

FIRST AMENDMENT AND MODIFICATION AGREEMENT

THIS FIRST AMENDMENT AND MODIFICATION AGREEMENT (the “Amendment”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (“City”), and **SENIOR HOUSING OPTIONS, INC.**, a Colorado non-profit corporation, whose address is 1510 17th Street, Denver, Colorado 80202 (“Borrower”), each individually a “Party” and collectively the “Parties.”

RECITALS:

WHEREAS, the Parties entered into a loan agreement dated December 12, 2019 (the “Loan Agreement”), relating to a loan to Borrower in the original principal amount of \$1,500,000.00 (the “Original Loan”); and

WHEREAS, the Borrower executed a promissory note for the benefit of the City dated December 12, 2019 evidencing the terms of the Loan (the “Borrower Promissory Note”); and

WHEREAS, pursuant to the Loan Agreement, the Borrower was required to lend the entire Original Loan sum to Olin Hotels Apartments, LLLP, a Colorado limited liability limited partnership (“OHA”), to support the development of an affordable housing project at 1420 North Logan Street, Denver, Colorado (the “Property”); and

WHEREAS, OHA executed a promissory note for the benefit of Borrower dated December 13, 2019 evidencing the loan from the Borrower to OHA (the “OHA Promissory Note”); and

WHEREAS, repayment of the OHA Promissory Note was secured by a certain Deed of Trust dated December 13, 2019 and recorded on December 18, 2019 at Reception No. 20191775283 as a lien against the Property (the “Deed of Trust”); and

WHEREAS, the OHA Promissory Note and the Deed of Trust were assigned by the Borrower to the City pursuant to that certain Collateral Assignment of Note Deed of Trust dated December 13, 2019 and recorded on December 18, 2019 in the real property records of the City and County of Denver at Reception No. 2019 177585 as a security for the City’s loan (the “Collateral Assignment”); and

WHEREAS, pursuant to the terms of the Loan Agreement, the Borrower caused OHA to record that certain Rental and Occupancy Covenant City Units dated December 12, 2019 and

recorded on August 18, 2019 in the real property records of the City and County of Denver at Reception No. 2020129976 (the “Original City Covenant”) as an encumbrance against the Property that set forth certain rental and occupancy limitations for twenty-four (24) units at the Property; and

WHEREAS, pursuant to the terms of the Loan Agreement, the Borrower also caused OHA to record that certain Rental and Occupancy Covenant HOME Units dated December 12, 2019 and recorded on August 18, 2019 in the real property records of the City and County of Denver at Reception No. 2020129977 (the “Original HOME Covenant”) as an encumbrance against the Property that set forth certain rental and occupancy limitations for ten (10) units at the Property; and

WHEREAS, collectively, the Loan Agreement, Collateral Assignment, Borrower Promissory Note, Original City Covenant, and Original HOME Covenant are referred to herein as the “Loan Documents;” and

WHEREAS, since the execution of the Loan Agreement, the City has reorganized the responsibilities of its departments and has transferred the responsibility for overseeing housing loans from the Office of Economic Development (“OED”) to the Department of Housing Stability (“HOST”); and

WHEREAS, the Parties wish to amend and modify the terms and conditions of the Loan Documents.

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

1. All references to the “Office of Economic Development” and “OED” in the Loan Documents shall be replaced to read “Department of Housing Stability” and “HOST,” respectively.

2. The City agrees to lend Borrower an additional \$250,000.00 (“Additional Loan Sum”), making the total loan to the Borrower \$1,750,000.00 (the “Total Loan Amount”). Borrower agrees to lend the entire Total Loan Amount to OHA.

3. Borrower will execute an amended Borrower Promissory Note and amended Collateral Assignment of Note and Deed of Trust to evidence and secure the Total Loan Amount.

4. Borrower shall cause OHA to execute an amended OHA Promissory Note and amended Deed of Trust to evidence and secure the Total Loan Amount.

5. Section 6 of the Loan Agreement entitled **RESTRICTIONS** is replaced in its entirety its entirety with the following:

“A. Affordability limitations.

i. Eleven (11) of the units at the Property (the “HOME Units”) shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as established by the U.S. Department of Housing and Urban Development (“HUD”), under 24 C.F.R. 888.113, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 30% of the median income for the Denver area, as determined by HUD, with adjustments for the number bedrooms in the unit.

ii. Twenty-three (23) of the units at the Property (the “30% Units”) shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as established by HUD, under 24 C.F.R. 888.113, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 30% of the median income for the Denver area, as determined by HUD, with adjustments for the number bedrooms in the unit.

iii. Seventy-Seven (77) of the units at the Property (the “60% Units”) shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as established by HUD, under 24 C.F.R. 888.113, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 60% of the median income for the Denver area, as determined by HUD, with adjustments for the number bedrooms in the unit.

iv. One (1) of the units at the Property (the “100% Unit”) shall have a rent not exceeding the lesser of (i) fair market rent for comparable units in the area as established by HUD, under 24 C.F.R. 888.113, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 100% of the median income for the Denver area, as determined by HUD, with adjustments for the number bedrooms in the unit.

v. The 30% Units, 60% Units, and 100% Unit are referred to herein as the “City Units.”

vi. By executing this Loan Agreement, Borrower acknowledges receipt of HUD's current rent guidelines from HOST.

vii. It shall be Borrower's responsibility to obtain updated guidelines from HOST or HUD to confirm the annual calculation of the maximum rents for the Denver area.

viii. The City shall determine maximum monthly allowances for utilities and services annually in accordance with 24 C.F.R. 92.252(d)(1). Rents shall not exceed the maximum rents as determined above minus the monthly allowance for utilities and services.

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

B. Occupancy/Income Limitations.

i. The HOME Units shall be occupied by tenants whose incomes are at or below 30% of the median income for the Denver area as determined by HUD pursuant to section 24 C.F.R. 5.609 or any successor regulation.

ii. The 30% Units shall be occupied by tenants whose incomes are at or below 30% of the median income for the Denver area as determined by HUD pursuant to section 24 C.F.R. 5.609 or any successor regulation.

iii. The 60% Units shall be occupied by tenants whose incomes are at or below 60% of the median income for the Denver area as determined by HUD pursuant to section 24 C.F.R. 5.609 or any successor regulation.

iv. The 100% Unit shall be occupied by tenants whose incomes are at or below 100% of the median income for the Denver area as determined by HUD pursuant to section 24 C.F.R. 5.609 or any successor regulation.

v. By executing this Loan Agreement, Borrower acknowledges receipt of HUD's current income guidelines from HOST. It shall be Borrower's responsibility to obtain updated guidelines from HOST or HUD and comply with same.

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

BEDROOMS	HOME Units
0	5
1	6
TOTAL	11

BEDROOMS	City Units
Floating	101
TOTAL	101

Borrower shall provide the address of the HOME and City Units to the City by the time of Project completion.

D. Covenant Running with the Land. Prior to the City making any disbursement of the Total Loan Amount to the Borrower, Borrower shall cause OHA to execute amended and restated covenants covering the HOME Units (the “Amended HOME Covenant”) and the City Units (the “Amended City Covenant”) each in form satisfactory to the City, 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 Amended HOME Covenant shall encumber the Property for a period not less than sixty (60) years from the date of project completion as defined in 24 C.F.R. § 92.2. The sixty (60) year term consists of: fifteen (15) years as required by HUD, and an additional forty-five (45) years as required by the City. After the first fifteen (15) years from the date the Amended HOME Covenant is recorded have lapsed, Borrower will have satisfied the HUD requirements. The Amended City Covenant shall encumber the Property for a period of not less than sixty (60) years from the date of project completion as defined in 24 C.F.R. § 92.2. Violation of said Amended HOME Covenant or Amended City Covenant shall be enforceable as an event of default pursuant hereto.”

6. Exhibit A of the Loan Agreement shall be replaced with the Exhibit A attached to this Amendment. The updated Project Timeline marked as Exhibit A is incorporated herein by this reference and shall supersede and the exhibit attached to the Loan Agreement.

7. The Executive Director of HOST is authorized to countersign the Amended HOME Covenant and Amended City Covenant to memorialize the City’s express written consent to the amendments thereof, as required by Section 3 of the Original HOME Covenant and Original City Covenant.

8. The Executive Director of HOST may execute documents necessary to carry out the intent of this Amendment.

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

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

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

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGES TO FOLLOW]

Contract Control Number:
Contractor Name:

HOST-202158183-01 / OED-201950702
SENIOR HOUSING OPTIONS, INC.

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-202158183-01 / OED-201950702
SENIOR HOUSING OPTIONS, INC.

By: James H. Goddard

Name: James H. Goddard
(please print)

Title: CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A

Project Timeline – Olin Hotel Apartments (Senior Housing Options, Inc)
1420 N Logan St Denver CO 80203

Construction financing closes	December 19, 2019
General Contractor notice to proceed	January 2, 2019
Construction completion	March 31, 2021
Lease-up completion date of restricted units	May 31, 2021

Sources	Total	Uses	Total
ANB Bank 1 st Mortgage	\$2,350,000	Land and Buildings	\$12,800,000
City of Denver	1,750,000	Construction Hard Costs	11,642,480
CDOH	1,150,000	Construction Interim Costs	1,056,841
Seller's Note	9,277,380	Soft Costs	1,458,172
Subordinated HUD Loan	3,179,562	Financing/Syndication Fees	352,500
Transferred HUD Reserves	192,508	Developer Fees	2,737,199
Federal 4% LIHTC Equity	8,396,521	Project Reserves	532,000
State Tax Credit Equity	3,092,177	Total	\$30,579,192
Deferred Developer Fee	1,191,044		
Total	\$30,579,192		

PROJECT ACTIVITIES

ACTIVITY	TOTAL COST	CITY FUNDS	OTHER FUNDS
Land and Buildings	\$12,800,000		\$12,800,000
Construction Costs	11,142,480	\$1,750,000	9,392,480
Soft Costs & Professional Fees	1,458,172		1,458,172
Construction Interim Costs	1,056,841		1,056,841
Financing & Syndication Costs	352,500		352,500
Reserves	532,000		532,000
Developer Fee	<u>2,737,199</u>		<u>2,737,199</u>
TOTAL	\$30,079,192	\$1,750,000	\$28,329,192