

Entry #: 511390

05/28/2020 03:41 PM TRUST DEED

Page: 1 of 10

FEE: \$40.00 BY: COTTONWOOD TITLE INSURANCE AGENCY

Jerry Houghton, Tooele County, Recorder

**Recording Requested by and When Recorded Return To:**

**Lori Silva, USDA Housing Program Director**

**Rural Development, USDA**

**125 South State Street, Room 4311**

**Salt Lake City, Utah 84138**

*110615-LKF*

*tax ID No: 01-099-0-0009*

*01-099-0-0029*

Form RD 1927-7 UT  
(Rev. 9-98)

Position 5

110015-UKF  
Tax ID: 01-099-0-0004  
01-099-0-0029

**Real Estate Deed of Trust for Utah**

THIS DEED OF TRUST is made and entered into by and between the undersigned:

Willow Creek IV-V Associates of Grantsville, LLC,

a Utah limited liability company by Grand Vista/Willow Creek IV-V, LLC, a Utah limited liability company, its managing member of CN GV WC IV-V, a Utah Corporation

residing in Tooele County, Utah whose post office address is 236 West Plum Street, Grantsville, UT 84029 as trustors herein called "Borrower," and the United States of America, acting through the United States Department of Agriculture, 125 South State Street, Rm 4311 Salt Lake City, Utah 84138, as trustee, herein called "Trustee," and the United States of America, acting through the United States Department of Agriculture, as beneficiary, herein called the "Government," and:

WHEREAS Borrower is indebted to the Government as evidenced by one or more promissory notes or assumption agreements or any shared appreciation or recapture agreement, herein called "note," which has been executed by Borrower, is payable to the order of the Government authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Original Principal Amount</u>
12-20-1990	\$445,230.00
10-16-1991	\$290,520.00

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and pursuant to the Consolidated Farm and Rural Development Act, or title V of the Housing Act of 1949 or any other statutes administered by the Government;

And it is the purpose and intent of this instrument that, among other things, and at all times when the note is held by the Government or in the event the Government should assign this instrument, this instrument shall secure payment of the note and shall secure any FUTURE ADVANCES by the Government to the Borrower (all references herein to the "note" shall be deemed to include such future advances;

And this instrument also secures any amounts due under any Shared Appreciation Agreement/Recapture Agreement entered into pursuant to 7 U.S.C. §2001.

NOW, THEREFORE, in consideration of the loans, Borrower does hereby grant, bargain, sell, convey, and assign unto trustee the following described property situated in the State of Utah, County (or) Counties of Tooele

See attached Exhibit A Legal Description

See attached Exhibit B Restrictive Use Covenant

together with all rights (including the rights to mining products, gravel, oil, gas, coal or other minerals), interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues, income and insurance proceeds therefrom, all improvements, all water, water rights, water stock, and sprinkling and irrigation systems, pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property."

TO HAVE AND TO HOLD the property unto Trustee, Trustee's successors, grantees and assigns forever and in fee simple:

IN TRUST, NEVERTHELESS, (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, and (b) to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS the property unto Trustee for the benefit of the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyance specified hereinabove, and COVENANTS AND AGREES as follows:

- (1) To pay promptly when due any indebtedness to the Government hereby secured.
- (2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Government.
- (3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.
- (4) The Government may at any time pay any other amounts including advances for payment of prior or junior liens, required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for Borrower's account. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.
- (5) All advances by the Government, including advances for payment of prior or junior liens, in addition to any advances required by the terms of the note, as described by this instrument, with interest shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.
- (6) To use the loan evidenced by the note solely for purposes authorized by the Government.
- (7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, including all charges and assessments in connection with water, water rights, and water stock pertaining to or reasonably necessary to the use of the real property described above, and promptly deliver to the Government without demand receipt evidencing such payments.
- (8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.
- (9) To maintain improvements in good repair and make repairs required by the Government; operate the property in good and husbandman like manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.
- (10) To comply with all laws, ordinances, and regulations affecting the property.
- (11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default) including but not limited to costs of evidence of title to survey of the property, costs of recording this and other instruments, attorneys' fees, trustee's fees, court costs, and expenses of advertising, selling, and conveying the property.
- (12) Except as otherwise provided by the Government regulations, neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred or encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as beneficiary hereunder, including

but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may (a) adjust the interest rate, payment, terms or balance due on the loan, (b) increase the mortgage by an amount equal to deferred interest on the outstanding principal balance, (c) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (d) release any party who is liable under the note or for the debt from liability to the Government, (e) release portions of the property and subordinate its lien, and (f) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government whether once or often in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that the Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or personal property or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower die or be declared incompetent, or should any one of the parties named as Borrower be discharged in bankruptcy or declared an insolvent or make an assignment for the benefit of creditors, the Government, at its option with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, and (d) authorize and request Trustee to foreclose this instrument and sell the property as provided by law, (e) bring an action to foreclose this instrument, obtain a deficiency judgment, or enforce any other remedy provided by law.

(18) At the request of the Government, Trustee may foreclose this instrument by advertisement and sale of the property as provided by law, for cash or secured credit at the option of the Government, personal notice of which sale need not be served on Borrower; and at such sale the Government and its agents may bid and purchase as a stranger; Trustee at Trustee's option may conduct such sale without being personally present, through Trustee's delegate authorized by Trustee for such purpose orally or in writing; and Trustee's execution of a conveyance of the property or any part thereof to any purchase at foreclosure sale shall be conclusive evidence that the sale was conducted by Trustee personally or through Trustee's delegate duly authorized in accordance herewith.

(19) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secure hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to the Government, and (f) any balance to Borrower. In case the Government is the successful bidder at foreclosure or other sale of all or any part of the property, the Government, may pay its share of the purchase price by crediting such amount on any debts of Borrower owing to the Government, in the order prescribed above.

(20) All powers and agencies granted in this instrument are coupled with an interest and are irrevocable by death or otherwise: and the rights and remedies provided in this instrument are cumulative to remedies provided by law.

(21) Borrower agrees that the Government will not be bound by any present or future State laws, (a) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (b) prescribing any other statute of limitations, or (c) limiting the conditions which the Government may

by regulation impose, including the interest rate it may charge, as a condition of approving a transfer to the property to a new Borrower.

(22) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex, national origin, disability, familial status or age, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on the dwelling relating to race, color, religion, sex, national origin, disability, familial status or age.

(23) If Borrower has a permit or approved application for the appropriation of water for use on or for the benefit of the property hereinabove described, Borrower will perform and complete all the action and fulfill all the conditions necessary to perfect such water right; and in the event of Borrower's failure to do so, the Government shall have the right to complete such action and to advance such sums as may be necessary for such purpose, such advances to be secured by this instrument.

(24) If the property, or any part thereof, is a lease or a purchaser's interest in a contract of sale, Borrower will pay when due all rents, contract payments and any and all other charges required by said lease or contract, will comply with all other requirements of said lease or contract, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title and interest in or to the property or the lease or contract while this instrument remains in effect.

(25) Borrower has assigned or waived or will immediately, on request of the Government, assign or waive in favor of the Government all grazing privileges, permits, licenses, or leases appurtenant to or used in connection with said land, and Borrower further covenants and agrees to produce renewals thereof prior to their expiration, to pay all fees and charges and to perform all acts and to do all things necessary to keep and preserve all said grazing rights and renewals thereof, and in the event of the failure of Borrower to do any of these things the Government may do so on behalf of Borrower, including advancing such sums as may be necessary for this purpose, and such funds advanced shall be secured by this instrument.

(26) Borrower further agrees that the loans secured by this instrument will be in default should any loan proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land, or the conversion of wetlands to produce an agricultural commodity, as prohibited by 7 C.F.R. part 1940, subpart G.

(27) This instrument shall be subject to the present regulations of the Government, and to its future regulations not inconsistent with the express provisions hereof.

(28) Notices, including any Notice of Default and Notice of Sale, shall be sent by certified mail, unless otherwise required by law, and addressed, unless and until some other address is designated in a notice so given, in the case of both Trustee and the Government to the address stated above and in the case of Borrower at the post office address shown above.

(29) Upon full and final payment of all indebtedness hereby secured and the performance and discharge of each and every condition, agreement and obligation, contingent, or otherwise, contained herein or secured hereby, the Government shall request Trustee to execute and deliver to Borrower at Borrower's address a full reconveyance of the property within 60 days after written demand by Borrower, and Borrower hereby waives the benefits of all laws requiring earlier execution or delivery of such reconveyance.

(30) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provisions or application, and to that end the provisions hereof are declared to be severable.

(31) This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution Security Agreement dated May 15, 2020.

WITNESS the hands and seals of Borrower this 15<sup>th</sup> day of May, 2020

Willow Creek IV-V ASSOCIATES of Grantville, LLC

Borrower

Signature

Title

SCOTT NIBLACK, PRESIDENT MEMBER

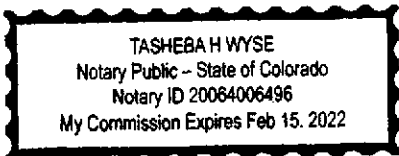
ASSOCIATE MEMBER/WILLOW CREEK IV-V, LLC

STATE OF COLORADO

COUNTY OF DENVER } ss:

On this 15<sup>th</sup> day of MAY, 2020, personally appeared before me SCOTT C. NIBLACK the signers of the above instrument, who duly acknowledged to me that TASHEBA H. WYSE executed the same.  
Scott C. Niblack

(NOTARIAL SEAL)



Notary Public, residing at: 3055 Brighton Blvd  
Tasheba H Wyse

My commission expires: FEB 15 2022

**EXHIBIT A  
PROPERTY DESCRIPTION**

**PARCEL 1:**

Beginning at the Northeast corner of Lot 4, Block 21, Plat "A", Grantsville City Survey, Grantsville City; and running thence South 165 feet; thence West 92.5 feet; thence North 165 feet; thence East 92.5 feet to the place of beginning.

Being also described by survey as follows:

A parcel of land, situate in the Southeast quarter of Section 36, Township 2 South, Range 6 West, Salt Lake Base and Meridian, and in Block 21 of Grantsville City, more particularly described as follows:

Beginning at the Northeast corner of Lot 4, Block 21, Plat "A", Grantsville City Survey, which is located South 00°48'42" East 929.70 feet along the measured monument line, as described above, and West 1,578.24 feet from the found monument at the East quarter corner of Section 36, Township 2 South, Range 6 West, and running thence South 00°13'59" West 155.55 feet; thence North 89°46'01" West 92.50 feet; thence North 00°13'59" East 155.55 feet to the South line of Apple Street; thence South 89°46'08" East 92.50 feet along said South line, to the point of beginning.

**PARCEL 2:**

The North half of Lot 6, Block 21, Plat "A", Grantsville City Survey.

Being also described by survey as follows:

A parcel of land, situate in the Southeast quarter of Section 36, Township 2 South, Range 6 West, Salt Lake Base and Meridian, and in Block 21 of Grantsville City, more particularly described as follows:

Beginning at the Northeast corner of Lot 6, Block 21, Plat "A", Grantsville City Survey, which is located South 00°48'42" East 928.36 feet along the measured monument line, as described above, and West 1,908.22 feet from the found monument at the East quarter corner of Section 36, Township 2 South, Range 6 West, and running thence South 00°13'59" West 155.54 feet; thence North 89°46'01" West 165.14 feet to the East line of Cooley Street; thence North 00°10'59" East 155.54 feet along said East line, to the South line of Apple Street; thence South 89°46'08" East 165.28 feet along said South line, to the point of beginning.

Tax Id No.: 01-099-0-0004 and 01-099-0-0029

## EXHIBIT B

## RESTRICTIVE USE COVENANT

WHEREAS, Willow Creek Associates of Grantsville, LLC, "Owner", or a predecessor in interest, received a loan from the United States of America, acting through the Rural Housing Service in Rural Development (Agency), U.S. Department of Agriculture which was evidenced by a promissory note or assumption agreement dated May 15, 2020, in the original amount of \$737,851.65, and secured by a certain Deed of Trust or Mortgage dated May 15, 2020, and recorded in the land records for the City or County of Tooele for the purpose of providing housing in accordance with Section 42 U.S.C. 1485 (Section 515, and Title V of the Housing Act of 1949, as amended the parties for themselves and for their respective successors and assigns, hereby covenant and agree as follows:

1. Term. The period of the restriction will be for 20 years, from the date this Restrictive Use Covenant was signed.
2. Use Requirement. The Owner, and any successors in interest, agree to use the property in compliance with 42 U.S.C § 1484 or § 1485, whichever is applicable and 7 CFR part 3560, and any other applicable regulations and amendments, for the purpose of housing program eligible very-low, low- or moderate-income tenants.
3. Enforcement. The Agency and program eligible tenants may enforce these restrictions as long as the Agency has not terminated the Restrictive Use Agreement pursuant to paragraph 7 below.
4. Displacement Prohibition. The Owner agrees not to refuse to lease a dwelling unit offered for rent, or otherwise discriminate in the terms of tenancy, solely because any tenant or prospective tenant is the recipient of housing assistance from the Agency or any other Federal agency.
5. Owner's Responsibilities. The Owners agree to: set rents, other charges, and conditions of occupancy in a manner to meet the restrictions required in this Restrictive Use Covenant; post an Agency approved notice of these restrictions for the tenants of the property; to adhere to applicable local, State, and Federal laws; and to obtain Agency concurrence for any rental procedures that deviate from those approved at the time of prepayment, prior to implementation.
6. Civil Rights Requirements. The Owner will comply with the provisions of any applicable Federal, State or local law prohibiting discrimination in housing on the basis of race, color, religion, sex, national origin, handicap or familial status, including but not limited to: Title VI of the Civil Rights Act of 1964 (Public Law 90-284, 82 Stat. 73), the Fair Housing Act, Executive Order 11063, and all requirements imposed by or pursuant to



Agency regulations implementing these authorities, including, but not limited to, 7 CFR 3560.10.4.

7. **Release of Obligation.** The Owner will be released from these obligations before the termination period set in paragraph 1 only when the Agency determines that there is no longer a need for the housing or that rental subsidy provided the residents of the housing will no longer be provided due to no fault, action or lack of action on the part of the owner.
8. **Violations; the Agency's Remedies.** The parties further agree that upon any default under this covenant, the Agency may apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against violation of this covenant or for such other equitable relief as may be appropriate, since the injury to the Agency arising from a violation under any of the terms of this covenant would be irreparable and the amount of damages would be difficult to ascertain.
9. **Covenants to Run with Land.** The Owner hereby subjects the Property to the covenants, reservations and restrictions set forth in this covenant. The Owner hereby declares its express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land to the extent permitted by law and shall pass to and be binding upon the successors in title to the Property throughout the term. Each and every contract, deed mortgage or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. The Agency hereby agrees that, upon the request of the Owner made on or after the term of this covenant, the Agency shall execute a recordable instrument approved by the Agency for purposes of releasing this covenant of record. All costs and expenses relating to the preparation and recording of such release shall be paid by the Owner.
10. **Superiority.** The document hereto constitutes a restrictive covenant that is filed of record, with all other Deeds of Trusts or Mortgages, and that, notwithstanding a foreclosure or transfer of title pursuant to any other instrument or agreement, the restrictive covenants and provisions hereunder shall remain in full force and effect.
11. **Subsequent Modifications and Statutory Amendments.** The Agency may implement modifications necessitated by any subsequent statutory amendment without the consent of any other party, including those having the right of enforcement to require that any third-party obtain prior Agency approval for any enforcement action concerning pre-existing or future violations of this covenant.
12. **Other Agreements.** The Owner represents and warrants that it has not and will not execute any other agreements with provisions contradictory or in opposition to the provisions of this covenant and that, in any event, the provisions of this covenant are paramount and controlling as to the rights and obligations set forth herein and supersede any other conflicting requirements.

- 13. **Binding Effect.** Upon conveyance of the Property during the term, the Owner shall require its successor or assignee to assume its obligations under this covenant. In any event, this covenant shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and/or assigns.
- 14. **Amendment.** This covenant may not be modified except by an instrument in writing executed by each of the parties that are signatories hereto.
- 15. **Severability.** Notwithstanding anything herein contained, if any one or more of the provisions of this covenant shall for any reason whatsoever be held to be illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect any other provision of this covenant, but this covenant shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.
- 16. **Headings.** The headings and titles to the sections of this covenant are inserted for convenience only and shall not be deemed a part hereof nor affect the construction or interpretation of any provisions hereof.
- 17. **Governing Law.** This covenant shall be governed by all applicable Federal laws.

IN WITNESS WHEREOF, the parties hereto have caused this Restrictive Use Covenant to be executed and made effective as of the date first above written.

Willow Creek IV-V Associates of Grantsville, LLC,  
A Utah limited liability company by Grand Vista/  
Willow Creek IV-V, LLC, a Utah limited liability  
Company, its managing member by CN GV  
WC IV-V, a Utah Corporation

By

  
\_\_\_\_\_  
Scott C. Niblack, President

Witness/ Attest:

  
\_\_\_\_\_  
TANIA VAN PELT