

Drafted By and Return To:

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

**DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING  
(FUTURE ADVANCES)  
Pursuant to N.C. Gen. Stat. Section 160A-20  
(COLLATERAL IS OR INCLUDES FIXTURES)**

**THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING** (the “*Deed of Trust*”) is made and entered into as of this 1<sup>st</sup> of October, 2022 by and between the **TOWN OF KNIGHTDALE, NORTH CAROLINA**, a municipal corporation created under the laws of the State of North Carolina, whose address is 950 Steeple Square Ct., Knightdale, North Carolina 27545 (hereinafter called the “*Grantor*”), and **JACKIE YOUNG**, whose address is 450 S. Orange Ave, Floor 10, Orlando, Florida 32801, as Trustee (hereinafter called the “*Trustee*”), and **JPMORGAN CHASE BANK, N.A.** (hereinafter called the “*Beneficiary*”);

WITNESSETH:

**WHEREAS**, in accordance with the provisions of N.C. Gen. Stat. Section 160A-20, the Beneficiary has agreed pursuant to an Installment Financing Contract by and between the Beneficiary and the Grantor, dated of even date (hereinafter called the “*Contract*”), to lend to or for the benefit of the Grantor up to the principal sum of \$6,614,000;

**AND WHEREAS**, all principal sums to be advanced to or for the benefit of the Grantor and secured by this Deed of Trust shall be evidenced by the Contract, which Contract may contain provisions for the adjustment of the interest rate, adjustments in the payments, extension or renewal of the term, among other things, the terms of which are incorporated herein by reference and the final payment date for which if not sooner paid and if payment thereof is not extended, is October 1, 2037;

**AND WHEREAS**, the Grantor is thereby, or shall hereafter become, indebted to the Beneficiary in an amount equal to the sum of all outstanding advances made under the Contract, as provided therein together with and payable with interest as, and at the rate or rates, specified in the Contract;

**AND WHEREAS**, the Grantor desires to secure the payment of the obligations under the Contract with interest and any extensions, renewals, modifications or amendments thereof, or substitutions or replacements therefore, in whole or in part, the payment of all other sums, with interest thereon, advanced in accordance with the Contract, or herewith, to protect the security of this Deed of Trust, or advanced to protect the rights of the Beneficiary hereunder or under the Contract, and to secure the performance of the covenants and agreements of the Grantor contained herein, by a conveyance of the lands and a grant of the security interests hereinafter described;

**AND WHEREAS**, all obligations of the Grantor hereunder are expressly made subject to the limitation of liability set forth in Section 15 of this Deed of Trust and Section 13 of the Contract.

**NOW, THEREFORE**, in consideration of the premises and in further consideration of the sum of One Dollar (\$1) paid to the Grantor by the Trustee, the receipt and sufficiency of which is hereby acknowledged, the Grantor has given, granted, bargained, and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, its successors and assigns, the following described parcel of land and all improvements now or hereafter located thereon, lying and being in the Town of Knightdale, State of North Carolina, and more particularly described as follows:

**SEE EXHIBIT A ATTACHED HERETO AND BY THIS  
REFERENCE INCORPORATED HEREIN**

Such parcel of land together with all structures, buildings and other improvements (hereinafter called the “*Improvements*”), now or hereafter located thereon being hereinafter called the “*Mortgaged Property*.”

**TOGETHER WITH** all fixtures, equipment and other articles of personal property acquired by the Grantor with funds advanced by the Beneficiary pursuant to the Contract, whether now owned or hereafter acquired, all personal property obtained in substitution or replacement therefore, and all personal property obtained in substitution or replacement for any portion thereof, and all proceeds of the foregoing (hereinafter called the “*Collateral*”).

**TO HAVE AND TO HOLD** the Mortgaged Property and Collateral, with all the rights, privileges, and appurtenances thereunto belonging or appertaining to the Trustee, his heirs, successors and assigns, in fee simple forever, upon the trusts and for the uses and purposes hereinafter set out;

And the Grantor covenants with the Trustee that it is seized of the Mortgaged Property and Collateral in fee and has the right to convey the same in fee simple; that title is marketable and free and clear of all encumbrances except for the permitted encumbrances shown on **Exhibit B** and such other encumbrances as may be approved by the Beneficiary in writing as provided in the Contract; and that it will warrant and defend the title to the Mortgaged Property and Collateral against the lawful claims of all persons whomsoever.

**THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST**, that if the Grantor shall pay all obligations under the Contract in accordance with its terms, together with interest thereon, and any renewals, extensions, modifications, amendments, substitutions or replacements thereof in whole or in part, shall pay all sums advanced under the Contract or hereunder to protect the security of this Deed of Trust or the rights of the Beneficiary, together with interest thereon, and shall comply with all the covenants, terms

and conditions of the Contract, this Deed of Trust and all other documents and agreements entered into in connection therewith and herewith, then this conveyance shall be null and void and may be canceled of record at the request and at the cost of the Grantor.

**Section 1. Events of Default.** The occurrence of any one or more of the following events shall constitute an “*Event of Default*” hereunder:

(a) Failure by the Grantor to pay any principal component or interest component of the Installment Payments when due as required by the Contract or by this Deed of Trust; or

(b) Failure by the Grantor to duly observe or perform after notice and lapse of any applicable grace period any other term, covenant, condition or agreement of this Deed of Trust; or

(c) Any warranty of the Grantor contained in this Deed of Trust, proves to be untrue or misleading in any material respect; or

(d) The occurrence of any “*Event of Default*” under the Contract.

**Section 2. Remedies Upon Default.** Upon the occurrence of an Event of Default, the Beneficiary and Trustee shall have the following rights and remedies:

(a) The Beneficiary shall have the right, at its option, to declare all amounts payable under the Contract to be immediately due and payable, whereupon the same shall become immediately due and payable, regardless of the maturity date thereof.

(b) On the application of the Beneficiary, if the Beneficiary shall have declared the outstanding principal balance under the Contract to be immediately due and payable, the Beneficiary may foreclose the lien of this Deed of Trust pursuant to the power of sale hereby granted or by judicial proceeding. The Trustee is hereby granted a power of sale and may sell the Mortgaged Property or such part or parts thereof or interest therein as the Beneficiary may select after first having given such notice of hearing as to commencement of foreclosure proceedings and obtained such findings or leave of court as then may be required by law and then having given such notice and advertised the time and place of such sale in such manner as then may be provided by law, and upon such sale and any resale and upon compliance with the law then relating to foreclosure proceedings, to convey title to the purchaser.

Upon such sale(s), the Trustee shall convey title to the purchaser in fee simple. The Beneficiary shall have the right to bid at any sale thereunder. The Trustee may require the successful bidder at any sale to deposit immediately with the Trustee cash or certified check in an amount not to exceed twenty-five percent (25%) of the bid, provided notice of such requirement is contained in the advertisement of the sale. The Trustee may reject the bid if the deposit is not immediately made, and thereupon the Trustee may declare the next highest bidder to be the purchaser. Such deposit shall be refunded in case a resale is had; otherwise, it shall be applied to the purchase price. If Collateral is sold hereunder, it need not be at the place of sale. The published notice of public sale, however, shall state the time and place where the Collateral may be inspected prior to sale.

In the event a proceeding to exercise the power of sale contained herein is begun but not completed, the Grantor shall pay all expenses incurred by the Trustee and a partial commission computed as follows: one-fourth of the hereinafter-specified commission prior to the Trustee’s issuance of a notice of hearing on the right to foreclose and one-half of the hereinafter-specified commission after the issuance of such notice and prior to sale. Such expenses and partial commission may be paid by the Beneficiary on behalf of the Grantor but, in any event, shall be secured by this Deed of Trust.

The foregoing shall in no way be construed to limit the powers of sale or restrict the discretion the Trustee may have under the provisions of Article 2A of Chapter 45 of the General Statutes of North Carolina, as the same may be from time to time amended, or such other laws as the Beneficiary or Trustee may be proceeding under, including the laws relating to judicial foreclosure if such is determined to be either the necessary or appropriate process to follow in foreclosing on the lien of this Deed of Trust. Except as provided in Section 15 herein, each legal, equitable or contractual right, power or remedy of the Beneficiary or Trustee now or hereafter provided herein or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power and remedy. The exercise or beginning of the exercise of any one or more of such rights, powers and remedies shall not preclude the simultaneous or later exercise of any or all such other rights, powers and remedies and without limiting the foregoing, the Trustee may sell the Mortgaged Property and Collateral separately or together, as a whole or in parts or parcels, at one or more sales conducted at different times and places.

(c) The Beneficiary shall have the right to collect rents, issues, profits and revenues according to the terms of Section 7 hereof.

(d) The Grantor and the Beneficiary have contemporaneously entered into the Contract and upon the occurrence of an Event of Default thereunder, the Beneficiary shall be entitled to exercise such rights and remedies as are contained in such Contract. The Beneficiary shall have the right to the appointment of a receiver to collect the rents and profits from the Mortgaged Property and Collateral without consideration of the value thereof or the solvency of any person liable for the payment of the amounts then owing. The Beneficiary at its option, in lieu of an appointment of a receiver, shall have the right to do all those things the receiver could have done. If such receiver should be appointed, or if there should be a sale of the Mortgaged Property and Collateral by foreclosure, as provided above, the Grantor or any person in possession of the Mortgaged Property and Collateral, as tenant or otherwise, shall become a tenant at will of the receiver or of the purchaser and may be removed by a writ of ejectment, summary ejectment or other lawful remedy.

(e) The Trustee may proceed against the Collateral as provided in and in accordance with the applicable provisions of the Uniform Commercial Code as adopted by the State of North Carolina. The Beneficiary may require the Grantor to assemble the Collateral, or evidence thereof, and make them reasonably available to the Beneficiary at one or more places to be designated by the Beneficiary which are reasonably convenient to the Beneficiary. The Beneficiary may take possession of the Collateral and hold, prepare for sale, lease or other disposition and sell, lease or otherwise dispose of the Collateral at public or private sale, for cash or on credit, as a whole or in part.

(f) The exercise by the Beneficiary of any right or remedy granted to the Beneficiary or Trustee in law or equity, or by this or any other document shall not be deemed an irrevocable election of remedies thereby precluding the Beneficiary or the Trustee from exercising or pursuing any other right or remedy granted to the Trustee or the Beneficiary under this Deed of Trust, the Contract, or any other document or at law or in equity. All remedies contained herein in the Contract or in any other separate agreement executed contemporaneously with the execution of this Deed of Trust are intended to be cumulative.

**Section 3. Application of Proceeds.** Unless otherwise required by law, proceeds derived from the exercise of either the power of sale or the collection of rents and profits shall be applied to pay, **first**, costs and expenses, including the Trustee's commission in the amount of five percent (5%) in the event of sale, reasonable attorney's fees for legal services actually performed, and reasonable auctioneer's fees if such expenses have been incurred and any other expenses or advances made or incurred in the protection of the rights of the Trustee or in the pursuit of any remedy hereunder; **second**, to taxes and assessments due and unpaid, if the Trustee deems it appropriate to do so; **third**, to the payment of any

indebtedness, including principal and interest under the Contract, secured by this Deed of Trust; and **fourth**, the balance, if any, to the person or persons entitled thereto.

**Section 4. Payment of Amounts Due Under the Contract.** The Grantor covenants and agrees that it will pay when due the Installment Payments due under the Contract when due, including both the principal and interest components thereof.

**Section 5. Payment of Taxes, Assessments and Other Amounts; Maintenance of Insurance.**

(a) The Grantor shall pay, when due, all charges for utility services used in connection with the Mortgaged Property and Collateral. The Grantor shall pay, or cause to be paid, when due, any and all taxes levied by any governmental body as a result of the Grantor's ownership, possession, or use of the Mortgaged Property and Collateral.

(b) The Grantor shall obtain and maintain, at its expense, at all times a policy of insurance covering the Improvements on the Mortgaged Property and the Collateral and providing the insurance protection described in Section 7.1 of the Contract.

**Section 6. Maintenance of the Mortgaged Property.** The Grantor shall use the Mortgaged Property and the Collateral in a careful and proper manner, in compliance with all applicable laws and regulations, and shall take no action to adversely affect the Mortgaged Property or the Collateral, and shall take all reasonable action to preserve the Mortgaged Property and the Collateral in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, including, without limitation, at its sole cost and expense, to repair and maintain the Mortgaged Property and the Collateral, and to replace any part of the Mortgaged Property and the Collateral as may from time to time become worn out, lost, stolen, destroyed or damaged or unfit for use. Any and all additions to or replacements of the Mortgaged Property and the Collateral and all parts thereof shall constitute Improvements and shall be subject to all the terms and conditions of this Contract.

**Section 7. Assignment of Rents, Leases and Profits.**

(a) As further security for the payment of the obligations under the Contract and for the faithful performance of all the covenants, agreements, terms and provisions of this Deed of Trust, the Grantor hereby sells, transfers and assigns unto the Beneficiary all the Grantor's right, title and interest in and to the rents, issues, profits, revenues, royalties, rights and benefits from the Mortgaged Property. To that end, the Grantor hereby assigns and sets over unto the Beneficiary all leases of all or part of the Mortgaged Property now made, executed or delivered, whether written or verbal, or to be hereafter made, whether written or verbal (hereinafter referred to individually and collectively as "*Tenants' Leases*"); **PROVIDED THAT NOTHING CONTAINED IN THIS SECTION 7, OR ELSEWHERE IN THIS DEED OF TRUST, SHALL CONSTITUTE CONSENT BY BENEFICIARY TO ANY SUCH TENANTS' LEASES UNLESS OTHERWISE SPECIFICALLY PROVIDED HEREIN OR IN THE CONTRACT.** The Grantor hereby authorizes and empowers the Beneficiary to collect these rents, issues, profits, revenues, royalties, rights and benefits as they shall become due and hereby directs each and all of the tenants of the Mortgaged Property to pay such rents, as may now be due or shall hereafter become due, to the Beneficiary, upon demand for payment thereof by the Beneficiary. No such demand shall be made unless and until there has been an Event of Default under the Contract or this Deed of Trust. Until such demand is made, the Grantor is authorized by the Beneficiary to collect or continue collecting such rents, issues, profits, revenues, royalties, rights and benefits; provided, however, the Grantor shall not collect any rents more than two months in advance without the prior written consent of the Beneficiary.

(b) The Grantor covenants and agrees: (i) that it will promptly and fully keep, perform and comply with all the terms, provisions, covenants, conditions and agreements imposed upon or assumed by it as landlord (or similar designation) under the Tenants' Leases, and (ii) that it will not do, permit anything to be done, or omit or refrain from doing anything, the doing or omission of which will give any tenant a right to terminate any of the Tenants' Leases.

(c) If the Grantor shall, in any manner, fail in any of the above covenants and agreements, the Beneficiary may (but shall not be obligated to) take any action the Beneficiary deems necessary or desirable to prevent or cure any default by the Grantor in the performance of or compliance with any of the Grantor's covenants or obligations under any of the Tenants' Leases. The Beneficiary shall have the right to enter upon the Mortgaged Property to such extent and as often as the Beneficiary, in its sole discretion, deems necessary or desirable in order to prevent or cure any such default by the Grantor. The Beneficiary may expend such sums of money as the Beneficiary, in its sole discretion, deems necessary for any such purpose. The Grantor hereby agrees to pay to the Beneficiary, immediately upon demand, all sums so expended by the Beneficiary, together with interest thereon from the date of each such payment at the rate provided for in the Contract. All sums so expended by the Beneficiary, and the interest thereon, shall be secured by this Deed of Trust. The Grantor will give the Beneficiary immediate notice by certified mail of any notice of default or notice of cancellation received from any tenant.

**Section 8. Damage, Destruction or Condemnation.** Pursuant to Section 7.2 of the Contract, in the event of any damage or destruction to the Improvements on the Mortgaged Property and the Collateral, the Grantor shall have the option to repair and restore the Improvements on the Mortgaged Property and the Collateral, or to prepay the unpaid balance of principal and interest due under the Contract. Pursuant to Section 7.3 of the Contract, in the event of a loss of title, condemnation or taking of all or any part of the Mortgaged Property, the Grantor shall have the option to restore the Mortgaged Property or to prepay the unpaid balance of principal and interest due under the Contract.

**Section 9. Security Agreement.**

(a) This Deed of Trust shall constitute a security agreement with respect to all Collateral of the Grantor. The Grantor hereby grants to the Beneficiary a security interest in the Collateral including, without limitation, all boilers, all heating, air conditioning and ventilating components and systems, all lighting, electrical power, plumbing, sprinkler and water components and systems, all carpets, wall coverings, screens and drapes, all mechanical and hydraulic components and systems and all appliances located on and used in connection with the operation or maintenance of the Improvements to the extent any of the foregoing constitutes personal property. The security interest in, and lien upon the Collateral shall be in addition to, and not in lieu of, any lien upon or security interest in the Collateral acquired under real property law.

With respect to those items of the Collateral which are or are to become fixtures related to the Mortgaged Property, **this Deed of Trust shall constitute a financing statement filed as a fixture filing.** The lien upon fixtures granted herein and perfected hereby shall be in addition to, and not in lieu of, any lien upon fixtures acquired under real property law. The fixtures are located on the land described on **Exhibit A** hereto, and the Grantor is the record owner of such land. The name and address of the Grantor, as debtor, and the Beneficiary, as secured party, are set forth in Section 13 hereof. The lien upon fixtures granted herein and perfected hereby shall be in addition to and not in lieu of any lien upon fixtures acquired under real property law.

**Section 10. Environmental Covenants.**

(a) To the best of the Grantor's knowledge, the Mortgaged Property is not now and has not ever been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials and no Hazardous Materials have ever been installed on such Mortgaged Property except as otherwise disclosed to the Beneficiary as required by the Contract. The Grantor covenants that such Mortgaged Property shall be kept free of Hazardous Materials and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in connection with the normal construction, maintenance and operation of the Project and in compliance with all Environmental Laws. The Grantor shall not cause or permit as a result of any intentional or unintentional act or omission on the part of the Grantor or any lessee, tenant, subtenant, licensee, guest, invitee, employee, agent or contractor, the installation of Hazardous Materials in the Project or a release of Hazardous Materials onto the Mortgaged Property or suffer the presence of Hazardous Materials on the Mortgaged Property, except in connection with the normal construction, maintenance and operation of the Project and in compliance with all Environmental Laws. The Grantor shall comply with and ensure compliance by all sublessees, tenants, subtenants, licensees, guests, invitees, employees, agents and contractors with all applicable federal, state and local laws, ordinances, rules and regulations with respect to Hazardous Materials and shall keep the Mortgaged Property free and clear of any liens imposed pursuant to such laws, ordinances, rules and regulations. The Grantor has not received any notice from any governmental agency, entity or any other person who receives any notices from any governmental agency, entity or any other person with regard to Hazardous Materials on, from or affecting the Mortgaged Property. In the event the Grantor does receive any such notices, the Grantor shall immediately notify the Beneficiary. The Grantor, at no expense to the Beneficiary, shall conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to comply with all applicable Environmental Laws.

(b) Notwithstanding the description of Collateral contained in this Deed of Trust, all Hazardous Materials (as defined in this Section) are specifically excluded from Collateral subject to this Deed of Trust. In addition, any and all underground storage tanks and piping located on the Mortgaged Property described above are specifically [check one]:

\_\_\_\_\_ included as part of the Mortgaged \_\_\_\_\_ x \_\_\_\_\_ excluded as part of the Mortgaged  
Property. Property.

**Section 11. Release of Mortgaged Property.** Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, the Trustee must release the Mortgaged Property or any part thereof from the lien and security interest of this Deed of Trust when and if the following requirements have been fulfilled:

- (i) In connection with any release of the Mortgaged Property, or any part thereof, there shall be filed with the Beneficiary a certified copy of the resolution of the Town Council of the Grantor stating the purpose for which the Grantor desires such release of the Mortgaged Property, giving an adequate legal description of the part of the Mortgaged Property to be released, requesting such release and providing for the payment by the Grantor of all expenses in connection with such release.
- (ii) In connection with the release of any part of the Mortgaged Property constituting less than the entire Mortgaged Property, the Beneficiary shall have consented to such release.

- (iii) In connection with the release of any part of the Mortgaged Property constituting less than the entire Mortgaged Property, such release shall not prohibit Grantor's ingress, egress and regress to and from the remainder of the Mortgaged Property not being released, or materially interfere with the use of the remainder of the Mortgaged Property not being released and evidence of such shall be filed with the Beneficiary.
- (iv) In connection with the release of all property constituting the entire Mortgaged Property, there is paid to the Beneficiary an amount sufficient to provide for the payment in full of all Installment Payments in accordance with Section 3 of the Contract.

**Section 12. Grant and Release of Easements and Fixtures.** (a) Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, with the consent of the Trustee, the Grantor may at any time or times grant easements, licenses, rights of way and other rights and privileges in the nature of easements with respect to any part of the Mortgaged Property and the Grantor may release existing interests, easements, licenses, rights of way and other rights or privileges with or without consideration. The Beneficiary agrees that it shall execute and deliver and will cause, request or direct the Trustee to execute and deliver any instrument reasonably necessary or appropriate to grant or release any such interest, easement, license, right of way or other right or privilege but only upon receipt of (a) a copy of the instrument of grant or release, (b) a written request of the Grantor requesting such instrument and (c) a certificate executed by the Grantor that the grant or release is not detrimental to the proper conduct of the operations of the Grantor at the Mortgaged Property and will not impair the effective use, nor decrease the value, of the Mortgaged Property.

(b) Notwithstanding any other provisions of this Deed of Trust, at any time so long as there is no Event of Default, with the consent of the Trustee, the Grantor may at any time or times release Fixtures to be added to the Mortgaged Property from the security interest created hereby with or without consideration. The Beneficiary agrees that it shall execute and deliver and will cause, request or direct the Trustee to execute and deliver any instrument reasonably necessary or appropriate to release any such Fixture but only upon receipt of (a) a copy of the instrument of release, (b) a written request of the Grantor requesting such instrument and (c) a certificate executed by the Grantor that the release is not detrimental to the proper conduct of the operations of the Grantor at the Mortgaged Property and will not impair the effective use, nor decrease the value, of the Mortgaged Property.

**Section 13. Notices.** All notices, certificates and other communications hereunder shall be deemed given when mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows: if to the Grantor, **Town of Knightdale, North Carolina, 950 Steeple Square Ct., Knightdale, North Carolina 27545**, Attention: Finance Director; if to the Beneficiary, JPMorgan Chase Bank, N.A., **4350 Congress St., Floor 02, Charlotte, North Carolina 28209**, Attention: Jeremy E. Fisher, Vice President, and, if to the Trustee, **450 S Orange Ave, Floor 10, Orlando, Florida 32801**, Attention: Jackie Young, with a copy to the Beneficiary, **4350 Congress St., Floor 02, Charlotte, North Carolina 28209**, Attention: Jeremy E. Fisher, Vice President. The Grantor, the Trustee and the Beneficiary may, by written notice given hereunder, designate a different address where communications should be sent and may agree on a different method of delivery of communications.

**Section 14. Miscellaneous.**

(a) No delay or forbearance by the Beneficiary in exercising any or all of its rights hereunder or rights otherwise afforded by law shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default as set forth herein or in the event of any subsequent default hereunder. In



the event that the Beneficiary or the Trustee voluntarily or otherwise shall become a party to any suit or legal proceeding to protect the Mortgaged Property or to protect the title of the Trustee created by this Deed of Trust, the Trustee and the Beneficiary shall be saved harmless and shall be reimbursed by the Grantor for any amounts paid, including all reasonable costs, charges and attorney's fees incurred in any such suit or proceeding to the full extent permitted by law. These amounts together with interest on the amounts at the rate set forth in the Contract shall be secured by this Deed of Trust and their payment enforced as if they were a part of the original debt.

(b) It is specifically agreed that the parties hereto shall in no event be deemed to have contracted for a greater rate of interest than the maximum rate permitted by law. Should a greater amount be collected, it shall be construed as a mutual mistake of the parties and the excess shall be returned to the party making such a payment.

(c) The Beneficiary shall at any time have the irrevocable right to remove the Trustee herein named without notice or cause and to appoint his successor by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in North Carolina. In the event of the death or resignation of the Trustee herein named, the Beneficiary shall have the right to appoint his successor by such written instrument. Any Trustee so appointed shall be vested with the title to the Mortgaged Property and shall possess all the powers, duties and obligations herein conferred on the Trustee in the same manner and to the same extent as though such person were named herein as Trustee.

(d) All the terms and conditions of the Contract pursuant to which the obligations secured hereby are incurred, are incorporated by this reference and made a part hereof. To the extent of any conflict between this Deed of Trust and the Contract, the Contract shall take priority.

(e) The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to, the respective successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular. If two or more parties have joined as Grantor, each of the parties shall be jointly and severally obligated to perform the conditions and covenants herein contained. Notwithstanding the foregoing, any Grantor who executes this Deed of Trust but who does not execute the Contract hereby secured has executed the Deed of Trust only to subject whatever interest such Grantor has or may hereafter have in the Mortgaged Property, Improvements and Collateral to the lien and security interest created by this Deed of Trust. The term "*Beneficiary*" shall include any payee of the indebtedness hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

***Section 15. Limited Obligation of the Grantor.***

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, PURSUANT TO SECTION 160A-20 OF THE GENERAL STATUTES OF NORTH CAROLINA, NO DEFICIENCY JUDGMENT SHALL BE RENDERED AGAINST THE GRANTOR IN ANY ACTION FOR BREACH BY THE GRANTOR OF ITS OBLIGATIONS UNDER THE CONTRACT; THE REMEDIES PROVIDED UNDER THIS DEED OF TRUST, INCLUDING FORECLOSURE UNDER THIS DEED OF TRUST, BEING THE SOLE REMEDY GRANTED HEREBY. THE TAXING POWER OF THE GRANTOR IS NOT AND MAY NOT BE PLEDGED IN ANY WAY, DIRECTLY OR INDIRECTLY, TO SECURE THE PAYMENT OF ANY MONEY DUE UNDER THE CONTRACT, INCLUDING THE INSTALLMENT PAYMENTS OR ADDITIONAL PAYMENTS UNDER THE CONTRACT, OR ANY OTHER INSTRUMENT CONTEMPLATED HEREBY OR THEREBY. No provision of this Deed of Trust shall be construed or interpreted as creating a pledge of the faith and credit of Grantor within the meaning of any Constitutional debt limitation. No provision of this Deed of Trust shall be construed or interpreted as creating a pledge of the faith and credit of Grantor within the meaning of the Constitution of

the State of North Carolina. This Deed of Trust shall not directly or indirectly or contingently obligate Grantor to make any payments beyond the amount appropriated, if any, in the sole discretion of the Grantor for any fiscal year in which this Deed of Trust shall be in effect. Grantor may at the end of any fiscal year terminate its future payment obligations under the Contract secured by this Deed of Trust if Grantor has not appropriated sufficient funds to make the next fiscal year's scheduled payment obligations; however, during each fiscal year, Grantor shall exercise its best efforts to appropriate funds for such obligations due in the next fiscal year. **No deficiency judgment may be rendered against Grantor in any action for breach of a contractual obligation under the Contract or this Deed of Trust and the taxing power of the Grantor is not and may not be pledged directly or indirectly to secure any money due thereunder or hereunder.** No provision of this Deed of Trust shall be construed to pledge or to create a lien on any class or source of Grantor's money. In addition, any terms of this Deed of Trust which is, or may have the effect of being, a "non-substitution clause" is void and of no effect. To the extent of any conflict between this Section and any other provision of this Deed of Trust, this Section shall take priority. Notwithstanding the foregoing, nothing in this Section is intended to impair or prohibit foreclosure under this Deed of Trust if the Installment Payments (as defined under the Contract) are not paid when due or otherwise upon the occurrence of any Event of Default, and in such event, Beneficiary may request the Trustee to foreclose on the Mortgaged Property and Collateral as provided in this Deed of Trust.

**Section 16. Future Advances.** The obligations under the Contract secured by this Deed of Trust include present and future obligations of Grantor to Beneficiary, and this Deed of Trust is executed to secure all such obligations. The period in which future obligations may be incurred and secured by this Deed of Trust is the period between the date hereof and that date which is thirty (30) years from the date hereof. The maximum principal amount, including present and future obligations, which may be secured by this Deed of Trust at any one time is Twenty-Five Million Dollars (\$25,000,000). Any additional amounts advanced by Beneficiary pursuant to the provisions of this Deed of Trust shall be deemed necessary expenditures for the protection of the security. Each future advance need not be evidenced by a written instrument or notation signed by Grantor stipulating that such advance is secured by this Deed of Trust. All future obligations shall be considered to be made pursuant to the requirements of North Carolina General Statutes Section 45-67, et seq., or any amendments thereto.

IN WITNESS WHEREOF, this Deed of Trust is duly executed, sealed and delivered by the Grantor as of the day and year first above written.

TOWN OF KNIGHTDALE, NORTH CAROLINA

ATTEST:

By: \_\_\_\_\_  
Heather Smith  
Town Clerk

By: \_\_\_\_\_  
Bill Summers  
Town Manager

(SEAL)

STATE OF NORTH CAROLINA    )  
   )  
TOWN OF KNIGHTDALE         )

I, a Notary Public of Wake County and State aforesaid, certify that Heather Smith (the "Signatory") personally came before me this day and acknowledged that she is the Town Clerk of the Town of Knightdale, North Carolina (the "Town") and that by authority duly given and as the act of the Town, the foregoing instrument was signed in its name by the Town Manager and attested by her as Town Clerk.

I certify that the Signatory personally appeared before me this day, and  
  *(check one of the following)*  
\_\_\_\_\_ (I have personal knowledge of the identity of the Signatory); **or**  
\_\_\_\_\_ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
  *(check one of the following)*  
    \_\_\_ a driver's license *or*  
    \_\_\_ in the form of \_\_\_\_\_); **or**  
\_\_\_\_\_ (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public

Print: Name: \_\_\_\_\_  
*[Note: Notary Public must sign exactly as on notary seal]*

My Commission Expires: \_\_\_\_\_  
☞ [NOTARY SEAL]    **(MUST BE FULLY LEGIBLE)**

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**Fire Station #4**

[to come]

## **EXHIBIT B**

### **PERMITTED ENCUMBRANCES**

Permitted Encumbrances shall include (a) all matters shown on record at the Wake County Register of Deeds affecting the Mortgaged Property as of the date hereof, (b) liens for taxes and assessments not then delinquent, (c) the Contract and as permitted by the Contract, and (d) easements, rights-of-way and other such minor defects or restrictions as normally exist with respect to property of the same general character as the Mortgaged Property which will not impair the Grantor's intended use of the Mortgaged Property.