

**SECOND AMENDMENT, ASSIGNMENT, AND
ASSUMPTION AGREEMENT**

THIS SECOND AMENDMENT, ASSIGNMENT, AND ASSUMPTION AGREEMENT (the “Amendment”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (“City”), and **SHERIDAN HOMES, LLC**, a Colorado limited liability company, whose address is c/o NEWSED, 1029 Santa Fe Drive, Denver, Colorado 80204, (“Sheridan”), and **ARCHWAY JODY ACQUISITION LLC.**, a Colorado limited liability company, whose address is 8585 W. 14th Avenue, Suite A, Lakewood, Colorado 80215 (“Archway”), each individually a “Party” and collectively the “Parties.”

RECITALS:

WHEREAS, the City and Sheridan entered into a Loan Agreement on December 4, 2007 (the “Original Loan Agreement”) involving a loan of federal Home Investment Partnerships Program (“HOME Program”) funds in the aggregate principal amount of \$750,000.00; and

WHEREAS, the City provided funds to Sheridan for acquisition costs of a leasehold interest in the land and fee simple interest in the improvement for the real property legally described as (the “Property”):

THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 SOUTHEAST 1/4 NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, EXCEPT THE NORTH 165.00 FEET THEREOF, AND ALSO EXCEPT THE SOUTH 25 FEET THEREOF.

TOGETHER WITH THE NORTH 50 FEET OF THE WEST 94 FEET OF THE SOUTH 495 FEET OF THE EAST 1/2 WEST 1/2 SOUTHEAST 1/4 SOUTHEAST 1/4 NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN.

TOGETHER WITH THE NORTH 50 FEET OF LOT 1, RUNYAN'S SUBDIVISION.

ALL IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

and known as 5375 West 10th Avenue, Denver, Colorado (the “Property”); and

WHEREAS, Sheridan executed a Deed of Trust for the benefit of the City, dated December 20, 2007, and recorded on December 21, 2007 at Reception No. 2007194148 of the Records of City and County of Denver, State of Colorado (the “Deed of Trust”), and encumbering the Property; and

Sheridan Homes, LLC/
Archway Jody Acquisition LLC
Contract No. HOST-202370801-02/GE7A090-02

WHEREAS, the Deed of Trust secured the repayment of the indebtedness evidenced by that certain Promissory Note dated December 20, 2007 (the “Note”); and

WHEREAS, on December 20, 2007, a General Warranty Deed of Land conveyed to ULC CLT, LLC only the Land of the Property from Sheridan, recorded with the Denver Clerk and Recorder at Reception No. 2007194144. Sheridan continued to own the improvements of the Property; and

WHEREAS, as a condition of receiving the loan of HOME Program funds, Sheridan agreed that a certain number of dwelling units of the improvements of the Property would be subject to affordable housing use restrictions for a period of forty years (the “Affordability Period”); and

WHEREAS, the affordability restrictions for the Property associated with the Original Loan Agreement are evidenced by a Rental and Occupancy Covenant dated December 20, 2007, and recorded on January 3, 2008 at Reception No. 2008000982 of the records of the City and County of Denver, State of Colorado (the “Covenant”); and

WHEREAS, the Affordability Period commenced on the recording of the Covenant and is currently set to expire on January 3, 2048; and

WHEREAS, the City and Sheridan entered into a First Amendment and Modification Agreement dated February 18, 2009 (the “First Amendment,” and together with the Original Loan Agreement, the “Loan Agreement”) to modify the terms and conditions of the Original Loan Agreement, Note, Deed of Trust, and Covenant (collectively, with the First Amendment, the “Loan Documents”) to increase the loan amount to \$923,100.00 (the “Loan”); and

WHEREAS, on or about July 27, 2023, Sheridan repaid in full the Loan and satisfied the financial obligations secured by the Note and the Deed of Trust and the City acknowledges that none of the funds provided by the Loan Agreement were received by Archway; and

WHEREAS, on or about July 27, 2023, Sheridan sold and conveyed the improvements of the Property to Archway, while the land of the Property continued to be owned by ULC CLT, LLC; and

WHEREAS, despite the Loan being repaid in full, the Loan Agreement provides that the term of the Loan Agreement would run concurred with the Affordability Period of the Covenant;

additionally, the Loan Agreement contains certain reporting requirements related to the affordable housing not contained in the Covenant; and

WHEREAS, due to the condition of the improvements on the Property, Archway has expressed an intent to redevelop the improvements on the Property and may request and receive funds in the future in support of its redevelopment of the improvements on the Property; and

WHEREAS, Archway has agreed to toll the remaining Affordability Period while the improvements of the Property are redeveloped and the Property is not being used for affordable housing; and

WHEREAS, to ensure that the Covenant is tolled while the Property is redeveloped, that affordable housing at the Property is provided for the balance of the Affordability Period, and that the affordable housing requirements set forth in the Loan Agreement are complied with once the redevelopment is complete, the City is requiring that Archway assume the Loan Agreement, as amended herein, and

WHEREAS, the Parties desire to amend and assign the Loan Agreement as set forth herein; and

WHEREAS, since the execution of the Loan Agreement, the City has reorganized the responsibilities of its departments and has transferred the responsibility for overseeing housing loans from the Division of Housing & Neighborhood Development (“DHND”) to the Department of Housing Stability (“HOST”).

NOW THEREFORE, in consideration of the premises herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. All of the recitals above are hereby confirmed and incorporated herein as part of this Amendment.
2. All references to “Division of Housing & Neighborhood Development” and “DHND” in the Loan Documents shall be replaced to read “Department of Housing Stability” and “HOST,” respectively.
3. The City hereby consents to the transfer of the Property from Sheridan to Archway.

4. Sheridan hereby assigns, and Archway hereby assumes and agrees to perform the obligations of Sheridan as provided in the Loan Agreement and Covenant, except that Archway is not assuming any financial benefits or obligations related to the Loan. The City expressly acknowledges that all financial obligations related to the Loan have been satisfied.

5. All references to “Borrower” in the Loan Agreement and Covenant and related loan documents shall hereinafter mean “Archway Jody Acquisition LLC.”

6. The City hereby consents to Archway’s redevelopment of the Property. Archway agrees that the affordable housing requirements of the Loan Agreement and Covenant will be tolled from the period beginning on July 27, 2023 until a final certificate of occupancy is issued for the redevelopment on the Property. The Covenant term will be extended for the same period of time that the Affordability Period is tolled.

7. Archway agrees to execute and record an amendment to the Covenant to toll the Affordability Period as set forth herein.

8. Paragraph 14 of the Loan Agreement is deleted in its entirety and replaced with:

“14. 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 representative, has the right to access and the right to examine, copy and retain copies, at the City’s election in paper or electronic form, any pertinent books, documents, papers and records related to Borrower’s performance pursuant to this Loan Agreement, provision of any goods or services to the City, and any other transactions related to this Loan Agreement. Borrower shall cooperate with the City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the atter of three years after final repayment under the Loan Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Loan 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 audit pursuant to this paragraph shall require Parties to make disclosures in violation of state or federal privacy laws. Parties shall at all times comply with D.R.M.C. 20-276. The records maintained by Borrower shall include, without limitation, (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.

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 and other requirements of this Loan Agreement; (3) data on evictions, termination 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 filing 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 shall be considered a default of this Loan Agreement.

C. Access and Inspections. For the purposes of assuring compliance with the Loan Agreement, the City shall have the reasonable right of access to the Property, without charge or fees, during the period of the affordability Covenant. 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 Loan Agreement.”

9. Subpart A. in Paragraph 15 of the Loan Agreement is deleted in its entirety and replaced with:

“A. **INTENTIONALLY DELETED.**”

10. Subparagraph B. in Paragraph 15 of the Loan Agreement is deleted in its entirety and replaced with:

“B. **INTENTIONALLY DELETED.**”

11. Paragraph 20 of the Loan Agreement is deleted in its entirety and replaced with:

“20. **INTENTIONALLY DELETED.**”

12. Paragraph 24 of the Loan Agreement is deleted in its entirety and replaced with:

“24. **INTENTIONALLY DELETED.**”

13. Paragraph 25 of the Loan Agreement is deleted in its entirety and replaced with:

“25. **INTENTIONALLY DELETED.**”

14. Paragraph 26 of the Loan Agreement is deleted in its entirety and replaced with:

“26. **INTENTIONALLY DELETED.**”

15. The Loan Agreement is amended to include a new Paragraph 27 as follows:

“27. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Borrower consents to the use of electronic signatures by the City. The 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 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 of that it is not in its original form or is not an original.”

16. The Loan Documents are hereby modified to reflect the amended terms of the Loan Agreement.

17. The City hereby releases Sheridan from all obligations under the Loan Agreement and related documents to the extent such obligations arise from acts, omissions or events occurring on or following the date of this Amendment.

18. Except as herein amended, the Loan Agreement shall continue in effect, and is affirmed and ratified in each and every particular.

19. The Executive Director of HOST, or the Executive Director’s designee, is authorized to execute documents necessary to accomplish the intent of this Amendment so long as the documents are in a form satisfactory to the City Attorney.

20. The Amendment will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGES TO FOLLOW]**

Contract Control Number:
Contractor Name:

HOST-202370810-02 / GE7A090-02
ARCHWAY JODY ACQUISITION LLC
SHERIDAN HOMES LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

HOST-202370810-02 / GE7A090-02
ARCHWAY JODY ACQUISITION LLC
SHERIDAN HOMES LLC

SHERIDAN HOMES LLC,
a Colorado limited liability company

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:
Contractor Name:

HOST-202370810-02 / GE7A090-02
ARCHWAY JODY ACQUISITION LLC
SHERIDAN HOMES LLC

ARCHWAY JODY ACQUISITION LLC,
a Colorado limited liability company

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:
Contractor Name:

HOST-202370810-02 / GE7A090-02
ARCHWAY JODY ACQUISITION LLC
SHERIDAN HOMES LLC

SHERIDAN HOMES LLC,
a Colorado limited liability company

By: Andrea Bavela

Name: Andrea Bavela
(please print)

Title: President / CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number:

HOST-202370810-02 / GE7A090-02

Contractor Name:

ARCHWAY JODY ACQUISITION LLC
SHERIDAN HOMES LLC

ARCHWAY JODY ACQUISITION LLC,
a Colorado limited liability company

By: Archway Investment Corporation, Inc.
a Colorado nonprofit corporation, its Sole Member

Sebastian Corradino

Sebastian Corradino
President and Chief Executive Officer