

FIRST AMENDMENT AND MODIFICATION AGREEMENT

THIS FIRST AMENDMENT AND MODIFICATION AGREEMENT (the “Amendment”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (“City”), and the **HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER**, whose address is 1425 Mariposa Street, Denver, Colorado 80204 (“Borrower”), each individually a “Party” and collectively the “Parties.”

RECITALS:

WHEREAS, the Parties entered into that certain Loan Agreement dated April 24, 2014 (the “Loan Agreement”) relating to a loan to Borrower in the original principal amount of \$800,000.00 (the “Loan”); and

WHEREAS, the Loan proceeds were further loaned by the Borrower to Mariposa Partners IV LLLP, a Colorado limited liability limited partnership (“Property Owner”), to provide financing for the development of an affordable housing project on real property located at 998 N. Navajo Street (the “Property”); and

WHEREAS, the Property Owner executed that certain DHA Sixth Mortgage Note dated July 18, 2013 (the “Owner Note”) evidencing a loan from the Borrower to the Property Owner; and

WHEREAS, the Property Owner executed and recorded for the benefit of the Borrower that certain Sixth Leasehold Deed of Trust, Security Agreement and Financing Statement dated July 18, 2013 and recorded on July 18, 2013 at Reception Number 2013105212 in the real property records of the City of County of Denver, State of Colorado (the “Owner DOT”); and

WHEREAS, the Property Owner executed and recorded for the benefit of the Borrower that certain Mariposa Redevelopment Phase IV Apartments Sixth Loan-Assignment of Leases and Rents dated July 18, 2013 and recorded on July 18, 2013 at Reception Number 2013105213 in the real property records of the City of County of Denver, State of Colorado (the “Owner Assignment of Rents”); and

WHEREAS, the Borrower assigned to the City the Owner Note pursuant to that certain Promissory Note Collateral Assignment and Security Agreement dated September 3, 2014 (the “Note Assignment”); and

WHEREAS, the Borrower assigned to the City the Owner DOT and Owner Assignment of Rents pursuant to that certain Collateral Assignment of Sixth Leasehold Deed of Trust, Security, Security Agreement and Financing Statement and Collateral Assignment of Assignment of Leases and Rents dated September 3, 2014 (the “DOT Assignment”); and

WHEREAS, as a condition of receiving the Loan proceeds from the Borrower, the Property Owner executed and recorded that certain Rental and Occupancy Covenant dated February 8, 2014 and recorded on February 9, 2014 at Reception Number 2016015333 in the real property records of the City of County of Denver, State of Colorado to place income and rental restrictions on the Property (the “Covenant”); and

WHEREAS, collectively, the Loan Agreement, Note Assignment, DOT Assignment, and Covenant are referred to herein as the “Loan Documents;” and

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

WHEREAS, the Parties wish to amend and modify the terms and conditions of the Loan Documents to bifurcate the term of affordability required by the HOME Program regulations from the additional affordability term imposed by the City as a condition of receiving the Loan and to modify references to HOST from OED.

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

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

2. Section 6.D. of the Loan Agreement, entitled “Covenant Running with the Land,” is deleted in its entirety and replaced with the following:

“Covenant Running with the Land. Borrower shall cause Mariposa Partners IV LLLP to execute a Rental and Occupancy Covenant in form satisfactory to the City (“Covenant”), setting forth the rental and

occupancy limitations described in subsections 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 thirty (30) years from the date of project completion as defined in 24 C.F.R. § 92.2. After the first 20-year period of the Covenant has lapsed, Borrower will have satisfied the HUD and HOME Program requirements applicable to the HOME Units and Low HOME Units. The HOME Units and Low HOME Units shall continue to be subject to the rental and occupancy restrictions set forth in in this Loan Agreement for the remaining ten (10) years of the Covenant term. Violation of said Covenant shall be enforceable as an event of default pursuant hereto.”

3. The Executive Director of HOST, or their designee, is authorized to execute documents to carry out the intent of this Amendment and the Loan Agreement.

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

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

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

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[SIGNATURE PAGES TO FOLLOW]

Contract Control Number:

HOST-202265172-01 / OEDEV-201314253-01

Contractor Name:

Housing Authority of the City and County of Denver

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-202265172-01/ OEDEV-201314253-01
Housing Authority of the City and County of Denver

By: See attached signature page

Name: See attached signature page
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number:
Contractor Name:

HOST-202265172-01/ OEDEV-201314253-01
Housing Authority of the City and County of Denver

By: David Nisivoccia
David Nisivoccia (Dec 12, 2022 08:25 MST)

Name: David Nisivoccia
(please print)
Title: CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)