

COLORADO DEPARTMENT OF LOCAL AFFAIRS
PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned [**BORROWER**], a [State] [entity type] (the “Borrower,” which term shall also include successors in interest), promises to pay to the **STATE OF COLORADO, by and through the Department of Local Affairs, for the benefit of the Division of Housing** (the “State”), with an address of 1313 Sherman Street, Room 320, Denver, CO 80203, the principal sum of **Amount and xx/100 Dollars (\$xx,xxx.xx)**, pursuant to that certain Loan Agreement H#XXX30000 and CMS #000000 between the Borrower and the State (the “Loan Agreement”), and to pay interest on the principal balance outstanding at a rate of [x]% per annum, compounded annually.

This Note is secured by a Deed of Trust granted by the Borrower as of the date of this Note, and the holder of this Note is entitled to the benefits of a Use Covenant and Regulatory Agreement (the “Covenant”; the Covenant and the Deed of Trust may be referred to in this Note collectively as the “Security Documents”). Reference is made to the Security Documents for a description of the property covered by the Deed of Trust and Covenant, and the rights, remedies and obligations of the holder of this Note under the Deed of Trust and Covenant. The terms, conditions, covenants, provisions, stipulations, and agreements of the Security Documents and the Loan Agreement are made a part of this Note by this reference in the same manner and with the same effect as if they were fully set forth in this Note, and the Borrower covenants and promises to abide by and comply with each and every covenant and condition set forth in this Note, the Security Documents, the Loan Agreement, and any and all of the loan documents related thereto (collectively with the Loan Agreement, and Security Documents, the “Loan Documents”). In the event of a conflict between the terms of this Note and the Loan Documents, the terms and conditions of this Note shall take precedence. Capitalized terms not defined in this Note shall have the meanings given such terms in the Loan Agreement.

Terms of Repayment

Interest shall accrue on the outstanding principal balance from the date the Loan Agreement is executed until the Loan is fully repaid. Interest shall be computed on the basis of a 360-day year of twelve 30-day months, or the number of actual days elapsed for partial months. Borrower shall make annual payments, except that no annual payment shall be due in years 20XX or 20XX [insert years for construction period]. Instead, the first annual payment shall be due [Month 11, 202X] and subsequent payments shall be due on the first day of [Month] in each year thereafter. Each annual payment shall be equal to [percent (#%)] of Cash Flow for the preceding year, as that term is defined in, and in the order of priority set forth in Section XXX of, the Amended and Restated Operating Agreement of the Borrower dated _____, 202X, and described in Attachment 1, attached hereto. If the annual payment, in any given year, is less than the accumulated interest for that year, then the unpaid amount of such accumulated interest shall continue to be due and payable and shall be “Past Due Debt.” Annual payments shall be credited first to any Past Due Debt and then to interest for the year in which the payment is made, and then to principal. If not sooner paid, the entire principal balance, all interest accrued and unpaid, and all other amounts due pursuant to the terms of this Note and the

terms of the Loan Documents shall be due and payable on [MONTH] 1, 20XX (the “Maturity Date”).

Repayment of this Note shall be fully amortized based upon annual payments of principal and interest. No payments of principal and interest shall be due for the period from the date this Note is executed through _____. Thereafter, principal and interest shall be paid in [INSERT NUMBER OF ANNUAL INSTALLMENTS] annual installments of [INSERT WRITTEN DOLLAR AMOUNT] (\$_____) each. The first installment shall be due _____ 1, 20__, and subsequent installments shall be due on the 1st day of _____ in each year thereafter. Interest shall be computed on the basis of a 360-day year of twelve 30-day months, or the number of actual days elapsed for partial months. If not sooner paid, the entire principal balance, all interest accrued and unpaid and all other amounts due pursuant to the terms hereof and the terms of the Loan Documents shall be due and payable on _____ 1, 20__ (the “Maturity Date”).

Method of Payment

Borrower shall make all payments due under the terms of this Note to the State at the above address or at such place as may be designated to the Borrower in writing by the State. Payments will be applied first to late charges, then accrued interest and then to the reduction of principal.

Origination Fee

There shall be no origination fee associated with this Note.

Nonrecourse

This Note is nonrecourse to Borrower’s partners, members, managers, officers, directors, employees and agents as appropriate, and the payment of principal, interest and any other amounts due and owing under this Note shall not be enforced by any action or proceeding whereby any damages or personal money judgment shall be sought against any of Borrower’s partners, members, managers, officers, directors, employees and agents as appropriate.

Late Charge

If the Borrower fails to make payment of any amount becoming due pursuant to the provisions of this Note or the Loan Documents within fifteen (15) days of the date due and payable, the Borrower shall pay to the State a late charge equal to five percent (5%) of the amount of such payment.

Prepayment

The Borrower reserves the right to prepay all or any part of the principal owing on this Note at any time or times prior to the Maturity Date without notice or payment of any premium or penalty.

Default

In the event of any default in any payment of the principal or interest on this Note when due and payable, or any default or event of default under the provisions of the Loan Documents then (a) the unpaid principal balance of this Note shall bear interest from the date of any such event of default until such balance has been paid in full at the rate of twelve percent (12%) per annum; and (b) the unpaid principal balance of this Note, plus accrued interest and all other

obligations of Borrower to the State, direct or indirect, absolute or contingent, now existing or hereafter arising, shall, at the option of the State, become immediately due and payable without notice or demand, and the State shall have and may exercise any and all of the rights and remedies provided herein or in the Loan Documents.

In the event of any such default, Borrower agrees to pay on demand all of the State's reasonable costs and expenses incurred for the recovery of all or any part of or for the protection of the indebtedness, or to enforce the State's rights under the Loan Agreement or Security Documents, including, without limitation, reasonable attorneys' fees.

The Borrower, and any and all endorsers, sureties, guarantors and assumers of this Note, jointly and severally waive presentment, demand, protest, notices of dishonor and of protest, the benefits of homestead, and all other waivable exemptions, and all defenses and pleas on the ground of any extension(s) of the time of payment or of the due dates of this Note, in whole or in part, before or after the Maturity Date, with or without notice, it being further agreed by the Borrower and all such parties that they will pay any collection expense, court costs, and reasonable attorneys' fees which may be incurred in the collection or enforcement of this Note or any part of this Note.

Miscellaneous

- (a) This Note may only be changed pursuant to the terms of the Loan Agreement.
- (b) If any of the provisions of this Note are held to be invalid or unenforceable, the determination of invalidity or unenforceability of any such provision shall not affect the validity or enforceability of any other provision or provisions of this Note.
- (c) This Note shall be binding upon Borrower and its successors and assigns and shall inure to the benefit of and be enforceable by the State and its successors and assigns.
- (d) This Note shall be governed by the laws of the State of Colorado and any dispute regarding its terms and conditions shall be filed and proceedings held in the county where the Deed of Trust is filed.
- (e) The obligations of Borrower are contingent on receipt of funds from the State.

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IN WITNESS WHEREOF, Borrower has caused this instrument to be executed on _____, 202X.

“BORROWER”

[INSERT BORROWER NAME], a [INSERT STATE][INSERT ENTITY TYPE]

By: _____

Title: _____

**ATTACHMENT 1
TO PROMISSORY NOTE**

Distribution of Cash Flow

(Section XXXXX of the Amended and Restated Agreement of Limited Partnership)