

## AMENDATORY AGREEMENT

**THIS AMENDATORY AGREEMENT** (this “Amendment”) is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“City”), and **SHERIDAN STATION APARTMENTS LLC**, a Colorado limited liability company, whose address is 2000 South Colorado Boulevard, Suite 315, Denver, Colorado 80222 (“Borrower” and together with the City, the “Parties”).

### **WITNESSETH:**

**WHEREAS**, the Parties entered into that certain Loan Agreement dated December 13, 2018, under which the City agreed to provide funds to Borrower for the development of an affordable housing project (the “Loan Agreement”); and

**WHEREAS**, the Parties wish to amend the payment terms of the Loan Agreement, and amend certain exhibits of the Loan Agreement.

**NOW, THEREFORE**, the Parties amend the Loan Agreement as follows:

1. The revised Project Timeline is attached hereto and incorporated herein as Exhibit A-1. All references to “Exhibit A” in the Loan Agreement are hereby amended to read “Exhibit A-1.”
2. The revised Cash Flow Payment Priorities is attached hereto and incorporated herein as Exhibit E-1. All references to “Exhibit E” in the Loan Agreement are hereby amended to read “Exhibit E-1.”
3. Paragraph 1 of the Loan Agreement, entitled “**LOAN TO BORROWER**” is hereby amended to read as follows:

“1. **LOAN TO BORROWER**: Subject to the terms of this Loan Agreement, the City agrees to lend Borrower the sum of One Million Nine Hundred Thousand Ninety-Five Dollars and No/100 (\$1,995,000.00) (the “Loan”). In addition to this Loan Agreement, the City and Borrower will enter into 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 (the “Covenant”). Simple interest at a rate of one percent (1%) per annum shall commence accruing on the outstanding principal balance of the Promissory Note on January 1, 2020. Principal and interest shall be due and payable, at such place as may be designated by City, in annual installments equal to the annual surplus Cash Flow amount, calculated in

accordance with the order of priority and other provisions set forth on **Exhibit E-1** attached hereto. Such annual installments shall commence and be due on March 1, 2021 and each March 1st thereafter, with the entire unpaid balance of principal and accrued interest due and payable on January 1, 2061 (the “Maturity Date”), if not sooner paid.”

4. Except as modified herein, the Loan Agreement is affirmed and ratified in each and every particular.

**[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]**

**Contract Control Number:**

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:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** OEDEV-201840082-01

**Contractor Name:** SHERIDAN STATION APARTMENTS LLC

By: 

Name: George L Thorn  
(please print)

Title: President, Mile High Development, LLC, Managing Member  
(please print)

**ATTEST: [if required]**

By: 

Name: Lisa Humphrey  
(please print)

Title: Chief Financial Officer, Mile High Development, LLC  
(please print)



**EXHIBIT A-1**

**PROJECT TIMELINE – Sheridan Station**

<b>Financial Closing Date</b>	<b>2/28/2019</b>
<b>GC Notice to Proceed</b>	<b>3/1/2019</b>
<b>Construction Completion</b>	<b>11/1/2020</b>
<b>Lease-up Completion</b>	<b>4/30/2021</b>

**Sources**

NorthMarq	13,350,000
State - CHFA-HOF	1,200,000
State - CDOH-HOME	1,330,000
City of Denver - OED	1,995,000
Deferred Developer Fee	2,376,456
Federal LIHTC Equity-US Bank	15,890,607
State LIHTC Equity-US Bank	4,740,000
Managing Member	100
Special Investor Member	10
<b>Total</b>	<b>40,882,173</b>

**Uses**

Land	126,413
Hard Costs	28,220,512
Construction Interim	3,201,805
Soft Costs	1,823,538
Financing Costs	2,601,095
Reserves	628,810
Developer Fees	4,280,000
<b>Total</b>	<b>40,882,173</b>

<b>Project Activities</b>	<b>Cost</b>	<b>City Funds</b>	<b>Other Funds</b>
Hard Costs	28,220,512	1,995,000	26,225,512
Soft Costs	1,823,538	In either category	1,823,538
<b>Total</b>	<b>30,044,050</b>	<b>1,995,000</b>	<b>28,049,050</b>

## **Exhibit E-1**

### **Cash Flow Payment Priorities**

Subject to the provisions of Section 8.1, payment of fees and other expenses contingent on Cash Flow and distributions to Members from Cash Flow shall be made in the following order of priority:

First, to pay the Asset Management Fee and any accrued and unpaid Asset Management Fee from prior periods.

Second, to pay any outstanding and unpaid Credit Deficiencies and Tax Equivalency Payments then due including, without limitation, amounts owed due to a Change in Law, together with interest thereon, if any.

Third, as directed by the Investor Member to pay any Default Cash Flow Priority (pursuant to Section 5.15(b)) then due, if any.

Fourth, first to fund amounts payable to the Company Replacement Reserve pursuant to Exhibit A-7 and thereafter to replenish the Operating Reserve pursuant to Exhibit A-7, if applicable.

Fifth, to the Investor Member to repay any loans or other advances made by the Investor Member.

Sixth, from 75% of Cash Flow, to pay rent pursuant to the terms of the Ground Lease.

Seventh, to pay unpaid Development Fee (and interest thereon, if applicable).

Eighth, to pay 50% of the DHDP Special Member Asset Management Fee pursuant to the terms of the DHDP Special Member Asset Management Fee Agreement.

Ninth, to pay principal and interest on the City of Denver Loan the lesser of (a) thirty-nine percent (39%) of the remaining Cash Flow or (b) \$81,375.00 until the City of Denver Loan is repaid in full.

Tenth, from fifty percent (50%) of remaining Cash Flow to pay principal and interest on the CDOH HOME Loan until the CDOH HOME Loan is repaid in full.

Eleventh, to pay the annual payment required pursuant to the PILOT Agreement, as further described in the PILOT Agreement and the DHDP Special Member Addendum.

Twelfth, 25% of Cash Flow to fund Property Tax Escrow Account funding pursuant to the terms of the DHDP Special Member Addendum.

Thirteenth, to the Managing Member to repay any Development Advance (which shall bear interest at four percent (4%) per annum), Operating Deficit Advance, Credit Adjuster Advance or

Development Fee Advance then payable or any other loans made by the Managing Member hereunder.

Fourteenth, to the Managing Member to pay the Company Management Fee, payable pursuant to the Company Management Agreement, attached hereto as Exhibit E, for services rendered to the Company as set forth therein, payable in the amount set forth in such Agreement solely from and to the extent of 90% of remaining Cash Flow, if any.

Fifteenth, the balance to the Managing Member, the DHDP Special Member and the Investor Member in accordance with their Percentage Interests.

To the extent that insufficient Cash Flow is available to pay any of the amounts set forth in Sections First through Eleventh when due, such amount shall accrue and be payable in the future when there is available Cash Flow, after prior payment of all higher priority payments from Cash Flow, as set forth above.