

BOULDER COUNTY WORTHY CAUSE FUNDING AGREEMENT

between

COUNTY OF BOULDER, STATE OF COLORADO

and

LONGMONT HOUSING AUTHORITY

AWARD AMOUNT: \$150,000

Worthy Cause Round: IV

Worthy Cause Year: 2024

Capital Funding Type:

- ☐ **Debt Reduction**
- ☐ **Purchase**
- ☒ **Construction**
- ☐ **Improvements/Renovations**

1. PARTIES

This Boulder County Worthy Cause Funding Agreement (hereinafter called “Funding Agreement”) is entered into by and between LONGMONT HOUSING AUTHORITY, a Colorado body corporate and politic (hereinafter called the “Agency”), and the COUNTY OF BOULDER, Colorado, a body corporate and politic (hereinafter called the “County”). The Agency and the County are each a “Party,” and collectively are “Parties” to this Funding Agreement.

2. RECITALS

A. Authority, Appropriation, and Approval

The County has authority to enter into this Funding Agreement pursuant to Board of County Commissioners’ Resolution No. 2017-89 and 2017 County Ballot Issue 1A, “Worthy Cause 0.05% Countywide Sales and Use Tax Extension,” hereinafter referred to as “Worthy Cause IV,” which was adopted by the voters of the County of Boulder in November 2017.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient to support this Funding Agreement.

C. Purpose

i. **Worthy Cause IV:** The purpose of Worthy Cause IV is to address the critical need for capital facilities and equipment of nonprofit human services agencies and housing authorities that provide free or low-cost health, transitional and permanently affordable housing, and other human services, including but not limited to childcare and early childhood education, basic needs such as food and clothing, and services for the elderly and people with disabilities. Worthy Cause IV funds are collected by and through a voter-approved 0.05% countywide sales and use tax. Worthy Cause IV funds are awarded to select eligible nonprofit organizations and housing authorities for use in capital projects, including but not necessarily limited to, facility construction, property or facility purchases, facility renovations, and the reduction of capital debts such as mortgages or loans incurred to fund capital purchases, construction, or renovation.

ii. **Funding Agreement:** The purpose of this Funding Agreement is described in **Exhibit B**.

3. DEFINITIONS

The following terms as used herein will be construed and interpreted as follows:

Collateral Assignment of Note and Deed of Trust: “Collateral Assignment of Note and Deed of Trust” means the Collateral Assignment of Note and Deed of Trust executed by the Agency and recorded on the title to the Property in a form substantially similar to **Exhibit D**.

Effective Date: The “Effective Date” of this Funding Agreement will be the date of the last Party signature, as reflected on the Signature Pages.

Event of Default: Each of the following events constitutes a breach of this Funding Agreement. An “Event of Default” will exist when any one or more of the following events continues to exist after the notice and cure period described in **§19(B)**.

i. Following completion of the Project and the initial lease up of the affordable housing units on the Property, the failure of The Ascent at Hover Crossing, LLLP, a Colorado limited liability limited partnership, which is the fee simple owner of the Property, and its successors and assigns (the “Project Partner”) to use or cause the Property to be used, for a period of 30 or more consecutive days as a necessary and integral part of the Program, as described in **Exhibit B**, unless such interruption is due to reasons beyond the reasonable control of the Project Partner, as determined by the County;

ii. Material violation of this Funding Agreement that remains uncured after all applicable notice and cure periods;

- iii. Failure of the Agency to fulfill its obligations under **Exhibit B**;
- iv. [Intentionally Omitted];
- v. The filing of a petition by the Agency or Project Partner for any proceedings under federal or state bankruptcy acts or other similar-type proceedings seeking protection from creditors not dismissed within 120 days thereafter;
- vi. The giving by the Agency or Project Partner, as applicable, of an assignment of any interest in the Property for the benefit of creditors, except for mortgages or deeds of trust given as security for one or more loans obtained by the Agency or the Project Partner, as applicable, to finance the Program or from time to time in the ordinary course of business;
- vii. The dissolution of the Agency as an entity other than in conjunction with a merger or consolidation of said entity into, or the transfer of the Property to, another or surviving entity which will thereby become the owner of the Property and continue the Program; or
- viii. Any representation of the Agency made herein or made by the Agency or any agent of the Agency in any submission or document delivered by or on behalf of the Agency in connection with this Funding Agreement proves to be materially untrue to the actual knowledge of the Agency at the time such representation was made.

Funding Agreement: "Funding Agreement" means this Funding Agreement, its terms and conditions, attached exhibits, documents incorporated by reference pursuant to the terms of this Funding Agreement, and any future modifying agreements, exhibits, attachments or references incorporated herein.

Funding Documents: "Funding Documents" means the Collateral Assignment of Note and Deed of Trust, and Restrictive Covenant (if required), and all such other documents, instruments and agreements and all amendments, replacements, extensions and renewals of any of the foregoing.

Party or Parties: "Party" means the Agency or the County and "Parties" means both the County and the Agency.

Program: "Program" means the program administered by the Agency or the Project Partner, as applicable, on the Property as fully described in **Exhibit B**.

Project: "Project" means the capital undertaking proposed in the Agency's Worthy Cause IV Application that forms the basis for the Worthy Cause Award as fully described in **Exhibit B**.

Property: “Property” means the real property for which the Worthy Cause Funds will be used for capital purposes, the legal description of which is set forth in **Exhibit A**.

Services: “Services” means the core services to be performed by the Agency as set forth in detail in **Exhibit B**.

Worthy Cause Funds: “Worthy Cause Funds” means funds payable by the County to the Agency pursuant to the Board of County Commissioners’ Worthy Cause IV award and this Funding Agreement.

4. INCORPORATION

All of the attachments and Exhibits to this Funding Agreement are incorporated by reference.

5. TERM

This Funding Agreement will commence on the Effective Date and will continue for a term of 99 years.

6. AGENCY OBLIGATIONS

The Agency will perform all of its obligations as described herein and in **Exhibit B**.

7. PAYMENTS TO AGENCY

The County will pay the Agency in the following amounts using the methods set forth below:

A. Maximum Amount: The maximum amount payable under this Funding Agreement to the Agency by the County is the Award Amount.

B. Conditions on County’s Obligation to Fund: The County will pay to the Agency the Worthy Cause Funds upon satisfaction of all of the following conditions, as determined by the County in its sole and absolute discretion:

- i. Receipt of an executed copy of this Funding Agreement;
- ii. [Intentionally Omitted];
- iii. Receipt of an executed Collateral Assignment of Note and Deed of Trust;
- iv. Receipt of an executed Restrictive Covenant (if required by the County);
- v. Receipt of a copy of the Agency’s W-9 Form;

- vi. Receipt of a copy of Title Report pursuant to §8;
- vii. Receipt of a copy of Property Valuation pursuant to §8; and
- viii. Any other requirements as communicated in writing by the County to the Agency prior to the execution of this Funding Agreement.

C. Interest: In no event will the County pay any interest to the Agency.

D. Use of Funds and Property: The Agency will use the Worthy Cause Funds to make a loan to the Project Partner, the proceeds of which the Project Partner will use solely for the purpose of the Project in furtherance of the Program.

E. Disbursement of Funds: The County will provide to the Agency instructions as to the disbursement of the Worthy Cause Funds. Upon confirmation that the Conditions on County's Obligation to Fund are satisfied, the County will remit, in accordance with the County's instructions, the Worthy Cause Funds to the Agency pursuant to the information on the Agency's W-9 Form.

F. No Guaranty of Future Awards: The disbursement of Worthy Cause Funds to the Agency will in no way guarantee that the Agency will receive additional Worthy Cause funds or other County funds in future years.

8. TITLE REPORT AND PROPERTY VALUATION

The Agency must provide to the County documentation issued within the past 12 months by an independent third-party professional entity evidencing (1) a legally reliable recitation of the Property's title history, such as a Title Report, Title Commitment, or Title Work, and (2) the valuation of the Property, such as an appraisal, broker's opinion, or Boulder County Assessor valuation.

9. ACKNOWLEDGEMENT OF RECEIPT

Upon receipt of the Worthy Cause Funds, the Agency will provide to the County an Acknowledgement of Receipt that includes the following information:

- a. Name and address of the Agency;
- b. Amount of funds received; and
- c. A description of how the funds were used.

10. COLLATERAL ASSIGNMENT OF NOTE AND DEED OF TRUST

The Agency will execute the Collateral Assignment of Note and Deed of Trust in favor of the County to secure the Agency's obligations hereunder and, which will be recorded against the Property. The Collateral Assignment of Note and Deed of Trust will be executed by the Agency upon the Project Partner's closing on full financing for the Project and promptly submitted to the County. The Agency will cause the Collateral Assignment of Note and Deed of Trust to be filed in the Boulder County Clerk and Recorder's Office.

11. RESTRICTIVE COVENANT

If required by the County, the Agency will execute a Restrictive Covenant in favor of the County, the form of which will be substantially similar to **Exhibit E** (human services delivery) or **Exhibit F** (permanently affordable housing). The County will file the Restrictive Covenant in the Boulder County Clerk and Recorder's Office.

12. REPORTING, NOTIFICATION

A. Performance

The County may request that the Agency provide a report containing a summary of the services provided by the Agency or the Project Partner, as applicable, through the Program for the then-preceding 12 month period. The County may also request that the Agency provide financial statements to the County showing the Project Partner's financial condition and use of the Worthy Cause Funds. The Agency will provide the requested documents or cause the requested documents to be provided within 60 days of the County's request.

B. Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Funding Agreement or which may affect the Agency's ability to perform its obligations hereunder, the Agency will notify the County of such action and deliver copies of such pleadings to the County's representative as identified herein.

If the Agency becomes aware of any situation, event, or condition which, to the best of its knowledge, would result in noncompliance of the Program, the Project, or the Agency with Colorado law, the Agency will promptly give written notice thereof to the County.

C. Annual Certification

On an annual basis, the Agency will submit to the County a written certification affirming the Agency's compliance with this Funding Agreement. Each written certification is due to the County by January 31 for the preceding calendar year. For example, the written certification for the current calendar year will be due on January 31st of the following calendar year.

13. COMPLIANCE AUDITING

A. Records Maintenance

The Agency will, or will contractually require the Project Partner to, make, keep, maintain, and allow inspection and monitoring by the County of a complete file of all records, documents, communications, financial statements, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Property, the Program, the Project, or the delivery of Services hereunder. Agency will, or will contractually require the Project Partner to, retain all such records for a five-year period.

B. Inspection and Monitoring

The Agency will, or will contractually require the Project Partner to, permit the County to audit, inspect, examine, excerpt, copy and transcribe the Agency's or Project Partner's, as applicable, records related to this Funding Agreement to confirm compliance with the terms hereof. The Agency will, or will contractually require the Project Partner to, allow the County access to its Project records at any time during normal business hours upon 48 hours advance notice.

The Agency will, or will contractually require the Project Partner to, permit County access to the Property at all reasonable times and places during the term of this Funding Agreement. The County will provide the Agency or the Project Partner, as applicable, with ten days' advance notice of its intention to enter the Property, except if the County reasonably determines there is an immediate need to take emergency action to prevent a material violation of this Funding Agreement.

If the Agency's or the Project Partner's, as applicable, use of the property fails to comply with this Funding Agreement, or the County otherwise determines that the Agency is noncompliant with its obligations under this Funding Agreement, the County may require the Agency to promptly take action to comply with the Funding Agreement and, after the expiration of any applicable cure period, may exercise the remedies available under this Funding Agreement, at law or in equity in lieu of or in conjunction with such corrective measures.

14. SUBSTITUTE COLLATERAL

With the passage of time, the Property may no longer be suitable for the Program, and it might be necessary for the Agency to secure an alternate property for the Program. Consequently, if the Agency notifies the County that it wishes to purchase another property in Boulder County to replace the Property, and the County determines in its sole discretion that the new Property is sufficient to protect the County's interests, the County will release the Deed of Trust recorded against the Property and the Parties will replace such instrument with a new deed of trust or other security instrument acceptable to the County in its sole discretion, to be recorded against the substitute property to secure the Agency's obligations through the remainder of the

Funding Agreement Term. Notwithstanding anything to the contrary herein, the Agency may assign its rights and obligations under this Funding Agreement pursuant to §25(A).

15. MODIFICATIONS TO THE PROGRAM AND THE SCOPE OF SERVICES

With the passage of time the needs of the community and other circumstances may require modifications to the Agency's obligations to administer the Program and provide the Services. Consequently, the Parties may agree to amend this Funding Agreement, along with the Collateral Assignment of Note and Deed of Trust, if necessary or required, to more closely align the Agency's obligations with then-current circumstances and needs of the community. A change in circumstances does not relieve the Agency of its obligations under this Funding Agreement until the County has agreed to amend this Funding Agreement. The County may decline to modify any terms of this Funding Agreement if the Agency fails to show a reasonable need therefor, or vice versa if the County requests such modification.

16. CONFLICTS OF INTEREST

The Agency will not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of the Agency's obligations hereunder. The Agency acknowledges that with respect to this Funding Agreement, even the appearance of a conflict of interest is harmful to the County's interests. Absent the County's prior written approval, the Agency will refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Agency's obligations to the County hereunder. If a conflict or appearance exists, or if the Agency is uncertain whether a conflict or the appearance of a conflict of interest exists, the Agency will submit to the County a disclosure statement setting forth the relevant details for the County's consideration. Failure to promptly submit a disclosure statement after the Agency obtains actual knowledge of a conflict of interest or to follow the County's direction in regard to the apparent conflict constitutes a breach of this Funding Agreement. Notwithstanding the foregoing, the participation of the Agency or an affiliate or subsidiary of the Agency as a partner in the Project Partner shall not constitute a conflict of interest within the meaning of this Section 16.

17. REPRESENTATIONS AND WARRANTIES

The makes the following specific representations and warranties, each of which was relied on by the County in entering into this Funding Agreement.

A. Standard and Manner of Performance

The Agency will perform its obligations hereunder in accordance with reasonable standards of care, skill and diligence common in the affordable housing industry and in the sequence and manner set forth in this Funding Agreement.

B. Legal Authority – Agency and Agency's Signatory

The Agency warrants that it possesses the legal authority to enter into this Funding Agreement and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Funding Agreement, or any part thereof, and to bind the Agency to its terms.

C. Licenses, Permits, Etc.

The Agency represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it will have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder.

D. Compliance with Laws

The Agency will comply, or will contractually require the Project Partner to comply, with all applicable federal, state, and local laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

18. DELEGATION OF COUNTY SIGNATURE AUTHORITY

A. Authorized Officers: The Board of County Commissioners of Boulder County hereby delegates to the Chair, any commissioner, Program Administrator Meca Delgado, and any attorney in the County Attorney's Office (the "Authorized Officers") authority to sign all documents related to the Worthy Cause Funds, and to enter into and perform all of its obligations under and take all actions and enter into all contracts and agreements necessary to carry out of the intent of this Funding Agreement in the judgment of the Authorized Officers. All documents and agreements to be entered into by the County will be in form and substance acceptable to the Authorized Officers in the sole discretion of the Authorized Officers, such acceptance to be evidenced by any such person's execution of any such documents.

B. Execution and Delivery: The Authorized Officers are hereby authorized to execute and deliver, and hereby are authorized to affix the County seal and acknowledge, if required, on behalf of the County, any and all agreements, instruments and certificates as such persons in their sole and absolute discretion may deem appropriate or helpful in connection with this Funding Agreement, whether in connection with the closing of the transactions described above or thereafter, and agreements containing such terms and provisions as the Authorized Officer executing the same considers appropriate in his or her sole and absolute discretion, and to do such other acts and things as may be appropriate or helpful and consistent with carrying out the intent and purposes of this Funding Agreement, with the execution and delivery of any of the foregoing documents or the doing of any act or thing being conclusive evidence as to the appropriateness thereof as determined by the Authorized Officer executing or doing the same.

19. BREACH

A. Defined

In addition to any of the Events of Default, and any breach of this Funding Agreement or the Funding Documents, the failure of either Party to perform any of its obligations hereunder, in whole or in part, or in a timely or satisfactory manner, constitutes a breach.

The Agency has an affirmative duty to notify the County of the occurrence of any of the Events of Default or any other breach of this Funding Agreement within 10 business days after the Agency becomes aware of said occurrence or breach.

B. Notice and Cure Period

In the event that the County determines that the Agency has breached this Funding Agreement, the County will provide written notice to the Agency in the manner provided in §22 and to the person and address listed in **Exhibit B**. If the Agency fails to cure the breach within 90 days of the delivery of the written notice, such uncured breach will constitute an Event of Default, entitling the County to exercise any of its remedies set forth in §21.

The County may determine that a breach is not reasonably capable of being cured within 90 days. In such cases, the Agency will have such additional time as is reasonably necessary to cure the breach, as determined by the County, prior to the County exercising any of its remedies, so long as the Agency takes the following action within the 90-day notice period:

- i. Initiates corrective action; and
- ii. Continues to diligently, continually, and in good faith work to effect a cure as soon as possible.

In no event will the County be precluded from exercising remedies if security or safety becomes or is about to become materially jeopardized by the Agency's breach or failure to cure, or if the breach is not cured within 180 days after first notice of breach is given.

Notwithstanding anything in this Agreement to the contrary, any other members, owners, or partners of Project Partner shall have the right, but not the obligation, to cure defaults of the Agency hereunder, and the County hereby agrees to accept any cure of any breach or default made or tendered by one or more of such Project Partner's members, owners, or partners on the same basis as if made or tendered by the Agency.

20. RIGHT TO ACCESS

The County will be permitted access to, and entrance upon, the Property at all reasonable times upon reasonable advance notice, where 48 hours advance notice will be presumed reasonable, provided that any such access shall be subject to the rights of all tenants of the Project, and the County shall at all times be accompanied by a representative of the Agency or the Project Partner. The Agency will, or will contractually require the Project Partner to, as

applicable, allow the County access to its Project records, which will include, but are not limited to, the Project Partners' financial statements. The Agency grants the County authority to make copies of any Agency records related to the Agency's performance under this Funding Agreement.

21. REMEDIES

A. Authority to Pursue Available Remedies

In the event that the County declares an Event of Default, the County will have the remedies listed in this Section in addition to all other remedies set forth in other sections of this Funding Agreement or the Funding Documents. Upon an Event of Default, the County, at its option, may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

B. Remedies upon Uncured Default

i. **Declare Due and Payable:** Upon the occurrence of an Event of Default, the County will have the right to declare the amount of Worthy Cause Funds plus 5% interest due and payable (or so much thereof as the County has advanced hereunder), and to enforce its rights under this Funding Agreement and/or any of the Funding Documents, with any amount owing to the County to include the amount of Worthy Cause Funds plus 5% interest.

ii. **Enforcement Generally:** Except as otherwise provided in this Funding Agreement, upon an Event of Default the County will have the right (but not the obligation) to enforce by a proceeding at law or in equity, all restrictions, conditions, covenants and charges now or hereafter imposed by the provisions of this Funding Agreement. Failure by the County to enforce any covenant or restriction contained in this Funding Agreement will not be deemed a waiver of the right to do so thereafter. The prevailing party in any judicial proceeding will be entitled to reimbursement from the non-prevailing party or parties for all reasonable costs and expenses, including attorneys' fees in connection with such judicial proceeding.

iii. **Specific Enforcement:** This Funding Agreement may be specifically enforced against the Agency or any successor in interest, with the Agency specifically acknowledging that the beneficiaries of the Agency's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. Venue for such action will be proper in Boulder County.

22. NOTICES

All written notices required to be provided by the Parties under the terms of this Funding Agreement will be in writing, signed by a person duly authorized to provide such notice, and will

be deemed given when sent by (i) first class registered or certified mail, return receipt requested, (ii) facsimile transmission, or (iii) electronic mail, read receipt requested, to the parties hereto at the addresses set forth in **Exhibit B**, or to such other place as a party may from time to time designate in writing. All notices will be deemed sufficient (a) upon receipt after dispatch by registered or certified mail, (b) upon confirmation of receipt when transmitted by facsimile transmission, or (c) upon confirmation of receipt when transmitted by electronic mail. Any notice party will provide current facsimile numbers and email addresses upon request.

23. RIGHT OF FIRST REFUSAL

24. GOVERNMENTAL IMMUNITY

Nothing in this Funding Agreement will be construed in any way to be a waiver by the County of its immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

25. GENERAL PROVISIONS

A. Assignment: Neither Party will assign, sublet, or transfer its interest in this Funding Agreement without the written consent of the other. Upon receipt of a written request from the Agency, the Board of Boulder County Commissioners' Deputy (or his or her designee) will have the authority to approve an absolute assignment of all of the Agency's rights and obligations under this Funding Agreement to another agency eligible for Worthy Cause, such as a nonprofit organization or housing authority, so long as the assignee provides the County adequate written assurance that it accepts the assignment and can and will satisfy all obligations of the Agency regarding the Program. The County's consent to the aforementioned assignment will not be unreasonably withheld or delayed.

B. Complete Agreement, Binding Effect: This Funding Agreement represents the complete agreement between the Parties hereto and will be fully binding upon the successors, heirs, and assigns of the Parties, if any, during the term hereof. This Funding Agreement supersedes, as of the Effective Date, any and all prior agreements between the Parties relating to the subject matter of this Funding Agreement, whether written or oral or partly written and partly oral.

C. Captions: The captions and headings in this Funding Agreement are for convenience of reference only, and will not be used to interpret, define, or limit its provisions.

D. Counterparts: This Funding Agreement may be executed in multiple identical original counterparts, all of which will constitute one agreement.

E. Indemnification: The Agency will defend, indemnify, save, and hold harmless the County and its employees and agents against any and all losses, claims, suits, judgments, or liabilities incurred to the extent resulting from any act or omission by the Agency, or its employees, agents, volunteers, subcontracts, or assignees pursuant to the terms of this Funding Agreement. The Agency will pay all costs and reasonable attorney's fees, if any, incurred by the

County as a result of any such claims or suits, provided that the Agency will have the right to defend the interests of the County with counsel selected by the Agency reasonably acceptable to the County. In the alternative, if the County is obliged to defend such claims or suits, the time, if any, of the attorneys and paralegals in the Boulder County Attorney's Office spent on any such claims or suits will be paid for by the Agency in accordance with the current hourly market rates in Boulder County for legal services at the time of such legal defense for submission of litigation billing and charges in court cases.

F. Jurisdiction and Venue: All suits, actions, or proceedings related to this Funding Agreement will be held in the State of Colorado and exclusive venue will be in the County of Boulder.

G. Governing Law: The laws of the State of Colorado will govern the interpretation and enforcement of this Funding Agreement.

H. Amendment: No amendments or modifications will be made to this Funding Agreement unless it is in writing and signed by both Parties.

I. Severability: In the event it is determined by a final, non-appealable order of a court of competent jurisdiction that any provision of this Funding Agreement or any other Funding Document is invalid, illegal, or unenforceable, the remaining provisions will survive and their validity, legality or unenforceability will not in any way be affected or impaired thereby, and the Agency and the County agree they will take all such actions as are necessary and reasonable to achieve, to the greatest degree and for the longest possible term, the intent of the affected provisions.

J. No Third-Party Beneficiary: The enforcement of the terms and conditions of this Funding Agreement and all rights of action relating to such enforcement will be strictly reserved to the County and the Agency, and nothing contained in this Funding Agreement will give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the Parties to this Funding Agreement that any person receiving services or benefits under this Funding Agreement will be deemed an incidental beneficiary only.

K. No Waiver: No failure on the part of any of the Parties to exercise, and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Funding Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or remedy under this Funding Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or remedy.

L. CORA Disclosure: To the extent not prohibited by federal law, this Funding Agreement is subject to public release through the Colorado Open Records Act (CORA), CRS §24-72-101, et seq. Any related documentation, records, and communications may also be subject to public release under CORA.

M. Non-Discrimination: The Agency will not, and will contractually require the Project Partner not to, discriminate on the basis of race, creed, color, gender, gender identity, age, marital status, national origin, disability or familial status, religion, sexual orientation, genetic information, or any other status protected by applicable federal, state, or local law in the performance of its obligations hereunder.

N. Safe Condition: The Agency will, or will contractually require the Project Partner to, maintain the Property in good and safe condition in all respects, and in full compliance with all applicable laws, ordinances, rules, and regulations of any governmental authority with jurisdiction over matters concerning the Property.

O. Controlling Authority: The Agency will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and in any event, the requirements of this Funding Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other provisions in conflict herewith.

P. No Joint Venture: Nothing in this Funding Agreement will be deemed to create an agency, partnership, joint venture or employment relationship between the Parties.

Q. Electronic Signatures and Electronic Records: Each of the Parties consents to the use of electronic signatures by the other Party. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by any of Parties in the manner specified by such signing Party. The Parties agree not to deny the legal effect or enforceability of the 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 the 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.

26. EARLY TERMINATION BY AGENCY

The Agency may terminate this Funding Agreement at any time by giving the County written notice of its intention to do so. In the event that the Agency chooses to exercise this option, the Agency must repay to the County (or cause the Project Partner to repay to the County) any Award Amount that has been disbursed to the Agency. Upon repayment of the Award Amount and interest, this Funding Agreement will immediately terminate. Upon termination, the County will release any security documents that the County recorded against the Property pursuant to this Funding Agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Funding Agreement to be duly executed as of the Effective Date.

LONGMONT HOUSING AUTHORITY, a Colorado
body corporate and public

By:

Name:

Title:

Executive Director

COUNTY OF BOULDER, COLORADO, a public
body, corporate and politic

By: _____

Name:

Title: Chair of the Board of County Commissioners

Attest: _____ Date: _____

Clerk to the Board

EXHIBIT A
LEGAL PROPERTY DESCRIPTION

PARCEL A:

LOT 1, BLOCK 2, HOVER CROSSING P.U.D. FILING 2, COUNTY OF BOULDER, STATE OF COLORADO;

AND

LOT 2, BLOCK 2, HOVER CROSSING P.U.D. FILING 2, COUNTY OF BOULDER, STATE OF COLORADO.

PARCEL B:

THOSE EASEMENT RIGHTS AS CONTAINED IN RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED DECEMBER 2, 2004 UNDER RECEPTION NO. 2647279 AND RECORDED DECEMBER 3, 2004 UNDER RECEPTION NO. 2647838.

EXHIBIT B

I. PURPOSE OF FUNDING AGREEMENT

The County has awarded the Agency with \$150,000 in Worthy Cause 2024 Funds to be used to make a loan to the Project Partner for construction of a family-friendly affordable housing complex, The Ascent at Hover Crossing, in Longmont.

II. DESCRIPTION OF THE PROJECT

LONGMONT HOUSING AUTHORITY'S, The Ascent at Hover Crossing, will provide 75 units of much needed family-friendly affordable housing in a high-opportunity neighborhood in Longmont. The community will be built on a 2.4 acre infill site in northern Longmont where a full-service grocery store, pharmacy, hospital, outdoor recreation opportunities, public transportation and a variety of amenities are all within a few blocks. The development is a joint effort between the Longmont Housing Authority (LHA) and Pennrose, LLC (Pennrose), a long-standing and highly experienced affordable housing developer.

Utilizing the Income Averaging program, the units will be restricted to households earning at or below 30%, 40%, 50%, 70% and 80% AMI. With a unit mix consisting of 18 one-bedroom, 30 two-bedroom, 21 three bedroom and 6 four-bedroom units, a standalone community center. and an on-site Early Childhood Education Center, The Ascent is designed with families and children at its' core.

III. DESCRIPTION OF AGENCY'S MISSION

The Longmont Housing Authority's Mission is to provide housing and related services to low- and moderate-income families, elderly and disabled households and to relive the community of substandard housing.

IV. DESCRIPTION OF THE PROGRAM

The Longmont Housing Authority (LHA) is a quasi-governmental agency authorized by Colorado Statute. LHA has been in existence since 1975, serving the City of Longmont. LHA's primary activity is the ownership and management of currently, 461 affordable apartments for seniors, families, and formerly homeless. Its mission is to provide housing and related services to low- and moderate-income families, elderly and disabled households and to relieve the community of substandard housing. LHA accomplishes this mission through the development, ownership and management of its low-income housing portfolio. In addition, LHA manages the Section 8 voucher program within the City of Longmont allowing rent assistance for over 350 families throughout Longmont.

Access to stable, affordable housing and quality, affordable childcare are essential to a families' economic stability, parents ability to work and children's healthy development. This reality is amplified for disadvantaged households. The Ascent at Hover Crossing goes beyond affordable housing—it stands as a commitment to racial justice and health equity for disadvantaged households. The project responds to Longmont's Hispanic community's significant need for affordable housing and extends an inclusive living environment to other minority and female led households. Understanding housing as a key determinant of health, Pennrose and LHA aim to reduce health disparities by providing a safe, affordable living environment.

The proposed on-site early childhood education center amplifies this commitment to health equity, ensuring access for low-income families to quality early education—which is an essential factor in lifelong health outcomes.

V. SCOPE OF SERVICES

As a material inducement for the County's award of the Worthy Cause Funds to the Agency, the Agency will provide the following human services to residents of Boulder County.

- Development and management of 75 family units serving households at 30%, 40%, 50%, 70% and 80% AMI
- Affordable Housing – Ownership and management of 461 affordable apartments for seniors, families, and formerly homelessness.
- Voucher Management – Housing Choice Voucher Program that helps families of lower income with their monthly rent payments. Project Based Vouchers that are attached to a specific unit.
- Supportive Services – Services for residents living in LHA's senior independent living communities will have access to a range of supportive services so they can age in place as long as possible.

VI. PROPERTY VALUE: \$21,550,000

VII. NOTICE

Notices will be sent to the addresses below:

For the County: Boulder County Community Services
 P.O. Box 471
 Boulder, CO 80306
 Attn: Worthy Cause

with a copy to: Boulder County Attorney's Office
 P.O. Box 471
 Boulder, CO 80306
 Attn: Worthy Cause Attorney

For the Agency: Longmont Housing Authority
 350 Kimbark St.
 Longmont, CO 80501
 Attn: Executive Director

with a copy to: Winthrop & Weinstine, P.A.
 225 S. 6th Street, Suite 3500
 Minneapolis, MN 55402
 Attn: Jon L. Peterson

with a copy to: New Communities Law
 1919 14th Street, Suite 700
 Boulder, CO 80302
 Attn: Ben Doyle

with a copy to:

RBC Community Investments, LLC
600 Superior Avenue
Suite 2300

Cleveland, Ohio 44114
Attention: President and General Counsel

Ascent at Hover Crossing LLLP
230 Wyoming Avenue
Kingston PA 18704

EXHIBIT C

COLLATERAL ASSIGNMENT OF NOTE AND DEED OF TRUST

After recording, return original to:
Boulder County Attorney's Office
P.O. Box 471

Boulder, Colorado 80306

Attention: County Attorney

COLLATERAL ASSIGNMENT OF NOTE AND DEED OF TRUST (1764 and 1780 Hover Street – 2024 Worthy Cause Funds)

THIS COLLATERAL ASSIGNMENT OF NOTE AND DEED OF TRUST (this "Assignment"), dated [____], 2024, is made by the Longmont Housing Authority, a public body corporate and politic of the State of Colorado (the "Lender"), whose address is 350 Kimbark Street, Longmont, Colorado 80501, in favor of the COUNTY OF BOULDER, Colorado, a body corporate and politic (the "County"), whose address is P.O. Box 471, Boulder, CO 80306.

Recitals

1. The Ascent at Hover Crossing LLLP, a Colorado limited liability limited partnership (the "Property Owner") executed a Promissory Note dated [____], 2024, in the principal amount of \$150,000.00 payable to Lender (the "Note").
2. The Note is secured by the Deed of Trust, Security Agreement, Financing Statement, Assignment of Rents and Leases, and Fixture Filing (the "Deed of Trust"), dated on or about the date of the Note, from the Property Owner for the benefit of Lender recorded in the Office of the Clerk and Recorder of Boulder County (the "Recorder's Office"), which encumbers the real property and improvements described on Exhibit A hereto (the "Property").
3. On [____], 2024, Lender and the County entered into a Boulder County Worthy Cause Funding Agreement (the "Worthy Cause Agreement").
4. Lender now desires to collaterally assign the Note and Deed of Trust to the County to secure performance of the obligations set forth in the Worthy Cause Agreement.

Assignment

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Lender, subject to the limitations set forth below, as collateral and security for Lender's obligations under the terms of the Worthy Cause Agreement, hereby grants, bargains, sells, conveys, assigns, transfers and sets over unto the County all of Lender's rights in the Note and the Deed of Trust, together with all monies now owing or that may hereafter become due or owing with respect thereto and the full benefit of all the powers and all the covenants and provisos therein contained and all assignable rights of Lender in and to any and all title insurance policies insuring the lien of the Deed of Trust.

TO HAVE AND TO HOLD the Note and the Deed of Trust, together with the above described security interest in the Property, subject to the terms contained in the Note and the Deed of Trust, and the Worthy Cause Agreement, unto the County, forever.

LENDER represents and warrants that there have been no amendments or modifications, either oral or written, to the Note or Deed of Trust, and that none of the Property has been released from the lien of the Deed of Trust. Lender acknowledges that Property Owner has entered into and delivered or intends to enter into and deliver concurrently with the execution and delivery of the Loan Documents, the Mortgage Loans (as such term is defined in the Deed of Trust).

In the Event of Default (as defined in the Worthy Cause Agreement and subject to the applicable notice and cure period) under the Worthy Cause Agreement, Lender covenants and agrees to do all things reasonably necessary to give effect to the intent of this Assignment, including but not limited to executing any other or further documents necessary or reasonably requested to protect the interest of County or confirm the existence of this Assignment and, if necessary, to join with County, at County's expense, in asserting any claims against any makers under the Note or grantors under the Deed of Trust, and to remit any proceeds collected thereafter on this Note and Deed of Trust to County. County shall have no right whatsoever to exercise any of its rights under this Assignment until there is an Event of Default and subject to the applicable notice and cure periods under the Worthy Cause Agreement.

This is a collateral assignment as security for performance of the obligations set forth in the Worthy Cause Agreement. Notwithstanding anything to the contrary in this Assignment, so long as there is no Event of Default continuing under the Worthy Cause Agreement, Lender shall be entitled to retain all payments received in connection with the Note and Deed of Trust. Notwithstanding anything to the contrary herein, upon satisfaction in full of the Note, this Assignment shall be of no further force or effect, and County shall record a termination of this Assignment in the Recorder's Office; provided that if the Note is satisfied in full prior to the expiration of the term of the Worthy Cause Agreement, Lender must provide the County with adequate substitute collateral securing the performance under the Worthy Cause Agreement, as set forth in the Worthy Cause Agreement, prior to the County releasing or terminating its interest under this Assignment.

Notwithstanding anything in this Assignment to the contrary, any other members, owners, or partners of the Property Owner shall have the right, but not the obligation, to cure Defaults (as defined in the Worthy Cause Agreement and subject to the applicable notice and cure period) of Lender hereunder, and County hereby agrees to accept any cure of any Default (as defined in the Worthy Cause Agreement and subject to the applicable notice and cure period) made or tendered by one or more of Property Owner's members, owners, or partners on the same basis as if made or tendered by Lender. Copies of all notices which are sent to Lender hereunder shall also be sent to the Property Owner at 1800 Wazee Street, Suite 353, Denver, Colorado 80202, Attention: [_____].

This Assignment and the covenants contained herein shall be recorded in the Recorder's Office and inure to the benefit and be binding upon the successors and assigns of the respective parties hereto.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the Lender has executed this Collateral Assignment of the Note and Deed of Trust effective as of the date written above.

LENDER:

LONGMONT HOUSING AUTHORITY,

a public body corporate and politic of the State of Colorado

By: _____

Name: _____

Title: Executive Director

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by [____], the Executive Director of the Longmont Housing Authority, a public body corporate and politic of the State of Colorado, on behalf of the Longmont Housing Authority.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____

The undersigned consents to the Collateral Assignment of the Note and Deed of Trust as set forth above as collateral for the Worthy Cause Agreement, and to the rights granted to County thereby.

 **COUNTY:**

COUNTY OF BOULDER, COLORADO, a
public body corporate and politic

By: _____

Name: Claire Levy

Title: Chair of the Board of County Commissioners

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by
Claire Levy as the **Chair of the Board of County Commissioners** of the **County of Boulder**, a
public body corporate and politic, on behalf of the county.

Witness my hand and official seal. _____

My commission expires

Notary Public

EXHIBIT A
Legal Description

PARCEL A:

LOT 1, BLOCK 2, HOVER CROSSING P.U.D. FILING 2, COUNTY OF BOULDER, STATE OF COLORADO;

AND

LOT 2, BLOCK 2, HOVER CROSSING P.U.D. FILING 2, COUNTY OF BOULDER, STATE OF COLORADO.

PARCEL B:

THOSE EASEMENT RIGHTS AS CONTAINED IN RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED DECEMBER 2, 2004 UNDER RECEPTION NO. 2647279 AND RECORDED DECEMBER 3, 2004 UNDER RECEPTION NO. 2647838.