

NEW MEXICO MORTGAGE FINANCE AUTHORITY
HOME PROGRAM
MORTGAGE NOTE

\$200,000.00

Albuquerque, New Mexico

6/27, 2002

1. The undersigned ("Owner") acknowledges receipt of the sum of Two Hundred Thousand and 00/100ths Dollars (\$200,000.00) from the New Mexico Mortgage Finance Authority ("Lender") as a loan (the "Loan") for the development or rehabilitation of single family residential rental property located in Union County at 113 Cherry Street, 117 Cherry Street, 121 Cherry Street, 124 Cherry Street, and 210 Monroe Street, Clayton, New Mexico 88415, (the "Property"). This Note is secured, and payment hereof is assured by, a Mortgage of even date with this Note, and compliance with the terms hereof is secured by a Land Use Restriction Agreement (the "LURA") which restricts the uses of the Property.

2. Monthly non-compounding interest will accrue on the outstanding balance of all unpaid principal and interest at the rate of three percent (3%) per annum beginning on the first day of the twenty-fourth (24th) month following the month in which the Mortgage Loan is closed. Borrower shall make 456 monthly interest-only payments on the outstanding balance of unpaid principal, paid in arrears, at an interest rate of one percent (1.0%) per annum beginning on the tenth day of the twenty-fifth (25th) month following the Closing Date and on the tenth (10th) day of each month thereafter until maturity. Accrued interest will be paid in full upon maturity or at any earlier time that this Note becomes due.

The entire principal amount of the Loan, plus all accrued and unpaid interest, will be due and payable in full upon the earlier to occur of: (1) the sale, refinance (except for a refinance of the First Mortgage as defined in the Mortgage) or other transfer of the Property; or (2) **July 1, 2042**. Owner may repay any part of the outstanding principal amount of the Loan at any time prior to maturity without penalty. Borrower unconditionally agrees to repay the Mortgage Loan as provided in the Mortgage Note. Owner may repay any part of the outstanding principal amount of the Loan at any time prior to maturity without penalty.

3. So long as any or all of the principal amount of the Loan is unpaid and outstanding, Owner will maintain the Property as affordable, multi-family housing and shall ensure affordability compliance for rental housing under the Title II National Affordable Housing Act of 1990, as amended (the "Act") and pursuant to Section 92.252 of the federal regulations at 24 CFR Part 92 "HOME Investment Partnership Program," as amended from time to time (the "Regulations").

4. Owner shall keep the improvements now existing or hereafter erected on the Property insured against any fire and hazards and extended coverage at all times. If the Property is in a flood plain, Owner agrees to obtain flood insurance (if applicable) for the value of the improvements located thereon.

5. If at any time the Owner, (or the Owner's heirs, estate, agents or assignees) sells, transfers, or in any manner conveys title to the property, the Owner, (or the Owner's heirs, estate, agents or assignees) shall become liable to pay Lender or Lender's assigns the then outstanding principal balance of the Loan unless the loan is assumed by the transferee and Lender approves as such transfer; provided, however, that a transfer of limited partner interests in Owner shall not constitute a transfer of the Property. Upon receipt of payment in full, Lender or Lender's assigns shall thereupon release its Mortgage and the Land Use Restriction Agreement ("LURA") which restricts the Property.

6. This Note can be assumed only after Owner has obtained written approval from Lender or Lender's assigns prior to any transfer or assumption. Lender reserves the right to deny any such request for approval to assume or transfer this Note. Included in any assumption (if approved) there must be a written agreement stating that the buyer will assume responsibility of the Note and all attached conditions.

7. If Owner defaults under the terms of this Note, the Mortgage or the LURA, Lender may, at its option, accelerate maturity and the unpaid balance of the Loan shall become immediately due and payable without demand or notice. If this Note is reduced to a judgment, the judgment shall bear interest at the statutory rate.

8. If this Note is placed in the hands of an attorney for collection or is collected through probate or bankruptcy court or through other legal proceedings, Owner agrees to pay all costs of collection including reasonable attorney's fees and court costs.

9. **The following provision (a) only applies if initialed by Borrower and Lender:**

- _____ (a) Owner is personally liable for the performance of all obligations of this Mortgage Note and for repayment of the entire outstanding principal of and accrued interest on the Loan evidenced hereby until such time as Owner has closed its permanent financing from the New Mexico Mortgage Finance Authority and the lien and mortgage of Western Bank of Clovis on the Property has been discharged and released, at which time, except as provided below, the Loan and the obligations of this Mortgage Note are to become non-recourse, in accordance with sub-section (b) below.
- _____ (b) if sub-section (a) above is not initialed, or at such time as the Mortgage Loan and the obligations become non-recourse to Borrower under sub-section (a) above, and except as provided below, Lender shall not have any recourse against the Owner, or any corporation formed by Owner, for obligations undertaken by or imposed upon Owner by this Mortgage Note or the Mortgage except for the interest of Owner in the Property. In the event of a default under this Mortgage Note or under the Mortgage, Lender shall be entitled to collect any amounts due it as a result of such default only from the Property and Owner's interests therein.
- (c) Notwithstanding the foregoing or any other provision of this Mortgage Note limiting the liability of the Borrower, however, it is expressly agreed that a judgment may be sought

against Borrower to the extent necessary to enforce the rights of Lender or other holder in, to or against the Property securing the Indebtedness evidenced by the Note and secured by this Mortgage and Related Documents and the sole and exclusive remedy of the Lender or other holder for any default hereunder or under the aforesaid instruments shall be against the Property except that there shall be personal liability in the following circumstances (the "Obligations"): (i) the misapplication of any rents or profits from the Property after occurrence of a default, (ii) any damages, costs, or expenses incurred as a result of fraud, material misrepresentation or bad faith by Borrower, (iii) any liability arising under any agreed upon Environmental Indemnity, (iv) the misapplication of any security deposits paid by tenants, (v) damages caused by any misappropriation or misapplication of insurance proceeds or condemnation awards, (vi) amounts necessary to repair or replace any damage caused by willful or wanton acts or omissions of Borrower, (vii) amounts necessary to pay delinquent real estate taxes and insurance, (viii) damages from Borrower's failure to procure and maintain insurance required by the Mortgage and Related Documents, (ix) costs and expenses in the enforcement of this clause and (x) all accrued and unpaid interest.

10. **IN WITNESS WHEREOF, THIS NOTE HAS BEEN EXECUTED BY THE UNDERSIGNED OWNER(S) ON THE DATE FIRST WRITTEN ABOVE.**

OWNER:

Eastern Plains Housing Development Corporation,
a New Mexico nonprofit corporation

By James R. Lawson
Its Chairman