City of Arvada
Housing Authority Agenda
AUGUST 7, 2023
SPECIAL MEETING

Councilmembers:	Staff Members Usually Present:	Info: 720-898-7550
Marc Williams, Mayor	Lorie Gillis, City Manager	
David Jones, Mayor Pro-Tem	Linda Haley, Deputy City Manager	
Lisa Feret, At large	Don Wick, Deputy City Manager	
Bob Fifer, At large	Rachel Morris, City Attorney	
John Marriott, District 3	Jacqueline Rhoades, Director of Public Works	
Randy Moorman, District 1	Sharon Israel, Director of Utilities	
Lauren Simpson, District 2	Rob Smetana, Acting Dir. of Community & Econ. Dev.	
	Bryan Archer, Director of Finance	
	Gabriella Bommer, Director of Human Resources	
	Rachael Kuroiwa, Director of Communications & Engagement	
	Kristen Rush, City Clerk	

CITY COUNCIL CHAMBERS
6:00 PM

I. Call to Order

II. Roll Call

III. Approval of Minutes of Regular Meeting
   1. July 10, 2023 Annual Housing Authority Meeting

IV. Public Comment

V. New Business
   1. R-HA-23-04, A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications
   2. R-HA-23-05, A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications

VI. Adjourn

SUMMARY OF THE MINUTES OF THE REGULAR MEETING OF THE ARVADA HOUSING AUTHORITY HELD JULY 10, 2023

I. CALL TO ORDER - by Chairman Pro Tem David Jones at 6:00 p.m.

II. ROLL CALL OF MEMBERS

Those present: Chairman Pro Tem Jones, Commissioner Lisa Feret, Commissioner Bob Fifer, Commissioner John Marriott; Commissioner Randy Moorman, Commissioner Lauren Simpson

Commissioner Fifer moved to excuse Chairman Williams from the meeting.

The following votes were cast on the Motion:
Those voting Yes: Jones, Feret, Fifer, Marriott, Moorman, Simpson
Those Absent: Williams
The motion was Approved.

Also present: Lorie Gillis, City Manager; Linda Haley, Deputy City Manager; Don Wick, Deputy City Manager; Rachel Morris, City Attorney; Carrie Espinoza, Housing and Homelessness Program Manager; Rachael Kuroiwa, Director of Communications & Engagement, and Kristen Rush, City Clerk

III. APPROVAL OF MINUTES – May 1, 2023

The minutes stand approved.

IV. PUBLIC COMMENT – none

V. REPORTS OF THE SECRETARY - none

VI. REPORTS OF COMMITTEES – none

VII. UNFINISHED BUSINESS – none

VIII. NEW BUSINESS

1. Arvada Housing Authority Annual Report

Carrie Espinosa, Secretary for the Arvada Housing Authority, reviewed the 2023 Annual Report included in tonight's packet.

Commissioner Fifer moved that the Annual Report of the Arvada Housing Authority for the period July 1, 2022 to June 30, 2023, be approved.

The following votes were cast on the Motion:
Those voting Yes: Jones, Feret, Fifer, Marriott, Moorman, Simpson
Those Absent: Williams
The motion was Approved.

2. Arvada Housing Authority Annual Plan

Carrie Espinosa, Secretary for the Arvada Housing Authority, reviewed the 2023 Arvada Housing Authority Annual Plan included in tonight's packet.

Commissioner Moorman moved that the Arvada Housing authority Annual Plan, be approved.

The following votes were cast on the Motion:
Those voting Yes: Jones, Feret, Fifer, Marriott, Moorman, Simpson
Those Absent: Williams
The motion was Approved.

IX. ADJOURN at 6:20 p.m.

____
David Jones, Chairman

____
Carrie Espinosa, Secretary, Housing Authority

REPORT TO HOUSING AUTHORITY	AGENDA ITEM V.1.

TO: THE HONORABLE CITY COUNCIL DATE: August 7, 2023

SUBJECT: R-HA-23-04, A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications

Report in Brief

*PRESENTER: Kylie Justus

Arvada Housing Authority is currently a special limited partner in Willow Green LLLP, a 60-unit multifamily development that is 100% affordable located at 6985 Sheridan Blvd., Arvada, Colorado, 80003. The General Partner and Limited Partners of the company are both Archway Investment Inc. Archway has made a deal with Enterprise Community Investment to receive a 16.6 million dollar equity infusion in order to renovate both Sheridan Ridge Townhomes and Willow Green Townhomes. In order to accomplish this, Archway is creating a new joint venture with Enterprise, Sheridan & Willow JV LLC. Given this new joint venture, the partnership agreement must be amended to substitute the General Partner and Limited Partners with the new joint venture. This addendum updates the terms of the Housing Authority's partnership in Willow Green LLLP, while also ensuring the property can be renovated.

The Arvada team recommends that the City Council approve R-HA-23-04 A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications.

Financial Impact

The City will receive $150,000.00 if this resolution is approved. The City will continue to forgo property tax revenue if this resolution is approved.

Background

Arvada Housing Authority, through its LLC, Arvada Housing Participation, partners with affordable projects to provide property, sales, and use tax exemptions. The Authority has been a special limited partner in Willow Green LLLP since 2004. This addendum continues to provide Willow Green Townhomes with tax exemptions in return for a $150,000 prepayment to cover 10 years of normally assessed annual fees. The amendment substitutes the Arvada Housing Authority for its LLC, Arvada Housing Participation.

Discussion

Remaining a partner in Willow Green, LLLP serves the Housing Authority's goals of maintaining affordable housing within the City, while also providing the Authority with an upfront payment for its normally assessed fees. The Authority may then use the prepayment to financially assist other affordable projects throughout the City.

Public Contact

Posting of the Arvada Housing Authority agenda.

Commission Recommendation

N/A

Strategic Alignment

Approving this resolution furthers the City's strategic result of implementing a tool kit of housing mix and style plans to improve access to quality housing affordable for a broad range of income levels.

Alternative Courses of Action

1. Approve R-HA-23-04, A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications.
2. Deny R-HA-23-04, A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications.
3. Make amendments to the Addendum

Recommendation for Action

The Arvada team recommends that the City Council approve R-HA-23-04 - A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications.

Suggested Motion:

I move that R-HA-23-04, A Resolution Authorizing the Arvada Housing Authority to Execute a Third Amendment and Enter into an Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP and Authorizing the Corresponding Execution of Tax Exemption Certifications, be (approved) (rejected).

Prepared by:
Kylie Justus, Assistant City Attorney

Reviewed by:

Approved by:

Carrie Espinosa, Manager of Housing Preservation and Resources	7/18/2023
Rob Smetana, Acting Director of Community and Economic Development	7/18/2023
Gail Walker, Legal Specialist-Contracts	7/19/2023
Kylie Justus, Assistant City Attorney	7/19/2023
Rachel Morris, City Attorney	7/21/2023
Carrie Espinosa, Manager of Housing Preservation and Resources	7/24/2023
Linda Haley, Deputy City Manager	7/24/2023

Lorie Gillis, City Manager 7/26/2023

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R-HA-23-04

A RESOLUTION AUTHORIZING THE ARVADA HOUSING AUTHORITY TO EXECUTE A THIRD AMENDMENT AND ENTER INTO AN ADDENDUM TO THE FIRST AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF WILLOW GREEN LLLP AND AUTHORIZING THE CORRESPONDING EXECUTION OF TAX EXEMPTION CERTIFICATIONS

WHEREAS, the Arvada Housing Authority ("the Authority") seeks to increase and maintain affordable housing options in the Arvada community; and

WHEREAS, the Authority has partnered with Willow Green LLLP since 2004; and

WHEREAS, Willow Green Townhomes is a 60-unit multifamily development at 6985 Sheridan Blvd., Arvada, Colorado, 80003 (the "Property") which provides affordable housing to the community as follows:

- 12 of the units at the Property are restricted to occupancy by households at or less than 30% Area Median Income ("AMI") as established by the U.S. Department of Housing and Urban Development ("HUD").
- 5 of the units at the Property are restricted to occupancy by households at or less than 40% AMI as established by HUD
- 33 of the units at the Property are restricted to occupancy by households at or less than 50% AMI as established by HUD; and
- 10 of the units at the Property are restricted to occupancy by households at or less than 60% AMI as established by HUD; and

WHEREAS, the Authority wholly owns Arvada Housing Participation LLC, a limited liability company established by Arvada City Code 46-43(7), which allows the Authority to form business entities to partner with developers in affordable development projects; and

WHEREAS, the Authority deems it prudent to remain a Special Limited Partner in Willow Green LLLP, holding .01% interest in the partnership and thereby providing the Property with sales, use, and property tax exemptions under the terms and conditions provided in the *Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP*; and

WHEREAS, the Authority finds that it is beneficial to remain a partner Willow Green LLLP in order to financially support the Property and maintain the affordable housing units in Arvada.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE ARVADA HOUSING AUTHORITY THAT:

Section 1. The Arvada Housing Authority hereby authorizes the Chairperson, Mayor Marc Williams, to execute the *Third Amendment* and *Addendum to the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP* and corresponding tax exemption certifications, which are in substantially the same form as attached hereto, along with any other necessary closing documentation.

Section 2. This Resolution to be in full force and effect from and after its passage and approval.

APPROVED AND ADOPTED this 7th day of August, 2023.

____
Marc Williams, Chairperson

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: ____

THIRD AMENDMENT
TO
FIRST AMENDED AND RESTATED AGREMENET OF LIMITED PARTNERSHIP
OF
WILLOW GREEN LLLP

This Third Amendment to First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP (the "Third Amendment") is made and entered into, effective for all purposes and in all respects, as of August ___, 2023 (the "Effective Date"), by and among the undersigned parties.

RECITALS

A. Willow Green LLLP (the "Partnership") was formed as a limited partnership under the Combined Certificate of Limited Partnership and Statement of Registration dated August 25, 2004 and an initial Agreement of Limited Partnership dated September 30, 2004.

B. The Partnership is currently existing pursuant to the First Amended and Restated Agreement of Limited Partnership dated October 28, 2004, as amended by the Second Amendment to First Amended and Restated Agreement of Limited Partnership dated March 24, 2021 (the "Agreement") as heretofore amended, having Archway Investment Corporation, Inc. as the General Partner, Archway Investment Corporation, Inc. as the Limited Partner, and Arvada Housing Authority as Special Limited Partner. Defined terms used but not defined herein have the meaning set forth in the Agreement.

C. Section 9.01 of the Partnership Agreement permits the General Partner and Limited Partner, upon consent of the Limited Partner, to assign its Interest in the Partnership and authorizes the General Partner and Limited Partner to designate a successor General Partner and Limited Partner in the Partnership.

D. The parties desire to amend the Agreement to reflect the assignment of the general partner and Limited Partner interests from Archway Investment Corporation, Inc. (the "Withdrawing General Partner" and "Withdrawing Limited Partner") to Sheridan & Willow JV, LLC, a Colorado limited liability company (the "Successor General Partner" and "Successor Limited Partner") and the admission of Successor General Partner and Successor Limited Partner as the successor General Partner and Limited Partner.

E. The parties also desire to amend the Agreement to reflect the assignment of the Special Limited Partner interest from the Arvada Housing Authority (the "Withdrawing Special Limited Partner") to Arvada Housing Participation LLC, a Colorado limited liability company (the "Successor Special Limited Partner"), and the admission of the successor Special Limited Partner.

F. The parties hereto desire to set forth herein the terms and conditions of their agreements and understandings with respect to the foregoing.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby agree as follows:

1. Archway Investment Corporation, Inc. hereby withdraws as the General Partner and Limited Partner and Successor General Partner and Successor Limited Partner is hereby admitted as the successor General Partner and successor Limited Partner.

2. Arvada Housing Authority hereby withdraws as the Special Limited Partner and the Successor Special Limited Partner is hereby admitted as the successor Special Limited Partner.

3. The following definitions in Article II of the Partnership Agreement is hereby amended to read as follows:

> "General Partner: Sheridan & Willow JV, LLC, a Colorado limited liability company, and any additional or substitute general partners of the Partnership named in any duly adopted amendment to this Agreement. If there is more than one general partner, the term "General Partner" shall refer collectively to all such general partners."
>
> "Limited Partner: Sheridan & Willow JV, LLC, a Colorado limited liability company, and any other Person who becomes a Limited Partner in accordance with this Agreement."
>
> "Special Limited Partner: Arvada Housing Participation LLC, Colorado limited liability company, and any other Person who becomes a Special Limited Partner in accordance with this Agreement."

4. The General Partner hereby represents that it has obtained all required lender and/or governmental agency approval for the transfer(s) of limited partner interests reflected in this Third Amendment.

5. Schedule A of the Agreement is hereby deleted and Schedule A attached hereto is hereby substituted in lieu thereof.

6. Except as expressly provided above, the Agreement shall remain in full force and effect.

7. Unless otherwise provided herein, the terms used in this Third Amendment with initial capital letters shall have the same meaning as set forth in the Agreement.

8. This Third Amendment may be executed in counterparts, all of which shall be treated as a single document.

9. As of the Effective Date, the Limited Partner, the Special Limited Partner, and the Partnership remise, release and discharge the Withdrawing General Partner and Withdrawing Limited Partner from any claims of any kind whatsoever which have been or could have been

asserted in connection with the Partnership or the Project, whether known or unknown, asserted or unasserted, accrued or unaccrued.

10. The use of an Electronic signature ("E-Signature") by either or both parties in executing this Third Amendment shall constitute the legal equivalent of a manual or handwritten signature as if the party/ies signed this Third Amendment in writing. No certification authority or other third-party verification shall be required to validate the E-Signature/s, and the lack of such certification or third-party verification will not in any way affect the enforceability of the ESignature/s or this Third Amendment.

IN WITNESS WHEREOF, this Third Amendment has been entered into, effective for all purposes and in all respects, as of the Effective Date.

Withdrawing General Partner

Archway Investment Corporation, Inc.

By: ________________________________
Sebastian Corradino, President

Withdrawing Limited Partner

Archway Investment Corporation, Inc.

By: ________________________________
Sebastian Corradino, Executive Director

Withdrawing Special Limited Partner

Arvada Housing Authority

By: ________________________________
Carrie Espinosa, Executive Director

Successor Special Limited Partner

Arvada Housing Participation LLC

By: ________________________________
Carrie Espinosa, Executive Director

Successor General Partner

Sheridan & Willow JV, LLC

By:

its sole member and manager
By: ________________________________

Name, Title

<u>Successor Limited Partner</u>

Sheridan & Willow JV, LLC

By:

its sole member and manager
By: _______________________________
Name, Title

WILLOW GREEN LLLP

SCHEDULE A

LIST OF PARTNERS

	Partnership Interest
General Partner: Sheridan & Willow JV, LLC	0.01%
Limited Partner: Sheridan & Willow JV, LLC	99.98%
Special Limited Partner: Arvada Housing Participation LLC	0.01%
TOTAL	**100.0%**

ADDENDUM TO THE FIRST AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF WILLOW GREEN LLLP

This Addendum, dated as of ________, 2023 (the "Effective Date"), is executed in connection with the First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP, dated as of __________, 2023 (the "Partnership Agreement"), and is by and among **SHERIDAN & WILLOW JV, LLC** (the "General Partner"), and **ARVADA HOUSING PARTICIPATION LLC**, a Colorado limited liability company ("AHP" or the "Special Limited Partner").

Recitals

WHEREAS, the Willow Green LLLP (the "Partnership") has been formed to own, lease, manage, operate, finance, and maintain an affordable multi-family residential Property located in Arvada, Colorado known as Willow Green Townhomes, located at 6985 Sheridan Blvd, Arvada, Colorado 80003 (the "Property"); and

WHEREAS, the Arvada Housing Authority, a body corporate and politic formed under the Colorado Housing Authority law ("AHA"), is the sole owner and sole member of the Special Limited Partner; and

WHEREAS, in order to support the Property and benefit low-income residents of the AHA has agreed to be admitted as a Special Limited Partner in the Partnership in part to enable the Partnership to obtain exemptions from sales and use taxes during construction and from property taxes. These exemptions should reduce construction and operating costs for the Property.

Agreement

1. This Addendum shall be effective as of the date set forth above. This Addendum shall be a part of and incorporated into the Partnership Agreement. Capitalized terms used and not otherwise defined herein shall have the definitions given them in the Partnership Agreement.

2. Admission to Partnership; Capital Contribution; Legal and Other Expenses.

(a) The Special Limited Partner is hereby admitted into the Partnership as a limited partner with a 0.01% ownership interest in the Partnership.

(b) The Special Limited Partner shall make a Capital Contribution to the Partnership as of the Effective Date in the amount of $100.00. The Special Limited Partner shall have no further obligation of any kind or description to make Capital Contributions to the Partnership, to make any loans to the Partnership or to make any other payments to the Partnership.

3. Fees Payable to Special Limited Partner.

(a) The General Partner shall pay $150,000.00 to the Special Limited Partner within 30 days of execution of this Addendum ("10 Year Prepayment").

(i) Prepayment period. The 10 Year Prepayment represents a bundled and 30% discounted prepayment of the Special Limited Partner's fees prepaid as a lump sum and releasing the Partnership of the fee payments until December 31, 2033. The Partnership agrees that all fees and payments described in Section 3(b) shall resume as of January 1, 2034.

(ii) No further discounts. The Partnership agrees that no discounts shall be applied to the Special Limited Partner's fees after December 31, 2033.

(iii) Non-refundable. The Partnership agrees that under no circumstances shall the 10 Year Prepayment be refundable including, but not limited to, early termination, dissolution, restructuring, breach of contract, voluntary withdraw, or refinancing of the Partnership.

(iv) Dissolution or Termination. In the event the Partnership is dissolved or terminated prior to December 31, 2033, the Partnership shall receive nothing from the Special Limited Partner.

(v) Restructure of Partnership during Prepayment period. In the event the Partnership restructures prior to December 31, 2033, the Special Limited Partner agrees to credit the Partnership $15,000.00 per year or $1,250.00 per month in each year or month remaining in the 10 Year Prepayment time period; that credit will be applied toward any fees assessed against the Partnership and owed to the Special Limited Partner under the restructured partnership agreement.

(vi) Standard Special Limited Partnership terms resume. In the event the Partnership restructures or a new partnership or business entity is created amongst the Parties, the Partnership and General Partner agree that then existing Special Limited Partner's standard terms and conditions for admission as a special limited partner shall apply to such amended, restructured, reformed, restated, or newly formed partnership, company, or other business entity.

(b) Beginning on January 1, 2034, the Partnership agrees to pay the following fees to the Special Limited Partner:

(i) The Partnership shall pay the Special Limited Partner an annual "Asset Management Fee" by March 1st of each year in the amount of $263.00 per unit and increasing thereafter at a rate of 3% per year. The Asset Management Fee for each year shall be paid out of operating expenses. If the Partnership fails to pay the Asset Management Fee by March 1st of any year, the Asset Management Fee shall accrue interest at a rate of 4% per month until paid. If the Partnership fails to pay the Asset Management Fee within 24 months of the date due, then the Partnership is in material breach of this Addendum and the Special Limited Partner may withdrawal from the Partnership per Section 8(c)(i) of this Addendum.

(ii) To the extent the Partnership has Cash Flow remaining after payment of first position loans and other hard debt, the Partnership shall pay the Special Limited Partner, as a "Project Monitoring Fee," an amount equal to five percent (5%) of such remaining Cash Flow. The Partnership or General Partner may pay the Project Monitoring Fee from any account it deems appropriate as long as the amount is equal to five percent (5%) of the Cash Flow. The Partnership must give an annual report to the Special Limited Partner by March 1st of each year detailing the Partnership's Cash Flow for the previous year.

(iii) In lieu of the Project Monitoring Fee and Asset Management Fee described above in Sections 3(b)(i)-(ii), and upon mutual written agreement of the Parties, the Special Limited Partner and General Partner may choose negotiate another lump sum prepayment to cover the Partnership's payment of its fees. Neither Party is obligated to agree to a prepayment amount or prepayment method and may decline to do so in the Parties' sole discretions.

4. Rights and Duties of Special Limited Partner.

(a) Real Property Tax Exemption. The Special Limited Partner shall cooperate with the Partnership in the Partnership's request for an exemption from special assessments and real property tax provided under Colorado Revised Statutes §29-4-226 and §29-4-227. Any materials submitted in connection with such request for exemption based on the participation of the Special Limited Partner shall be subject to the prior review and approval, which shall not be unreasonably withheld, of the Special Limited Partner. The Special Limited Partner represents that AHA is the sole member and sole owner of the Special Limited Partner, and that AHA is a duly formed housing authority under the Colorado Housing Authorities Law, but otherwise makes no representation or warranty concerning any such exemption and provides no other assurances regarding the current or continued availability of any such property tax exemption or the qualification of the Partnership or the Property for any such tax exemption.

(b) Sales and Use Tax Exemption. The Special Limited Partner shall cooperate with the Partnership to enable the Partnership to qualify for an exemption from sales and use taxes under Colorado Revised Statutes §29-4-227 and §39-26-704(1.5) and Arvada City Code 98-70 and 98-78 (the "Sales Tax Exemption"). Any materials that must be submitted in connection with a request for the Sales Tax Exemption based on the participation of the Special Limited Partner in the Partnership shall be subject to the prior review and approval, which shall not be unreasonably withheld, of the Special Limited Partner. The Special Limited Partner represents that AHA is the sole owner and sole member of the Special Limited Partner, and that AHA is a duly formed housing authority under the Colorado Housing Authorities Law, and agrees to provide an affidavit or other certificate of the information related to the Sales Tax Exemption as contemplated by applicable regulations, but otherwise makes no representation or warranty concerning the Sales Tax Exemption and provides no other assurances regarding the current or continued availability of any such Sales Tax Exemption or the qualification of the Partnership or the Property for any such tax exemption. Any application for the Sales Tax Exemption based on the participation of the Special Limited Partner in the Partnership must receive the prior written consent of the Special Limited Partner.

(c) Tenant Referrals. The Special Limited Partner agrees to cause AHA to include the Property in any list or other publication of local properties offering affordable rental units, shall refer prospective tenants to the Management Agent, and, upon written request from the Partnership, will also provide to the Management Agent waiting list information concerning potential tenants for the Property. Subject in all respects to the requirements of applicable HUD and CHFA rules and regulations, the Partnership commits to the review and consideration of qualified tenants from the waiting list provided by AHA. All prospective tenants shall be subject to the normal qualification and income verification processes used by the Management Agent.

5. Liability of Special Limited Partner and Partnership; Indemnification of Special Limited Partner. The Special Limited Partner and all of its past and present officers, directors, commissioners, managers, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, and attorneys (collectively, the "SLP Parties"), shall incur no liability for, and the General Partner shall indemnify, defend and hold harmless the SLP Parties from and against, any claims, actions, costs or expenses arising from the Special Limited Partner's acts or omissions in connection with the Partnership, the Property, or Partnership property, except that the SLP Parties shall not be indemnified by the Partnership or any of its Partners for any fraud, gross negligence, or willful misconduct on the part of any SLP Party. The General Partner shall indemnify and hold harmless each of the SLP Parties against any loss, liability, claim or damage arising from or related to the acts, omissions or conduct of the Partnership or the Partnership property.

6. General Partner Changes; Required Consents.

(a) The consent of the Special Limited Partner, which consent may be withheld in the sole discretion of the Special Limited Partner, shall be required for any amendment or modification to the Partnership Agreement that would: (I) have a material adverse effect on the rights or obligations of the Special Limited Partner under the Partnership Agreement; (II) change the purposes of the Partnership; (III) authorize the Property to be operated other than as an affordable housing property in compliance with the Restrictive Covenants and the Partnership Agreement; or (IV) change the affordability restrictions for the Property in a manner that would permit units to be leased to tenants who are not low income tenants. If any of the actions described in this paragraph (a) are taken without the required consent of the Special Limited Partner, the Special Limited Partner may withdraw from the Partnership upon 30-days written notice, or pursue any other remedy available in law or equity.

(b) The Special Limited Partner's written consent, which consent shall not be unreasonably withheld, delayed or conditioned, shall be required for the (i) transfer of control of the General Partner or a majority of the equity interests in the General Partner; (ii) the withdrawal of the General Partner from the Partnership; (iii) the admission of a successor General Partner following the voluntary withdrawal of the General Partner, provided however no consent shall be required if the Managing Member interest is assumed by an affiliate of the Managing Member's [Enterprise Class B Member] or Enterprise Community Investment, Inc. With the exception of emergency situations in which action is required to avoid substantial harm to the Property or the residents thereof, any change in ownership or control of the Property will require 30 days' written notice to the Special Limited Partner, and if the Special Limited Partner fails to respond to such notice within 30 business days, the Special Limited Partner will be deemed to have consented with such requested changes.

(c) Except for those consent rights of the Special Limited Partner specifically set forth in this Addendum, the Special Limited Partner will not have any voting, approval, or consent rights with respect to any other matters to be decided upon by the Partners. The Special Limited Partner shall not have the power or authority to bind the Partnership or to sign any agreement or document in the name of the Partnership.

(d) Notwithstanding anything to the contrary set forth in the Partnership Agreement, as amended hereby, the Special Limited Partner cannot (i) voluntarily withdraw from the Partnership except as permitted under Sections 6 and 8 of this Addendum or (ii) assign, pledge or otherwise transfer its Interest in the Partnership, in whole or in part, without the prior written consent of the Partnership; provided, however, that in the case of an assignment or transfer by the Special Limited Partner of its Interest in the Partnership to an entity that is wholly owned by the Special Limited Partner, the consent of the Partnership shall not be unreasonably withheld, conditioned or delayed.

7. Closing Documents; Reports and Information.

(a) The General Partner shall deliver to the Special Limited Partner (i) a copy of the executed Partnership Agreement and all exhibits; and (ii) a copy of all closing documents within sixty (60) days after the execution of such documents. Upon written notice that documents have not been received by AHP, the General Partner will have 10 business days to cure. Failure to provide all documents within the defined timeframe will result in a $100 per day fee payable to the Special Limited Partner until documents are provided.

(b) The Special Limited Partner will receive copies of the standard operating, leasing, financial, and other reports that are provided to the Partnership in the same frequency as required by the Partnership Agreement. The Special Limited Partner will receive the annual audited financial statement of the Partnership. Failure to provide within the defined timeframe will result in a $100 per day fee payable to the Special Limited Partner unless the failure to provide is outside of the control of the Partnership.

(c) The General Partner, and any successors and assigns, shall, upon request and with reasonable notice, permit the Special Limited Partner to inspect and examine (i) the Property, (ii) the equipment, buildings and other facilities of the Property, and (iii) all documents relating to the Property. Any such inspection or examination shall be made during reasonable business hours, in the presence of an officer or agent of a General Partner.

8. Withdrawal Rights.

(a) The term of the Special Limited Partner's participation will continue as long as the Property retains and complies with the affordability restrictions in place when the Special Limited Partner enters the Partnership. Any change in such affordability restrictions will require the Special Limited Partner's consent, which consent shall not be unreasonably withheld, conditioned, or delayed. The following are the affordability restriction for this 60 Unit Property:

12 Units are to be occupied by households at or below 30% Area Median Income ("AMI") as defined by the U.S. Department of Housing and Urban Development;

5 units are to be occupied by households at or below 40% AMI;

33 units are to be occupied by households at or below 50% AMI; and

10 units are to be occupied by households at or below 60% AMI.

(b) At the end of the initial 10-year Prepayment Period in this Agreement, or after December 31, 2033, and every three (3) years thereafter prior to the expiration of each Exemption Period (as defined below), the General Partner and the Special Limited Partner shall review the economic condition of the Property and the Partnership (based upon the affordability restrictions to which the Partnership is then subject, as well as other relevant factors) and shall work together in good faith to determine whether the tax exemptions are needed to maintain the financial viability of the Property as an affordable housing project serving households in accordance with the such restrictions (the "Financial Viability") for an additional three year period (the "Exemption Period"). If the General Partner and the Special Limited Partner determine that the tax exemption is reasonably necessary to maintain the Financial Viability of the Property for such Exemption Period, the Special Limited Partner shall not withdraw from the Partnership. If the General Partner and the Special Limited Partner agree that the ongoing property tax exemption is not reasonably necessary for the Property's ongoing Financial Viability, then the Special Limited Partner shall have the option to withdraw from the Partnership during each such Exemption Period upon thirty (30) days' written notice to the General Partner. Upon withdrawal, the Partnership shall pay to the Special Limited Partner the balance in the Special Limited Partner's Capital Account and all other amounts then owing to the Special Limited Partner. For the purposes of this Section 8(a), Financial Viability shall mean that the Property would be able to maintain a minimum 1.20 to 1.00 debt service coverage ratio (or a greater ratio if required by the permanent lender) after (i) payment in full of all "must pay" debt service and assuming the Property continues to be operating as affordable housing) and (ii) payment in full of applicable property taxes following the termination of the property tax exemption. This Section 8(a) is not intended to, and shall not be interpreted to, provide any rights to any third party other than the Partnership.

(c) In addition to the rights of the Special Limited Partner to withdraw from the Partnership under Sections 6 and 8(a) & (b) of this Addendum, the Special Limited Partner shall have the unconditional right to withdraw from the Partnership, in addition to any other remedy available in law or equity, upon the occurrence of any event described in clauses

(i) or (ii) below upon thirty (30) days' written notice to the General Partner, unless any such event is cured within such thirty (30) day period, or such longer period acceptable to the Special Limited Partner as may be reasonably required to effect cure (but in no event shall such cure period exceed a total of sixty (60) days, or such other time period as provided below), if cure is commenced within such thirty (30) day period and diligently prosecuted thereafter upon any of the following: (i) a material breach by the Partnership or any Partner of any provisions of this Addendum or the Partnership Agreement that benefits the Special Limited Partner, which breach is not cured within thirty (30) days following written notice thereof to the General Partner; or (ii) an event of bankruptcy with respect to the Partnership. In the event the Special Limited Partner withdraws from the Partnership pursuant to this Section 8(c), the Special Limited Partner shall not refund or reimburse any prepayments made pursuant to Sections 3(a) or 3(b)(iii) to the Partnership.

(d) The General Partner shall have the option to remove the Special Limited Partner in the Partnership upon thirty (30) days' written notice to the Special Limited Partner: (i) at any time after a material violation of this Addendum or the Partnership Agreement by the Special Limited Partner which is not cured within a reasonable cure period, (ii) the Special Limited Partner's or AHA's act of fraud, violation of law, bad faith, willful misconduct, gross negligence, or breach of fiduciary duty, or (iii) if at any time the Property does not qualify for an exemption from special assessments and real property taxes as provided in Section 4(a) of this Addendum. In such case, the Company shall redeem the Special Limited Partner's interest for $100. If the General Partner exercises its rights under this Section 8(c), the Special Limited Partner agrees to execute an amendment to the Partnership Agreement which is reasonably necessary to evidence the Special Limited Partner's withdrawal as a Partner, effective upon the date of such purchase; provided, that the Partnership will pay the reasonable legal fees, costs and expenses incurred by the Special Limited Partner in connection with any withdrawal pursuant to clause (iii), above, other than upon the failure of the Special Limited Partner to satisfy its obligations under this Addendum.

(e) Upon the withdrawal by the Special Limited Partner from the Partnership in accordance with the provisions of this Sections 8, or the purchase of the interest of the Special Limited Partner as provided in Section 8(d) of this Addendum, the terms of this Addendum (other than Section 3(c), 5, and 9, which shall continue to apply) shall cease to apply and no longer be in force or effect.

9. Right of First Offer. The Partnership grants a right of first offer ("ROFO") to the Special Limited Partner subject to the terms and conditions set forth below and in accordance with any federal or Colorado law related to the sale of the Property.

(a) Transactions Subject to ROFO. The ROFO shall apply to any sale of the the Property, by the Partnership (other than a sale by the Partnership to a Partner of the Partnership or to any Affiliate of a Partner of the Partnership), and, if the Property is acquired by the General Partner or an Affiliate of the General Partner, to any subsequent sale by the General Partner or its Affiliate to an unrelated third party. The Partnership or the General Partner or Affiliate are referred to in this Section 9 as the "Selling Party." Notwithstanding the foregoing, the ROFO shall expire upon the earlier of (i) ten years after the end of the Compliance Period or any Extended Period.

(b) Operation of ROFO. If a Selling Party desires to sell the Property, the Selling Party shall give written notice to the Special Limited Partner (the "ROFO Notice"). The ROFO Notice must contain the proposed purchase price and other material terms of the proposed sale. The Special Limited Partner shall have ninety (90) days from the date on which it receives the ROFO Notice to exercise its ROFO (the "ROFO Response Deadline"). If the Special Limited Partner decides to exercise its ROFO, the Special Limited Partner must respond by delivering to the General Partner a written and executed purchase and sale agreement for the proposed purchase price and with the materials terms from the ROFO Notice (the "ROFO Acceptance Submission") on or before the ROFO Response Deadline. If the Special Limited Partner declines to exercise its ROFO or fails to deliver to the General Partner the ROFO Acceptance Submission on or before the ROFO Response Deadline, the Selling Party may sell the Property for an amount equal to or greater than the proposed purchase price at any time within one year of the ROFO Notice. Any sale for less than the proposed purchase price in the ROFO Notice will be null and void, unless the Special Limited Partner received a ROFO Notice with respect to the sale at the reduced price and is given the opportunity to exercise the ROFO in accordance with the terms of this Section 9(b).

(c) Termination of ROFO. The ROFO provided in this Section 9 shall terminate and be of no further force and effect upon the withdrawal or removal of the Special Limited Partner pursuant to the provisions of Section 8 herein, and the Special Limited Partner shall cooperate with the General Partner in preparing and executing any documentation reasonably requested to effectuate and memorialize such termination.

10. Notices. The Special Limited Partner shall provide copies of any Notices it sends to the General Partner at the addresses and in the manner set forth in the Partnership Agreement. The parties shall give all notices, consents, demands, waivers, or approvals related to this Addendum in writing delivered by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, or (iii) first-class certified mail, postage prepaid. A notice is deemed given on the other party's receipt of it, or if mailed, on the earlier of the other party's receipt of it and the third business day after its mailing. The parties may change their addresses for notice by notifying the other parties in the manner provided in this Section 10. The following is the address of the Special Limited Partner for notice purposes under this Agreement:

Special Limited Partner:

Arvada Housing Authority
8101 Ralston Road
Arvada, CO 80002
Attn: Housing Manager

With a copy to:

City of Arvada
8101 Ralston Road
Arvada, CO 80002
Attn: City Attorney

Notice to the General Partner shall be given in accordance with the notice requirements of the Partnership Agreement.

11. Conflicts. If any provision of this Addendum conflicts with any provision of the Partnership Agreement or any document, the provisions of this Addendum shall be controlling in all respects. Except as specifically amended hereby, all of the terms and the provisions of the Partnership Agreement remain in full force and effect, without modification.

12. Governing Law. This Addendum shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws. Venue shall be proper in Jefferson County, Colorado.

13. Binding Agreement. This Addendum shall be binding on the Parties hereto, and their heirs, executors, personal representatives, successors and assigns.

14. Headings. All headings in this Addendum are for convenience of reference only and are not intended to qualify the meaning of any provision of this Addendum.

15. Counterparts. This Addendum may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

[*No further text on this page; signature page follows*.]

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed as of the date first written above.

GENERAL PARTNER:

By ______________________________________
Name:
Title:

LIMITED PARTNER:

By ______________________________________
Name:
Title:

[*Signatures continued on following pages*.]

SPECIAL LIMITED PARTNER:

ARVADA HOUSING PARTICIPATION LLC, a Colorado limited liability company

By: Arvada Housing Authority, a Colorado body corporate and politic organized and existing under the Housing Authorities Law of the State of Colorado

By:_________________________________
Name:
Title: Mayor of Arvada; Chairperson of AHA

ATTEST:

____
City Clerk

APPROVED AS TO FORM by
Rachel A. Morris, City Attorney

____

Tax Exemption Certification

Housing Authority Certification Regarding Sales and Use Tax Exemption

THIS HOUSING AUTHORITY CERTIFICATION REGARDING SALES AND USE TAX EXEMPTION (the "Certification") is made by THE ARVADA HOUSING AUTHORITY OF ARVADA, COLORADO, a Colorado public body corporate and politic ("AHA") as of _______________, 2023.

WHEREAS, Willow Green LLLP (the "Partnership") was formed for the purpose of owning, leasing, managing, operating, and maintaining an affordable multi-family residential Property located in Arvada, Colorado known as Willow Green Townhomes, located at 6985 Sheridan Blvd, Arvada, Colorado 80003 (the "Property");

WHEREAS, the Partnership is governed by its First Amended and Restated Agreement of Limited Partnership of Willow Green LLLP dated as of the ____________________, 2023, and the Addendum thereto dated as of _______________, 2023 (collectively, the "Partnership Agreement");

WHEREAS, Arvada Housing Participation, LLC, a Colorado limited liability company ("AHP") is the Special Limited Partner of the Partnership;

WHEREAS, AHP has a single member and that member is AHA; and

WHEREAS, AHP is cooperating with the Partnership in the Partnership's pursuit of exemption from sales and use tax under Colorado Revised Statutes §39-26-704(1.5) and §29-4-227 (the "Sales Tax Exemption").

NOW THEREFORE, AHA hereby certifies as to the following in connection with the Sales Tax Exemption for the Partnership:

1. AHA is the sole member of AHP. AHP is the Special Limited Partner of the Partnership and owns a .01% interest in the Partnership.

2. Consistent with the rules prescribed by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority regarding such calculation, 100% the Property to be improved is occupied by persons of low-income (at or below 60% AMI) as required by the Land Use Restriction Agreement(s) recorded against the Property. For the purposes of this Section 2, AHA has used the definition of "low-income" established by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority.

5. The effective date of AHP's continued participation in the Partnership is as of the date hereof.

DATED AS OF __________, 2023

THE ARVADA HOUSING AUTHORITY,
a Colorado public body, corporate and politic

By:_________________________________
Name: Marc Williams
Title: Mayor of Arvada & Chairperson of AHA

ATTEST:

____
City Clerk

APPROVED AS TO FORM by
Rachel A. Morris, City Attorney

____

Tax Exemption Certification

Housing Authority Certification Regarding Property Tax Exemption

THIS HOUSING AUTHORITY CERTIFICATION REGARDING PROPERTY TAX EXEMPTION (the "Certification") is made by THE ARVADA HOUSING AUTHORITY OF ARVADA, COLORADO, a Colorado public body corporate and politic ("AHA") as of _______________, 2023.

WHEREAS, Willow Green LLLP (the "Partnership") was formed for the purpose of owning, leasing, managing, operating, and maintaining an affordable multi-family residential Property located in Arvada, Colorado known as Willow Green Townhomes, located at 6985 Sheridan Blvd, Arvada, Colorado 80003 (the "Property");

WHEREAS, the Partnership is governed by its Second Amended and Restated Agreement of Limited Partnership of Willow Green LLLP, dated as of the date hereof, and the Addendum thereto dated as of the date hereof (collectively, the "Partnership Agreement");

WHEREAS, Arvada Housing Participation LLC, a Colorado limited liability company ("AHP") is the Special Limited Partner of the Partnership;

WHEREAS, AHP has a single member and that member is AHA; and

WHEREAS, AHP is cooperating with the Partnership in the Partnership's pursuit of exemption from property tax under Colorado Revised Statutes §29-4-227 (the "Property Tax Exemption").

NOW THEREFORE, AHA hereby certifies as to the following in connection with the Property Tax Exemption for the Partnership:

1. AHA is the sole member of AHP. AHP is the Special Limited Partner of the Partnership and owns a .01% interest in the Partnership.

2. Consistent with the rules prescribed by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority regarding such calculation, 100% the Property to be improved is occupied by persons of low-income (at or below 60% AMI) as required by the Land Use Restriction Agreement(s) recorded against the Property. For the purposes of this Section 2, AHA has used the definition of "low-income" established by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority.

3. The effective date of AHP's continued participation in the Partnership is as of the date hereof.

DATED AS OF __________, 2023

THE ARVADA HOUSING AUTHORITY,
a Colorado public body, corporate and politic

By:__________________________________

Name: Marc Williams

Title: Mayor of Arvada & Chairperson of AHA

ATTEST:

____

City Clerk

____

APPROVED AS TO FORM by
Rachel A. Morris, City Attorney

REPORT TO HOUSING AUTHORITY	AGENDA ITEM V.2.

TO: THE HONORABLE CITY COUNCIL DATE: August 7, 2023

SUBJECT: R-HA-23-05, A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications

Report in Brief

PRESENTER: Kylie Justus

Arvada Housing Authority is currently a special limited member in Sheridan Ridge LLC, a 65-unit multifamily development that is 46% affordable located at 5275 W. 66th Avenue, Arvada, Colorado, 80003. The Managing Member of the company is Archway Investment Inc. Archway has made a deal with Enterprise Community Investment to receive a 16.6 million dollar equity infusion in order to renovate both Sheridan Ridge Townhomes and Willow Green Townhomes. In order to accomplish this, Archway is creating a new joint venture with Enterprise, Sheridan & Willow JV LLC. Given this new joint venture, the operating agreement must be amended to substitute the Managing Member for the joint venture. This addendum updates the terms of the Housing Authority's membership in Sheridan Ridge LLC, while also ensuring the property can be renovated.

The Arvada team recommends that the City Council approve R-HA-23-05, A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications.

Financial Impact

The City will receive $150,000.00 if this resolution is approved. The City will continue to forgo property tax revenue if this resolution is approved.

Background

Arvada Housing Authority, through its LLC, Arvada Housing Participation, partners with affordable projects to provide property, sales, and use tax exemptions. The Authority has been a partner in Sheridan Ridge LLC since 2000. This addendum continues to provide Sheridan Ridge Townhomes with tax exemptions in return for a $150,000 prepayment to cover 10 years of normally assessed annual fees.

Discussion

Remaining a member in Sheridan Ridge LLC serves the Housing Authority's goals of maintaining affordable housing within the City, while also providing the Authority with an upfront payment for its normally assessed fees. The Authority may then use the prepayment to finically assist other affordable projects throughout the City.

Public Contact

Posting of the Housing Authority agenda.

Commission Recommendation

N/A

Strategic Alignment

Approving this resolution furthers the City's strategic result of implementing a tool kit of housing mix and style plans to improve access to quality housing affordable for a broad range of income levels.

Alternative Courses of Action

1. Approve R-HA-23-05 , A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications.
2. Deny R-HA-23-05 , A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications.
3. Make amendments to the proposed addendum.

Recommendation for Action

The Arvada team recommends that the Housing Authority approve R-HA-23-05, A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications.

Suggested Motion:

I move that R-HA-23-05, A Resolution Authorizing the Arvada Housing Authority to Enter into an Addendum to the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC and Authorizing the Corresponding Execution of Tax Exemption Certifications, be (approved) (rejected).

Prepared by:
Kylie Justus, Assistant City Attorney

Reviewed by:

Approved by:

Carrie Espinosa, Manager of Housing Preservation and Resources	7/18/2023
Rob Smetana, Acting Director of Community and Economic Development	7/18/2023
Gail Walker, Legal Specialist-Contracts	7/19/2023
Kylie Justus, Assistant City Attorney	7/19/2023
Rachel Morris, City Attorney	7/21/2023
Carrie Espinosa, Manager of Housing Preservation and Resources	7/24/2023
Linda Haley, Deputy City Manager	7/24/2023
Lorie Gillis, City Manager	7/26/2023

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R-HA-23-05

A RESOLUTION AUTHORIZING THE ARVADA HOUSING AUTHORITY TO ENTER INTO AN ADDENDUM TO THE THIRD AMENDED AND RESTATED OPERATING AGREEMENT OF SHERIDAN RIDGE TOWNHOMES, LLC AND AUTHORIZING THE CORRESPONDING EXECUTION OF TAX EXEMPTION CERTIFICATIONS

WHEREAS, the Arvada Housing Authority ("the Authority") seeks to increase and maintain affordable housing options in the Arvada community; and

WHEREAS, the Authority has been a member of Sheridan Ridge Townhomes, LLC since 2008; and

WHEREAS, Sheridan Ridge Townhomes is a 65-unit multifamily development at 5275 W. 66th Avenue, Arvada, Colorado, 80003 (the "Property") which provides affordable housing to the community as follows:

- 4 of the units at the Property are restricted to occupancy by households at or less than 50% Area Median Income ("AMI") as established by the U.S. Department of Housing and Urban Development ("HUD").
- 26 of the units at the Property are restricted to occupancy by households at or less than 60% AMI as established by HUD
- 19 of the units at the Property are restricted to occupancy by households at or less than 100% AMI as established by HUD; and
- 16 of the units at the Property are unrestricted; and

WHEREAS, the Authority wholly owns Arvada Housing Participation LLC, a limited liability company established by Arvada City Code 46-43(7), which allows the Authority to form business entities to partner with developers in affordable development projects; and

WHEREAS, the Authority deems it prudent to remain a Special Limited Member in Sheridan Ridge Townhomes, LLC, holding .01% interest in the Company and thereby providing the Property with sales, use, and property tax exemptions under the terms and conditions provided in the *Addendum to Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC*; and

WHEREAS, the Authority finds that it is beneficial to remain a member of Sheridan Ridge Townhomes, LLC in order to financially support the Property and maintain the affordable housing units in Arvada.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE ARVADA HOUSING AUTHORITY THAT:

Section 1. The Arvada Housing Authority hereby authorizes the Chairperson, Mayor Marc Williams, to execute the *Addendum to Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC* and corresponding tax exemption certifications, which are in substantially the same form as attached hereto, along with any other necessary closing documentation.

Section 2. This Resolution to be in full force and effect from and after its passage and approval.

APPROVED AND ADOPTED this 7th day of August, 2023.

____
Marc Williams, Chairperson

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _______________________________________

THIRD AMENDED AND RESTATED OPERATING AGREEMENT
OF
SHERIDAN RIDGE TOWNHOMES, LLC

This Third Amended and Restated Operating Agreement ("Agreement") of SHERIDAN RIDGE TOWNHOMES, LLC, (the "Company"), dated July __, 2023, is between the undersigned parties, who are members of the Company.

Article 1
Recitals

1.1 Intent. The undersigned parties wish for the Company to continue as a limited liability company under the laws of the state of Colorado, and they wish to enter into this Agreement to set forth the terms and conditions on which the management, business and financial affairs of the Company shall be conducted.

1.2 Agreement. In consideration of the mutual promises, covenants and conditions contained in this Agreement, the receipt and sufficiency of which are acknowledged, the parties covenant and agree as stated in this Agreement.

Article 2
Definitions

2.1 "Act" shall mean the Colorado Limited Liability Company Act, C.R.S. § 7-80-101 et seq., as amended and in force from time to time.

2.2 "Agreement" shall refer to this Third Amended and Restated Operating Agreement, as amended and in force from time to time.

2.3 "Articles" shall mean the Articles of Organization of the Company, as amended and in force from time to time.

2.4 "Capital Account" shall mean as of any given date the amount calculated and maintained by the Company for each Member as provided in this agreement.

2.5 "Capital Contribution" shall mean any contribution to the capital of the Company by a Member in cash, property or services, or a binding obligation to contribute cash, property or services, whenever made.

2.6 "Code" shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

2.7 "Consent of the Members" shall be mean written consent of a majority of the Members based upon the Members' Membership Interests.

2.7 "Company" shall refer to SHERIDAN RIDGE TOWNHOMES, LLC.

2.8 "Distribution" shall refer to a transfer of the Company's property (including money" to a Member on account of a Membership Interest regardless of whether the transfer occurs on the liquidation of the Company, in exchange for the Member's Membership Interest, or otherwise.

2.9 "Entity" shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or other association.

2.10 "Initial Capital Contribution" shall mean the initial contribution to the capital of the Company by a Member, as determined pursuant to this agreement.

2.11 "Manager" means Sheridan & Willow JV, LLC.

2.12 "Member" shall mean each Person that is identified as a Member or is admitted as a Member (either as a transferee of a Membership Interest or as an additional Member) as provided in this agreement. A Person shall cease to be a Member at such time as he no longer owns any Membership Interest.

2.13 "Membership Interest" shall mean the ownership interest of a Member in the Company, which may be expressed as a percentage equal to such Member's Capital Account divided by the aggregate Capital Accounts of all Members. The Membership Interests may be recorded from time to time on a schedule attached to this Operating Agreement.

2.14 "Person" shall mean any natural person or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so admits.

Article 3
Formation and Members

3.1 Continuation of Company. The Company has been organized as a Colorado limited liability company under the provisions of the Act by filing the Articles of Organization of the Company with the Colorado Secretary of State on March 15, 2000. This Agreement replaces the Second Amended and Restated Operating Agreement of Sheridan Ridge Townhomes, LLC, effective July 22, 2021. The Company shall continue to have all powers and rights of a limited liability company organized under the Act, to the extent such powers and rights are not proscribed by the Articles.

3.2 Business of the Company. The business of the Company is:

3.2.1 to own, operate, finance, and manage a housing development known as the Sheridan Ridge Townhomes in Arvada, Colorado ("Project");

3.2.2 to accomplish any lawful business whatsoever, or which may appear conducive to or expedient for the protection or benefit of the Company and its assets;

3.2.3 to exercise all other powers necessary to or reasonably connected with the Company's business that limited liability companies may legally exercise under the Act; and

3.2.4 to engage in all activities necessary, customary, convenient, or incident to any of the foregoing.

3.3 Members. The name, mailing address, Capital Contribution, and Membership Interest of each Member is set forth in Schedule 1.

3.4 Registered Agent; Principal Office. The principal office of the Company is 8585 W. 14th Avenue, Suite A, Lakewood, Colorado 80215. The Manager shall select a registered agent and office through appropriate filings with the Colorado Secretary of State. If the registered agent ceases to act as such for any reason, or the registered office changes, the Manager shall promptly designate a replacement registered agent or file a notice of change of address. If the Manager fails to designate a replacement registered agent or change of address of the registered office, a Member may designate a replacement registered agent or file a notice of change of address.

Article 4
Accounting and Records

4.1 The Manager shall maintain the following records at the principal office of the Company:

4.1.1 the full name and business address of all Members;

4.1.2 a copy of the Articles of Organization and all amendments, together with executed copies of any powers of attorney pursuant to which the Articles have been executed;

4.1.3 if filed, copies of the Company's tax returns and reports (or the portions of the returns of others showing the taxable income deductions, gain, loss, and credits of the Company), for the three most recent years;

4.1.4 copies of this Agreement, including all amendments; and

4.1.5 copies of the Company's financial statements, if any, for the three most recent years.

Article 5
Management

5.1 Management Rights. Subject to the limitations of Section 5.2 below, the Manager shall conduct the business of the Company, and all management of the Company shall be vested in the Manager. The Manager has the power and authority, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company, including, without limitation:

5.1.1 conduct the Company's business, establish Company offices, exercise the powers of the Company within or beyond the State of Colorado, and locate or relocate a place of business for the Company;

5.1.2 execute all instruments and documents including, cquisitionor disposition of licensing of intellectual property;

5.1.3 determine the amount of and the making of Distributions under ARTICLE VIII;

5.1.4 purchase insurance to protect the Company's property and business;

5.1.5 invest any Company funds in (by way of example but not limitation) time deposits, short-term governmental obligations, commercial paper, or other investments;

5.1.6 employ accountants, legal counsel, management agents, or other experts to perform services for the Company and compensate them from Company funds;

5.1.7 institute, prosecute, and defend any legal proceeding in the Company's name;

5.1.8 enter into contracts; incur liabilities; borrow money; issue notes, bonds, and other obligations; and secure any of its obligations by mortgage or pledge any of the Company's property or income;

5.1.9 invest and reinvest the Company's funds, and receive and hold the Company's property as security for repayment limitation,;

5.1.10 pay compensation or additional compensation to agents for services previously rendered to the Company, whether or not an agreement to pay compensation was made before such services were rendered;

5.1.11 do and perform all other acts as may be necessary or appropriate to carry out the Company's business.

5.2 <u>Restrictions on Authority of the Manager</u>. Notwithstanding Section 5.1 above, the Manager shall not take any of the following actions without the Consent of the Members:

5.2.1 purchase, receive, lease, acquire, own, hold, improve, use, and deal with the Company's property, wherever located;

5.2.2 sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of the Company's property;

5.2.3 admit an additional Member;

5.2.4 approve a merger, conversion, or dissolution of the Company, or the application of any statute (the application of which is elective) to the Company;

5.2.5 take any act which would make it impossible to fulfill the purpose of the Company;

5.2.6 amend this Agreement or take any action in violation of this Agreement;

5.2.7 cause the Company to voluntarily initiate a proceeding under which the Company would become a debtor under the United States Bankruptcy Code;

5.2.8 sell, exchange, or otherwise dispose of all, or substantially all, of the Company's property other than in the ordinary course of the Company's business; pledge any assets of the Company to secure any indebtedness of the Company or any other Person, or guaranty any obligations of any Person; or

5.2.9 other actions as may be reserved solely to Member under other provisions of this Agreement.

5.3 Liability of Member and Manager. Neither a Member nor the Manager are to be liable as Member or Manager for the liabilities of the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement or the Act are not to be grounds for imposing personal liability on a Member or Manager for liabilities of the Company.

5.4 Indemnification. The Company shall indemnify a Member and the Manager for all reasonable costs, losses, liabilities, and damages paid or accrued by a Member (either as Member or as agent) or Manager in connection with the business of the Company or because such Person is a Member or Manager, not arising out of the Member to be indemnified's, or the Manager's, fraud, gross negligence, or willful misconduct, to the fullest extent allowed by law. In addition, the Manager shall cause the Company to advance costs of participation in any Proceeding to the Manager or Member. "Proceeding" means, for the purposes of this paragraph, any judicial or administrative trial, hearing, or other activity, civil, criminal, or investigative, the result of which may be that a court, arbitrator, or governmental agency may enter a judgment, order, decree, or other determination which, if not appealed and reversed, would be binding upon the Company, Member or other Person. The Manager may, with the consent of the Members, indemnify any or all employees and agents of the Company for all reasonable costs, losses, liabilities, and damages paid or accrued by the agent or employee in connection with the business of the Company or because such Person is an agent or employee, and not arising out of the employee or agent's fraud, gross negligence, or willful misconduct, to the fullest extent provided or allowed by law.

5.5 Conflicts of Interest. A Member or Manager may enter into transactions that compete with, or a business opportunity that may be beneficial to, the Company, it being expressly understood that a Member or Manager may enter into transactions that are similar to the transactions into which the Company may enter. Subject to any other provision of this Agreement, the fact that the Manager or Member is directly or indirectly affiliated or connected with any Person shall not prohibit the Manager from dealing with that Person. A Member or Manager does not violate a duty or obligation to the Company merely because the Member's or Manager's conduct furthers the Member's or Manager's own interest. A Member or Manager may lend money to and transact other business with the Company. The rights and obligations of a Member or Manager who lends money to or transacts business with the Company are the same as those of a Person who is not a Member or Manager.

5.6 Reimbursement. The Company shall reimburse the Members and Manager for all reasonable expenses incurred on behalf of the Company.

5.7 Standard of Care of Manager. The Manager's duty of care in the discharge its duties to the Company is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law. In discharging its duties, the Manager may rely in good faith upon the records required to be maintained under this Agreement and upon such information, opinions, reports, or statements by its agents, or by any other Person, as to matters the Manager reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the Company or any other facts pertinent to the existence and amount of assets from which Distributions to a Member may be paid.

Article 6
Capital Contributions and Distributions

6.1 Capital Contributions. Each Member shall make an initial Capital Contribution of one hundred dollars ($100.00) contemporaneously with the execution of this Agreement. No interest will accrue on any Capital Contribution and a Member may not withdraw or be repaid their Capital Contribution except as provided in this Agreement. No Member shall be obligated to make any additional Capital Contributions.

6.2 Distributions. Except as provided by nonwaivable provisions of the Act or as otherwise stated in this Agreement, the Company may make Distributions to the Members as determined by the Manager in its sole discretion.

Article 7
Taxes

7.1 Elections. Subject to the limits on Manager authority in Section 5.2, the Manager may make any tax elections for the Company allowed under the Internal Revenue Code of 1986, as amended, or the tax laws of any state or other jurisdiction.

7.2 Taxes. The Company may withhold and pay over to any governmental authority the amount of tax, penalty, and interest required to be withheld or paid with respect to any Membership Interest. Any tax payments are to be treated as a Distribution for the purposes of Article 6.

7.3 Method of Accounting. The Manager shall maintain the records of the Company on the same method of accounting as that of the Members.

7.4 Fiscal and Taxable Years. The fiscal and taxable years shall be set by the Manager.

Article 8
Disposition of Membership Interest, Admission of Assignees and Additional Members, and Resignation of Members

8.1 Disposition. A Member may dispose of, transfer, or assign, its Membership Interest, in whole or in part, either voluntarily or by operation of law, upon receiving Consent of the Members. Notwithstanding any provision of the Act to the contrary, upon the disposition of the Member's entire Membership Interest, the Company shall admit the transferee upon receiving Consent of the Members. Upon the transfer of a Member's entire Membership Interest (other than a temporary transfer or transfer as a pledge or security interest) pursuant to this Section 8.1, the Member will cease to be a Member and will have no further obligations under this Agreement. Any disposition, transfer or assignment that is not in compliance with this Section 8.1 shall be null and void *ab initio*.

8.2 Admission of Additional Members. The Members may admit additional Members, and determine the Capital Contributions of such additional Members, with the Consent of the Members.

8.3 Resignation. A Member may elect to resign from the Company and to sell their entire interest in the Company to the Company at any time by serving written notice of such election upon the Company. Such notice shall set forth the date upon which such resignation shall become effective, which shall be not less than sixty days and not more than ninety days from the date of such notice.

Article 9
Dissolution and Winding Up

9.1 Dissolution. The Company is to be dissolved and its affairs wound up upon the determination and with the Consent of the Members. Notwithstanding any contrary provision of the Act, the Company is not to automatically dissolve as a result of the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a Member or any other event that terminates the continued membership of a Member.

9.2 Effect of Filing of Dissolving Statement. Upon the filing with the Colorado Secretary of State of a statement of intent to dissolve, the Company shall cease to carry on its business, except as necessary to wind up its business, but its separate existence will continue until a "Certificate of Dissolution" has been issued by the Colorado Secretary of State or until a final non-appealable decree dissolving the Company has been entered by a court of competent jurisdiction.

9.3 Distribution of Assets on Dissolution. Upon the winding up of the Company, the Manager shall distribute the Company's property first to its creditors, including a Member if it is a creditor, then in satisfaction of the Company's liabilities, and then to a Member. The Manager shall make Distributions in cash, in kind, or partly in both.

9.4 Winding Up. The Company may wind up when all of its debts, liabilities, and obligations have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining property and assets of the Company have been distributed to the Members. Upon the completion of the winding up of the Company, the Manager or other person designated by the Manager shall deliver executed "Articles of Dissolution" to the Colorado Secretary of State for filing.

Article 10
Amendment

This Agreement may be amended or modified only by Consent of the Members and a written instrument adopted and executed by the Members.

Article 11
Miscellaneous Provisions

11.1 Entire Agreement. This Agreement represents the Company's entire operating agreement.

11.2 Rights of Creditors and Third Parties Under Agreement. This Agreement is entered into for the exclusive benefit of the Company, the Members, and their successors and assigns. This Agreement is not intended for the benefit of any creditor of the Company or any other Person. No creditor or third party has any rights under this Agreement or any other agreement between the Company and a Member with respect to any Capital Contribution or otherwise.

11.3 Notices. Whenever, under the provisions of the Act or other law, the Articles or this Agreement, notice is required to be given to any Person, it shall not be construed to mean exclusively personal notice unless otherwise specifically provided, but such notice may be given in writing, by mail, addressed to the Company at its principal office from time to time and to any other Person at his address as it appears on the records of the Company from time to time, with postage thereon prepaid. Any such notice shall be deemed to have been given at the time it is deposited in the United States mail. Notice to a Person may also be given personally or by telegram or telecopy sent to his address as it appears on the records of the Company. The addresses of the Members as shown on the records of the Company shall originally be those set forth in Article III hereof. Any Person may change his address as shown on the records of the Company by delivering written notice to the Company in accordance with this Section.

11.4. Application of Colorado Law. This Agreement, and the interpretation hereof, shall be governed exclusively by its terms and by the laws of the state of Colorado, without reference to its choice of law provisions, and specifically the Act.

11.5. Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

11.6. Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof.

11.7. Waivers. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

11.8. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

11.9. Severability. If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

11.10. Heirs, Successors and Assigns. Each and all of the covenants, terms, provisions and agreements in this agreement contained shall be binding upon and inure to the benefit of the parties to this agreement and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

11.11. Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company.

11.12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11.13. Entire Agreement. This Agreement sets forth all of the promises, agreements, conditions and understandings between the parties respecting the subject matter of this agreement and supersedes all prior negotiations, conversations, discussions, correspondence, memoranda and agreements between the parties concerning such subject matter.

The undersigned, being all the Members of the Company, agree, acknowledge and certify that the foregoing Agreement constitutes the sole and entire Agreement of the Company, unanimously adopted by the Members of the Company as of the date first written above.

The parties are signing this Third Amended and Restated Operating Agreement as of the dates below:

MEMBER

Sheridan & Willow JV, LLC

By: ______________________________
Printed Name, Title

Date:____________

MANAGER

Sheridan & Willow JV, LLC

By: ______________________________
Printed Name, Title

Date:____________

SCHEDULE 1

Members, Capital Contributions, Membership Interests

Member Name and Address	Capital Contribution	Member Interest
Sheridan & Willow JV LLC	$100	99.99%
Arvada Housing Participation, LLC	$100	0.01%

ADDENDUM TO THE THIRD AMENDED AND RESTATED OPERATING AGREEMENT OF SHERIDAN RIDGE TOWNHOMES, LLC

This Addendum, dated as of ________, 2023 (the "Effective Date"), is executed in connection with the Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes LLC, dated as of __________, 2023 (the "Operating Agreement"), and is by and among **SHERIDAN & WILLOW JV, LLC** (the "Managing Member"), and **ARVADA HOUSING PARTICIPATION LLC**, a Colorado limited liability company ("AHP" or the "Special Limited Member").

Recitals

WHEREAS, Sheridan Ridge Townhomes LLC (the "Company") has been formed to own, lease, manage, operate, finance, and maintain an affordable multi-family residential Property located in Arvada, Colorado known as Sheridan Ridge Townhomes, located at 5275 W. 66th Avenue, Arvada, Colorado 80003 (the "Property"); and

WHEREAS, the Arvada Housing Authority, a body corporate and politic formed under the Colorado Housing Authority law ("AHA"), is the sole owner and sole member of the Special Limited Member; and

WHEREAS, in order to support the Property and benefit low-income residents of the AHA has agreed to be admitted as a Special Limited Member in the Company in part to enable the Company to obtain exemptions from sales and use taxes during construction and from property taxes. These exemptions should reduce construction and operating costs for the Property.

Agreement

1. This Addendum shall be effective as of the date set forth above. This Addendum shall be a part of and incorporated into the Operating Agreement. Capitalized terms used and not otherwise defined herein shall have the definitions given them in the Operating Agreement.

2. Admission to Company; Capital Contribution; Legal and Other Expenses.

(a) The Special Limited Member is hereby admitted into the Company as a limited member with a 0.01% ownership interest in the Company.

(b) The Special Limited Member shall make a Capital Contribution to the Company on the Effective Date in the amount of $100.00. The Special Limited Member shall have no further obligation of any kind or description to make Capital Contributions to the Company, to make any loans to the Company, or to make any other payments to the Company.

3. Fees Payable to Special Limited Member.

(a) The Managing Member shall pay $150,000.00 to the Special Limited Member within 30 days of execution of this Addendum ("10 Year Prepayment").

(i) Prepayment period. The 10 Year Prepayment represents a bundled and 30% discounted prepayment of the Special Limited Member's fees prepaid as a lump sum and releasing the Company of the fee payments until December 31, 2033. The Company agrees that all fees and payments described in Section 3(b) shall resume as of January 1, 2034.

(ii) No further discounts. The Company agrees that no discounts shall be applied to the Special Limited Member's fees after December 31, 2033.

(iii) Non-refundable. The Company agrees that under no circumstances shall the 10 Year Prepayment be refundable including, but not limited to, early termination, dissolution, restructuring, breach of contract, voluntary withdraw, or refinancing of the Company.

(iv) Dissolution or Termination. In the event the Company is dissolved or terminated prior to December 31, 2033, the Company shall receive nothing from the Special Limited Member.

(v) Restructure of Company during Prepayment period. In the event the Company restructures prior to December 31, 2033, the Special Limited Member agrees to credit the Company $15,000.00 per year or $1,250.00 per month in each year or month remaining in the 10 Year Prepayment time period; that credit will be applied toward any fees assessed against the Company and owed to the Special Limited Member under the restructured operating agreement.

(vi) Standard Special Limited Membership terms resume. In the event the Company restructures or a new company or business entity is created amongst the Parties, the Company and Managing Member agree that then existing Special Limited Member's standard terms and conditions for admission as a special limited member shall apply to such amended, restructured, reformed, restated, or newly formed company, partnership, or other business entity.

(b) Beginning on January 1, 2034, the Company agrees to pay the following fees to the Special Limited Member:

(i) The Company shall pay the Special Limited Member an annual "Asset Management Fee" by March 1st of each year in the amount of $263.00 per unit and increasing thereafter at a rate of 3% per year. The Asset Management Fee for each year shall be paid out of operating expenses. If the Company fails to pay the Asset Management Fee by March 1st of any year, the Asset Management fee shall accrue interest at a rate of 4% per month until paid. If the Company fails to pay the Asset Management Fee within 24 months of the date due, then the Company is in material breach of this Addendum and the Special Limited Member may withdrawal from the Company per Section 8(c)(i) of this Addendum.

(ii) To the extent the Company has Cash Flow remaining after payment of first position loans and other hard debt, the Company shall pay the Special Limited Member, as a "Project Monitoring Fee," an amount equal to five percent (5%) of such remaining Cash Flow. The Company or Managing Member may pay the Project Monitoring Fee from any account it deems appropriate as long as the amount is equal to five percent (5%) of the Cash Flow. The Company must give an annual report to the Special Limited Member by March 1st of each year detailing the Company's Cash Flow for the previous year.

(iii) In lieu of the Project Monitoring Fee and Asset Management Fee described above in Sections 3(b)(i)-(ii), and upon mutual written agreement of the Parties, the Special Limited Member and Managing Member may choose to negotiate another lump sum prepayment to cover the Company's payment of its fees. Neither Party is obligated to agree to a prepayment amount or prepayment method and may decline to do so in the Parties' sole discretions.

4. Rights and Duties of Special Limited Member.

(a) Real Property Tax Exemption. The Special Limited Member shall cooperate with the Company in the Company's request for an exemption from special assessments and real property tax provided under Colorado Revised Statutes §29-4-226 and §29-4-227. Any materials submitted in connection with such request for exemption based on the participation of the Special Limited Member shall be subject to the prior review and approval, which shall not be unreasonably withheld, of the Special Limited Member. The Special Limited Member represents that AHA is the sole member and sole owner of the Special Limited Member, and that AHA is a duly formed housing authority under the Colorado Housing Authorities Law, but otherwise makes no representation or warranty concerning any such exemption and provides no other assurances regarding the current or continued availability of any such property tax exemption or the qualification of the Company or the Property for any such tax exemption.

(b) Sales and Use Tax Exemption. The Special Limited Member shall cooperate with the Company to enable the Company to qualify for an exemption from sales and use taxes under Colorado Revised Statutes §29-4-227 and §39-26-704(1.5) and Arvada City Code 98-70 and 98-78 (the "Sales Tax Exemption"). Any materials that must be submitted in connection with a request for the Sales Tax Exemption based on the participation of the Special Limited Member in the Company shall be subject to the prior review and approval, which shall not be unreasonably withheld, of the Special Limited Member. The Special Limited Member represents that AHA is the sole owner and sole member of the Special Limited Member, and that AHA is a duly formed housing authority under the Colorado Housing Authorities Law, and agrees to provide an affidavit or other certificate of the information related to the Sales Tax Exemption as contemplated by applicable regulations, but otherwise makes no representation or warranty concerning the Sales Tax Exemption and provides no other assurances regarding the current or continued availability of any such Sales Tax Exemption or the qualification of the Company or the Property for any such tax exemption. Any application for the Sales Tax Exemption based on the participation of the Special Limited Member in the Company must receive the prior written consent of the Special Limited Member.

(c) Tenant Referrals. The Special Limited Member agrees to cause AHA to include the Property in any list or other publication of local properties offering affordable rental units, shall refer prospective tenants to the Management Agent, and, upon written request from the Company, will also provide to the Management Agent waiting list information concerning potential tenants for the Property. Subject in all respects to the requirements of applicable HUD and CHFA rules and regulations, the Company commits to the review and consideration of qualified tenants from the waiting list provided by AHA. All prospective tenants shall be subject to the normal qualification and income verification processes used by the Management Agent.

5. Liability of Special Limited Member and Company; Indemnification of Special Limited Member. The Special Limited Member and all of its past and present officers, directors, commissioners, managers, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, and attorneys (collectively, the "SLP Parties"), shall incur no liability for, and the Managing Member shall indemnify, defend and hold harmless the SLP Parties from and against, any claims, actions, costs or expenses arising from the Special Limited Member's acts or omissions in connection with the Company, the Property, or Company property, except that the SLP Parties shall not be indemnified by the Company or any of its Members for any fraud, gross negligence, or willful misconduct on the part of any SLP Party. The Managing Member shall indemnify and hold harmless each of the SLP Parties against any loss, liability, claim or damage arising from or related to the acts, omissions or conduct of the Company or the Company property.

6. Managing Member Changes; Required Consents.

(a) The consent of the Special Limited Member, which consent may be withheld in the sole discretion of the Special Limited Member, shall be required for any amendment or modification to the Operating Agreement that would (I) have a material adverse effect on the rights or obligations of the Special Limited Member under the Operating Agreement (II) change the purposes of the Company, (III) authorize the Property to be operated other than as an affordable housing property in compliance the Restrictive Covenants and the Operating Agreement, or (IV) change the affordability restrictions for the Property in a manner that would permit units to be leased to tenants who are not low income tenants. If any of the actions described in this paragraph (a) are taken without the required consent of the Special Limited Member, the Special Limited Member may withdraw from the Company upon 30-days written notice, or pursue any other remedy available in law or equity.

(b) The Special Limited Member's written consent, which consent shall not be unreasonably withheld, delayed or conditioned, shall be required for the (i) transfer of control of the Managing Member or a majority of the equity interests in the Managing Member; (ii) the withdrawal of the Managing Member from the Company; (iii) the admission of a successor Managing Member following the voluntary withdrawal of the Managing Member, provided however no consent shall be required if the Managing Member interest is assumed by an affiliate of the Managing Member's [Enterprise Class B Member] or Enterprise Community Investment, Inc. With the exception of emergency situations in which action is required to avoid substantial harm to the Property or the residents thereof, any change in ownership or control of the Property will require 30 days' written notice to the Special Limited Member, and if the Special Limited Member fails to respond to such notice within 30 business days, the Special Limited Member will be deemed to have consented with such requested changes.

(c) Except for those consent rights of the Special Limited Member specifically set forth in this Addendum, the Special Limited Member will not have any voting, approval, or consent rights with respect to any other matters to be decided upon by the Members. The Special Limited Member shall not have the power or authority to bind the Company or to sign any agreement or document in the name of the Company.

(d) Notwithstanding anything to the contrary set forth in the Operating Agreement, as amended hereby, the Special Limited Member cannot (i) voluntarily withdraw from the Company except as permitted under Sections 6 and 8 of this Addendum or (ii) assign, pledge or otherwise transfer its Interest in the Company, in whole or in part, without the prior written consent of the Company; provided, however, that in the case of an assignment or transfer by the Special Limited Member of its Interest in the Company to an entity that is wholly owned by the Special Limited Member, the consent of the Company shall not be unreasonably withheld, conditioned or delayed.

7. Closing Documents; Reports and Information.

(a) The Managing Member shall deliver to the Special Limited Member (i) a copy of the executed Operating Agreement and all exhibits; and (ii) a copy of all closing documents within sixty (60) days after the execution of such documents. Upon written notice that documents have not been received by AHP, the Managing Member will have 10 business days to cure. Failure to provide all documents within the defined timeframe will result in a $100 per day fee payable to the Special Limited Member until documents are provided.

(b) The Special Limited Member will receive copies of the standard operating, leasing, financial, and other reports that are provided to the Company in the same frequency as required by the Operating Agreement. The Special Limited Member will receive the annual audited financial statement of the Company. Failure to provide within the defined timeframe will result in a $100 per day fee payable to the Special Limited Member unless the failure to provide is outside of the control of the Company.

(c) The Managing Member, and any successors and assigns, shall, upon request and with reasonable notice, permit the Special Limited Member to inspect and examine (i) the Property, (ii) the equipment, buildings and other facilities of the Property, and (iii) all documents relating to the Property. Any such inspection or examination shall be made during reasonable business hours, in the presence of an officer or agent of a Managing Member.

8. Withdrawal Rights.

(a) The term of the Special Limited Member's participation will continue as long as the Property retains and complies with the affordability restrictions in place when the Special Limited Member enters the Company. Any change in such affordability restrictions will require the Special Limited Member's consent, which consent shall not be unreasonably withheld, conditioned, or delayed. The following are the affordability restriction for this 65 Unit Property:

4 Units are to be occupied by households at or below 50% Area Median Income ("AMI") as defined by the U.S. Department of Housing and Urban Development;

26 units are to be occupied by households at or below 60% AMI;

19 units are to be occupied by households at or below 100% AMI; and

16 units are unrestricted.

(b) At the end of the initial 10-year Prepayment Period in this Agreement, or after December 31, 2033, and every three (3) years thereafter prior to the expiration of each Exemption Period (as defined below), the Managing Member and the Special Limited Member shall review the economic condition of the Property and the Company (based upon the affordability restrictions to which the Company is then subject, as well as other relevant factors) and shall work together in good faith to determine whether the tax exemptions are needed to maintain the financial viability of the Property as an affordable housing project serving households in accordance with the such restrictions (the "Financial Viability") for an additional three year period (the "Exemption Period"). If the Managing Member and the Special Limited Member determine that the tax exemption is reasonably necessary to maintain the Financial Viability of the Property for such Exemption Period, the Special Limited Member shall not withdraw from the Company. If the Managing Member and the Special Limited Member agree that the ongoing property tax exemption is not reasonably necessary for the Property's ongoing Financial Viability, then the Special Limited Member shall have the option to withdraw from the Company during each such Exemption Period upon thirty (30) days' written notice to the Managing Member. Upon withdrawal, the Company shall pay to the Special Limited Member the balance in the Special Limited Member's Capital Account and all other amounts then owing to the Special Limited Member. For the purposes of this Section 8(a), Financial Viability shall mean that the Property would be able to maintain a minimum 1.20 to 1.00 debt service coverage ratio (or a greater ratio if required by the permanent lender) after (i) payment in full of all "must pay" debt service and assuming the Property continues to be operating as affordable housing) and (ii) payment in full of applicable property taxes following the termination of the property tax exemption. This Section 8(a) is not intended to, and shall not be interpreted to, provide any rights to any third party other than the Company.

(c) In addition to the rights of the Special Limited Member to withdraw from the Company under Sections 6 and 8(a) & (b) of this Addendum, the Special Limited Member shall have the unconditional right to withdraw from the Company, in addition to any other remedy available in law or equity, upon the occurrence of any event described in clauses (i) or (ii) below upon thirty (30) days' written notice to the Managing Member, unless any such event is cured within such thirty (30) day period, or such longer period acceptable to the Special Limited Member as may be reasonably required to effect cure (but in no event shall such cure period exceed a total of sixty (60) days, or such other time period as provided below), if cure is commenced within such thirty (30) day period and diligently prosecuted thereafter upon any of the following: (i) a material breach by the Company or any Member of any provisions of this Addendum or the Operating Agreement that benefits the Special Limited Member, which breach is not cured within thirty (30) days following written notice thereof to the Managing Member; or (ii) an event of bankruptcy with respect to the Company. In the event the Special Limited Member withdraws from the Company pursuant to this Section 8(c), the Special Limited Member shall not refund or reimburse any prepayments made pursuant to Sections 3(a) or 3(b)(iii) to the Company.

(d) The Managing Member shall have the option to remove the Special Limited Member from the Company upon thirty (30) days' written notice to the Special Limited Member: (i) at any time after a material violation of this Addendum or the Operating Agreement by the Special Limited Member which is not cured within a reasonable cure period, (ii) the Special Limited Member's or AHA's act of fraud, violation of law, bad faith, willful misconduct, gross negligence, or breach of fiduciary duty, or (iii) if at any time the Property does not qualify for an exemption from special assessments and real property taxes as provided in Section 4(a) of this Addendum. In such case, the Company shall redeem the Special Limited Member's interest for $100. If the Managing Member exercises its rights under this Section 8(c), the Special Limited Member agrees to execute an amendment to the Operating Agreement which is reasonably necessary to evidence the Special Limited Member's withdrawal as a Member, effective upon the date of such purchase; provided, that the Company will pay the reasonable legal fees, costs and expenses incurred by the Special Limited Member in connection with any withdrawal pursuant to clause (iii), above, other than upon the failure of the Special Limited Member to satisfy its obligations under this Addendum.

(e) Upon the withdrawal by the Special Limited Member from the Company in accordance with the provisions of this Sections 8, or the purchase of the interest of the Special Limited Member as provided in Section 8(d) of this Addendum, the terms of this Addendum (other than Section 3(c), 5, and 9, which shall continue to apply) shall cease to apply and no longer be in force or effect.

9. Right of First Offer. The Company grants a right of first offer ("ROFO") to the Special Limited Member subject to the terms and conditions set forth below and in accordance with any federal or Colorado law related to the sale of the Property.

(a) Transactions Subject to ROFO. The ROFO shall apply to any sale of the Property, by the Company (other than a sale by the Company to a Member of the Company or to any Affiliate of a Member of the Company), and, if the Property is acquired by the Managing Member or an Affiliate of the Managing Member, to any subsequent sale by the Managing Member or its Affiliate to an unrelated third party. The Company or the Managing Member or Affiliate are referred to in this Section 9 as the "Selling Party." Notwithstanding the foregoing, the ROFO shall expire upon the earlier of (i) ten years after the end of the Compliance Period or any Extended Period.

(b) Operation of ROFO. If a Selling Party desires to sell the Property, the Selling Party shall give written notice to the Special Limited Member (the "ROFO Notice"). The ROFO Notice must contain the proposed purchase price and other material terms of the proposed sale. The Special Limited Member shall have ninety (90) days from the date on which it receives the ROFO Notice to exercise its ROFO (the "ROFO Response Deadline"). If the Special Limited Member decides to exercise its ROFO, the Special Limited Member must respond by delivering to the Managing Member a written and executed purchase and sale agreement for the proposed purchase price and with the materials terms from the ROFO Notice (the "ROFO Acceptance Submission") on or before the ROFO Response Deadline. If the Special Limited Member declines to exercise its ROFO or fails to deliver to the Managing Member the ROFO Acceptance Submission on or before the ROFO Response Deadline, the Selling Party may sell the Property for an amount equal to or greater than the proposed purchase price at any time within one year of the ROFO Notice. Any sale for less than the proposed purchase price in the ROFO Notice will be null and void, unless the Special Limited Member received a ROFO Notice with respect to the sale at the reduced price and is given the opportunity to exercise the ROFO in accordance with the terms of this Section 9(b).

(c) Termination of ROFO. The ROFO provided in this Section 9 shall terminate and be of no further force and effect upon the withdrawal or removal of the Special Limited Member pursuant to the provisions of Section 8 herein, and the Special Limited Member shall cooperate with the Managing Member in preparing and executing any documentation reasonably requested to effectuate and memorialize such termination.

10. Notices. The Special Limited Member shall provide copies of any Notices it sends to the Managing Member at the addresses and in the manner set forth in the Operating Agreement. The parties shall give all notices, consents, demands, waivers, or approvals related to this Addendum in writing delivered by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, or (iii) first-class certified mail, postage prepaid. A notice is deemed given on the other party's receipt of it, or if mailed, on the earlier of the other party's receipt of it and the third business day after its mailing. The parties may change their addresses for notice by notifying the other parties in the manner provided in this Section 10. The following is the address of the Special Limited Member for notice purposes under this Agreement:

Special Limited Member:

Arvada Housing Authority
8101 Ralston Road
Arvada, CO 80002
Attn: Housing Manager

With a copy to:

City of Arvada
8101 Ralston Road
Arvada, CO 80002
Attn: City Attorney

Notice to the Managing Member shall be given in accordance with the notice requirements of the Operating Agreement.

11. Conflicts. If any provision of this Addendum conflicts with any provision of the Operating Agreement or any document, the provisions of this Addendum shall be controlling in all respects. Except as specifically amended hereby, all of the terms and the provisions of the Operating Agreement remain in full force and effect, without modification.

12. Governing Law. This Addendum shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws. Venue shall be proper in Jefferson County, Colorado.

13. Binding Agreement. This Addendum shall be binding on the Parties hereto, and their heirs, executors, personal representatives, successors and assigns.

14. Headings. All headings in this Addendum are for convenience of reference only and are not intended to qualify the meaning of any provision of this Addendum.

15. Counterparts. This Addendum may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

[*No further text on this page; signature page follows*.]

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed as of the date first written above.

MANAGING MEMBER:

By ____
Name:
Title:

SPONSOR CLASS B MEMBER:

By ____
Name:
Title:

ADMINISTRATIVE MEMBER

By ____
Name:
Title:

[*Signatures continued on following pages*.]

ENTERPRISE CLASS B MEMBER:

By: ____
Name:
Title:

[*Signatures continued on following pages*.]

SPECIAL LIMITED MEMBER:

ARVADA HOUSING PARTICIPATION LLC, a Colorado limited liability company

By: Arvada Housing Authority, a Colorado body corporate and politic organized and existing under the Housing Authorities Law of the State of Colorado

By:_________________________________
Name: Marc Williams
Title: Mayor of Arvada; Chairperson of AHA

ATTEST:

____
City Clerk

APPROVED AS TO FORM by
Rachel A. Morris, City Attorney

____

Tax Exemption Certification

Housing Authority Certification Regarding Sales and Use Tax Exemption

THIS HOUSING AUTHORITY CERTIFICATION REGARDING SALES AND USE TAX EXEMPTION (the "Certification") is made by THE ARVADA HOUSING AUTHORITY OF ARVADA, COLORADO, a Colorado public body corporate and politic ("AHA") as of _______________, 2023.

WHEREAS, Sheridan Ridge Townhomes LLC (the "Company") was formed for the purpose of owning, leasing, managing, operating, and maintaining an affordable multi-family residential Property located in Arvada, Colorado known as Sheridan Ridge Townhomes, located at 5275 W. 66th Avenue, Arvada, Colorado 80003 (the "Property");

WHEREAS, the Company is governed by its Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes LLC, dated as of the ____________________, 2023, and the Addendum thereto dated as of _______________, 2023 (collectively, the "Operating Agreement");

WHEREAS, Arvada Housing Participation, LLC, a Colorado limited liability company ("AHP") is the Special Limited Member of the Company;

WHEREAS, AHP has a single member and that member is AHA; and

WHEREAS, AHP is cooperating with the Company in the Company's pursuit of exemption from sales and use tax under Colorado Revised Statutes §39-26-704(1.5) and §29-4-227 (the "Sales Tax Exemption").

NOW THEREFORE, AHA hereby certifies as to the following in connection with the Sales Tax Exemption for the Company:

1. AHA is the sole member of AHP. AHP is the Special Limited Member of the Company and owns a .01% interest in the Company.

2. Consistent with the rules prescribed by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority regarding such calculation, approximately 46% of the Property to be improved is occupied by persons of low-income (at or below 60% AMI) occupied by persons of low-income, as required by the Land Use Restriction Agreement(s) recorded against the Property. For the purposes of this Section 2, AHA has used the definition of "low-income" established by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority.

5. The effective date of AHP's participation in the Company is as of the date hereof.

DATED AS OF __________, 2023

THE ARVADA HOUSING AUTHORITY,
a Colorado public body, corporate and politic

By:_________________________________
Name: Marc Williams
Title: Mayor of Arvada & Chairperson of AHA

ATTEST:

____
City Clerk

APPROVED AS TO FORM by
Rachel A. Morris, City Attorney

____

Tax Exemption Certification

Housing Authority Certification Regarding Property Tax Exemption

THIS HOUSING AUTHORITY CERTIFICATION REGARDING PROPERTY TAX EXEMPTION (the "Certification") is made by THE ARVADA HOUSING AUTHORITY OF ARVADA, COLORADO, a Colorado public body corporate and politic ("AHA") as of _______________, 2023.

WHEREAS, Sheridan Ridge Townhomes LLC (the "Company") was formed for the purpose of owning, leasing, managing, operating, and maintaining an affordable multi-family residential Property located in Arvada, Colorado known as Sheridan Ridge Townhomes, located at 5275 W. 66th Avenue, Arvada, Colorado 80003 (the "Property");

WHEREAS, the Company is governed by its Third Amended and Restated Operating Agreement of Sheridan Ridge Townhomes LLC, dated as of the date hereof, and the Addendum thereto dated as of the date hereof (collectively, the "Operating Agreement");

WHEREAS, Arvada Housing Participation LLC, a Colorado limited liability company ("AHP") is the Special Limited Member of the Company;

WHEREAS, AHP has a single member and that member is AHA; and

WHEREAS, AHP is cooperating with the Company in the Company's pursuit of exemption from property tax under Colorado Revised Statutes §29-4-227 (the "Property Tax Exemption").

NOW THEREFORE, AHA hereby certifies as to the following in connection with the Property Tax Exemption for the Company:

1. AHA is the sole member of AHP. AHP is the Special Limited Member of the Company and owns a .01% interest in the Company.

2. Consistent with the rules prescribed by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority regarding such calculation, approximately 46% of the Property to be improved is occupied by persons of low-income (at or below 60% AMI), as required by the Land Use Restriction Agreement(s) recorded against the Property. For the purposes of this Section 2, AHA has used the definition of "low-income" established by the U.S. Department of Housing and Urban Development or the Colorado Housing and Finance Authority.

3. The effective date of AHP's participation in the Company is as of the date hereof.

DATED AS OF __________, 2023

THE ARVADA HOUSING AUTHORITY,
a Colorado public body, corporate and politic

By:________________________________
Name: Marc Williams
Title: Mayor of Arvada & Chairperson of AHA

ATTEST:

____
City Clerk

____

APPROVED AS TO FORM by
Rachel A. Morris, City Attorney