

SECURED PROMISSORY NOTE

(315-335 Record Street)

\$[REDACTED]

[REDACTED], 202_

FOR VALUE RECEIVED, [SPE BORROWER], a [] (“Borrower”), promises to pay to **City of Reno**, a municipality of the State of Nevada (“Lender”), at One East First Street, P.O. Box 1900, Reno, Nevada 89509, in lawful money of the United States of America, the principal amount of [REDACTED] and No/100 Dollars (\$[REDACTED]), together with interest on the unpaid principal balance beginning on the “Interest Accrual Commencement Date”, as defined in Section 1 below, until paid in full.

This Secured Promissory Note (this “Note”) is made pursuant to that certain Agreement for Economic Development and Purchase/Sale of Real Property by and between Borrower and Lender dated as of [REDACTED], as amended from time to time (the “ED Agreement”). All capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the ED Agreement, or if not contained therein, the Deed of Trust (hereafter defined).

This Note is secured by that certain real property located at 315-335 Record Street, Reno, Nevada (“Property”), pursuant to that certain Deed of Trust with Security Agreement, Assignment of Leases and Rents and Financing Statement Filed as a Fixture Filing Pursuant to NRS § 104.9502(3) given by Borrower, as grantor, to [REDACTED], as trustee, for the benefit of Lender, as beneficiary, dated the date hereof, to be recorded in the Official Records of Washoe County, Nevada encumbering the Property commonly known as Washoe County, Nevada Assessor’s Parcel No. [REDACTED] (the “Deed of Trust”).

1. Payment. Interest will begin to accrue upon completion of construction of the Project on the Property, as evidenced by the issuance of a certificate of occupancy for the Project (the “Interest Accrual Commencement Date”). Interest only installments in an amount equal to [REDACTED] Dollars (\$[REDACTED]) (each, an “Annual Payment”) shall be due and payable on the first (1st) day of June in each calendar year beginning on June 1, 2043 (“Annual Payment Commencement Date”), unless such day is not a Business Day, then the payment will be due on and accrue to the following Business Day. All unpaid principal, together with all accrued and unpaid interest thereon, and all other amounts payable to Lender hereunder, shall be due and payable on the date that is later to occur of (“Maturity Date”): (a) the date that is fifteen (15) years after the Interest Accrual Commencement Date, (b) six months after the maturity date of the Project’s senior permanent loan in effect as of the Close of Escrow, or (c) the Annual Payment Commencement Date . A “Business Day” is any day that is not a Saturday, Sunday or a date that is a legal holiday upon which banks are closed in the State of Nevada.

On the Maturity Date, payments shall be applied first to late charges due hereunder, second to accrued interest, third to principal and fourth to any “Deferred Payment”, as defined below. However, upon the occurrence of an Event of Default, as defined below, any monies received shall be applied, at the option and discretion of Lender, to any sums due under this Note or the Deed of Trust, including, without limitation, attorneys’ fees and other costs of collection as provided herein.

2. Interest Rate. The principal balance hereof shall bear interest at the rate of [the greater of 2% or the compounding long-term AFR at the date of Closing] per annum (the “Interest”

Rate”) beginning on the Interest Accrual Commencement Date. [NTD: INTEREST RATE NEEDS TO BE AT COMPOUNDING LONG-TERM AFR. IF NOT, THEN WE WILL NEED TO USE THE SIMPLE EQUIVALENT OF COMPOUNDING LONG-TERM AFR]

3. Conditions To Payment. Each Annual Payment will be paid from available Cash Flow, as defined below, from the immediately preceding calendar year commencing January 1, and expiring December 31 (each, a “Loan Year”). To the extent there is insufficient Cash Flow in the immediately preceding Loan Year for Borrower to pay all or any portion of the applicable Annual Payment, Borrower may elect to defer such Annual Payment (“Deferred Payment”), by providing written notice to Lender of Borrower’s election to defer no later than thirty (30) days prior to such Annual Payment’s due date. Provided Borrower timely delivered such notice, on the date the Deferred Payment would otherwise be due, upon request of Lender, Borrower will deliver unaudited consolidated balance sheets and related consolidated statements of its Cash Flow during the applicable Loan Year (collectively, the “Final Accounting”) together with reasonable supporting documentation. If Borrower fails to timely provide the Final Accounting or the Final Accounting shows there was sufficient Cash Flow for Borrower to pay all of the Deferred Payment, the Deferred Payment will not be deemed deferred and will be due and owing on its original due date. If deferred, the Deferred Payment will accrue interest at the Interest Rate until paid in full and will be payable in full at the Maturity Date, provided that Borrower may make partial or full payments thereof at any time prior to the Maturity Date without penalty or fee.

“Cash Flow” shall mean the excess of the Cash Receipts over the Operating Expenses for the applicable Loan Year. “Cash Receipts” shall mean all rental revenue, laundry income, parking revenue, amounts released from escrow accounts, and other incidental revenues on a cash basis, and rental subsidies on an accrual basis, received by Borrower from normal operations of the Project during the applicable Loan Year, but specifically excluding proceeds from insurance (other than business or rental interruption insurance), loans, proceeds of any capital transaction, or capital contributions. “Operating Expenses” shall mean and refer to all ordinary and necessary operating expenses (including those reasonable replacement and maintenance reserves or accruals required by generally accepted accounting principles) as well as necessary capital improvements and those other reasonable reserves and reasonable accruals that are required to operate, maintain, repair and keep the Project in a neat, safe, and orderly condition, as well as the payment of any deferred developer fee, tax credit investor’s administrative fees, any/all unpaid tax credit adjusters, all principal and interest payments on Project Debts, as defined below, the payment of any outstanding Project costs, and the payment of any other customary fees or expenses associated with a low income housing tax credit project incurred or otherwise made during the applicable Loan Year. As used herein, “Project Debts” shall mean any debt instrument necessary to finance the Project, outside of the Note. Right To Audit. Commencing following the Interest Accrual Commencement Date, Lender may, upon written notice given no later than sixty (60) days after Lender’s receipt of the Final Accounting for a Loan Year, audit the books and records of Borrower relating to such Final Accounting. Such audit will be conducted by an independent certified public accountant, which is mutually agreeable to Borrower and Lender and unaffiliated with either party. If such accountant concludes that the Borrower had sufficient Cash Flow to pay all of the applicable Deferred Payment, Borrower will pay the Deferred Payment within thirty (30) days after its receipt of written notice of the same, together with a certified statement from the auditing accountant and will reimburse Lender for the reasonable costs of such audit, not to exceed \$1,500. If such accountant concludes that Borrower did not have sufficient Cash Flow to pay all of the applicable

Deferred Payment, Lender will be solely responsible for the costs of such audit. The audit will be conducted during Borrower's normal business hours at Borrower's place of business or the location at which Borrower maintains its records and will not unreasonably interfere with Borrower's operations.

4. Event of Default; Late Charge; Acceleration; Prepayment. The occurrence of an Event of Default, as defined in the Deed of Trust, shall constitute an "Event of Default" hereunder. Upon the occurrence and continuance of an Event of Default under the Deed of Trust, then the entire principal balance, with all accrued interest thereon, together with all other sums evidenced or secured by the Deed of Trust, shall, if accelerated by Lender in accordance with and subject to the terms of the Deed of Trust, become immediately due and payable upon written notice to Borrower. If Borrower fails to make any required payment hereunder on or before the due date thereof, Borrower shall pay to Lender a late payment charge equal to the lesser of five percent (5%) of the delinquent amount or the lawful maximum, for the purpose of reimbursing Lender for a portion of the expense incident to handling the overdue payment which late payment shall be due if the payment is ten (10) or more days late. Borrower shall have the right, at any time prior to the Maturity Date, to prepay without penalty all or any portion of the amounts due under this Note. Upon each such prepayment, Borrower shall also pay all accrued and outstanding interest (to the date of such prepayment) on the principal amount prepaid.

5. Receipt Of Payments. All payments must be made in U.S. Dollars and must be received by Lender at:

City of Reno
One East First Street
P.O. Box 1900
Reno, Nevada 89509

All payments must be received by Lender consistent with any written payment instructions provided by Lender. If a payment is made consistent with Lender's payment instructions but received after 5:00 P.M., Pacific Time, on a Business Day, Lender will credit Borrower's payment on the next Business Day.

6. Disbursements. Funds representing the proceeds of the indebtedness evidenced hereby which are disbursed by Lender by mail, wire transfer or other delivery to Borrower, to escrows or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and to have been received by Borrower as of the date of such mailing, wire transfer, or other delivery and until repaid, notwithstanding the fact that such funds may not at any time have been remitted by such escrows to Borrower or for its benefit.

7. Miscellaneous

7.1. Time is of the essence hereof.

7.2. Borrower and all others who may become liable for all or any part of these obligations hereby severally waive demand, presentment for payment, protest and demand, notice of protest, demand and dishonor, and nonpayment of this Note, and, except as set forth in the Deed

of Trust, all other notice and specifically agree that the maturity of this Note, or any payment hereunder, may be extended from time to time without in any way affecting the liability of Borrower or guarantors.

7.3. Except as herein expressly provided, no modification, amendment or waiver, of the terms of this Note shall be effective unless made in a writing signed by Borrower and Lender. Acceptance by Lender of any portion or all of any sum payable hereunder, whether before, on or after the due date of such payment shall not be a waiver of Lender's right either to require prompt payment when due of all other sums payable hereunder or to exercise any of Lender's rights, powers and remedies hereunder or under the Deed of Trust. A waiver of any right in writing on one occasion shall not be construed as a waiver of Lender's rights to insist thereafter upon strict compliance with the terms hereof without previous notice of such intention being given to Borrower, and no exercise of any right by Lender shall constitute or be deemed to constitute an election of remedies by Lender precluding the subsequent exercise by Lender of any or all of the rights, powers and remedies available to it hereunder or under the Deed of Trust, or at law or in equity. Borrower expressly waives the benefit of any statute or rule of law or of equity now provided, or which may hereafter be provided, which would produce a result contrary to, or in conflict with, the foregoing.

7.4. This Note shall be governed by and construed in accordance with the laws of the State of Nevada.

7.5. All notices required or permitted to be given hereunder to Borrower or Lender shall be given in the manner and to the place as provided in the Deed of Trust.

7.6. The headings of the sections of this Note are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary, by implication or otherwise, any of the provisions of this Note.

7.7. LENDER, BY ACCEPTANCE OF THIS NOTE, AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVE ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY IN ANY ACTION, COUNTERCLAIM OR PROCEEDING OF ANY KIND OR NATURE, IN ANY COURT IN WHICH AN ACTION MAY BE COMMENCED, ARISING OUT OF OR IN CONNECTION WITH THE LOAN, OR BY REASON OF ANY OTHER CAUSE OR DISPUTE WHATSOEVER BETWEEN BORROWER AND LENDER OF ANY KIND OR NATURE. EITHER LENDER OR BORROWER MAY FILE AN ORIGINAL COUNTERPART OR COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO WAIVER OF THE RIGHT TO A JURY TRIAL.

7.8. The obligation described in this Note is secured by the Deed of Trust, and the payment of this Note may be enforced solely out of the proceeds of the Sale of the Property in accordance with the Deed of Trust. The obligation described herein is a nonrecourse obligation of the Borrower and its members, and neither the Borrower and its members nor any of the other parties to the [limited partnership agreement with Investor Member] nor their affiliates shall have any personal liability for repayment hereunder. Any indemnification obligation hereunder shall not extend to repayment of the Loan.

7.9. The Deed of Trust and this Note are and shall be subject and subordinate in all respects to the liens, terms, covenants, and conditions of the Senior Lender(s) recorded prior in time to the Deed of Trust, and those liens which are the subject of a written subordination agreement with the Lender subordinating the Deed of Trust to a lien in favor of such lender(s)

7.10. Notwithstanding any provision in this Note or the Deed of Trust to the contrary, all notices to the Borrower relating to any default or Event of Default under this Note or the Deed of Trust shall be contemporaneously given to Senior Lender(s) and Investor Member in writing, and any cure period provided to the Borrower under this Note or Deed of Trust shall not be deemed commenced until Investor Member has also received such notice. Investor Member shall have the right, but not the obligation, to remedy or cure such default or Event of Default, and in no event shall this right of Investor Member to cure be construed as expanding the rights or remedies of the Borrower upon a default or Event of Default. Notwithstanding anything to the contrary in this Note or Deed of Trust, Lender agrees that any cure of any default made or tendered by any member or partner of Borrower shall be deemed to be a cure by the Borrower and shall be accepted or rejected by Lender on the same basis as if made or tendered by Borrower.

[Signature page to follow]

[Signature page to Secured Promissory Note (315-335 Record Street)]

IN WITNESS WHEREOF, Borrower has executed this Note as of the date first set forth above.

BORROWER:

[SPE Borrower]

By _____
Connor Larr, Vice President

Date _____

[Lender Signature on Following Page]

[Signature page to Secured Promissory Note (315-335 Record Street)]

IN WITNESS WHEREOF, Lender has acknowledged this Note as of the date first set forth above.

LENDER:

City/ Seller

City of Reno, a municipal corporation

By _____
Hillary Schieve, Mayor

Date _____

Attest:

By: _____
Mikki Huntsman, City Clerk

Date _____

Approved as to Legal Form
KARL HALL, City Attorney

By _____
Jasmine Mehta, Deputy Attorney

