

AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT (this "Amendment") is made and entered into this _____ day of _____, 2010, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("City"), and **HGV SENIOR, L.P.**, a Colorado limited partnership, whose address is 33 Katonah Avenue, Katonah, New York 10536 ("Borrower").

WITNESSETH:

WHEREAS, the City, acting pursuant to federal grant conditions with respect to rental housing assistance pursuant to the Home Investment Partnership Program ("Home Program"), and the Borrower entered into a loan agreement dated October 6, 1999, relating to a loan to Borrower in the principal amount of Four Hundred Ninety-Five Thousand and No/00 U.S. Dollars (\$495,000.00) in connection with Borrower's redevelopment of property at 3755, 3755-A and 3755-B Tennyson Street, Denver Colorado (the "Loan Agreement"); and

WHEREAS, Borrower entered into a deed of trust (the "City/State Deed of Trust") for the benefit of the City and the State of Colorado (the "State"), dated November 8, 1999, and recorded on November 10, 1999 at Reception No. 9900194767 of the Denver County real estate records, encumbering the following described property ("Property"):

Lot 4, Block 4, Highlands Garden Village Filing No. 1
City and County of Denver, State of Colorado ; and

WHEREAS, the City/State Deed of Trust was to secure the repayment of the indebtedness evidenced by Borrower's promissory note dated November 8, 1999, in favor of the City in the principal amount of \$495,000 (the "City Note") and repayment of the indebtedness evidenced by Borrower's promissory note dated November 8, 1999, in favor of the State in the principal amount of \$300,000 (the "State Note"); and

WHEREAS, the payment terms of the City Note require Borrower pay the entire outstanding balance of the Note, including principal and accrued interest on or before June 1, 2042, but only from surplus cash; and

WHEREAS, the City, the State and Borrower are parties to an Intercreditor Agreement dated as of November 8, 1999 (the "Intercreditor Agreement"), pursuant to which the City and the State made certain agreements concerning the priority of payments under the City Note and the State

99-894-A

Note; and

WHEREAS, the City/State Deed of Trust is junior and subordinate to a Deed of Trust (the “Zions Deed of Trust”) executed by Borrower for the benefit of Zions First National Bank (“Zions”), to secure a promissory note dated as of November 1, 1999, in the original principal amount of \$3,972,500, as amended by Amendment No. 1 to Deed of Trust Note dated as of October 1, 2001, increasing the principal amount of the loan evidenced by such note to \$4,135,300 (as amended, the “Zions Note”); and

WHEREAS, the Zions Deed of Trust is insured by the U.S. Department of Housing and Urban Development (“HUD”) and, in connection with HUD’s endorsement for insurance, a Regulatory Agreement was recorded in the Denver County real estate records on November 8, 1999 with respect to the Property (the “1999 Regulatory Agreement”); and

WHEREAS, the Zions Deed of Trust and the 1999 Regulatory Agreement were amended by Amendment No. 1 to Deed of Trust and Regulatory Agreement , recorded in the Denver County real estate records on October 29, 2001; and

WHEREAS, Borrower has not had “Surplus Cash,” as that term is defined in the 1999 Regulatory Agreement, as amended, to make any scheduled payments on the City Note or the State Note; and

WHEREAS, Borrower intends to pay in full the loan evidenced by the Zions Note with the proceeds of a loan from Berkadia Commercial Mortgage, LLC (“Berkadia”) in the principal amount of \$3,972,500 (the “Berkadia Loan”), and Berkadia will require that the Berkadia Loan be secured by a first priority Deed of Trust encumbering the Property (the “Berkadia Deed of Trust”); and

WHEREAS, the Berkadia Deed of Trust will be insured by HUD and, in connection therewith, Borrower will be required to execute and deliver a HUD form of Regulatory Agreement (the “2010 Regulatory Agreement”); and

WHEREAS, in connection with the Berkadia Loan, Borrower is restructuring its debt to both the City and to the State; and

WHEREAS, in order to provide for the payment of the outstanding loan amounts owing to the City, the parties wish to modify the repayment terms of the City Note and, in connection therewith, wish to modify the Loan Agreement, the City Note, the City/State Deed of Trust and the Intercreditor Agreement and to enter into a Subordination Agreement subordinating the City/State

Deed of Trust, as amended, to the Berkadia Deed of Trust and the 2010 Regulatory Agreement (the foregoing modifications, together with such Subordination Agreement, being referred to herein collectively as the “Loan Documents”).

NOW, THEREFORE, in consideration of the premises herein contained and other good and valuable consideration, the adequacy of which is acknowledged, the parties agree as follows:

1. The parties hereby agree that as of September 30, 2010, the outstanding loan balance of the City Note, including accrued interest, will be equal to Six Hundred Thirty-Three Thousand Six Hundred One and no/00 U.S. Dollars (\$633,601.00). Interest accruing on the City Note from October 1, 2010 to the date of closing of the Berkadia Loan (the “Closing Date”) will be paid by Borrower on the Closing Date.

2. The payment terms of the City Note will be amended as of the Closing Date as follows:

a. Ninety-Three Thousand Five Hundred and no/00 U.S. Dollars (\$93,500.00) will bear interest at one percent (1%) and shall be due and payable finally on the later of (i) November 1, 2050 or (ii) the date that is one month after the maturity date of the Berkadia Loan. Interest shall begin accruing on this amount as of the Closing Date. Principal and interest in the amount of Two Hundred Thirty-Six and 42/100 U.S. Dollars (\$236.42), calculated on the basis of 40-year amortization, shall be due and payable on the first day of every month with the first payment due on the later of December 1, 2010 or the first day of the second month following the month in which the Closing Date occurs.

b. Five Hundred Forty Thousand One Hundred One and no/00 U.S. Dollars (\$540,101.00) will bear interest at three percent (3%) and shall be due and payable finally on the later of (i) November 1, 2050 or (ii) the date that is one month after the maturity of the Berkadia Loan. Interest on this amount shall accrue commencing on the Closing Date. Principal and interest shall be due on the first day of June of each year hereafter, based on a forty-year (40-year) amortization schedule with annual payments of \$23,201.76, but will be payable only to the extent Borrower has “Surplus Cash” as that term is defined in the 2010 Regulatory Agreement.

3. The Director of the City’s Office of Economic Development, or permitted designee, is hereby authorized to execute documents necessary to carry out the terms of this Amendment, including, but not limited to, the Subordination Agreement and amendments to the Loan Agreement,

the City Note, the City/State Deed of Trust and the Intercreditor Agreement, if deemed necessary and appropriate, provided: (i) such documents are in form satisfactory to the City Attorney's Office; (ii) and the Director, in his or her sole discretion, approves such acts.

6. The Loan Documents are hereby modified to reflect the terms of this Amendment.
7. As modified herein, the Loan Documents are hereby ratified and reaffirmed.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the day and year first above written.

ATTEST:

STEPHANIE Y. O'MALLEY,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

APPROVED AS TO FORM:
DAVID R. FINE, City Attorney
for the City and County of Denver

By: _____
Assistant City Attorney

CITY AND COUNTY OF DENVER

By: _____
Mayor

RECOMMENDED AND APPROVED:

By: _____
Director, Office of Economic
Development

REGISTERED AND COUNTERSIGNED:

By: _____
Manager of Finance
Contract Control No. GE9Y059-1

By: _____
Auditor

"CITY"

HGV SENIOR L.P, a
Colorado limited partnership
IRS No. 13-4046914

By: HGV SENIOR GP, INC., a Colorado
corporation, its general partner

By: Charles Perry

Its: Vice President

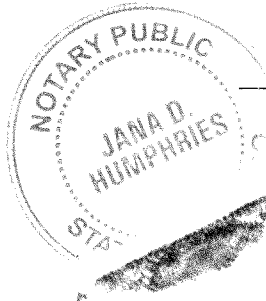
"BORROWER"

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

Acknowledged before me this 16th day of September, 2010, by
Charles Perry as Vice President of **HGV SENIOR GRP, INC.**, a
Colorado corporation, general partner of **HGV SENIOR L.P.**

Witness my hand and official seal.

My commission expires: 7-29-12



Jana D. Humphries
Notary Public

