

**WHEN RECORDED MAIL TO:**  
Department of Housing Stability  
Attention: Melanie Davis-Campbell  
201 W. Colfax Ave., Dept. 615  
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

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**FIRST AMENDMENT, MODIFICATION,  
ASSIGNMENT, AND ASSUMPTION AGREEMENT**

**THIS FIRST AMENDMENT, MODIFICATION, 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 **SHANAHAN DEVELOPMENT, LLC**, a Colorado limited liability company, whose address is 13900 Crabapple Rd., Golden, Colorado, 80401 ("Shanahan Development"), and **155 BANNOCK DEVELOPMENT, LLC**, a Colorado limited liability company, whose address is 13900 Crabapple Rd., Golden, Colorado 80401 ("Borrower"), each individually a "Party" and collectively the "Parties."

**RECITALS:**

**WHEREAS**, the City and Shanahan Development entered into a loan agreement dated March 21, 2023 (the "Loan Agreement"), relating to a loan by the City to Shanahan Development in the original principal amount of \$5,557,500.00 (the "Loan") to finance the costs associated with the acquisition of a property to be redeveloped and used for affordable housing as set forth in Loan Agreement ; and

**WHEREAS**, Shanahan Development executed a promissory note dated March 30, 2023, evidencing the terms of the Loan (the "Promissory Note"); and

**WHEREAS**, repayment of the Promissory Note was secured by a Deed of Trust executed by Shanahan Development for the benefit of the City (the "Original Deed of Trust"), dated March 30, 2023, and recorded on March 30, 2023, in the real property records of the City and County of Denver at Reception No. 2023026323, encumbering the real estate located in the City and County of Denver, State of Colorado described therein (the "Original Property");

**WHEREAS**, as a condition of the receipt of the Loan, Shanahan Development executed a Declaration of Restrictive Covenant (the "Covenant"), dated March 30, 2023, and recorded on

March 30, 2023, in the real property records of the City and County of Denver at Reception Number 2023026324, encumbering the Original Property; and

**WHEREAS**, collectively, the Loan Agreement, Promissory Note, Covenant, and Original Deed of Trust are referred to herein as the “Loan Documents;” and

**WHEREAS**, Shanahan Development and Borrower entered into an assignment agreement pursuant to which Borrower will assume from Shanahan Development all obligations, debts, and liabilities associated with the Loan Documents; and

**WHEREAS**, the City will consent to the assignment; and

**WHEREAS**, the Parties mutually agree to modify the terms and conditions of the Loan Documents to substitute a different property to be acquired for redevelopment use as affordable housing and to serve as security for the Loan; and

**WHEREAS**, the City executed a full release of the Original Deed of Trust dated January 2, 2025, and recorded on January 2, 2025, in the real property records of the City and County of Denver at Reception Number 2025000159; and

**WHEREAS**, the Parties wish to amend, modify, and assign the terms and conditions of the Loan Documents as set forth herein.

**NOW THEREFORE**, in consideration of the promises 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. This Amendment shall become effective upon the recording of this Amendment in the County Records (the “Effective Date”). The City shall deliver a fully executed copy of this Amendment to the title company handling the closing of the purchase of the Property. The title company will record this Amendment in the County Records after the closing of the purchase of the Property, as defined below, by Borrower.

3. Shanahan Development hereby assigns, and Borrower hereby assumes and agrees to perform all obligations of Shanahan Development in the manner and in all respects as provided in the Loan Documents and any amendments thereto; and to be bound by the terms of the Loan Documents, as amended, all as though the Loan Documents had

been made, executed, and delivered by Borrower. The City hereby consents to the assignment of the Loan Documents by Shanahan Development and the assumption by Borrower. As of the Effective Date, the City hereby fully and unconditionally releases Shanahan Development from any and all obligations, duties, or liabilities under the Loan Documents. All references to “Borrower”, “Grantor”, or Shanahan Development, LLC” in the Loan Documents shall hereinafter mean and refer to “155 Bannock Development, LLC.”

4. Section 2, entitled “**Security**,” is deleted in its entirety and replaced with:

“**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 155 W. 5<sup>th</sup> Avenue, Denver, CO 80204 and legally described as set forth in Exhibit D-1 (the “Property”).”

5. Section 4.A., entitled “**Use and Disbursement of Funds**,” is deleted in its entirety and replaced with:

“**4. USE AND DISBURSEMENT OF FUNDS:**

A. Loan proceeds will be used to finance costs associated with the acquisition of the Property, which must be redeveloped and used for affordable housing as required by this Loan Agreement. The budget for the Loan proceeds will be as follows:

Land / Building Acquisition	\$5,000,000
Hard and Soft Costs	\$557,000.00”

6. Section 6, entitled “**Restrictions on Use of Property**,” is deleted in its entirety and replaced with:

“**6. RESTRICTIONS ON USE OF PROPERTY:**

A. The City acknowledges that the Loan proceeds will be used for the acquisition of a vacant property and that Borrower plans to redevelop the Property. The Property, as redeveloped, must contain at least 60 rental and 69 for-sale affordable dwelling units (the “City Units”). The City Units for rent must be rented to households earning between 30% and 80% of the area median income for the Denver area, as determined by HUD, as set forth below. The City Units for sale must be sold to households earning no more than 80% of the area median income for the Denver area, as determined

by HUD. The final determination of affordability limitations for the City Units for sale must be (i) determined prior to the redevelopment of the Property; (ii) compliant with all ARPA requirements; and (iii) approved in writing by the Executive Director. The City Units will be subject to all standard City requirements. The Property must be redeveloped, and a certificate of occupancy issued within five (5) years of the effective date of this First Amendment. .

B. Affordability Limitations for City Units for Rent.

i. Fifteen (15) 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 U.S. Department of Housing and Urban Development (“HUD”), under 24 C.F.R. 888.113, 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.

ii. Fifteen (15) 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. 888.113, 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. Fifteen (15) 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 HUD, under 24 C.F.R. 888.113, 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.

iv. Fifteen (15) of the units at the Property (the “80% 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. 888.113, or (ii) a rent that does not exceed 30% of the adjusted income of a family whose annual income equals 80% of the median income for the Denver area, as determined by HUD, with adjustments for number of bedrooms in the unit.

v. The 30% Units, 60% Units, 70% Units, and 80% Units are referred to collectively herein as the “Affordable 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.

vi. 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 Borrower.

C. Occupancy/Income Limitations for City Units for Rent.

i. 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.

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 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.

iv. The 80% Units shall be occupied by tenants whose incomes are at or below eighty percent (80%) 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.

D. Designation of City Units for Rent. All of the City Units for rent are floating, and are designated as follows:

<b>BEDROOMS</b>	<b>30% Units</b>	<b>60% Units</b>	<b>70% Units</b>	<b>80% Units</b>
1 Bedroom	5	5	5	5
2 Bedroom	5	5	5	5
3 Bedroom	5	5	5	5

TOTAL	15	15	15	15
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E.     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.

F.     Covenant Running with the Land. At closing, Borrower shall execute a covenant a in form satisfactory to the City (“Covenant”), setting forth the necessary restrictions on the use of the Property, which shall be recorded in the real estate records of the City and County of Denver and constitute a covenant running with the land. The Covenant shall encumber the Property for sixty (60) years from the date of the recording of the Covenant for the purposes of fulfilling the terms of this Loan Agreement and all ARPA requirements. Upon the Executive Director’s written approval of the affordability limitations for the City Units for sale pursuant to subsection A., Borrower must execute an amendment to the Covenant or a subsequent covenant or master land lease in a form that is acceptable to the City Attorney to restrict the use of the Property in accordance with such approval. Violation of said Covenant or the failure or refusal to execute an amendment to the Covenant or a subsequent covenant shall be enforceable as an event of default pursuant hereto”

7.     Section 16 of the Agreement, entitled “**Transfers,**” is deleted in its entirety and replaced with:

“16.   **TRANSFERS:**

A.     Simultaneous with the closing on the construction financing for the City Units (or a portion thereof), the Borrower may, with the written consent of the City and in accordance with the conditions of this Loan Agreement, assign a portion of its interest in and to this Agreement to one or more of Elevation Community Land Trust

(“Elevation”), a Colorado nonprofit corporation, Housing and Human Development Corporation (“HHDC”), an Illinois not-for-profit corporation, or a wholly owned subsidiary of Elevation or HHDC.

B. As a condition of the City providing consent to the assignment of Borrower’s interest or a portion thereof, (i) the assignee must agree to assume the obligations of this Loan Agreement, as amended, and the Promissory Note and (ii) Borrower or the assignee must record or cause to be recorded an amended covenant or Master Land Lease in a form that is acceptable to the City attorney setting forth the affordability restrictions specified in Section 6. Upon a valid assignment and assumption of the Loan Agreement, the assignee shall be deemed the “Borrower” hereunder.

C. Except as set forth in this section, the Borrower shall not, without the prior written consent of the City, which may not be unreasonably withheld: (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.

8. Exhibit D is hereby deleted in its entirety and replaced with Exhibit D-1. All references in the original Loan Agreement to Exhibit D are changed to Exhibit D-1, which is attached and incorporated by reference herein.

9. Concurrently with the execution of this First Amendment or at closing, Borrower shall execute a Deed of Trust in form satisfactory to City, granted by Borrower and encumbering the real property known and numbered as 155 W. 5th Avenue, Denver, CO 80204 and legally described as set forth in Exhibit D-1.

10. Concurrently with the execution of this First Amendment or at closing, Borrower shall execute a covenant in form satisfactory to the City (“Covenant”), setting forth the necessary restrictions on the use of the property known and numbered as 155 W. 5th Avenue, Denver, CO 80204 and legally described as set forth in Exhibit D-1, which shall be recorded in the real estate records of the City and County of Denver and constitute a covenant running with the land. The Covenant shall encumber the Property for sixty (60) years from the date of the recording of the Covenant for the purposes of fulfilling the terms of this Loan Agreement and all ARPA requirements. Upon the Executive Director’s written

approval of the affordability limitations for the City Units for sale pursuant to subsection 6.A. of the Loan Agreement as amended by this Amendment, Borrower must execute an amendment to the Covenant or a subsequent covenant to restrict the use of the Property in accordance with such approval. Violation of said Covenant or the failure or refusal to execute an amendment to the Covenant or a subsequent covenant shall be enforceable as an event of default pursuant hereto.

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

12. The Executive Director of HOST is authorized to execute documents necessary to carry out the intent of this Amendment so long as the document is in a form acceptable to the City Attorney.

13. Except as herein amended, the Loan Documents continue in effect, and are affirmed and ratified in each and every particular.

14. This 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.

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**[SIGNATURE PAGES TO FOLLOW]**



**Contract Control Number:**  
**Contractor Name:**

HOST-202579669-01/HOST-202366913-01  
SHANAHAN DEVELOPMENT 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:**  
  
Attorney for the City and County of Denver  
  
By: \_\_\_\_\_


**REGISTERED AND COUNTERSIGNED:**  
  
By: \_\_\_\_\_  
  
By: \_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

HOST-202579669-01/HOST-202366913-01  
SHANAHAN DEVELOPMENT LLC

By: \_\_\_\_\_

Signed by:

  
29A2D62065A249D...

Name: \_\_\_\_\_

Jeff Shanahan  
(please print)

Title: \_\_\_\_\_

Manager  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_

(please print)

Title: \_\_\_\_\_


(please print)

**Contract Control Number:**  
**Contractor Name:**

HOST-202579669-01/HOST-202366913-01  
155 BANNOCK DEVELOPMENT LLC

By: \_\_\_\_\_

Signed by:

  
29A2D62065A249D...

Name: \_\_\_\_\_

Jeff Shanahan  
(please print)

Title: \_\_\_\_\_

Manager  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_

(please print)

Title: \_\_\_\_\_

(please print)

## **Exhibit D-1**

### **LEGAL DESCRIPTION**

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

LOTS 16 THROUGH 31, INCLUSIVE, RESUBDIVISION OF BLOCK 2,  
BAMBERGER'S ADDITION TO BROADWAY TERRACE, CITY AND  
COUNTY OF DENVER, STATE OF COLORADO.

Purported address (for information only): 155 WEST 5TH AVENUE, DENVER, CO 80204