

## **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 **ATLANTIS COMMUNITY FOUNDATION**, a Colorado nonprofit corporation, whose address is 201 S. Cherokee Street, Unit 100, Denver, Colorado 80203 (“Borrower”), each individually a “Party” and collectively the “Parties.”

### **RECITALS:**

**WHEREAS**, the Parties entered into a loan agreement dated February 7, 2002 (the “Loan Agreement”), relating to a loan by the City to the Borrower in the original principal amount of \$722,746.00 (the “Loan”); and

**WHEREAS**, the Loan consisted of federal funds in the amount of \$230,000.00 (the “HOME Program Funds”) that the City had received pursuant to the Home Investment Partnership Program (the “HOME Program”), federal funds in the amount of \$150,000.00 (the “HOPWA Program Funds”) that the City had received pursuant to the Housing Opportunities for Persons with AIDS Program (the “HOPWA Program”), and local City funds in the amount of \$342,746.00; and

**WHEREAS**, the Borrower executed a promissory note dated March 12, 2002 evidencing the terms of the Loan (the “Promissory Note”); and

**WHEREAS**, the Borrower executed a Deed of Trust for the benefit of the City (the “Deed of Trust”), dated March 12, 2002 and recorded on March 13, 2002 in the real property records of the City and County of Denver at Reception No. 2002049983, encumbering the real estate located in the City and County of Denver, State of Colorado described therein (the “Property”):

**WHEREAS**, as a condition of the receipt of the Loan, the Borrower executed a Rental and Occupancy Covenant (the “Covenant”), dated March 12, 2002 and recorded on March 13, 2002 in the real property records of the City and County of Denver at Reception Number 2002049982, encumbering the Property; and

**WHEREAS**, the Covenant encumbered the Property with certain rental and occupancy limitations as set forth in the Loan Agreement and associated with the HOME Program and HOPWA Program; and

**WHEREAS**, collectively, the Loan Agreement, Promissory Note, Covenant, and Deed of Trust are referred to herein as the “Loan Documents;” and

**WHEREAS**, the Parties wish to amend and modify the terms and conditions of the Loan Documents to modify and amend certain terms with the Loan Agreement.

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

1. Section 4.C., entitled “**Covenant Running with the Land,**” is amended by adding the following to the end of the section:

“After ten (10) years have lapsed from the date the Covenant is recorded, Borrower will have satisfied the HOPWA program requirements and shall be released from and have no obligation to comply with the HOPWA program rules and regulations and the provisions of the Loan Agreement applicable to the HOPWA program. After fifteen (15) years have lapsed from the date the Covenant is recorded, Borrower will have satisfied the HOME Program requirements and shall be released from and have no obligation to comply with the HOME Program rules and regulations and the provisions of the Loan Agreement applicable to the HOME Program. Upon satisfying the HOPWA and HOME Program requirements, any right of HUD to enforce the terms of the Covenant shall terminate. All other terms and obligations of the Loan Agreement shall remain in place for the balance of the term of the Covenant. After fifteen (15) years, the HOME Units and Low HOME Units shall be considered ‘City Units.’ The rent and occupancy/income limitations set forth herein shall remain in effect and applicable to the City Units for the balance of the Covenant term.”

2. The Loan Documents are hereby modified to reflect the amended terms of the Loan Agreement. The Executive Director of HOST is authorized to consent to an amendment to the Covenant to carry out the intent of this Amendment so long as the amendment is in a form acceptable to the City Attorney.

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

4. 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-202161495-01 / GE1Y080-01  
ATLANTIS COMMUNITY FOUNDATION

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-202161495-01 / GE1Y080-01  
ATLANTIS COMMUNITY FOUNDATION

By: Lloyd L

Name: Lloyd Lewis  
(please print)

Title: Board Chair  
(please print)

ATTEST: [if required]

By: Aspen M. Kass

Name: Aspen M. Kass  
(please print)

Title: Director of Human Resources  
(please print)

Aspen M. Kass  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20054035179  
MY COMMISSION EXPIRES September 13, 2025