

WHEN RECORDED, RETURN TO:

REDEVELOPMENT AGENCY OF SALT LAKE CITY

ATTN: Executive Director

451 South State Street, Room 115

PO Box 145518

Salt Lake City, Utah 84114-5518

CT-174402-CAB

### RESTRICTIVE USE AGREEMENT

TIN 16-05-206-024

THIS RESTRICTIVE USE AGREEMENT (this “**Agreement**”) is made and entered into as of March 13, 2024, by and between the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency (“**Agency**” or “**RDA**”) and VICTORY HEIGHTS LLC, a Utah limited liability company (“**Owner**”, both of whom are collectively referred to herein as the “**Parties**”, and individually as a “**Party**”).

### RECITALS

- A. Pursuant to that certain Loan Agreement dated of even date herewith (“**Loan Agreement**”), Agency, as “**Lender**”, has agreed to make a loan to Owner, as “**Borrower**”, in the maximum principal amount of \$2,145,000.00 (“**Loan**”) for the purpose of financing construction of a residential development at 1060 East 100 South, Salt Lake City, Utah (together with all easements, rights-of-way, and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments, and appurtenances thereof and thereto, collectively, the “**Property**”). Capitalized terms used and not otherwise defined herein shall be given the meanings ascribed to such terms in the Loan Agreement.
- B. Owner desires to construct and operate on the Property a residential development consisting of 88 housing units, with 66 studio units, 18 three-bedroom units, and 4 four-bedroom units (together with any other related improvements and amenities to be constructed on the Property, the “**Owner Improvements**”).
- C. The Agency has determined that Owner’s intended development and use of the Property to construct and operate the Owner Improvements, as contemplated by the Loan Agreement, will be consistent with the purposes, goals and objectives of the Agency to provide affordable housing within Salt Lake City, provided the Owner Improvements are used and operated in accordance with the use restrictions set forth in Section 2 of this Agreement (collectively, the “**Use Restrictions**”).

### AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. Incorporation of Recitals. The recitals set forth above are hereby incorporated into this Agreement and the matters therein are acknowledged by the Parties hereto to be true and correct in all material respects.

2. Use Restrictions. In consideration of the Agency making the Loan to Owner and to further the purposes of the Agency to increase affordable housing within Salt Lake City, Owner hereby covenants and agrees, notwithstanding that the Loan may have been repaid in full, to comply with the terms and conditions of this Agreement and the Use Restrictions described below in connection with the construction and operation of any improvements on the Property during the Term (as defined in Section 3 hereof) of this Agreement.

(a) Owner shall develop and maintain the Property during the Term as follows:

(b) The Owner agrees that 88 units of the Project will be leased, throughout the Term (i) for a maximum monthly rental fee which is affordable to the tenants residing therein (as calculated below), and (ii) to individuals whose annual income (as defined under Section 8 of the United States Housing Act of 1937), aggregated for all individuals residing in a given unit, does not exceed the percentages set forth below of area median income for Salt Lake County:

<u>Units</u>	<u>Type</u>	<u>Income Limits</u>
51	Studio units	41-60% of area median income
3	4 bedroom units	41-60% of area median income
16	3 bedroom units	41-60% of area median income
15	Studio units	40% of area median income
1	4 bedroom units	40% of area median income
2	3 bedroom	40% of area median income

(c) Owner will provide an initial report demonstrating compliance with affordability requirements at full occupancy and provide annual affordability documentation each year, no later than April 30, following the end of the reporting year, during the Term. Owner will permit annual inspections at reasonable times by City and RDA to determine compliance with these conditions and covenants, if requested.

(d) Prior to commencement of any construction on the Property, Owner shall deliver to Agency, for its review and written approval, copies of all site plans and building plans, including but not limited to schematic, design and construction plans related to any improvements to be constructed on the Property (collectively, "**Plans and Specifications**").

(e) Owner covenants to cause the construction of the Owner Improvements to be commenced, performed and completed in a prompt, diligent and workmanlike manner in accordance with the Plans and Specifications and any and all federal, state, and local laws, statutes, acts, ordinances, rules, regulations and/or other requirements of any applicable Governmental Authority.

(f) Intentionally Omitted.

3. Duration of Agreement. This Agreement shall become effective as of the date of recordation hereof in the official real property records of Salt Lake County, Utah, and continuing for 40 years from the date the Owner Improvements receive a Certificate of Occupancy (the "**Term**").

4. Evidence of Compliance. Upon written request by the Agency, Owner shall provide Agency with evidence satisfactory to Agency of Owner's compliance with this Agreement and the Use Restrictions described herein.

5. Default; Remedies. Owner shall be in "Default" of its obligations under this Agreement if at any time during the Term any portion of the Property or Owner Improvements is used or operated in violation of the Use Restrictions set forth in Section 2 hereof or Owner fails to comply with any other provision of this Agreement, and such violation is not cured by Owner within thirty (30) days of receipt of written notice from the Agency. Following the occurrence of any Default, Agency shall be entitled to exercise any and all rights available at law or equity, including, without limitation, the remedy of specific performance to require the Property and Owner Improvements to be used and operated as required hereunder. Additionally, Owner shall be entitled to recover from Owner any and all costs and expenses incurred by Agency in enforcing the terms and conditions of this Agreement, including Agency's reasonable attorneys' fees.

6. Run with the Land. This Agreement and the Use Restrictions set forth herein are binding upon and shall run with the Property subject thereto throughout the Term hereof, such that any subsequent owners of fee title or other third parties holding an interest in and to all or some portion of the Property shall be deemed to have acquired such interest with notice and knowledge of this Agreement such that the Property and Owner Improvements shall remain subject to the terms, conditions, restrictions and provisions set forth herein. In keeping with the foregoing, the term "Owner", as used herein, shall be construed to mean and include any successors in interest to fee ownership of all or any portion of the Property and/or Owner Improvements and any other holders of interests in and to any portion of the Property and/or Owner Improvements. Agency shall be deemed a beneficiary of such Agreement, covenants, and restrictions, and in the event of any uncured default, shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such default to which beneficiaries of such covenants may be entitled.

7. General Provisions.

(a) Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

(b) Number and Gender of Words. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

(c) Attorneys' Fees. In any legal or equitable proceeding for the enforcement of, or to restrain the violation of, or otherwise pertaining to a dispute concerning this Agreement or any provision hereof, by reference or otherwise, the prevailing Party shall be entitled to an award of reasonable attorneys' fees in such amount as may be fixed by the court in such proceedings, in addition to costs of suit. If counsel is otherwise employed to enforce this Agreement or any provision hereof, the Party forced to take action that does not involve litigation shall be entitled to its reasonable attorneys' fees.

(d) Notices. All notices, demands, requests and other communications required or permitted hereunder shall be given as specified in the Loan Agreement.

(e) Governing Law. This Agreement is intended to be performed in the State of Utah, and the laws of Utah shall govern the validity, construction, enforcement, and interpretation of this Agreement, unless otherwise specified herein. Venue shall reside in Salt Lake City, Utah.

(f) Entirety and Amendments. This Agreement, together with the Loan Agreement and other Loan Documents (as defined in the Loan Agreement), embodies the entire agreement between the Parties and supersedes any prior agreements and understandings, if any, relating to the Property and Owner Improvements or any portion thereof and may be amended or supplemented only by an instrument in writing executed by both Agency and Owner.

(g) Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

(h) Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by Agency and Owner, Agency and Owner agree to perform, execute and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds and assurances as may be necessary to consummate the transactions contemplated hereby.

(i) Survival. Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by Owner of its obligations hereunder.

(j) Nonliability of Agency Officials and Employees. No member, official or employee of Agency shall be personally liable to Owner, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Owner or its successor or on any obligation under the terms of this Agreement.

(k) No Relationship of Principal and Agent. Nothing contained in this Agreement, nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between Agency, its successors or assigns, or Owner, its successors or assigns.

(l) No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

(m) Exhibits. All references to Exhibits contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes.

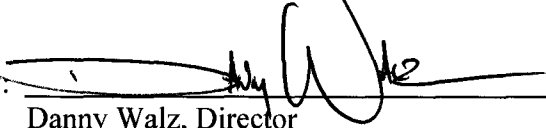
(n) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

[Signatures on following pages.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

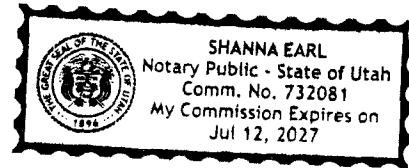
AGENCY:

REDEVELOPMENT AGENCY OF SALT LAKE CITY

By:   
Danny Walz, Director

Approved as to legal form:

*Sara Montoya*  
Sara Montoya, Senior City Attorney



STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of MARCH, 2024, by Danny Walz, Director of REDEVELOPMENT AGENCY OF SALT LAKE CITY, LLC, a public entity.

*Shanna Earl*  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: 7-12-27

RECORDED

MAR 12 2024

CITY RECORDER

Attest and countersigned:

*Cindy Helman*  
Salt Lake City Recorder's Office

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
P.O. BOX 145515  
SALT LAKE CITY, UTAH 84114-5515

OWNER:

VICTORY HEIGHTS LLC,  
a Utah limited liability company

By: Victory Heights Phase 1 GP LLC  
a Utah limited liability company

Its: Managing Member


By: 

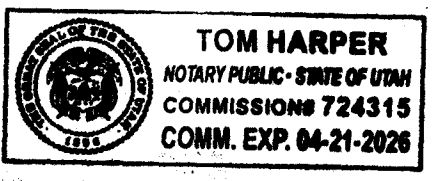
Name: Brandon Blaser  
Its: Authorized Representative

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2024, by Brandon Blaser, Authorized Representative of Victory Heights Phase 1 GP LLC, a Utah limited liability company, Managing Member of Victory Heights LLC, a Utah limited liability company.

  
NOTARY PUBLIC  
Residing at: Beaumont Utah  
My Commission Expires: 4-21-2026



**EXHIBIT A  
PROPERTY DESCRIPTION**

**PARCEL 1:**

Beginning at the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey and running thence West 246.25 feet; thence South 132.00 feet; thence East 246.25 feet; thence North 132.00 feet to the point of beginning.

**ALSO:**

Beginning 142.0 feet South of the Northeast corner of Lot 8, Block 29, Plat "F", Salt Lake City Survey and running thence South 33.0 feet; thence West 142.5 feet; thence North 33.0 feet; thence East 142.5 feet to the point of beginning.

**PARCEL 1A:**

The non-exclusive easements, appurtenant to Parcel 1 described herein, for pedestrian and vehicular access, as created and described in that certain Warranty Deed recorded November 12, 1919 as Entry No. 422717 in Book 10K at Page 300, described as follows:

Beginning 132.0 feet South of the Northeast corner of said Lot 8 and running thence South 10 feet; thence West 142.5 feet; thence South 188.00 feet; thence West 12.0 feet; thence North 178 feet; thence Northwesterly 14.0 feet, more or less; thence West 135.0 feet; thence North 10.0 feet; thence East 18 rods to the point of beginning.

Tax Id No.: 16-05-206-024










# CA-003417 Restrictive Use Agreement

Final Audit Report

2024-03-12

Created:	2024-03-12
By:	Felina Lazalde (felina.lazalde@slcgov.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAuAT9siLKtbCJkuailwb6jIZ89NLpU_4I

## "CA-003417 Restrictive Use Agreement" History

-  Document created by Felina Lazalde (felina.lazalde@slcgov.com)  
2024-03-12 - 7:08:45 PM GMT
-  Document emailed to Mike Burns (mike.burns@slcgov.com) for signature  
2024-03-12 - 7:10:03 PM GMT
-  Email viewed by Mike Burns (mike.burns@slcgov.com)  
2024-03-12 - 7:11:33 PM GMT
-  Document e-signed by Mike Burns (mike.burns@slcgov.com)  
Signature Date: 2024-03-12 - 7:11:44 PM GMT - Time Source: server
-  Document emailed to Sara Montoya (sara.montoya@slcgov.com) for signature  
2024-03-12 - 7:11:46 PM GMT
-  Email viewed by Sara Montoya (sara.montoya@slcgov.com)  
2024-03-12 - 8:22:21 PM GMT
-  Document e-signed by Sara Montoya (sara.montoya@slcgov.com)  
Signature Date: 2024-03-12 - 8:25:49 PM GMT - Time Source: server
-  Agreement completed.  
2024-03-12 - 8:25:49 PM GMT

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
P.O. BOX 145515  
SALT LAKE CITY, UTAH 84114-5515



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CA-003417