

PREPARED BY AND RETURN TO:

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STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

LOAN MODIFICATION

THIS LOAN MODIFICATION AGREEMENT (the "Modification"), is made and entered into to be effective the ____ day of July 2018, by and between **EAGLE MARKET PLACE, LLC** (hereinafter referred to as "Borrower") and **COUNTY OF BUNCOMBE** (hereinafter referred to as "County"), and collectively Borrower and County may be referred to as the "Parties".

WITNESSETH:

WHEREAS, the County, pursuant to a Community Development Loan Agreement dated December 10, 2013 ("Loan Agreement"), is the holder of a Note in the amount of Two Million Dollars (\$2,000,000.00) ("Note") secured by a Deed of Trust to Michael C. Frue, Trustee, recorded in Book 5170 at Page 647 ("Deed of Trust") (the Loan Agreement, Note and Deed of Trust collectively referred to as "Loan Documents") on the real property described in Exhibit A attached hereto (the "Property");

WHEREAS, as contemplated by the parties at the time of the execution of the Loan Documents, Borrower, with the consent of the County, subjected the Property to a Declaration of Eagle Market Place Condominium recorded in Book ____ at Page ____, thereby dividing the Property into two (2) condominium units, to wit: Unit 100, which is restricted to office, retail and commercial uses, and Unit 200, which is restricted to residential use, said Units being more particularly described on Exhibit B attached hereto;

WHEREAS, Borrower and County have agreed to allocate the amounts of the Note

secured by Unit 100 and Unit 200, respectively, so that Five Hundred Thousand Dollars (\$500,000.00) of the Note shall be secured by the Deed of Trust on Unit 100 only and One Million Five Hundred Thousand Dollars (\$1,500,000.00) of the Note shall be secured by the Deed of Trust on Unit 200 only;

WHEREAS, except as modified herein, Borrower and the County have agreed that the terms of the Loan Agreement, Note, and Deed of Trust referred to above shall remain in full force and effect.

NOW THEREFORE, in consideration of the mutual promises between the parties and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Borrower hereby amend the Loan Agreement, the Note, and the Deed of Trust for the Eagle Market Place project as follows:

1. The Deed of Trust shall be a lien on Unit 100 only up to the amount of Five Hundred Thousand Dollars (\$500,000.00).
2. The Deed of Trust shall be a lien on Unit 200 only up to the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00).
3. The Borrower further confirms, acknowledges, and represents to the County that the Deed of Trust, as modified as to Unit 200, retains the same lien priority status as the Deed of Trust prior to such modification. The Deed of Trust, shall have no lower than fourth position lien position as to Unit 100.

Except as modified as set forth in this Modification, the remaining terms of said Loan Documents shall remain in full force and effect. To the extent the provisions of this Modification conflict with the Loan Documents, this Modification shall control. The Borrower confirms, acknowledges, and represents to the County that the Loan Documents are valid and binding in accordance with their respective terms, and except as modified by this Modification, shall remain in full force and effect and be binding upon the Borrower.

The Parties agree that this Modification constitutes amendment to the Loan Agreement, Note, and Deed of Trust and does not constitute a novation.

IN WITNESS WHEREOF, the County and Borrower have caused this Loan Modification Agreement to be executed by their properly authorized representative on the date first above written.

Attest:

COUNTY OF BUNCOMBE

County Clerk
(official seal)

By: _____
George A. Wood, Interim County Manager

EAGLE MARKET PLACE, LLC
By: Mountain Housing Opportunities, Inc.,
Managing Member

By: _____
R. Scott Dedman, President

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

I, _____, a Notary Public of the County and State aforesaid certify that Lamar Joyner personally came before me this day and acknowledged that he is the County Clerk of County of Buncombe, and that by authority duly given by the corporation, the foregoing instrument was signed in its name by its Interim County Manager and attested by himself as its County Clerk.

Witness my hand and notarial seal this _____ day of July 2018.

Notary Public
My Commission Expires: _____

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

I, _____, a Notary Public of the County and State aforesaid certify that R. Scott Dedman personally appeared before me this day and acknowledged that he is the President of Mountain Housing Opportunities, Inc., Managing Member of Eagle Market Place, LLC and by the authority given by the corporation, acknowledged the execution of the foregoing instrument on behalf the corporation, as Managing Member of Eagle Market Place, LLC.

Witness my hand and notarial seal this ____ day of July 2018.

Notary Public
My Commission Expires: _____

EXHIBIT A

BEGINNING AT A BOLT FOUND LOCATED AT THE INTERSECTION OF THE WESTERN MARGIN OF SOUTH MARKET STREET AND THE SOUTHERN MARGIN OF EAGLE STREET, SAID POINT OF BEGINNING BEING ALSO THE BEGINNING POINT OF DEED BOOK 2295 PAGE 592, THENCE FROM SAID POINT OF BEGINNING AND RUNNING WITH THE SAID WESTERN MARGIN OF SOUTH MARKET STREET SOUTH 01°16'31" WEST 54.20' TO A BOLT FOUND; THENCE CONTINUING WITH THE SAID MARGIN OF SOUTH MARKET STREET SOUTH 00°44'24" WEST AND PASSING THE FOLLOWING: A 1/2" BENT IRON PIN AT A DISTANCE OF 36.24', A CALCULATED POINT AT A CUMULATIVE DISTANCE OF 38.86' AND A 1/2" IRON PIPE AT A CUMULATIVE DISTANCE OF 80.10' FOR A TOTAL DISTANCE OF 108.86' TO THE SOUTHEAST CORNER OF A ONE STORY BRICK BUILDING; THENCE LEAVING THE SAID WESTERN MARGIN OF SOUTH MARKET STREET AND RUNNING WITH THE SOUTHERN WALL OF THE SAID ONE STORY BRICK BUILDING FOR A PORTION OF THE TOTAL DISTANCE LISTED HEREFTER AND ALSO RUNNING WITH THE SOUTHERN WALL OF A TWO STORY BRICK BUILDING FOR A PORTION OF THE TOTAL DISTANCE LISTED HEREFTER AND FINALLY ALSO RUNNING ALONG WITH THE NORTHERN WALL OF A TWO STORY BRICK/STUCCO BUILDING SOUTH 76°39'21" WEST PASSING A MASONRY NAIL FOUND ON THE SURVEY LINE AT A DISTANCE OF 78.02' FOR A TOTAL DISTANCE OF 123.17' TO THE NORTHWEST CORNER OF THE SAID TWO STORY BRICK/STUCCO BUILDING; SAID BUILDING CORNER FURTHER BEING LOCATED ON THE EASTERN MARGIN OF THE 15' ALLEYWAY KNOWN AS WILSON ALLEY; THENCE WITH THE SAID EASTERN MARGIN OF WILSON ALLEY NORTH 10°38'18" WEST 28.86' TO A #6 REBAR FOUND; SAID REBAR BEARING NC GRID COORDINATES (NAD83-2001): N= 689,799.22' E= 944,637.27'; THENCE CONTINUING WITH THE SAID EASTERN MARGIN OF WILSON ALLEY NORTH 10°23'58" WEST 28.85' TO A #4 REBAR WITH MCABEE ID CAP SET; THENCE LEAVING WILSON ALLEY AND RUNNING WITH THE SOUTHERN BOUNDARY OF THE J.A. WILSON BUILDING CONDO OWNERS PROPERTY (RECORDED IN DEED BOOK 2698 PAGE 866) NORTH 76°25'11" EAST 41.00' TO A #4 REBAR WITH MCABEE ID CAP SET; THENCE CONTINUING WITH THE EASTERN BOUNDARY OF THE SAID J.A. WILSON BUILDING CONDO OWNERS PROPERTY NORTH 11°19'49" WEST 99.81' TO A CALCULATED POINT LOCATED IN THE SAID SOUTHERN MARGIN OF EAGLE STREET; SAID CALCULATED POINT BEING LOCATED SOUTH 11°19'49" EAST 0.43' FROM A MASONRY NAIL FOUND; THENCE CONTINUING WITH THE SAID SOUTHERN MARGIN OF EAGLE STREET NORTH 76°25'11" EAST PASSING THE FOLLOWING: A MASONRY NAIL FOUND AT A DISTANCE OF 28.35' AND ANOTHER MASONRY NAIL FOUND AT A CUMULATIVE DISTANCE OF 84.05' FOR A TOTAL DISTANCE OF 156.99' TO THE POINT AND PLACE OF BEGINNING, CONTAINING 0.412 ACRES / 17,929 SQUARE FEET.

And being all of the property shown on survey by J. Barry West, PLS, entitled "Eagle Market Place, LLC" dated October 1, 2013, being Project No. 10794.

AND BEING all of that property described in those deeds recorded in Book 5055 at Pages 446 and 450 and in Book 5151 at Pages 820 and 825, Buncombe County Registry.

EXHIBIT B

Commercial Unit:

Being all of Unit 100 of Eagle Market Place Condominium as described in that Declaration of Condominium for Eagle Market Place Condominium, which Declaration is recorded in Book ____ at Page ____, Buncombe County Registry, reference to which is hereby made for a more particular description. A plat of Eagle Market Place Condominium is recorded in Plat Book ____ at Page ____, Buncombe County Registry. The architect's plans for Eagle Market Place Condominium are recorded in File ____, Buncombe County Registry. Together with an undivided interest in the Common Elements of Eagle Market Place Condominium as set forth in said Declaration.

Residential Unit:

Being all of Unit 200 of Eagle Market Place Condominium as described in that Declaration of Condominium for Eagle Market Place Condominium, which Declaration is recorded in Book ____ at Page ____, Buncombe County Registry, reference to which is hereby made for a more particular description. A plat of Eagle Market Place Condominium is recorded in Plat Book ____ at Page ____, Buncombe County Registry. The architect's plans for Eagle Market Place Condominium are recorded in File ____, Buncombe County Registry. Together with an undivided interest in the Common Elements of Eagle Market Place Condominium as set forth in said Declaration.