

When recorded mail to:

Utah Department of Workforce Services
Housing and Community Development Division
Olene Walker Housing Loan Fund
140 East 300 South, First Floor
Salt Lake City, UT 84111

Space Above This Line For Recorder's Use

CT-174402-CAB

Loan No.: WHP1996

TRUST DEED
With Assignment of Rents

THIS TRUST DEED is made this 13th day of MARCH, 2024 between Victory Heights, LLC, a Utah limited liability company, whose address is 386 West 500 South, Suite 100, Salt Lake City, Utah as Trustor (hereafter referred to "Borrower"), Cottonwood Title Insurance Agency, Inc. as Trustee, and Utah Department of Workforce Services Housing and Community Development Division, Olene Walker Housing Loan Fund, as Beneficiary (hereafter referred to as "Lender").

Borrower, in consideration of the indebtedness evidenced by a Promissory Note (the "Note"), irrevocably grants, conveys and assigns to Trustee and Trustee's successors and assigns, in trust with power of sale and right of entry and possession, for the benefit of Lender, all of Borrower's rights, title and interest in the following property, situated in Salt Lake County, State of Utah, together with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances, now or hereafter used or enjoyed with said property, or any part thereof, subject to the right, power and authority given to Lender to collect and apply such rents, issues, and profits:

LEGAL 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

This Trust Deed secures to Lender:

- a. repayment of the debt evidenced by the Note in the principal amount of \$1,000,000.00 with interest, and any renewals, extensions, and modifications;
- b. the payment of all sums, with interest, advanced to protect the security of this Trust Deed; and
- c. the performance of Borrower's covenants and agreements under this Trust Deed, the Note and the Deed Restriction. In consideration of the indebtedness secured by this Trust Deed, Borrower covenants and agrees:

1. Payment.

Borrower shall pay the indebtedness when due in accordance with the terms of the Note and this Trust Deed and shall comply with all other provisions of the Note, this Trust Deed and Deed Restriction. Lender expressly agrees that Borrower's investors, guarantors, members or others may in their discretion make a payment on Borrower's behalf, however no such payment will modify Borrower's obligations under the Loan Documents.

2. Exculpation.

Except for personal liability expressly provided for in this Trust Deed or the Note, the execution of the Note and Trust Deed impose no personal liability upon Borrower. In the Event of Default, Lender shall look solely to the Property, including all buildings, fixtures, improvements, water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances, and will not seek any deficiency or personal judgment against Borrower, except such judgment or decree necessary to foreclose its interest in the Property and all other property mortgaged, pledged, conveyed or assigned to secure payment of the indebtedness.

3. Charges and Liens.

- a. Borrower shall timely pay all costs, fees, and expenses of this Trust Deed, and all taxes, assessments, charges, fines, encumbrances, liens and interest attributable to the Property. Borrower shall pay these obligations directly to the person or entity owed payment. Borrower shall promptly furnish to Lender receipts evidencing these payments on a quarterly basis.
- b. Except for senior loans preapproved in writing by Lender, Borrower shall promptly and without Notice from Lender discharge each lien that has priority over this Trust Deed unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith and successfully defends against enforcement of the lien in legal proceedings which prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Trust Deed. If Lender determines that any part of the Property is subject to a lien that may attain priority over this Trust Deed, Lender may give Borrower Notice identifying the lien and Borrower shall take one or more of the actions set forth above within 45 days of Notice.

4. Assignment of Rents.

- a. Upon the occurrence of an Event of Default, Borrower authorizes Lender to collect, with or without taking possession of the Property, and if necessary sue for, rents and Borrower shall provide written direction to each tenant of the Property to pay all rents to Lender. Until the occurrence of an Event of Default, Lender grants Borrower a revocable license to collect and receive all rents for use in accordance with the provisions of this Trust Deed and Deed Restrictions, and apply the rents to pay the installments of interest and principal when due under the Note and other amounts due under this Trust Deed. Upon default of any of Borrower's obligations contained in the Promissory Note, Trust Deed or Deed Restriction, Borrower's license to collect rents will automatically terminate and Lender will without notice be entitled to all rents as they become due, including rents then due and unpaid. Borrower shall pay to Lender upon demand all rents to which Lender is entitled.
- b. As additional security, Borrower shall assign and transfer to Lender all rents, issues, royalties, and profits of the Property and Borrower's personal property located thereon. Borrower shall establish a present, absolute and irrevocable transfer and assignment to Lender of all rents and authorize Lender to collect and receive all rents without the necessity of further action by Lender. Promptly upon request by Lender, Borrower shall execute and deliver such assignments as Lender may require. Until the occurrence of an Event of Default,

Borrower retains the right to collect all rents, issues, royalties, and profits earned and payable prior to the Event of Default.

- c. Except for senior loans preapproved in writing by Lender, Borrower represents and warrants that Borrower has not executed any prior assignment of rents, and Borrower covenants and agrees it shall not perform any acts, has not executed, and will not execute, any instrument that would prevent Lender from exercising its rights.

5. Construction, Preservation, Management and Maintenance of Property.

- a. Borrower shall commence and complete construction of all improvements promptly and in accordance with the construction contract, plans and specifications in a manner satisfactory to Lender. Borrower shall allow Lender to inspect the Property and records relating to the Property at all times.
- b. Borrower shall:
 - i. not commit or permit waste;
 - ii. not abandon the Property;
 - iii. promptly complete, restore and repair, in a good and workmanlike manner, any damaged part of the Property, whether or not litigation or insurance proceeds or condemnation awards are available to cover costs;
 - iv. maintain the Property in a habitable, safe, and sanitary condition, and in good repair, including the replacement of fixtures with items of equal or better function and quality;
 - v. provide qualified management of the Property by a residential rental property manager, and
 - vi. give Notice to Lender of, and unless otherwise directed in writing by Lender, appear in and defend, any action or proceeding that could impair the Property.

6. Compliance with laws.

- a. Borrower shall comply with, and ensure its employees, contractors, officers, agents and tenants comply with, all applicable state and federal laws, ordinances, regulations, requirements of applicable governmental authorities, and covenants, restrictions and agreements recorded against the Property. Borrower shall maintain detailed records demonstrating compliance with the provisions of this Section.
- b. Borrower shall take appropriate measures to prevent, and shall not engage in or permit, any illegal activities at the Property, including those that may endanger tenants or visitors, cause damage to the Property, result in forfeiture of the Property, or impair the lien created by this Trust Deed or Lender's interest in the Property.

7. Insurance.

- a. Borrower shall provide and maintain insurance from insurance companies authorized to do business in the State of Utah on and relating to the Property and improvements, each with an AM Best rating of A- or higher that are satisfactory to Lender and include Lender as an additional insured with loss payable clauses in favor of Lender. Certificates of Insurance, showing up-to-date coverage, shall be submitted to Lender no later than 5 business days of execution of the loan documents. Failure to provide and maintain the required insurance in compliance with this section is deemed a material breach of this Trust Deed. At the minimum:
 - i. Workers' compensation insurance that covers full liability at the statutory limits.
 - ii. Commercial general liability [CGL] insurance with limits no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
 - iii. Commercial automobile liability [CAL] insurance covering bodily injury and property damage liability, applicable to all vehicles whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit.
 - iv. Professional liability insurance.
- b. In the event of loss, Borrower shall give immediate notice to Lender, who may make proof of loss and settle and adjust all claims under the policy. Borrower authorizes and directs each insurance company involved to make payment for such loss directly to Lender instead of to Borrower and Lender jointly, and the insurance proceeds may be applied by Lender in its sole discretion to reduction of the secured indebtedness or to the restoration or repair of the Property. Lender agrees not to apply insurance proceeds to the secured indebtedness if all of the following conditions are met:
 - i. no Event of Default has occurred and is continuing;

- ii. Lender determines that there will be sufficient funds to complete the restoration;
- iii. Lender determines that the net operating income that will likely be generated by the Property after completion of the restoration will be sufficient to support a debt service coverage ratio not less than the greater of:
 - (A) the debt service coverage ratio as of the date of this Trust Deed (based on the final underwriting of the Property); or
 - (B) the debt service coverage ratio immediately prior to the loss, in each case including all operating costs, deposits to reserves and loan repayment obligations relating to the Property;
- iv. Lender determines that the restoration will be completed before the earlier of:
 - (A) one year before the maturity date of the Trust Deed Note; or
 - (B) one year after the date of the loss or casualty; and
- v. Lender receives evidence of the insurance coverage during and after the restoration.

8. Evidence of Title.

Borrower shall pay for, maintain, and deliver to Lender upon request such evidence of title as Lender may require, including abstracts of title and policies of title insurance and any extensions, renewals, or supplements.

9. Indemnification.

- a. Borrower shall, at its sole cost and expense indemnify, release and hold harmless Lender and its officers, directors, employees, and agents from and against any and all contemporary and future claims, suits, proceedings, obligations, assessments, damages, losses, costs, expenses (including, without limitation, reasonable attorneys', architects', and engineering fees), demands, liabilities, penalties, fines, judgments, settlements, and forfeitures of any nature suffered or incurred by Lender or its officers, directors, employees, and agents arising out of, relating to, or in any manner occasioned by
 - i. this Trust Deed or the related Loan Documents;
 - ii. a breach by Borrower of this Trust Deed or the related Loan Documents;
 - iii. Lender's exercise of the rights and remedies under this Trust Deed or the related Loan Documents;
 - iv. the use, generation, manufacture, storage, disposal, release, or threatened release of a hazardous substance on, under, about, or from the Property in violation of environmental laws;
 - v. any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways;
 - vi. any use, nonuse or condition in, on or about the Property or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways;
 - vii. performance of any labor or services or the furnishing of any materials or other property in respect of the Property;
 - viii. any failure of the Property to be in compliance with any applicable laws; or
 - ix. any and all claims, demands or undertakings on Borrower's part to perform or discharge any of the terms, covenants, or agreements contained in any lease. Lender retains the right but is not obligated to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties hereto or the related Loan Documents. Lender may settle or compromise any asserted claims against it, and such settlement shall be binding upon Borrower. The provisions of this section survive the payment of the indebtedness and the expiration, cancellation, or termination of the Loan Documents, and are not affected by Lender's acquisition of any interest in any of the Property. This indemnification provision does not require Borrower to indemnify Lender or hold Lender harmless to the extent of Lender's, its officers, employees or agents' gross negligence, wilful misconduct, or wrongful acts.
- b. Borrower shall, at its sole cost and expense, appear in and defend any action or proceeding purporting to affect the security of this Trust Deed, the title to the Property, or the lien priority, rights or powers of Lender or Trustee, by attorneys and other professionals approved by the Lender. Lender may, in its sole discretion, engage its own attorneys and other professionals to defend or assist Lender, and, at the option of the Lender, their attorneys shall control the resolution of any claim or proceeding. Borrower shall pay or, in the sole discretion of the Lender reimburse the Lender, for the reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals, and the cost of obtaining evidence of title.

10. Survey.

A survey of the Property must be prepared and certified at Borrower's expense by a professional engineer or registered land surveyor satisfactory to Lender. The survey must meet the requirements of the American Land Title Association.

11. Events of Default.

The occurrence of any of the following constitutes an Event of Default:

- a. Monetary Event of Default: Borrower's failure to pay all or part of any installments of principal and interest or any other amount required when due and said default is not cured within **fourteen (14)** days after written notice is issued by Lender.
- b. Covenant Events of Default include:
 - i. fraud, misrepresentation, or material omission by Borrower or any of its officers, directors, trustees, partners, members, managers or guarantors in connection with
 - (A) the Loan Application for or documents creating the indebtedness;
 - (B) any financial statement, rent roll, or other report or information provided to Lender; or
 - (C) any request for Lender's consent to any proposed action under this Trust Deed or Note or relating to the Property;
 - ii. the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Lender's judgment, could result in a forfeiture of the Property or otherwise impair the lien created by this Trust Deed or Lender's interest in the Property.
 - iii. Borrower's insolvency, voluntary or involuntary bankruptcy, an assignment for the benefit of creditors, or any proceeding to enforce a judgment or writ or order of attachment against the Property, or petition for relief or readjustment of indebtedness filed by Borrower.
 - iv. the voluntary or involuntary termination or dissolution of Borrower's corporate existence
 - v. Borrower's agreement or acts taken to refinance, sell, convey, dispose, assign, or make any transfer of all or any part of the Property, vest the title in any other person or entity, or encumber all or any part of or interest in the Property without the prior written consent of Lender.
 - vi. Any failure by Borrower to perform any of its obligations as and when required under the Note, Deed Restriction and this Trust Deed, which continues for a period of **fourteen** days after Notice is issued to Borrower. No Notice is required for a material failure which could, in Lender's sole judgment, absent immediate exercise by Lender of a right or remedy, result in harm to Lender or impairment of the Note or this Trust Deed.
- c. Notwithstanding anything to the contrary herein, Lender agrees that the following shall not constitute an event of default hereunder and shall not require Lender's prior consent:
 - i. the admission of an investor member into Borrower and the transfer of investor member interests in Borrower, provided that such transfers are permitted under Borrower's operating agreement;
 - ii. the removal of the managing member of Borrower and the replacement of the managing member of Borrower with the investor member or an affiliate thereof, provided that such removal and replacement is done in accordance with Borrower's operating agreement;
 - iii. the making of a bridge loan, or an additional bridge loan to Borrower by the investor member or a third party;
 - iv. the pledge to the investor member by the managing member of the managing member's interest in the Operating Agreement, as security for the performance of all of the managing member's obligations under the Borrower's operating agreement; and
 - v. the pledge to construction or permanent lender, by the Borrower, managing member, or investor member of each of their respective interests pursuant to the Borrower's operating agreement, as security for the performance of all of the Borrower's obligations under the construction or permanent loan.
- d. Investor member may but is not required to cure any monetary or non-monetary default, which cure Lender shall be subject to the same contractual and statutory restrictions as if made by Borrower and accepted or rejected on the same basis as if made or tendered by Borrower.

12. Foreclosure.

After an Event of Default, Lender may declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property. Lender is entitled to recover all incident costs and expenses, including reasonable attorneys' fees.

13. Successor Trustee.

Lender may appoint a successor trustee by filing a substitution of trustee for recording in the office of the County Recorder of each county in which the Property is situated. The successor trustee shall succeed to all powers, duties, authority and title of the Trustee named herein. Each substitution shall be executed and acknowledged, and notice given, as provided by law.

14. Power of Lender or Trustee to act.

- a. Upon an Event of Default and anytime until cured, Lender or Trustee is entitled but not obligated, without notice to or demand upon Borrower and without releasing Borrower from any obligation, to:
 - i. institute proceedings to enforce the Loan Documents;
 - ii. expend funds to remedy the default, to be promptly reimbursed by Borrower;
 - iii. accelerate the maturity date of the Note and demand payment of all sums due;
 - iv. bring an action on the Note;
 - v. foreclose the Trust Deed and Property in any manner available under law; and
 - vi. exercise any other right or remedy it has under this Trust Deed, the Note, or other Loan Documents, or that is available at law or in equity.
- b. Upon an Event of Default, Lender may, without notice, enter and take possession of Property and sue for or collect rents, issues, and profits, including those past due and unpaid, and apply the same, less Lender's costs and expenses of operation and collection, including reasonable attorney's fees, to any indebtedness secured hereby.
- c. The entering and taking possession of the Property, the collection of rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, does not cure or waive any default.
- d. The failure of Lender to promptly enforce any right does not operate as a waiver of such right and the waiver of any default does not constitute a waiver of any other or subsequent default.
- e. Borrower shall pay immediately and without demand all sums expended by Lender or Trustee, with interest from date of expenditure at the rate of ten percent per annum until paid. The repayment obligation is secured by this Trust Deed.
- f. In the event the Property is sold, Lender or Trustee shall execute and deliver to the purchaser a Deed conveying Property without any covenant or warranty, express or implied. For clarity, the Deed Restriction is irrevocable and shall run with the land in accordance with its terms. Trustee shall apply the proceeds of the sale to payment of:
 - i. the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorneys' fees;
 - ii. cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed;
 - iii. all sums expended under the terms hereof, not then repaid, with accrued interest at 10% per annum from date of expenditure;
 - iv. all other sums then secured hereby; and
 - v. the remainder, if any, to the persons legally entitled thereto, or the Trustee may deposit the balance with the County Clerk of the county in which the sale took place.

15. Transfer of Property.

Borrower shall not refinance, sell, convey, dispose, assign, or make any transfer of all or any part of the Property, vest the title in any other person or entity, or encumber all or any part of or interest in the Property, without written approval from the Lender.

16. Condemnation.

If any part of the Property is damaged, diminished in value or taken through condemnation or eminent domain proceedings, or if a consent settlement is entered or a transfer is made under threat of such proceedings, then any and all compensation, awards, damages and other payments or relief to which Borrower is entitled, including the proceeds of any policies of insurance, shall be assigned and paid to Lender. Lender is entitled but not obligated to commence, appear in and prosecute in its own name any action or proceedings or make any compromise or settlement, in connection with such taking or damage.

17. Binding Effect.

This Trust Deed, the Note and all other Loan Documents are binding upon the Parties, the signatories, and their respective successors, representatives and administrators.

18. Evidence of Authority.

Borrower shall, at Lender's request, provide properly certified resolutions, authorizations and documents that:

- a. authorize the acquisition of the Property, the construction of the project, the obtaining of loans and the execution of the Loan Documents;
- b. designate those persons authorized to sign and deliver this Trust Deed, the Note, and the Loan Documents on behalf of Borrower; and
- c. ratify and confirm actions previously taken on behalf of Borrower.

19. Trustees Acceptance of Trust.

Lender accepts this Trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law.

20. Governing Law.

This Trust Deed and all Loan Documents shall be construed solely according to the laws of the State of Utah. Each party irrevocably consents to the jurisdiction and exclusive venue of the District Courts of the State of Utah.

21. Notice.

Notices shall be in writing and personally delivered or mailed by first class postage paid mail to each Party at the addresses listed below. Borrower retains sole responsibility for sharing notices with its investors, guarantors, and other lenders.

Borrower:

Victory Heights LLC
386 West 500 South, Suite 100
Salt Lake City, Utah 84101-2411

with copies to:

GSB LIHTC Investor LLC
c/o Goldman Sachs
200 West Street
New York, New York 10282

Lender:

Utah Department of Workforce Services
Housing and Community Development Division
Olene Walker Housing Loan Fund
140 East 300 South, First Floor
Salt Lake City, Utah 84111

Trustee:

Cottonwood Title Insurance Agency, Inc
1996 East 6400 South, Suite 120
Salt Lake City, Utah 84121

22. Tax Credits.

In the event Borrower intends the Property to qualify for an allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code ("Tax Credits"), Borrower will record in the real property records of the applicable Counties an "extended low-income housing commitment" as defined in USC Section 42(h)(6)(B) (the "Extended Use Agreement"). If federal law requires that the lien of the Trust Deed be subordinate to the Extended Use Agreement, then Lender will subordinate this Trust Deed to the Extended Use Agreement. The Subordination Agreement will, in a form acceptable to Lender, provide that if Lender or its successors or assigns acquires the Property by foreclosure or instrument in lieu of foreclosure, the "extended use period" (as defined in Code Section 42 (h)(6)(D)) will terminate, except for the obligation to comply with the limitations on evictions of tenancy and increase in rents for the three year period following the acquisition of the Property.


23. Subordination.

This Note is subject to the terms of a certain Subordination Agreement made by Lender in favor of KeyBank National Association, and acknowledged by the Borrower, dated on or about the date hereof and recorded in the real property records of Salt Lake County, Utah

Dated this 13th day of MARCH, 2024

VICTORY HEIGHTS LLC,
a Utah limited liability company

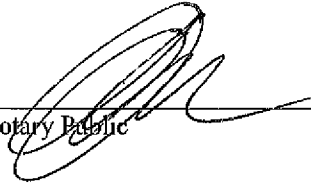
By: Victory Heights Phase 1 GP LLC,
a Utah limited liability company,
Its: Managing Member

By: 
Name: BRANDON BLASER
Title: Authorized Representative

STATE OF UTAH)

COUNTY OF Salt Lake ss:

The foregoing instrument was acknowledged before me this 12th 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

