

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 **WALNUT STREET LOFTS, LLLP**, a Colorado limited liability limited partnership, whose address is 2140 S. Delaware St. #104, Denver, Colorado 80223 (“Borrower”), each individually a “Party” and collectively the “Parties.”

RECITALS:

WHEREAS, the Parties entered into a loan agreement dated December 5, 2018 (the “Loan Agreement”), relating to a loan to Borrower in the original principal amount of \$1,350,000.00 (the “Loan”); and

WHEREAS, the Parties entered into a promissory note dated December 21, 2018 evidencing the terms of the Loan (the “Promissory Note”) and the Borrower recorded a covenant against certain real property owned and developed by the Borrower (the “Property”) securing such Property for use as affordable housing in conformance with the terms of the Loan Agreement (the “Covenant”); and

WHEREAS, repayment of the Promissory Note was further secured by a deed of trust dated December 21, 2018 and recorded on December 28, 2018 at Reception No. 2018163455 as a lien against the Property (the “Deed of Trust”); and

WHEREAS, collectively, the Loan Agreement, Promissory Note, Covenant, and Deed of Trust 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 modify the subordination terms contained in Section 3 of the Loan Agreement and to modify references to HOST from OED; 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. 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 3 of the Loan Agreement entitled **SUBORDINATION** is amended to add the following paragraph at the end of the Section:

"The Executive Director, or permitted designee, is authorized to execute documents necessary to subordinate the City's Deed of Trust and Covenant 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 \$15,000,000.00; and (iii) Borrower is not in default of its obligations pursuant to this Loan Agreement, the Deed of Trust, or the Covenant."

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:
Contractor Name:

HOST-202054235-01 / 201844238-01
WALNUT STREET LOFTS 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-202054235-01 / 201844238-01
WALNUT STREET LOFTS LLLP

By: 

Name: Josh Russell
(please print)

Title: Manager
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)