

ATTACHMENT N 12

MENTAL HEALTH SERVICES ACT
CAPITALIZED OPERATING SUBSIDY RESERVE PROMISSORY (COSR) NOTE
SECURED BY DEED OF TRUST

(\$XXXXXX)

[Date] 2025

FOR VALUE RECEIVED, the undersigned [XXXXXXXXXX] (“**Borrower**”) promises to pay to the COUNTY OF ORANGE, a political subdivision of the state of California (the “**County**”), or order at Santa Ana, California or such other place as the County may designate in writing, the principal sum of [XXXX] (\$XXX) plus interest on the terms specified below.

1. Agreement. This COSR Note is given in accordance with that certain Mental Health Services Act Capitalized Operating Subsidy Reserve Agreement executed by and between the County and the Borrower of even date herewith (the “**COSR Loan Agreement**”). The obligations of the Borrower under this COSR Note shall be subject to the terms of the COSR Loan Agreement, the COSR Deed of Trust, Assignment of Rents, and Security Agreement of even date herewith which secures performance under this COSR Note, and the other COSR Loan Documents, all of which are hereby incorporated by reference. Capitalized terms used but not defined herein shall have the meaning as set forth in the COSR Loan Agreement.

2. Payment; Forgivable; The parties agree and understand that the intent of this COSR Note is that it will be forgivable at the end of the Term, as defined in the COSR Loan Agreement. Notwithstanding the foregoing, repayment of the **entire** amount under this COSR Note will be required if an Event of Default occurs.

3. Repayment.

(a) If repayment is required due to an Event of Default, all amounts due and payable under the COSR Note are payable at the address provided to the Borrower by the County, or at such other place or places as the County may designate to the Borrower in writing from time to time. Any payment under this COSR Note on the first day of the month in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts and which on the respective dates on which such payments are due shall be in immediately available funds.

(b) All repayments received by County pursuant to the terms hereof shall be applied in the following manner: first, to the payment of all expenses, charges, costs and fees incurred by or payable to County by Borrower pursuant to the terms of the COSR Loan Documents (in such order and manner as County, in its sole discretion, may elect); and, second, to the payment of the outstanding principal until paid in full. Notwithstanding anything to the contrary contained herein, after the occurrence and during the continuation of an Event of Default (as such term is defined in the COSR Loan Agreement), all amounts received by County from any party shall be applied in such order as County, in its sole discretion, may elect.

4. Security. This COSR Note is secured by, among other things, a COSR Deed of Trust covering real and personal property including, but not limited to, the Property and the Project (as such terms are defined in the COSR Loan Agreement).

5. Waivers.

(a) Borrower expressly agrees that this COSR Note or any payment hereunder may be extended from time to time at the County's sole discretion and that the County may accept security in consideration for any such extension or release any security for this COSR Note at its sole discretion all without in any way affecting the liability of Borrower.

(b) No extension of time for payment of this COSR Note or any installment hereof made by agreement by the County with any person now or hereafter liable for payment of this COSR Note shall operate to release, discharge, modify, change, or affect the original liability of Borrower under this COSR Note, either in whole or in part.

(c) The obligations of Borrower under this COSR Note shall be absolute and Borrower waives any and all rights:

(1) to offset, deduct, or withhold any payments or charges due under this COSR Note for any reasons whatsoever;

(2) of presentment for payment, demand, protest and notices of dishonor and protest; and

(3) of diligence in taking any action to collect any sums owing under this COSR Note or in proceeding against any of the rights and interests in and to properties securing payment of this COSR Note.

6. Attorney Fees and Costs. Borrower agrees that if any amounts due under this COSR Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorney fees paid or incurred in connection with the collection or enforcement of this COSR Note, whether or not suit is filed.

7. Joint and Several Obligations. This COSR Note is the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.

8. Acceleration. If any of the payments required by the terms hereof shall not be paid when the same becomes due, or if the payment due on the maturity date of this COSR Note is not paid when due, whether by acceleration or otherwise, or if an Event of Default (as defined in the COSR Loan Agreement) occurs under the COSR Loan Agreement or other default under any other COSR Loan Document occurs, then, or at any time thereafter, the whole of the principal owing on this COSR Note shall, at the option of County and without notice, become immediately due and payable. This option may be exercised at any time after any such event and the acceptance of one or more installments or other payments from any person thereafter shall not constitute a waiver of County's option. County's failure to exercise said option in connection with any particular event or series of events shall not be construed as a waiver of the provisions hereof as regards that event or any subsequent event. The COSR Loan Agreement and other COSR Loan Documents may also contain provisions, which provide for the automatic acceleration of amounts owing under this COSR Note upon the occurrence of certain specified events. County shall have, and be entitled to exercise, upon the occurrence of any Event of

Default or other event described above, all rights and remedies available to County under the COSR Loan Agreement, this COSR Note, the other COSR Loan Documents or at law or in equity. All such rights and remedies shall be cumulative.

9. Prohibition Against Transfer of Interest. The Borrower shall not make any sale, assignment or conveyance, or transfer in any other form, nor any further pledge, encumbrance, or mortgaging of the Property and/or the Project or any part thereof or of any of its interest therein, other than in accordance with the terms of this COSR Note, the COSR Loan Agreement, the COSR Deed of Trust and the other COSR Loan Documents.

10. Default Under Other COSR Loan Documents. All covenants, conditions, and agreements contained in this COSR Note, the COSR Loan Agreement, COSR Deed of Trust and the other COSR Loan Documents are hereby made a part of this COSR Note, and the Borrower agrees that the unpaid balance of the principal amount of this COSR Note, shall, at the option of the County hereof, become immediately due and payable. Upon the failure of the Borrower to perform or observe any other term or provision of this COSR Note; or upon the occurrence of any event (whether termed default, event of default, or similar term) which (after the expiration of any cure period) under the terms of this COSR Note, the COSR Loan Agreement, the COSR Deed of Trust or other COSR Loan Document shall entitle the County to exercise rights or remedies thereunder.

11. Definitions. Capitalized terms not defined in this COSR Note shall have the same meanings as defined in the COSR Loan Agreement, the terms of which are incorporated into this COSR Note by this reference.

12. Governing Law. This COSR Note shall be construed in accordance with and be governed by the laws of the State of California.

13. Severability. If any provision of this COSR Note shall be judicially determined to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

14. Captions. The captions and headings in this COSR Note are merely for convenience and substantively are not part of this COSR Note.

15. JURY TRIAL WAIVER; VENUE. UNLESS PROHIBITED BY FEDERAL, STATE OR LOCAL LAWS, IN ANY JUDICIAL ACTION OR PROCEEDING ARISING FROM OR RELATING TO THE LOAN OR THE LOAN DOCUMENTS, INCLUDING ANY ACTION OR PROCEEDING INVOLVING A CLAIM BASED ON OR ARISING FROM AN ALLEGED TORT, BORROWER HEREBY WAIVES ANY RIGHT IT OR THEY MAY HAVE TO REQUEST OR DEMAND A TRIAL BY JURY. VENUE FOR ANY ACTION RELATED TO THE COSR LOAN OR COSR LOAN DOCUMENTS SHALL BE IN AN APPROPRIATE COURT IN ORANGE COUNTY, CALIFORNIA SELECTED BY COUNTY TO WHICH BORROWER HEREBY CONSENTS.

16. Joint and Several Liability. If Borrower consists of more than one person or entity, each shall be jointly and severally liable for the performance of Borrower's obligations under this COSR Note.

17. Notices. All notices to be given pursuant to this COSR Note shall be given as provided in the COSR Loan Agreement.

18. Number and Gender. In this COSR Note the singular shall include the plural and the masculine gender shall include the feminine and neuter genders, and vice versa, if the context so requires.

19. Time. Time is of the essence in this COSR Note.

20. No Waiver by the County. No waiver of any breach, default, or failure of condition under the terms of this COSR Note, the COSR Loan Agreement, the COSR Deed of Trust or any other COSR Loan Document or the obligations secured thereby shall be implied from any failure of the County to take, or any delay by the County in taking, action with respect to such breach, default or failure, or any form of previous waiver of any similar or unrelated breach, default or failure; and waiver of any term of this COSR Note, the COSR Loan Agreement, the COSR Deed of Trust or any other COSR Loan Document or any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

21. Amendments and Modifications. This COSR Note may not be changed orally, but only by an amendment in writing signed by Borrower and the County.

22. Non-Recourse. The County will neither seek nor obtain judgment against the Borrower for payment of principal or interest under the COSR Note or for other obligations under the COSR Loan Documents following a judicial foreclosure (or to the extent permitted by law, a nonjudicial foreclosure of the COSR Deed of Trust), and the County's sole recourse against the Borrower for any default in the payment of principal or interest is limited to the Property and the Project and any other collateral of the Loan; provided, however, nothing in this Paragraph 22 will be deemed to limit or prejudice the rights of County to:

(a) foreclose the COSR Deed of Trust or enforce any of its other rights or remedies under the COSR Loan Documents; or

(b) name the Borrower or the general partners of Borrower as a party defendant in any action, proceeding or arbitration, subject to the limitations of this Section; or

(c) assert any unpaid amounts on the Loan as a defense or offset to or against any claim or cause of action arising out of or pertaining to the Project made or alleged against the County by the Borrower or any of its general partners; or

(d) exercise self-help remedies such as set off or nonjudicial foreclosure against or sale of any real or personal property collateral or security; or

(e) proceed against any entity or person, including Borrower and the general partners of Borrower with respect to the enforcement of any leases, bonds, policies of insurance, or other agreements (other than the Loan Documents); or

(f) recover damages against Borrower or the general partners of Borrower for fraud, breach of warranty, failure to maintain insurance, waste, or material misrepresentation; or

(g) recover any condemnation proceeds or insurance proceeds or other similar funds or payments attributable to the Property and/or the Project that under the terms of the Loan Documents should have been paid to Lender; or

(h) recover any tenant security deposits, prepaid rents, or other similar sums paid to or held by Borrower or any other entity or person in connection with the Property and the Project; or

(i) recover the value of any personalty or fixtures removed by Borrower from the Project after the occurrence of an Event of Default

(j) recover the rents and profits of the Property and the Project accruing from and after the occurrence of an Event of Default that have not been applied to pay any portion of the Loan, operating, and maintenance expenses of the Property and/or the Project, insurance, premiums, impositions, deposits into a reserve for replacement, or other sums required by the Loan Documents; or

(k) recover any amounts owing to the County under indemnity provisions (including indemnity provisions pertaining to Hazardous Materials as such term is defined in the COSR Deed of Trust) in the Loan Documents; or

(l) recover funds to reimburse County for sums expended by County for the protection or preservation of the Property, the Project or County's interest therein (including, without limitation, payment of any real property taxes, assessments or other charges which would create liens on any portion of the Property or Project.

The limitation of liability set forth in this Section 22 shall be deemed void and have no force or effect if Borrower or any general partner of Borrower attempts to materially delay any foreclosure of or on the COSR Deed of Trust or any other collateral for the Loan, or if the Borrower or any of its general partners claim that this Agreement or any related documents are invalid or unenforceable to an extent that would preclude foreclosure. Notwithstanding anything to the contrary set forth in the immediately preceding sentence, in the event Borrower contests any foreclosure proceeding in good faith and Borrower prevails in such action, or in the event Borrower and the County agree to a settlement of any such action which gave rise to the foreclosure proceeding, the Loan shall remain nonrecourse. Any liability of Borrower or any of the general partners of Borrower for any obligations arising in connection with the matters set forth in clauses (a) through (l) inclusive will be personal liability and may be asserted against and recovered from its or their interest in the Property and/or Project as well as against any of its and their other assets. Nothing contained in this Section impairs the validity of this COSR Note or any related documents or any lien or security interest created or perfected by it.

IN WITNESS WHEREOF, Borrower has executed this Promissory COSR Note as of the day and year first above written.

Signature Page follows

SAMPLE

BORROWER:

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By _____, Deputy

Dated _____