

**Community Development Block Grant – Disaster Recovery Multifamily Housing Program  
Promissory Note Secured By Deed of Trust  
for Escalante Meadows  
Between County of Santa Barbara and  
Escalante Meadows, L.P., a California limited partnership**

**LOAN AMOUNT:** \$1,377,665

**DATE:** November 1, , 2022

Escalante Meadows, L.P., a California limited partnership (the “Borrower”), promises to pay the County of Santa Barbara, a subdivision of the State of California (the “County”), the sum of One Million Three Hundred Seventy-Seven Six Hundred and Sixty-Five Dollars (\$1,377,665) pursuant to the terms of this promissory note (“Note”).

**Section 1. Purpose.** The County is providing Borrower a CDBG-DR MHP loan in the amount of One Million Three Hundred Seventy-Seven Six Hundred and Sixty-Five Dollars (\$1,377,665) (“County CDBG-DR MHP Loan”), subject to that certain Community Development Block Grant – Disaster Recovery Multifamily Housing Program Development Agreement for Escalante Meadows by and between the County and Borrower dated concurrently herewith (the “CDBG-DR MHP Agreement”), and secured by a deed of trust dated concurrently herewith (“County’s Deed of Trust”). Borrower shall use all proceeds from the County CDBG-DR MHP Loan for the development of a residential low-income multi-family housing project consisting of eighty (80) apartment units (including one (1) three-bedroom manager’s units, and two (2) three-bedroom unrestricted market rate units, for low-income households (the “Project”), as described in the CDBG-DR MHP Agreement. The Project is to be constructed upon the real property located at 1090 and 1093 Escalante Street, in the City of Guadalupe, California, as more specifically identified by the legal description attached hereto as Exhibit A (“Property Legal Description”), and incorporated herein by this reference (the “Property” and, together with the Project, the “Development”). Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the CDBG-DR MHP Agreement.

**Section 2. Interest.** The outstanding principal balance of the County CDBG-DR MHP Loan shall accrue simple interest at the rate of three percent (3.00%) per annum, commencing on the date of final disbursement of funds, except as provided in Section 7 (“Default”) below.

**Section 3. Payment.**

- a. Annual Payments. Annual payments are due 45 days following the completion of annual audited financial statements, generally completed by March 31, but not later than July 31. Payments will be made from residual receipts available after payments of Operating Expenses as outlined in Subsection H. i. and E of the CDBG-DR MHP Agreement and required payments on senior debt as outlined in those respective loan obligations, including the Pacific Western Bank First Priority Position Permanent Loan, the State of California Second Position Affordable Housing and Sustainable Communities’ Loan, and the State of California Housing Third Priority Position For a Healthy California Loan, as referenced in Exhibit A-3 of the Limited Partnership Agreement, and other priority uses of cash as referenced in Exhibit A-4 of the Limited Partnership Agreement. In any event, all unpaid principal and accrued interest will be due fifty-five (55) years from the date of issuance of the final Certificate of Occupancy by the City of Guadalupe.
- b. Maturity Date. All principal and accrued and unpaid interest on the County CDBG-DR MHP Loan shall be due in full on the earlier to occur of (i) the date of any Transfer not authorized by the

County in accordance with the terms of this Note and the CDBG-DR MHP Agreement, excluding Permitted Transfers, (ii) the date of any Default by Borrower subject to applicable notice and cure periods as provided herein, and (iii) the expiration of the Term of this Note.

- c. Prepayment. The Borrower shall have the right to prepay the County CDBG-DR MHP Loan at any time without penalty. However, the Regulatory Agreement or Junior Regulatory Agreement shall remain in effect for the entire fifty-five (55) year period of affordability, regardless of any prepayment, subject to prepayment in accordance with Section 10, below.
- d. Reserved.
- e. Books and Records. The Borrower shall keep and maintain on the Property, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Development. Books, records and accounts relating to Borrower's compliance with the terms, provisions, covenants and conditions of this Note shall be kept and maintained in accordance with generally accepted accounting principles consistently applied, and shall be consistent with requirements of this Note. All such books, records, and accounts shall be open to and available for inspection by the County, its auditors or other authorized representatives at reasonable intervals during normal business hours upon at least forty-eight (48) hours' notice. Copies of all tax returns and other reports that Borrower may be required to furnish any governmental agency shall at all reasonable times be open for inspection by the County at the place that the books, records and accounts of the Borrower are kept. Borrower shall preserve records for a period of not less than five (5) years after such statement is rendered.

**Section 4. Term**. The term of this County CDBG-DR MHP Loan and Note (the "Term") expires on the date that is fifty-five (55) years from the date of issuance of the final Certificate of Occupancy for the Project by the City of Guadalupe, unless earlier terminated in accordance with Sections 6, 7, 8, 10, or 11, below.

**Section 5. Deed of Trust**. This Note shall be secured by County's Deed of Trust held and recorded on Borrower's fee interest in the real property described in Exhibit A and incorporated herein (the "Property"), which deed of trust shall be subordinated to any deed of trust Borrower provides to a senior lender ("Senior Lender") pursuant to a subordination agreement made by and agreed between County, Borrower, and any such Senior Lender. Upon cancellation or repayment in full of this Note, County shall execute a request for the reconveyance of the County's Deed of Trust.

**Section 6. Acceleration**. All obligations evidenced by this Note, irrespective of the maturity dates expressed herein, shall, at the option of the County and without demand or notice, immediately become due and payable, if at any time during the Term of this Note:

- a. Title to all or any part of the Development described herein and in the County's Deed of Trust securing this Note is sold, conveyed, encumbered, alienated or transferred, other than Permitted Transfers in accordance with Section 16.c. or if pursuant to and with the County's prior written consent, which consent may be withheld in the sole and absolute discretion of the County, but not unreasonably withheld, conditioned, or delayed; or
- b. An equitable interest in all or any part of the Development described herein and in the County's Deed of Trust securing this Note is sold, conveyed, encumbered, alienated or transferred, other than Permitted Transfers or if pursuant to and with the County's prior written consent, which

consent shall be within the County's full discretion, but not unreasonably withheld, conditioned, or delayed;

- c. The Development is used for any purpose other than rental housing for low-income persons, as defined in Part 92 of Title 24 of the Code of Federal Regulations, without the prior written approval of the County.

Notwithstanding anything to the contrary contained herein, the County hereby agrees that any cure of any Default or event of default hereunder made or tendered by Borrower's limited partners, as set forth in Section 7, below, shall be accepted or rejected on the same basis as if made or tendered by Borrower. Borrower's limited partner shall have the right, but not the obligation, to cure any Default on behalf of Borrower.

**Section 7. Default.** In the event of Borrower's default hereunder, or under the CDBG-DR MHP Agreement ("Default"), that continues beyond thirty (30) days after notice from the County of such Default, Borrower shall immediately pay to the County default interest on the unpaid principal amount of this Note, which interest shall accrue from and after the date of such Default until paid at a rate of ten percent (10%) per annum (or the maximum then-current legal interest rate permitted under California law, if such rate is less than ten percent (10%) per annum).

**Section 8. Fees.** Borrower agrees to pay all costs of collection when incurred by or on behalf of County, including without limitation all court costs, but excluding attorneys' fees (whether or not suit is filed hereon).

**Section 9. County's Rights.** Failure of the County to assert any right under this Note shall not be deemed a waiver of such right.

**Section 10. Prepayment.** This Note may be prepaid at any time without premium or penalty, provided that all accrued and unpaid interest hereunder shall be due at the time of such prepayment.

**Section 11. Dissolution of Borrower.** In the event that Borrower, or its legally sanctioned and County-approved successor in interest, dissolves, terminates, or ceases to function within the term of this Note, then the unpaid principle and all accrued and unpaid interest on the County CDBG-DR MHP Loan shall, at the option of the County, become immediately due and payable; provided, however, this provision shall not apply in the event the Property is transferred to a general partner or affiliate of Borrower or the limited partner interest of Borrower in connection with the exercise of an option and right of first refusal agreement as reference in Section IV.B. of the CDBG-DR MHP Development Agreement unless such assignee terminates or ceases to function within the term of this Note.

**Section 12. CDBG-DR MHP Funds.** The CDBG-DR MHP Loan evidenced by this Note is made from Community Development Block Grant – Multifamily Housing Program funds allocated to the County of Santa Barbara from the California Department of Housing and Community Development. Borrower agrees to comply with all terms and conditions of the CDBG-DR MHP as set forth in the CDBG-DR MHP Agreement, the MSA, and the CDBG-DR MHP Requirements.

**Section 13. Project Schedule.** The unpaid principal and all accrued and unpaid interest shall become immediately due and payable, at the option of the County, if within one (1) year of the execution of this Note by Borrower, construction of the Project has not commenced.

**Section 14. California Law.** This Note and the legality, validity and performance of the terms and conditions hereof shall be governed by, enforced, determined and construed in accordance with the laws of the State of California.

**Section 15. Waivers.** Borrower waives presentment, demand for payment, notice of dishonor, notice of protest, protest and other notices or demands in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Note, and to the extent authorized by law, any and all homestead or other exemption rights which would apply to the debt evidenced by this Note.

**Section 16. Transfer.**

- a. For purposes of this Note, “Transfer” (or “transferred”) shall mean any sale, assignment, or other transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this Note, and/or (ii) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession and control of the Development is transferred regardless of whether or not Borrower retains title. The term “Transfer” shall exclude the leasing of any units in the Development to one or more occupants in compliance with the CDBG-DR MHP Agreement made by and between the County and Borrower.
- b. No Transfer, excluding Permitted Transfers, shall be permitted without the prior written consent of the County to such transfer, which consent the County may withhold in its sole discretion. The County CDBG-DR MHP Loan shall automatically accelerate and be due in full upon any unauthorized Transfer.

**Permitted Transfers.** The Owner shall not assign or otherwise transfer, directly or indirectly, by operation of law or otherwise, any of its interest in the Property, or any of Owner’s rights or obligations under this Agreement, without the prior written consent of both HCD and the County, excluding Permitted Transfers as defined herein. The following shall constitute Permitted Transfers hereunder and shall not require the prior consent of the County or HCD: (i) the Owner’s limited partner may transfer its respective limited partnership interest in the Owner to any person or entity, at any time, provided that written notice of such transfer is provided by Owner to the County and HCD at least 120 days prior to any such transfer; (ii) in connection with the exercise of an option and/or right of first refusal agreement, as referenced in Exhibit J of the Limited Partnership Agreement executed between Escalante Meadows, L/O, and Housing Authority of the County of Santa Barbara (a) the transfer of the Property to a general partner or affiliate of Owner and the Owner’s assumption of all obligations under this Agreement, including all Exhibits hereto, by such transferee, or (b) the transfer of the limited partnership interest in Owner to a general partner or affiliate of Owner, provided that written notice of such transfer is provided by Owner to the County and HCD at least 120 days prior to any such transfer; and (iii) the Owner’s limited partner may remove and replace a general partner of the Owner in accordance with the Partnership Agreement of Escalante Meadows, L.P., subject to the prior written consent of the County and HCD to such general partner substitution, which consent will not be unreasonably withheld or delayed.

**Section 17. Binding Obligation.** This Note shall be binding upon the Borrower and the Borrower’s heirs, legal representatives, and authorized successors and assigns; however, no assignment or Transfer shall be valid or recognized unless in accordance to the terms of this Note, and evidenced by the written agreement and consent of the County.

**Section 18. Notices.** All notices given under this Note to the Borrower or County shall be made in writing and shall be deemed received when personally delivered, or when delivered by the United States Postal Service, certified, return receipt requested, addressed as follows:

To Borrower:

Escalante Meadows, LP  
815 West Ocean Avenue  
Lompoc, CA 93436  
Attention: Executive Director

With a copy to:

Daryll Kidd, Esq.  
Bocarsly, Emden, Cowan, Email & Arndt LLP  
633 W. Fifth St., 64<sup>th</sup> Floor  
Los Angeles, CA 90071  
Telephone: (213) 239-8020  
Facsimile: (213) 239-0410

To County:

County of Santa Barbara  
Community Services Department  
Division of Housing and Community Development  
123 East Anapamu Street, 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101  
Attention: Deputy Director

A copy of any notice delivered to Borrower hereunder shall be delivered to Borrower's limited partner as follows, or at another address provided by the Borrower in writing to the County from time to time in accordance with this Section 18:

To Limited Partner:

Wincopin Circle LLLP  
c/o Enterprise Community Asset Management, Inc.  
70 Corporate Center  
11000 Broken Land Parkway, Suite 700  
Columbia, MD 21044  
Attn.: Asset Management  
Phone: (410) 964-0552  
Facsimile: (410) 772-2630

With a copy to:

[sshack@enterprisecommunity.com](mailto:sshack@enterprisecommunity.com)  
Attn: General Counsel

With a copy to:

Kenneth S. Gross, Esq.  
Gallagher Evelius & Jones LLP  
218 North Charles Street, Suite 400  
Baltimore, MD 21201

**Section 19. Security.** This Note is secured by a Deed of Trust on real property situated in the City of Guadalupe, identified as Escalante Meadows, to First American Title Company, a California Corporation, as Trustee, which Deed of Trust shall be recorded in the Office of the County Recorder of the County of Santa Barbara, State of California. Such real property is described more fully in Exhibit A to this Note.

**Section 20. Non-Recourse Obligation.** The Loan evidenced by this Note is a non-recourse obligation of Borrower and Borrower's general partners and limited partners, and County's sole recourse under the debt shall be the right to foreclose under County's Deed of Trust; provided that this provision shall not restrict any exceptions to non-recourse liability set forth in Section 9.02 the Limited Partnership Agreement between Escalante Meadows, L.P. and Housing Authority of the County of Santa Barbara, Removal of a General Partner for Default, respecting such matters as fraud, waste and similar matters respecting actions of the general partner of Borrower.

**Section 21. Amendment or Modification.** The terms of this Note may only be amended or modified by a written agreement executed by the County and Borrower.

**Section 22. Non-Waiver of Rights.** Failure of the County to exercise the option to accelerate maturity date of this Note in the event of the occurrence of any of the circumstances listed in the "Payment" or "Project Schedule" or "Transfer" sections, above, shall not constitute waiver of the right to exercise such acceleration option in the event of the subsequent occurrence of any of the circumstances listed in such "Payment" or "Project Schedule" or "Transfer" Sections, above.

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IN WITNESS WHEREOF, this Note has been duly executed by Escalante Meadows, L.P., a California limited partnership, and the County of Santa Barbara:

ESCALANTE MEADOWS, L.P., a California limited partnership

By: SURF DEVELOPMENT COMPANY, a California nonprofit public benefit corporation, its managing general partner

By \_\_\_\_\_  
Raymond F. Down, President

By \_\_\_\_\_  
Robert P. Havlicek Jr.,  
Chief Executive Officer and Secretary

By: HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA, a public body, corporate and politic, its administrative general partner

By \_\_\_\_\_  
Robert P. Havlicek Jr, Executive Director

**Exhibit A**  
**Legal Description**

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