LOAN AGREEMENT
(LINKAGE FEE)

THIS LOAN AGREEMENT ("Agreement") is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado ("City"), and **ALBION APARTMENTS LLLP** a Colorado limited liability limited partnership, whose address is 155 S. Madison Street, #326, Denver, Colorado 80209 ("Borrower"), each individually a "Party" and collectively the "Parties."

WITNESSETH:

WHEREAS, the Borrower is the owner of Property (as defined in Section 2) in the City and County of Denver;

WHEREAS, the purpose of this Agreement is for the City to provide financing costs related to the development and construction of one hundred seventy (170) affordable multi-family dwelling units located on the Property (the "Project");

WHEREAS, the City is making certain monies available to ensure the development the Project; and

WHEREAS, the Borrower is eligible to receive funds from the City, and is ready, willing and able to meet the conditions associated therewith.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the Parties agree as follows:

1. <u>LOAN TO BORROWER</u>:

A. Subject to the terms of this Agreement, the City agrees to lend Borrower the sum of **SIX MILLION SEVEN HUNDRED SIXTY THOUSAND DOLLARS and NO/100 ($6,760,000.00)** (the "Loan"). In addition to this Agreement, the Borrower will execute a promissory note in a form satisfactory to the City evidencing this Loan (the "Promissory Note") and a Covenant securing the Property for use as affordable housing as required by Section 6 hereof. Simple interest at a rate of one percent (1%) per annum shall commence accruing on the outstanding principal balance of the Promissory Note on the date on which the first draw on the Loan is made.

B. Principal and any interest accrued on the Loan shall be due and payable, at such place as may be designated by City, in annual installments of the amount calculated in accordance with the order of priority and other provisions set forth in **Exhibit F**, attached hereto and incorporated herein ("Cash Flow"). Such annual installments shall commence and be due on the first July 1st following the date that is twenty-four (24) calendar months after the effective date of the

Promissory Note and each July 1st thereafter. If not paid sooner, the entire unpaid balance of principal and accrued interest will be due and payable on the fortieth (40th) anniversary of the date of the Promissory Note (the "Maturity Date"). Each year after repayment of the Loan has commenced, Borrower shall provide to the City, no later than June 1st, (i) an audited financial statement for the Project for the preceding calendar year; and (ii) a statement or letter from an auditor that details (a) the total amount of Cash Flow available for distribution, and (b) a calculation that details the amount(s) and the person(s) or entity (entities) to which the available Cash Flow will be distributed based on the order of priority and other provisions set forth in Exhibit F.

2. **SECURITY**: Repayment of the Promissory Note shall be secured by a Deed of Trust (the "Deed of Trust"), in form satisfactory to City, granted by Borrower and encumbering the real property known and numbered as 2222 to 2280 S. Albion Street, Denver, Colorado 80222 and legally described as set forth in Exhibit D (the "Property").

3. **SUBORDINATION**:

A. The Executive Director, or the Executive Director's designee (the "Executive Director"), of the City's Department of Housing Stability ("HOST") is authorized to execute documents necessary to subordinate the lien of the City's Deed of Trust and/or Covenant so long as (i) the subordination agreement is substantially in the form attached hereto as **Exhibit E**; (ii) encumbrances prior to the City's Deed of Trust or Covenant do not exceed Fifty-Eight Million Dollars and No/100 ($58,000,000.00) under the construction loan(s) or Thirty-Three Million Dollars and No/100 ($33,000,000.00) under the permanent loan(s); (iii) Borrower is not then in default of its obligations pursuant to this Agreement, the Promissory Note, the Deed of Trust or the Covenant; and (iv) all additional financing for the Project is committed.

B. The Executive Director is authorized to execute documents necessary to subordinate the City's Deed of Trust and Covenant to land use restriction agreements or regulatory 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 Fifty-Eight Million Dollars and No/100 ($58,000,000.00) under the construction loan(s) or Thirty-Three Million Dollars and No/100 ($33,000,000.00) under the permanent loan(s); and (iii) Borrower is not in default of its obligations pursuant to this Agreement, the Deed of Trust, or the Covenant.

C. The Executive Director is authorized to execute documents necessary to accomplish the Loan, as set forth herein, so long as (i) such documents are in a form satisfactory to

the City Attorney; (ii) encumbrances prior to the City's Deed of Trust do not Fifty-Eight Million Dollars and No/100 ($58,000,000.00) under the construction loan(s) or Thirty-Three Million Dollars and No/100 ($33,000,000.00) under the permanent loan(s); and (iii) Borrower is not in default of its obligations pursuant to this Agreement, the Deed of Trust, or the Covenant.

4. USE AND DISBURSEMENT OF FUNDS:

A. Loan proceeds will be used to finance costs associated with the acquisition of the Property for use as affordable housing.

B. The Borrower shall submit to the City requisitions with documentation of incurred costs on HOST approved forms, and otherwise comply with the disbursement terms and conditions set forth in **Exhibit B** attached hereto and incorporated herein. Acquisition funds will be disbursed at a scheduled closing, and in a manner acceptable to HOST.

C. In addition to the retainage specified above, HOST shall retain Ten Thousand Dollars and No/100 ($10,000.00) of the total funds to be disbursed under this Agreement (the "Compliance Retainer"), which retainage shall be released upon compliance with the requirements of Exhibit B.

D. Expenses incurred prior to July 18, 2024 are not eligible for reimbursement.

5. DEADLINE FOR DISBURSEMENT OF FUNDS; REQUIRED DOCUMENTATION:

A. Borrower must satisfy all conditions precent to closing the Loan set forth in this Agreement on or before July 24, 2025 (the "Closing Deadline"). Failure to meet this deadline may result in the termination of this Agreement at the Executive Director's sole discretion. No funds shall be disbursed under this Agreement until such time as (i) all conditions of this Agreement have been met and (ii) Borrower has closed on all financing necessary to complete the Project.

B. Borrower agrees that (a) documentation for all draw down requests will be submitted no later than twenty-four (24) months after the date of the Promissory Note and (b) Borrower shall complete the Project within a twenty-four (24) month period after the date of the Promissory Note. All cost overruns and/or funding shortfalls shall be the sole responsibility of the Borrower.

C. Borrower must submit quarterly status reports during the period of construction. Borrower may submit either an American Institute of Architects (AIA) G702 progress billing form or use a form provided by HOST. Quarterly status reports are required until a certificate of occupancy is issued, even if all City funds are drawn down.

D. The Executive Director is authorized to extend or modify any deadlines or schedules (other than repayment deadlines or schedules) set forth herein, provided that the Borrower also consents to any such change and that such changes are made in writing.

6. RESTRICTIONS ON USE OF PROPERTY:

A. Affordability Limitations.

i. Eighty-one (81) of the units at the Property (the "70% 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. 888.111, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 70% of the median income for the Denver area, as determined by HUD, with adjustments for number of bedrooms in the unit.

ii. Sixty-two (62) of the units at the Property (the "60% Units") shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as established by the HUD, under 24 C.F.R. 888.111, 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.

iii. Twenty-seven (27) of the units at the Property (the "30% Units") shall have rents not exceeding the lesser of (i) fair market rent for comparable units in the area as established by the HUD, under 24 C.F.R. 888.111, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 30% of the median income for the Denver area, as determined by HUD, with adjustments for number of bedrooms in the unit.

iv. The 70% Units, 60% Units, and 30% Units are referred to collectively herein as the "City Units." By executing this Agreement, Borrower acknowledges receipt of HUD's current rent guidelines from HOST. It shall be Borrower's responsibility to obtain updated guidelines from HOST to confirm the annual calculation of the maximum rents for the Denver area.

v. The City shall determine maximum monthly allowances for utilities and services annually in accordance with 24 C.F.R. 92.252(d)(1) or another method acceptable to the City. Rents shall not exceed the maximum rents as determined above minus the monthly allowance for utilities and services. The City shall review rents for compliance within ninety (90) days after HOST requests rent information from the Borrower.

B. Occupancy/Income Limitations.

i. The 70% Units shall be occupied by tenants whose incomes are at or below seventy percent (70%) of the median income for the Denver area as determined by HUD, with adjustments for family size.

ii. The 60% 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, with adjustments for family size.

iii. The 30% Units shall be occupied by tenants whose incomes are at or below thirty percent (30%) of the median income for the Denver area as determined by HUD, with adjustments for family size.

iv. By executing this Agreement, Borrower acknowledges receipt of HUD's current income guidelines from HOST. It shall be Borrower's responsibility to obtain updated guidelines from HOST and comply with the current guidelines.

C. Designation of Units. All of the City Units are floating, and are designated as follows:

BEDROOMS	30% Units	60% Units	70% Units
2 Bedroom	20	44	60
3 Bedroom	4	12	14
4 Bedroom	3	6	7
TOTAL	27	62	81

D. Accessibility Requirements. Borrower must design and construct five percent (5%) of the City Units, or at least one (1) unit, whichever is greater, to be accessible for persons with mobility disabilities. An additional two percent (2%) of the City Units, or at least one (1), whichever is greater, must be accessible for persons with hearing or visual disabilities. Collectively, these units are referred to as the "Accessible Units." The Accessible Units must be designed and constructed in accordance with American National Standards Institute ("ANSI") Standard A117.1. Public and common areas must be readily accessible for persons with mobility disabilities and be designed and constructed in accordance with ANSI Standard A117.1.

E. Covenant Running with the Land. At closing, Borrower shall execute a rental and occupancy covenant in form satisfactory to the City ("Covenant"), setting forth the rental and occupancy limitations described in this Agreement, 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 ninety-nine (99) years from the date of the recording of the Covenant. Violation of said Covenant shall be enforceable as an event of default pursuant hereto.

7. PRIORITIZATION OF INCOME-RESTRICTED AFFORDABLE HOUSING ORDINANCE: Borrower must comply with the City's Prioritization of Income-Restricted Affordable Housing Ordinance, codified at D.RM.C. §§ 27-241 *et seq*, and the ordinance's implementing rules and regulations.

8. TENANT SELECTION: The owner of the Project must adopt and have approved by the City written tenant selection polices. The tenant selection policies must be approved by the City prior the City making any disbursements under this Agreement. The tenant selection policies must, at a minimum, contain criteria that:

A. Are consistent with the purpose of providing housing for very low-income and low-income families;

B. Are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

C. Give reasonable consideration to the housing needs of families that would have a preference under federal selection preferences for admission to public housing;

D. Do not exclude an applicant with a certificate or voucher under the Section 8 Tenant-Based Assistance Housing Choice Voucher Program or an applicant participating in a HOME tenant-based rental assistance program because of the status of the applicant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document;

E. Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, with prompt written notification to any rejected applicant of the grounds for any rejection; and

F. Comply with the Violence Against Women Act requirements prescribed in 24 CFR § 92.359.

9. AFFIRMATIVE MARKETING: The owner of the Project shall comply with the procedures outlined in the affirmative marketing program, attached hereto as **Exhibit C** and incorporated herein (the "Affirmative Marketing Program"), to provide information and otherwise attract eligible tenants from all racial, ethnic, and gender groups in the Property's housing market area in accordance with 24 CFR 92.351. Except Borrower may limit eligibility or give preference to a particular segment of the population in accordance with 24 CFR 92.253(d). Prior to making any

disbursement, Borrower must provide the plan required by the Affirmative Marketing Program (the "Affirmative Marketing Plan") to HOST. The Affirmative Marketing Plan must be approved by HOST prior to Borrower adopting it or engaging in any affirmative marketing of the Project.

10. LEASES: There must be a written lease between the tenants of City Units and the owner of the Project for a period of not less than one year, unless by mutual agreement between the tenant and the Owner of the Project a shorter period is specified.

11. PROHIBITED LEASE TERMS: Leases pursuant to which City Units are occupied may not contain any of the following provisions:

A. Agreement to Be Sued. Agreement by the tenant to be sued, admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease.

B. Treatment of Property. Agreement by the tenant that the owner may take, hold or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. However, the owner may dispose of personal property remaining in the unit after the tenant has moved out in accordance with Colorado law.

C. Excusing Owner from Responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for actions or failure to act, whether intentional or negligent.

D. Waiver of Notice. Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant.

E. Waiver of Legal Proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

F. Waiver of Jury Trial. Agreement by the tenant to waive any right to a trial by jury.

G. Waiver of Right to Appeal. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge a court decision in connection with the lease.

H. Tenant Chargeable with Cost of Legal Actions Regardless of Outcome. Agreement by tenant to pay attorney fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant.

I. Mandatory Supportive Services. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

12. PROHIBITION OF CERTAIN FEES: A tenant may not be charged fees that are not customarily charged in rental housing (e.g. laundry room access fees), except that a tenant may be charged the following: reasonable application fees to prospective tenants; parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and fees for services such as bus transportation or meals, as long as the services are voluntary and fees are charged for services provided.

13. TERMINATION OF TENANCY: The owner of the Project may not terminate the tenancy or refuse to renew the lease of a tenant of any of the City Units except for serious or repeated violations of the terms and conditions of the lease; for violation of applicable Federal, State, or local laws; for completion of the tenancy period for transitional housing or failure to follow any required transitional supportive services plan; or for other good cause. Any termination or refusal to renew must be preceded by service of written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy. Notwithstanding the foregoing, nothing in this Agreement shall prevent the owner of the Project from terminating a tenancy in accordance with Colorado Revised Statutes § 13-40-107.5(4)(a) for a substantial violation as defined in that statute.

14. MANAGEMENT OF PROPERTY: Borrower shall provide and maintain good and efficient management of the Property satisfactory to the City. Borrower must execute and maintain in effect a management agreement for the Project with a qualified manager that has experience with affordable housing. Borrower shall notify the City of any (i) changes to the manager of the Property and (ii) of any significant changes staffing changes to the manager.

15. AUDIT/EXAMINATION OF RECORDS/REPORTING REQUIREMENTS/ ANNUAL MONITORING; INSPECTIONS:

A. Examination of Records and Audits: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Borrower's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Borrower shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to

government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Borrower to make disclosures in violation of state or federal privacy laws. Borrower shall at all times comply with D.R.M.C. 20-276.

B. Required Information and Reports. Borrower shall submit to the City the following information and reports on HOST approved forms or online system: (1) annual compliance statement; (2) report on rents and occupancy of City Units to verify compliance with affordability requirements in Section 6 and other requirements of this Agreement; (3) data on evictions, terminations of tenancies, or tenancies not renewed for individuals residing in City Units; (4) reports (including financial reports) that enable the City to determine the financial condition and continued financial viability of the rental project; (5) for floating units, reports on unit substitution and filling vacancies to ensure that the Property maintains the required unit mix; and (6) template lease agreements for City Units. The report required by subsection (2) of this Section shall include, but not be limited to, information related to monthly rent amount, lease term, household size, total annual household income, and race and other demographic information. The reports and information required by this Section shall be due within thirty (30) days of the City making a request for such reports and information. The failure to submit the reports and information requested by the City within thirty (30) days of the City's request shall be considered a default of this Agreement. Borrower shall maintain (i) records evidencing the income of each family occupying a City Unit, and (ii) a copy of the lease pursuant to which each City Unit is occupied.

C. Access and Inspections. For the purposes of assuring compliance with the Agreement, the City shall have the reasonable right of access to the Property, without charges or fees, (i) during the period of construction and (ii) during the period of affordability set forth in Section 6. During the period of affordability, the City shall be entitled to conduct annual physical inspections of the Property. Borrower shall fully cooperate with the City in an annual monitoring of Borrower's performance and site inspection to verify compliance with the requirements of this Agreement.

16. FINANCIAL STATEMENTS: Borrower must furnish to the City annually, within ninety (90) days of the end of Borrower's fiscal year or within thirty (30) days following a request by HOST, financial statements of Borrower audited by an independent certified public accountant, which must include an annual balance sheet and profit and loss statement of Borrower, in a form reasonably required by the City.

17. **TRANSFERS**: Borrower acknowledges that the City has examined and relied on the experience of Borrower and its general partners, directors, and members in owning and operating affordable housing projects, such as the Project, in agreeing to make the Loan, and the City will continue to rely on Borrower's ownership and control of the Property and Project as a means of maintaining the affordability requirements and the value of the Property as security for repayment of the Loan. Without the prior written consent of the City, which may not be unreasonably withheld, the Borrower shall not: (i) sell, convey, assign, or otherwise transfer or dispose of the Property or any part thereof (other than leases to tenants), or (ii) sell, convey, assign, or otherwise transfer any interest in the Borrower; or (iii) change the control or management of the Borrower; provided, that the City's consent shall not be required for (iv) any transfer of the Property to any affiliate of Borrower as permitted by Borrower's partnership agreement, (v) any transfer of a limited partner interest in Borrower as permitted by Borrower's partnership agreement, or to Borrower or any affiliate of Borrower, or (vi) any collateral assignment of a general partner's partnership interests of Borrower as security for senior loan financing of the Project, or the exercise of remedies thereunder or transfer thereafter. Subject to the foregoing sentence, the removal, replacement, or transfer of interest of the general partner of Borrower as permitted by Borrower's partnership agreement shall not require the prior written consent of the City, but only if the replacement general partner of Borrower is the tax credit investor of Borrower or an affiliate or designee thereof. Any subsequent replacement of the general partner of Borrower shall require the prior written consent of the City, which shall not be unreasonably withheld, conditioned, or delayed, provided the replacement general partner has affordable housing experience and otherwise meets the City's reasonable standards being applied at such time.

18. **CAPITAL NEEDS ASSESSMENT**: During the term of the Covenant, the Borrower must provide the City with any capital needs assessment or physical needs assessment performed on or related to the Property or any improvements on the Property every ten (10) years or, if performed earlier, whenever such assessments are performed.

19. **MAINTENANCE AND REPLACEMENT**: The owner of the Project shall maintain the Property in compliance with all applicable housing quality standards and local code requirements. Newly constructed or substantially rehabilitated housing must meet applicable requirements referenced at 24 C.F.R. 92.251.

20. **LEAD-BASED PAINT HAZARDS**: Housing funded, in part, by funds provided through this Agreement shall be subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C.

4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852 et seq.), and is therefore subject to 24 C.F.R. Part 35; the owner of the Project shall comply with these provisions in the construction of the Project.

21. CONDITIONS PRECEDENT TO CLOSING LOAN: In addition to any other conditions stated in the Agreement, the following conditions must be satisfied at prior to the Closing Deadline:

A. Environmental Reports. The Borrower must provide the City with a Phase I Environmental Site Assessment ("ESA") and, if necessary, a Phase II ESA, in form and substance acceptable to the City. If the ESA is not in the City's name, the City must be provided with a reliance letter in the name of the City from the environmental engineer, which must be satisfactory to the City.

B. Title Insurance. Borrower must obtain, on behalf of the City, a lenders title policy insuring the City in the principal amount of the Loan. Borrower must provide the City with a copy of the lenders title policy within thirty (30) days of closing.

C. Appraisal. Borrower must provide the City with an as-is appraisal of the Property, which must be satisfactory in form and substance to the City.

D. Organizational Documents. Borrower must provide the City with (i) evidence that it is a Colorado limited liability limited partnership in good standing and authorized to transact business in the State of Colorado; (ii) evidence in a form satisfactory to the City that the person executing this Agreement and any other documents related to the Loan has the full power and authority to bind Borrower; and (iii) all organizational documents related to Borrower, which must be acceptable to the City. Organization documents include, but are not limited to, certificate of limited partnership, a partnership agreement, and a certificate of good standing.

E. Management Agreement. Borrower must provide the City with a certified copy of the management agreement for the Property, which must be satisfactory in form and substance to the City. The management agreement must contain a provision that the City has the right to release the management company in the event of a foreclosure.

F. Survey. Borrower must provide the City with a current ALTA survey of the Property. The ALTA survey must be prepared by a licensed land surveyor, certified to the City, and satisfactory to the City.

G. **Promissory Note; Deed of Trust; Covenant**. Borrower must execute and deliver to the closing agent the Promissory Note. Borrower must execute and deliver to the closing agent for recordation the Deed of Trust and Covenant.

H. **Insurance**. Borrower must provide the City with certificates of insurance or copies of the policies of insurance required under this Agreement.

22. **POST-CLOSING DOCUMENT REQUIREMENTS**: No later than five (5) business days prior to closing on any construction financing for the Project, Borrower must provide to the City the following:

A. **Evidence of Financing**. Borrower must provide such information and documentation sufficient to satisfy the City, in the City's sole discretion, that the Borrower has secured all financing necessary to complete the Project. Documentation sufficient to satisfy the City may include, but not be limited to, commitment letters for all other financing or funding.

B. **Construction; Timeline**. Borrower must provide the City with a certified copy of the construction budget and development timeline, which must be satisfactory in form and substance to the City.

C. **Architectural Plans**. Borrower must provide the City with with the final architectural and design plans.

D. **Appraisal**. Borrower must provide the City with an as-built appraisal of the Property, which must be satisfactory in form and substance to the City.

23. **COSTS AND EXPENSES**: The Borrower agrees to pay all direct costs, expenses and attorney fees reasonably incurred by the City in connection with the Borrower's breach or default of this Agreement or the Promissory Note, Deed of Trust, or Covenant. Borrower agrees to pay reasonable loan closing costs, including all recording charges, title insurance charges, costs of surveys, costs for certified copies of instruments, costs incurred for obtaining any documents or reports required pursuant to this Agreement, and all other costs incurred by the City in connection with the Loan.

24. **CONDITIONS**:

A. The obligation of the City to lend the above sums is limited to funds appropriated by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. This Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

B. This Agreement is subject to the provisions of the City Charter and Revised Municipal Code as the same may be amended from time.

25. INSURANCE: Borrower or its contractor(s) shall procure and maintain insurance in the following types and amounts:

A. Where loan proceeds are disbursed for construction, Builders Risk Insurance or an Installation Floater in the amount of the value of the Property as improved and renovated, with the City and County of Denver named as loss payee.

B. Commercial General Liability Insurance covering all operations by or on behalf of Borrower, on an occurrence basis with limits not less than $1,000,000 per occurrence, $2,000,000 products and completed operations aggregate, and $2,000,000 policy aggregate. Borrower's contractor shall include all subcontractors as insureds under its policy or shall furnish separate certificates of insurance for each subcontractor.

C. Worker's Compensation and Employer's Liability Insurance at statutory limits and otherwise sufficient to ensure the responsibilities of Borrower and its contractor under Colorado law.

D. Borrower shall maintain Business Automobile Liability with limits of $1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

E. Property insurance satisfactory to the City in the amount of the value of the property subject to the Deed of Trust and Covenant, with the City named as loss payee.

F. Certificates of Insurance evidencing the above shall be submitted prior to the Closing Deadline. Policies shall include a waiver of subrogation and rights of recovery against the City. Insurance companies providing the above referenced coverage must be authorized and licensed to issue insurance in Colorado and be otherwise acceptable to the Risk Management Office.

26. DEFENSE & INDEMNIFICATION:

A. Borrower agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Borrower or its subcontractors either passive or active, irrespective of fault, including City's

concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Borrower's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Borrower's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/ or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Borrower will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Borrower under the terms of this indemnification obligation. The Borrower shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

27. <u>DEFAULT AND ACCELERATION</u>:

A. <u>Default</u>. The occurrence of any of the following events shall constitute a default by the Borrower:

i. Any breach of this Agreement, the Promissory Note, the Deed of Trust, or the Covenant;

ii. The City determines that any warranty, representation, or statement made or furnished to the City by or on behalf of Borrower in connection with this Agreement proves to have been false in any material respect when made or furnished;

iii. Borrower becomes delinquent to the City Loan or on any other contractual or tax obligations as due;

iv. Borrower fails to comply with any rule, regulation or provision referred to in the Agreement;

v. Borrower fails to maintain a cash balance that is sufficient to cover sixty (60) days of Borrower's operating expenses; and

vi. Borrower is generally unable to pay its debts as they become due, or shall make an assignment for the benefit of creditors; or the Borrower applies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such a receiver, trustee or similar officer is appointed without the application or consent of the Borrower, and such appointment continues undischarged for a period of ninety (90) days; or the Borrower institutes (by petition, application, answer or otherwise) any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution, liquidation or similar proceedings under the laws of any jurisdiction; or any such proceeding shall be instituted against the Borrower; or the Borrower terminates or dissolves.

B. Cure Period. Upon a default, HOST shall give written notice of the default to Borrower and other persons entitled to notice of a default pursuant to this Agreement. After Borrower's receipt of the written notice, Borrower or a person on behalf of Borrower shall have ten (10) calendar days to cure any monetary default and thirty (30) calendar days to cure any nonmonetary default (collectively, the "Cure Period"). If a nonmonetary default is not a type which can be cured within the Cure Period, the Executive Director of HOST, at their reasonable discretion, may extend the cure period if the Borrower provides the City with a reasonably detailed written plan of how the Borrower will cure the nonmonetary default and the Borrower, at all times within such additional time period, actively and diligently pursues such plan. For purposes of this Agreement, the term "monetary default" means a failure by Borrower to make any payment required of it pursuant to the applicable Promissory Note or any other Loan document, and the term "nonmonetary default" means a failure by Borrower or any other person to perform any obligation contained in the Agreement, Covenant, Deed of Trust, or Promissory Note, other than the obligation to make payments provided for in the Promissory note or Loan documents.

C. Acceleration; Interest Upon Default; and Withholding Disbursements. Upon the existence of a default and the failure to cure within the Cure Period, and without necessity of further notice, presentment, demand, protest, or notice of protest of any kind, all of which are expressly waived by the Borrower, the City shall have the right to accelerate any outstanding obligations of the Borrower, which shall be immediately due and payable, including payments under the Promissory Note, to foreclose upon the Property, and to enforce or assign its rights under the Deed of Trust. Borrower agrees to pay a late charge of five percent (5%) of any installment not received on or before the day the installment is due. Upon default and if the default remains after the Cure Period, the principal shall draw interest at the rate of fifteen percent (15%) per annum. If any

of the Loan funds have not been disbursed to Borrower, the City may suspend or terminate the Agreement, in whole or in part, and withhold one hundred percent (100%) of any undisbursed funds.

D. Effect of Default on Eligibility for Further Funding. If Borrower is in default, the City may declare the Borrower ineligible for any further participation in City funding, in addition to other remedies as provided by law.

28. NOTICES: All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, or mailed by certified mail, return receipt requested, if to Borrower at the address:

Albion Apartments LLLP
Attn: Joe DelZotto
155 S. Madison, #326
Denver, Colorado 80209

With a copy to:

Merrick Shaner & Bernstein, LLC
Attn: Mark Shaner
4600 South Syracuse Street, 9th Floor
Denver, Colorado 80237

And a copy to:

Bryan Cave Leighton Paisner LLP
Attn: Paul Smith
1801 – 13th Street, Suite 300
Boulder, Colorado 80302

If written notice of a default, with a copy to Borrower's Investor Limited Partner:

To Be Found in the Borrowers partnership agreement.

and if to the City at:

Executive Director of the Department of Housing Stability
City and County of Denver
201 West Colfax Avenue, Dept. 615
Denver, Colorado 80202

With a copy to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

29. **DISPUTES**: All disputes between the City and Borrower arising out of or regarding this Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director.

30. **ASSIGNMENT AND SUBCONTRACTING**: The City is not obligated or liable under this Agreement to any party other than the Borrower. The Borrower shall not assign, sublet or subcontract with respect to any of the rights, benefits, obligations or duties under this Agreement except upon prior written consent of the City.

31. **CITY NOT PARTY TO CONSTRUCTION CONTRACT**: The City is not, and nothing in this Agreement shall be construed to constitute the City, a party to any construction contract pursuant to which the loan or grant proceeds hereof are expended

32. **PUBLICATIONS/ANNOUNCEMENTS**: HOST approval must be obtained prior to publicizing activities or projects funded by HOST or prior to any radio or television announcements, newspaper advertisements, press releases, pamphlets, mail campaigns, or any other marketing methods for any activities or projects funded by HOST. In any event, all such publicizing activities must include the following statement: "The funding source for this activity is the City and County of Denver, Department of Housing Stability." HOST shall be acknowledged in any events regarding the project being funded, including groundbreakings and openings.

33. **ACKNOWLEDGEMENT OF FUNDING**: Borrower will provide and install at the Property signs, in a form mutually agreeable to the Executive Director and the Borrower, acknowledging the participation of the City and the City funding of the Project.

34. **WAIVER**: No waiver of any breach or default under this Agreement shall be held to be a waiver of any other or later breach or default. All remedies afforded in this Agreement shall be construed as cumulative, in addition to every other remedy provided herein or by law.

35. **DURATION/BINDING EFFECT**: This Agreement shall remain in effect for the period of affordability specified in Section 6(E) above, and shall be binding upon the parties and shall inure to the benefit of their respective successors, assignees, representatives, and heirs.

36. **COUNTERPARTS**: This Agreement may be executed in multiple counterparts, each of which, when executed and delivered, shall be deemed to be an original and, taken together, shall constitute one and the same instrument.

37. **NONRECOURSE**: Notwithstanding any other provision contained herein, or the Promissory Note, the Deed of Trust, or the Covenant, it is agreed that the execution of this

Agreement, the Promissory Note, the Deed of Trust, and the Covenant shall impose no personal liability on Borrower or any partner, member or manager of Borrower for payment of any of the obligations described herein or therein, and the City's sole recourse shall be against the Project.

38. **NO DISCRIMINATION IN EMPLOYMENT**: In connection with the performance of work under this Agreement, the Borrower may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Borrower shall insert the foregoing provision in all subcontracts.

39. **RECITALS**: All of the recitals above are hereby confirmed and incorporated herein as part of this Agreement.

40. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Borrower consents to the use of electronic signatures by the City. This Agreement, 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 Agreement 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 Agreement 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.

List of Exhibits to Loan Agreement

Exhibit A – INTENTIONALLY OMITTED

Exhibit B – Disbursement Terms and Conditions

Exhibit C – Affirmative Marketing Program

Exhibit D – Legal Description of Property

Exhibit E – Form of Subordination Agreement

Exhibit F – Cash Flow Calculation

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Contract Control Number: HOST-202475519-00
Contractor Name: ALBION APARTMENTS 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:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number: HOST-202475519-00
Contractor Name: ALBION APARTMENTS LLLP

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: HOST-202475519-00
Contractor Name: ALBION APARTMENTS LLLP

By: Albion Apartments LLC, General Partner

Name: Joe DeIzotto
(please print)

Title: Manager
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A
INTENTIONALLY OMITTED

EXHIBIT B

DISBURSEMENT
TERMS AND CONDITIONS

I. **Disbursement Request Procedures**

a. Disbursements shall be processed through the Department of Housing Stability ("HOST") and the Department of Finance ("DOF").

b. HOST will disburse loan or grant funds to the Borrower or Grantee (referred to herein as the "Borrower") for "hard cost expenses," "soft cost expenses," and "acquisition cost expenses" ("Disbursement") upon the Borrower's written request delivered to HOST (the "Disbursement Request"). The Disbursement Request shall be in the form approved or required by HOST and DOF and may be submitted no more frequently than once every month. Disbursement Requests must be submitted by Borrower electronically to the assigned HOST staff member who will review the submission for completeness and accuracy.

c. Prior to the first Disbursement Request, Borrower must provide to the City for review and approval, if necessary, the following items:

i. A partnership agreement, operating agreement, corporate resolution, or other corporate documentation to demonstrate who has authority for the Borrower to submit Disbursement Requests.
ii. The affirmative marketing plan.
iii. The tenant selection plan.
iv. The form lease agreement for dwelling units at the Project, which contains no prohibited provisions as described in the Agreement.

d. All Disbursements will be via check sent by regular mail unless ACH or other method of disbursement is requested.

e. Disbursements involving federal funds must have satisfied all environmental review requirements under 24 C.F.R. Part 58.

f. The Borrower may not make a Disbursement Request until such funds are needed to pay costs of the Project. The amount of each Disbursement Request must be limited to the amount needed to pay costs actually incurred by the Borrower at the time of the Disbursement Request. The Disbursement Request may not include items previously submitted to and reimbursed by other lenders, amounts for prospective or future needs, funds to be placed into escrow accounts, or advances in lump sums to the Borrower.

g. Each Disbursement Request must be accompanied by documentation acceptable to HOST and DOF that evidence payments for which a disbursement request has been made. HOST and DOF will review documentation for incurred costs that match the Disbursement Request. Documentation to be submitted with a Disbursement Request shall include, as applicable, but not be limited to:

i. A completed and signed HOST expense certification form.
ii. For hard cost draws, a completed standard AIA Form G702 and Form G703 certified by the architect and signed and notarized by the general contractor. If the Disbursement Request includes costs for minor construction not shown on the G702 and G703, the scope of work and contractor invoices must be submitted.
iii. Invoices and other evidence satisfactory to HOST and DOF for "hard" or direct costs provided to the Project with respect to the Disbursement Request. All invoices must show the Project name and address.
iv. Invoices and other evidence satisfactory to the City for "soft" or indirect costs provided to the Project with respect to the Disbursement Requests. All invoices must show the Project name and address.
v. Evidence satisfactory to HOST and DOF to demonstrate proof of payment of any cost or expense contained on a Disbursement Request. Evidence of proof of payment may include, but not be limited to: cancelled checks; copies of checks; documentation of cost or expense in a general ledger; credit or debit card statements; final signed settlement statements, wire transfer records, or bank statements.
vi. An updated itemized budget.
vii. Current certificates of insurance.
viii. Lien waivers from all applicable contractors, subcontractors, and suppliers.
ix. For agreements receiving federal funding and to which the Davis-Bacon Act applies, Borrower must be current in submissions of all paperwork and documentation requested by the City to demonstrate compliance with the requirements of the Davis-Bacon Act.
x. For acquisition Disbursement Requests being funded at a scheduled closing, the following items will be required: a) Preliminary closing statement; b) wire instructions on bank letterhead including date wire is required; and c) final settlement statement and recorded documents after closing.

h. The Borrower must cooperate with HOST in obtaining or providing any additional documentation that may be required by HOST, DOF, or any other agency of the City.

i. The City will retain the first $10,000.00 of Disbursements for the purposes of the Compliance Retainer as set forth in the Agreement. The $10,000.00 that is retained pursuant to this provision will be released under the terms described in Section II.

j. The City will disburse to the Borrower 95% of hard expenses for each Disbursement and all of the soft expenses. The retained 5% of hard expense (the "Retainage") shall be disbursed as all or part of the final Disbursement under the terms described in Section II.

k. At all times during the construction of the Project, the City shall have the right, but not the obligation, to enter and inspect all work done, and all materials, equipment, and other matters relating to the Project.

l. HOST reserves the right, in its sole and absolute discretion, to revise or modify the processes, procedures, and requirements related to the disbursement procedures. HOST will notify Borrower of any such changes to the disbursement procedures.

m. The City will not make any Disbursements of loan or grant proceeds to the Borrower for costs or expenses that:
    i. Are prohibited by Federal or City regulations related to the funding source.
    ii. Are not requested or otherwise not in accordance with Agreement or the procedures for a Disbursement Request set forth herein.
    iii. Were requested or incurred, or both, after the termination of the Agreement or outside the time periods set forth in the Agreement.
    iv. Were requested during the occurrence and continuation of an event of default specified in the Agreement.

II. **Disbursement of Compliance Retainer and Retainage**

a. *Compliance Retainer*. For the City to release the Compliance Retainer, a Disbursement Request must be submitted along with the following information, as applicable:
    i. A completed HOST expense certification form.
    ii. For agreements funded with federal funds, any required federal forms or reports. The City must review and approve any completed federal forms or reports for any federally funded agreement.
    iii. All documents or items required to be submitted to the City pursuant to the Agreement not previously provided.
    iv. A certificate of occupancy.
    v. Current certificates of insurance.
    vi. Updated title policy with date down endorsement or copy of date down endorsement for senior lender.
    vii. The Project must pass a HUD standard inspection performed by the City.
    viii. Lease-up information on all units restricted by the City through the use of City funds or Federal funds, as applicable. The information must include number of bedrooms in the unit, household size, tenant household incomes, date of income certification, tenant paid portion of rent, total lease rent, voucher amounts, voucher type (project based or tenant based), utility allowance amount, lease start and end dates, and demographic data. HOST will review this information to confirm the Project's lease-up is in compliance with the affordability restrictions contained in the Agreement and Rental & Occupancy Covenant.
    ix. Any other documents required by HOST.

b. *Retainage*. For the City to release the Retainage, a Disbursement Request must be submitted along with the following information, as applicable:
   i. A completed HOST expense certification form.
   ii. Final unconditional lien waivers or proof of release of liens in form and substance satisfactory to the City from all applicable contractors, subcontractors, and suppliers, as applicable.
   iii. A copy of the completed AIA G704 Form for the senior lender, signed by the architect, general contractor, and Borrower that shows -$0.00- as the cost estimate of work that is incomplete or defective, as applicable.
   iv. A copy of the completed AIA G706 Form for the senior lender, signed by the general contractor and notarized, verifying that all debts and claims have been settled, as applicable.
   v. A copy of the completed AIA G706A Form for the senior lender, signed by the general contractor and notarized, stating that all releases or waivers of liens have been received, as applicable.
   vi. All documents or items required to be submitted to the City pursuant to the Agreement not previously provided.
   vii. A certificate of occupancy.
   viii. Current certificates of insurance.
   ix. Updated title policy with date down endorsement or copy of date down endorsement for senior lender.
   x. The Project must also pass a HUD standard inspection performed by the City.
   xi. Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA") Determination, as applicable.
   xii. Environmental mitigation memorandum of understanding, as applicable.
   xiii. Any other documents required by HOST.

III. **Conditions Precedent to All Disbursements**

a. The making of each Disbursement shall be subject to the satisfaction of each of the following additional conditions precedent, and a waiver of any condition to any Disbursement shall not constitute a waiver as to any subsequent Disbursement. The City may, in its sole discretion, withhold all or a portion of a Disbursement if any of the following conditions have not been satisfied or if the Borrower has not submitted the required documentation and information required by the Agreement, including the documentation and information required by these terms and conditions.
   i. *No Default*. The Borrower must be in full compliance with and must not be in default under the Promissory Note, the Deed of Trust, or the Covenant or any other document executed by the Borrower in connection with the Agreement.
   ii. *Time to Complete the Project*. In the sole opinion of the City, there must be sufficient time remaining to complete the construction of the Project in accordance with the terms of the Agreement, and in conformance with federal regulations and requirements for federally funded agreements.

iii. *Sufficient Funds Available to Complete the Project*. If requested by the City, the Borrower shall furnish evidence satisfactory to the City, in its sole discretion, that the amount of the loan or grant yet to be disbursed, together with any other sources of funds available to the Borrower and not yet disbursed, will be sufficient to complete the Project in compliance with the Agreement and to pay all costs therefore, and all other direct or indirect costs relating to the loan or grant and the Project.

iv. *Lien waivers*. If requested by the City, the Borrower shall furnish data in a form satisfactory to the City with respect to prior Disbursements and expenditures relating to the Project and shall furnish lien waivers from the contractor and all subcontractors for work done and materials supplied to the Project to the date of the Disbursement Request.

v. *Use of Funds*. Subject to the terms of the Agreement, the Borrower shall use the proceeds of the loan or grant exclusively for the costs of the Project.

vi. *Compliance with Federal Requirements*. As applicable, Borrower must be compliant with all federal requirements, including, but not limited to, compliance with the Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968, and all reporting obligations under any such federal requirements.

vii. *Pass-Through Loans*. If the Agreement is structured as a "pass-through" loan, Borrower must demonstrate that Borrower has the authority to submit disbursement requests on behalf of the Project owner, which may be done by providing HOST with an operating agreement or partnership agreement establishing such authority. A "pass-through" loan is defined as a loan made by the City to a borrower where loan proceeds will be granted or loaned by the borrower to the developer or owner of the Project for construction and development costs.

IV. **Financial Management Systems – The Borrower must maintain financial systems that meet the following standards:**

a. Financial reporting must be accurate, current, and provide a complete disclosure of the financial results of financially assisted activities and be made in accordance with federal financial reporting requirements.

b. Accounting records must be maintained which adequately identify the source and application of the funds provided for financially assisted activities. The records must contain information pertaining to contracts and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Accounting records shall provide accurate, separate, and complete disclosure of fund status.

c. Effective internal controls and accountability must be maintained for all contract cash, real and personal property, and other assets. Adequate safeguards must be provided on all property, and it must be assured that it is used solely for authorized purposes.

d. Actual expenditures or outlays must be compared with budgeted amounts and financial information must be related to performance or productivity data, including the development of cost information whenever appropriate or specifically required.

e. For contracts subject to federal agreements, applicable 2 C.F.R. Part 200 cost principles, agency program regulations, and the terms of the agreement will be followed in determining the reasonableness, allowability and allocability of costs.

f. Source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc., shall be provided for all disbursements. The Borrower will maintain auditable records, i.e., records must be current and traceable to the source documentation of transactions.

g. For contracts subject to federal agreements, the Borrower shall maintain separate accountability for HOST funds as referenced in 2 C.F.R. Part 200.

h. The Borrower must properly report to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.

i. A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.

j. The Borrower shall participate, when applicable, in HOST provided staff training sessions in the following financial areas including, but not limited to (1) Budgeting and Cost Allocation Plans; (2) Vouchering Process.

V. **Audit Requirements**

a. For contracts subject to federal agreements, if the Borrower expends seven hundred and fifty thousand dollars ($750,000) or more of federal awards in the Borrower's fiscal year, the Borrower shall ensure that it, and its sub recipients(s), if any, comply with all provisions of the 2 C.F.R. Part 200.

b. A copy of the final audit report must be submitted to the HOST Financial Manager within the earliest of thirty (30) calendar days after receipt of the auditor's report; or nine (9) months after the end of the period audited.

c. A management letter, if issued, shall be submitted to HOST along with the reporting package prepared in accordance with the Single Audit Act Amendments and the 2 C.F.R. Part 200. If the management letter is not received by the subrecipient at the same time as the Reporting Package, the Management Letter is also due to HOST within thirty (30) days after receipt of the Management Letter, or nine (9) months after the end of the audit period, whichever is earlier. If the

Management Letter has matters related to HOST funding, the Contactor shall prepare and submit a Corrective Action Plan to HOST in accordance with the Single Audit Act Amendments and the 2 C.F.R. Part 200, as set forth in 2 C.F.R. 200.511(c) for each applicable management letter matter.

d. All audit related material and information, including reports, packages, management letters, correspondence, etc., shall be submitted to HOST.

e. The Borrower will be responsible for all Questioned and Disallowed Costs.

f. The Borrower may be required to engage an audit committee to determine the services to be performed, review the progress of the audit and the final audit findings, and intervene in any disputes between management and the independent auditors. The Borrower shall also institute policy and procedures for its sub recipients that comply with these audit provisions, if applicable.

VI. **Procurement**

a. The Borrower shall follow the City Procurement Policy to the extent that it requires that at least three (3) documented quotations be secured for all purchases or services (including insurance) supplies, or other property that costs more than ten thousand dollars ($10,000) in the aggregate.
b. The Borrower will maintain records sufficient to detail the significant history of procurement. These records will include, but are not limited to, the following: rationale for the method of procurement, selection of contract type, Borrower selection or rejection, and the basis for the contract price.
c. If there is a residual inventory of unused supplies exceeding five thousand dollars ($5,000) in total aggregate upon termination or completion of award, and if the supplies are not needed for any other federally sponsored programs or projects the Borrower will compensate the awarding agency for its share.

VII. **Bonding**

a. HOST may require adequate fidelity bond coverage, in accordance with 2 C.F.R. 200.304(b), where the subrecipient lacks sufficient coverage to protect the Federal Government's interest.

b. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.

VIII. **Collection of amounts due**

a. Any funds paid to a Borrower in excess of the amount to which the Borrower is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government and/or the City. If not paid within a reasonable period after demand, HOST may: 1) Make an administrative offset against other requests

for reimbursements, 2) Withhold advance payments otherwise due to the Borrower, or 3) Pursue other action permitted by law.

EXHIBIT C
(Affirmative Marketing)

City and County of Denver
Affirmative Marketing Program

The City and County of Denver is committed to the goal of adequate housing for all its citizens and to affirmatively furthering fair housing opportunities. The City has developed written material explaining the City's Housing Programs for dissemination and will inform the public, owners, and potential tenants about Federal fair housing laws. These materials will display the "equal housing opportunity" slogan and logo. The City will also publicize its Housing programs through press releases, solicitations to property owners and written communications to fair housing groups and local lenders. The City will display the "equal housing opportunity" slogan on all such communications.

All contracts, grant agreements and/or loan agreements between the City or its agents and property owners executed in connection with the Housing Programs will:

(1) prohibit discrimination in the rental of housing rehabilitated through the City's Housing programs on the basis of race, color, religion, sex, national origin, age, handicap, or household composition;
(2) require compliance with all applicable fair housing and equal opportunity laws, and
(3) include a copy of our Affirmative Marketing Program and require compliance with all procedures contained herein for the period of affordability of the term of the loan, whichever is greater.

In the City's Housing Loan Program, the objective of the Affirmative Marketing Program and a project's Affirmative Marketing Plan will be to increase the racial/ethnic diversity of the project's tenant population so that the tenant population is not made up exclusively of persons of one race/ethnicity.
In order to accomplish this, owners will be required to adopt a plan that will inform and solicit applications from persons in the housing market who are least likely to apply for the housing without special outreach. In general, persons who are not of the race/ethnicity of the majority of the residents of the neighborhood in which the property is located will be considered as persons least likely to apply.

The City will work with the project owner to identify which racial/ethnic groups in the population are least likely to apply for housing in each project without special outreach. The City will assist the owner in developing a project specific Affirmative Marketing Plan which includes special outreach efforts and the City will approve the Plan. The property manager or rental agent will be required to maintain records enabling the City to assess the results of the owner's actions to affirmatively market units. These records will include rental applications, all vacancy notices, and rental receipts. The City or its agent will review the owner's records and these records must be made available to

the City. Additionally, the City will require the owner to submit annual tenant reports that will include tenant characteristics including race/ethnicity. The project's Plan will identify specific actions the owner must take when becoming aware of an impending vacancy. In some cases the owner will also be required to advertise the vacancy in a general circulation newspaper.

Owners who rent exclusively to one segment of the population to the exclusion of applicants from other segments will be notified of potential noncompliance. The City will provide technical assistance to the owners in expanding outreach efforts. If necessary, specific corrective actions will be required.

Owners who discriminate or who fail to comply with the requirements of this Affirmative Marketing Program may be found in breach of contract or in default on their grant or loan agreement, and the City may take action to recover all funds made available to the owner by the City plus applicable penalties.

The City has adopted a policy to aggressively encourage landlords to rehabilitate units that are accessible to persons with physical disabilities.

Exhibit D

LEGAL DESCRIPTION

The following real property located in the City and County of Denver, State of Colorado:

Parcel A

LOTS 4 THROUGH 7, INCLUSIVE, BLOCK 102, WARREN'S UNIVERSITY HEIGHTS, SECOND FILING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

Purported address (for information only): 2222 SOUTH ALBION STREET, DENVER, CO 80222

Parcel B

PARCEL 1:
LOTS 8 AND 9, BLOCK 102, WARREN'S UNIVERSITY HEIGHTS, SECOND FILING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 2:
LOTS 10 TO 14, INCLUSIVE, BLOCK 102, WARREN'S UNIVERSITY HEIGHTS, SECOND FILING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

Purported address (for information only): 2236 & 2242 - 2250 SOUTH ALBION STREET, DENVER, CO 80222

Parcel C

LOTS 15 TO 24, INCLUSIVE, BLOCK 102, WARREN'S UNIVERSITY HEIGHTS, SECOND FILING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

Purported address (for information only): 2280 SOUTH ALBION STREET, DENVER, CO 80222

Exhibit E

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") dated [INSERT DATE], is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, the present holder of a certain deed of trust, whose address is Department of Housing Stability, 201 W. Colfax Ave., Dept. 615, Denver, Colorado 80202 (the "Junior Lender") and [INSERT LENDER NAME], a [INSERT STATE][INSERT ENTITY TYPE], whose address is [INSERT LENDER'S ADDRESS] (the "Senior Lender").

PRELIMINARY STATEMENTS

A. The Junior Lender has made a loan to [INSERT BORROWER NAME], a [INSERT STATE][INSERT ENTITY TYPE] (the "Borrower") in the principal amount of $[INSERT DOLLAR AMOUNT], evidenced by that certain Promissory Note, dated as of [INSERT DATE OF PROMISSORY NOTE], made by the Borrower and payable to the Junior Lender and secured by that certain Deed of Trust [the "Junior Deed of Trust") made as of [INSERT DATE OF DEED OF TRUST] and recorded on [INSERT RECORDATION DATE] at Reception No. [INSERT RECEPTION NUMBER] of the real property records in the office of the Clerk and Recorder of [INSERT COUNTY] County, State of Colorado, encumbering the following described property (the "Mortgaged Property"):

[FILL IN LEGAL DESCRIPTION OR SEE LEGAL DESCRIPTION – ATTACHMENT A]

B. The Senior Lender has made or will make a loan to Borrower in the principal amount of $[INSERT NUMERIC AMOUNT], which loan will be evidenced by a Promissory Note ("Senior Note") in like amount and secured by a deed of trust ("Senior Deed of Trust") which will cover and encumber all or part of the Mortgaged Property (the Senior Note together with the Senior Deed of Trust and all other documents evidencing, securing, or executed with the Senior Obligations (defined below) are collectively the "Senior Loan Documents"); and the Senior Deed of Trust is to be recorded in the records of the office of the Clerk and Recorder of [INSERT COUNTY] County, State of Colorado.

C. It is the desire of the parties and to the mutual benefit of all parties that the lien of the Junior Deed of Trust be subordinated to the lien of the Senior Deed of Trust.

AGREEMENT

For and in consideration of the mutual benefits accruing to the parties hereto, and the promises set forth, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Junior Deed of Trust. As used herein, the following terms shall have the meanings assigned to them:

"Senior Obligations" means each and every debt, liability and obligation of every type and description that the Borrower may now or at any time hereafter owe to the Senior Lender in connection with the Senior Deed of Trust, up to the maximum amount of [INSERT PRINCIPAL AMOUNT OF SENIOR LOAN], whether such debt, liability or obligation now exists or is hereafter assumed, created or incurred and whether it is or may be direct or indirect, due or to become due, or absolute or contingent.

"Junior Obligations" means each and every debt, liability and obligation of every type and description that the Borrower may now or at any time hereafter owe to the Junior Lender in connection with the Junior Deed of Trust, whether such debt, liability or obligation now exists or is hereafter assumed, created or incurred and whether it is or may be direct or indirect, due or to become due, or absolute or contingent..

2. Subordination. The Junior Lender hereby agrees that (regardless of any priority otherwise available to the Junior Lender by law or by agreement) any security interest that the Junior Lender might now hold in the Mortgaged Property, is fully subordinate to any security interest that the Senior Lender may now or hereafter hold in the Mortgaged Property up to the maximum amount of [INSERT PRINCIPAL AMOUNT OF SENIOR LOAN].

3. Collateral and Security Interest. Until all of the Senior Obligations have been paid in full, the Junior Lender shall not demand, receive or accept, except as otherwise provided in this Agreement (i) a pledge of any of the Mortgaged Property as security for the Junior Obligations, or (ii) a grant of any security interest or any other right or interest in any of the Mortgaged Property.

4. Payments Before Default Under Senior Loan Documents. Until the Junior Lender receives notice from the Senior Lender that a default has occurred in connection with the Senior Loan Documents as set forth in Section 8 herein, the Junior Lender shall be entitled to retain for its own account all payments made in connection with the Junior Obligations.

5. Waiver and Consent. The Senior Lender shall have no obligation to the Junior Lender with respect to the Mortgaged Property or the Senior Obligations. The Senior Lender may in accordance with the Senior Deed of Trust (a) exercise collection rights, (b) take possession of, sell or dispose of, and otherwise deal with, the Mortgaged Property, (c) in the Senior Lender's name or in the Borrower's name, demand, sue for, collect or receive any money or property at any time payable or receivable on account of, the Mortgaged Property; (d) prosecute, settle and receive proceeds on any insurance claims relating to the Mortgaged Property, and (e) exercise and enforce any right or remedy available to the Senior Lender with respect to the Mortgaged Property, whether available before or after the occurrence of any default; all without notice to or consent by anyone except as specifically required by law. The Senior Lender may apply the proceeds of the Mortgaged Property in any order the Senior Lender deems appropriate in its sole discretion, except as required by law.

6. No Action. Junior Lender will not commence any action or proceeding with respect to the Mortgaged Property or against the Borrower, will not take possession of, sell or dispose of, or otherwise deal with, the Mortgaged Property, and will not exercise or enforce any other right or remedy that may be available to the Junior Lender against the Borrower or with respect to the Mortgaged Property upon Borrower's default with respect to the Junior Obligations or Junior Deed

of Trust, without the Senior Lender's prior written consent, which shall not be unreasonably withheld or delayed.

7. Notice of Default to Senior Lender. Any notice provided to Borrower by the Junior Lender of any default under the Junior Deed of Trust shall also be sent to Senior Lender.

8. Notice of Default to Junior Lender. Senior Lender shall deliver to the Junior Lender a default notice within ten business days in each case where Senior Lender has given a default notice to the Borrower. The Junior Lender shall have the right, but not the obligation, to cure any default under the Senior Loan Documents within the same time, and the same manner, as the Borrower pursuant to the Senior Loan Documents. All amounts paid by the Junior Lender to Senior Lender to cure a default under the Senior Loan Documents shall be deemed to have been advanced by the Junior Lender pursuant to, and shall be secured by the lien of, the Junior Deed of Trust.

9. No Representations or Warranties. Neither the Junior Lender nor the Senior Lender (i) makes any representation or warranty concerning the Mortgaged Property or the validity, perfection or (except as to the subordination effected hereby) priority of any security interest therein, or (ii) shall have any duty to preserve, protect, care for, insure, take possession of, collect, dispose of or otherwise realize upon any of the Mortgaged Property.

10. Binding Effect; Miscellaneous. This Agreement shall be binding upon the Junior Lender and its respective successors and assigns and shall inure to the benefit of the Senior Lender and its participants, successors and assigns, but neither the Borrower nor any other secured party shall be entitled to rely on or enforce this Agreement. This Agreement cannot be waived or changed or ended, except by a writing signed by the party to be bound thereby. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Colorado. Each party consents to the personal jurisdiction of the state and federal courts located in the State of Colorado in connection with any controversy related to this Agreement, waives any argument that venue in any such forum is not convenient, and agrees that any litigation initiated by either of them in connection with this Agreement shall be venued in the City and County of Denver. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. The Junior Lender waives notice of the Senior Lender's acceptance hereof.

11. Notice. Any notice required under this Agreement shall be deemed to have been given when mailed by certified mail, return receipt requested, or by overnight express mail or courier service, to the addresses of the Junior Lender or the Senior Lender, as the case may be, set out in the first paragraph of this Agreement.

12. Term. This Agreement shall continue until the earliest to occur of the following events: (i) the payment of all principal, interest, and other amounts payable under the Senior Obligations; (ii) the payment of all principal, interest and other amounts payable under the Junior Obligations; (iii) the acquisition by Senior Lender of title to the Mortgaged Property pursuant to a foreclosure, or deed in lieu of foreclosure, or the exercise of a power of sale contained in the Senior Deed of Trust; or (iv) the acquisition by Junior Lender of title to the

Mortgaged Property pursuant to a foreclosure, or a deed in lieu of foreclosure, or the exercise of a power of sale contained in the Junior Deed of Trust, but only if such acquisition of title does not violate any of the terms of this Agreement.

13. Entire Agreement. This Agreement contains the entire agreement between and among the parties hereto with respect to the subordination of the Junior Deed of Trust and the other Junior Loan Documents as to the Senior Deed of Trust, and the Senior Loan Documents

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

"JUNIOR LENDER"

CITY AND COUNTY OF DENVER, a Colorado Municipal Corporation

By:_____

Title: _____, Department of Housing Stability

State of Colorado)
) ss.
County of)

The foregoing instrument was subscribed to and acknowledged before me this _____ day of _____, 20_____, by _____ as_____ of the Department of Housing Stability for the City and County of Denver, a municipal corporation of the State of Colorado, for and on behalf of the City.

Witness my hand and official seal.
My commission expires: _____.

_____

Notary Public

"SENIOR LENDER"

[INSERT SENIOR LENDER NAME], a [INSERT STATE][INSERT ENTITY TYPE]

By:_____

Title: _____

\

State of Colorado)
) ss.
County of)

The foregoing instrument was subscribed to and acknowledged before me this _____ day of _____, 20_____, by _____ as_____ of _____

Witness my hand and official seal.
My commission expires: _____.

_____
Notary Public

Acknowledged by BORROWER:

[INSERT BORROWER NAME], a [INSERT STATE]
[INSERT ENTITY TYPE]

By:_____

Title: _____

ATTACHMENT A

[INSERT LEGAL DESCRIPTION]

EXHIBIT F

(To HOST Loan Agreement for Albion Apartments)

CASH FLOW CALCULATION

The provisions of this Exhibit F are found in the Amended and Restated Agreement of Limited Partnership of Albion Apartments LLLP dated _____, _____ (the "Partnership Agreement"). All capitalized terms used in this Exhibit F have the meanings assigned to them in the Partnership Agreement. A copy of the fully executed Partnership Agreement will be provided to the City after execution. Borrower must provide the City with any amendments to the Partnership Agreement.

Notwithstanding anything to the contrary, the calculation of cash flow includes regular monthly or annual deposits into a replacement reserve account or capital reserve account but does not include capital expenditures.

Cash Flow. Subject to any restrictions in the Mortgage Loan Documents, including the Surplus Cash Limitation, and subject to the terms of the Addendum, and provided further that all reserves have been funded and maintained as required in this Agreement (excluding any required replenishment from Cash Flow or Net Proceeds), Cash Flow, if available with respect to any Partnership Accounting Year, shall be applied or distributed annually, within ninety (90) days after the end of the Partnership Accounting Year (but in no event earlier than the filing of a Partnership Tax Return for such year), in the following priority:

(i) To pay amounts then owed to the DHDP Special Limited Partner for accrued but unpaid DHDP Special Limited Partner Asset Management Fee;

(ii) To the Investor Limited Partner until the total amount received pursuant to this clause and Section 4.02(b)(iii) equals the amount of any unpaid Downward Adjuster owed under Section 3.05 (including any interest on such amount described therein and any amount that is solely attributable to a Change in Law);

(iii) To repay any loans made by the Investor Limited Partner to the Partnership, with any such payments to be applied first to accrued but unpaid interest and then to principal;

(iv) To pay amounts then owed Investor Limited Partner for all accrued but unpaid Asset Management Fees;

(v) For the first four years of payments, as defined in Section 1.B of the Loan Agreement, $50,000, and thereafter $102,940 (or in each case any lesser amount of remaining Cash Flow) to repay the City Loan, as a priority repayment;

(vi) To replenish the Operating Reserve to the Operating Reserve Amount;

(vii) To make payments then due under the PILOT Agreement, including past due payments and accrued, unpaid interest;

(viii) To repay interest and then principal on the Developer Fee Loan;

(ix) 50% of the remaining balance to repay the City Loan and the CDOH Loan with such amount allocated in proportion to the relative principal amounts, until the City Loan and the CDOH Loan have been repaid in full;

(x) To repay any Operating Deficit Loans owed to the General Partner, with any such payments to be applied first to accrued but unpaid interest and then to principal;

(xi) To pay any Deferred Management Fees to the Management Agent;

(xii) To pay amounts then owed to the General Partner for all accrued but unpaid General Partner Asset Management Fee;

(xiii) To repay other subordinate loans as required by the terms of those loans; and

(xiv) The balance shall be distributed 0.005% to the General Partner, 0.005% to the DHDP Special Limited Partner, 89.99% to the Class C Limited Partner and 10% to the Investor Limited Partner.

(b) ***Distributions of Net Proceeds.*** Prior to dissolution of the Partnership, if the General Partner shall determine from time to time that Net Proceeds are available for distribution from a Capital Event, such Net Proceeds shall be applied or distributed as follows, subject to any restrictions in the Mortgage Loan Documents:

(i) To fund reserves for contingent liabilities to the extent deemed reasonable by the General Partner with the Consent of the Investor Limited Partner;

(ii) To pay amounts then owed to the DHDP Special Limited Partner for accrued but unpaid DHDP Special Limited Partner Asset Management Fee;

(iii) To the Investor Limited Partner until the total amount received pursuant to this clause and Section 4.02(a)(ii) equals the amount of any unpaid Downward Adjuster owed under Section 3.05 (including any interest on such amount described therein and any amount that is solely attributable to a Change in Law);

(iv) To repay the Investor Limited Partner any other loans made by the Investor Limited Partner to the Partnership, with any such payments to be applied first to accrued but unpaid interest and then to principal;

(v) To pay amounts then owed to the Investor Limited Partner for accrued but unpaid Asset Management Fees;

(vi) To the Investor Limited Partner in an amount equal to the amount of Profits allocated to it pursuant to Section 4.01(b)(iii);

(vii) For the first four years of payments, as defined in Section 1.B of the Loan Agreement, $50,000, and thereafter $102,940 (or in each case reduced by any amount paid from Cash Flow for that year, or any lesser amount of remaining Cash Flow) to repay the City Loan, as a priority repayment;

(viii) During the Compliance Period, to replenish the Operating Reserve to the Operating Reserve Amount;

(ix) To make payments then due under the PILOT Agreement, including past due payments and accrued, unpaid interest;

(x) To repay interest and then principal on the Developer Fee Loan;

(xi) To repay any Operating Deficit Loans owed to the General Partner, with any such payments to be applied first to accrued but unpaid interest and then to principal;

(xii) To pay any Deferred Management Fees to the Management Agent;

(xiii) To pay any amounts then owed to the General Partner for General Partner Asset Management Fees;

(xiv) To the extent not otherwise paid, to repay the City Loan and the CDOH Loan with such amount allocated in proportion to the relative principal amounts, until each of the City Loan and the CDOH Loan have been repaid in full; and

(xv) To the extent not otherwise paid, to repay any other subordinate loans as required by the terms of those loans; and

(xvi) The balance, if any, shall be distributed 0.005% to the General Partner, 0.005% to the DHDP Special Limited Partner, 89.99% to the Class C Limited Partner and 10% to the Investor Limited Partner.

Defined Terms

"Addendum" shall have the meaning set forth in the Recitals to this Agreement. The Addendum is attached to and is a part of this Agreement.

"*Agreement*" means this Amended and Restated Agreement of Limited Partnership, including the Addendum and all Exhibits and Schedules hereto, as amended from time to time in accordance with the terms of Section 15.03.

"*Asset Management Fee*" means the fee payable by the Partnership to the Investor Limited Partner pursuant to the Asset Management Fee Agreement from available Cash Flow and Net Proceeds as described in Article VI hereof, in the annual, cumulative amount of $7,500 commencing on January 1, 2024, and increasing by 3% per annum beginning on January 1, 2025.

"*Asset Management Fee Agreement*" means the Asset Management Fee Agreement dated as of the Closing Date between the Partnership and the Investor Limited Partner providing for the payment of the Asset Management Fee.

"*Capital Event*" means any transaction that is not in the ordinary course of business of the Partnership, including without limitation, the sale or other disposition of all or any substantial part of the assets of the Partnership or the refinancing of any Mortgage Loan, but excluding (i) unsecured loans to the Partnership and (ii) Capital Contributions.

"*Cash Flow*" means, for any period of time, the total cash receipts of the Partnership from ordinary operations (*i.e.*, excluding the proceeds of (A) Capital Events, (B) the Capital Contributions of the Partners (except that Limited Partner Additional Benefit Contributions pursuant to Section 3.05(a) or Section 3.05(c) shall be deemed to be Cash Flow), and (C) the proceeds of any Mortgage Loans), such as, but not limited to, Effective Gross Income plus any other funds (such as any reserves in excess of the amounts required to be established and maintained pursuant to this Agreement and, if applicable, the Mortgage Loan Documents, when and to the extent the General Partner no longer regards such excess reserves as reasonably necessary in the efficient conduct of the business of the Partnership) deemed available for distribution and designated as Cash Flow by the General Partner, *less* (i) the total cash disbursements of the Partnership (such as, but not limited to, operating expenses, costs of repair or restoration of the Apartment Complex, Management Fees (excluding any of the Deferred Management Fee, the Asset Management Fee, and the General Partner Asset Management Fee), financing fees or other requirements of any Lender and interest and principal repayments of any Partnership loans, other than loans which are payable solely from Cash Flow and loans from the General Partner or any Affiliate thereof (such as the Developer Fee Loan and Operating Deficit Loans)), less (ii) repayment of loans made by the Investor Limited Partner under Section 3.03(d), and less (iii) amounts paid in connection with the establishment or maintenance of reserves as required by Section 6.10.

"*CDOH*" means the Colorado Division of Housing, Department of Local Affairs.

"*CDOH Loan*" means that certain construction-to-permanent loan from CDOH in the principal amount of $6,760,000, which bears interest at the rate of one percent (1%), has a term of up to 40 years, and requires payments from Cash Flow in accordance with Section 4.02(a) below.

"*CHFA*" means the Colorado Housing and Finance Authority.

"*City*" means the City of Denver.

"*City Loan*" means that certain construction-to-permanent loan from the City to the Partnership in the principal amount of $6,760,000, which bears simple interest at the rate of one percent (1%), has a term of forty (40) years, and requires payments from Cash Flow.

"*Change in Law*" means an amendment or addition to the Code or Regulations that is applicable to the Apartment Complex or the Partnership and that has the result of reducing or eliminating the Credit for qualified low–income housing projects (as defined in Code Section 42(g)(1)) or substantially changes the requirements for qualifying for the Credit in a manner which the Partners reasonably agree cannot be satisfied by commercially reasonable efforts of the Partnership. Change in Law shall specifically exclude any changes, clarifications, guidance or rules by the Agency, the IRS or any other applicable governing body related to Income Averaging.

"*Class B Limited Partner*" means Denver Housing Development Partners, Inc., a Colorado nonprofit corporation.

"*Class B Special Limited Partner Asset Management Agreement*" shall have the meaning set forth in the Addendum.

"*Class B Special Limited Partner Asset Management Fee*" shall have the meaning set forth in the Addendum.

"*Class C Limited Partner*" means EAD Albion LLC, a Colorado limited liability company.

"*Compliance Period*" means the period described in Code Section 42(i)(1) and applicable to any residential building in the Apartment Complex. For purposes of this Agreement, the Compliance Period for the Apartment Complex shall begin on the first day of the Compliance Period for the Apartment Complex building first placed in service and end on the last day of the Compliance Period for the Apartment Complex building last placed in service.

"*Consent*" means, and will be deemed to have been obtained, if the Investor Limited Partner (or the Special Limited Partner, as the case may be) shall have been notified in writing consistent with Section 15.02 by the General Partner of any action either proposed to be taken or for which ratification is desired and if the Limited Partner (or Special Limited Partner) shall have expressly consented in writing to such action. In the event that there is more than one Limited Partner, Consent of the Limited Partner shall be deemed to have been obtained if a majority in Interest of the Limited Partners so consents in accordance with the preceding sentence; *provided, however*, that if pursuant to the Uniform Act, the consent of all Limited Partners is required in a given context, then the term Consent of the Limited Partner shall be deemed to require the consent of all Limited Partners. The Investor Limited Partner (or Special Limited Partner, as applicable)

agrees to use reasonable efforts to respond in writing within fifteen (15) Business Days of receipt of a notice from the General Partner; *provided, however*, that the Investor Limited Partner (or Special Limited Partner, as applicable) shall not under any circumstances be deemed to have given its consent if it fails to respond within the foregoing fifteen (15) Business Day period. In any action with respect to which the Consent of the Investor Limited Partner (or Special Limited Partner) is requested, the Partnership shall reimburse the Investor Limited Partner (or Special Limited Partner) for all attorneys' fees, accountants' fees and other expenses incurred by the Investor Limited Partner (or Special Limited Partner) in connection with the proposed matter, whether or not Consent is given. For purposes of clarity, the consent of the Class B Limited Partner shall only be required if required in the Addendum.

"*Deferred Management Fee*" has the meaning set forth in Section 7.01.

"*Developer Fee Loan*" means the loan of the unpaid portion of the Developer Fee containing the terms and conditions specified in Section 7.02.

"*Downward Adjuster*" means, collectively, a Credit Shortfall Adjuster, a Credit Timing Adjuster, a Subsequent Credit Shortfall Adjuster, and a Credit Recapture Adjuster.

"*General Partner*" means Albion Apartments LLC, a Colorado limited liability company, and any Person or Persons who, at the time of reference thereto, have been admitted as additional or successor General Partners, in each such Person's capacity as a general partner of the Partnership. At any time when there is more than one General Partner, the term "General Partner" or "General Partners" shall include, collectively, all such Persons, unless the context clearly implies that such term only refers to one of them.

"*General Partner Asset Management Fee*" means the asset management fee payable by the Partnership to the General Partner pursuant to the General Partner Asset Management Fee Agreement from Cash Flow and Net Proceeds as described in Article IV, in the annual, cumulative amount of $14,500, commencing on January 1, 2024, and increasing by 3% per annum beginning on January 1, 2025.

"*General Partner Asset Management Fee Agreement*" means the General Partner Asset Management Fee agreement dated as of the Closing Date by and between the Partnership and the General Partner relating to the payment of the General Partner Asset Management Fee.

"*Investor Limited Partner*" means Wells Fargo Community Investment Holdings, LLC, a Delaware limited liability company, and any Person or Persons who, at the time of reference thereto, have been admitted as additional or successor Investor Limited Partners.

"*Management Agent*" means Delwest Management Corp. and/or any successor or assign that is selected by the General Partner, with the Consent of the Investor Limited Partner, to provide management services with respect to the Apartment Complex from time to time in accordance with Article XI.

"*Mortgage Loan Documents*" means any commitment, loan agreement, promissory note, Mortgage, regulatory agreement, security agreement, assignment, assumption agreement, or other instrument executed or to be executed by the Partnership in connection with any Mortgage Loan.

"*Net Proceeds*" means the difference between (A) the sum of (i) the gross proceeds from a Capital Event other than a refinancing; (ii) the excess proceeds from the refinancing of any Mortgage Loan (that is, any refinancing proceeds not needed for the repayment of the loan refinanced); and (iii) any proceeds received from insurance settlements or other claims attributable to fire or other casualty, or from condemnation, sales or grants of easements, rights–of–way or the like in excess of those needed for repair, restoration or replacement of the damaged, destroyed or condemned property and (B) the payment of or due provision for (i) all liabilities to creditors of the Partnership (excluding, except in the event of the dissolution and liquidation of the Partnership, fees owed to the General Partner and loans to the Partnership from the General Partner or Affiliates thereof for any purpose, including, without limitation, Operating Deficit Loans) and (ii) necessary and customary expenses of such Capital Event or refinancing (other than, except in the event of the dissolution and liquidation of the Partnership, expenses payable to the General Partner or an Affiliate thereof).

"*Operating Deficit*" shall mean the amount by which (i) the amount of funds available to the Partnership from Effective Gross Income of the Apartment Complex, *together with* other available cash and funds on hand of the Partnership, if any (including, after Period 1, amounts released from the Operating Reserve), for the relevant time period *but excluding*: (a) funds from Capital Contributions (except to the extent that Capital Contribution proceeds are specified in the Budget as available to fund initial working capital amounts), (b) the proceeds of any loans obtained by the Partnership (except for Operating Deficit Loans), (c) advance rent payments and (d) nonforfeited tenant deposits, is less than (ii) the amount necessary to meet all of the operating costs and expenses of any type due and payable for such time period incidental to the operation and business activities of the Partnership, including, without limitation, debt service payments due under the Mortgage Loans (other than Soft Debt Payments), taxes, insurance, costs of operations, maintenance, repairs, interest, Management Fees and expenses, prepaid expenses, any expenses and payments for relocation of tenants, and reserve funding and maintenance requirements set forth in Section 6.10, but excluding repayment of any loans from the General Partner or Affiliates thereof, distributions of Cash Flow to Partners or payments of fees or other items solely from available Cash Flow, replenishment of the Operating Reserve from Cash Flow, amounts expended for capital improvements and similar items, and expenses, fees and reserves which are permitted to be funded from proceeds of Capital Contributions or Mortgage Loans. For purposes of the foregoing, to the extent provided in Section 7.01 hereof, up to 50% of the monthly Management Fee shall not be treated as an operating cost or expense of the Apartment Complex and shall instead be deferred without interest as necessary to reduce the amount, or avoid the occurrence of, an Operating Deficit.

"*Operating Deficit Loan*" means any loan or loans made to the Partnership pursuant to Section 6.12.

"*Operating Reserve*" means that certain operating reserve of the Partnership funded from the Performance Installment and established and maintained pursuant to Section 6.10(o).

"*Operating Reserve Amount*" means $_____, which is the initial amount to be deposited into the Operating Reserve from the Performance Installment and the target amount to be replenished from Cash Flow and Net Proceeds.

"*Partnership*" means Albion Apartments LLLP, a limited liability limited partnership formed under and pursuant to the Uniform Act.

"*Partnership Accounting Year*" means the accounting year of the Partnership, ending December 31 of each year.

"*Partnership Tax Return*" means the United States Partnership Income Tax Return (Form 1065) for the Partnership, together with all Schedules K–1 included therein, and all state and local tax returns and other similar schedules required to be filed with respect to the operations of the Partnership.

"*Permanent Loan Conversion*" means the date on which the Taxable Construction Loan has been repaid in full, the Tax-Exempt Note shall have been purchased by Wells Fargo, as servicer for Freddie Mac, and the Mortgage Loan Documents for the First Mortgage Loan have been executed in forms approved by the Investor Limited Partner pursuant to Section 5.04.

"*PILOT Agreement*" means that certain Agreement for Payments In Lieu of Taxes dated as of the date hereof by and between DHA and the Partnership.

"Property Tax Escrow Account" means that certain escrow account described in Section 6.10(p)(iii) and established and maintained pursuant to the Addendum.