

# UNOFFICIAL COPY



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This Document Prepared By & Mail to:  
Eva L. Garrett, Esq.  
Legal Affairs  
Dept. of Planning and Development  
Bureau of Economic Development  
69 W. Washington, 29<sup>th</sup> Floor  
Chicago, Illinois 60602

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KAREN A. YARBROUGH

COOK COUNTY CLERK

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HOME Project Number: H-09132022

41069605 (8 OF 10)

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## SECURITY AGREEMENT

**THIS SECURITY AGREEMENT ("Agreement")** is made as of the 26th day of July 2023, by and between **HARVEY LOFTS LLC**, an Illinois limited liability company, having its principal place of business at 9100 Centre Pointe Dr., Ste. 210, West Chester, Ohio 45069 ("**Borrower**") and the **COUNTY OF COOK**, a body politic and corporate of the State of Illinois (the "**County**" or "**Lender**"). Capitalized terms used but not defined herein shall have the meanings given to such terms in that certain "**Loan Agreement**" between Borrower and Lender dated of even date herewith.

Whereas, pursuant to the Loan Agreement, the County has agreed to make a mortgage loan to Borrower in the original Principal amount of Two Million One Hundred Thousand and No/100 Dollars (\$2,100,000.00) (the "**Loan**"), in connection with the new construction of fifty-one (51) units of a multi-family housing development located in the City of Harvey, Illinois which is legally described in **Exhibit A**, attached hereto and made a part hereof (the "**Project**").

NOW THEREFORE, for valuable consideration of the sum of Ten and No/100 Dollars (\$10.00), the Borrower hereby grants and conveys to the County a continuing security interest in the Collateral (the "**Collateral**"), subject to the rights of Senior Lender (as such term is defined in the Loan Agreement), in connection with the real property which is legally described in **Exhibit A**, to secure the indebtedness, evidenced by the note ("**Note**") dated the same day as this Agreement, and all of the obligations under the Loan Documents (collectively "**Obligations**," ) pursuant to the Uniform Commercial Code ("**UCC**") as in effect in the State of Illinois.

1. The word "Collateral" means the following described property and interests in property of Borrower located on the real estate described in **Exhibit A**, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:
  - (a) All attachments, equipment, machinery, furniture, fixtures, vehicles, accessions, accessories, tools, parts, supplies, increases, and additions to and all replacements of and substitutions for any property described above;
  - (b) All products and produce of any of the property described herein;
  - (c) All accounts (including but not limited to replacement reserves, operating expenses and real estate taxes and insurance escrow accounts established), general intangibles (including but not limited to inventions, designs, patents, patent applications, trademarks, trademark applications, trade names, trade secrets, goodwill, copyrights, registrations, licenses, franchises, tax refund claims and any guaranty claims, security interest, or other security held by Borrower), contract

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- rights, chattel paper, instruments, documents, inventory, rents, monies, payments, and all other rights arising out of a sale, lease, or other disposition of any of the property described herein;
- (d) All proceeds (including insurance proceeds) from the sale, destruction, loss or other disposition of any of the property described herein; and
- (e) All records, books and data relating to any of the property described herein, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Borrower's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

However, the Collateral shall not include any equipment or property leased by Borrower or any property owned by tenants of the Project.

2. Borrower further agrees that the County shall have the rights stated in this Agreement with respect to the Collateral, in addition to other rights which the County may have by state or federal law.

3. The security interest hereby granted is to secure the payment of all loans, advances, debts, liabilities, obligations, covenants, and duties owed by Borrower to the County of every kind and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including, without limitation, all interest, fees, charges, expenses, reasonable attorney's fees.

4. Borrower warrants and represents to the County that it owns the collateral free and clear of any lien, security interest, encumbrance and other claim of any kind, other than the lien security interest and encumbrances granted by Borrower to Senior Lender and Zion Development Corporation, an Illinois not-for-profit corporation, and the Security Interest created by this Agreement, and that Borrower has the full power to grant the Security Interest.

5. Borrower agrees to comply with the requirements of all valid and applicable state and federal law in order to grant the County a valid, perfected lien, and Security Interest in, the collateral, and shall, upon request of the County, from time to time, execute and deliver to the County one or more financing statements pursuant to the Uniform Commercial Code then in effect in the State of Illinois, and any other instruments required by the County in connection herewith, the filing of which is advisable, in the sole judgment of the County, to perfect the County's Security Interest in the Collateral under the laws of the United States or the State of Illinois. Borrower hereby authorizes the County to execute and file, at any time and from time to time, on behalf of the Borrower, one or more financing statements with respect to the Collateral, the filing of which is advisable, in the sole judgment of the County, including, without limitation, continuation statements and statements reperfecting a security interest in any of the Collateral where the financing statements with respect thereto had lapsed. Borrower hereby irrevocably empowers and appoints the County or any and all persons designated by the County, or any of them, with full power of substitution, as its attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue to perfect the security interest granted in this Agreement, even in the event that the Borrower becomes dissolved, terminated, bankrupt or insolvent. Borrower will reimburse the County for all expenses for the perfection and the continuation of the perfection of the County's security interest in the collateral. Borrower agrees to notify the County prior to any change in its name or its mailing address or principal place of business.

6. Unless specifically otherwise agreed by the County in writing, Borrower shall:

- (a) Maintain possession of the Collateral on the Project premises and not remove the Collateral from that location, except in the ordinary course of business;
- (b) Maintain the Collateral in good and salable condition, repair it if necessary, and otherwise deal with the Collateral in all such ways as are considered good practice by owners of such property;

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- (c) Use the Collateral lawfully and only as permitted by insurance policies;
- (d) Allow any duly authorized representative of the County or the United States Department of Housing and Urban Development ("**HUD**") to have access to and to inspect the Collateral and any records relating to the Collateral at all reasonable times upon prior reasonable notice during the term of this Agreement.
- (e) Insure the Collateral for its full replacement value, in the name of and with loss or damage payable to the County, as more particularly described in the Loan Agreement. Subject to certain rights of the Borrower to use insurance proceeds, as set forth in the mortgage given to the County ("**Mortgage**"), subject to the terms of Senior Lender, Borrower hereby assigns (and direct any insurer to pay) to the County the proceeds or refunds, and, at the option of the County, to apply such proceeds and refunds to any unpaid balance of the Obligations, whether or not due, and/or to restoration of the Collateral, returning excess to the Borrower. The County is authorized to settle and adjust any claim under insurance policies which insure the Collateral against risks.
- (f) Keep the Collateral free and clear of all liens, encumbrances and security interests of others except those permitted under the terms of the Mortgage and those disclosed in Section 4 above.

7. Borrower will promptly defend any proceeding or challenge which may affect the Security Interest or the title to the Collateral, and, to the extent Borrower fails to promptly make such defense, it will reimburse the County for all reasonable costs and expenses incurred by the County in connection with such defense.

8. Borrower will pay when due all existing or future charges, liens or encumbrances on, and all taxes and assessments now or hereinafter imposed on or affecting the Collateral.

9. Borrower shall comply promptly with all laws, ordinances, rules and regulations of all governmental authorities, now or hereinafter in effect, applicable to the ownership, production, disposition, or use of the Collateral as more particularly proscribed in the Loan Agreement, Note, Mortgage, Assignment of Leases and Rents, Regulatory Agreement and Declaration of Covenants, Conditions and Restrictions, the Environmental Liability Indemnity Agreement and any other loan documents required by County (collectively, the "**Loan Documents**").

10. An event of default under this Agreement ("**Event of Default**") is an action or failure to act, as defined under the Loan Documents. During an Act of Default which continues beyond any applicable notice given and cure periods by Borrower, subject to the rights of the Senior Lender, the County is entitled to any and all of the remedies defined in the Loan Documents.

11. This Agreement, together with the Loan Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

12. This Agreement shall be governed by and construed under the laws of the State of Illinois. If there is a lawsuit, Borrower agrees upon the County's request to submit to the jurisdiction of the courts of the State of Illinois.

13. Borrower agrees to pay upon demand all of the County's costs and expenses, including reasonable attorney's fees and the County's legal expenses, incurred in connection with the enforcement of this Agreement, provided the County is a prevailing party as determined by a court with proper jurisdiction pursuant to a final non-appealable order or judgment. The County may pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include the County's reasonable attorneys' fees and legal expenses, including reasonable attorneys' fees

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and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower shall also pay all court costs and such additional fees as may be directed by the court with proper jurisdiction.

14. Unless otherwise specified or required by law, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications which receipt is acknowledged in writing by recipient; (c) overnight courier, receipt requested; or (d) registered or certified mail, return receipt requested.

## TO THE COUNTY:

Cook County Department of Planning and Development  
69 West Washington, Suite 2900  
Chicago, Illinois 60602  
Attn: Deputy Director-Housing

## TO BORROWER:

Harvey Lofts LLC  
c/o Pivotal Housing Partners LLC  
9100 Centre Pointe Drive, Suite 210  
West Chester, OH 45069  
Attention: Brian McGeady

c/o Zion Development Corporation  
910 5<sup>th</sup> Avenue, #1E  
Rockford, IL 61104  
Attention: Robert Campbell

With copies to:

Applegate & Thorne-Thomsen, P.C.  
425 South Financial Place, Suite 1900  
Chicago, Illinois 60605  
Attention: Ryan Hatten

And to:

Boston Financial Investment Management, LP  
101 Arch Street, Suite 1300  
Boston, MA 02110  
Attention: Asset Management - Harvey Lofts

And to:

Holland & Knight LLP  
10 St. James Avenue, 12<sup>th</sup> Floor  
Boston, MA 02116

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Attention: Kristen M. Cassetta, Esq.

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand or request sent pursuant to either clause (a) or (b) above shall be deemed received upon such personal service or upon dispatch by electronic means with confirmation of receipt. Any notice, demand or request sent pursuant to clause (c) above shall be deemed received on the business day immediately following deposit with the overnight courier, and any notice, demand or request sent pursuant to clause (d) above shall be deemed received two business days following deposit in the mail.

15. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions which can be given effect without the conflicting provision. To this end the provisions of this Agreement are declared to be severable.

16. Subject to the limitations set forth above on transfer of the Collateral, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

17. The County shall not be deemed to waive any rights under this Agreement unless such waiver is given in writing and signed by the County. No delay or omission on the part of the County in exercising any right shall operate as a waiver of such right or any other right. A waiver by the County of a provision of this Agreement shall not prejudice or constitute a waiver of the County's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by the County, nor any course of dealing between the County and Borrower, shall constitute a waiver of any of the County's rights or any of Borrower's obligations as to any future transactions. Whenever the consent of the County is required under this Agreement, the granting of such consent by the County in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the County.

18. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument.

BORROWER ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS SECURITY AGREEMENT AND BORROWER AGREES TO ITS TERMS.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by its authorized representatives as of the date first written above.

## BORROWER

HARVEY LOFTS LLC,  
an Illinois limited liability company

By: MVAH Harvey Lofts LLC,  
an Ohio limited liability company,  
its administrative managing member

By: Pivotal GP Holding LLC,  
a Georgia limited liability company,  
its sole member

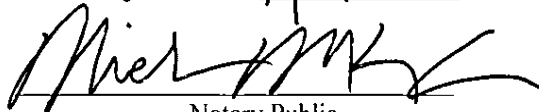
By:   
Name: Brian McGeady  
Title: Authorized Signer

STATE OF OHIO                     )  
  ) ss  
COUNTY OF BUTLER    )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that Brian McGeady, personally known to me to be the Authorized Signer of Pivotal GP Holding LLC, a Georgia limited liability company ("Sole Member"), the sole member of MVAH Harvey Lofts LLC, an Ohio limited liability company ("Admin. Managing Member"), the administrative managing member of Harvey Lofts LLC, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Authorized Signer, he signed and delivered the said instrument, pursuant to authority given by the members of Sole Member and Admin. Managing Member as his free and voluntary act, and as the free and voluntary act and deed of Sole Member, Admin. Managing Member, and Harvey Lofts LLC, for the uses and purposes therein set forth.

Given under my hand and official seal this 21<sup>st</sup> day of April, 2023.

(SEAL)

  
Notary Public



**NICKLAUS RYAN MCKEE**  
Attorney At Law  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration Date  
Section 147.03 O.R.C.

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COUNTY OF COOK, ILLINOIS

By: Susan M. Campbell  
 Susan M. Campbell, Director  
 Department of Planning and Development

Approved as to form: \_\_\_\_\_  
 Assistant State's Attorney

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Susan M. Campbell, personally known to me to be the Director of Cook County Department of Planning and Development and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that, as the Director, she signed and delivered the said instrument pursuant to the authority given by the County of Cook as her free and voluntary act and as the free and voluntary act of the County, for the uses and purposes therein set forth.

Given under my hand and official seal, this 8<sup>th</sup> day of March 2023.

Eva L. Garrett

Notary Public





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COUNTY OF COOK, ILLINOIS

By: *Susan M. Campbell*  
 Susan M. Campbell, Director  
 Department of Planning and Development

Approved as to form: *Kathleen J. McKee*  
 Assistant State's Attorney

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Susan M. Campbell, personally known to me to be the Director of Cook County Department of Planning and Development and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that, as the Director, she signed and delivered the said instrument pursuant to the authority given by the County of Cook as her free and voluntary act and as the free and voluntary act of the County, for the uses and purposes therein set forth.

Given under my hand and official seal, this 8<sup>th</sup> day of March, 2023.

*Eva L. Garrett*  
 Notary Public





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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1:

LOTS 1, 2, 3 AND 4 IN PECHT'S RESUBDIVISION OF LOTS 21, 22, 23 AND 24 IN BLOCK 70 IN HARVEY, A SUBDIVISION IN SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE VACATED 10 FOOT ALLEY THAT LIES NORTH OF AND ADJACENT TO LOTS 1, 2, 3 AND 4 IN PECHT'S RESUBDIVISION OF LOTS 21, 22, 23 AND 24 IN BLOCK 70 IN HARVEY, A SUBDIVISION IN SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

LOT 20 IN BLOCK 70 IN HARVEY, IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

LOTS 14, 15, 16, 17, 18, 19 IN BLOCK 70 IN HARVEY, IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 5:

LOT 13 (EXCEPT THE NORTH 18 INCHES THEREOF) IN BLOCK 70 IN HARVEY, IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PINs:

29-17-211-038-0000 (AFFECTS LOTS 3 AND 4 IN PARCEL 1 AND PART OF PARCEL 2)

29-17-211-060-0000 (AFFECTS LOTS 1 AND 2 IN PARCEL 1, PART OF PARCEL 2 AND PARCEL 3)

29-17-211-059-0000 (AFFECTS PARCEL 4 AND PARCEL 5)

#### Addresses:

15330 Center Avenue, Harvey, IL 60426

183 E. 154<sup>th</sup> Street, Harvey, IL 60426

15340 Broadway Avenue, Harvey, IL 60426