

PROMISSORY NOTE SECURED BY DEED OF TRUST

U.S. \$ _____

Dated: _____

Borrower:

FOR VALUE RECEIVED, the undersigned, (hereinafter referred to as the "Borrower") hereby promises to pay to the order of the Department of Housing and Community Development (hereinafter referred to as the "Department") a public agency of the State of California, which has its principal office at 2020 West El Camino Avenue, Sacramento, California 95833 (mailing address: P.O. Box 952052, Sacramento, CA 94252-20542, the principal amount of _____ Dollars (\$_____), or so much thereof as may be advanced by the Department to or on behalf of the Borrower pursuant to a Standard Agreement dated _____, by and between the Borrower and the Department, together with interest thereon as specified herein (the "Loan"). The obligation of the Borrower in respect of all such advances is subject to the terms of (a) a Regulatory Agreement by and between the Borrower and the Department of even date hereof (the "Regulatory Agreement"), (b) this Note, (c) the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date hereof, securing this Note, recorded in the Official Records of the County Recorder of _____ County, California (the "Deed of Trust"), and (d) the Standard Agreement, which together with all other loan related documents and instruments required by the Department are collectively referred to as the "Loan Documents." Capitalized terms not otherwise defined herein shall have the meanings set forth in the Regulatory Agreement.

1. This Note evidences the obligation of the Borrower to the Department for the repayment of funds loaned to the Borrower by the Department for the purpose of assisting in the development by the Borrower of a rental housing development on the real property located in _____, California, more fully described in the Deed of Trust and the Regulatory Agreement (the "Development").
2.
 - a. Borrower agrees to pay the entire unpaid principal amount advanced under the Loan Documents, together with all accrued but unpaid interest thereon on the fifty-fifth (55th) anniversary of the date of recordation of the Regulatory Agreement or such later date as may be approved in writing by the Department, in its sole discretion (the "Maturity Date").
 - b. Interest on the unpaid principal balance advanced under the Loan Documents shall accrue from the date of such advance at the simple interest rate of three percent (3%) per annum. Payments in the amount of forty-two hundredths of one percent (.42%) per annum on the unpaid principal balance of the loan shall be payable to the Department

commencing on the last day of the Initial Operating Year (the "Interest Payment Date") and continuing annually thereafter up to and including the twenty-ninth (29th) anniversary of the Interest Payment Date.

- c. Commencing on the thirtieth (30th) anniversary of the Interest Payment Date and continuing annually thereafter, the Borrower shall pay to the Department annual loan payments in an amount equal to the lesser of (1) the full amount of interest accruing on the unpaid principal amount advanced under the Loan Documents for the immediately preceding twelve (12) month period, or (2) the amount determined by the Department to be necessary to cover the costs of continued monitoring of the Development for compliance with the requirements of the Program.
 - d. Borrower agrees to make additional payments from Net Cash Flow toward repayment of the Loan as required by the Department under the terms of the Regulatory Agreement.
3. All payments on this Note shall be applied first to any costs or charges incurred in connection with the indebtedness evidenced by the Loan Documents; next, to the payment of accrued interest; then to the reduction of the principal balance.
4. The amount due and payable under this Note and the other Loan Documents is payable at the principal office of the Department set forth above, or at such other place or places as the Department may designate to the Borrower in writing from time to time, in any coin or currency of the United States of America, which on the respective date of payment thereof shall be legal tender for the payment of public and private debts.
5. All covenants, conditions and agreements contained in the Deed of Trust are hereby made a part of this Note. If any payment due under this Note is not paid when due and remains unpaid or any other default occurs under the terms of this Note or the other Loan Documents, the Department, at its option, may declare the entire principal amount then outstanding and any and all accrued interest thereon due and payable immediately, upon the expiration of not less than thirty (30) days after the date written notice of the Department's decision to accelerate is mailed to Borrower. Such written notice shall be given as provided herein. All such amounts due after acceleration shall bear interest at the rate of ten percent (10%) per annum. The Department may exercise this option to accelerate during any default by Borrower regardless of any prior forbearance. In the event of default, the Department may, at its option, exercise all of its rights and remedies enumerated herein, which rights are in addition to and not in limitation of any other rights the Department may have under applicable law. The following events shall also constitute default under this Note:
 - a. the Borrower becoming insolvent or bankrupt, being unable or admitting in writing its inability to pay its debts as they are due, or making a general assignment with creditors;

- b. initiation by or against the Borrower of proceedings for the appointment of a receiver, trustee, or liquidator of all or a substantial part of the assets of the Borrower, which proceedings are not dismissed within sixty (60) days of institution;
 - c. initiation by or against the Borrower of proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction, which proceedings are not dismissed within sixty (60) days of initiation; or
 - d. dissolution of the corporate or partnership structure of the Borrower or death of the Borrower, if Borrower is an individual.
6. The Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the Department in the enforcement of this Note, the Deed of Trust, or any term or provision thereof. Each maker, endorser, surety, and guarantor of this Note hereby jointly and severally waives demand, protest, presentment, notice of nonpayment, notice of protest, notice of dishonor, and diligence in bringing suit against any party and does hereby consent that time of payment of all or any part of said amount may be extended from time to time by the Department without notice.
7. The obligations under this Note shall be without recourse against the Borrower and any partners, general or limited, of the Borrower. Notwithstanding anything in this Paragraph 7 to the contrary, Borrower, and any general partner of Borrower, shall be liable for each and all of the following:
- a. any fraud, intentional misrepresentation or omission, or other cause of action, that is independent of liability under the Loan Documents;
 - b. any waste or intentional destruction of the Development or of any collateral secured by the Deed of Trust;
 - c. all insurance proceeds, condemnation awards, or other sums or payments attributable to the Development not applied in accordance with the terms of the Loan Documents, except to the extent that such sums were not applied in accordance with the Loan Documents solely because Borrower did not have the legal right to so apply such sums because of a bankruptcy, receivership, or similar judicial proceeding;
 - d. all rents, lease payments, profits, issues and other income from the Development received by or on behalf of the Borrower following any event of default and not applied in accordance with the terms of the Loan Documents, except to the extent that such sums were not applied in accordance with the Loan Documents solely because Borrower did not have the legal right to so apply such sums because of bankruptcy, receivership, or similar judicial proceeding; and

- e. any liability arising under or pursuant to any Borrower indemnity contained in the Loan Documents.
8. No delay or failure of Department in the exercise of any right or remedy hereunder or under any other agreement which secures or is related hereto shall affect any such right or remedy, and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by the Department shall be deemed a waiver of any such right or remedy.
9. Except for any notice required under applicable law to be given in another manner, any notices, demands or communications between the parties hereto shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested or delivered by express delivery service with delivery receipt, to the address of the respective party as indicated in the Regulatory Agreement, or to such other address as the respective party may have designated by written notice given to the other party in the manner provided herein. Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered, the date on which delivery was refused, or the date on which delivery was attempted.
10. This Note shall be binding upon the Borrower and its successors and assigns. The Borrower shall not make any sale, assignment, or conveyance, or transfer in any other form, of the Property or the Development or any part thereof or of any of its interests therein other than in accordance with the terms of the Deed of Trust and the Regulatory Agreement and with the prior written approval of the Department.
11. The Borrower shall be entitled to pay the indebtedness evidenced by this Note, or any part thereof, prior to or in advance of the Maturity Date, only upon the prior written consent of the Department. No such approved prepayment shall relieve Borrower from its obligations under the Regulatory Agreement.
12. This Note shall be construed in accordance with and be governed by the laws of the State of California.
13. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby unless, in the sole discretion of the Department, the invalidity, illegality or unenforceability of the provision negates the Program purpose and/or threatens the security of the Department.
14. The Borrower hereby certifies to the Department that this is the Note described in and secured by the Deed of Trust covering the real and personal property therein described.

Executed as of the date first set forth above at _____, California.

BORROWER:

BORROWER'S ADDRESS:

By: _____

Title: _____
