

LOAN AGREEMENT

FHA HEEHA Loan

This Loan Agreement (“Loan Agreement”), dated September __, 2023 (“Effective Date”), is between the FRUITA HOUSING AUTHORITY, a body corporate and politic (“Lender”), and INDIBUILD FRUITA LLLP, a Colorado limited liability limited partnership (“Borrower”).

The Borrower is the owner of certain real property located in Fruita, Colorado, which the Borrower intends to develop and operate as a 50-unit multifamily affordable housing development (“Project”).

The High Efficiency Electric Heating and Appliances (“HEEHA”) Program was created by C.R.S. § 24-38.5-405 to support the installation of high-efficiency electric heating equipment to reduce harmful greenhouse gasses, indoor air pollution, and household energy costs. The HEEHA Program is administered by the Colorado Energy Office, a body corporate and political subdivision of the State of Colorado (“CEO”).

The Lender applied for and CEO awarded a grant in the amount of \$1,391,713.00 (“HEEHA Funds”) from the CEO pursuant to an Intent to Award Letter dated July 12, 2023 and a State of Colorado Grant Agreement dated on or about the same date as this Loan Agreement between the Lender and CEO (“Grant Agreement”). The HEEHA Funds cover certain eligible costs for energy audits, community organizing, high-efficiency electric heating equipment and appliances, electric components and infrastructure, and administrative costs described in the Grant Agreement (“Eligible Costs”). The Lender has agreed to loan the HEEHA Funds to the Borrower for Eligible Costs subject to the terms of this Loan Agreement.

The parties therefore agree as follows:

1. The Loan. The Lender shall lend the HEEHA Funds to the Borrower, and the Borrower shall borrow the HEEHA Funds from the Lender, subject to the terms this Loan Agreement.
2. Disbursement. Once the Borrower has expended funds for Eligible Costs, submitted documentation to CEO, and CEO has disbursed funds to the Lender, the Lender shall lend the funds to Borrower pursuant to a Promissory Note in the original principal amount of \$1,391,713.00 (“Note”). The Note will be secured by a Deed of Trust, Security Agreement, Financing Statement and Assignment of Rents and Revenues (“Deed of Trust”). This Loan Agreement, the Deed of Trust, and the Note are referred to as the “Loan Documents.”
3. Reporting and Compliance Obligations. The Borrower shall be responsible for all of the Lender’s obligations, responsibilities, or duties under the Grant Agreement. The Borrower shall attend all meetings and calls and provide to CEO and the Lender all reports and other documentation required by the Grant Agreement. The Borrower shall reimburse the Lender for out-of-pocket costs, staff time, and any other reasonable expenses incurred by the Lender related to the Grant Agreement and the Loan Documents. The Borrower and Lender shall promptly notify

the other if either receives any notice, demand, or other correspondence from CEO concerning the Grant Agreement or HEEHA Funds.

4. Events of Default. The following events, subject to the notice and cure requirements set forth below, will constitute an Event of Default:

- (a) if the Borrower fails to duly and punctually perform its obligations under this Loan Agreement, or it violates the covenants contained in any of the Loan Documents in any material respect, and such failure remains uncured within ninety days of the Borrower's receipt of written notice from Lender;
- (b) if the Borrower fails to pay any installment on the Note when due, and the Borrower fails to cure within thirty days of receiving written notice of such failure from Lender;
- (c) if the Borrower makes a general assignment for the benefit of creditors, admits in writing its inability to pay its debts generally as they mature, files or has filed against it a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement with creditors or other similar relief under the federal bankruptcy laws or under any other applicable law of the United States of America or any state, consents to the appointment of a trustee or receiver; or takes any action for the purpose of effecting or consenting to any of the foregoing; and
- (d) if an order, judgment, or decree is entered appointing, without the Borrower's consent, a trustee or receiver for the Borrower or a substantial part of its property, or approving a petition filed against the Borrower seeking a reorganization, arrangement with creditors or other similar relief under the federal bankruptcy laws or under any other applicable law of the United States of America or any state, and such order, judgment, or decree is not be vacated, set aside, or stayed within ninety days from the date of entry.

Following the occurrence of an Event of Default, the Lender shall provide written notice to the Borrower and to NEF Assignment Corporation, as nominee, an Illinois not-for-profit corporation, the investor limited partner of the Borrower (together with its successors and assigns, "Limited Partner").

The Borrower or the Limited Partner may cure any Event of Default within the timeframes provided in this Loan Agreement or any other Loan Document. If the Borrower and the Limited Partner fail to timely cure a default, then the Lender shall have all remedies as are set forth in the Loan Documents or otherwise at law.

5. Standstill. Until the later of: (i) the Limited Partner or an affiliate thereof is no longer a partner of the Borrower, and (ii) the end of the Compliance Period (as defined in the Amended and Restated Agreement of Limited Liability Limited Partnership of the Borrower), the Lender may not exercise any rights or remedies under or in connection with this Loan Agreement including, without limitation, foreclosure or acceleration of the Note.

6. Disbursement Conditions. The Lender's obligation to fund the Loan is subject to the Lender's receipt of HEEHA Funds. The Lender shall fund the Loan upon receipt of HEEHA Funds.

7. Defense and Indemnification.

- (a) The Borrower shall defend, indemnify, and hold harmless Lender, and all of its past and present officers, directors, commissioners, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, and attorneys (collectively, "Lender Parties") against all liabilities, claims, judgments, suits, or demands for damages to persons or property arising out of, resulting from, or relating to this Agreement, the terms and conditions of the Grant Agreement ("Claims") unless such Claims are due to the gross negligence or willful misconduct of Lender. The Borrower's duty to defend and indemnify each of the Lender Parties will arise when written notice of the Claim is first provided to a Lender Party regardless of whether the claimant has filed suit on the Claim. The Borrower's duty to defend and indemnify a Lender Party will arise even if the Lender Party is the only party sued by a claimant, or claimant alleges that the Lender Party's gross negligence or willful misconduct was the sole cause of claimant's damages.
- (b) The Borrower will defend any and all Claims that may be brought or threatened against a Lender Party and will pay on behalf of a Lender Party any expenses incurred by reason of such Claims including court costs and attorney's fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. These payments on behalf of a Lender Party will be in addition to any other legal remedies available to a Lender Party.
- (c) A Lender Party shall give the Borrower a copy of any notice of a Claim. A Lender Party shall allow the Borrower thirty days after receipt of such notice to cure of any monetary default under the Loan Documents. Lender shall allow the Borrower ninety days after giving Borrower notice to cure any non-monetary default under the Loan Documents or such longer period as is reasonably necessary for the Borrower to cure if the Borrower commences and diligently pursues to cure. In addition, the Lender shall concurrently provide notice of any default to the Borrower's Limited Partner, which has the independent right to cure any default within the time periods set forth above.

8. Miscellaneous.

- (a) This Loan Agreement binds and inures to the benefit of the successors and assigns of the parties. Subject to the Lender's consent, which the Lender shall not unreasonably withhold, condition, or delay, the Borrower may assign the Loan and the obligations and duties of the Borrower under the Loan Documents to any purchaser of the Property and Project if the purchaser agrees to be bound to the Loan Documents.

- (b) Any amendment to this Loan Agreement requires a written agreement of the parties.
- (c) No waiver of satisfaction of a condition or non-performance of an obligation under this Loan Agreement will be effective unless it is in writing and signed by the party granting the waiver.
- (d) The laws of the state of Colorado, without giving effect to its principles of conflicts of law, govern all adversarial proceedings brought by the parties arising out of this Loan Agreement, whether their claims sound in contract, tort, or otherwise.
- (e) This Loan Agreement will remain effective so long as there are sums remaining outstanding on the Note.
- (f) The parties shall give all notices, consents, demands, waivers, or approvals related to this Agreement in writing delivered by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class certified mail, postage prepaid, or (iv) e-mail. A notice is deemed given on the other party's receipt of it, or if mailed, on the earlier of the other party's receipt of it and the fifth business day after its mailing. The parties may change their addresses for notice by notifying the other parties in the manner provided in this Section 8(f). The parties hereby designate their addresses as follows:

If to the Borrower:

IndiBuild Fruita LLLP
4884 Briar Ridge Ct.
Boulder, CO 80301
Attention: Kim Pardoe

With a copy to:

Bryan Cave Leighton Paisner
1801 13th Street, Suite 300
Boulder, CO 80302-5386
Attn.: Paul Smith

If to the Lender:

Fruita Housing Authority
325 East Aspen Avenue
Fruita, Colorado 81521
Attn.: Executive Director

With a copy to:

Garfield & Hecht
910 Grant Ave., Ste. 201
Glenwood Springs, CO 81601
Attn.: Mary Elizabeth Geiger

If to Limited Partner:

NEF Assignment Corporation
10 South Riverside Plaza, Ste. 1700
Chicago, IL 60606
Attn: Vice President – Asset Management

- (g) The Borrower consents to the personal jurisdiction of the state and federal courts located in the State of Colorado in connection with any controversy relating the Loan Documents and waives any argument that venue in such forum is not convenient. Any litigation related to the Loan Documents must be venued in either the district court of Mesa County, Colorado or in the United States District Court for the District of Colorado.

[signature pages follow]

The Borrower has executed this Loan Agreement as of the Effective Date.

BORROWER

IndiBuild Fruita LLLP, a Colorado limited liability limited partnership

By: IndiBuild Fruita GP LLC, a Colorado limited liability company, as its General Partner

By: indibuild llc, a Colorado limited liability company, as its Manager

By: _____
Name: Kimberley A. Coughlin
Title: Principal

The Lender has executed this Loan Agreement as of the Effective Date.

FRUITA HOUSING AUTHORITY, a body
corporate and politic

By: _____
Name: _____
Its: Executive Director