

LOAN DEFAULT AGREEMENT AND ASSIGNMENT OF RIGHTS UNDER REDEVELOPMENT AGREEMENT

THIS LOAN DEFAULT AGREEMENT AND ASSIGNMENT OF RIGHTS UNDER REDEVELOPMENT AGREEMENT (“**Agreement**”), is entered into by and among **805 OTTLEY AVENUE LLC**, a Colorado limited liability company (“**Borrower**”), **THE HUNTINGTON NATIONAL BANK** (“**Lender**”), the **FRUITA HOUSING AUTHORITY**, a body corporate and politic of the State of Colorado (the “**Authority**”), and the **CITY OF FRUITA, COLORADO**, a Colorado home rule municipality (the “**City**”). Each of Borrower, Lender, the Authority and the City are referred to herein as a “**Party**” and collectively as the “**Parties**”, and the Authority and the City are referred to herein individually and collectively as “**Fruita**”. Defined terms used herein shall have the meaning ascribed below, or as otherwise defined in the referenced Loan Agreement.

RECITALS

A. Borrower is the owner of certain real property located in the County of Mesa, Colorado and legally described on **Exhibit A** attached hereto and incorporated herein (the “**Property**”).

B. Borrower intends to develop and operate the Property as an affordable housing project, including 62 multifamily rental housing units serving a mix of persons and households making up to 100% of area median income (“**Project**”).

C. Fruita has entered in that certain Redevelopment, Financing and AMI Restriction Agreement dated [_____], 2025 (the “**Redevelopment Agreement**”) with Borrower, based on Borrower’s commitment to develop the Project.

D. Lender has agreed to make a loan to Borrower to finance the development of the Project, in the original principal amount of \$8,609,690.00 (the “**Loan**”). The Loan will be evidenced by that certain Construction Loan Agreement of even date herewith (the “**Loan Agreement**”), executed pursuant to that certain Promissory Note of even date herewith (“**Promissory Note**”), and secured by that certain Construction Deed of Trust, Security Agreement, Fixture Filing and Assignment of Leases and Rents executed by Borrower for the benefit of Lender, to be recorded in the Official Records of Mesa County, Colorado (the “**Deed of Trust**”), encumbering the Property. The Loan Agreement, Promissory Note, Deed of Trust, and any and all other agreements, instruments, writings or documents that evidence, guaranty and/or secure the Loan, as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this Agreement, are collectively referred to herein as the “**Loan Documents**.”

E. Lender has required, as additional security for Borrower’s obligations under the Note and the Loan Documents, that Borrower assign to Lender, and grant to Lender a security interest in, all of Borrower’s rights under the Redevelopment Agreement.

F. Further, pursuant to the Redevelopment Agreement, the Parties have entered into this Agreement in order to provide Fruita the ability to (i) cure a monetary default by Borrower under the Loan, and (ii) to purchase the Loan and the Loan Documents so as to avoid any foreclosure action following the occurrence and continuation of an Event of Default under the Loan Agreement (“**Default Obligation**”).

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, and other valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties represent, covenant and agree as follows:

1. Assignment.

(a) Borrower does hereby, for valuable consideration, the receipt of which is hereby acknowledged, assign, transfer, convey and set over to Lender, and does hereby grant to Lender a security interest in all of Lender’s right, title and interest in and to all payments, monies and proceeds due to Borrower under the Redevelopment Agreement.

(b) Fruita hereby expressly consents to the foregoing assignment, as required by Section 9 of the Redevelopment Agreement.

(c) Fruita agrees that upon receipt of written request therefor by Lender, all monies and payments due Borrower under the terms of the Redevelopment Agreement will be made directly to Lender or its order at such place as Lender shall direct. Lender may apply all such amounts received to the payment of the obligations of Borrower under the Loan, whether or not then due, in such order and manner as Lender in its sole discretion may determine. Borrower hereby relieves Fruita from any liability to Borrower by reason of the remittance of said sums directly to Lender or at Lender’s direction, and waives all claims against Fruita for any sums so paid.

(d) Fruita agrees that notwithstanding the foregoing assignment, Lender has absolutely no obligation to perform the covenants, conditions, obligations, duties and agreements of Borrower under the Redevelopment Agreement.

2. Payment Default – Notice to Fruita.

(a) Lender shall use commercially reasonable efforts to provide to Fruita copies of all written notices (“**Payment Default Notice**”) delivered to Borrower citing a Default or Event of Default (as defined in the Loan Agreement) due to Borrower’s failure to pay any principal and/or interest due under the Loan Documents (“**Payment Default**”). The failure of Lender to provide a copy of any Payment Default Notice shall not impair or otherwise limit Lender’s right to commence the exercise of its remedies under the Loan Documents; provided, however, Lender shall not commence any Enforcement Action (as defined below) due to a Payment Default until such time as Lender has provided a copy of any such Payment Default Notice to Fruita in the manner provided for in this Agreement

and applicable time periods have run. Borrower agrees that it shall use commercially reasonable efforts to provide Fruita with a copy of any Payment Default Notice it receives within three (3) business days thereafter, provided, however, that failure to do so shall not be a default by Borrower hereunder.

(b) Lender acknowledges that, pursuant to the Redevelopment Agreement, Fruita may elect to cure Payment Defaults, and Fruita shall be entitled to cure or remedy any such Payment Default within the time provided for in the Loan Documents.

(c) Fruita acknowledges and confirms that its respective rights in any sums expended by Fruita to cure any Payment Default shall be and shall remain in all respects subordinate to the Deed of Trust and the lien thereof.

3. Right of First Refusal to Purchase the Loan. If at any time Lender elects to initiate any remedy of foreclosure, the following terms shall apply:

(a) Notice of Enforcement Actions. If Lender elects to pursue any of the following remedies: (i) any action to foreclose on the Property pursuant to foreclosure proceedings or a foreclosure sale, whether such foreclosure is judicial or non-judicial, including, without limitation, a sale pursuant to a power of sale in the Deed of Trust, (ii) any action or attempt to take, actually taking, ownership of the Property by a deed in lieu of foreclosure, or (iii) any action or attempt to take possession of, sell or otherwise realize upon, or exercise any other rights or remedies with respect to, any collateral securing the Loan (each or together, an “**Enforcement Action**”), then Lender shall provide to Fruita written notice of its intent to commence an Enforcement Action (an “**Enforcement Action Notice**”), which shall include copies of default notices related to the Event of Default giving rise to the potential Enforcement Action, no later than ten (10) days prior to commencing such action. For the avoidance of doubt, Lender’s issuance and delivery of (x) a notice of Default; (y) a notice of an Event of Default; or (z) an Enforcement Action Notice shall not constitute an Enforcement Action.

(b) Statement of Amount Due. Concurrently with the delivery of an Enforcement Action Notice (the “**Enforcement Action Notice Date**”), and from time to time upon written request from Fruita, Lender shall deliver to such requesting Party a statement of outstanding debt reflecting the sum of (w) the then outstanding principal balance of the Loan, (x) all prepayment fees and premiums payable under the Loan Documents in connection with a prepayment of the Loan as of the date of the Enforcement Action, (y) all attorney’s fees and costs incurred by Lender in the enforcement of the Loan Documents and all other costs and expenses incurred or advanced by Lender to protect the Property (such as costs related to taxes, insurance, permits, etc.) which have not been reimbursed by Borrower, and (z) all then accrued but unpaid interest on the Loan, including any accrued and unpaid default interest at the Default Rate arising from Borrower’s default in accordance with the Loan Documents as of the Enforcement Action Notice Date, plus a per diem interest amount through the date of the Enforcement Action (the “**Payoff Amount**”). As used herein, the “Payoff Amount” shall include the amounts set forth in subsections (w), (x), (y), and (z) of this **Section 3(b)** from the date of the Enforcement Action Notice Date to the date of the Purchase Transaction (as defined below).

(c) Election to Effectuate Purchase of Loan. Within twenty (20) days following Lender's delivery of the Enforcement Action Notice, Fruita shall notify Lender in writing that it is electing to avoid an Enforcement Action ("**Fruita Election Notice**") by exercising its right to purchase the Loan from Lender ("**Loan Purchase Transaction**"). During such 20-day period, and during the period between delivery of a Fruita Election Notice and the consummation of the Loan Purchase Transaction, Lender may pursue, but shall not consummate, an Enforcement Action.

(d) Subordination. Fruita agrees that its respective rights and interests created hereunder and pursuant to the Redevelopment Agreement to purchase the Loan, are and will be at all times subordinate to the liens and security interests created by the Deed of Trust and the other Loan Documents and all other right, title and interest of Lender in and to the Property.

4. Loan Purchase Transaction.

(a) Right to Purchase Loan Documents. In the event Fruita delivers to Lender a Fruita Election Notice notifying Lender that it intends to effectuate a Loan Purchase Transaction, but only during the continuation of the Event of Default, Fruita shall have the first right to purchase the Loan, the Note and the other Loan Documents from Lender in accordance with the terms of this **Section 4**. The purchase price for the Loan and the Loan Documents shall be an amount equal to the Payoff Amount as of the date of the Loan Purchase Transaction. Fruita must deliver its Fruita Election Notice before the expiration of the 20-day period following Lender's delivery of the Enforcement Action Notice (as specified in **Section 3** above) and must consummate the Loan Purchase Transaction within twenty (20) days after such Fruita Election Notice. Such Loan Purchase Transaction: (i) shall be made without representation or warranty by Lender other than (A) Lender is the owner and holder of the Loan, the Loan Documents and the liens, encumbrances and security interests securing the same, (B) the current unpaid principal balance of the Loan as reflected on the books and records of Lender, and (C) that all principal, interest and other fees, charges and expenses outstanding pursuant to the Loan Documents are outstanding under the Loan and the Loan Documents; (ii) in furtherance of such purchase and sale, Lender: (A) shall notify Fruita whether Lender has actual knowledge of any pending litigation regarding Lender's right, title and interest in and to the Loan and the Loan Documents, and (B) shall deliver to Fruita (or the nominee thereof) the original Loan Documents (including the title insurance policy which insures the Deed of Trust) to the extent in the possession of Lender, together with such reasonable assignments thereof which are appropriate to evidence such transfer from Lender to Fruita, including commercially reasonable assignments of indemnities; and (iii) except as expressly provided in this Agreement, nothing in this Section shall in any way restrict, limit or delay the exercise of any of the rights or remedies available to Lender under the Loan Documents. If Lender commences an Enforcement Action prior to the closing of the Loan Purchase Transaction, Lender will assign all rights and remedies in the Enforcement Action to the Authority or the City, as the case may be, at the closing and reasonably cooperate with the Authority or the City, as the case may be, in connection with substituting parties in any foreclosure action or other applicable proceedings.

(b) Termination of Rights to Purchase Loan Documents. Fruita's right to purchase the Loan Documents from Lender will terminate if: (i) the time period for Fruita to deliver the Fruita Election Notice expires or (ii) if Fruita elects to pursue a Loan Purchase Transaction and fails to close said transaction within the time period set forth in Section 4(a) above. Upon the termination, Fruita shall execute such agreement or document as may be reasonably requested by Lender to confirm such termination.

5. Borrower Representations and Covenants. Borrower represents, warrants and covenants that:

(a) The Redevelopment Agreement is valid and in good and current standing, not having been altered, amended, changed, terminated or canceled in any way, and no breach or default exists therein or thereunder.

(b) Borrower has full power, right and authority to execute and deliver the Redevelopment Agreement and has full power, right and authority to execute and deliver this Assignment.

(c) Borrower has not conveyed, transferred, or assigned the Redevelopment Agreement or any right or interest therein and has not executed any other document or instrument that might prevent or limit Lender from operating under the terms, conditions and provisions of this Agreement.

(d) Borrower shall make no other assignment of the Redevelopment Agreement or of any right or interest therein.

(e) Borrower shall perform and observe, in timely fashion, all of the covenants, conditions, obligations and agreements of Borrower under the Redevelopment Agreement in strict accordance with the terms, conditions and provisions thereof.

(f) Borrower shall not waive, execute any agreement that could be interpreted as waiving, or discharge any party from, any covenants, conditions, obligations or agreements under or related to the Redevelopment Agreement to be performed or observed by any such party, or condone any nonperformance thereof, but shall, at its sole cost and expense, enforce and secure the performance of all such covenants, conditions, obligations and agreements under or related to the Redevelopment Agreement to be performed or observed by any such party.

(g) Borrower shall not agree to any change, amendment or modification to the Redevelopment Agreement, or to the instructions of Borrower contained herein, without the prior written approval of Lender.

(h) Borrower shall promptly notify Lender of any default or breach of, or under, the Redevelopment Agreement or of any failure of performance or other condition that, after notice or lapse of time, or both, could become a default or breach by any other party under the Redevelopment Agreement.

6. Attorney in Fact. Borrower does hereby make, constitute and appoint Lender, and its successors and assigns, Borrower's true and lawful attorney in fact, in Borrower's name, place and stead, or otherwise, upon the occurrence of any Event of Default under the Loan:

(a) To do all acts and to execute, acknowledge, obtain and deliver any and all instruments, documents, items or things necessary, proper or required as a term, condition or provision of the Redevelopment Agreement;

(b) To give any notices, instructions, or other communications to any person or entity in connection with the Redevelopment Agreement;

(c) To demand and receive all performances due under or with respect to the Redevelopment Agreement and to take all lawful ways and means for the enforcement thereof and to compromise and settle any claim or cause of action in Borrower arising from or related to the Redevelopment Agreement and give acquittances and other sufficient discharges relating thereto; and

(d) To file any claim or proceeding or to take any other action, either in its own name, in that of its nominee, in the name of Borrower, or otherwise, to enforce performance due under or related to the Redevelopment Agreement or protect and preserve the right, title and interest of Lender hereunder.

The power of attorney given herein is a power coupled with an interest and shall be irrevocable so long as any part of the Loan remains unpaid or unperformed. Lender shall have no obligation to exercise any of the foregoing rights and powers in any event.

7. Fruita Certifications and Representations. Fruita hereby certifies, represents, and warrants to Lender that:

(a) There are no other agreements in existence between Fruita and Borrower relating to the Property other than the Redevelopment Agreement, and all other agreements and documents referred to in or contemplated by, and executed in connection with or pursuant to the Redevelopment Agreement;

(b) The Redevelopment Agreement has not been altered, amended, or modified since the date of its original execution, and is presently in full force and effect;

(c) Fruita has fulfilled all of its duties and obligations under the Redevelopment Agreement to be fulfilled as of the date of this Agreement and is not currently in default under the terms, conditions, covenants, and obligations of the Redevelopment Agreement. To Fruita's knowledge, Borrower has fulfilled all of its duties and obligations under the Redevelopment Agreement to be fulfilled as of date of this Agreement and is not currently in default under the terms, conditions, covenants, and obligations of the Redevelopment Agreement;

(d) During the term of the Loan, Fruita will not establish a master lease agreement or make Additional Contributions (as defined in the Agreement, and all as further detailed therein), without the prior written consent of Lender;

To the Authority:

Attn: _____

With a copy to:

Attn: _____

To the City:

Attn: _____

With a copy to:

Attn: _____

or to any other address as to any of the Parties hereto, as such Party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next Business Day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third Business Day following the day sent or when actually received.

(d) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Colorado without regard to the conflicts of laws principles thereof; provided that if Lender has greater rights or remedies under federal law, then such right and/or remedies under federal law shall also be available to Lender.

(e) Jury Trial Waiver, Class Action Waiver. Each Party waives their respective rights to a trial before a jury in connection with any claim, dispute or controversy, and each such claim, dispute and controversy shall be resolved by a judge sitting without a jury. If not prohibited by applicable law, each Party also waives the right to litigate in court or an arbitration proceeding any, dispute and controversy as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

(f) Severability. No provision of this Agreement that is held to be unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of this Agreement are hereby declared to be severable.

(g) Document Execution. This Agreement may be executed or delivered electronically, in any number of counterparts and by different parties in separate counterparts, each of which, when so executed, shall be deemed an original and all of which, taken together, shall constitute one integrated agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart.

9. No Interest in the Property. Fruita acknowledges and agrees that the execution of this Agreement shall not grant any ownership interest to Fruita in the Property, and Fruita has no ownership interest in the Property at the time of executing this Agreement. Lender acknowledges and agrees that Fruita is executing this Agreement solely to preserve the rights granted to it by Borrower under the Redevelopment Agreement and that Fruita is not a co-borrower or guarantor of the Loan.

10. Termination of this Agreement. If not earlier terminated, this Agreement shall automatically terminate and be of no further force and effect upon the satisfaction of the Loan and release of the Deed of Trust.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement the day and year first above written.

BORROWER:

805 OTTLEY AVENUE LLC, a Colorado limited liability company

By: _____
Name: _____
Title: _____

LENDER:

THE HUNTINGTON NATIONAL BANK

By: _____
Name: _____
Title: _____

AUTHORITY:

FRUITA HOUSING AUTHORITY, a body corporate and politic of the State of Colorado

By: _____

CITY:

CITY OF FRUITA, COLORADO, a Colorado home rule municipality

By: _____
City Manager

ATTEST:

APPROVED AS TO FORM:

By: _____
City Clerk

By: _____
City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY