

## PROMISSORY NOTE

Principal Amount: U.S. \$536,680.00

Date of Note: \_\_\_\_\_, 2021

FOR VALUE RECEIVED, the undersigned Fuel and Iron Residential, LLC, a Colorado limited liability company, hereinafter referred to as "Borrower", and its successors in interest, promises to pay to the City of Pueblo, a Municipal Corporation, or holder of this note, hereinafter referred to as the "Note Holder," the sum of Five Hundred Thirty-Six Thousand Six Hundred Eighty and No/100 Dollars (U.S. \$536,680.00) and interest on the principal balance outstanding from the date hereof until paid, at the rate of zero percent (0%) per annum, provided payment is made in accordance herewith, and payable at the Note Holder's office at 1 City Hall Place, Pueblo, Colorado, 81003, or such other place as Note Holder may designate. If not sooner paid or accelerated as herein provided, the entire principal amount of Five Hundred Thirty-Six Thousand Six Hundred Eighty and No/100 Dollars (U.S. \$536,680.00) outstanding, less payments, and accrued interest thereon, shall be due upon the end of the twenty (20) year period of affordability pursuant to the City of Pueblo Affordable Housing Development Agreement of even date herewith ("Agreement"). Following the period of affordability, to end June 1, 2042, the City of Pueblo may at its sole option release the Borrower of its indebtedness following the successful and continual operation of the affordable rental housing development known as the Fuel and Iron Project, located at 400 S. Union Avenue, Pueblo, Colorado, (the "Project") for the period of affordability and in accordance with the Agreement.

The loan ("Loan") evidenced by this Promissory Note (the "Promissory Note" or "Note") is being made to finance the Project in accordance with the Agreement between Borrower and Note Holder dated as of the date first written above. This Note and all principal and interest payable hereunder are secured by a Deed of Trust of even date herewith (the "Deed of Trust") upon real property, upon which the Project is located or to be located, and all improvements thereon, situated in the County of Pueblo, State of Colorado (hereinafter referred to as the "Property") and described more particularly as:

### Legal Description

\_\_\_\_\_ UNIT, FUEL AND IRON, ACCORDING TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FUEL AND IRON, RECORDED ON \_\_\_\_\_, 2021 AT RECEPTION NO. \_\_\_\_\_, AND THE CONDOMINIUM MAP SEPARATELY RECORDED ON \_\_\_\_\_, 2021 AT RECEPTION NO. \_\_\_\_\_, PUEBLO COUNTY, COLORADO.

Also known as street and number: 400 South Union Avenue, Pueblo, Colorado.

The terms, conditions, covenants, provisions, stipulations, and agreements of said Deed of Trust and said Agreement are hereby made a part of this Note by reference in the same manner and with the same effect as if they were fully set forth herein, and the Borrower hereby covenants and promises to abide by and comply with each and every covenant and condition set forth in this Note, the Deed of Trust, and the Agreement.

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 maturity without notice and payment of any premium or penalty.

Upon the occurrence of any of the following events, the entire principal amount of Five Hundred Thirty-Six Thousand Six Hundred Eighty and No/100 Dollars (U.S. \$536,680.00), or the unpaid principal thereof, together with all accrued interest thereon, shall, at the option of the Note Holder, upon twenty (20) days written notice to Borrower by certified mail or commercial express courier, unless cured within said twenty (20) days, where Note Holder may require specific performance, become at once due and payable and shall accrue interest at the default rate of four percent (4%) per annum thereafter until paid in full, and no failure by the Note Holder to exercise such option shall be deemed or construed as a waiver of the right or as a waiver of the right to exercise the same in the event of any subsequent default or breach:

1. Any default in the payment when due, or any part of the principal or interest hereunder.
2. Any breach or failure of the Borrower to perform within the allotted time any term or condition of the Agreement, the Deed of Trust, or any other instrument securing to the Note Holder payment or performance of any obligation of the Borrower.
3. If the Borrower shall be involved in financial difficulties as evidenced: (i) by an admission in writing of the Borrower's inability to pay its debts generally as they become due; (ii) by filing a petition in bankruptcy or for the adoption of an arrangement under the federal Bankruptcy Code (as now or in the future amended) or an admission seeking the relief therein provided; (iii) by making an assignment for the benefit of creditors; (iv) by consenting to the appointment of a receiver or trustee for all or a substantial part of the Borrower's assets or to the filing of a petition against the Borrower under said Bankruptcy Code; (v) by being adjudicated as bankrupt; (vi) by the entry of a court order appointing a receiver or trustee for all or a substantial part of the assets of the Borrower or approving as filed in good faith a petition filed against the Borrower under said Bankruptcy Code; (vii) by the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of the assets of the Borrower; (viii) by an attachment for an amount in excess of \$25,000 on any substantial part of the assets of the Borrower which shall not be discharged within thirty (30) days from the making thereof; or (ix) by a judgment or decree for the payment of money in excess of \$25,000 being entered against the Borrower, or if an attachment, execution, or levy is made upon any of the Borrower's assets and the judgment, execution, or levy, as the case may be, is not discharged or stayed within thirty (30) days from the date of the judgment, attachment, execution, or levy as the case may be.
4. If the Borrower shall have made any misrepresentation of a material nature in its application for the Loan, Agreement, Deed of Trust, or in any document furnished

by it to the Note Holder relative to the Project.

5. If there is pending or threatened litigation with respect to the Loan or the performance by the Borrower of any of its duties or obligations hereunder.
6. If the Project cannot proceed because of inability to continue land option or secure zoning or due to any action by any branch of government which impairs use of the Property herein described for proposed Project purposes.
7. If the Note Holder determines that the Borrower has abandoned or discontinued the initiation, construction, rehabilitation, or completion of the Project.
8. Any breach of the affordability requirements detailed in the Agreement, Deed of Trust, or as otherwise may be required pursuant to 24 C.F.R. Part 92. In the event the Borrower should sell or voluntarily transfer title to the Project, the Property, or other real property or improvements constructed or improved with funds provided pursuant to the Agreement, within twenty (20) years after substantial completion of the Project or said improvements, the entire indebtedness under this Note shall immediately become due and payable and shall be collected and repaid to Note Holder.

**RIGHT TO CURE:** All defaults shall be subject to the notice and cure rights available to Borrower pursuant to the terms of the Agreement. Note Holder shall use best efforts to provide a courtesy copy of all notices sent to Borrower hereunder to Fuel and Iron Master Tenant, LLC (the "Equity Investor"), c/o First SouthWest Bank, 600 E. 2nd Ave., Durango, CO 81301, Attention: Mike Coltharp. Any failure to deliver such courtesy copy shall not be deemed a failure to provide notice to the Borrower. Notwithstanding anything to the contrary contained in this Note, Equity Investor shall have the right, but not the obligation, to cure defaults of Borrower.

The Borrower, and any and all endorsers, sureties, guarantors, and assumers thereof, hereby jointly and severally waive presentment, protest, notices of dishonor and of protest, and all defenses whatsoever 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 maturity, with or without notice, it being further agreed by the Borrower and all such parties that they will pay all collection expenses, court costs, and reasonable attorneys' fees which may be incurred in the collection or enforcement of this Note or any part hereof.

This instrument shall be governed by the laws of the State of Colorado and any dispute regarding its terms and conditions shall be resolved in the District Courts of the State of Colorado.

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Gloss 5.12.21

Executed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**BORROWER:**

FUEL AND IRON RESIDENTIAL, LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Nathan Stern, Authorized Representative