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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



2135028055

loc# 2135028055 Fee \$88.00

HSP FEE:\$9.00 RPRF FEE: \$1.00

AREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 12/16/2021 03:12 PM PG: 1 OF 10

The property identified as: **PIN:** 20-03-304-024-0000

Address:

Street: 321 E 43rd Street

Street line 2:

City: Chicago

State: IL

ZIP Code: 60653

Lender: 43rd and Calumet Phase I LP

Borrower: Generations Housing Initiatives

Loan / Mortgage Amount: \$5,000,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 994DBAAD-CF06-4927-9947-61274157C010

Execution date: 12/16/2021

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THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Nicholas J. Brunick
Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, IL 60605

Property of Cook County Clerk's Office
CC#12104504L018 (13)

JUNIOR MORTGAGE

THIS JUNIOR MORTGAGE is made as of December 16, 2021, by and between **43rd and Calumet Phase I LP**, a Delaware limited partnership, whose address is 350 West Hubbard, Suite 500, Chicago, Illinois 60654, as "**Mortgagor**", and **Generations Housing Initiatives**, an Illinois not for profit corporation, whose address is 350 West Hubbard, Suite 500, Chicago, Illinois 60654, as "**Mortgagee**".

FOR VALUE RECEIVED, Mortgagor mortgages and warrants to Mortgagee lands located in the County of Cook and State of Illinois, described as follows:

See Exhibit A attached hereto and made a part hereof

together with the easements, improvements, hereditaments, and appurtenances now or hereafter belonging thereto and the rents, income, and profits therefrom and all fixtures now or hereafter attached to or used in connection therewith, and all plumbing, heating, air conditioning, and ventilating equipment now or hereafter located thereon, which shall be deemed to be fixtures and a part of the realty, all of the foregoing being collectively referred to herein as the "**Premises**."

This Mortgage is given to secure the performance, by Mortgagor, of all of its obligations under and pursuant to that certain Promissory Note of even date herewith (the "**Promissory Note**") by Mortgagor in favor of Mortgagee in the principal amount of **Five Million and No/100 Dollars (\$5,000,000.00)**. Said indebtedness, together with all other obligations described in the Promissory Note are hereinafter referred to as the "**Obligations**". The Obligations, unless sooner paid, mature on **December 31, 2063**. Upon the fulfillment of the Obligations hereunder by Mortgagor, Mortgagee shall release this Mortgage and the lien hereof by proper instrument(s) in recordable form.

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Mortgagor further warrants, represents, covenants, and agrees as follows:

1. **Warranties.** Mortgagor warrants and represents to Mortgagee that this Mortgage has been authorized by all appropriate corporate action on behalf of Mortgagor, constitutes the valid and binding obligation of Mortgagor, enforceable in accordance with its terms.

2. **Taxes; Prior Mortgage.** Mortgagor will pay, or cause to be paid, when due, all taxes, assessments, and other similar charges levied upon or with respect to the Premises before the same become delinquent and, upon request, deliver to Mortgagee satisfactory evidence of such payment.

3. **Insurance.** Mortgagor will cause all buildings, improvements and other insurable parts of the Premises to be insured, up to the full current value thereof, against loss or damage by fire, windstorm and other such hazards under what is commonly known as an "all risk" policy of casualty insurance, and Mortgagor shall cause all premiums on such insurance to be paid when due. All insurance proceeds shall be used to restore any damage to the Premises and shall not be applied to the repayment of the Obligations.

4. **Maintenance and Repair.** Mortgagor will maintain the Premises in good condition and repair; will not commit or suffer any waste thereon; will cause to be complied with all laws, ordinances, regulations or requirements of any governmental authority applicable to the Premises; will promptly repair, restore, replace, or rebuild any part of the Premises which is damaged or destroyed by any casualty; and will promptly pay when due all charges for utilities and other services to the Premises.

5. **Mortgagee's Right to Perform; Receiver.** If Mortgagor shall default in the payment of the aforesaid taxes, assessments, or other similar charges or in procuring and maintaining the aforesaid insurance or in the performance of any other obligation of Mortgagor hereunder, and its obligation to keep the Premises in good condition and repair, then Mortgagee shall have the right, but shall have no obligation, to pay such taxes, assessments, mortgage payments, or other similar charges, or procure and maintain such insurance, or cause such other obligation to be performed, and all sums expended by Mortgagee in connection therewith shall become part of the Obligations, payable by Mortgagor to Mortgagee upon demand, together with interest at the highest permitted legal rate. In addition, the Mortgagor's investor limited partner may, at its sole option and discretion, perform on behalf of the Mortgagor in any manner described in this section and Mortgagee agrees to accept such performance as though it had been performed by Mortgagor.

6. **Condemnation.** If all or part of the Premises are taken, whether temporarily or permanently, under power of eminent domain or by condemnation, all partial condemnation proceeds shall be used to restore any damage to the Premises and shall not be applied to the repayment of the Obligations. Except in the case of partial condemnation, proceeds as set forth in the preceding sentence. Mortgagee shall have the right to share in the proceeds to the extent of its interest at the time of taking.

7. **Events of Default.** Upon the occurrence of any of the following events of default, all or any part of the Obligations shall, at the option of Mortgagee, become immediately due and payable

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without notice or demand:

(a) If default shall be made in the payment or performance when due of all or any portion of the Obligations, or if Mortgagor shall default in the due performance or observance of any other covenant or obligation of Mortgagor under this Mortgage.

(b) If any warranty or representation made to Mortgagee in this Mortgage or in any other document given in connection with the Obligations shall be false or inaccurate in any material respect.

(c) If a voluntary or involuntary proceeding in receivership or insolvency shall be commenced by or against Mortgagor.

(d) Mortgagor, without the prior written consent of Mortgagee, shall sell, convey, or transfer, refinance or grant or permit additional liens or mortgages upon the Premises or any interest therein or any rents or profits therefrom or shall cause or suffer any writ of attachment, garnishment, execution, or other legal process to be placed upon the Premises or any interest therein or any rents or profits therefrom, except in favor of Mortgagee, or if any part of the Premises or any interest therein shall be transferred by operation of law. Notwithstanding the foregoing, nothing contained herein shall limit the right to transfer the general partner or limited partner interests of the Mortgagor as agreed to in the Amended and Restated Limited Partnership Agreement of 43rd and Calumet Phase I LP, as may be amended (the "Partnership Agreement").

The Obligations will automatically become due and payable in full if a voluntary or involuntary proceeding in bankruptcy shall be commenced by or against Mortgagor.

Notwithstanding anything to the contrary stated herein, Mortgagee shall provide Mortgagor with written notice of any event of default. Mortgagor shall have seven (7) days from receipt of written notice to cure any monetary defaults. Mortgagor shall have thirty (30) days from receipt of written notice to cure any non-monetary defaults. Notwithstanding anything to the contrary contained herein, Mortgagee hereby agrees that any cure of any event of default made or tendered by the Mortgagor's limited partner shall be deemed to be a cure by Mortgagor and shall be accepted or rejected on the same basis as if made or tendered by Mortgagor. Notice shall be given under this Mortgage as provided in **Exhibit B** attached to and made a part hereof.

8. **Remedies.** Mortgagee shall have all rights and remedies provided for in this Mortgage and otherwise permitted by law. In addition, upon occurrence of a default by Mortgagor under the terms of this mortgage, Mortgagee shall have the right, and is hereby authorized to foreclose this Mortgage by action pursuant to applicable law.

All rights and remedies of Mortgagee under this Mortgage, whether or not exercisable only on default, shall be cumulative and may be exercised from time to time, and no delay by Mortgagee in the exercise of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy, except to the extent otherwise provided by law.

9. **Expenses.** Mortgagor shall pay to Mortgagee on demand any and all expenses, including

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attorneys' fees and legal expenses, paid or incurred by Mortgagee in collecting or attempting to collect or enforce the Obligations or in protecting and enforcing the rights of and obligations to Mortgagee under any provision of this Mortgage, including, without limitation, taking any action in any insolvency or bankruptcy proceedings concerning Mortgagor, or foreclosing this Mortgage by advertisement or by action, and all such expenses shall be part of the Obligations and shall bear interest from the date paid or incurred by Mortgagee, at the lesser of the highest permitted legal rate or the rate specified in the Note.

10. **Subordination.** The loan and any other indebtedness evidenced by the Promissory Note or secured by this Junior Mortgage is, and shall be, subordinate in right of payment to the prior payment in full of all amounts then due and payable (including, but not limited to, all amounts due and payable by virtue of any default or acceleration or upon maturity) with respect to (i) the indebtedness evidenced by the promissory note ("Senior Note") in the original maximum principal amount of \$14,500,000, executed by Borrower and payable to Fifth Third Bank (in such capacity, "Senior Mortgage"), (ii) the indebtedness evidenced by the promissory note ("Second Note") in the original maximum principal amount of \$9,500,000 executed by Borrower and payable to Bellwether Enterprise, (iii) the indebtedness evidenced by the promissory note ("Third Note") in the original maximum principal amount of \$3,000,000 executed by Borrower and payable to the City of Chicago, (iv) all documents evidencing or securing said amounts, and (v) any land use restriction agreement, regulatory agreement or other restrictive covenants recorded as of or prior to the date of recording of this Mortgage, as any of the foregoing may be amended from time to time. Mortgagee hereby agrees to resubordinate to any refinance of the Senior Note and/or Second Note and/or Third Note so long as Borrower can establish a debt service coverage ratio of no less than 1.20 to 1.00. In all other circumstances, Mortgagee shall have the right to approve any request to resubordinate, such approval not to be unreasonably withheld.

11. **Maximum Amount of Indebtedness.** Notwithstanding any provision to the contrary in this Mortgage, the Promissory Note, or any other loan document, the total amount of the principal component of the Obligations shall not at any time exceed one hundred twenty five percent (125%) of the original principal amount of the Promissory Note set forth on the first page of this Mortgage.

12. **Miscellaneous.** The covenants contained herein shall be binding upon and inure to the benefit of Mortgagor and Mortgagor's heirs, executors, administrators and personal representatives and Mortgagee and its successors and assigns. Whenever used herein, unless the context otherwise requires, the singular number shall include the plural, and the use of any gender shall be applicable to all genders. The headings to the various paragraphs hereof have been inserted for convenient references only and shall to no extent have the effect of amending or changing the expressed provisions of this Mortgage.

13. **Severability.** Any provision of this Mortgage prohibited or unenforceable by any applicable law shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

14. **Fixture Filing.** The Mortgage constitutes a security agreement and shall be effective as a financing statement filed as a fixture filing as provided in the Illinois Uniform Commercial Code

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as to the goods described in this Mortgage by item and type and all goods which are or may become fixtures related to the Premises described in this Mortgage.

15. *No Foreclosure During Compliance Period.* Notwithstanding anything herein to the contrary, the Mortgagee shall not declare a default under the Note or the other Loan Documents, accelerate the outstanding amount of the Loan, or foreclose this Mortgage prior to the end of the Compliance Period as that term is defined in the Partnership Agreement.

(Signature Page Follows)

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the day and year first above written.

Mortgagor:

43rd AND CALUMET PHASE I LP,
a Delaware limited partnership

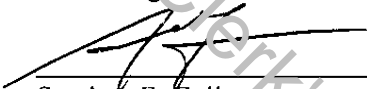
By: 43rd AND CALUMET PHASE I, LLC,
an Illinois limited liability company
its General Partner

By: 43 GREEN JV LLC,
an Illinois limited liability company,
its Manager

By: HABITAT 43 GREEN LLC,
an Illinois limited liability company,
its Managing Member

By: HABITAT ACQUISITIONS
COMPANY LLC,
an Illinois limited liability company,
its Manager

By: THE HABITAT COMPANY LLC,
an Illinois limited liability company,
its Manager/Sole Member

By: 
Name: Stephen F. Galler
Title: Executive Vice President & General
Counsel

Address: 350 West Hubbard Street
Suite 500
Chicago, Illinois 60654

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County of Cook)
) ss.
State of Illinois)

The foregoing instrument was signed and acknowledged before me on _____, 2021, by Stephen F. Galler, Executive Vice President and General Counsel of The Habitat Company LLC, as Manager/Sole Member of Habitat Acquisitions Company LLC, as Manager of Habitat 43 Green LLC as Managing Manager of 43 Green JV LLC, as Manager of 43rd and Calumet Phase I, LLC, as the General Partner of 43rd and Calumet Phase I LP, on behalf of said limited partnership.

Lori Francine Chacos

Notary Public, Cook County, Illinois

My Commission Expires: 10/21/24



THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Nicholas J. Brunick
Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, IL 60605

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EXHIBIT A

Legal Description

Lots 1 through 5, both inclusive, in the Subdivision of Lots 25 to 28 inclusive in Honore's Subdivision of part of the Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 3, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Also

Lots 29 through 32, both inclusive, in H. H. Honore's Subdivision of part of the Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 3, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN Nos:

20-03-304-024-0000

20-03-304-025-0000

20-03-304-026-0000

20-03-304-044-0000

Commonly known as:

321 E 43rd Street, Chicago, IL 60653

4310 S Calumet Avenue, Chicago, IL 60653

4312 S Calumet Avenue, Chicago, IL 60653

4314 S Calumet Avenue, Chicago, IL 60653

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EXHIBIT B

NOTICE PROVISIONS

Any notice, demand, request or other communication that any party may desire or may be required to give to any other party under this document shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified United States mail, postage prepaid, return receipt requested. Copies of any such notice to the "copied" parties indicated below may be made by email transmission.

If to Mortgagee:

Generations Housing Initiatives
350 West Hubbard Street, Suite 500
Chicago, Illinois 60654
Attention: Cristina Vera

If to Mortgagor:

43rd and Calumet Phase I LP
c/o The Habitat Company LLC
350 West Hubbard Street, Suite 500
Chicago, Illinois 60654
Attention: Stephen F. Galler, Esq.
Email: sgaller@habitat.com

With copies to:

Mortgagor's counsel:

Katten Muchin Rosenman LLP
525 West Monroe Street, Suite 1900
Chicago, Illinois 60661
Attention: David P. Cohen, Esq.
David.cohen@kattenlaw.com

Mortgagor's limited partner:

Stratford 43 Green Investors Limited Partnership
c/o Stratford Capital Group LLC
100 Corporate Place, Suite 404
Peabody, Massachusetts 01960
Attn: Asset Management – 43 Green Apartments

Counsel to Mortgagor's limited partner:

Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, Massachusetts 02116
Attention: Jonathan I. Sirois, Esq.
Email: jonathan.sirois@hkllaw.com