without prior approval from OED.
- 1.2.3 All vouchers for all Agreements must be correctly submitted within forty-five (45) days of the Agreement end date to allow for correct and prompt closeout.
- 1.2.4 City and County of Denver Forms shall be used in back-up documents whenever required in the Voucher Processing Policy.

- 1.2.5 Only allowable costs determined in accordance with 2 CFR Chapter I, Chapter II, Parts 200, 215, 220, 225 and 230, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (the "OMB Omni Circular") applicable to the organization incurring the cost will be reimbursed.
- 1.2.6 The reimbursement request, or draw request, for personnel and non-personnel expenses should be submitted to the City on a monthly basis, no later than the last day of the following month for expenses incurred in the prior month. The request for reimbursement should include:
- a. Amount of the request in total and by line item;
 - b. Period of services for current reimbursement;
 - c. Budget balance in total and by line item;
 - d. Authorization for reimbursement by the contract signatory (i.e., executive director or assistant director).
- 1.2.7 If another person has been authorized by the Contractor to request reimbursement for services provided by this contract, then the authorization should be forwarded in writing to OED prior to the draw request.
- 1.2.8 The standardized OED "Expense Certification Form" should be included with each payment request to provide the summary and authorization required for reimbursement.

1.3 Payroll

- 1.3.1 A summary sheet should be included to detail the gross salary of the employee, amount of the salary to be reimbursed, the name of the employee, and the position of the employee. If the employee is reimbursed only partially by this contract, the amount of salary billed under other contracts with the City or other organizations should be shown on the timesheet as described below. Two items are needed for verification of payroll: (1) the amount of time worked by the employee for this pay period; and (2) the amount of salary paid to the employee, including information on payroll deductions.
- 1.3.2 The amount of time worked will be verified with timesheets. The timesheets must include the actual hours worked under the terms of this contract, and the actual amount of time worked under other programs. The total hours worked during the period must reflect all actual hours worked under all programs including leave time. The employee's name, position, and signature, as well as a signature by an appropriate supervisor, or executive director, must be included on the timesheets. If the timesheet submitted indicates that the employee provided services payable under this contract for a portion of the total time worked, then the amount of

reimbursement requested must be calculated and documented in the monthly reimbursement request.

- 1.3.3 A payroll register or payroll ledger from the accounting system will verify the amount of salary. Copies of paychecks are acceptable if they include the gross pay and deductions.

1.4 Fringe Benefits

- 1.4.1 Fringe benefits paid by the employer can be requested by applying the FICA match of 7.65 percent to the gross salary paid under this contract. Fringe benefits may also include medical plans, retirement plans, worker's compensation, and unemployment insurance. Fringe benefits that exceed the FICA match may be documented by 1) a breakdown of how the fringe benefit percentage was determined prior to first draw request; or, 2) by submitting actual invoices for the fringe benefits. If medical insurance premiums are part of the estimates in item #1, one-time documentation of these costs will be required with the breakdown. Payroll taxes may be questioned if they appear to be higher than usual.

1.5 General Reimbursement Requirements

- 1.5.1 **Invoices**: All non-personnel expenses need dated and readable invoices. The invoices must be from a vendor separate from the Contractor, and must state what goods or services were provided and the delivery address. Verification that the goods or services were received should also be submitted. This may take the form of a receiving document or packing slips, signed and dated by the individual receiving the good or service. Copies of checks written by the Contractor, or documentation of payment such as an accounts payable ledger which includes the check number shall be submitted to verify that the goods or services are on a reimbursement basis.
- 1.5.2 **Mileage**: A detailed mileage log with destinations and starting and ending mileage must accompany mileage reimbursement. The total miles reimbursed and per mile rate must be stated. Documentation of mileage reimbursement to the respective employee must be included with the voucher request.
- 1.5.3 **Pager/Cell Phone**: Written statement from executive director will be required certifying that cell phone is necessary and reasonable to run the program. And, if the monthly usage charge is exceeded in any month, a detailed phone log will be required for the amount of the overage.
- 1.5.4 **Administration and Overhead Cost**: Other non-personnel line items, such as administration, or overhead need invoices, and an allocation to this program documented in the draw request. An indirect cost rate can be applied if the Contractor has an approved indirect cost allocation plan. The approved indirect cost rate must be submitted to and approved by OED.

1.5.5 Service Period and Closeout: All reimbursed expenses must be incurred during the time period within the contract. The final payment request must be received by OED within forty-five (45) days after the end of the service period stated in the contract.

2.1 Intentionally Omitted

3.1 Financial Management Systems

The Contractor must maintain financial systems that meet the following standards:

- 3.1.1 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.
- 3.1.2 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.
- 3.1.3 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.
- 3.1.4 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.
- 3.1.5 Applicable OMB Omni Circular cost principles, agency program regulations, and the terms of the agreement will be followed in determining the reasonableness, allowability and allocability of costs.
- 3.1.6 Source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc., shall be provided for all disbursements. The Contractor will maintain auditable records, i.e., records must be current and traceable to the source documentation of transactions.
- 3.1.7 The Contractor shall maintain separate accountability for OED funds as referenced in 24 C.F.R. 85.20 and the OMB Omni Circular.
- 3.1.8 The Contractor 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.

- 3.1.9 A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.
- 3.1.10 The Contractor shall participate, when applicable, in OED provided staff training sessions in the following financial areas including, but not limited to (1) Budgeting and Cost Allocation Plans; (2) Vouchering Process.

4.1 Audit Requirements

- 4.1.1 If the Contractor expends seven hundred and fifty thousand dollars (\$750,000) or more of federal awards in the Contractor's fiscal year, the Contractor shall ensure that it, and its sub recipients(s), if any, comply with all provisions of the OMB Omni Circular.
- 4.1.2 A copy of the final audit report must be submitted to the OED 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.
- 4.1.3 A management letter, if issued, shall be submitted to OED along with the reporting package prepared in accordance with the Single Audit Act Amendments and the OMB Omni Circular. If the management letter is not received by the Contractor at the same time as the Reporting Package, the Management Letter is also due to OED 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 Management Letter has matters related to OED funding, the Contractor shall prepare and submit a Corrective Action Plan to OED in accordance with the Single Audit Act Amendments and the OMB Omni Circular, as set forth in 24 C.F.R. Part 45 for each applicable management letter matter.
- 4.1.4 All audit related material and information, including reports, packages, management letters, correspondence, etc., shall be submitted to **OED Financial Management Unit**.
- 4.1.5 The Contractor will be responsible for all Questioned and Disallowed Costs.
- 4.1.6 The Contractor 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 Contractor shall also institute policy and procedures for its sub recipients that comply with these audit provisions, if applicable.

5.1 Budget Modification Requests

- 5.1.1 Minor modifications to the services provided by the Contractor or changes to each line item budget equal to or less than a ten percent (10%) threshold, which do not increase the total funding to the Contractor, will require only notification to OED with the next monthly draw. Minor modifications to the services provided by Contractor, or changes to each line item budget in excess of the ten percent (10%) threshold, which do not increase the total funding to Contractor, may be made only with prior written approval by OED. Such budget and service modifications will require submittal by Contractor of written justification and new budget documents. All other contract modifications will require an amendment to this Agreement executed in the same manner as the original Agreement.
- 5.1.2 The Contractor understands that any budget modification requests under this Agreement must be submitted to OED prior to the last Quarter of the Contract Period, unless waived in writing by the OED Director.

6.1 Procurement

- 6.1.1 The Contractor 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 five thousand dollars (\$5,000) in the aggregate.
- 6.1.2 The Contractor 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, contractor selection or rejection, and the basis for the contract price.
- 6.1.3 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 Contractor will compensate the awarding agency for its share.

7.1 Bonding

- 7.1.1 OED may require adequate fidelity bond coverage, in accordance with 24 C.F.R. 84.21, where the Contractor lacks sufficient coverage to protect the City's interest.

8.1 Records Retention

- 8.1.1 The Contractor must retain for five (5) years financial records pertaining to the contract award. The retention period for the records of each fund will start on the day the single or last expenditure report for the period, except as otherwise noted, was submitted to the awarding agency.

8.1.2 The awarding agency 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.

9.1 Contract Close-Out

9.1.1 All Contractors are responsible for completing required OED contract close-out forms and submitting these forms to their appropriate OED Contract Specialist within sixty (60) days after the Agreement end date, or sooner if required by OED in writing.

9.1.2 Contract close out forms will be provided to the Contractor by OED within thirty (30) days prior to end of contract.

9.1.3 OED will close out the award when it determines that all applicable administrative actions and all required work of the contract have been completed, and that any repayment required according to the terms of this Agreement has been received or forgiven. If Contractor fails to perform in accordance with this Agreement, OED reserves the right to unilaterally close out a contract, “unilaterally close” means that no additional money may be expended against the contract.

10.1 Collection of amounts due

10.1.1 Any funds paid to a Contractor in excess of the amount to which the Contractor is finally determined to be entitled under the terms of the award constitute a debt to the City. If not paid within a reasonable period after demand, OED may 1) Make an administrative offset against other requests for reimbursements, 2) Withhold advance payments otherwise due to the Contractor, or 3) other action permitted by law.

EXHIBIT C
(Affirmative Marketing)

City and County of Denver
Affirmative Marketing Program

The City and County of Denver is committed to the goal of adequate housing for all its citizens and to affirmatively furthering fair housing opportunities. The City has developed written material explaining the City's Housing Programs for dissemination and will inform the public, owners, and potential tenants about Federal fair housing laws. These materials will display the "equal housing opportunity" slogan and logo. The City will also publicize its Housing programs through press releases, solicitations to property owners and written communications to fair housing groups and local lenders. The City will display the "equal housing opportunity" slogan on all such communications.

All contracts, grant agreements and/or loan agreements between the City or its agents and property owners executed in connection with the Housing Programs will:

- (1) prohibit discrimination in the rental of housing rehabilitated through the City's Housing programs on the basis of race, color, religion, sex, national origin, age, handicap, or household composition;
- (2) require compliance with all applicable fair housing and equal opportunity laws, and
- (3) include a copy of our Affirmative Marketing Program and require compliance with all procedures contained herein for the period of affordability of the term of the loan, whichever is greater.

In the City's Housing Loan Program, the objective of the Affirmative Marketing Program and a project's Affirmative Marketing Plan will be to increase the racial/ethnic diversity of the project's tenant population so that the tenant population is not made up exclusively of persons of one race/ethnicity.

In order to accomplish this, owners will be required to adopt a plan that will inform and solicit applications from persons in the housing market who are least likely to apply for the housing without special outreach. In general, persons who are not of the race/ethnicity of the majority of the residents of the neighborhood in which the property is located will be considered as persons least likely to apply.

The City will work with the project owner to identify which racial/ethnic groups in the population are least likely to apply for housing in each project without special outreach. The City will assist the owner in developing a project specific Affirmative Marketing Plan which includes special outreach efforts and the City will approve the Plan. The property manager or rental agent will be required to maintain records enabling the City to assess the results of the owner's actions to affirmatively market units. These records will include rental applications, all vacancy notices, and rental receipts. The City or its agent will review the owner's records and these records must be made available to

the City. Additionally, the City will require the owner to submit annual tenant reports that will include tenant characteristics including race/ethnicity. The project's Plan will identify specific actions the owner must take when becoming aware of an impending vacancy. In some cases the owner will also be required to advertise the vacancy in a general circulation newspaper.

Owners who rent exclusively to one segment of the population to the exclusion of applicants from other segments will be notified of potential noncompliance. The City will provide technical assistance to the owners in expanding outreach efforts. If necessary, specific corrective actions will be required.

Owners who discriminate or who fail to comply with the requirements of this Affirmative Marketing Program may be found in breach of contract or in default on their grant or loan agreement, and the City may take action to recover all funds made available to the owner by the City plus applicable penalties.

The City has adopted a policy to aggressively encourage landlords to rehabilitate units that are accessible to persons with physical disabilities.

EXHIBIT D



03/27/2019 01:40 PM
City & County of Denver
Electronically Recorded

R \$63.00

SUB

D \$0.00

File No. 1018619

Upon its recordation, return to:

Wells Fargo Bank, National Association
Community Lending & Investment (59448)
5080 Spectrum Drive, Suite 500E-A
MAC T9000-05H
Addison, Texas 75001
Attention: Loan Administration

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") dated March 22, 2019, is made between HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO, a body corporate and politic authorized by the laws of the State of Colorado, whose address is 777 Grant Street, Denver, Colorado 80203 (the "Junior Lender"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, whose address is c/o Community Lending & Investment (59448), 5080 Spectrum Drive, Suite 500E-A, MAC T9000-05H, Addison, TX 75001 ("Senior Lender").

PRELIMINARY STATEMENTS

A. The Junior Lender has or will be making to Gateway South Housing Partners LLLP, a Colorado limited liability limited partnership (the "Borrower"), the following loans for the purpose of financing a portion of the costs of the acquisition and construction by the Borrower of a new multifamily residential rental project to be known as Gateway Apartments (South) (the "Project") on the real property described in Exhibit A attached hereto (the "Mortgaged Property"): (i) a loan in the amount of \$2,684,000 (the "DHA CNI Loan") to be evidenced by a promissory note of even date herewith (the "DHA CNI Loan Note") and secured by that certain second priority DHA CNI Subordinate Loan Leasehold Deed of Trust, Security Agreement and Financing Statement (Gateway South-9% LIHTC Subordinate Loan) (the "DHA CNI Loan Deed of Trust") and that certain DHA CNI Subordinate Loan Assignment of Leases and Rents (Gateway South - 9% LIHTC Subordinate Loan) (the "DHA CNI Loan Assignment"), (ii) a loan in the amount of \$1,700,000 (the "DHA CGF Loan") to be evidenced by a promissory note of even date herewith (the "DHA CGF Loan Note") and secured by that certain third priority DHA CGF Subordinate Loan Leasehold Deed of Trust, Security Agreement and Financing Statement (Gateway South - 9% LIHTC Subordinate Loan) (the "DHA CGF Loan Deed of Trust") and that certain DHA CGF Subordinate Loan Assignment of Leases and Rents (Gateway South - 9% LIHTC Subordinate Loan) (the "DHA CGF Loan Assignment"), (iii) a loan in the amount of \$5,400,000 (the "DHA HPF Loan") to be evidenced by a promissory note of even date herewith (the "DHA HPF Loan Note") and secured by that certain fourth priority DHA HPF Subordinate Loan Leasehold Deed of Trust, Security Agreement and Financing Statement (Gateway South-9% LIHTC Subordinate Loan) (the "DHA HPF Loan Deed of Trust") and that certain DHA HPF Subordinate Loan Assignment of Leases and Rents (Gateway South - 9% LIHTC Subordinate Loan) (the "DHA HPF Loan Assignment"), (iv) a loan in the amount of \$750,000 (the "DHA CDBG Loan") to be evidenced by a promissory note of even date herewith (the "DHA CDBG Note") and secured by that certain fifth priority

N0012225

Recording Requested by:
FNTG-NCS Colorado

DHA CDBG Subordinate Loan Leasehold Deed of Trust, Security Agreement and Financing Statement (Gateway South - 9% LIHTC Subordinate Loan) (the "**DHA CDBG Loan Deed of Trust**") and that certain DHA CDBG Subordinate Loan Assignment of Leases and Rents (Gateway South - 9% LIHTC Subordinate Loan) (the "**DHA CDBG Loan Assignment**"), (v) a loan in the amount of \$580,000 (the "**DHA CDOH Loan**") to be evidenced by a promissory note of even date herewith (the "**DHA CDOH Loan Note**") and secured by that certain sixth priority DHA CDOH Subordinate Loan Leasehold Deed of Trust, Security Agreement and Financing Statement (Gateway South - 9% LIHTC Subordination Loan) (the "**DHA CDOH Loan Deed of Trust**") and that certain DHA CDOH Subordinate Loan Assignment of Leases and Rents (Gateway South - 9% LIHTC Subordinate Loan) (the "**DHA CDOH Loan Assignment**"), and (vi) a loan in the amount of \$580,000 (the "**DHA OED Loan**") and collectively with the DHA CNI Loan, the DHA CGF Loan, the DHA HPF Loan, the DHA CDBG Loan and the DHA CDOH Loan, the "**Junior Loans**") to be evidenced by a promissory note of even date herewith (the "**DHA OED Loan Note**") and collectively with the DHA CNI Loan Note, the DHA CGF Loan Note, the DHA HPF Loan Note, the DHA CDBG Loan Note, and the DHA CDOH Loan Note, the "**Junior Loan Notes**") and secured by that certain sixth priority DHA OED Subordinate Loan Leasehold Deed of Trust, Security Agreement and Financing Statement (Gateway South - 9% LIHTC Subordinate Loan) (the "**DHA OED Loan Deed of Trust**") and that certain DHA OED Subordinate Loan Assignment of Leases and Rents (Gateway South - 9% LIHTC Subordinate Loan) (the "**DHA OED Loan Assignment**") and collectively with the DHA CNI Loan Deed of Trust, the DHA CNI Loan Assignment, the DHA CGF Loan Deed of Trust, the DHA CGF Loan Assignment, DHA HPF Loan Deed of Trust, the DHA HPF Loan Assignment, the DHA CDBG Loan Deed of Trust, the DHA CDBG Loan Assignment, the DHA CDOH Loan Deed of Trust, the DHA CDOH Loan Assignment and the DHA OED Loan Deed of Trust, the "**Junior Deeds of Trust**").

B. Borrower and Senior Lender, contemporaneously herewith have entered into that certain Building Loan Agreement, dated as of even date herewith (as the same may from time to time be amended, modified, extended, renewed or restated, the "**Building Loan Agreement**"), whereunder Senior Lender has agreed, among other things, to make a loan to Borrower in the amount of \$16,400,000 (the "**Senior Loan**") for the purpose of financing a portion of the costs of the acquisition and construction of the Project.

C. Borrower's obligations to repay the Senior Loan are further evidenced by a promissory note secured by leasehold deed of trust dated as of even date herewith (the "**Senior Note**"), executed by Borrower in the original principal amount of \$16,400,000 and payable to Senior Lender.

D. Borrower's obligations to Senior Lender under the Senior Note are secured by, among other things, (i) that certain Leasehold Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of even date hereof (as the same may be amended from time to time, "**Senior Deed of Trust**"), made by Borrower in favor of the trustee named therein for the benefit of Senior Lender and (ii) the Loan Documents described in the Building Loan Agreement. The Senior Deed of Trust is being recorded substantially concurrently herewith in the Office of the Clerk and Recorder of the City and County of Denver, Colorado ("**Official Records**"). The Senior Deed of Trust, the Senior Note

and the other Loan Documents (as defined in the Building Loan Agreement) are hereinafter collectively referred to as the "Senior Loan Documents".

E. As a condition to the making of the Senior Loan, Senior Lender requires that Junior Lender execute and deliver this Agreement prior to the making of the Junior Loans and the granting of the Junior Deeds of Trust by Borrower.

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 Senior Loan Documents (as defined below). As used herein, the following terms shall have the meanings assigned to them:

"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 Deeds of Trust 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.

"Senior Loan Documents" has the meaning set forth in the recitals of this Agreement.

"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 and all amendments, modifications, extensions and renewals thereof, except those that would result in an increase in (i) payments under the Senior Loan, (ii) the term of the Senior Loan, or (iii) the Senior Loan amount, 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.

2. Subordination. All Junior Obligations are hereby expressly subordinated to the extent and in the manner hereinafter set forth to the payment in full of the Senior Obligations. 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. The Junior Lender further agrees that the Borrower may refinance the Senior Loan at its maturity, upon terms deemed reasonable by the Borrower and in its current lien position, and that the consent of the Junior Lender shall not be required in the connection with such refinancing.

3. Collateral and Security Interest. Until all of the Senior Obligations have been paid in full, the Junior Lender shall not foreclose upon or commence any other collection action

resulting from (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. Junior Lender agrees that from and after such time as it has received notice from the Senior Lender that a default has occurred and then exists (and has not been expressly waived in writing by Senior Lender), Senior Lender shall be entitled to receive payment in full of the principal of and interest on the Senior Loan and all fees and any other payments due pursuant to the terms of the Senior Loan Documents, before the Junior Lender is entitled to receive any payment on account of 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, the Junior 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 or Borrower intends to sell any part of the Mortgaged Property to an unrelated third party, the Junior Lender shall, upon the Senior Lender's request, promptly execute and deliver to such purchaser such instruments as may reasonably be necessary to terminate and release any security interest or lien the Junior Lender might have in the Mortgaged Property to be sold.

7. Notice of Default to Senior Lender. Any notice provided to Borrower by the Junior Lender of any default under the Junior Deeds of Trust shall also be sent to Senior Lender as follows:

SENIOR LENDER:

Wells Fargo Bank, National Association
Community Lending & Investment (59448)
5080 Spectrum Drive, Suite 500E-A
MAC T9000-05H
Addison, TX 75001
Attention: Loan Administration

With copies:

Wells Fargo Bank, National Association
Community Lending & Investment (59448)
MAC C7300-11H
1700 Lincoln Street, 11th Floor
Denver, CO 80203
Attention: Scott Horton

and:

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402-4629
Attention: Jon J. Hoganson, Esq.

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 liens of, the Junior Deeds of Trust.

9. No Representations or Warranties. 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.

10. Obligations of Junior Lender relating to Proceedings. Subject to any court order, upon any distribution of the assets or properties of Borrower or upon any dissolution, winding up, liquidation, bankruptcy or reorganization involving Borrower (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or otherwise, herein referred to as a "**Proceeding**"):

(i) Junior Lender, by its execution of this Agreement, authorizes Senior Lender to take such action as may be necessary or appropriate, in Senior Lender's sole discretion, from time to time to effectuate the subordination provided herein. Junior Lender further agrees that it will not file any motions or take any other actions inconsistent with the provisions of this Agreement, and that it will not oppose any motion filed by the Senior Lender insofar as it is in furtherance of and consistent with the terms of this Agreement, including without limitation any motion by Senior Lender for relief from the automatic stay; and

(ii) Junior Lender agrees that during the term of this Agreement, it will not commence, or join with any other creditor in commencing any Proceeding with respect to the Borrower. Upon any distribution of the assets or properties of Borrower or upon any dissolution, winding up, liquidation, bankruptcy or reorganization involving Borrower, Junior Lender and Senior Lender are entitled to pursue available remedies in the bankruptcy court and will abide by final judicial or administrative orders. "Final" with respect to an order shall mean an order on which appeals, if any, have been exhausted.

11. Binding Effect; Miscellaneous. 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.

12. Successors and Assigns. 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 (other than Junior Lender) shall be entitled to rely on or enforce this Agreement.

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. Subrogation. If Junior Lender, by subrogation or otherwise, shall acquire any lien, estate, right or other interest in any of the Mortgaged Property, that lien, estate, right or other interest shall be subject and subordinate to the receipt by Senior Lender of payment in full of all amounts owed under the Senior Loan Documents and to the Senior Deed of Trust and the other Senior Loan Documents to the same extent as the Junior Obligations are subordinate to the Senior Obligations hereunder. The parties hereto acknowledge and agree that the City and County of Denver, Colorado may assume the rights of the Junior Lender through the collateral assignment of all or some of the Junior Loan Notes and Junior Deeds of Trust and upon such collateral assignment the City shall be bound to the terms of this Agreement, provided, however,

that nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by the City and County of Denver (as holder of some of all of the Junior Deeds of Trust) of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Mortgaged Property to the same extent as if it were not a party to the transactions contemplated by this Agreement.

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20631.21

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

“JUNIOR LENDER”

HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO, a body corporate and politic authorized by the laws of the State of Colorado

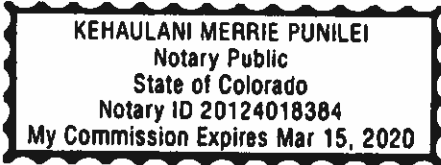
By: *Ismael Guerrero*
Ismael Guerrero, Executive Director

STATE OF COLORADO)
) SS.
COUNTY OF DENVER)

The foregoing instrument was subscribed to and acknowledged before me this 11th day of March, 2019, by Ismael Guerrero, Executive Director of Housing Authority of the City and County of Denver, Colorado, a body corporate and politic authorized by the laws of the State of Colorado.

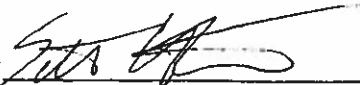
Witness my hand and official seal.
My commission expires: 3/15/2020

Kerrin [Signature]
Notary Public



"SENIOR LENDER"

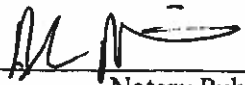
WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association

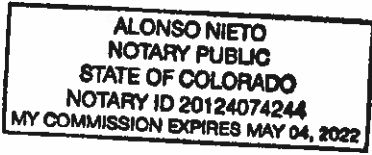
By: 
Scott Horton, Senior Vice President

STATE OF COLORADO)
)
COUNTY OF DENVER) SS.

The foregoing instrument was subscribed to and acknowledged before me this 8th day of March, 2019, by Scott Horton as Senior Vice President of Wells Fargo Bank, National Association, a national banking association, for and on behalf of said national banking association.

Witness my hand and official seal.
My commission expires: 05/04/2022


Notary Public



Acknowledged by BORROWER:

GATEWAY SOUTH HOUSING PARTNERS LLLP, a Colorado limited liability limited partnership

By: SVH 2 South LLC, a Colorado limited liability company, General Partner

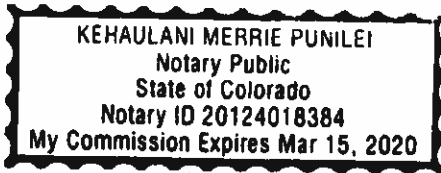
By: Housing Authority of the City and County of Denver, Colorado, a body corporate and politic, authorized by the laws of the State of Colorado, Sole Member

By: 
Ismael Guerrero, Executive Director

STATE OF COLORADO)
) SS.
COUNTY OF DENVER)

The foregoing instrument was subscribed to and acknowledged before me this 11th day of March, 2019, by Ismael Guerrero, Executive Director of Housing Authority of the City and County of Denver, Colorado, a body corporate politic, authorized by the laws of the State of Colorado, the Sole Member of SVH 2 South LLC, a Colorado limited liability company, the General Partner of Gateway South Housing Partners LLLP, a Colorado limited liability limited partnership, for and on behalf of said limited liability limited partnership.

Witness my hand and official seal.
My commission expires: 3/15/2020.



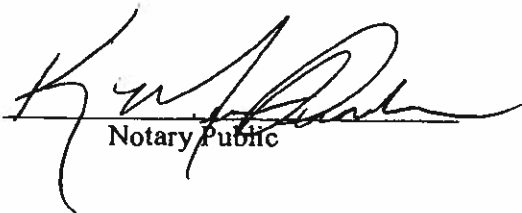

Notary Public

EXHIBIT A

(Legal Description)

A PARCEL OF LAND BEING A PORTION OF SUN VALLEY HOMES 2ND FILING, RECORDED MARCH 12, 1956 AT RECEPTION NO. 93449, LYING SOUTH OF THE SOUTH LINE OF WEST 10TH AVE AND WEST OF THE WEST LINE OF DECATUR, NORTH OF THE ALLEY AND EAST OF THE EAST LINE OF LOT 21, BLOCK 15 SOUTH FAIRVIEW AND THE NORTH HALF OF VACATED ALLEY ADJACENT, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 5, 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 NORTHEAST CORNER OF SAID LOT 21, BLOCK 15 SOUTH FAIRVIEW;

THENCE SOUTH 00°32'50" EAST, ALONG SAID EAST LINE OF SAID LOT 21, A DISTANCE OF 5.50 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89°45'08" EAST , 5.50 FEET SOUTH OF AND PARALLEL WITH THE SOUTH RIGHT- OF-WAY LINE OF WEST 10TH AVENUE, A DISTANCE OF 494.16 FEET TO A POINT 6.00 FEET WEST OF THE WEST RIGHT-OF-WAY LINE OF DECATUR STREET;

THENCE SOUTH 00°32'37" EAST, 6.00 FEET WEST OF AND PARALLEL WITH THE WEST RIGHT-OF- WAY LINE OF DECATUR STREET, A DISTANCE OF 127.44 FEET TO A POINT ON THE CENTERLINE OF SAID VACATED ALLEY ADJACENT TO LOTS 1-20, BLOCK 5 SOUTH FAIRVIEW;

THENCE SOUTH 89°42'37" WEST, ALONG SAID CENTERLINE OF THE VACATED ALLEY, A DISTANCE OF 494.16 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF SAID EAST LINE OF LOT 21, BLOCK 15 SOUTH FAIRVIEW;

THENCE NORTH 00°32'50" WEST, ALONG SAID EAST LINE AND THE SOUTHERLY EXTENSION THEREOF, A DISTANCE OF 127.80 FEET TO THE POINT OF BEGINNING.

FOR THE PURPOSE OF THIS DESCRIPTION THE BEARINGS ARE BASED ON THE 18.75 FOOT RANGE LINE OF DECATUR STREET AS MONUMENTED BY A 3.25" ILLEGIBLE, ALUMINUM CAP IN A RANGE BOX AT WEST 10TH AVENUE AND BY A 1" AXLE IN RANGE BOX AT WEST 9TH AVENUE AND BEARS SOUTH 00°32'37" EAST.

This document prepared by and after recording return to:

Beneficiary Address: Wells Fargo Bank, National Association
 Community Lending & Investment (59448)
 5080 Spectrum Drive, Suite 500E-A
 MAC T9000-05H
 Addison, Texas 75001
 Attention: Loan Administration

SPACE ABOVE LINE FOR RECORDER'S USE

FIRST AMENDMENT TO SUBORDINATION AGREEMENT

THIS FIRST AMENDMENT TO SUBORDINATION AGREEMENT (this "Amendment"), dated as of _____, 2019 (the "Effective Date"), is by **HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO**, a body corporate and politic, authorized by the laws of the State of Colorado (the "Junior Lender"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association (the "Senior Lender"). All initially-capitalized terms used in this Amendment and not otherwise defined in this Amendment shall have the respective meanings ascribed to them in the Subordination Agreement (defined below).

INTRODUCTORY STATEMENTS

This Amendment amends that certain Subordination Agreement, dated as of March 22, 2019, by Junior Lender and Senior Lender and filed for record on March 27, 2019 at Reception No. 2019035060 in the records of the Clerk and Recorder of City & County of Denver, Colorado (together with all riders, amendments, restatements, extensions, renewals or modifications thereof, the "Subordination Agreement"), relating to the financing of the acquisition and financing of an affordable housing project located on the land described in **Exhibit A** attached hereto.

The Junior Lender and Senior Lender agree to amend the Subordination Agreement upon the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereby agree as follows:

Section 1. Amendment of Section 2. Section 2 of the Subordination Agreement is hereby amended and restated in its entirety as follows:

Section 2. **Subordination.** All Junior Obligations are hereby expressly subordinated to the extent and in the manner hereinafter set forth to the payment in full of the Senior Obligations. 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, provided that the total encumbrances prior to the DHA OED Loan Deed of Trust do not exceed \$31,000,000. The Junior Lender further agrees that the Borrower may refinance the Senior Loan at its maturity, upon terms deemed reasonable by the Borrower and in its current lien position, and that the consent of the Junior Lender shall not be required in the connection with such refinancing.

Section 2. Amendment of Section 10(i). Section 10(i) of the Subordination Agreement is hereby amended and restated in its entirety as follows:

(i) Junior Lender agrees that it will not take any actions inconsistent with the provisions of this Agreement.

Section 3. Amendment of Section 14. Section 14 of the Subordination Agreement is hereby amended and restated in its entirety as follows:

Section 14. **Subrogation.** If Junior Lender, by subrogation or otherwise, shall acquire any lien, estate, right or other interest in any of the Mortgaged Property, that lien, estate, right or other interest shall be subject and subordinate to the receipt by Senior Lender of payment in full of all amounts owed under the Senior Loan Documents and to the Senior Deed of Trust and the other Senior Loan Documents to the same extent as the Junior Obligations are subordinate to the Senior Obligations hereunder. The parties hereto acknowledge and agree that the City and County of Denver, Colorado may assume the rights of the Junior Lender through the collateral assignment of all or some of the Junior Loan Notes and Junior Deeds of Trust and upon such collateral assignment the City shall be bound to the terms of this Agreement, provided, however, that nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by the City and County of Denver (as holder of some or all of the Junior Deeds of Trust) of its governmental powers (including, but not limited to, police, regulatory and taxing powers) with respect to Borrower or the Mortgaged Property to the same extent as if it were not a party to the transactions contemplated by this Agreement.

Section 4. Ratification of Subordination Agreement. As specifically amended herein, the Subordination Agreement is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed.

Section 5. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Colorado, excluding its conflict of laws rules.

Section 6. Counterparts. This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Amendment may be executed as facsimile originals and each copy of this Amendment bearing the facsimile transmitted signature of any party's authorized representative shall be deemed to be an original.

Section 7. Consent. The Borrower hereby consents to this Amendment.

[Remainder of page intentionally left blank; signature page follows.]

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

“JUNIOR LENDER”

HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER, COLORADO, a body corporate and politic, authorized by the Laws of the State of Colorado

By: _____
Ismael Guerrero, Executive Director

STATE OF COLORADO)
) SS.
COUNTY OF DENVER)

On _____, 2019, before me, _____, a Notary Public, personally appeared Ismael Guerrero, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Colorado that the foregoing paragraph is true and correct.

Witness my hand and official seal.

_____ [Seal]
(Signature)

“SENIOR LENDER”

WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association

By: _____
Scott Horton, Senior Vice President

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was subscribed to and acknowledged before me this ____ day of _____, 2019, by Scott Horton, Senior Vice President of Wells Fargo Bank, National Association, a national banking association, for and on behalf of said national banking association.

Witness my hand and official seal.
My commission expires: _____.

Notary Public

Acknowledged by BORROWER:

GATEWAY SOUTH HOUSING PARTNERS LLLP, a Colorado limited liability limited partnership

By: SVH 2 South LLC, a Colorado limited liability company, General Partner

By: Housing Authority of the City and County of Denver, Colorado, a body corporate and politic, authorized by the Laws of the State of Colorado, Sole Member

By: _____
Ismael Guerrero, Executive Director

STATE OF COLORADO)
) SS.
COUNTY OF DENVER)

On _____, 2019, before me, _____, a Notary Public, personally appeared Ismael Guerrero, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Colorado that the foregoing paragraph is true and correct.

Witness my hand and official seal.

_____[Seal]
(Signature)

EXHIBIT A

LEGAL DESCRIPTION

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