

LIMITED RECOURSE PROMISSORY NOTE

This Limited Recourse Promissory Note (the "Note") is entered into as of the 16th day of September, 2014, between the MOSCOW URBAN RENEWAL AGENCY, a public body, corporate and politic, organized and existing under the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, and the Local Economic Development Act of 1988 as amended, Chapter 29, Title 50, Idaho Code ("Borrower"), and 409 S. Jackson St., LLC, an Idaho Limited Liability Company ("Lender").

WITNESSETH:

For One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

1. Definitions. As used in this Note, the following terms shall have the indicated meanings:

- (a) "Act" means collectively the Idaho Urban Renewal Law of 1965, as amended, Title 50, Ch. 20, Idaho Code and the Idaho Economic Development Act of 1988, as amended, Title 50, Ch. 29, Idaho Code.
- (b) "Assessment Roll" means the assessment roll used in connection with the taxation of the Revenue Allocation Area by the taxing agencies, as such roll is equalized as provided by the laws of the State of Idaho.
- (c) "Agreement" means that Owner Participation Agreement between Borrower and Lender dated August 27, 2014.
- (d) "Effective Date" means the effective date of the Urban Renewal Project for revenue allocation financing provisions as authorized by Title 50, Chapter 29, Idaho Code, which is June 2, 2008.
- (e) "Pre-Effective Date Rate" means the rate at which taxes were levied by or for the taxing agencies upon the total sum of the assessed value of the taxable property in the Revenue Allocation Area, as shown on the Base Assessment Roll prior to the Effective Date.
- (f) "Private Development" means the new development initiated and completed by Lender consisting of the land and improvements located at 409 South Jackson Street, Moscow, Idaho as defined in the Agreement which generates additional assessed value and ad valorem taxes in excess of the Base Assessment Roll, and for purposes of this Note is fifty percent (50%) revenue allocation (tax increment) funds actually received specifically from the land and improvements located at 409 South Jackson Street, Moscow, Idaho.

(g) “Resolution” means Resolution No. 2014-04, adopted by the Borrower on August 27, 2014, and as supplemented or restated, pursuant to which this Note was authorized.

(h) “Revenue Allocation Area” means all taxable real and personal property within the Urban Renewal Project Area as described in the Urban Renewal Plan as adopted by the Moscow Urban Renewal Agency and approved by the Mayor and the City Council of the City of Moscow, Idaho.

(i) “Revenue Allocation Proceeds” means that portion of taxes in excess of the taxes which would be produced by the Pre-Effective Date Rate.

(j) “Taxes” means all levies on an ad valorem basis upon land, real property, personal property or any other property, tangible or intangible, included within the Revenue Allocation Area.

(k) “Taxing Agencies” means the City of Moscow, Moscow School District, Latah County, and any other district or public corporation levying taxes within the Revenue Allocation Area.

(l) “Urban Renewal Plan” shall mean that certain document entitled “Legacy Crossing Urban Renewal District Redevelopment Plan” adopted by the City pursuant to the Act and City Ordinance and as amended from time to time.

(m) “Urban Renewal Project” means the Project improvements and other costs identified in the Urban Renewal Plan, including design, engineering, consulting, insurance, audit, planning, and administration costs of the Borrower.

2. **Promise to Pay.** Borrower promises to pay in lawful money of the United States of America, to the order of Lender, at such place as Lender may from time to time designate, the principal sum not to exceed FORTY-FIVE THOUSAND DOLLARS (\$45,000), from the date of full funding under the Note, which is deemed the completion of the Project Improvements and Verification of Costs as defined in the executed Agreement, and continuing until December 31, 2024. The principal sum shall bear no interest.

Borrower may redeem, at any time, in whole or in part, without penalty, the then principal amount outstanding.

In conjunction with its receipt of revenue allocation proceeds, the Agency agrees to make semi-annual payments of fifty percent (50%) of the tax revenue allocation proceeds from the Private Development as defined in Section 1(f), commencing from the first date the Agency receives tax increment monies received specifically from the land and improvements located at 409 South Jackson Street, Moscow, Idaho, until the principal amount of FORTY-FIVE THOUSAND DOLLARS (\$45,000), has been paid, or December 31, 2024, whichever occurs first. Agency shall have no obligation to make tax

increment payments to the Participant for taxes collected and paid to Agency beyond the term described herein.

- 3. Partial Payments.** The acceptance by Lender of any payment which is less than the entire amount then due hereunder shall be on account only and shall not constitute a waiver of the obligation of Borrower to pay such entire amount. The failure of Borrower to pay the entire amount then due hereunder shall be and continue to be an event of default hereunder, notwithstanding the acceptance by Lender of such amount on account, and Lender shall thereafter, until such entire amount is paid (and notwithstanding acceptance by Lender thereafter of further sums on account or otherwise), be entitled to exercise all rights and remedies provided for herein upon the occurrence of an event of default hereunder. The acceptance by Lender of any amount due hereunder after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder, or to declare that an event of default has occurred hereunder.
- 4. Default.** Provided that Borrower has received revenue allocation proceeds sufficient to make such payments, if any payment required under this Note is not made when due and within forty-five (45) days after notice is given by Lender to Borrower that the same is due, the entire unpaid principal balance hereof, together with all accrued but unpaid interest due hereunder shall, at the option of the Lender, become due and payable without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower and all endorsers, guarantors, sureties, accommodation parties, and other persons at any time liable for all or any portion of the indebtedness evidenced hereby.
- 5. Limited Recourse, Collection of Revenue Allocation.** Notwithstanding anything contained in this Note to the contrary, the recourse of Lender for payment of any amounts due hereunder shall be limited solely to fifty (50%) of the revenue allocation proceeds, as defined in Section 1(i), from the land and improvements located at 409 South Jackson Street, Moscow, Idaho, as the same are generated from time to time for the period necessary to obtain full payment of all principal and interest payable under this Note. Borrower shall exercise its best efforts to cause the collection of all taxes, including the revenue allocation proceeds. As of December 31, 2024 (or earlier period if redeemed), and upon Borrower's performance of its obligations to receive and disburse revenue allocation generated during such periods to Lender, Lender's obligations under this Note shall cease, and said Note shall be deemed canceled and fully satisfied. In any event, Lender shall not be entitled to receive more than the outstanding principal balance of this Note, and in the event revenue allocation generated is in excess of the sums required to satisfy such Note balance during said payment term, then Borrower shall be entitled to any and all such surplus or excess revenue allocation. The Borrower's obligations hereunder are specifically limited to the obligations contained in Exhibit 1 attached hereto and incorporated herein by reference.
- 6. Assignment of Revenue Allocation.** Borrower hereby absolutely, unconditionally, and irrevocably transfers, assigns, and sets over to Lender for the term of this Note such

amount of such revenue allocation as is defined and required herein until such time as all such amounts due hereon are paid in full, or until December 31, 2024.

7. **Non-general Obligation.** As provided by Idaho Code Section 50-2910, the obligations of Borrower hereunder shall not constitute a general obligation or debt of the Borrower, the State of Idaho, or any of its political subdivision or give rise to a charge against their general credit or taxing powers to be payable out of any funds or properties other than the monies deposited in the special fund or funds provided for herein and pledged hereby to the payment of principal and interest on this Note.
8. **Miscellaneous.** Time is of the essence with respect to all obligations of the parties hereunder. The unenforceability or invalidity of any provisions hereof shall not affect the enforceability or validity of any other provisions hereof. The terms hereof shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. This Note is delivered in Moscow, Idaho, and shall be governed by Idaho law.
9. **General Provisions.** Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower, to the extent allowed by law, waives presentment, demand for payment, protest, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, Borrower shall not be released from liability.
10. **Subordination.** Lender specifically acknowledges, recognizes, and consents to the subordination of this Note to Agency's other obligations as listed herein:
 - Legacy Crossing Bond Series 2010
 - Obligation to Latah County for Reimbursement of Tax Increment Revenues per the Release Settlement Agreement

IN WITNESS WHEREOF, this Note has been entered into as of the date and year first above written.

BORROWER:
MOSCOW URBAN RENEWAL AGENCY

By:


John McCabe, MURA Chair



ATTEST:

By:



Don Palmer, MURA Treasurer

LENDER:
409 S. Jackson St., LLC

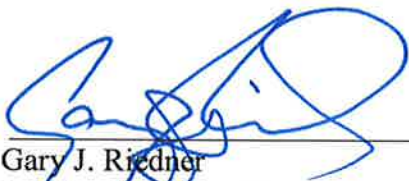
By:



Mark Wirtz, Managing Member

APPROVED AS TO FORM:

By:



Gary J. Riedner
Interim Executive Director
Moscow Urban Renewal Agency

Exhibit 1 to the Promissory Note

Description of Financing of Project Improvements

A. Obligation of the Agency to Pay Participant Revenue Allocation (Tax Increment) Proceeds

Because the Project is being partially financed through the Participant Advance, the Agency covenants and agrees to pay to the Participant a portion of the revenue allocation (tax increment) monies which the Agency shall actually receive specifically from the land and improvements located at 409 South Jackson Street, Moscow, Idaho following the construction of the Project by the Participant according to the terms and conditions described herein. The Incremental Tax Revenues are to be used to reimburse the Participant for the costs of the Project, which the Participant has agreed to construct as described within this Agreement.

1. Tax Increment Monies Are Sole Source of Agency Funding

Agency and Participant agree that the only source of monies available to Agency to pay the Incremental Tax Revenues to Participant herein described are the Incremental Tax Revenues to be received by Agency from the Private Development within the Project Area based upon the value of the Private Development to be constructed by Participant. Only the Incremental Tax Revenues from the Private Development Site shall be used to make the payments due under this provision of the Agreement. No payments shall be made by Agency to Participant from other Incremental Tax Revenues which Agency may receive from time to time from other portions of the Project Area or other redevelopment project areas which have been or may hereinafter be established, designated, or adopted by Agency and City at some future time.

2. Contingencies of Payment

Participant understands that Agency is entitled to receive Incremental Tax Revenues which are to be paid by Latah County. Participant understands that the Incremental Tax Revenues shall become available to Agency only if and when the Private Development to be constructed by Participant on the Site is completed and has a current year assessed value which is greater than the assessed value of the Project Area "base year" established at the time the Urban Renewal Plan was adopted. Participant further understands that Agency is not a taxing agency under Idaho law, has no power to levy a property tax on real or personal property located within the Project Area, or to set a mill levy or rate of tax levy on real or personal property within the Site. Agency is entitled to receive tax increment funds from the Site for the period established by the Law and the Urban Renewal Plan. Participant has investigated the provisions of Idaho laws governing the receipt of Incremental Tax Revenues by Agency and assumes all risk that the anticipated Incremental Tax Revenues derived from the Private Development to be constructed by Participant on the Site and in conformance with the Urban Renewal Plan will be paid to Agency and, if paid, that the amount of Incremental Tax Revenues will be sufficient to repay the obligation of Agency to Participant according to the terms and conditions contained in this

Agreement. Participant further assumes the risk that no changes or amendments will be made in the provisions of the Law or other tax statutes which would affect or impair either Agency's right or ability to receive the aforesaid Incremental Tax Revenues and to pay the indebtedness created by execution of the Agreement, the length of time said monies can be received, or the percentage or the amount of the Incremental Tax Revenues paid to or anticipated to be received by Agency based upon the current statutes.

3. Limitation on Making Payments

It is the intention of the parties that Participant shall only be paid from the Incremental Tax Revenues, if any, which are paid or are payable to Agency as a direct result of the Private Development constructed by the Participant on the Site. If, for any reason, the Incremental Tax Revenues anticipated to be received by Agency as a direct result of the Private Development to be constructed by Participant on the Site are reduced, curtailed, or limited in any way by enactments, initiative referendum, or judicial decree, Agency shall have no obligation to pay the tax increment obligation to Participant as described in this Agreement from other sources or monies which Agency has or might hereinafter receive.

4. Percentage of Tax Increment Payment

Agency agrees to pay to Participant fifty percent (50%) of the overall Incremental Tax Revenues which Agency receives as set forth in the Act, Agency adopted policy, or Urban Renewal Plan, commencing upon receipt of Incremental Tax Revenues received by Agency from the Private Development Site, after the completion, acceptance, and verification of the of the Agency Funded Public Improvements, the Private Development, and fifty percent (50%) thereafter for a period through December 31, 2024, or until the principal amount is retired, whichever occurs first. Because of the limitation on available funds, no amortization schedule shall be prepared or used by the parties. Rather, Agency's obligation is to pay the fifty percent (50%) of the overall Incremental Tax Revenues as required by the Act, Agency adopted policy, or the Urban Renewal Plan, received as described above, for the time period specified or until the principal amount is paid, whichever occurs first. Agency's obligation to Participant shall only be to pay above-described percentages of the amounts of Incremental Tax Revenues received by Agency, notwithstanding said amount may be reduced, curtailed, or limited in any way, and there shall be no interest, compounding of interest or amounts added to the principal in the event the Incremental Tax Revenues are reduced, curtailed or limited in any way.

5. Time and Terms of Tax Increment Payments

a. For any funds to which Participant is entitled, the payments received each year by Agency from the ad valorem taxes paid by taxpayers to the County Treasurer on the Site shall be paid to Participant within thirty (30) days following receipt of said funds by Agency. Agency anticipates receipt of these funds in January and July of each year from the ad valorem taxes paid by property owners each year.

b. The Act, as amended, provides that Agency will be paid tax increment funds contingent on the amount of assessed value as determined by the Latah County Assessor

each year and the rate of tax levy or the percentage of assessment levied by each of the taxing agencies. Agency is not a guarantor of the assessment determination made by Latah County Assessor.

c. The Increment Tax Revenues resulting from the incremental increase in assessed value of the Site as a result of the construction of the Private Development on the Site by Participant (as determined from the assessment records of the Latah County Assessor and the payment records of the Latah County Treasurer) shall be paid to Participant if and only as they are paid to Agency by Latah County, the entity which has the legal responsibility to collect property taxes.

d. Agency agrees to make semi-annual payments of the Incremental Tax Revenues, commencing from the first date Agency receives tax increment monies from the Site after completion of the components of the Agency Funded Improvements and the associated Private Development for which a Certificate of Completion has been issued for the period as described in the Agreement, or until the principal amount or the amount adjusted, plus interest, has been paid; whichever occurs first. Agency shall have no obligation to make tax increment payments to Participant for taxes collected and paid to Agency beyond the term described in Section 4 of this Attachment and the Agreement.

e. The payments to Participant are secured solely by a pledge of Agency of the Incremental Tax Revenues that are produced by the Private Development that are constructed on the Site by Participant, and Participant shall have no other recourse to Agency or City and no recourse whatever to any other party for payment.

6. Interest & Fees

Agency shall pay no interest on Participant Advance and shall not be subject to any fees or charges resulting from any activity authorized in this Agreement.

7. Default

As set forth in the Agreement, if the Participant defaults or breaches any of its obligations contained in the Agreement, and does not timely cure such default or breach as provided in the Agreement, or if Participant fails to obtain from the Agency a Certificate of Completion because the Private Development is not timely completed or is not completed according to the approved plans, the obligation to pay Participant the tax increment payment shall be voidable at the option of Agency until such time as the default is cured and/or the Certificate of Completion is issued. Notwithstanding the foregoing, if Participant is using its best efforts to cure any such delay or default and such delay or default is enforced beyond the Participant's control, then the obligation of Agency to pay the tax increment shall not be voidable for so long as Participant is using its best efforts to cure such default or delay.