

**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 **MHMP 15 E COLFAX LLLP**, a Colorado limited liability limited partnership, whose address is 1600 Broadway, Suite 2000, Denver, Colorado 80202 (“Borrower”).

WITNESSETH:

WHEREAS, the Borrower is the owner of Property (as defined in Paragraph 2) in the City and County of Denver;

WHEREAS, the purpose of this Loan Agreement is for the City to provide financing costs related to the development and construction of eighty-two (82) affordable multi-family dwelling units located on the Property and known as The Rose on Colfax (the “Project”);

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

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

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

1. LOAN TO BORROWER:

A. Subject to the terms of this Loan Agreement, the City agrees to lend Borrower the sum of Three Million Five Hundred Thousand Dollars and NO/100 (\$3,500,000.00) (the “Loan”). In addition to this Loan Agreement, the Borrower will execute a promissory note in a form satisfactory to the City evidencing this Loan (the “Promissory Note”) and a covenant securing the Property for use as affordable housing as required by Section 6 hereof (the “Covenant”).

B. Interest at a rate of one percent (1%), compounding annually, shall commence accruing on the outstanding principal balance of the Promissory Note on the date on which the first draw on the Loan is made. Principal and any interest accrued on the Loan shall be due and payable, at such place as may be designated by City, in annual installments of the amount calculated in accordance with the order of priority and other provisions set forth in **Exhibit F**, attached hereto and incorporated herein (“Cash Flow”). Payments on the Loan will be made after required principal and interest installment payments on the senior financing referred to in Section 3 below, and on the Mercy Gap Loan in the original principal amount of approximately \$2,000,000.

C. Such annual installments shall begin to accrue in the 2024 fiscal year, but will commence and be due on July 1, 2025 and each July 1st thereafter, with the entire unpaid balance of principal and accrued interest due and payable on the fortieth (40th) anniversary of the date of the Promissory Note (the “Maturity Date”), if not sooner paid. The Borrower may elect to make payments prior to July 1 each year in connection with the distribution of Cash Flow under the Partnership Agreement.

D. Each year after repayment of the Loan has commenced, Borrower shall provide to the City, no later than May 15 of each calendar year during the term of this Loan Agreement, (i) an audited financial statement for the Project for the preceding calendar year; and (ii) a statement or letter from an auditor that details (a) the total amount of Cash Flow available for distribution, and (b) a calculation that details the amount(s) and the person(s) or entity (entities) to which the available Cash Flow will be distributed based on the order of priority and other provisions set forth in Exhibit F.

2. **SECURITY:** Repayment of the Promissory Note shall be secured by a Deed of Trust (the “Deed of Trust”), in form satisfactory to City, granted by Borrower and encumbering the real property known and numbered as 1510 Valentia Street and legally described as set forth in **Exhibit D** (the “Property”). The City acknowledges that the Property may be subjected to a condominium declaration and condominium map to create a mixed use residential and commercial condominium project (the “Condominium Project”). It is intended that the City’s Deed of Trust shall only extend to the residential portion of the Condominium Project. The Executive Director, or his or her designee, of the City’s Department of Housing Stability is authorized to execute a partial release of the lien of the Deed of Trust to release the commercial component of the Condominium Project, if requested by Borrower; provided that the Borrower is not in default of this Loan Agreement.

3. **SUBORDINATION:**

A. The Executive Director, or the Executive Director’s designee (the “Executive Director”), of the City’s Department of Housing Stability (“HOST”) is authorized to execute documents necessary to subordinate the lien of the City’s Deed of Trust so long as (i) the subordination agreement is substantially in the form attached hereto as **Exhibit E**; (ii) encumbrances prior to the City’s Deed of Trust do not exceed Twenty-Two Million Five Hundred Thousand Dollars and NO/100 (\$22,500,000.00) under the construction loan or Ten Million Five Hundred Thousand Dollars and NO/100 (\$10,500,000.00) under the permanent loan; (iii) Borrower is not then in default of its obligations pursuant to this Loan Agreement, the Promissory Note, the Deed of Trust or the

Covenant; and (iv) all additional financing for the Project is committed.

B. The Executive Director, or his or her designee, is authorized to execute documents necessary to subordinate the City's Deed of Trust to land use restriction agreements ("LURAs"), such as the LURA required by the Colorado Housing and Finance Authority, so long as (i) the subordination agreement is in the form acceptable to the City Attorney; (ii) encumbrances prior to the City's Deed of Trust do not exceed Twenty-Two Million Five Hundred Thousand Dollars and NO/100 (\$22,500,000.00) under the construction loan or Ten Million Five Hundred Thousand Dollars and NO/100 (\$10,500,000.00) under the permanent loan; and (iii) Borrower is not in default of its obligations pursuant to this Loan Agreement, the Deed of Trust, or the Covenant.

C. The Executive Director, or his or her designee, is authorized to execute documents necessary to accomplish the Loan, as set forth herein, so long as (i) such documents are in a form satisfactory to the City Attorney; (ii) encumbrances prior to the City's Deed of Trust do not exceed Twenty-Two Million Five Hundred Thousand Dollars and NO/100 (\$22,500,000.00) under the construction loan or Ten Million Five Hundred Thousand Dollars and NO/100 (\$10,500,000.00) under the permanent loan; and (iii) Borrower is not in default of its obligations pursuant to this Loan Agreement, the Deed of Trust, or the Covenant.

4. USE AND DISBURSEMENT OF FUNDS:

A. 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 HOST approved forms, and otherwise comply with the financial administration requirements set forth in **Exhibit B** attached hereto and incorporated herein.

B. 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 (a) final inspection and approval of the Project by the City; (b) receipt of proof of release of liens from all applicable contractors, subcontractors, and suppliers; and (c) the issuance of a certificate of occupancy (or a temporary certificate of occupancy).

C. In addition to the retainage specified in subparagraph B above, HOST shall retain Ten Thousand Dollars and No/100 Dollars (\$10,000.00) of the total funds to be disbursed under this Loan Agreement (the "Compliance Retainer"). This amount shall be released upon receipt from Borrower of all information necessary for the City's reporting requirements.

D. Expenses incurred prior to January 1, 2020 are not eligible for reimbursement.

5. DEADLINE FOR DISBURSEMENT OF FUNDS: REQUIRED DOCUMENTATION:

A. Borrower must satisfy all conditions to closing the Loan set forth in this Loan Agreement on or before August 6, 2022 (the “Closing Deadline”). Failure to meet this deadline may result in the termination of this Loan Agreement at the Executive Director’s sole discretion. No funds shall be disbursed under this Loan Agreement until such time as (i) all conditions of this Loan Agreement have been met and (ii) Borrower has closed on all financing necessary to complete the Project.

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

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

6. RESTRICTIONS ON USE OF PROPERTY:

A. Affordability Limitations.

i. The Owner agrees to provide Eighty-two (82) affordable rental dwelling units located on the Property.

ii. Fourteen (14) of the units at the Property (the “70% Units”) shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as published by the Colorado Housing and Finance Authority (“CHFA”) or (ii) 30% of the adjusted income of a family whose annual income equals 70% of the median income for the Denver area, as published by CHFA, with adjustments for number of bedrooms in the unit.

iii. Thirty-Seven (37) 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 published by CHFA or (ii) 30% of the adjusted income of a family whose annual income equals 60% of the median income for the Denver area, as published by CHFA, with adjustments for number of bedrooms in the unit.

iv. Ten (10) of the units at the Property (the “50% Units”) shall have rents not

exceeding the lesser of (i) fair market rent for comparable units in the area as published by CHFA or (ii) 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.

v. Five (5) of the units at the Property (the “40% Units”) shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as published by CHFA or (ii) 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.

vi. Sixteen (16) 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 published by CHFA or (ii) 30% of the adjusted income of a family whose annual income equals 30% of the median income for the Denver area, as published by CHFA, with adjustments for number of bedrooms in the unit.

vii. The 70% Units, 60% Units, 50% Units, 40% Units, and 30% Units are referred to collectively herein as the “City Units.” By executing this Loan Agreement, Borrower acknowledges receipt of CHFA's current rent guidelines from HOST. It shall be Borrower's responsibility to obtain updated guidelines from HOST 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 CHFA requirements. Rents shall not exceed the maximum rents as determined above minus the monthly allowance for utilities and services. 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 70% Units shall be occupied by tenants whose incomes at each tenant's initial occupancy are at or below seventy percent (70%) of the median income for the Denver area as published by CHFA, with adjustments for family size.

ii. The 60% Units shall be occupied by tenants whose incomes at each tenant's initial occupancy are at or below sixty percent (60%) of the median income for the Denver area as published by CHFA, with adjustments for family size.

iii. The 50% Units shall be occupied by tenants whose incomes at each tenant's initial occupancy are at or below fifty percent (50%) of the median income for the Denver area as published by CHFA, with adjustments for family size.

iv. The 40% Units shall be occupied by tenants whose incomes at each tenant's initial occupancy are at or below forty percent (40%) of the median income for the Denver area as published by CHFA, with adjustments for family size.

v. The 30% Units shall be occupied by tenants whose incomes at each tenant's initial occupancy are at or below thirty percent (30%) of the median income for the Denver area as published by CHFA, with adjustments for family size.

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

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

BEDROOMS	30% Units	40% Units	50% Units	60% Units	70% Units
1 Bedroom	4	1	6	13	6
2 Bedroom	5	2	2	15	4
3 Bedroom	5	2	2	9	4
4 Bedroom	2	0	0	0	0
TOTAL	16	5	10	37	14

D. Accessibility Requirements. Borrower must design and construct five percent (5%) of the City Units, or at least one (1) unit, whichever is greater, to be accessible for persons with mobility disabilities. An additional two percent (2%) of the City Units, or at least one (1) unit, whichever is greater, must be accessible for persons with hearing or visual disabilities. Collectively, these units are referred to as the "Accessible Units." The Accessible Units must be designed and constructed in accordance with American National Standards Institute ("ANSI") Standard A117.1. Public and common areas must be readily accessible for persons with mobility disabilities and be designed and constructed in accordance with ANSI Standard A117.1.

E. 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 Covenant shall encumber the Property for sixty (60) years from the date of the recording of the Covenant. Violation of said Covenant shall be enforceable as an event of default pursuant hereto. The Covenant will be subordinate to the senior liens and encumbrances described in Section

3 above with respect to the construction loan and permanent loan, and pari passu with the Deed of Trust securing the Mercy Gap Loan with an original principal amount of approximately \$2,000,000.

7. TENANT SELECTION: The owner of the Project must adopt, and have approved by the City, written tenant selection polices. The tenant selection policies must be approved by the City prior the City making any disbursements under this Loan Agreement. The tenant selection policies must, at a minimum, contain 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. Do not exclude an applicant with a certificate or voucher under the Section 8 Tenant-Based Assistance Housing Choice Voucher Program or an applicant participating in a HOME tenant-based rental assistance program because of the status of the applicant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document;

E. 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; and

F. Comply with the Violence Against Women Act requirements prescribed in 24 CFR § 92.359.

8. AFFIRMATIVE MARKETING: The owner of the Project shall comply with the procedures outlined in the affirmative marketing program, attached hereto as **Exhibit C** and incorporated herein (the “Affirmative Marketing Program”), 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 limit eligibility or give preference to a particular segment of the population in accordance with 24 CFR 92.253(d). Prior to making any disbursement, Borrower must provide the plan required by the Affirmative Marketing Program (the “Affirmative Marketing Plan”) to HOST. The Affirmative Marketing Plan must be approved by HOST prior to Borrower adopting it or engaging in any affirmative marketing of the Project.

9. LEASES: There must be a written lease between the tenants of City Units and the owner of the Project for a period of not less than one year, unless by mutual agreement between the tenant

and the Owner of the Project a shorter period is specified.

10. PROHIBITED LEASE TERMS: Leases 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.

11. PROHIBITION OF CERTAIN FEES: A tenant may not be charged fees that are not customarily charged in rental housing (e.g. laundry room access fees), except that a tenant may be charged 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.

12. TERMINATION OF TENANCY: The owner of the Project may 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 service of written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy. Notwithstanding the foregoing, nothing in this Agreement shall prevent the owner of the Project from terminating a tenancy in accordance with Colorado Revised Statutes § 13-40-107.5(4)(a) for a substantial violation as defined in that statute.

13. MANAGEMENT OF PROPERTY: Borrower shall provide and maintain good and efficient management of the Property satisfactory to the City. Borrower must execute and maintain in effect a management agreement for the Project with a qualified manager that has experience with affordable housing. Borrower shall notify the City of any (i) changes to the manager of the Property and (ii) of any significant changes staffing changes to the manager. The City hereby approves Mercy Housing Management Group, Inc., a Nebraska not for profit corporation, as the initial property manager.

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

A. Examination of Records: 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 Paragraph 6, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Borrower involving transactions related to this Loan Agreement. Borrower must also require its contractors and subcontractors to allow access to such records when requested. 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.

B. Required Information and Reports. Borrower shall submit to the City the following information and reports on HOST approved forms or online system: (1) annual compliance statement; (2) report on rents and occupancy of City Units to verify compliance with affordability requirements in Paragraph 6 and other requirements of this Loan Agreement; (3) data on evictions, terminations of tenancies, or tenancies not renewed for individuals residing in City Units; (4) reports (including financial reports) that enable the City to determine the financial condition and continued financial viability of the rental project ; (5) for floating units, reports on unit substitution and filling vacancies to ensure that the Property maintains the required unit mix; and (6) template

lease agreements for City Units. The report required by subparagraph (2) of this Paragraph shall include, but not be limited to, information related to monthly rent amount, lease term, household size, total annual household income, and race and other demographic information. The reports and information required by this Paragraph shall be due within thirty (30) days of the City making a request for such reports and information. The failure to submit the reports and information requested by the City within thirty (30) days of the City's request shall be considered a default of this Loan Agreement.

C. Access and Inspections. For the purposes of assuring compliance with the Loan Agreement, the City shall have the reasonable right of access to the Property, without charges or fees, (i) during the period of construction and (ii) during the period of affordability set forth in Paragraph 6. During the period of affordability, the City shall be entitled to conduct annual physical inspections of the Property. Borrower shall fully cooperate with the City in an annual monitoring of Borrower's performance and site inspection to verify compliance with the requirements of this Loan Agreement.

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

16. TRANSFERS: Borrower acknowledges that the City has examined and relied on the experience of Borrower and its general partners, directors, and members in owning and operating affordable housing projects, such as the Project, in agreeing to make the Loan, and the City will continue to rely on Borrower's ownership and control of the Property and Project as a means of maintaining the affordability requirements and the value of the Property as security for repayment of the Loan. Without the prior written consent of the City, which may not be unreasonably withheld, the Borrower shall not: (i) sell, convey, assign, or otherwise transfer or dispose of the Property or any part thereof (other than leases to tenants), or (ii) sell, convey, assign, or otherwise transfer any interest in the Borrower; or (iii) change the control or management of the Borrower.

17. CAPITAL NEEDS ASSESSMENT: During the term of the Covenant, the Borrower must provide the City with any capital needs assessment or physical needs assessment performed on or related to the Property or any improvements on the Property every ten (10) years or, if performed earlier, whenever such assessments are performed.

18. MAINTENANCE AND REPLACEMENT: The owner of the Project shall 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.

19. 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.), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852 et seq.), and is therefore subject to 24 C.F.R. Part 35; the owner of the Project shall comply with these provisions in the construction of the Project.

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

A. **Environmental Reports.** The Borrower must provide the City with a Phase I Environmental Site Assessment (“ESA”) in form and substance acceptable to the City. If the ESA is not in the City’s name, the City must be provided with a reliance letter in the name of the City from the environmental engineer, which must be satisfactory to the City.

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

C. **Appraisal.** Borrower must provide the City with an as-built appraisal of the Property, which must be satisfactory in form and substance to the City. City must also be named as “Intended User” on the appraisal in lieu of a formal reliance letter.

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

E. **Management Agreement.** Borrower must provide the City with a certified copy of the management agreement for the Property, which must be satisfactory in form and substance to the City. The management agreement must contain a provision that the City has the right to release the

management company in the event of a foreclosure.

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

G. **Promissory Note; Deed of Trust; Covenant.** Borrower must execute and deliver to the closing agent the Promissory Note. Borrower must execute and deliver to the closing agent for recordation the Deed of Trust and Covenant.

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

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

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

22. 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 subject to the provisions of the City Charter and Revised Municipal Code as the same may be amended from time.

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

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

B. Commercial General Liability Insurance covering all operations by or on behalf of Borrower, on an occurrence basis with limits not less than \$1,000,000 per occurrence, \$2,000,000

products and completed operations aggregate, and \$2,000,000 policy aggregate. Borrower's contractor shall include all subcontractors as insureds under its policy or shall furnish separate certificates of insurance for each subcontractor.

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

D. Property insurance satisfactory to the City in the amount of the value of the property subject to the Deed of Trust and Covenant, with the City named as loss payee.

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

24. DEFENSE & INDEMNIFICATION:

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

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

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

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

E. This defense and indemnification obligation shall survive the expiration or termination of this Loan Agreement.

25. DEFAULT AND ACCELERATION:

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

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

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

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

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

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

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

B. Cure Period. Upon a default, the City shall give written notice of the default to Borrower and other persons entitled to notice of a default pursuant to Paragraph 25. After Borrower's

receipt of the written notice, Borrower or a person on behalf of Borrower shall have ten (10) calendar days to cure any monetary default and thirty (30) calendar days to cure any nonmonetary default (collectively, the “Cure Period”). If a nonmonetary default is not a type which can be cured within the Cure Period, the City, at its reasonable discretion, may extend the cure period if the Borrower provides the City with a reasonably detailed written plan of how the Borrower will cure the nonmonetary default and the Borrower, at all times within such additional time period, actively and diligently pursues such plan. For purposes of this Loan Agreement, the term “monetary default” means a failure by Borrower to make any payment required of it pursuant to the applicable Promissory Note or any other Loan document, and the term “nonmonetary default” means a failure by Borrower or any other person to perform any obligation contained in the Loan Agreement, Covenant, Deed of Trust, or Promissory Note, other than the obligation to make payments provided for in the Promissory note or Loan documents. The investor limited partner of Borrower has the right, but not the obligation, to cure Borrower defaults on the same terms as the Borrower.

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

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

26. 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, if to Borrower at the address:

MHMP 15 E Colfax LLLP
c/o Mercy Housing Mountain Plains
1600 Broadway, Suite 2000
Denver, Colorado 80202

Attn: Joe Rosenblum, General Counsel

With a copy to:

Affordable Housing Fund Colorado I LLC
c/o Sugar Creek Realty LLC
17 West Lockwood Avenue
St Louis, Missouri 63119
Attention: Legal Department

Wells Fargo Affordable Housing Community Development Corporation
550 South Tryon Street
23rd Floor, D1086-239
Charlotte, North Carolina 28202-400
Attn: Director of Tax Credit Asset Management

Pillsbury Winthrop Shaw Pittman LLP
1200 17th Street, NW
Washington, DC 20036
Attn: Craig A. de Ridder, Esq.

and if to the City at:

Department of Housing Stability
City and County of Denver
Attn: Executive Director
201 West Colfax Avenue, Dept. 615
Denver, Colorado 80202

With a copy to:

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

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit

with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

27. DISPUTES: All disputes between the City and Borrower arising out of or regarding this Loan Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official

rendering a final determination shall be the Executive Director.

28. 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.

29. 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

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

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

32. 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.

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

34. 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.

35. 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, member or manager of Borrower for payment of any of the obligations described herein or therein, and the City's sole recourse shall be against the Project.

36. 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.

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

38. 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.

List of Exhibits to Loan Agreement

- Exhibit A – Project Timeline and Costs
- Exhibit B – HOST Financial Administration Requirements
- Exhibit C – Affirmative Marketing Program
- Exhibit D – Legal Description of Property
- Exhibit E – Form of Subordination Agreement
- Exhibit F – Cash Flow Calculation

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Contract Control Number: HOST-202160023-
Contractor Name: MHMP 15 E COLFAX LLLP

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

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

HOST-202160023-
MHMP 15 E COLFAX LLLP

By: _____ See Attachment _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

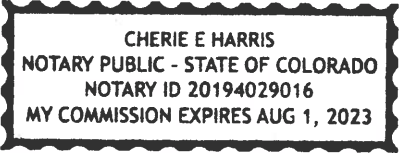
Name: _____
(please print)

Title: _____
(please print)

Contract Control Number: HOST-202160023-00
Contractor Name: MHMP 15 E COLFAX LLLP

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

SEAL



CITY AND COUNTY OF DENVER:

ATTEST:

By: Cherie E. Harris

APPROVED AS TO FORM:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number:
Contractor Name:

HOST-202160023-00
MHMP 15 E COLFAX LLLP

MHMP 15 E COLFAX LLLP
a Colorado limited liability limited partnership

By: MHMP 15 E Colfax GP LLC
a Colorado limited liability company
Its: General Partner

By: Mercy Housing Mountain Plains
Its: Sole Member

By: Dee Walsh
Dee Walsh
President

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

“JUNIOR LENDER”

CITY AND COUNTY OF DENVER, a Colorado
Municipal Corporation

By: _____
Name: _____
Title: _____, Office of Economic
Development

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

The foregoing instrument was subscribed to and acknowledged before me this ____ day of ____, 2021, by _____ as _____ of Department of Housing Stability for the City and County of Denver, a municipal corporation of the State of Colorado, for and on behalf of the City.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

“SENIOR LENDER”

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, a national banking association**

By: _____
Scott Horton, Director

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Scott Horton, as a Director of Wells Fargo Bank, National Association, a national banking association, on behalf of said national banking association.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

Acknowledged by BORROWER:

MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership

By: **MHMP 15 E Colfax GP LLC, a Colorado limited liability company, its general partner**

By: **Mercy Housing Mountain Plains, a Colorado nonprofit corporation, its sole Member**

By: Dee Walsh
Dee Walsh, President

STATE OF COLORADO)
) ss.
COUNTY OF Danver)

The foregoing instrument was acknowledged before me this 5 day of October, 2021, by Dee Walsh, as President of Mercy Housing Mountain Plains, a Colorado nonprofit corporation, as the sole member of MHMP 15 E Colfax GP LLC, a Colorado limited liability company, as the general partner of MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership, for and on behalf of said entity.

WITNESS my hand and official seal.

Cherie E. Harris
Notary Public

My commission expires: August 1, 2023.

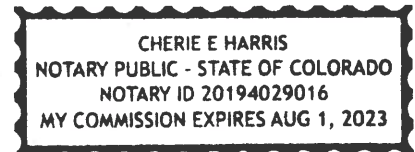


EXHIBIT A

Project Timeline - The Rose On Colfax (Mercy Housing Mountain Plains / MHMP 15 E Colfax LLLP)
 1510 Valentia Street, Denver, CO 80220

Construction financing closes	October 15, 2021
General Contractor notice to proceed	October 15, 2021
Construction completion	February 15, 2023
Lease-up completion date of restricted units	July 31, 2023
HOST Payments (25% I/O) begin	Year 2 of Stabilized Ops (January 1, 2024 accrual/ July 2025 payment)

PERMANENT SOURCES		USES	
First Mortgage(Wells Fargo/Impact Community Capital)	\$ 7,852,000	Land and Site Work	\$1,678,581
Mercy Gap Fund Second Mortgage	\$2,000,000		
LIHTC - 4%	\$ 11,447,013	Const. Interim Costs	\$1,374,361
Affordable Housing Tax Credits	\$4,064,949		
City of Denver Loan	\$ 3,500,000	Hard Costs	\$22,562,357
CDOH Grant	\$ 1,020,000	Soft Costs + Prof. Fees	\$2,352,966
GP Equity	\$100		
Deferred Developer Fee	\$ 850,000	Developer Fee	\$2,163,013
		Reserves	\$602,782
TOTAL	\$30,734,061	TOTAL	\$30,734,061

Project Activities	Project Cost	City Funds	Other Funds
Land and Site Work	\$1,678,581		\$1,678,581
Const. Interim Costs	\$1,374,361		\$0
Hard Costs	\$22,562,357	\$3,500,000	\$22,562,357
Soft Costs + Prof. Fees	\$2,352,966		\$37,374
Developer Fee	\$2,163,013		\$2,163,013
Reserves	\$602,782		\$602,782
	\$30,734,061	\$3,500,000	\$27,234,061

EXHIBIT B

FINANCIAL ADMINISTRATION:

1.1 Compensation and Methods of Payment

- 1.1.1 Disbursements shall be processed through the Department of Housing Stability (HOST) and the City and County of Denver's Department of Finance.
- 1.1.2 The method of payment to the Contractor by HOST shall be in accordance with established HOST procedures for line-item reimbursements. The Contractor must submit expenses to HOST 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 HOST policies. Vouchers should be submitted within thirty (30) days of the actual service, expenditure or payment of expense.
- 1.1.3 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 Government requirements for current, auditable books at all times, it is required that all vouchers be submitted monthly to HOST in order to be paid. Expenses cannot be reimbursed until the funds under this contract have been encumbered.
- 1.2.2 No more than four (4) vouchers may be submitted per contract per month, without prior approval from HOST.
- 1.2.3 All vouchers for all Agreements must be correctly submitted within thirty (30) 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 For contracts subject to Federal Agreements, 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 HOST prior to the draw request.
- 1.2.8 The standardized HOST “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 an electronic time system is used, signatures are not required. 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 -less pre-tax deductions, if applicable,

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 **Cell Phone**: If the monthly usage charge is exceeded in any month, an approval from the Executive Director or designee will be required.
- 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 HOST.
- 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 HOST within thirty (30) days after the end of the service period stated in the contract.

2.1 Program Income

- 2.1.1 For contracts subject to Federal Agreements, program income includes, without limitation, income from fees for services performed, from the use or rental of real or personal property acquired with contract funds, from the sale of commodities or items fabricated under a contract agreement, and from payments of principal and interest on loans made with contract funds.

- 2.1.2 Program income may be deducted from total allowable costs to determine net allowable costs and may be used for current reimbursable costs under the terms of this contract. Program income which was not anticipated at the time of the award may be used to reduce the award contribution rather than to increase the funds committed to the project. ALL PROGRAM INCOME GENERATED DURING ANY GIVEN PERIOD SUBMITTED FOR PAYMENT SHALL BE DOCUMENTED ON THE VOUCHER REQUEST.
- 2.1.3 The Contractor, at the end of the program, may be required to remit to the City all or a part of any program income balances (including investments thereof) held by the Contractor (except AS PRE-APPROVED IN WRITING BY HOST, INCLUDING those needed for immediate cash needs).

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 and/or city 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 For contracts subject to Federal Agreements, 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 For contracts subject to Federal Agreements, the Contractor shall maintain separate accountability for HOST 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 HOST 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 For contracts subject to Federal Agreements, 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 HOST Financial Manager within the earliest of thirty (30) calendar days after receipt of the auditor's report; or nine (9) months after the end of the period audited.
- 4.1.3 A management letter, if issued, shall be submitted to HOST along with the reporting package prepared in accordance with the Single Audit Act Amendments and the OMB Omni Circular. If the management letter is not received by the subrecipient at the same time as the Reporting Package, the Management Letter is also due to HOST within thirty (30) days after receipt of the Management Letter, or nine (9) months after the end of the audit period, whichever is earlier. If the Management Letter has matters related to HOST funding, the Contactor shall prepare and submit a Corrective Action Plan to HOST in accordance with the Single Audit Act Amendments and the 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 **HOST Financial Services Team**.
- 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 HOST may, at its option, restrict the transfer of funds among cost categories, programs, functions or activities at its discretion as deemed appropriate by program staff, HOST executive management or its designee.
- 5.1.2 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 notification to HOST program staff and upon approval may be submitted 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 HOST program staff. 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.
- 5.1.3 The Contractor understands that any budget modification requests under this Agreement must be submitted to HOST prior to the last Quarter of the Contract Period, unless waived in writing by the HOST 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 ten thousand dollars (\$10,000) 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 For contracts subject to federal agreements, 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 For contracts subject to federal agreements, HOST may require adequate fidelity bond coverage, in accordance with 24 C.F.R. 84.21 (d), where the subrecipient lacks sufficient coverage to protect the Federal Government's interest.

8.1 Records Retention

- 8.1.1 The Contractor must retain for seven (7) 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 and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.

9.1 Contract Close-Out

- 9.1.1 All Contractors are responsible for completing required HOST contract close-out forms and submitting these forms to their appropriate HOST Contract Specialist within sixty (60) days after the Agreement end date, or sooner if required by HOST in writing.
- 9.1.2 Contract close out forms will be provided to the Contractor by HOST within thirty (30) days prior to end of contract.
- 9.1.3 HOST will close out the award when it determines that all applicable administrative actions and all required work of the contract have been completed. If Contractor fails to perform in accordance with this Agreement, HOST 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 Federal Government and the City. If not paid within a reasonable period after demand, HOST 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

LEGAL DESCRIPTION

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

A PARCEL OF LAND SITUATED IN THE SOUTHEAST ONE-QUARTER (SE1/4) OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, LOCATED IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO; BEING A PORTION OF LOTS 15 THROUGH 26 INCLUSIVE, BLOCK 3, EAST COLFAX SUBDIVISION, AS RECORDED DECEMBER 24, 1889 IN BOOK 8, PAGE 48 WITH THE CLERK AND RECORDER OF ARAPAHOE COUNTY, AND BEING ALL OF THE PROPERTY DESCRIBED IN RECEPTION NO. 2021079797 AS RECORDED WITH THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER, ALONG WITH THE ALLEY VACATED BY ORDINANCE _____, SERIES _____, AND RECORDED UNDER RECEPTION NO. _____, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 15, WHENCE SOUTH ONE-QUARTER CORNER OF SECTION 33 BEARS S67°48'57"W, 747.92 FEET;

THENCE N89°58'54"E ALONG THE NORTH LINE OF SAID LOT 15, 122.98 FEET TO A POINT ON A LINE 2.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 15;

THENCE S00°01'43"W ALONG SAID PARALLEL LINE, 23.00 FEET;

THENCE S28°19'08"W, 29.54 FEET TO A POINT ON A LINE 16.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF LOTS 16 THROUGH 18, INCLUSIVE OF SAID BLOCK 3;

THENCE S00°01'43"W ALONG SAID PARALLEL LINE, 60.00 FEET TO A POINT ON A LINE 2.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOTS 23 THROUGH 26, INCLUSIVE, OF SAID BLOCK 3;

THENCE N89°58'54"E ALONG SAID PARALLEL LINE, 81.91 FEET TO A POINT ON THE EAST LINE OF SAID LOT 26;

THENCE ALONG SAID EAST LINE, S00°06'28"W, 121.99 FEET TO A POINT ON A LINE 1.00 FOOT NORTH OF AND PARALLEL WITH THE SOUTH LINE OF LOTS 19 THROUGH 26, INCLUSIVE, OF SAID BLOCK 3;

THENCE S89°58'11"W ALONG SAID PARALLEL LINE, 190.74 FEET TO A POINT ON THE WEST LINE OF LOT 19;

THENCE ALONG THE WEST LINE OF LOTS 15 THROUGH 19, INCLUSIVE, BLOCK 3, EAST COLFAX SUBDIVISION, N00°01'52"E, 231.03 FEET TO THE POINT OF BEGINNING.

CONTAINING 35,666 SQUARE FEET OR 0.819 ACRES, MORE OR LESS.

BASIS OF BEARINGS: BASIS OF BEARINGS: BEARINGS USED HEREIN ARE BASED ON SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 33, T3S, R67W OF THE 6TH P.M., BEING N89°58'11"E AS MEASURED USING THE CITY AND COUNTY OF DENVER CONTROL COORDINATES, AND AS MONUMENTED ON THE WEST BY THE SOUTH 1/4 CORNER OF SECTION 33, A FOUND 3.5" ALUMINUM CAP PLS 11434 IN RANGE BOX PER MONUMENT RECORDED DATED 10-18-1995, AND AS MONUMENTED ON THE EAST BY THE SOUTHEAST CORNER OF SECTION 33, A 2.5" ALUMINUM CAP PLS 33202 IN RANGE BOX PER MONUMENT RECORDED DATED 7-21-2003.

LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS H. ORT III, A LICENSED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.

DOUGLAS H. ORT III, COLORADO PLS 37066
WILSON & COMPANY
1675 BROADWAY, SUITE 200
DENVER, CO 80202
DHORTIII@WILSONCO.COM
PH 303-501-1221

RECORDING REQUESTED BY:

Wells Fargo Bank, NA
171 17th Street NW
4th Floor, MAC G0128-048
Atlanta, GA 30363-1032
Attention: Dorsey Henry-Davidson

WHEN RECORDED MAIL TO:

Kutak Rock LLP
1801 California Street, Suite 3000
Denver, CO 80202
Attention: Micah J. Halverson, Esq.

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this “Agreement”) dated October [], 2021, is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, the present holder of a certain deed of trust, whose address is Office of Economic Development, 201 W. Colfax Ave., Dept. 204, Denver, Colorado 80202 (the “Junior Lender”) and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, whose address is 550 S. Tryon Street, 23rd Floor, D1086-239, Charlotte, NC 28202-4200, (together with its successors and/or assigns, the “Senior Lender”)).

PRELIMINARY STATEMENTS

A. The Junior Lender has made a loan to MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership (the “Borrower”) in the principal amount of [\$3,500,000], evidenced by that certain Promissory Note, dated as of October [], 2021, made by the Borrower and payable to the Junior Lender and secured by that certain Deed of Trust (the “Junior Deed of Trust”) made as of October [], 2021, and recorded on or about the date hereof of in the real property records in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado (the “Junior Deed of Trust” and together with the Promissory Note and all other documents evidencing, securing or executed in connection with the Junior Obligations (defined below), are collectively, the “Junior Loan Documents”), encumbering the following described property (the “Mortgaged Property”):

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

B. The Senior Lender plans to make or has made a loan to Borrower in the original principal amount of [\$17,975,000] (“Senior Loan”), which loan will be evidenced by that certain Promissory Note Secured by Deed of Trust (“Senior Note”) in like amount and secured by that certain Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing (“Senior Deed of Trust”), which will cover and encumber all or part of the Mortgaged Property (the “Senior Note,” and together with the Senior Deed of Trust, Permanent Loan Documents, and all other documents evidencing, securing or executed in connection with the Senior Obligations (defined below) are collectively, the “Senior Loan Documents”); and the Senior Deed of Trust will be recorded in the records of the office of the Clerk and Recorder of the City and County of Denver, State of Colorado.

C. It is the desire of the parties and to the mutual benefit of all parties that the lien of the Junior Deed of Trust and Junior Obligations be subordinated to the lien of the Senior Deed of Trust and Senior Obligations.

AGREEMENT

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

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

“Senior Obligations” means each and every debt, liability and obligation of every type and description that the Borrower may now or at any time hereafter owe to the Senior Lender in connection with the Senior Deed of Trust and Senior Loan Documents, whether such debt, liability or obligation now exists or is hereafter assumed, created or incurred and whether it is or may be direct or indirect, due or to become due, or absolute or contingent, including, without limitation, upon conversion of the Senior Loan to permanent financing to be evidenced by that certain Amended and Restated Promissory Note in the original principal amount of [\$8,091,000] (“Permanent Loan”) to be executed and delivered by Borrower to Senior Lender (“Permanent Loan Note”) and to be secured by that certain Multifamily Deed of Trust, Absolute Assignment of Rents and Leases, Security Agreement and Fixture Filing (“Permanent Loan Deed of Trust” and together with the Permanent Loan Note and all other documents evidencing, securing or executed in connection with the Permanent Loan, collectively, the “Permanent Loan Documents”), to be recorded in the records of the office of the Clerk and Recorder of the City and County of Denver, State of Colorado.

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

2. Subordination. All Junior Obligations and Junior Loan Documents are hereby expressly subordinated to the extent and in the manner hereinafter set forth to the payment in full of the Senior Obligations and the terms of the Senior Loan Documents. The Junior Lender hereby agrees that (regardless of any priority otherwise available to the Junior Lender by law or by agreement) any lien or security interest that the Junior Lender might now hold in the Mortgaged Property, is fully subordinate to any lien or security interest that the Senior Lender may now or hereafter hold in the Mortgaged Property.

3. Collateral and Security Interest. Until all of the Senior Obligations have been paid in full, the Junior Lender shall not demand, receive or accept, except as otherwise provided in this Agreement (i) a pledge of any of the Mortgaged Property as security for the Junior Obligations, or (ii) a grant of any security interest or any other right or interest in any of the Mortgaged Property.

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

5. Waiver and Consent. The Senior Lender shall have no obligation to the Junior Lender with respect to the Mortgaged Property or the Senior Obligations. The Senior Lender may in accordance with the Senior Deed of Trust (a) exercise collection rights, (b) take possession of, sell or dispose of, and otherwise deal with, the Mortgaged Property, (c) in the Senior Lender's name, 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 forecloses on the Mortgaged Property or accepts a deed in lieu of foreclosure, the Junior Lender shall, upon the Senior Lender's request, promptly execute and deliver such instruments as may reasonably be necessary to terminate and release any security interest or lien the Junior Lender acquired in connection with Junior Loan.

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

8. Notice of Default to Junior Lender. Senior Lender shall deliver to the Junior Lender a default notice within ten business days in each case where Senior Lender has given a default notice to the Borrower. The Junior Lender shall have the right, but not the obligation, to cure any default under the Senior Loan Documents within the same time, and the same manner, as the Borrower pursuant to the Senior Loan Documents. All amounts paid by the Junior Lender to Senior Lender to cure a default under the Senior Loan Documents shall be deemed to have been advanced by the Junior Lender pursuant to, and shall be secured by the lien of, the Junior Deed of Trust.

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

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

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

12. Binding Effect; Miscellaneous. This Agreement shall be binding upon the Junior Lender and its respective successors and assigns and shall inure to the benefit of the Senior Lender and its participants, successors and assigns, but neither the Borrower nor any other secured party shall be entitled to rely on or enforce this Agreement. This Agreement cannot be

waived or changed or ended, except by a writing signed by the party to be bound thereby. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Colorado. Each party consents to the personal jurisdiction of the state and federal courts located in the State of Colorado in connection with any controversy related to this Agreement, waives any argument that venue in any such forum is not convenient, and agrees that any litigation initiated by either of them in connection with this Agreement shall be venued in the City and County of Denver. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. The Junior Lender waives notice of the Senior Lender's acceptance hereof.

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

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

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

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

“JUNIOR LENDER”

CITY AND COUNTY OF DENVER, a Colorado Municipal Corporation

By: _____
Name: _____
Title: _____, Office of Economic Development

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

The foregoing instrument was subscribed to and acknowledged before me this ____ day of ____, 2021, by _____ as _____ of Department of Housing Stability for the City and County of Denver, a municipal corporation of the State of Colorado, for and on behalf of the City.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

“SENIOR LENDER”

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: _____
Scott Horton, Director

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Scott Horton, as a Director of Wells Fargo Bank, National Association, a national banking association, on behalf of said national banking association.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

Acknowledged by BORROWER:

MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership

By: MHMP 15 E Colfax GP LLC, a Colorado limited liability company, its general partner

By: Mercy Housing Mountain Plains, a Colorado nonprofit corporation, its sole Member

By: _____
Dee Walsh, President

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Dee Walsh, as President of Mercy Housing Mountain Plains, a Colorado nonprofit corporation, as the sole member of MHMP 15 E Colfax GP LLC, a Colorado limited liability company, as the general partner of MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership, for and on behalf of said entity.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____.

EXHIBIT A

Legal Description

[INSERT LEGAL DESCRIPTION]

Exhibit F

Cash Flow Calculation

The provisions of Exhibit F are found in the Amended and Restated Agreement of Limited Partnership of MHMP 15 E Colfax LLLP (the “Partnership Agreement”). A copy of the fully executed Partnership Agreement will be provided to the City after execution.

Distribution of Cash Flow

- (i) First, to the Investor Limited Partner until the total amount received pursuant to this clause and Section 4.02(b)(i) equals the amount of any unpaid Downward Adjuster owed under Section 3.05 (including any interest on such amount described therein) and any amount that is solely attributable to a Change in Law) and to the State Limited Partner for any amounts owned to it under Section 3.05(m);
- (ii) Second, to repay any loans made by the Investor Limited Partner, with any such payments to be applied first to accrued but unpaid interest and then to principal;
- (iii) Third, to pay the Asset Management Fee to the Investor Limited Partner until the total amount of payments pursuant to this clause and Section 4.02(b)(iii) (including payments in all prior years) equals \$5,000 per year or portion thereof (commencing on January 1, 2023, and increasing at 3% per annum beginning in 2024), and (B) to pay the State Asset Management Fee to the State Limited Partner until the total amount of payments pursuant to this clause and Section 4.02(b)(ii) (including payments in all prior years) equals \$2,500 per year or portion thereof commencing on January 1, 2023, and increasing at 3% per annum beginning in 2024, with amounts paid on a pari passu basis in relation to amounts owed to each of the Investor Limited Partner and the State Limited Partner;
- (iv) Fourth, to maintain or replenish the Operating Reserve until the balance in the Operating Reserve is equal to the Operating Reserve Amount;
- (v) Fifth, to pay the first installment of the DHA Asset Management Fee, in the amount of \$2,870 per year, or portion thereof, which increases by 10% every five years, beginning for the year commencing on January 1, 2023;
- (vi) Sixth, to the City of Denver an amount equal to twenty-five percent (25%) of the interest accrued on the City of Denver Host Loan, beginning for the year (or portion thereof) beginning in January 1, 2024,
- (vii) Seventh, to repay any amounts then owed with respect to the Developer Loan;
- (viii) Eighth, to pay the first installment of the GP Asset Management Fee to the General Partner in an amount up to \$10,000 per year or portion thereof (commencing January 1, 2023 and increasing by 3% per annum commencing on January 1, 2024);

- (ix) Ninth, to pay the second installment of the DHA Asset Management Fee, in the amount of \$2,870 per year or portion thereof, which increases by 10% every five years, beginning for the year commencing on January 1, 2023;
- (x) Tenth, thirty-six percent (36%) to make payments of accrued interest, and then principal, on the City of Denver HOST Loan
- (xi) Eleventh, (A) to pay for any capital expenses not previously paid for, and then (B) to pay the second installment of the GP Asset Management Fee to the General Partner until the total amount of payments pursuant to this clause and Section 4.02(a)(viii) above equals \$25,000 per year or portion thereof (commencing on January 1, 2023 and increasing by 3% per annum commencing on January 1, 2024;
- (xii) Twelfth, to pay any accrued but unpaid DHA Asset Management Fee;
- (xiii) Thirteenth, to repay any Operating Deficit Loans to the General Partner, with any such payments to be applied first to accrued but unpaid interest and then to principal;
- (xiv) Fourteenth, to pay any Deferred Management Fees to the Management Agent;
- (xv) Fifteenth, to pay any accrued but unpaid GP Asset Management Fee;
- (xvi) Sixteenth, to reimburse MHMP of up to [\$75,000] annually for supportive services to be provided to the tenants;
- (xvii) Seventeenth, to make payments to DHA in the following priority: (A) a PILOT payment of \$6,000 annually, commencing on January 1, 2024, increasing by three percent (3%) annually, (B) any accrued but unpaid PILOT payment, and (C) twenty-five percent (25%) into a property tax escrow account required by DHA;
- (xviii) Eighteenth, to pay debt service on interest and then principal on the Mercy GAP Loan until the Mercy GAP Loan is repaid in full, in accordance with the Mortgage Loan Documents for the Mercy GAP Loan; and
- (xix) The balance shall be distributed 10% to the Investor Limited Partner, 1.00% to the State Limited Partner, 0.005% to the DHDP Special Limited Partner and 88.995% to the General Partner.

Defined Terms from the Partnership Agreement used in the waterfall above:

“*Asset Management Fee*” means the fee payable by the Partnership to the Investor Limited Partner pursuant to the Asset Management Fee Agreement from available Cash Flow or Net Proceeds as described in Sections 4.02(a) and Section 4.02(b) hereof, in the annual, cumulative (i.e., accrued if unpaid) amount of \$5,000 beginning in 2023, and increasing at 3% per annum beginning in 2024.

“*Asset Management Fee Agreement*” means the Asset Management Fee Agreement dated as of the Closing Date between the Partnership and the Investor Limited Partner providing for the payment of the Asset Management Fee.

“*Cash Flow*” means, for any period of time, the total cash receipts of the Partnership from ordinary operations (i.e., excluding the proceeds of (A) Capital Events, (B) the Capital Contributions of the Partners (except that Investor Limited Partner Additional Benefit Contributions pursuant to Section 3.05(a) or Section 3.05(c) shall be included as Cash Flow), and (C) the proceeds of any Mortgage Loans), such as, but not limited to, Effective Gross Income plus any other funds (such as any reserves in excess of the amounts required to be established and maintained pursuant to this Agreement and, if applicable, the Mortgage Loan Documents, when and to the extent the General Partner no longer regards such excess reserves as reasonably necessary in the efficient conduct of the business of the Partnership) deemed available for distribution and designated as Cash Flow by the General Partner, *less* (i) the total cash disbursements of the Partnership (such as, but not limited to, operating expenses, costs of repair or restoration of the Apartment Complex, Management Fees (excluding the Deferred Management Fee, the GP Asset Management Fee, the Asset Management Fee, the DHA Asset Management Fee and the State Asset Management Fee), financing fees or other requirements of any Lender and interest and principal repayments of any Partnership loans, other than loans which are payable solely from Cash Flow and loans from the General Partner or any Affiliate thereof (such as the Developer Loan and Operating Deficit Loans)), *less* (ii) repayment of loans made by the Investor Limited Partner under Section 3.03(k), and *less* (iii) amounts paid in connection with the establishment or maintenance of reserves as required by Section 6.10 of this Agreement.

“*Change in Law*” means an amendment to the Code or Treasury Regulations that is applicable to the Apartment Complex or the Partnership and that provides for the reduction or elimination of the Credit for qualified low-income housing projects (as defined in Code Section 42(g)(1)) or substantially changes the requirements for qualifying for the Credit in a manner that the Partners reasonably agree cannot be satisfied by commercially reasonable efforts of the Partnership. Change in Law shall specifically exclude any changes, clarifications, guidance or rules by the Agency, the IRS or any other applicable governing body related to Income Averaging. Change in Law shall also include any changes to the State Credit Provisions that provides for the reduction or elimination of the State Credit or substantially changes the requirements for qualifying for the State Credit by the State of Colorado or any instrumentality thereof in a manner that the Partners reasonably agree cannot be satisfied by the Partnership.

“*City of Denver HOST Loan*” means the construction/permanent loan from the City and County of Denver to the Partnership from exclusively nonfederal sources in the principal amount of \$3,500,000 bearing interest at the rate of 1.0% per annum, compounding annually, and having a 40-year maturity date. The City of Denver HOST Loan shall be payable from Cash Flow in accordance with Section 4.02(a). The City of Denver HOST Loan lien position is pari passu with the Mercy GAP Loan.

“*Deferred Management Fee*” has the meaning set forth in Section 7.01 hereof.

“*DHA*” means The Housing Authority of the City and County of Denver, Colorado, a Colorado public body corporate and politic.

“*DHDP Special Limited Partner Asset Management Fee*” means the asset management fee payable to DHA in the annual cumulative amount of \$5,740, payable from Cash Flow and Net Proceeds in accordance with Sections 4.02(a), 4.02(b) and 7.03, but subject to Section 7.03, and pursuant to the DHDP Special Limited Partner Asset Management Agreement.

“*DHDP Special Limited Partner*” means Denver Housing Development Partners, Inc., a Colorado nonprofit corporation.

“*DHDP Special Limited Partner Asset Management Agreement*” means that certain DHDP Special Limited Partner Asset Management Agreement dated as of the Closing Date by and between the Partnership and the DHDP Special Limited Partner.

“*Developer*” means MHMP.

“*Developer Fee*” means the fee payable to the Developer pursuant to Section 7.02 hereof for services under the Development Fee Agreement.

“*Developer Loan*” means the loan of the unpaid portion of the Developer Fee containing the terms and conditions specified in Section 7.02 hereof.

“*Downward Adjuster*” means, collectively, a Federal Credit Shortfall Adjuster, a Federal Credit Timing Adjuster, a Subsequent Federal Credit Shortfall Adjuster, and a Federal Credit Recapture Adjuster.

“*Federal Credit Recapture Adjuster*” shall have the meaning set forth in Section 3.05(f).

“*Federal Credit Shortfall Adjuster*” shall have the meaning set forth in Section 3.05(b).

“*Federal Credit Timing Adjuster*” shall have the meaning set forth in Section 3.05(d).

“*General Partner*” means MHMP 15 E. Colfax GP LLC, a Colorado limited liability company.

“*GP Asset Management Fee*” means the asset management fee payable to the General Partner in the annual cumulative amount of \$[20,500], increasing 3% annually, payable from Cash

Flow and Net Proceeds in accordance with Sections 4.02(a), 4.02(b) and 7.03, but subject to Section 7.03, and pursuant to the GP Asset Management Fee Agreement, as compensation for its asset management services for the Partnership and its assets.

“*GP Asset Management Fee Agreement*” means the GP Asset Management Fee Agreement dated as of the Closing Date herewith by and between the Partnership and the General Partner relating to the payment of the GP Asset Management Fee.

“*Investor Limited Partner*” means Wells Fargo Affordable Housing Community Development Corporation, a North Carolina corporation, and any Person or Persons who, at the time of reference thereto, have been admitted as additional or successor Investor Limited Partners.

“*Management Agent*” means Mercy Housing Management Group, Inc., a Nebraska nonprofit corporation, and/or any successor or assign that is selected by the General Partner, with the Consent of the Investor Limited Partner, to provide management services with respect to the Apartment Complex from time to time in accordance with Article XI hereof.

“*Mercy GAP Loan*” means the construction/permanent loan from Mercy Housing, Inc. to the Partnership from exclusively nonfederal sources in the principal amount of [\$2,000,000] bearing interest at the rate of 2.25% per annum, compounding annually, with interest only payments due annually, and having a term of 250 months plus one day. The Mercy GAP Loan lien position is pari passu with the City of Denver HOST Loan.

“*MHMP*” means Mercy Housing Mountain Plains, a Colorado not for profit corporation and the sole member of the General Partner.

“*Mortgage Loan Documents*” means any commitment, loan agreement, promissory note, Mortgage, regulatory agreement, security agreement, assignment, assumption agreement, or other instrument executed or to be executed by the Partnership in connection with any Mortgage Loan.

“*Net Proceeds*” means the difference between (A) the sum of (i) the gross proceeds from a Capital Event other than a refinancing; (ii) the excess proceeds from the refinancing of any Mortgage Loan (that is, any refinancing proceeds not needed for the repayment of the loan refinanced); and (iii) the receipt of any proceeds from insurance settlements or other claims attributable to fire or other casualty, or from condemnation, sales or grants of easements, rights-of-way or the like in excess of those needed for repair, restoration or replacement of the damaged, destroyed or condemned property and (B) the payment of or due provision for (i) all liabilities to creditors of the Partnership (excluding, except in the event of the dissolution and liquidation of the Partnership, fees payable from Cash Flow and owed to the General Partner and loans to the Partnership from the General Partner or Affiliates thereof for any purpose, including, without limitation, Operating Deficit Loans) and (ii) necessary and customary expenses of such Capital Event or refinancing (other than, except in the event of the dissolution and liquidation of the Partnership, expenses payable to the General Partner or an Affiliate thereof).

“*Operating Deficit Loan*” means any loan or loans made by the General Partner to the Partnership pursuant to Section 6.12 hereof.

“*Operating Reserve*” means that certain operating reserve of the Partnership funded from the [Performance] Installment and established and maintained pursuant to Section 6.10(o) hereof in the initial amount equal to the Operating Reserve Amount.

“*Operating Reserve Amount*” has the meaning set forth in Section 6.10(o).

“*PILOT*” means that certain payment in lieu of taxes payable to DHA pursuant to the terms of the PILOT Agreement.

“*PILOT Agreement*” means that certain Agreement for Payments in Lieu of Taxes dated as of the same date hereby by and between DHA and the Partnership.

“*State Asset Management Fee*” means the fee payable by the Partnership to the State Limited Partner pursuant to the State Asset Management Fee Agreement from available Cash Flow or Net Proceeds as described in Article IV hereof, in the annual, cumulative amount of \$2,500 beginning on January 1, 2023, and increasing at 3.0% per annum beginning on January 1, 2024.

“*State Asset Management Fee Agreement*” means the State Asset Management Fee Agreement dated as of the Closing Date between the Partnership and the State Limited Partner providing for the payment of the State Asset Management Fee.

“*State Limited Partner*” means Affordable Housing Fund Colorado I LLC, a Missouri limited liability company, and any Person or Persons who, at the time of reference thereto, have been admitted as additional or successor State Limited Partners.

“*Subsequent Federal Credit Shortfall Adjuster*” shall have the meaning set forth in Section 3.05(e).