

## NORTH DAKOTA PROMISSORY NOTE

### ESSENTIAL LIVING, INC. DEVELOPMENT AGREEMENT

**Borrower:** Essential Living, Inc.  
400 10<sup>th</sup> Street SE  
Minot ND 58701

**Lender:** City of Minot  
c/o Finance Director  
PO Box 5006  
Minot ND 58702

**Principal Amount:** [\$1,970,585.00]

**Date of Note:** 07/10/2018

1. **OVERALL PURPOSE.** The purpose of this Note is to evidence a forgivable loan of Community Development Block Grant – Disaster Recovery (“NDR”) funds by the City of Minot (“Lender”) to Essential Living, Inc., a non-profit corporation (“Borrower”), for the rehabilitation and/or construction of forty (40) apartment units, of which thirty (30) were to be affordable apartment units to support the availability of long term affordable housing for qualified low and moderate income residents of Minot. Where applicable, the terms and conditions of this Note are subject to the Development Agreement between Borrower and Lender, dated August 21, 2017 (“Development Agreement”), and in the event of any conflict, the terms and conditions of the Development Agreement shall govern over the terms and conditions of this Note.
2. **PROMISE TO PAY.** Borrower promises to pay on demand to the Lender, or order, in lawful money of the United States of America, the principal amount of one million, nine hundred seventy thousand, five hundred eighty-five dollars (\$1,970,585.00), or so much as may be outstanding, with no interest on the unpaid outstanding principal balance, on or before July 10, 2048. Provided, however, that the Development Agreement provides for loan forgiveness if certain terms and conditions of the Agreement are met, and this Note hereby incorporates and adopts the loan forgiveness provisions set forth in the Development Agreement as if specifically set forth herein.
3. **COLLATERAL.** This note is secured by, in addition to any other collateral, a Mortgage on the Development Site specifically identified in the Development Agreement.
4. **DEFAULT.** The occurrence of any of the following events shall constitute a default:
  - (a) Any material false or misleading statement, representation, or warranty of Borrower in this Note or in any other writing at any time furnished by Borrower to Lender;
  - (b) Borrower fails to make any payment when due;
  - (c) Borrower breaks any promise Borrower has made to Lender, or fails to comply with or to perform when due any other term, obligation, covenant, or condition contained in this Note or any agreement related to this Note, or in any other agreement Borrower has with Lender;
  - (d) Borrower fails to comply with any requirement of the CDBG-NDR Program;
  - (e) Borrower defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower’s property, the Development Site, or Borrower’s ability to repay this Note, or perform



Borrower's obligations under this Note and Lender believes the prospect of payment or performance of the indebtedness is impaired;

- (f) Insolvency of Borrower or other material adverse change in the Borrower's financial condition, an assignment for the benefit of a creditor(s) of Borrower, a receiver is appointed for any part of the Development Site, Lender deems itself insecure, or institution of any proceeding, including bankruptcy proceedings, by or against Borrower alleging that Borrower is insolvent;
- (g) Voluntary or involuntary dissolution of Borrower;
- (h) Any indebtedness to any person or entity holding a lien or security interest in the Development Site is refinanced in whole or in part, or is assumed by a new Borrower, without the advance written permission of Lender;
- (i) All or any part of the Development Site, or any interest in it, is foreclosed upon, leased, alienated by non-sale transfer, or is otherwise in any way attempted to be taken by a creditor; or
- (j) All or part of the Development Site, or any interest in it, is sold without approval of the Lender.

5. **REMEDIES.** If any default, other than a default of payment, is curable and if Borrower has not been given a notice of breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if Borrower, after receiving written notice from Lender demanding cure of such default; (a) cures the default within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as is reasonably practical.
6. **LENDER'S RIGHTS.** Upon the occurrence of any default, Lender may declare the entire unpaid principal balance on this Note immediately due, without notice, and then Borrower will pay that amount.
7. **NON-WAIVER OF RIGHTS.** No delay by Minot in the exercise of any right under this Note shall operate as a waiver of such right and no partial exercise by Minot of any right or remedy under this Note shall preclude further exercise of such right or the exercise of any other right or remedy under this Note.
8. **SEVERABILITY.** Whenever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law. If any such provision shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Note.
9. **FINAL AGREEMENT.** This Note represents the final agreement, unless amended in writing, between or among the Parties regarding the subject matter thereof, and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreement. There are no unwritten agreements between or among the Parties.
10. **AMENDMENTS.** No modification or amendment of this Note shall be valid or effective unless it is in writing and signed by the Party against whom it is sought to be enforced.
11. **ASSIGNABILITY.** The rights and privileges of Minot under this Note shall inure to the benefit of its successors and assigns. Provided, however, that Borrower may not, without

the advance written permission of Lender, assign any rights, powers, duties or obligations under this Note.

12. **GOVERNING LAW.** This Note has been delivered to Lender and accepted by Lender in the State of North Dakota. This Note and all rights and obligations under this Note, including matters of construction, validity, and performance, shall be governed by the law of the State of North Dakota.
13. **VENUE.** If any lawsuit occurs concerning the terms and conditions of this Note, Borrower agrees to submit to the jurisdiction of the courts of Ward County, North Dakota.
14. **COUNTERPARTS.** This Note may be separately executed in any number of counterparts, each of which shall be an original, but all of which, taken together, shall be deemed to constitute one and the same Note.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THE NOTE.**

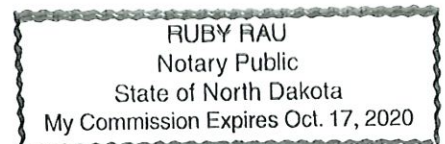
IN WITNESS WHEREOF, Borrower, Essential Living, Inc., a non profit corporation, has caused this instrument to be executed effective this \_\_\_\_ day of \_\_\_\_\_, 2020.

BORROWER:

Essential Living, Inc., a non-profit corporation

By: Todd N Berning  
Its: Officer

STATE OF NORTH DAKOTA )  
COUNTY OF Ward )



The foregoing instrument was acknowledged before me on February 24, 2020 by Todd Berning, known to me to be the Officer of Essential Living, Inc., a non-profit corporation, the corporation that is described in, and that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

Ruby Rau

Notary Public