

**WHEN RECORDED MAIL TO:**  
City and County of Denver  
Office of Economic Development  
c/o Stephanie Swift  
201 W. Colfax Ave., Dept. 204  
Denver, CO 80202

**SPACE ABOVE THIS LINE IS FOR RECORDER'S USE**

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**SECOND AMENDMENT AND MODIFICATION AGREEMENT**

**THIS SECOND AMENDMENT AND MODIFICATION AGREEMENT** (“Amendment”) is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), **URBAN LAND CONSERVANCY**, a Colorado nonprofit corporation (“Original Borrower”), **PHVW TOD, LLC**, a Colorado limited liability company (“Seller”), and **PHVW LLLP**, a Colorado limited liability limited partnership, whose address is 155 South Madison Street, Suite 326, Denver, CO 80209 (“New Borrower”).

**WITNESSETH:**

**WHEREAS**, the City and Original Borrower entered into a Loan Agreement dated February 27, 2013 (“Agreement”) to provide funds to be utilized for implementing program activities related to the Neighborhood Stabilization Program 1 (“NSP1”) and the Home Investment Partnership Program (“HOME Program”), as modified by the Amendment and Modification Agreement dated February 7, 2014 and recorded on February 10, 2014 at Reception No. 2014015095 of the records of Denver County, State of Colorado (“First Amendment” and together with the Agreement, the “Loan Agreement”); and

**WHEREAS**, Seller, which is wholly owned by Original Borrower and is the owner of the Property (defined below), executed that certain deed of trust (the “Deed of Trust”) for the benefit of the City, dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038830 of the records of Denver County, State of Colorado, and encumbering the property known and numbered as 4055-4125 Albion Street, Denver, Colorado (the “Property”).

**WHEREAS**, the Deed of Trust secures the repayment of the indebtedness in the original principal amount of \$475,000 evidenced by that certain Promissory Note dated March 15, 2013 (the “Note”); and

**WHEREAS**, Seller executed that certain Rental and Occupancy Covenant (the “Covenant”) for the benefit of the City dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038831 of the records of Denver County, State of Colorado, and encumbering the Property.

**WHEREAS**, Original Borrower, Seller and New Borrower have entered into an agreement under which (i) Seller will assign and convey the Property to New Borrower, and (ii) pursuant to the Loan Assignment and Assumption Agreement attached as Exhibit A (the “Assignment and Assumption Agreement”), Original Borrower and Seller will assign to New Borrower their rights under the Loan Agreement, the Note, the Deed of Trust and the Covenant, and New Borrower will assume all of the obligations under the Loan Agreement, the Note, the Deed of Trust and the Covenant.

**WHEREAS**, the City and the New Borrower wish to increase the amount of funding and modify the terms and conditions of the Loan Agreement, Note, Deed of Trust, Covenant and any other documents evidencing or securing the loan by the City to New Borrower evidenced thereby (together, the “Loan Documents”).

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein set forth, the parties agree as follows:

1. The City hereby approves the terms of, and authorizes its officials to execute, the Assignment and Assumption Agreement.

2. Effective upon the execution and delivery of the Assignment and Assumption Agreement, the total amount of the loan to New Borrower evidenced by the Loan Documents shall be increased by Two Hundred Seventy-Five Thousand Dollars (\$275,000.00), for a total loan amount of Seven Hundred Fifty Thousand and No/100 U.S. Dollars (\$750,000.00) (“Total Loan Amount”). Of the Total Loan Amount, the City has modified the funding sources so that One Hundred Eighty-Eight Thousand Two Hundred Forty-Two and 86/100 Dollars (\$188,242.86) are NSP1 Program funds and Five Hundred Sixty-One Thousand Seven Hundred Fifty-Seven and 14/100 Dollars (\$561,757.14) are Denver Inclusionary Housing Ordinance Program funds. None of the funds included in the Total Loan Amount are HOME funds, and none of the housing units at the Property are subject to HOME program restrictions, including without limitation the HOME program restrictions included in the Loan Documents.

3. Effective upon the execution and delivery of the Assignment and Assumption Agreement, the repayment terms in the Note and Loan Agreement, and included in the Deed of Trust, and the applicable provisions of such documents, shall be modified as follows:

The parties acknowledge that Borrower has paid the amount of \$4,750 in interest only payments as of the date hereof. From and after the date hereof, interest only payments shall be due on September 1, 2015 and September 1, 2016. Thereafter, principal and interest shall be payable based on a forty (40) year amortization schedule with payments made only from Surplus Cash Flow as described below. Fifty percent (50%) of "Surplus Cash Flow," as defined by the standard HUD Subordination Agreement and Surplus Cash Note (but in no event more than required to be distributed under the Amended and Restated Partnership Agreement for New Borrower; provided, that any amendment of the distribution provisions of such agreement after the effective date of the Assignment and Assumption Agreement that would reduce the amount otherwise payable by Borrower to the City shall require the consent of the City), allocated to repay soft debts secured by the Property shall be divided between the State of Colorado and the City allocated on the following formula:

First funds available for repayment of soft debt secured by the Property as described above, representing fifty percent (50%) of Surplus Cash Flow, will be allocated first to make the required amortization payments on the \$1,150,000 loan to be made to Borrower by the State of Colorado (which loan will be amortized over 40 years, with payments payable only from cash flow from the Property). Any remaining surplus cash flow will be utilized to pay first the City's amortized payment accrued and payable, then additional funds will be applied as a principal reduction on the City's Note until such time as the full balance of the Note inclusive of all principal, interest, fees or any other such cost as applicable under the Loan Agreement have been

fully satisfied. If available funds are not sufficient to pay the City's amortized payment accrued and payable, the remaining unpaid amount shall be payable out of available funds in the future. The Note will be due and payable prior to maturity upon the sale of the Property (other than pursuant to any purchase option held by affiliates of the members of the Borrower's general partner) or refinancing, without the consent of the City, of the priority debt following placement in service of the Property.

4. Effective upon the execution and delivery of the Assignment and Assumption Agreement, paragraph 2 of the Loan Agreement shall be modified to allow up to \$28,000,000 in prior encumbrances (plus the loan funded by tax exempt bond proceeds, in the approximate principal amount of \$15.7 million, which does not encumber the Property) to which the City's loan may be subordinate.

5. Effective upon the execution and delivery of the Assignment and Assumption Agreement, paragraph 6 of the Loan Agreement, including the corresponding provisions of the Covenant, shall be modified as follows:

#### RESTRICTIONS ON USE OF PROPERTY

A. Affordability limitations. Four (4) of the units at the Property (the "NSP Units") shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as established by the U.S. Department of Housing and Urban Development ("HUD"), under 24 C.F.R. 888.11, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 60% of the median income for the Denver area, as determined by HUD, with adjustments for number of bedrooms in the unit. Two (2) of the units at the Property (the "Low NSP Units") shall have rents not exceeding the lesser of (i) 30% of the annual income of a family whose income equals 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, or (ii) the NSP Unit rent as calculated above. By executing this Loan Agreement, Borrower acknowledges receipt of HUD's current rent guidelines from the OED. It shall

be Borrower's responsibility to obtain updated guidelines from OED or HUD, and comply with same.

B. Occupancy/Income Limitations. The NSP Units shall be occupied by tenants whose incomes are at or below sixty percent (60%) of the median income for the Denver area as determined by HUD pursuant to section 24 C.F.R. 5.609 or any successor regulation. The Low NSP Unit shall be occupied by tenants whose incomes are at or below 50% of the median income for the Denver area as determined by HUD pursuant to section 24 CFR 5.609 or any successor regulation. By executing this Loan Agreement, Borrower acknowledges receipt of HUD's current income guidelines from OED. It shall be Borrower's responsibility to obtain updated guidelines from OED or HUD, and comply with same.

C. 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 C 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 a period not less than twenty (20) years (the "Affordability Period"). Violation of said Covenant shall be enforceable as an event of default pursuant hereto. The Affordability Period will commence upon the date of the closeout in HUD's IDIS system; City shall provide to Borrower written notice of such date of closeout.

6. Effective upon the execution and delivery of the Assignment and Assumption Agreement, the City hereby approves the terms of, and authorizes its officials to execute, the Rider attached hereto as Exhibit B.

7. Effective upon the execution and delivery of the Assignment and Assumption Agreement, the Loan Agreement shall be amended as follows:

- a. In Section 502.A of Part II of the Loan Agreement, the phrase "within a period of ten (10) days" shall be amended to read "within a period of thirty (30) days".

- b. Section 503 of Part II of the Loan Agreement shall be deleted in its entirety.
8. Effective upon the execution and delivery of the Assignment and Assumption Agreement, the Deed of Trust shall be amended as follows: In the second section of Section 10 of the Deed of Trust, the phrase “pursuant to such conditions as the Beneficiary in its reasonable discretion may require unless” shall be amended in its entirety to read “subject to the sole condition that, in the reasonable judgment of the Beneficiary, the Note shall remain in balance and that this Deed of Trust shall remain adequate security for the Note”.
9. New Borrower, Original Borrower and Seller consent to the use of electronic signatures by the City. This Amendment, 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 Amendment 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 Amendment 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.
10. As herein amended, the Loan Agreement is affirmed and ratified in each and every particular.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

**Contract Control Number:** OEDEV-201208979-01

**Contractor Name:** URBAN LAND CONSERVANCY, to be assigned to PHVW LLLP

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of \_\_\_\_\_, 2014.

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By: \_\_\_\_\_  
Michael B. Hancock, Mayor

\_\_\_\_\_  
Debra Johnson, Clerk and Recorder,  
Ex-Officio Clerk of the City and  
County of Denver

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

D. Scott Martinez, Attorney  
for the City and County of  
Denver

By: \_\_\_\_\_  
Beth Machann, City Controller

By: \_\_\_\_\_  
Jennifer Welborn,  
Assistant City Attorney

By: \_\_\_\_\_  
Dennis J. Gallagher, Auditor

**Contract Control Number:**

OEDEV-201208979-01

**Contractor Name:**

URBAN LAND CONSERVANCY, to be  
assigned to PHVW LLLP

URBAN LAND CONSERVANCY

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: (if required)**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



**Contract Control Number:**

OEDEV-201208979-01

**Contractor Name:**

URBAN LAND CONSERVANCY, to be assigned to PHVW LLLP

Acknowledged and agreed to:

**PHVW TOD, LLC**, a Colorado limited liability company

By: **URBAN LAND CONSERVANCY**, a Colorado nonprofit corporation, its Sole Member

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: (if required)**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**Contract Control Number:**

OEDEV-201208979-01

**Contractor Name:**

URBAN LAND CONSERVANCY, to be  
assigned to PHVW LLLP

PHVW LLLP, a Colorado limited liability limited  
partnership

By: PARK HILL VILLAGE WEST LLC,  
General Partner

By: Parkhill Community Apartments LLC,  
Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: (if required)**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**EXHIBIT A**

Assignment and Assumption Agreement

## **EXHIBIT B**

### **RIDER**

THIS RIDER, dated as of June \_\_ 2014, is made by and between the City and County of Denver, a municipal corporation of the State of Colorado (the “Lender”) and PHVW LLLP, a Colorado limited liability limited partnership (the “Borrower”).

### **RECITALS**

A. On or about the date hereof, the Lender and the Borrower are entering into or assuming and modifying certain documents relating to a loan from the Lender to the Urban Land Conservancy (and subsequently assigned to Borrower as described below) in the principal amount of \$750,000 (the “Loan”), including (i) that certain Loan Agreement dated February 27, 2013 (“Agreement”) between the Lender and Urban Land Conservancy, as modified by the Amendment and Modification Agreement dated February 7, 2014, and as to which Urban Land Conservancy assigned its rights to Borrower pursuant to that Loan Assignment and Assumption Agreement dated the date hereof, and as amended by the Second Amendment and Modification Agreement dated the date hereof between Lender and Borrower (collectively, the “Loan Agreement”), (ii) that certain Promissory Note in the original principal amount of \$475,000 evidenced by that certain Promissory Note dated March 15, 2013, the principal amount of which has been increased to \$750,000 by the Second Amendment and Modification Agreement described above (the “Note”), (iii) that certain Deed of Trust for the benefit of the City, dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038830 of the records of Denver County, State of Colorado (the “Deed of Trust”), and that certain Rental and Occupancy Covenant for the benefit of the City dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038831 of the records of Denver County, State of Colorado, and encumbering the Property and collectively with all documents evidencing or securing the Loan, (the “Covenant”, and with the Loan Agreement, the Note, and the Deed of Trust, the “Loan Documents”), for the purpose of financing a portion of the costs of acquiring and constructing the affordable multi-family apartment project known as Park Hill Village West and located in Denver, Colorado; and

B. The Lender and the Borrower desire to modify or clarify certain provisions of the Loan Documents;

NOW, THEREFORE, in consideration of the premises and for other valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree, notwithstanding any provision to the contrary in the Loan Documents, as follows:

The following changes of ownership in the Borrower shall be permitted without the prior consent of Lender: (i) the transfer of partnership interest in the Borrower by the investor limited partner of the Borrower (the “Investor Limited Partner”), (ii) the transfer of any direct or indirect ownership interests in the Investor Limited Partner, (iii) the Investor Limited Partner’s removal and substitution of the general partner of the Borrower pursuant to the terms of the Amended and Restated Agreement of Limited

Partnership of the Borrower dated as of June \_\_ 2014, as the same may be amended from time to time, and (iv) the grant or exercise of any option or right of first refusal to acquire an interest in Borrower pursuant to the terms of Borrower's Amended and Restated Agreement of Limited Partnership and related agreements, where the interest in the Borrower is to be acquired by the General Partner of Borrower, the Denver Housing Authority, or affiliates of the members of the General Partner of Borrower.

The Investor Limited Partner shall have the right, but not the obligation, to cure any default of the Borrower under any Loan Documents. Any cure by the Investor Limited Partner shall be deemed to be a cure by the Borrower. The Lender shall, before exercising any default rights and remedies under any Loan Documents, provide the Borrower and Investor Limited Partner with written notice of the Borrower's default and the opportunity to cure such default within thirty (30) days after receipt by each of such notice.

The Lender shall provide the Investor Limited Partner with copies of all other notices to the Borrower. The addresses for such notices to the Investor Limited Partner are as follows:

Wells Fargo Affordable Housing  
Community Development Corporation  
MAC D1053-170  
301 South College Street, 17<sup>th</sup> Floor  
Charlotte, NC 28202-6000  
Attention: Director of Asset Management

with copies to:

Joel Hjelmaas, Counsel  
Wells Fargo Bank, N.A.  
MAC X2401-06T  
1 Home Campus, 6th Floor  
Des Moines, IA 50328-0001

and

Craig A. deRidder, Esq.  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037

4. The Lender hereby represents that the Loan has not been and will not be funded in whole or in part, directly or indirectly, with proceeds of obligations the interest on which is exempt from federal income tax under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code").

IN WITNESS WHEREOF, the parties hereto have caused this Omnibus Rider to be executed by their duly authorized officers all as of the date first above written.

The City and County of Denver

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

PHVW LLLP, a Colorado limited liability limited partnership

By: PARK HILL VILLAGE WEST LLC,  
General Partner

By: Parkhill Community Apartments LLC,  
Manager

By: \_\_\_\_\_

Name: Joe DelZotto

Title: Manager

**Contract Control Number:**

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:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** OEDEV-201208979-02

**Contractor Name:** URBAN LAND CONSERVANCY

*See Attached*

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: [if required]**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)





Contract Control Number:

OBDEV-201208979-01

Contractor Name:

URBAN LAND CONSERVANCY, to be  
assigned to PHVW LLLP

URBAN LAND CONSERVANCY

By: 

Name:

Ann Marie  
(please print)

Title:

President  
(please print)

ATTEST: (if required)

By: 

Name:

RICHARD L. WOODCUTT  
(please print)

Title:

CFO  
(please print)



Contract Control Number:

OEDEV-201208979-01

Contractor Name:

URBAN LAND CONSERVANCY, to be assigned to PHVW LLLP

Acknowledged and agreed to:

PHVW TOD, LLC, a Colorado limited liability company

By: URBAN LAND CONSERVANCY, a Colorado nonprofit corporation, its Sole Member

By: *[Signature]*

Name: *[Signature]*  
(please print)

Title: *[Signature]*  
(please print)

WITNESS: (if required)

By: *[Signature]*

Name: *RICHARD L WOODRUFF*  
(please print)

Title: *CFO*  
(please print)



**Contract Control Number:**

OEDDEV-201208979-01

**Contractor Name:**

URBAN LAND CONSERVANCY, to be  
assigned to PHVW LLLP

PHVW LLLP, a Colorado limited liability limited  
partnership

By: PARK HILL VILLAGE WEST LLC,  
General Partner

By: Parkhill Community Apartments LLC,  
Manager

By: 

Name: Joe Del Zotto  
(please print)

Title: Manager  
(please print)

**ATTEST: (if required)**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



**EXHIBIT A**

**Assignment and Assumption Agreement**

WHEN RECORDED, RETURN TO:

City and County of Denver  
Office of Economic Development  
c/o Stephanie Swift  
201 W. Colfax Avenue, Dept. 204  
Denver, CO 80202

**LOAN ASSIGNMENT AND ASSUMPTION AGREEMENT**

**THIS LOAN ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Agreement") is made by and among the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("Lender"), **URBAN LAND CONSERVANCY**, a Colorado nonprofit corporation ("Original Borrower"), **PHVW LLLP**, a Colorado limited liability limited partnership ("New Borrower"), and **PHVW TOD, LLC**, a Colorado limited liability company (which is wholly owned by Original Borrower) ("Seller").

WITNESSETH:

WHEREAS, Lender extended to Original Borrower a loan in the principal amount of Four Hundred Seventy-Five Thousand and No/100 Dollars (\$475,000) (the "Loan") for implementing program activities related to the Neighborhood Stabilization Program 1 and the Home Investment Partnership Program, pursuant to that certain Loan Agreement dated February 27, 2013, as modified by the Amendment and Modification Agreement dated February 7, 2014 and recorded on February 10, 2014 at Reception No. 2014015095 of the records of Denver County, State of Colorado (collectively, the "Loan Agreement");

WHEREAS, the Loan is evidenced by a Promissory Note dated March 15, 2013, payable by Original Borrower to the order of Lender (the "Note"), and is secured by a Deed of Trust granted by Seller dated March 15, 2013 and recorded on March 19, 2013 in the records of Denver County, State of Colorado at Reception No. 2013038830 ("Deed of Trust"), which Deed of Trust encumbers certain real property known and numbered as 4055-4125 Albion Street, Denver, Colorado, and as more particularly described on the attached Exhibit A (the "Property");

WHEREAS, Seller executed that certain Rental and Occupancy Covenant (the "Covenant") for the benefit of Lender dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038831 of the records of Denver County, State of Colorado, and encumbering the Property;

WHEREAS, the Loan Agreement, Note, the Deed of Trust and Covenant are hereinafter collectively referred to as the "Loan Documents";

WHEREAS, Seller has transferred, sold and conveyed the Property to New Borrower;

WHEREAS, in connection with the transfer of the Property, New Borrower desires to assume the Note and the other Loan Documents, and the covenants, agreements, obligations and liabilities of Original Borrower and Seller under the Note and the other Loan Documents, as more particularly provided hereinafter; and

WHEREAS, Original Borrower, Seller and New Borrower have requested that Lender consent to the assumption of the Note and the other Loan Documents by New Borrower and the release of the Original Borrower and Seller under the Note and the other Loan Documents.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby mutually and expressly understand and agree as follows:

1. Assumption of Loan and Release of Original Borrower and Seller.

(a) New Borrower hereby expressly assumes and agrees to pay the indebtedness evidenced by the Note and further agrees to perform, observe, pay and be bound by all of the terms, conditions, covenants, agreements, liabilities and obligations that were originally to be performed, observed, paid by and binding on Original Borrower and Seller under the Note and the other Loan Documents.

(b) Lender hereby releases Original Borrower and Seller from any and all liabilities and obligations the Original Borrower and Seller may have with respect to the Note, the other Loan Documents and the Property arising on and after the date of this Agreement, accepting the liability of the New Borrower in their stead; *provided, however*, that nothing contained herein is intended or will be construed as releasing the Original Borrower or Seller from any obligation under the Note, other Loan Documents or with respect to the Property arising prior to the date of this Agreement

(c) Lender hereby consents to the assumption and release provided for in this Section 1. The consent to the assumption and release referred to herein shall not be deemed an agreement by Lender to consent to any further assumption or release of the Note or other Loan Documents.

2. Loan Document Ratification. All of the terms and conditions set forth in the Note, Deed of Trust and other Loan Documents are hereby ratified and reaffirmed by New Borrower, and shall remain in full force and effect, enforceable against New Borrower in accordance with their terms.

3. Change to Notice Provisions. All notices to be given to Borrower under the Loan Agreement or the Note or to the Grantor under the Deed of Trust shall be given to New Borrower at the following address:

New Borrower: PHVW LLLP  
155 South Madison Street, Suite 326  
Denver, Colorado 80209

With a copy to: Bryan Cave LLP  
Attention: Paul E. Smith  
1801 13<sup>th</sup> Street, Suite 300  
Boulder, Colorado 80302

4. Further Assurances. Original Borrower, Seller and New Borrower shall execute and/or deliver to Lender any and all other documents and items deemed necessary by Lender for the completion of the transactions contemplated by this Agreement, including, without limitation, any documents relating to the assumption of the Note and other Loan Documents as contemplated hereby.

5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and any action or proceeding relating to this Agreement shall be brought only in a court of competent jurisdiction located in the State of Colorado.

6. Paragraph Headings. The paragraph headings used herein are intended for reference purposes only and shall not be considered in the interpretation of the terms and conditions hereof.

7. Inurement. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors, heirs, executors, estates, legal or personal representatives and permitted assigns.

8. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

9. No Modification. This Agreement may not be modified except by a writing signed by the party against whom enforcement is sought.

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**Contract Control Number:** OEDEV-201208979-01

**Contractor Name:** URBAN LAND CONSERVANCY, assigned to PHVW  
LLLP

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver,  
Colorado as of \_\_\_\_\_, 2014.

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By: \_\_\_\_\_  
Michael B. Hancock, Mayor

\_\_\_\_\_  
Debra Johnson, Clerk and Recorder,  
Ex-Officio Clerk of the City and  
County of Denver

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

D. Scott Martinez, Attorney  
for the City and County of  
Denver

By: \_\_\_\_\_  
Beth Machann, City Controller

By: \_\_\_\_\_  
Jennifer Welborn,  
Assistant City Attorney

By: \_\_\_\_\_  
Dennis J. Gallagher, Auditor









**EXHIBIT A**

**PROPERTY**

**EXHIBIT B**

**RIDER**

THIS RIDER, dated as of June \_\_ 2014, is made by and between the City and County of Denver, a municipal corporation of the State of Colorado (the "Lender") and PHVW LLLP, a Colorado limited liability limited partnership (the "Borrower").

**RECITALS**

A. On or about the date hereof, the Lender and the Borrower are entering into or assuming and modifying certain documents relating to a loan from the Lender to the Urban Land Conservancy (and subsequently assigned to Borrower as described below) in the principal amount of \$750,000 (the "Loan"), including (i) that certain Loan Agreement dated February 27, 2013 ("Agreement") between the Lender and Urban Land Conservancy, as modified by the Amendment and Modification Agreement dated February 7, 2014, and as to which Urban Land Conservancy assigned its rights to Borrower pursuant to that Loan Assignment and Assumption Agreement dated the date hereof, and as amended by the Second Amendment and Modification Agreement dated the date hereof between Lender and Borrower (collectively, the "Loan Agreement"), (ii) that certain Promissory Note in the original principal amount of \$475,000 evidenced by that certain Promissory Note dated March 15, 2013, the principal amount of which has been increased to \$750,000 by the Second Amendment and Modification Agreement described above (the "Note"), (iii) that certain Deed of Trust for the benefit of the City, dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038830 of the records of Denver County, State of Colorado (the "Deed of Trust"), and that certain Rental and Occupancy Covenant for the benefit of the City dated March 15, 2013, and recorded on March 19, 2013 at Reception No. 2013038831 of the records of Denver County, State of Colorado, and encumbering the Property and collectively with all documents evidencing or securing the Loan, (the "Covenant", and with the Loan Agreement, the Note, and the Deed of Trust, the "Loan Documents"), for the purpose of financing a portion of the costs of acquiring and constructing the affordable multi-family apartment project known as Park Hill Village West and located in Denver, Colorado; and

B. The Lender and the Borrower desire to modify or clarify certain provisions of the Loan Documents;

NOW, THEREFORE, in consideration of the premises and for other valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree, notwithstanding any provision to the contrary in the Loan Documents, as follows:

The following changes of ownership in the Borrower shall be permitted without the prior consent of Lender: (i) the transfer of partnership interest in the Borrower by the investor limited partner of the Borrower (the "Investor Limited Partner"), (ii) the transfer of any direct or indirect ownership interests in the Investor Limited Partner, (iii) the Investor Limited Partner's removal and substitution of the general partner of the Borrower pursuant to the terms of the Amended and Restated Agreement of Limited

Partnership of the Borrower dated as of June \_\_ 2014, as the same may be amended from time to time, and (iv) the grant or exercise of any option or right of first refusal to acquire an interest in Borrower pursuant to the terms of Borrower's Amended and Restated Agreement of Limited Partnership and related agreements, where the interest in the Borrower is to be acquired by the General Partner of Borrower, the Denver Housing Authority, or affiliates of the members of the General Partner of Borrower.

The Investor Limited Partner shall have the right, but not the obligation, to cure any default of the Borrower under any Loan Documents. Any cure by the Investor Limited Partner shall be deemed to be a cure by the Borrower. The Lender shall, before exercising any default rights and remedies under any Loan Documents, provide the Borrower and Investor Limited Partner with written notice of the Borrower's default and the opportunity to cure such default within thirty (30) days after receipt by each of such notice.

The Lender shall provide the Investor Limited Partner with copies of all other notices to the Borrower. The addresses for such notices to the Investor Limited Partner are as follows:

Wells Fargo Affordable Housing  
Community Development Corporation  
MAC D1053-170  
301 South College Street, 17<sup>th</sup> Floor  
Charlotte, NC 28202-6000  
Attention: Director of Asset Management

with copies to:

Joel Hjelmaas, Counsel  
Wells Fargo Bank, N.A.  
MAC X2401-06T  
1 Home Campus, 6th Floor  
Des Moines, IA 50328-0001

and

Craig A. deRidder, Esq.  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037

4. The Lender hereby represents that the Loan has not been and will not be funded in whole or in part, directly or indirectly, with proceeds of obligations the interest on which is exempt from federal income tax under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code").

IN WITNESS WHEREOF, the parties hereto have caused this Omnibus Rider to be executed by their duly authorized officers all as of the date first above written.

The City and County of Denver

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PHVW LLLP, a Colorado limited liability limited partnership

By: PARK HILL VILLAGE WEST LLC,  
General Partner

By: Parkhill Community Apartments LLC,  
Manager

By: \_\_\_\_\_  
Name: Joe DelZotto  
Title: Manager