

SECOND AMENDMENT AND MODIFICATION AGREEMENT

THIS SECOND 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 **101 APARTMENT DEVELOPERS, LLC**, a Colorado limited liability company, whose address is 455 Sherman Street, Denver, CO 80203 (“Borrower”), each individually a “Party” and collectively the “Parties.”

RECITALS:

WHEREAS, the Parties entered into a loan agreement dated December 13, 2018, as amended and modified by that certain First Amendment and Modification Agreement dated December 8, 2019 (collectively, the “Loan Agreement”), relating to a loan to Borrower in the original principal amount of \$2,300,000.00 (the “Loan”); and

WHEREAS, the Borrower executed a promissory note dated March 22, 2019 evidencing the terms of the Loan (the “Promissory Note”); and

WHEREAS, repayment of the Promissory Note was secured by a deed of trust dated March 22, 2019 and recorded on March 26, 2019 at Reception No. 2019033807 (the “Deed of Trust”) as a lien against certain real property in the City and County of Denver; and

WHEREAS, the Borrower recorded a covenant dated March 22, 2019 and recorded on March 27, 2019 at Reception No. 2019034529 against certain real property in the City and County of Denver to secure such property for use as affordable housing in conformance with the terms of the Loan Agreement (the “Covenant”); and

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

WHEREAS, the real property identified as collateral in the Loan Agreement and legally described in the Deed of Trust and Covenant has been subjected to a Planned Community Declaration and the property address and legal description stated in the Loan Documents needs to be revised; and

WHEREAS, the Parties wish to amend and modify the Loan Agreement, Deed of Trust, and Covenant to correctly reflect the City’s collateral and property encumbered by the Deed of Trust and Covenant; and

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

1. Section 2 of the Loan Agreement entitled **SECURITY** is deleted in its entirety and replaced with the following:

“Repayment of the Promissory Note shall be secured by a Deed of Trust (“Deed of Trust”) in a form satisfactory to the City, granted by Borrower and encumbering the real property known and numbered as 101 North Broadway, Denver, CO (the “Property”) and legal described as:

Building Units 1 and 2 and the Land Unit, 101 Broadway Planned Community, according to the Planned Community Declaration recorded March 1, 2019, in the records of the Clerk and Recorder of the City and County of Denver, Colorado, at Reception No. 2019024295, and the Planned Community Map for 101 Broadway Planned Community recorded March 1, 2019, in such records at Reception No. 2019024296, as the same may be amended and supplemented from time to time as permitted under such Declaration .”

2. The Executive Director of HOST or the Executive Director's designee is authorized to execute documents necessary and appropriate to accomplish the objectives of this Amendment so long as the documents are in a form acceptable to the City Attorney.

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

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

5. 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: OED-201952558-02 / OED-201738188-02
Contractor Name: 101 APARTMENT DEVELOPERS, LLC

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

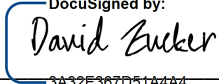
By:

By:

By:

Contract Control Number:
Contractor Name:

OED-201952558-02 / OED-201738188-02
101 APARTMENT DEVELOPERS, LLC

By:  _____
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Name: David Zucker
(please print)

Title: Managing Member
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)