AMENDED AND RESTATED PROMISSORY NOTE SECURED BY GROUND LEASEHOLD DEED OF TRUST
CITY NOTE

$2,500,000.00 Costa Mesa, California ____ 2026

FOR VALUE RECEIVED, **AMERICAN FAMILY HOUSING, a California non-profit, public benefit corporation)** ("Developer"), promises to pay to the **CITY OF COSTA MESA**, a California municipal corporation ("City"), at its offices at City Hall, 77 Fair Drive, Costa Mesa, California 92626, or at such other place as City may from time to time designate in writing, (a) the principal sum of Two Million Five Hundred Thousand Dollars ($2,500,000.00) (or so much of the proceeds as have been disbursed by City to Developer) from the LMIFAF funds pursuant to the Agreement (defined below) but in no event to exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00) ("Note Amount"); and (b) all costs and expenses payable hereunder.

RECITALS

A. This Amended and Restated Promissory Note Secured by Ground Leasehold Deed of Trust ("Note") is made pursuant to that certain Affordable Housing Grant and Loan Agreement by and between Developer and City, dated February 28, 2025 ("Original Agreement") as amended by that First Amendment to Affordable Housing Grant and Loan Agreement ("Amendment") dated concurrently herewith (collectively, the "Agreement"), in relation to the property located at 2274 Newport Boulevard, Costa Mesa California, Assessor's Parcel Number 439-312-12. This Note amends and restates in its entirety, that certain promissory note in the principal sum of Two Million Five Hundred Thousand Dollars ($2,500,000) dated as of February 28, 2025, executed by Developer in favor of the City ("Original Note"). As of the execution of this Note the Developer acknowledges that the Original Note has been marked "cancelled" by the City and returned to the Developer. The Original Note is terminated and is of no further force or effect.

B. Developer has, concurrently with this Note, executed a Promissory Note Secured by Ground Leasehold Deed of Trust in favor of the City in connection with a HOME loan given by the City ("HOME Note").

C. Capitalized terms used in this Note shall have the meaning set forth in the Agreement, unless expressly otherwise defined herein.

NOW, THEREFORE, for good valuable consideration, receipt of which is hereby acknowledged, Developer agrees as follows:

1. Agreement. The principal sums hereunder have been and are being loaned by City to Developer in accordance with and pursuant to the Agreement, which is a public record on file in the office of the City Clerk. The proceeds of the City Loan shall be disbursed only to pay for the items and in accordance with the disbursement procedures, and the terms and conditions set forth in the Agreement. The Agreement is incorporated herein and made a part hereof to the same extent and with the same force and effect as if fully set forth herein. In the event of any inconsistencies between the terms of this Note and the terms of the Agreement or any other document related to the Note Amount, the terms of this Note shall prevail.

(a) A default by Developer under any of the provisions of the Agreement, the City Deed of Trust dated February 28, 2025, or any of the other Project Documents shall, after the expiration of the applicable cure period(s) under the respective agreement, be a default hereunder, and a default hereunder after applicable cure periods shall be a default under the Project Documents.

2. Interest. Interest at the rate of three percent (3%) shall accrue on the Note Amount, except as set forth in Section 10 hereof as to the Default Rate, which Default Rate shall begin to accrue upon an Event of Default by Developer as set forth herein and in the Agreement.

3. Term; Payment Obligations. This Note shall be for a term that commences on the date of initial disbursement of funds at Closing and continues for a period of fifty-five (55) years after the recordation of the Notice of Affordability Restrictions (as defined in the Agreement) ("Maturity Date").

(a) This Note shall be repaid through an annual Residual Receipts calculation based on operation of the Project, except (i) in the Event of Default by Developer, or (ii) on the Maturity Date, in which case, (i) or (ii), the outstanding balance of this Note is due in full immediately without regard to Residual Receipts.

(b) Commencing on or before June 1 after the calendar year in which the date of recordation of the Notice of Affordability Restrictions occurs and on the 90^{th} day of each succeeding calendar year, Developer shall make cause to be prepared and submitted to the City its Annual Financial Statement, including the Residual Receipts Report evidencing Developer's calculation of Residual Receipts.

(c) Commencing upon June 1 after the calendar year in which the date of recordation of the Notice of Affordability Restrictions occurs, Developer shall make annual payments on this Note and the HOME Note sourced from the City's Proportionate Share of fifty percent (50%) of Residual Receipts, which is anticipated to be collectively nine and eighty-eight thousandths percent (9.088%), and which amount shall be allocated and remitted to City. Each annual payment by Developer to City of the City's Proportionate Share of Residual Receipts shall be credited by City to pay down the outstanding balance of this Note and the HOME Note.

(i) The annual payments by Developer to the City of the City's Proportionate Share of Residual Receipts shall continue until full repayment of this Note.

(ii) In all events upon the earlier to occur of (A) the Maturity Date or (B) the Event of Default by Developer and acceleration of this Note, if it were to occur, the outstanding balance, if any, shall be due immediately and paid in full by Developer to City without regard to Residual Receipts.

(d) Notwithstanding the allocation of Residual Receipts, the full Note Amount may be accelerated as set forth in Section 10 below.

4. Calculation of Residual Receipts in Connection with Note Repayment.

(a) **Residual Receipts Report; Allocation and Remittance of Residual Receipts**. Developer agrees to calculate, allocate and remit Residual Receipts in accordance with the Agreement and provide to City the Annual Financial Statement and Residual Receipts Report evidencing the same.

(i) After the calendar year in which the date of recordation of the Notice of Affordability Restrictions occurs and annually on or before June 1 of each succeeding calendar Year until the Maturity Date, Developer shall make annual payments to City of the City's Proportionate Share of fifty percent (50%) of Residual Receipts, which is anticipated to be nine and eighty-eight thousandths percent (9.088%), (which includes this Note and the HOME Note), if any and when due, as set forth below and in the Agreement.

(ii) On the first to occur of (A) City Loan Maturity Date, or (B) acceleration of this Note due to Developer's Event of Default, the outstanding principal amount (plus accrued interest, if any) shall be due in full by Developer to City, all without regard to Residual Receipts calculation.

(iii) In addition, subject to the terms of the Agreement, this Note shall be paid from Refinancing Net Proceeds or from the Transfer Net Proceeds in the applicable percentages stated in the Agreement.

(iv) Notwithstanding the foregoing, the full Note Amount may be accelerated as set forth in Section 10 below.

5. Consent Required for Assignment and Assumption. Except for Transfers permitted pursuant to Article 8 of the Agreement, this Note shall not be assignable or assumable by any successor or assignee of Developer without the prior written consent of City, which consent may be withheld in the sole and absolute discretion of the City Manager (or if the City Manager elects in his or her discretion to present such request to the City Council.)

6. Form of Payments. All amounts due hereunder are payable in immediately available funds and lawful monies of the United States of America.

7. Application of Payments. All payments shall be applied (a) first, to costs and fees owing hereunder, (b) second, to the payment of accrued interest, (c) third, to the payment of principal, and (d) fourth, and if applicable, the accrual and payment of Default Rate of interest in the event of Default as defined and described in Section 10 below.

8. Prepayment. At any time, Developer may prepay in whole or in part the outstanding principal balance under this Note, together with all accrued interest, if any, and unpaid fees, costs and expenses, if any, payable hereunder, without penalty or premium. In the event of prepayment by Developer, the Regulatory Agreement, in particular the covenants with respect to affordable housing for Extremely Low-Income Households during the Affordability Period as set forth in the Agreement and the Regulatory Agreement, shall remain intact, and shall be unaffected by the prepayment of this Note by Developer.

9. Security. This Note and all amounts payable hereunder are secured by the City Deed of Trust of even date herewith executed by Developer in favor of City, which City Deed of Trust shall only be subordinate to: (a) the Regulatory Agreement of record as the senior encumbrance, and (b) those certain deeds of trust executed by Developer, as borrower, in favor Primary Lenders, and (c) such other encumbrances approved by the City in writing in its sole discretion. The terms of the City Deed of Trust are incorporated herein and made a part hereof to the same extent and with the same force and effect as if fully set forth herein. A default under any of the provisions of the City Deed of Trust shall be a default hereunder, and a default hereunder shall be a default under the City Deed of Trust.

(a) **Subordinate Note**. The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a promissory note for the Primary Loans executed by Developer, as set forth in the Agreement.

10. Acceleration and Other Remedies. If elected by City pursuant to the following sentence, the entire balance due under this Note shall be paid to City upon the earlier of an Event of Default, including without limitation: (i) the uncured default of Developer under this Note, the Agreement, Regulatory Agreement, City Deed of Trust, or other of the Project Documents, in each case, after delivery of notice and expiration of the applicable cure period provided in the respective agreement or instrument; or (ii) the sale, lease or other transfer or conveyance (other than the permitted rentals and other transfers and/or conveyances expressly permitted under the Agreement) of all or any part of the Project, or any interest therein (individually or collectively a "Transfer"), without the prior written consent of City in accordance with the Agreement, in each case, after delivery of notice and expiration of the applicable cure period provided in the applicable Project Document.

(a) Upon the occurrence and during the continuance of an Event of Default, the Note Amount, and all outstanding amounts due under this Note (and the Agreement, the City Deed of Trust and other Project Documents) shall accrue interest at the default rate of ten percent (10%) per annum, based on a calendar year (360 days) and charged on the basis of the actual number of days elapsed ("Default Rate").

(b) In addition, upon and during the continuance of an Event of Default, City may, at City's option, declare the outstanding principal amount of this Note, together with the then accrued and unpaid interest, if any, all sums secured by the City Deed of Trust, and other charges, if any, due under applicable Project Documents; such sums shall be due and payable immediately upon such declaration, and Default Rate shall immediately become and be due and payable without demand or notice, all as further set forth in the City Deed of Trust. All costs of collection, including, but not limited to, reasonable attorneys' fees, consulting fees, and all expenses incurred in connection with protection of, or realization on, the security for this Note, may be added to the principal hereunder, and shall accrue interest at the Default Rate as provided herein.

(c) City shall at all times have the right to proceed against any portion of the security for this Note in such order and in such manner as City may consider appropriate, without waiving any rights with respect to any of the security. Any delay or omission on the part of City in exercising any right hereunder, under the Agreement, the Project Documents or under the City Deed of Trust shall not operate as a waiver of such right, or of any other right. No single or partial exercise of any right or remedy hereunder or under the Agreement, the Project Documents, the City Deed of Trust or any other document or agreement shall preclude other or further exercises thereof, or the exercise of any other right or remedy. The acceptance of payment of any sum payable hereunder, or part thereof, after the due date of such payment shall not be a waiver of City's right to either require prompt payment when due of all other sums payable hereunder or to declare an Event of Default for failure to make prompt or complete payment.

11. Waivers. Except to the extent notice is required under any of the Project Documents, Developer and all endorsers, guarantors and sureties hereof jointly and severally waive presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights or interests in or to any and all property securing this Note, and the benefit of any exemption under any homestead exemption laws, if applicable. Developer expressly agrees that this Note or any payment hereunder may be extended from time to time at City's sole discretion and that City may accept security in consideration for any such extension or release any security for this Note at its sole discretion all without in any way affecting the liability of Developer. No extension of time for payment of this Note made by agreement by City with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Developer under this Note, either in whole or in part. The obligations of Developer under this Note shall be absolute and Developer waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever. No previous waiver and no failure or delay by City in acting with respect to the terms of this Note or the City Deed of Trust shall constitute a waiver of any breach, default, or failure or condition under this Note, the Deed of Trust or the obligations secured thereby. A waiver of any term of this Note, the City Deed of Trust or any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

12. Consents. Developer and all endorsers, guarantors and sureties consent to: (a) any renewal, extension or modification (whether one or more, and subject to the terms and provisions of the Agreement relating to modification, extension, and/or amendment) of the terms of the Agreement as such terms relate to this Note or the terms or time of payment under this Note, (b) the release or surrender or exchange or substitution of all or any part of the security, whether real or personal, or direct or indirect, for the payment hereof to the extent requested or approved by Developer, (c) the granting of any other indulgences to Developer, and (d) the taking or releasing of other or additional parties primarily or contingently liable hereunder. Except as otherwise set forth above, any such renewal, extension, modification, release, surrender, exchange or substitution may be made without notice to Developer or to any endorser, guarantor or surety hereof, and without affecting the liability of said parties hereunder.

13. Successors and Assigns. Whenever "City" is referred to in this Note, such reference shall be deemed to include City and its successors and assigns, including, without limitation, any subsequent assignee or holder of this Note. All covenants, provisions and agreements by or on behalf of Developer, and on behalf of any makers, endorsers, guarantors and sureties hereof which are contained herein shall inure to the benefit of City and its successors and assigns. City may, at its option, assign its right to receive payment under this Note without necessity of obtaining the consent of Developer. Whenever "Developer" is referred to in this Note, such reference shall be deemed to include American Family Housing, a California nonprofit, public benefit corporation, and its approved successors and assigns, including, without limitation, any approved subsequent assignee or obligor of this Note, if such approval is given in accordance with the Agreement. In no event shall Developer assign or transfer any portion of this Note without the prior express written consent of City, except as permitted in the Agreement.

14. Usury. It is the intention of Developer and City to conform strictly to the Interest Law, as defined below, applicable to this loan transaction. Accordingly, it is agreed that notwithstanding any provision to the contrary in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, the aggregate of all interest and any other charges or consideration constituting interest under the applicable Interest Law that is taken, reserved, contracted for, charged or received under this Note, or under any of the other aforesaid agreements or otherwise in connection with this loan transaction, shall under no circumstances exceed the maximum amount of interest allowed by the Interest Law applicable to this loan transaction. If any excess of interest in such respect is provided for in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, then, in such event:

(a) the provisions of this paragraph shall govern and control;

(b) neither Developer nor Developer's heirs, legal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest allowed by the Interest Law applicable to this loan transaction;

(c) any excess shall be deemed canceled automatically and, if theretofore paid, shall be credited on this Note by City or, if this Note shall have been paid in full, refunded to Developer; and

(d) the effective rate of interest shall be automatically subject to reduction to the Maximum Legal Rate of Interest (as defined below), allowed under such Interest Law, as now or hereafter construed by courts of appropriate jurisdiction. To the extent permitted by the Interest Law applicable to this loan transaction, all sums paid or agreed to be paid to City for the use, forbearance or detention of the indebtedness evidenced hereby shall be amortized, prorated, allocated and spread throughout the full term of this Note. For purposes of this Note, "Interest Law" shall mean any present or future law of the State of California, the United States of America, or any other jurisdiction which has application to the interest and other charges under this Note. The "Maximum Legal Rate of Interest" shall mean the maximum rate of interest that City may from time to time charge Developer, and under which Developer would have no claim or defense of usury under the Interest Law.

15. Costs of Enforcement. Developer agrees to pay upon demand all reasonable costs and expenses, including attorneys' fees, expert witness fees, and costs of suit (including appeals), incurred by City to enforce the terms hereof. In addition to the foregoing award of attorneys' fees, City shall be entitled to its reasonable attorneys' fees incurred in any post-judgment proceedings to enforce any judgment in connection with this Note. This provision is separate and several and shall survive the merger of this provision into any judgment.

16. **Miscellaneous.** Time is of the essence hereof. If this Note is now, or hereafter shall be, signed by more than one party or person, it shall be the joint and several obligations of such parties or persons (including, without limitation, all makers, endorsers, guarantors and sureties), and shall be binding upon such parties and upon their respective successors and assigns. This Note shall be governed by and construed under the laws of the State of California. Developer irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of California for the County of Orange or the United States District Court of the Central District of California, as City hereof may deem appropriate, in connection with any legal action or proceeding arising out of or relating to this Note. Developer also waives any objection regarding personal or in rem jurisdiction or venue to the extent such action is filed in the above-referenced courts. In the event of a conflict between the provisions of this Note and the Agreement, this Note shall control.

17. **Non-Recourse Obligation**. In the Event of Default under the terms of this Note, the sole recourse of City therefor shall be Developer's interest in the Property and the Project and Developer and Affiliates shall not be personally liable for the payment of any obligations under this Agreement; provided, however, that the foregoing shall not in any way affect any rights City may have hereunder, or any right of City to recover or collect funds, damages or costs (including without limitation reasonable attorneys' fees and costs) incurred by City as a result of fraud, intentional misrepresentation or bad faith waste, and/or any costs and expenses incurred by City in connection therewith (including without limitation reasonable attorneys' fees and costs).

IN WITNESS WHEREOF**,** Developer has caused this Promissory Note Secured by Ground Leasehold Deed of Trust executed on the date first set forth above.

DEVELOPER:

AMERICAN FAMILY HOUSING,
a California nonprofit, public benefit corporation

By: ______________________________
Myles Anthony Peinemann II
Chief Executive Officer