

PROMISSORY NOTE UNSECURED

\$50,000.00

_____, 2020
Nevada City, California

FOR VALUE RECEIVED and pursuant to that certain HMIOT Loan Agreement (“HMIOT Loan Agreement”) dated as of even date herewith entered by Regional Housing Authority, a public body corporate and politic (“Borrower”) and the County of Nevada, a public entity of the State of California (“Lender”), Borrower promises to pay Lender the sum of Fifty Thousand Dollars (\$50,000.00) (the “Loan”) or so much thereof as may be advanced by Lender pursuant to the HMIOT Loan Agreement, together with interest on the outstanding principal balance in accordance with and on the terms set forth herein below. Capitalized terms used but not defined herein shall have the same meaning as set forth in the HMIOT Loan Agreement.

1. Purpose. This Promissory Note (“Note”) is associated with the lending of money by Lender to Borrower in connection with the development and construction of the proposed Cashin’s Fields Apartment project, an approximate 57-unit affordable housing project (“Project”) located in Nevada City, California (APN 005-290-026-000), and owned by a to-be-created California limited partnership (“Owner”). This Note shall be unsecured.

2. Interest. Commencing on the date of initial disbursement of all or a portion of the Loan proceeds and continuing through the date that all indebtedness and other amounts payable under the HMIOT Loan Agreement and the Note are paid in full, the interest on the Loan shall bear interest at a simple rate of three percent (3%) per year.

3. Term. The term of this Note (“Term”) shall commence upon the initial date of issuance of certificates of occupancy for the Project and shall expire upon the fifth anniversary of such date (the “Maturity Date”).

4. Repayment. Should the Project comply with Sections “A” through “C” of the HMIOT Loan Agreement for at least five (5) consecutive years commencing from the date of the initial certificate of occupancy, all unpaid principal, accrued and unpaid interest shall be forgiven by the Lender. Should the Project fail to comply with Sections “A” through “C” of the Loan Agreement for at least five (5) consecutive years commencing from the date of the initial certificate of occupancy, the Borrower shall make annual payments on the outstanding principal and accrued interest, starting from the date of non-compliance with Sections “A” through “C”, equal to 90% of eligible Residual Receipts received from Owner, as defined in the “Appendix A” attached hereto and incorporated herein. All remaining principal balance and all accrued interest shall be immediately due and payable five (5) years from the date the first annual payment is due, as outlined below, unless forgiven per the terms specified herein. Borrower shall retain 10% of each payment as an administrative fee. Payments are expected to be made out of a portion of Residual Receipts from the calendar year preceding such relevant payment (and specifically, without limitation, not from proceeds of any sale or refinancing transaction). “Residual Receipts” means for each calendar year during Term, the amount by which gross revenue exceeds annual operating expenses for the Project (see Appendix A for full definition). To the extent any payment otherwise required hereunder exceeds 90% of any payment, any unpaid amounts shall accrue and be paid from

future year(s) Owner Payment until paid. All annual payments shall be made in arrears no later than the later of: 1) May 1st of each year with respect to the previous calendar year; or 2) a date falling ten business days after receipt of the relevant Owner Payment by Borrower. All payments made shall be credited first to any accrued but unpaid interest, then to current interest due and owing, and lastly to principal. Interest not paid current shall accrue.

Borrower shall have the right to make full or partial prepayments under this Note without premium or penalty. Any prepayments shall be applied to reduce the principal balance of the Note.

Unless Lender agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the HMIOT Loan Agreement shall be due and payable upon the transfer, refinance or sale (each a "Transfer") of all or any part of, or interest in, the Project, except any Transfer after which the Project is subject to deed restrictions requiring the Project to continue to be operated as an affordable rental housing development. Notwithstanding the foregoing, following the admission of the limited partner of Borrower, the transfer of a limited partners' limited partnership interest shall not constitute an accelerating Transfer and shall not require the consent of Lender. Moreover, notwithstanding the foregoing, a limited partner of Borrower shall be permitted to remove and replace a general partner thereof for cause in accordance with the Partnership Agreement without the consent of Lender.

Audited Financial Statement. In connection with the annual repayment of the Note, no later than the later of: 1) May 1st of each year with respect to the previous calendar year; or 2) a date falling ten business days after receipt of the relevant Owner Payment by Borrower. Borrower shall furnish to Lender an audited statement of the Owner's records, duly certified by an independent firm of certified public accountants, setting forth in reasonable detail the computation and amount of Residual Receipts during the preceding calendar year.

5. Waiver. Borrower and each surety, endorser, and guarantor waive all demands for payment, presentations for payment, notices of intention to accelerate maturity, notices of acceleration of maturity, protests, and notices of protest. If this note or any instrument securing or collateral to it is given to an attorney for collection or enforcement, or if suit is brought for collection or enforcement, or if it is collected or enforced through probate, bankruptcy or other judicial proceeding, then Borrower shall pay Lender all costs of collection and enforcement, including reasonable attorney's fees and court costs, in addition to other amounts due.

6. Acceleration. On default in the payment of this note or in the performance of any obligation in any instrument securing or collateral to it, the unpaid principal balance and earned interest on this note shall become immediately due at the election of Lender. In the event of any default by Borrower under this Note, Borrower shall pay, in addition to all principal and interest, all reasonable costs and attorneys' fees necessary to collect the obligation evidenced by this Note, whether or not suit be filed. Failure of Lender to assert any right under this Note shall not be deemed a waiver of such right.

7. Lender's Rights. Failure of Lender to assert any right under this Note shall not be deemed a waiver of such right.

8. Binding Obligation. This Note shall be binding upon Borrower and Borrower's heirs, legal representatives, successors, and assigns.

9. California Law. This Note and the legality, validity and performance of the terms hereof shall be governed by, enforced, determined, and construed in accordance with the laws of the State of California.

10. Severability. 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.

11. Amendment or Modification. The terms of this Note may only be amended or modified by a written agreement executed by Borrower and Lender.

12. Notices. All notices given under this Note shall be made in writing and shall be deemed received when delivered in accordance with the Loan Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Borrower has executed this Note as of the date first written hereinabove.

COUNTY:

County of Nevada,

By: _____
Mike Dent,
Director Housing and Community Services

BORROWER:

Regional Housing Authority

By: _____
Name: Gustavo Becerra,
Title: Executive Director

Appendix A Residual Receipts Definitions

1.1. “Annual Operating Expenses” means for each calendar year during the term of the Loans, the following costs reasonably and actually incurred for operation and maintenance of the Development to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: all state and local property and other taxes and annual assessments imposed on the Development; premiums for property damage and liability insurance; debt service currently due and payable on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Development) on loans that have been approved by Borrower and Owner and which are secured by deeds of trust; utility services not paid for directly by tenants, including but not limited to water, sewer, trash collection, gas and electricity; maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and others; any annual license or certificate of occupancy fees required for operation of the Development; general administrative expenses including but not limited to advertising and marketing, security services and systems, and professional fees for legal, audit and accounting; property management fees and reimbursements including on-site manager expenses, not to exceed fees and reimbursements which are standard in the industry. Expenses do not include depreciation.

1.2. “Gross Revenue” means for each calendar year during the term of the Loans, all revenue, income, receipts and other consideration actually received by Owner from operation and leasing of the Project development. Gross Revenue includes, but is not limited to: all rents, fees and charges paid by tenants; Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Development; and condemnation awards for a taking of part or all of the Development for a temporary period. Gross Revenue shall also include the fair market value of any goods or services provided in consideration for the leasing or other use of any portion of the Development and the release of funds from replacement and other reserve accounts to Borrower other than for costs associated with the Development. Gross Revenue shall not include tenants’ security deposits, loan proceeds, capital contributions or similar advances.

1.3. “Residual Receipts” means for each calendar year during the Term, the amount by which Gross Revenue (as defined above) exceeds Annual Operating Expenses (as defined above) for the Development. Residual Receipts shall also include, unless otherwise provided herein and subject to the rights of senior lenders, condemnation awards for a permanent lender taking part or all of the Property or the Project to the extent not utilized to repair or rebuild the Project development.