

After Recording Return to:
Housing and Community Services
Attn: Multifamily Housing Finance Section
725 Summer Street, Suite B
Salem, OR 97301-1266

Amen title 172980 Am

2017-011109
Klamath County, Oregon
09/29/2017 04:07:01 PM
Fee: \$242.00

SPACE ABOVE FOR RECORDER'S USE

**STATE OF OREGON
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

**LOW INCOME WEATHERIZATION PROGRAM
ASSIGNMENT AND ASSUMPTION AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

This Low Income Weatherization Program Assignment and Assumption Agreement and Declaration of Restrictive Covenants (this "**Assignment**") is made and entered into this 29 day of **September**, 2016 by and among:

PARTIES:

Grantee: **Klamath Housing Authority,**
an Oregon **public body corporate and politic**

Owner: **Sky Meadows, LLC,**
an Oregon **limited liability company,**
and

OHCS: **State of Oregon,** acting by and through its
Housing and Community Services Department,
together with its successors and assigns.

RECITALS

A. Grantee, as Recipient, received a Low Income Weatherization Program ("**LIWX**") conditional grant (the "**Grant**") from OHCS as described in a Low Income Weatherization Program Grant Agreement and Declaration of Restrictive Covenants executed between itself and OHCS dated **September 29, 2017** (the "**Grant Agreement**") for the purpose of partially reimbursing the **new construction** costs of **one (1)** rental unit (the "**Qualified Unit**") and related common areas in the **twelve (12)** -building, **thirty seven (37)** -unit affordable multifamily rental housing development (including **one (1)** manager unit) project on land described in **Exhibit A**, attached hereto (the "**Property**"), which is to be known as **Sky Meadows** (the Property and improvements, the "**Project**").

B. Grantee undertook in the Grant Agreement certain performance obligations, representations, and warranties in favor of OHCS, including, *inter alia*, to rehabilitate and construct the Project improvements, and further agreed to establish and abide by certain restrictive covenants and equitable servitudes governing, *inter alia*, the affordability, habitability, maintenance, and operation of the Project throughout the Affordability Period described in the Grant Agreement. A copy of the Grant Agreement is attached hereto as **Exhibit B**.

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C. The terms and conditions of this Assignment, the Grant Agreement, all applicable OHCS administrative rules (including as such administrative rules are amended from time to time), all applicable Program handbooks (including as amended from time to time), all related OHCS directives (including, but not limited to corrective action notices), funding or other requirements, including as set forth in the Application or Reservation, and all other applicable federal, state and local statutes, rules, regulations, ordinances and orders are hereinafter referred to collectively as the “**Program Requirements**.”

D. Owner is the owner of the Project without material encumbrances except as allowed under this Assignment.

E. The parties desire to execute this Assignment to evidence and confirm the terms by which OHCS hereby consents to Grantee loaning the funds received from the Grant to the Owner for the purposes described in the Grant Agreement and to document Owner’s assumption of the rights and obligations of Grantee in and with respect to the Grant from OHCS, including all Grant Agreement terms and conditions. Owner also is willing to commit to operate the Project in conformance with the Grant Agreement, this Assignment, and other applicable Program Requirements.

F. The parties also desire that this Assignment be recorded in the relevant county records and that certain terms herein constitute restrictive covenants and equitable servitudes that will run with the land of the Project and govern, *inter alia*, the maintenance, habitability, and operation of the Project.

AGREEMENT

NOW, THEREFORE, for good and sufficient consideration, including the terms and conditions of this Assignment, Grantee and Owner hereby agree with OHCS as follows:

1. Incorporation of Recitals and Documents. The foregoing Recitals, Exhibit A, and the original of Exhibit B are incorporated herein by reference. Notwithstanding this incorporation, the foregoing Recitals, Exhibit A, and Exhibit B do not modify the express terms of this Assignment.

2. Definitions. The words and phrases in this Assignment will have the same meanings as used in the Grant Agreement or Program Requirements, unless the context clearly requires otherwise.

3. Provision of Grant to Owner; Assumption of Grant Agreement Obligations; Consent.

(a) Loan of Grant. Grantee has loaned or is loaning the Grant to Owner, pursuant to documented terms, copies of which have been delivered to OHCS.

(b) Assignment; Assumption of Obligations. Owner unconditionally accepts assignment to it by Grantee of Grantee’s interests, rights, and obligations in and with respect to the Grant and the Grant Agreement and, hereby, unconditionally assumes, jointly and severally with Grantee, those interest, rights, and obligations, including but not limited to all obligations owed to OHCS. Owner will timely perform all such obligations to OHCS in a manner satisfactory to OHCS. Owner will, at its own expense, record and deliver this Assignment to OHCS. Grantee and Owner also will execute and deliver to OHCS such other documents reasonably requested by OHCS to give effect to the terms and conditions of this Assignment, including to give effect to and maintain its restrictive covenants and equitable servitude interests in and rights against the Project established hereunder.

(c) Consent. OHCS hereby consents to and approves of Grantee loaning the Grant to Owner without OHCS undertaking any obligations thereby to Owner and without affecting in any manner the restrictions and

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requirements of the Grant Agreement with respect to any further or additional transfers or third-party beneficiaries. Additionally, nothing in this Assignment or in the Grant Agreement will be construed as restricting or impairing any right of OHCS to resort to, proceed against, or otherwise exercise its rights with respect to any property in accordance with the rights granted to OHCS by this Assignment, the Grant Agreement, or by any other agreement.

(d) Ratification. The parties expressly ratify the Grant Agreement as herein assigned and assumed.

4. Representations, Warranties and Covenants of Owner.

Owner agrees, represents, covenants, and warrants as follows:

(a) Adoption; Assumption; Ratification. Owner, jointly and severally with Grantee, hereby adopts, assumes, and ratifies the representations, warranties and covenants of Grantee in and with respect to the Grant, the Project, and the Grant Agreement, including without limitation (i) with respect to responsibility to OHCS for proper use of the Grant, (ii) with respect to the affordability, maintenance, habitability, and operation of the Project, (iii) with respect to reporting and record keeping with respect to the Grant and Project, and (iv) with respect to compliance with all other Program Requirements. Owner will timely perform all terms and conditions of this Assignment (including all incorporated documents and other applicable Program Requirements) in a manner satisfactory to OHCS.

(b) Validity. Owner is an **Oregon limited liability company**, duly organized, validly existing under the laws of Oregon, is authorized to do business in Oregon, and it has the power and authority to transact the business in which it is engaged and to enter into and perform this Assignment.

(c) Authority; No Impairment. The making and performance of this Assignment, including all Obligations, by Owner has been duly authorized by all necessary action of Owner; do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency or any provision of Owner's organizing documents or authorizing statutes; and do not and will not result in the breach of, or constitute a default or require any consent under, any other agreement or instrument to which Owner is a party or by which Owner or any of its properties is bound or affected and does not and will not result in the creation or imposition of any prohibited encumbrance of any nature.

(d) Enforceability. This Assignment (including all incorporated documents), when executed and delivered, is a valid and binding obligation of Owner and Grantee, enforceable in accordance with its terms.

(e) Program Requirements. Owner will timely satisfy all requirements of this Assignment (including all incorporated documents and other Program Requirements) all to the satisfaction of OHCS.

(f) Completion Date. Owner will complete the Project Work no later than **December 31, 2019** in accordance with Program Requirements, including but not limited to the plans and specifications for the Project approved by OHCS or modifications to those plans and specifications, which modifications must be approved by OHCS, and in accordance with the terms and conditions of this Assignment.

(g) Responsibility. Owner assumes full responsibility for timely and appropriate completion of Project Work, for ownership of the Project, for its operation in accordance with Program Requirements, and acknowledges that OHCS has no direct or contractual responsibility for the Project Work, for ownership of the Project, or for operation of the Project.

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5. Notice to OHCS of Material Changes. Owner will promptly notify OHCS in writing of (i) any material adverse change in the financial condition of Owner, or (ii) any suit, governmental action, claim or other proceeding pending or threatened in writing which may have a material adverse effect on Owner or their business operations, condition (financial or otherwise) or involving the Grant or Project. Owner will promptly provide to OHCS on request such credit reports, current financial statements and information, prepared by certified public accountant and certified by Owner, and other documents and information pertaining to the financial condition and obligations of Owner, in reasonable detail and certified where appropriate, as OHCS may reasonably require from time to time, including a detailed statement of income and expenditures (including debt service obligations) and supporting schedules, and updated financial statements.

6. Further Documentation and Assurances. Owner will execute upon request of OHCS such additional instruments and provide such further assurances as OHCS may consider reasonably desirable or necessary to evidence or carry out the parties' intent and agreement under this Assignment or to complete, perfect, continue and preserve the obligations, restrictive covenants and equitable servitudes created under the Grant Agreement or this Assignment. Owner will be responsible for all costs incurred in this transaction, including the cost of obtaining a title insurance endorsement acceptable to OHCS, if requested, insuring that the restrictive covenants and equitable servitudes arising under this Assignment are created and continue as valid encumbrances, in the original priority of title of the Grant Agreement, against the Project.

7. Restrictive Covenants and Equitable Servitudes to Run with the Land.

(a) Inducement. Owner represents and warrants that the consent to Grantee loaning it the Grant by OHCS is an inducement to the Owner to do the Project Work, to assume and comply with the Grant Agreement, and to operate the Project in accordance with and otherwise comply with this Assignment. In consideration of such consent, the Owner has entered into this Assignment and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein. Therefore, the Owner covenants, agrees and acknowledges that OHCS has relied on this Assignment in determining to consent to Grantee loaning the Grant to Owner.

(b) Covenants; Equitable Servitudes.

(1) The parties hereby declare their express intent that throughout the Affordability Period described in the Grant Agreement the covenants, restrictions, charges and easements set forth herein (including in incorporated documents) will be deemed covenants running with the land of the Project and will create equitable servitudes running with the land of the Project, and will pass to and be binding upon OHCS' and the Owner's successors in title including any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein.

(2) Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein (other than a rental agreement or lease for a dwelling unit) will contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument will conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

(3) Any and all legal requirements for the provisions of this Assignment to constitute restrictive covenants running with the land of the Project and applying to the Project as a whole, or to create equitable servitudes with respect to same in favor of OHCS, are deemed satisfied in full.

(4) The consent of any recorded prior lien holder on the Project, including the Property, is not required in connection with recording this Assignment, or if required, such consent has been or will be obtained by the Owner.

(c) Burden and Benefit.

(1) The Owner hereby declares its understanding and intent that the burdens of the covenants and equitable servitudes set forth herein touch and concern the land of the Project, and the Project as a whole, in that the Owner's legal interest in the Project is rendered less valuable thereby.

(2) The Owner hereby further declares its understanding and intent that the benefits of such covenants and equitable servitudes touch and concern the land of the Project, and the Project as a whole, by enhancing and increasing the enjoyment and use of the Project by tenants, intended beneficiaries (in addition to OHCS) of such covenants, reservations and restrictions, and by furthering the public purposes for which the Grant was issued.

(d) Right of Modification. OHCS may compromise, waive, amend or modify the terms of this Assignment including, but not limited to the restrictive covenants and equitable servitudes created hereby, with the written consent of Owner or subsequent Project owners, as it so determines to be to the benefit of OHCS, the Project, the Program, or OHCS' efforts to provide or maintain safe, sanitary, and affordable housing in the State of Oregon. To be effective, any compromise, waiver, amendment or modification of this Assignment must be in writing, signed by an authorized OHCS representative.

(e) No Right of Action. Third-party beneficiaries under this Assignment (including incorporated documents), if any, have no right of action to enforce the restrictive covenants or equitable servitudes created hereunder. OHCS retains the exclusive right to enforce such covenants and servitudes. Tenants and other third-party beneficiaries under this Assignment (including incorporated documents), if any, have no claim, cause of action or other right of recourse against OHCS with respect to any action or lack of action taken by OHCS with respect to this Assignment (including incorporated documents and the described restrictive covenants and equitable servitudes), the Grant, or the Project arising from their rights, if any, under this Assignment or otherwise.

(f) No Attorney Fees. Third-party beneficiaries under this Assignment (including incorporated documents), if any, have no right to attorney fees under this Assignment for claims asserted as third-party beneficiaries hereunder nor will parties hereto have a right to attorney fees against tenants and other third-party beneficiaries, if any, hereunder.

8. No Sale, Transfer, or Other Disposition of an Interest in the Grant, Owner, or Project. Except for the transfer of interests accomplished by this Assignment, no transfers ("Transfers") of any interest in the Project, Owner, or Investor are permitted without prior written approval of OHCS except as provided in the Grant Agreement. Any limitations on Transfer of an interest in or by Recipient contained in the Grant Agreement similarly apply to Transfers of any interest in or by Owner.

9. Removal and Replacement of General Partner or Managing Member. The Investor may seek to remove a General Partner or Managing Member of the Owner for cause pursuant to the terms of the Ownership Agreement in effect as of the date of this Assignment, or pursuant to any revisions adopted by the parties to the

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Ownership Agreement and approved in writing by OHCS, subject to the following: (1) the Investor must notify OHCS in writing of its desire to remove the General Partner or Managing Member for cause; (2) the Investor must notify OHCS in writing of the successor General Partner or Managing Member, if any, and (3) OHCS must give its written consent to the removal and replacement of the General Partner or Managing Member, which consent will not be unreasonably withheld, conditioned or delayed. If the Ownership Agreement provisions related to the removal of the General Partner or Managing Member are amended without OHCS' written approval (a "**Removal Amendment**"), and the Investor seeks to remove a General Partner or Managing Member for cause pursuant to the Removal Amendment, the prior written consent of OHCS must be obtained and OHCS may give or withhold its consent in its sole discretion.

10. Removal and Replacement of Management Agent. OHCS may, for cause, require the removal and replacement of the Management Agent for the Project or, if the Owner directly manages the Project, OHCS may require the appointment of a Management Agent for the Project in lieu of the Owner. The Owner also may, with OHCS' approval, remove and replace a Management Agent in accordance with this Assignment, the terms and conditions of the Ownership Agreement, or any agreement with respect to Project management required by OHCS (at its sole discretion), *inter alia*, to be executed or amended by Owner. Any then current executed agreement with respect to Project management (including as amended) shall be deemed to be incorporated herein by this reference.

11. Unapproved Transfers Are Void. Any Transfer of the Project, Owner, or Investor in violation of this Assignment will be ineffective to relieve the Owner, any Transferee or the Project of any continuing obligations under this Declaration. OHCS' consent hereunder will not be deemed continuing and the Owner and each permitted Transferee will continue to be bound by this Section unless OHCS has consented in writing to the Transfer of the Project, Owner, or Investor.

12. Foreclosure. Except with respect to government lenders, in the event the primary construction or primary permanent lender, its successors or assigns, lawfully acquire title to the Project through foreclosure or deed in lieu of foreclosure, neither the lender nor any subsequent purchaser of the Project following such a foreclosure or deed in lieu of foreclosure will be deemed a "successor or assign" of the Owner, and neither the lender nor such subsequent purchaser will have any obligation to repay the Grant to OHCS and all conditions and restrictions contained herein will terminate on the date, if any, that the Project is so acquired by foreclosure or deed in lieu of foreclosure provided, however, that (i) the preceding provisions of this sentence will cease to apply and the restrictive covenants and equitable servitudes contained in this Assignment will be reinstated if, at any time during the Affordability Period subsequent to the early termination of this Assignment as the result of an event under this section, any person or entity that was an obligor under the Grant Agreement or this Assignment prior to such early termination event, including the Grantee or Owner or any related person to them (within the meaning of Section 42 of The Internal Revenue Code of 1986, as amended, obtains an ownership interest in the Project, and (ii) for three (3) years after the acquisition of title to the Project by the construction or permanent lender any Qualified Unit tenants ("**Qualified Tenants**") in the Project may not be evicted except for cause and rents charged to such Qualified Tenants may not exceed the rent limits established in the Grant Agreement.

13. Subordination.
<Reserved>

14. Indemnity. Grantee and Owner, jointly and severally, assume sole liability for breach of the conditions of applicable Program Requirements (including all terms and conditions of this Assignment) by Grantee, Owner, or any of their officers, agents, employees, and assigns. Owner and Grantee, jointly and severally, will save, hold harmless, indemnify and (subject to ORS chapter 180) defend the State of Oregon, OHCS and their officers, agents, employees, members and assigns, from all suits, actions, claims, losses or damages of whatsoever nature, kind or description related to the Project, the Grant, this Assignment or other Program Requirements, or resulting

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from or arising out of their acts, omissions, neglect or misconduct or the acts, omissions, neglect or misconduct or their subcontractors, agents, or employees under this Assignment (including all incorporated documents) or related to the Grant, Project, or other Program Requirements.

15. Termination. OHCS may terminate this Assignment (including incorporated documents) in whole or in part, without further liability and without impairment of its remedies, effective upon delivery of written notice to Owner, under any of the following conditions:

- (a) If OHCS' funding from federal, state, or other sources is not obtained or is not continued at levels sufficient to allow for delivery of full Grant funding; or
- (b) If federal or state laws, regulations, rules or other requirements are modified or interpreted in such a way that the intended use of Grant funding for the Project is no longer allowable or appropriate or the Project is no longer eligible for the Grant funding identified in this Assignment from the planned funding source(s) or if OHCS is determined by its legal counsel or otherwise to lack or to have lost the authority to administer the Program; or
- (c) If any authority required by law or regulation to be held by Owner to complete the Project ends for any reason; or
- (d) If Owner is unable or fails to commence the Project within the time provided in the Grant Agreement; or
- (e) If Owner breaches or fails to timely perform any of its obligations under this Assignment, or any other applicable Grant document and such breach is not cured within the grace period, if any, provided for cure in the applicable document; or
- (f) If OHCS determines that any representation, warranty or covenant of Owner, whether in whole or in part, is false, invalid, or in default; or
- (g) If Owner (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all or substantially all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (v) is adjudicated a bankrupt or insolvent, (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect), or (viii) takes any action for the purpose of effecting any of the foregoing.

Termination of this Assignment does not terminate or otherwise impair or invalidate any remedy available to OHCS, Recipient, or Owner hereunder, at law, or otherwise.

16. Remedies.

(a) Repayment. If this Assignment or any part hereof, terminates prior to the term of the Affordability Period, Owner will, within thirty (30) days of written demand for repayment, repay to OHCS all Grant funds disbursed to it or to Recipient, together with any earnings on such funds.

(b) Deficiencies. OHCS may, from time to time, identify and direct Owner to correct deficiencies in its compliance with this Assignment (including incorporated documents and other Program Requirements),

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which it shall correct as so directed.

(c) Additional Remedies. If the Owner defaults in the performance or observance of any covenant, agreement or obligation set forth in this Assignment, and if such default remains uncured by Owner for a period of thirty (30) days or less (depending upon the requirements of the notice, lesser notice periods being reserved for matters that OHCS determines relate to material health or safety needs of Project occupants) after notice thereof shall have been given by OHCS, or if such default runs for a period of thirty (30) days from the date the Owner should, with due diligence, have discovered such default, then OHCS may declare an **"Event of Default"** to have occurred hereunder provided. However, if a default is not reasonably capable of being cured within thirty (30) days or any lesser notice period provided by OHCS, OHCS may, in its sole discretion, extend the correction period for up to six (6) months, but only if OHCS determines there is good cause for granting the extension; and provided further, however, in the event of a foreclosure, deed in lieu of foreclosure, or similar event with respect to the Project or the Land, the correction period for the successor for an existing default shall be no less than thirty (30) days from the earlier of the date the successor obtains control or becomes the owner of the Project. To the extent that the default is not corrected within the above described period including extensions, if any, granted by OHCS, an Event of Default shall be deemed to occur and OHCS may exercise its rights and remedies under this Section. Following the occurrence of an Event of Default hereunder OHCS may, at its option, take any one or more of the following steps (except that itemized remedies (2), (3), (6), and (7) always must be preceded by notice of default to the Investor in accordance with this subsection while Investor is a member of Owner), in addition to all other remedies provided in this Agreement, by law, or in equity:

- (1) By mandamus or other suit, action or proceeding at law or in equity, require Owner specifically to perform its obligations under this Assignment or enjoin any acts or things that may be unlawful or in violation of the rights of OHCS under this Assignment;
- (2) Obtain the appointment of a receiver to operate the Project in compliance with this Assignment;
- (3) Require a change in the General Partner or Managing Member of Owner to its satisfaction (and, for the duration, respectively, of Investor's involvement in Owner or the Primary Lender's Loan, reasonably satisfactory to Investor and Primary Lender;
- (4) Require termination of the Management Agent and its replacement to OHCS' satisfaction;
- (5) Require Owner to cease management of the Project and to engage a Management Agent acceptable to OHCS;
- (6) Withhold from Owner, suspend, terminate, or (upon 30-days written demand) require the repayment of all or any part of other funding assistance provided by OHCS to Owner with respect to the Project;
- (7) Declare Owner, or any member thereof, ineligible to receive further Credit or other OHCS funding assistance, including with respect to other projects or requests for same, for such period as OHCS determines in its sole discretion;
- (8) Have access to, and inspect, examine and make copies of, all of the books and records of Recipient and Owner pertaining to the Project and to inspect the Project itself;
- (9) Enter onto the Property and correct Events of Default with respect to the Project at Owner's expense, which expense Owner will repay to OHCS within ten (10) days of any presentment of charges for same; and

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(10) Exercise of such other remedies as permitted or authorized under this Agreement, by law, or in equity.

(c) Survival of Remedies; Remedies Nonexclusive; Non-Waiver. The rights and remedies of OHCS provided for in this Assignment, which by their nature are intended to survive termination of this Assignment, shall survive the termination of the Affordability Period and of this Assignment. The rights and remedies of OHCS provided for in this Assignment will not be exclusive and are in addition to any other rights and remedies available at law, in equity or otherwise. No failure of or delay by OHCS to enforce any provision of this Assignment will constitute a waiver by OHCS of that or any other provision, nor will any single or partial exercise of any right, power or privilege under this Assignment preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

17. Time of the Essence. Time is of the essence in the performance of this Assignment.

18. No Discrimination; Marketing. Owner will not discriminate in the provision of housing on the basis of race, creed, color, sex, national origin, religion, marital status, sexual orientation, family status, age, disability or the receipt of public assistance. Owner will use its reasonable efforts to advertise and market the Project dwelling units, particularly the Qualified Units, within the county and, if applicable, the city in which the Project is located.

19. Notice.

(a) Except as otherwise expressly provided in this Assignment, any notices required or permitted to be given under this Assignment will be given in writing, by personal delivery, or mailing the same, postage prepaid, to OHCS or Owner (or Grantee if applicable) at the following addresses:

OHCS: Oregon Housing and Community Services Department
Attn: Asset Management and Compliance Section
725 Summer Street N.E., Suite B
Salem, Oregon 97301-1266

Owner: Sky Meadows, LLC
1007 NW Rimrock Drive
Redmond, Oregon 97756

Grantee: Klamath Housing Authority
1445 Avalon
Klamath Falls, Oregon 97601

or to such other address a party may indicate to the other pursuant to this Subsection. Any notice so addressed and mailed shall be effective five (5) days after mailing. Any notice by personal delivery shall be deemed to be given when actually delivered.

(b) Notice to Investor. If written notice of a default to the Owner is required under this Assignment, then OHCS will also deliver written notice of such Event of default to the Investor at the Investor's address as referenced below (or such other single address as may be provided in writing) for as long as the Investor shall have an ownership interest in Owner.

Investor: Alden Capital Partners Tax Credit Fund 24, LP
c/o Alden Capital Partners, LLC
15260 Ventura Boulevard, Suite 600
Los Angeles, CA 91403
Telephone: (818) 380-6131
Attention: Jeffrey Weiss

With a copy to: Nixon Peabody LLP
799 9th Street NW, Suite 500
Washington, DC 20001
Telephone: (202) 585-8000
Attention: Gary A. Band, Esq.

(c) Investor Cure Right. In addition to any other cure provisions contained in this Assignment, the Investor (and any special member or special limited partner affiliated therewith) will have the right to cure all defaults for which delivery of written notice to the Owner is required under this Assignment within the same time periods allowed to Owner.

20. No Third-Party Beneficiaries. Unless and only to the degree expressly provided otherwise in this Assignment, OHCS, Owner and Grantee are the only parties to this Assignment and are the only parties entitled to rely on and enforce the terms of this Assignment. Nothing in this Assignment gives, is intended to give, or will be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly indirectly or otherwise, to third persons unless such third persons are expressly identified in this Assignment and only to the degree they are expressly described as intended beneficiaries of particular terms of this Assignment and only with such remedies as expressly given herein with respect to such interests.

21. Owner Status.

(a) Independent Contractor. Owner will perform all obligations under this Assignment, including all Obligations, and will timely satisfy all Program Requirements as an independent contractor. Owner is not an officer, employee or agent of the State, as those terms are used in ORS 30.265, with respect to performance under this Assignment.

(b) Owner Responsible for Insurance Coverage. Owner agrees that insurance coverage, whether purchased or by self-insurance, for Owner's agents, employees, officers and/or subcontractors is the sole responsibility of Owner.

(c) Non-federal Employment Certification. Owner certifies that it is not employed by or contracting with the federal government for performance covered by this Assignment.

(d) Good Standing Certification. Owner certifies to the best of its knowledge and belief that neither the Owner nor any of its principals, officers, directors or employees:

(i) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any state or federal department or agency;

(ii) Has within a three (3) year period preceding this Assignment been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft,

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forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(iii) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subsection (d)(2);

(iv) Has within a three (3) year period preceding this Assignment had one or more public transactions (federal, state or local) terminated for cause or default; and

(v) Owner and Owner's employees and agents are not included on the list titled "**Specially Designated Nationals and Blocked Persons**" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

22. Further Assurances.

(a) **Additional Acts.** Grantee or Owner, at any time upon request of OHCS, will do, make, execute and deliver all such additional and further acts, instruments or papers as OHCS may require to assure OHCS of its rights under this Assignment.

(b) **Reliance.** OHCS may rely upon statements and certificates of Grantee or Owner and persons or families of very low income believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of Grantee or Owner pertaining to occupancy on the Project.

(c) **Consultation.** OHCS may consult with legal counsel, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by OHCS hereunder in good faith and in conformity with the opinion of such counsel.

23. Severability. If any term or provision of this Assignment is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Assignment did not contain the particular term or provisions held to be invalid.

24. Survival of Obligations. The obligations of Grantee (and of Owner by assignment and assumption herein) as set forth in the Application and Reservation, will survive the reservation of any Grant funds and will not be deemed to terminate or merge with the awarding of the funds. Provisions of this Assignment which by their nature are intended to survive termination of this Assignment will survive.

25. Attorney Fees. In the event a lawsuit is instituted regarding this Assignment, the prevailing party in any dispute arising under this Assignment will, to the extent permitted by law, be entitled to recover from the other(s) its reasonable attorney fees and all costs and disbursements incurred at trial and on appeal. Reasonable attorney fees will not exceed those rates charged to OHCS by its counsel. This section does not apply to lawsuits or other proceedings instituted or maintained by or against tenants or other third-party beneficiaries hereunder, if any, for which lawsuits or other proceedings no award of attorney fees is permitted.

26. Construction. The parties to this Assignment acknowledge that each party and its counsel have participated in the drafting and revision of this Assignment. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in the interpretation of this Assignment or any amendment, modification, supplementation or restatement of the foregoing or of any exhibit to

ASSIGNMENT AND ASSUMPTION AGREEMENT – LIWX

Sky Meadows – Project #3246

Klamath Falls, Klamath County, Oregon 97601

Page 11 of 17

this Assignment.

27. Captions. The captions or headings in this Assignment are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Assignment.

28. Execution and Counterparts. This Assignment may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument

29. Governing Law; Venue: Consent to Jurisdiction. This Assignment will be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") among two or more of the parties related to this Assignment will be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the Project is located) or, if necessary, the United States District Court for the District of Oregon. In no event will this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. GRANTEE AND OWNER, BY EXECUTION OF THIS ASSIGNMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

30. Merger Clause. This Assignment, including the Grant Agreement, Application, Reservation, and any exhibits, schedules, appendices and attachments hereto or thereto constitute the entire agreement among the parties on the subject matter hereof. Owner hereby acknowledges that the Application, the Reservation, and the Grant Agreement survive the execution and delivery of this Assignment. In the event of any inconsistencies between the body of this Assignment, the Grant Agreement, the Application, the Reservation, and any of the attachments to this Assignment, the Grant Agreement, the Application, or the Reservation, the following is the descending order of precedence in which the various provisions are to be interpreted: the Assignment without any attachment or any incorporated provisions, the Grant Agreement without any attachments or any incorporated provisions, the Management Plan, the Plan, the Reservation, the Application, the Property Description (Exhibit A), and then any other attachments. No modification or amendment of this Assignment affecting any party will bind that party unless in writing and signed by OHCS and that party (and the necessary approvals obtained), and no waiver or consent will be effective unless signed by the party against whom such waiver or consent is asserted. Such waiver or consent, if given, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Assignment.

31. No Limitations on Actions of OHCS in Exercise of Its Governmental Powers. Nothing in this Assignment is intended, nor will it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the parties hereto that OHCS will retain the full right and ability to exercise its governmental powers with respect to the Recipient/Grantee, the Owner, the Project, the Grant Agreement, this Assignment, and the transactions contemplated by this Assignment and applicable Program Requirements to the same extent as if it were not a party to this Assignment or the transactions contemplated hereby, and in no event will OHCS have any liability in contract arising under this Assignment, the Application, the Award, the Grant Agreement, the Program Requirements, or otherwise by virtue of any exercise of its governmental powers.

[Signature Pages Follow]

ASSIGNMENT AND ASSUMPTION AGREEMENT – LIWX

Sky Meadows – Project #3246

Klamath Falls, Klamath County, Oregon 97601

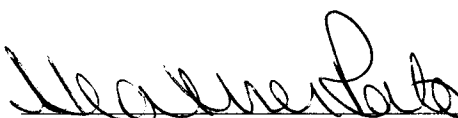
Page 12 of 17

IN WITNESS WHEREOF, the parties have caused this Assignment to be signed by their duly authorized officers as of the first day written above.

OHCS:

State of Oregon, acting by and through its
Housing and Community Services OHCS

By:



Heather Pate, Manager
Multifamily Housing Finance Section

STATE OF OREGON

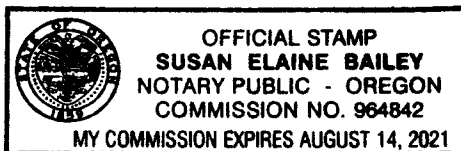
)

: ss

County of Marion

)

The foregoing instrument was acknowledged before me this 7th day of Sept., 2016 by Heather Pate, who is the Manager of the Multifamily Housing Finance Section, for and on behalf of OHCS.




NOTARY PUBLIC FOR OREGON
My Commission Expires: 8/14/21

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ASSIGNMENT AND ASSUMPTION AGREEMENT – LIWX

Sky Meadows – Project #3246

Klamath Falls, Klamath County, Oregon 97601

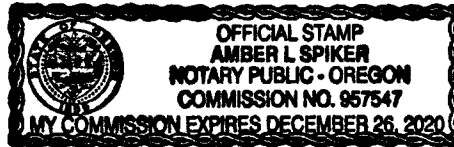
Page 13 of 17

GRANTEE:

Klamath Housing Authority,
an Oregon public body corporate and politic
Tax ID: 93-0637235

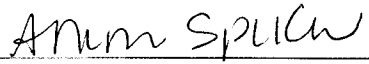
By:


Diana Otero, Executive Director



STATE OF OREGON)
 : ss
County of Klamath)

The foregoing instrument was acknowledged before me this 26 day of **September**, 2017 by **Diana Otero, Executive Director** of **Klamath Housing Authority**, an Oregon public body and politic, who executed the foregoing instrument for and on behalf of the Grantee.


NOTARY PUBLIC FOR OREGON
My Commission Expires: December 26, 2020

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OWNER:

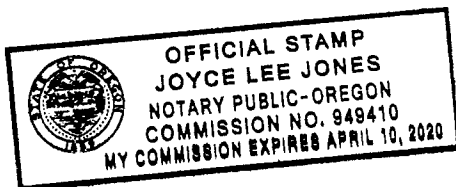
Sky Meadows, LLC
an Oregon limited liability company
Tax ID: 61-1798990

By: LDA-Sky Meadows Development, LLC, Managing Member
By Luckenbill-Drayton & Associates, LLC, Manager

By: Lisa M. Drayton
Lisa M. Drayton, Manager

STATE OF Oregon)
 : ss
County of Deschutes

The foregoing instrument was acknowledged before me this ___ day of **September**, 2017 by **Lisa M. Drayton**, as manager of **Luckenbill-Drayton & Associates, LLC**, as Manager of **LDA-Sky Meadows, LLC**, as Managing Member of **Sky Meadows, LLC**, an Oregon limited liability company, who executed the foregoing instrument for and on behalf of the Owner.



Joyce Jones
NOTARY PUBLIC FOR OREGON
My Commission Expires: 04-10-2020

[The balance of this page is intentionally left blank]

EXHIBIT A

[Legal Description]

Parcel 1

The North half of Lots 7 and 8, Block 59, Buena Vista Addition to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Parcel 2

A portion of Lots 7 and 8 in Block 54, of Nichols Addition to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows:

Beginning at the most Northerly corner of Lot 8, Block 54, Nichols addition to the City of Klamath Falls, Oregon, and running thence Southwesterly along Lincoln Street, a distance of 87 feet; thence Southeasterly parallel with 8th street a distance of 60 feet; thence Northeasterly parallel with Lincoln street a distance of 87 feet; thence Northwesterly along 8th street a distance of 60 feet to the place of beginning; being the Northwesterly 60 feet of the Northeasterly 22 feet of Lot 7, and the Northwesterly 60 feet of Lot 8 in Block 54, Nichols Addition to the City of Klamath Falls, Oregon.

Parcel 3

Parcel 1 of Land Partition 2-17 Replat of Parcel 2 of Land Partition 8-00, situated in SE1/4 NE1/4 Section 14, Township 39 South, Range 09 East of the Willamette Meridian, Klamath County, Oregon and recorded May 8, 2017 as Instrument No. 2017-004773, Klamath County Records.

EXHIBIT B

[Copy of Original Executed LIWX Grant Agreement~]

After Recording Return to:
Housing and Community Services
Attn: Multifamily Housing Finance Section
725 Summer Street, Suite B
Salem, OR 97301-1266

Amenite 122980AM

SPACE ABOVE FOR RECORDER'S USE

**STATE OF OREGON
HOUSING AND COMMUNITY SERVICES DEPARTMENT
LOW INCOME WEATHERIZATION PROGRAM
GRANT AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS**

This Low Income Weatherization Program Grant Agreement and Declaration of Restrictive Covenants (this "Agreement") is made and entered into this 21 day of September, 2017 by and between **Klamath Housing Authority, an Oregon non-profit corporation**, (the "Recipient"), and the State of Oregon, acting by and through its Housing and Community Services Department, together with its successors and assigns ("OHCS").

RECITALS

- A. The Recipient has completed and submitted to OHCS an application (the "Application") for a reservation of Low Income Weatherization Program ("LIWX") funds to be used in the development of an affordable multifamily residential housing development in **Klamath County, Oregon** more fully described below (the "Project") on and including land described in Exhibit A, attached hereto (the "Property").
- B. In response to the Application by Recipient, OHCS has conditionally made a LIWX grant reservation to Recipient up to the principal amount of **Seventy-Six Thousand Five Hundred Seventy-Three Dollars (\$76,573)** (the "Grant") for the purpose of partially reimbursing the **new construction** (collectively, "Work") costs of **one (1) rental unit** (the "Qualified Unit") and related common areas in the **twelve (12) -building, thirty seven (37) - unit affordable multifamily rental housing development** (including **one (1) manager unit**) Project, which is to be known as **Sky Meadows**.
- C. The Grant conditionally reserved to Recipient as described above is subject, *inter alia*, to the terms and conditions of this Agreement, including the terms and conditions of the Application as modified by OHCS' conditional LIWX reservation letter dated **December 16, 2016** (the "Reservation").

AGREEMENT

WHEREFORE, for good and sufficient consideration, including the terms and conditions herein, OHCS and Recipient mutually agree as follows:

PART I: DEFINITIONS; INCORPORATION OF RECITALS AND DOCUMENTS.

1. Words and terms used in this Agreement, when applicable, will have the meanings given herein (including incorporated documents), in OHCS administrative rules, guidelines, and directives, or in other applicable law, unless the context clearly requires otherwise.

2. The foregoing Recitals, Exhibit A, Exhibit B (Eligible Weatherization Activities List), the OHCS approved Management Agreement, the OHCS approved Resident Services Plan, the Application, and the Reservation are incorporated herein by reference. However, the incorporated items do not override the express provisions of this Agreement.

PART II: GRANT ISSUANCE.

1. Grant.

(a) **Authority; Amount.** Subject to the availability of LIWX funds, OHCS having continued funding, appropriation, limitation, allotment, or other expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement, and conditioned upon the terms and conditions of this Agreement, OHCS will make the Grant to Recipient up to the maximum principal amount stated above and perform under this Agreement.

(b) **Limitations.** Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OHCS.

2. **Grant Disbursement.** OHCS will disburse the Grant to Recipient after satisfaction of Reservation conditions at its sole discretion and after execution and recording of this Agreement and delivery to OHCS of information satisfactory to it that Project Work will commence within a reasonable time period. OHCS may disburse the Grant prior to recording of this Agreement, at its sole discretion, upon placement of the executed Agreement in escrow with binding instructions to record this Agreement upon notice to the escrow officer by OHCS or upon Recipient's establishment of fee simple title to the Project.

3. **Appropriateness of Weatherization Charges.** Grant funds may only be used for reimbursement of eligible costs. OHCS may review all receipts and other evidence, as well as require and obtain such other information as it determines appropriate, concerning the eligibility, appropriateness, and amount of Recipient weatherization activities and costs prior to and after disbursing Grant moneys to Recipient under this Agreement. OHCS' determination as to the eligibility, appropriateness and amount of such weatherization activities and costs, and the appropriate amount of any reimbursement for same will be at OHCS' sole discretion.

4. **Grant Expiration.** OHCS' Reservation commitment will expire **Six (6)** months from the date of this Agreement if the Borrower fails to timely satisfy the requirements above in Part II, Section 2 unless the Grant or this Agreement are sooner terminated by OHCS. Approval of any extension of the Reservation commitment, and the length of any approved extension, is at OHCS' sole discretion and must be in writing and signed by an authorized representative of OHCS.

PART III: REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT.

The Recipient represents, warrants and covenants that:

1. **Validity.** It is an **Oregon non-profit corporation**, duly organized, validly existing under the laws of Oregon, is authorized to do business in Oregon, and it has the power and authority to transact the business in which it is engaged and to enter into and perform this Agreement;

2. **Authority; No Impairment.** The making and performance of this Agreement by Recipient has been duly authorized by all necessary action of Recipient; do not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative agency or any

provision of Recipient's organizing documents or authorizing statutes; and do not and will not result in the breach of, or constitute a default or require any consent under, any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties is bound or affected and does not and will not result in the creation or imposition of any prohibited encumbrance of any nature;

3. Enforceability. This Agreement, when executed and delivered, is a valid and binding obligation of Recipient enforceable in accordance with its terms;

4. Program Requirements. Recipient will timely satisfy all requirements of this Agreement, including all applicable OHCS administrative rules (including as such administrative rules are amended from time to time), all applicable Program handbooks (including as amended from time to time), all related OHCS directives (including, but not limited to corrective action notices), funding or other requirements set forth in the Application or Reservation, and all other applicable federal, state and local statutes, rules, regulations, ordinances and orders (all the foregoing, collectively, the "**Program Requirements**"), to the satisfaction of OHCS;

5. Completion Date. Recipient will complete the Project Work no later than **December 31, 2019** in accordance with Program Requirements, including but not limited to the plans and specifications for the Project approved by OHCS or modifications to those plans and specifications, which modifications must be approved by OHCS, and in accordance with the terms and conditions of this Agreement.

6. Responsibility. Recipient assumes full responsibility for timely and appropriate completion of Project Work, for ownership of the Project, for its operation in accordance with Program requirements, and acknowledges that OHCS has no direct or contractual responsibility for the Project Work, for ownership of the Project, or for its operation.

PART IV: ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT.

The Recipient also represents, warrants, and covenants that:

1. Program Activities.

(a) Appropriate Costs. Recipient will use Grant funds only for reimbursement of its actual and appropriate costs of eligible weatherization activities as identified in Exhibit B, or otherwise addressed in Program Requirements, related to **construction of one (1)** income-restricted residential rental unit (i.e., the "**Qualified Unit**") of the **thirty-seven (37)** total units in the Project and such eligible common areas and other aspects of the Project consistent with Program Requirements, including as described in the Application and approved in the Award. Exhibit B is attached hereto.

(b) Energy Inspection. Upon completion of Project construction, Recipient also will obtain an energy inspection acceptable to the Department ascertaining the efficacy and completion of the LIWX activities undertaken with respect to the Project. Such inspection must be performed by an independent third party acceptable to the Department and the report of same provided promptly and directly by that third party to the Department.

(b) Compliance. Recipient will comply, and will cause its agents, employees, contractors, subgrantees and assigns, if any, to comply with the terms and conditions of this Agreement, including all applicable Program Requirements and all otherwise applicable laws (including, without limitation, all applicable federal, state and local statutes, rules, regulations, ordinances and orders affecting the Project or activities related thereto).

2. Affordability.

(a) **Income Limitations.** For a period of **Sixty (60)** years from the date that any building in the Project is first placed in service or until **March 1, 2080** whichever is later (the “**Affordability Period**”), Recipient will continuously rent or hold vacant for rent the following Qualified Unit(s) to households whose incomes are at or below the following levels of the area median income, adjusted by family size, as determined by OHCS based upon information from the U.S. Department of Housing and Urban Development (“**HUD**”) or other applicable source:

Unit Type	Number of Units	Maximum Percent of Median Family Income As Determined by HUD	Maximum Rent Standards As Determined by HUD
		Homedale Site	
2 bdr	1	60%	60%

* The **maximum restricted-incomes** for the Qualified Units reflected in the above table are based upon the rent-restriction election made by Recipient in the Application as approved in the Reservation. Maximum restricted-incomes consistent with the foregoing standards are published by HUD, adjusted for family size and Project location.

** The **maximum restricted-rents** for the Qualified Units, as published by HUD, correspond to the elected income limits and Maximum Rent Standards payable by Qualified Tenants reflected in the table, but actual rents for the Project payable by Qualified Tenants may be lower depending on the terms of other applicable rent subsidies or OHCS rent-approval requirements. Under no circumstances will tenants be required to pay more rent than that allowed by applicable rent-subsidy programs or Program Requirements, the most conservative restrictions having precedence.

*** The table shows maximum income and rent standards rounded up to the nearest percentile. The Recipient has represented to OHCS in its Application that the rent payable by Qualified Tenants and income levels of Qualified Tenants will not exceed the maximums identified in the foregoing table and will otherwise comply with Program Requirements.

(b) **Rent Restrictions.** Throughout the Affordability Period, Recipient will ensure that the Project owner (“**Owner**”) will restrict gross rents with respect to the Qualified Unit(s) in compliance with Program Requirements, with not-to-exceed limits as reflected in the above table. The not-to-exceed limits are indicated as a percentage of the applicable area (county) median family income determined by OHCS based upon information from HUD or other applicable source. Net rents allowable to the Owner are not more than gross rents less an appropriate utility allowance. Recipient will ensure that the Owner will obtain prior written approval from OHCS for setting or increasing Qualified Unit rents (accompanied by submittal of a schedule of rents for all Project dwelling units) not in excess of the foregoing table, which approvals OHCS may give or withhold at its reasonable discretion. The Owner may request an increase in rents annually in writing, together with supporting documentation, both satisfactory to OHCS, which request will be deemed approved if not in excess of Program limits and not denied or modified by OHCS within ninety (90) days of its receipt by OHCS. Subject to Program limits, OHCS may approve, deny or modify such rent increase requests at its sole discretion. OHCS, at its sole discretion, also may approve, deny or modify other requests by the Owner for rent increases subject to Program limits. OHCS, at its sole discretion, also may approve, deny or modify other requests by Owner for rent increases subject to other OHCS subsidy limits.

3. **Habitability; Other Compliance.** Throughout the Affordability Period, Recipient will ensure that the Owner will maintain the Project in a safe, sanitary, and habitable condition satisfactory to OHCS and in accordance with Program Requirements, including applicable zoning and code requirements.

4. **Resident Service Programs.**

(a) **The Plan.** Recipient will file with OHCS a Project Resident Services Plan (the "Plan"), consistent with Program Requirements, satisfactory to OHCS. Any then current Plan, when approved by OHCS, will be incorporated into this Agreement by reference. OHCS may require periodic revisions to the Plan from the Recipient. The Recipient may propose revisions to the Plan for approval by OHCS. All Plan revisions are subject to OHCS' sole discretion and must be approved in writing by OHCS prior to becoming effective.

(b) **Resident Services.** Recipient will provide timely resident services appropriate to the Project population and consistent with the Plan, including as the Plan may be revised from time to time.

5. **Management Oversight.**

(a) **The Management Plan.** Recipient will file with OHCS a Project Management Plan and/or execute a Regulatory Agreement as to Project Management (the "Management Plan"), consistent with Program Requirements, satisfactory to OHCS. Any then current Management Plan, when approved by OHCS, will be incorporated into this Agreement by reference OHCS may require periodic revisions to the Management Plan from the Recipient. The Recipient may propose revisions to the Management Plan for approval by OHCS. All Management Plan revisions are subject to OHCS' sole discretion and must be approved in writing by OHCS prior to becoming effective.

(b) **Management Performance.** Recipient will provide timely and suitably perform Project management responsibilities directly or through a management agent approved in writing by OHCS consistent with the Management Plan, including as the Management Plan may be revised from time to time.

6. **Records; Certifications; Monitoring; Corrective Action.**

(a) **Financial and Performance Reports.** Recipient will maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient will maintain records satisfactory to OHCS documenting compliance with Program Requirements. Recipient will retain and keep accessible all such records, books, documents, papers, plans, records of shipments and payments and writings throughout the Affordability Period and for a minimum of **six (6) years**, or such longer period thereafter, as may be required by OHCS, which does include any period beyond the Affordability Period during which an audit, claim, or litigation with respect to the Project or Agreement remains outstanding, plus **two (2) years** thereafter.

(b) **Annual Certification; Additional Information.** Recipient will provide an annual certification, in a format and on a schedule approved by OHCS in its sole discretion, that the Recipient is fulfilling its obligations under this Agreement. OHCS may, from time to time, require additional information or reporting from Recipient.

(c) **Monitoring.** Recipient acknowledges and agrees that OHCS, the Oregon Secretary of State's Office, and the federal government, and their duly authorized representatives will have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Recipient that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits, and make excerpts and transcripts, and take copies. Furthermore, the Recipient acknowledges and

agrees that OHCS may inspect the Project, and any part thereof, upon reasonable notice to the Recipient and tenants. The Recipient, its agents, employees, and subcontractors will cooperate fully with OHCS in any requested inspection of the Project, its records, or other compliance monitoring.

(d) Corrective Action. As a consequence of its monitoring or otherwise, OHCS may identify deficiencies in Recipient's compliance with Program Requirements. OHCS may require action by Recipient (satisfactory to OHCS) to correct such deficiencies. Recipient will correct such deficiencies within thirty (30) days of notice by OHCS of such deficiencies unless earlier correction is required by OHCS to address material health or safety needs of Project tenants. The reasonableness of such corrective actions is subject to OHCS in its sole discretion.

PART V. FURTHER ASSURANCES.

1. Further Acts. Recipient, at any time upon request of OHCS, will do, make, execute and deliver all such additional and further acts, instruments or papers as OHCS may require in its sole discretion to protect OHCS' rights under this Agreement.

2. Reliance. OHCS may rely upon statements, certificates, and other records of Recipient and its agents and assigns, as well as of occupants of Qualified Unit(s), including as to accuracy, genuine nature, and proper execution of such statements, certificates, and other records.

3. Consultation with Counsel. OHCS may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection as to any action taken or suffered by OHCS in good faith and in conformity with the opinion of such counsel with respect to this Agreement or the Project.

4. Agent Compliance. Recipient will comply, and will cause its agents, employees, contractors, subgrantees and assigns, if any, to comply with the terms and conditions of this Agreement, including all applicable Program Requirements.

5. Single-Asset Entity. Recipient is and at all times during the term of this Agreement, including but not limited to the Affordability Period, will be a single-asset entity, i.e., owning and operating only the Project and no other asset or will, within a period acceptable to OHCS, assign the Grant to a single-asset entity satisfactory to OHCS (and on documented terms satisfactory to and approved by OHCS), which entity will own and operate only the Project during the period of this Agreement, including but not limited to the Affordability Period.

6. Limitation on Debt. Except to the extent of debt to which OHCS agrees to be subordinated in Part VI of this Agreement, Recipient and any assignee under section 6 above, will have no other debt that does or may result in a lien against the Project without prior written consent from OHCS.

PART VI: SUBORDINATION.

<RESERVED>

PART VII: NO UNAPPROVED TRANSFERS; REMOVAL OF GENERAL PARTNER/MANAGING MEMBER OR MANAGEMENT AGENT; CONSENTS.

1. Sale, Transfer, or Other Disposition of an Interest in the Grant, Recipient, Owner (including Investor), or Project.

(a) Transfer of Any Interest in Project. Except in relation to leases to tenants ("Tenants") for the residential units in the Project, if the Recipient or Owner transfers or attempts to sell, assign, bequeath,

dispose or otherwise transfer (collectively, “**Transfer**”) any interest in the Project to any person, entity or other assignee (collectively, “**Transferee**”), without obtaining the prior written consent of OHCS, OHCS may declare an Event of Default under the terms of this Agreement and exercise the remedies provided for in this Agreement or otherwise available at law. OHCS’ consent will not, however, be unreasonably withheld or delayed, but may be conditioned upon:

- (i) reasonable evidence satisfactory to OHCS that the Recipient or Owner are not then in default hereunder beyond any applicable grace period or cure period;
- (ii) the execution and recording of documents satisfactory to OHCS;
- (iii) the payment to OHCS of an appropriate transfer fee; and
- (iv) any other conditions that may be imposed by OHCS, in its complete discretion, to assure, *inter alia*, compliance with federal or state law or other Program Requirements, and also including but not limited to the Owner providing OHCS with current financial information with respect to the Transferee and a full management agent packet for any existing or proposed management agent (“**Management Agent**”).

(b) Transfer of Any Interest in the Recipient or Owner. If the Recipient or Owner sells, Transfers or otherwise disposes of any interest in the Recipient or Owner without obtaining the prior written consent of OHCS, OHCS may declare an Event of Default under the terms of this Agreement and exercise the remedies provided for in this Agreement or otherwise available at law. The parties agree, however, that, so long as the Recipient or Owner is not then in default hereunder beyond any applicable cure period, a Transfer of an interest in the Recipient or Owner made in full compliance with any of clauses (b)(i), (b)(ii), (b)(iii), or (b)(iv) below will constitute a permitted Transfer of an interest in the Recipient or Owner.

(i) Transfers Permitted Prior to Making All Capital Contributions. Prior to making all of the capital contributions with respect to this Project required to be made by the Investor under the ownership agreement in effect between the Investor and Owner as of the date of this Agreement (the “**Ownership Agreement**”), a one-time Transfer of the Investor’s limited partnership or limited membership in the Owner may be made to an Affiliate of the Investor with advance written notice to OHCS of such Transfer (“**Permitted Affiliate Transfer of Owner Interest**”) so long as the Transfer occurs within one (1) year of the date of this Agreement. No OHCS consent shall be required for a Permitted Affiliate Transfer of Owner Interest, but written notice shall be provided to OHCS as set forth in this Agreement in connection with such Permitted Affiliate Transfer of Owner Interest. Further, OHCS will not impose a transfer fee or charge on the Owner for a Permitted Affiliate Transfer of Owner Interest.

(ii) Other Transfers Made Prior to Making All Capital Contributions. Prior to making all capital contributions required to be made by the Investor under the Ownership Agreement, other than a Permitted Affiliate Transfer of Owner Interest pursuant to clause (i) above, no interest in the Owner may be Transferred without the written consent of OHCS, which it may give or withhold in its sole but reasonable discretion, taking into consideration those factors it determines to be relevant. OHCS shall communicate its determination to consent or withhold consent to a Transfer promptly to the Owner and may impose a transfer fee or charge on the Owner consistent with applicable administrative rules, as amended from time to time.

(iii) Transfers of Owner Interest After Making All Capital Contributions. After all of the capital contributions to be made by the Investor under the Ownership Agreement have been made, the Transfer of the limited partnership or membership interest in the Owner (a “**Post Conversion Transfer of Owner Interest**”) may be made subject to the following: OHCS must (A) be given advance written notice of the

proposed Transfer; (B) give its written consent to the Transfer, which consent shall not be unreasonably withheld, conditioned or delayed; and (C) OHCS may impose a transfer fee or charge on the Owner consistent with applicable administrative rules, as amended from time to time. The parties agree that a Post Conversion Transfer of Owner Interest to an Affiliate shall be presumed reasonable and that OHCS will promptly provide its consent to such a Transfer upon confirmation that such Transfer involves a Transfer to an Affiliate of the Investor and satisfaction of the foregoing conditions.

(iv) Transfers of Interests in General Partner of Owner. To assure appropriate use of tax credit capital contributions by Owner, and that any party having an ownership interest in the general partner or managing member of the Owner is suitable for such purpose, appropriate for the operational integrity of the general partner or managing member, and sufficiently limited in its capacity to direct or control actions by the general partner or managing member, a party proposing to acquire an ownership interest in the general partner or managing member (a “**Member**”) may not acquire an ownership interest in the general partner or managing member without the prior written consent of OHCS. Such consent shall be conditioned on (A) the ownership interest in the general partner or managing member to be acquired by the Member being not greater than one-percent (1%) of the ownership interest in the Owner, (B) OHCS receiving evidence reasonably satisfactory to OHCS establishing the suitability of the Member, and (C) payment to OHCS of a transfer fee or charge consistent with program administrative rules, as amended from time to time.

(c) Transfer of Any Interest in Investor. If the Investor Transfers any interest in the Investor without obtaining the prior written consent of OHCS, OHCS may declare an Event of Default under the terms of this Agreement and exercise the remedies provided for hereunder or otherwise available at law. The parties agree, however, that, so long as the Owner is not then in default hereunder beyond any applicable cure period, a Transfer of an interest in the Investor made in full compliance with any of clauses (c)(i), (c)(ii), or (c)(iii) below shall constitute a permitted Transfer of an interest in the Investor.

(i) Transfers Permitted Prior to Making All Capital Contributions. Prior to making all of the capital contributions required under the Ownership Agreement: (1) Transfers of interests in the Investor (the “**Investor Membership Interests**”) may be made among the initial holders of the Investor Membership Interests (the “**Initial Investment Members**”), provided that the Owner provides written notice to OHCS of the Transfer within thirty (30) days of the Owner learning of the Transfer; and (2) Transfers of Investor Membership Interests may be made to a person or entity that is not an Initial Investment Member if, after making such Transfers not less than 75% of the holder(s) of the Investor Membership Interests are either (a) the Investor or an Affiliate of the Investor, or (b) Financial Institutions or Publicly Held Corporations with a credit rating at the time of such Transfer of BBB- or better by Standard & Poor’s or Baa3 or better by Moody’s Investor Service, Inc., or wholly-owned subsidiaries of such entities or are otherwise holders that have been approved by OHCS, provided that the Owner shall provide written notice to OHCS of the Transfer within thirty (30) days of the Owner learning of the Transfer. Transfers of Investor Membership Interests described in sub-clauses (1) and (2) of this clause (i) are referred to herein as “**Permitted Investor Membership Interest Transfers**”). No OHCS consent shall be required for any Permitted Investor Membership Interest Transfer pursuant to sub-clauses (1) or (2) of this clause (i), but written notice shall be provided to OHCS as set forth above in connection with each such Transfer. Further, OHCS may impose a transfer fee or charge on the Owner for Permitted Investor Membership Interest Transfers consistent with applicable administration rules, as amended from time to time.

(ii) Other Transfers Made Prior to Making All Capital Contributions. Prior to making all capital contributions required under the Ownership Agreement, other than Permitted Investor Membership Interest Transfers pursuant to clause (i) above, no interest in the Investor, including any Investor

Membership Interest, may be Transferred without the written consent of OHCS, which consent may be given or withheld in its sole but reasonable discretion, taking into consideration those factors it determines to be relevant. OHCS will communicate its determination to consent or withhold consent to a Transfer promptly to the Owner and may impose a transfer fee or charge on the Owner consistent with applicable administrative rules, as amended from time to time.

(iii) **Transfers of Investor Interest After Making All Capital Contributions.** After all of the capital contributions to be made by the Investor under the Ownership Agreement have been made, the Transfer of any limited partnership or membership interest in the Investor, including any Investor Membership Interest (a “**Post Conversion Transfer of Investor Interest**”) may be made without prior notice to or approval by OHCS, provided that Owner shall provide written notice to OHCS of any Post Conversion Transfer of Investor Interest within thirty (30) days of reasonable discovery of such Transfer. OHCS will not impose a transfer fee or charge on the Owner for a qualifying Post Conversion Transfer of Investor Interest.

2. Definition of Affiliate. The term “Affiliate” means any corporation, partnership, limited liability company, or other entity directly or indirectly controlling, controlled by or under common control with such entity. For this purpose “control,” “controlled,” or “controlling” means (i) ownership directly or indirectly of voting control of the corporation or other entity, (ii) control of the management through holding, directly or indirectly, a general partnership interest in a limited partnership or the managing member interest in a limited liability company, or (iii) if such entity has no stock or equity, control over a majority of the board of directors of such entity.

3. Removal and Replacement of General Partner or Managing Member. The Investor may seek to remove a General Partner or Managing Member of the Owner for cause pursuant to the terms of the Ownership Agreement in effect as of the date of this Agreement, or pursuant to any revisions adopted by the parties to the Ownership Agreement and approved in writing by OHCS, subject to the following: (i) the Investor must notify OHCS in writing of its desire to remove the General Partner or Managing Member for cause, (ii) the Investor must notify OHCS in writing of the successor General Partner or Managing Member, if any, and (iii) OHCS must give its written consent to the removal and replacement of the General Partner or Managing Member, which consent will not be unreasonably withheld, conditioned or delayed. If the Ownership Agreement provisions related to the removal of the General Partner or Managing Member are amended without OHCS’ written approval (a “**Removal Amendment**”), and the Investor seeks to remove a General Partner or Managing Member for cause pursuant to the Removal Amendment, the prior written consent of OHCS must be obtained and OHCS may give or withhold its consent in its sole discretion. Notwithstanding the foregoing, the Investor also may replace a General Partner or Managing Member of the Owner for cause with an affiliate of the Investor on a temporary basis for not longer than sixty (60) days pursuant to the terms of the Ownership Agreement in effect as of the date of this Agreement, or pursuant to any revisions adopted by the parties to the Ownership Agreement and approved in writing by OHCS. Such replacement does not require prior OHCS approval and will not be subject to an OHCS transfer fee, but notice thereof must be provided to OHCS within two (2) business days of such replacement. Permanent removal or replacement of the General Partner or Managing Member of the Owner must still be accomplished in conformance with the first two sentences of this section 3.

4. Removal and Replacement of Management Agent. OHCS may, for cause, require the removal and replacement of the Management Agent for the Project or, if the Owner directly manages the Project, OHCS may require the appointment of a Management Agent for the Project in lieu of the Owner. The Owner also may, with OHCS’ approval, remove and replace a Management Agent in accordance with this Agreement, the terms and conditions of the Ownership Agreement, or any agreement with respect to Project management required by OHCS (at its sole discretion). Any then current, executed agreement with respect to Project management (including as amended) shall be deemed to be incorporated herein by this reference.

5. Unapproved Transfers Are Void. Any Transfer of the Project, Recipient, Owner, or Investor in violation of this Agreement will be ineffective to relieve the Recipient, the Owner, the Investor, any Transferee, or the Project of any continuing obligations under this Agreement. OHCS' consent hereunder will not be deemed continuing and the Owner and each permitted Transferee will continue to be bound by this Agreement unless OHCS has consented in writing to the Transfer of the Project, Recipient, Owner, or Investor.

6. Consents by OHCS to Admission of Investor and to Security Interest.

(a) OHCS consents to the admission of the Investor member or limited partner, as applicable, in the Owner and within one year of this Agreement, as applicable, the admission of a special member or special limited partner in the Owner of an entity that is an Affiliate of the Investor.

(b) OHCS consents to the managing member/general partner of the Owner granting a security interest in its interest in the Owner as security for performance of obligations under the Ownership Agreement and under any document evidencing or securing construction or permanent financing of the Project.

(c) OHCS consents to the Owner granting to a primary commercial lender a security interest in the Credits (as defined in the REUA between OHCS and Owner) as security for performance of the Owner's obligations under any document evidencing or securing construction or permanent financing of the Project. In the event of a foreclosure of a deed of trust, mortgage, or other security document securing the Owner's obligation to repay a loan, from the referenced lender, OHCS further consents to a foreclosure by such lender of its security interest in the Credits; provided, however, OHCS makes no representation as to the effect of such a foreclosure on the ability of the foreclosing entity to claim, Transfer, or otherwise utilize the Credits pursuant to IRC Section 42, applicable Oregon law, or otherwise.

7. Sale of Project to Managing Member or General Partner. Absent (1) a change in the managing member or general partner in Owner, or in the composition thereof, or (2) an uncured Event of Default under this Agreement, OHCS consent to the sale of the Project to the current managing member or general partner of the Owner upon termination of the "compliance period" applicable to the last building of the Project to be placed in service as provided in IRC Section 42 provided (1) OHCS is given adequate notice prior to the Transfer, (2) the terms of such sale are reasonable as determined by OHCS, and (3) Owner and the managing member or general partner shall have each complied with all other requirements of OHCS, including provision of requested information, execution of required documents satisfactory to OHCS, and payment of an appropriate transfer fee as established by OHCS.

PART VIII. FORECLOSURE.

Except with respect to government lenders, in the event the primary construction or primary permanent lender, its successors or assigns, lawfully acquire title to the Project through foreclosure or deed in lieu of foreclosure, neither the lender nor any subsequent purchaser of the Project following such a foreclosure or deed in lieu of foreclosure will be deemed a "successor or assign" of the Recipient or Owner, and neither the lender nor such subsequent purchaser will have any obligation to repay the Grant to OHCS and all conditions and restrictions contained herein will terminate on the date, if any, that the Project is so acquired by foreclosure or deed in lieu of foreclosure provided, however, that (i) the preceding provisions of this sentence will cease to apply and the restrictive covenants and equitable servitudes contained in this Agreement will be reinstated if, at any time during the Affordability Period subsequent to the early termination of this Agreement as the result of an event under this section, any person or entity that was an obligor under this Agreement prior to such early termination event, including the Recipient, Owner, or any related person (within the meaning of IRC section 42) obtains an ownership interest in the Project, and (ii) for three (3) years after the acquisition of title to the Project by the construction or permanent lender any Qualified Unit tenants ("**Qualified Tenants**") in the Project may not be

evicted except for cause and rents charged to such Qualified Tenants may not exceed the rent limits established in this Agreement.

PART IX: COVENANTS AND EQUITABLE SERVITUDES TO RUN WITH THE LAND.

1. Inducement. The Recipient represents, covenants and warrants that the issuance to it of the Grant described herein by OHCS is an inducement to the Recipient to do the Project Work and to operate the Project in accordance with this Agreement. In consideration of the issuance of the Grant, the Recipient has entered into this Agreement and has agreed to restrict the operation of and uses to which the Project can be put on the terms and conditions set forth herein. Therefore, the Recipient covenants, agrees and acknowledges that OHCS has relied on this Agreement in determining to issue the Grant.

2. Covenants; Equitable Servitudes.

(a) OHCS and the Recipient hereby declare their express intent that throughout the Affordability Period the covenants, restrictions, charges and easements set forth herein will be deemed covenants running with the land of the Project and will create equitable servitudes running with the land of the Project, and will pass to and be binding upon OHCS' and the Recipient's successors in title including any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein.

(b) Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein (other than a rental agreement or lease for a dwelling unit) will contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument will conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

(c) Any and all legal requirements for the provisions of this Agreement to constitute restrictive covenants running with the land of the Project and applying to the Project as a whole, or to create equitable servitudes with respect to same in favor of OHCS, are deemed satisfied in full.

(d) The consent of any recorded prior lien holder on the Project, including the Property, is not required in connection with recording this Agreement, or if required, such consent has been or will be obtained by the Recipient.

3. Burden and Benefit.

(a) The Recipient hereby declares its understanding and intent that the burdens of the covenants and equitable servitudes set forth herein touch and concern the land of the Project, and the Project as a whole, in that the Recipient's legal interest in the Project is rendered less valuable thereby.

(b) The Recipient hereby further declares its understanding and intent that the benefits of such covenants and equitable servitudes touch and concern the land of the Project, and the Project as a whole, by enhancing and increasing the enjoyment and use of the Project by tenants, intended beneficiaries (in addition to OHCS) of such covenants, reservations and restrictions, and by furthering the public purposes for which the Grant was issued.

4. Right of Modification. OHCS may compromise, waive, amend or modify the terms of this Agreement including, but not limited to the restrictive covenants and equitable servitudes created hereby, with the written consent of Recipient or subsequent Project owners, as it so determines to be to the benefit of OHCS, the Project, the Program, or OHCS efforts to provide or maintain safe, sanitary, and affordable housing in the State of Oregon. To be effective, any compromise, waiver, amendment or modification of this Agreement must be in writing, signed by an authorized OHCS representative.

5. No Right of Action. Tenants and other third-party beneficiaries under this Agreement (including incorporated documents), if any, have no right of action to enforce the restrictive covenants or equitable servitudes created hereunder. OHCS retains the exclusive right to enforce such covenants and servitudes. Tenants and other third-party beneficiaries under this Agreement (including incorporated documents), if any, have no claim, cause of action or other right of recourse against OHCS with respect to any action or lack of action taken by OHCS with respect to this Agreement (including the described covenants and servitudes) or the Project arising from their rights, if any, under this Agreement or otherwise.

6. No Attorney Fees. Tenants and other third-party beneficiaries under this Agreement (including incorporated documents), if any, have no right to attorney fees under this Agreement for claims asserted as third-party beneficiaries hereunder nor will parties hereto have a right to attorney fees against tenants and other third-party beneficiaries, if any, hereunder.

PART X: GENERAL PROVISIONS.

1. Compliance with Applicable Laws and Requirements.

(a) Compliance. Recipient will comply, and will ensure that the Project complies, with all Program Requirements, including but not limited to all federal, state and local laws, regulations, codes, ordinances, and orders applicable to the Project.

(b) Contracts; Subcontracts. Recipient will ensure that all contracts and subcontracts related to the Project or this Agreement comply with all applicable Program Requirements, including containing a provision to that effect therein.

(c) Endurance of Obligations. Recipient will remain fully obligated under the provisions of the Agreement notwithstanding its designation of any third-party or parties for the undertaking of all or any part of the Project with respect to which Grant funding is being provided by OHCS or Plan compliance is being required by OHCS.

(d) Tenant Certification; Verification. Recipient will obtain and maintain on file for each person residing in the Project a certification of tenant eligibility and income verification in the form required by OHCS, updated periodically according to the requirements of OHCS, and submitted to OHCS at its request.

(e) Inspections. Recipient will permit OHCS to inspect housing units and common areas within the Project assisted by funding under this Agreement, including all Qualified Unit(s), at reasonable times and under reasonable conditions.

2. Indemnity. Recipient assumes sole liability for breach of the conditions of the Grant or other applicable Program Requirements (including all terms and conditions of this Agreement) by Recipient or any of its officers, agents, employees, and assigns. Recipient will save, hold harmless, indemnify and (subject to ORS chapter 180) defend the State of Oregon, OHCS and their officers, agents, employees, members and assigns, from all suits, actions, claims, losses or damages of whatsoever nature, kind or description related to the Grant, the Project, this

Agreement or other Program Requirements, or resulting from or arising out of the acts, omissions, neglect or misconduct of Recipient or its subcontractors, agents, or employees under this Agreement or related to the Grant, Project, or other Program Requirements.

3. Time of the Essence. Time is of the essence in the performance by Recipient of the terms of this Agreement.

4. No Discrimination; Marketing. Recipient will not discriminate in the provision of housing on the basis of race, creed, color, sex, national origin, religion, marital status, sexual orientation, family status, age, disability or the receipt of public assistance. Recipient will use its reasonable efforts to advertise and market the Project dwelling units, particularly the Qualified Unit(s), within the County and, if applicable, City in which the Project is located.

5. Notice. Except as otherwise expressly provided in this Agreement, any notices required or permitted to be given under this Agreement will be given in writing, by personal delivery, or mailing the same, postage prepaid, to OHCS or Recipient at the following addresses:

OHCS: Oregon Housing and Community Services Department
Attn: Asset Management and Compliance Section
725 Summer Street N.E., Suite B
Salem, Oregon 97301-1266

Recipient: Sky Meadows, LLC
1007 NW Rimrock Drive
Redmond, Oregon 97756

or to such other address a party may indicate to the other pursuant to this Section. Any notice so addressed and mailed will be effective five (5) days after mailing. Any notice by personal delivery will be deemed to be given when actually delivered.

If written notice of a default to the Owner is required under this Agreement, then OHCS will also deliver written notice of such default to the Investor at the Investor's address as referenced below (or such other single address as may be provided in writing) for as long as the Investor shall have an ownership interest in Owner.

Investor: Alden Capital Partners, LLC
15360 Ventura Blvd
Los Angeles, Oregon 91403

In addition to any other cure provisions contained in this Agreement, the Investor (and any special member or special limited partner affiliated therewith) will have the right to cure all defaults for which delivery of written notice to the Owner is required under this Agreement within the same time periods allowed to Owner.

6. No Third-Party Beneficiaries. Unless and only to the degree expressly provided otherwise in this Agreement, OHCS and Recipient are the only parties to this Agreement and are the only parties entitled to rely on and enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly indirectly or otherwise, to third persons unless such third persons are expressly identified in this Agreement and only to the degree they are expressly described as intended beneficiaries of particular terms of this Agreement and only with such remedies as expressly given herein with respect to such interests.

7. Recipient Status.

(a) **Independent Contractor.** Recipient will perform all obligations under this Agreement and will timely satisfy all Program Requirements as an independent contractor. Recipient is not an officer, employee or agent of the State, as those terms are used in ORS 30.265 or otherwise, with respect to performance under this Agreement.

(b) **Recipient Responsible for Insurance Coverage.** Recipient agrees that insurance coverage, whether purchased or by self-insurance, for Recipient's agents, employees, officers and/or subcontractors is the sole responsibility of Recipient.

(c) **Non-Federal Employment Certification.** Recipient certifies that it is not employed by or contracting with the Federal Government for performance covered by this Agreement.

(d) **Good Standing Certification.** Recipient certifies to the best of its knowledge and belief that neither the Recipient nor any of its principals, officers, directors or employees:

(1) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any state or federal department or agency;

(2) Has within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract related to a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(3) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subsection (d)(2);

(4) Has within a three (3) year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default; and

(5) Is included on the list titled "**Specially Designated Nationals and Blocked Persons**" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

8. Termination. OHCS may terminate this Agreement in whole or in part, without further liability and without impairment of its remedies, effective upon delivery of written notice to Recipient, under any of the following conditions:

(a) If OHCS funding from federal, state, or other sources is not obtained or is not continued at levels sufficient to allow for delivery of full Grant funding; or

(b) If federal or state laws, regulations, rules or other requirements are modified or interpreted in such a way that the intended use of Grant funding for the Project is no longer allowable or appropriate or the Project is no longer eligible for the Grant funding identified in this Agreement from the planned funding source(s) or if OHCS is determined by its legal counsel or otherwise to lack or to have lost the authority to administer the Program; or

(c) If any authority required by law or regulation to be held by Recipient to complete the Project ends for any reason; or

(d) If Recipient is unable or fails to commence the Project within six (6) months from the date of this Agreement; or

(e) If Recipient breaches or fails to timely perform any of its obligations under this Agreement, or any other applicable Grant document and such breach is not cured within the grace period, if any, provided for cure in the applicable document; or

(f) If OHCS determines that any representation, warranty or covenant of Recipient, whether in whole or in part, is false, invalid, or in default; or

(g) If Recipient (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all or substantially all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) is adjudicated a bankrupt or insolvent, (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect), or (viii) takes any action for the purpose of effecting any of the foregoing.

Termination of this Agreement does not terminate or otherwise impair or invalidate any remedy available to OHCS or to Recipient hereunder, at law, or otherwise.

9. Remedies.

(a) **Repayment.** If this Agreement or any part hereof, terminates prior to the term of the Affordability Period, Recipient will, within thirty (30) days of written demand for repayment, repay to OHCS all Grant funds disbursed to it under this Agreement, together with any earnings on such funds.

(b) **Deficiencies.** OHCS may, from time to time, identify and direct Recipient to correct deficiencies (including deficiencies by Owner) in its compliance with this Agreement (including all Program Requirements), which it shall correct as so directed.

(c) **Additional Remedies.** If the Owner defaults in the performance or observance of any covenant, agreement or obligation set forth in this Agreement (including correction of deficiencies), and if such default remains uncured by Owner for a period of thirty (30) days or less (depending upon the requirements of the notice, lesser notice periods being reserved for matters that OHCS determines relate to material health or safety needs of Project occupants) after notice thereof shall have been given by OHCS, or if such default runs for a period of thirty (30) days from the date the Owner should, with due diligence, have discovered such default, then OHCS may declare an "**Event of Default**" to have occurred hereunder provided, however, If a default is not reasonably capable of being cured within thirty days or any lesser notice period provided by OHCS, OHCS may, in its sole discretion, extend the correction period for up to six (6) months, but only if OHCS determines there is good cause for granting the extension; and provided further, however, in the event of a foreclosure, deed in lieu of foreclosure, or similar event with respect to the Project or the Land, the correction period for the successor for an existing default shall be no less than thirty (30) days from the earlier of the date the successor obtains control or becomes the owner of the Project. To the extent that the default is not corrected within the above-described period including extensions, if any, granted by OHCS, an Event of

Default shall be deemed to occur and OHCS may exercise its rights and remedies under this Section. Following the occurrence of an Event of Default hereunder OHCS may, at its option, take any one or more of the following steps (except that itemized remedies (2), (3), (6), and (7) always must be preceded by notice of default to the Investor in accordance with this subsection while Investor is a member of Owner), in addition to all other remedies provided in this Agreement, by law, or in equity:

- (1) By mandamus or other suit, action or proceeding at law or in equity, require Recipient specifically to perform its obligations under this Agreement or enjoin any acts or things that may be unlawful or in violation of the rights of OHCS under this Agreement;
- (2) Obtain the appointment of a receiver to operate the Project in compliance with this Agreement;
- (3) Require a change in the General Partner or Managing Member of Owner to its satisfaction (and, for the duration, respectively, of Investor's involvement in Owner or the Primary Lender's Loan, reasonably satisfactory to Investor and Primary Lender;
- (4) Require termination of the Management Agent and its replacement to OHCS' satisfaction;
- (5) Require Owner to cease management of the Project and to engage a Management Agent acceptable to OHCS;
- (6) Withhold from Recipient, suspend or terminate, all or part of any undisbursed Grant funding under this Agreement;
- (7) Demand repayment of all Grant funding provided by OHCS to Recipient under this Agreement, and such amount will be immediately due and payable following thirty (30) days from such written demand, by Recipient to OHCS;
- (8) Declare Recipient, its Owners, principals, employees, and agents ineligible to receive further Program or other OHCS financial assistance for such period as OHCS determines in its sole discretion;
- (9) Offset amounts due from repayment of the Grant against other funding awarded or to be awarded to Recipient;
- (10) Have access to, and inspect, examine and make copies of, all of the books and records of Recipient pertaining to the Project and to inspect the Project itself; and
- (11) Take such other action under this Agreement, at law, in equity, or otherwise as may be available to OHCS.

(d) Survival of Remedies; Remedies Not Exclusive; Non-Waiver. The rights and remedies of OHCS provided for in this Agreement, which by their nature are intended to survive termination of this Agreement, shall survive the termination of the Affordability Period and of this Agreement. Furthermore, such remedies shall not be exclusive and are in addition to any other rights and remedies available at law, in equity or otherwise. No failure of or delay by OHCS to enforce any provision of this Agreement shall constitute a waiver by OHCS of that or any other provision, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

10. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid.

11. Survival of Obligations. The obligations of Recipient as set forth in this Agreement, including in the Application and the Reservation, will survive the reservation of any Grant funds and will not be deemed to terminate or merge with the Reservation or disbursement of the funds. Provisions of this Agreement which by their nature are intended to survive termination of this Agreement (including, but not limited to remedies and record-keeping) will survive.

12. Attorney Fees. In the event a lawsuit or other proceeding is instituted regarding this Agreement, the prevailing party in any dispute arising under this Agreement will, to the extent permitted by law, be entitled to recover from the other(s) its reasonable attorney fees and all costs and disbursements incurred at trial, in mediation, and on appeal. Reasonable attorney fees will not exceed the rate charged to OHCS by its attorneys. This provision does not apply to lawsuits or other proceedings instituted or maintained by or against tenants or other third-party beneficiaries hereunder, if any, for which lawsuits or other proceedings no award of attorney fees is permitted.

13. Construction. The parties to this Agreement acknowledge that each party and its counsel have participated in the drafting and revision of this Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in the interpretation of this Agreement or any amendment, modification, supplementation or restatement of the foregoing or of any exhibit to this Agreement.

14. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

15. Execution and Counterparts. This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

16. Governing Law; Venue: Consent to Jurisdiction. This Agreement will be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") related to this Agreement will be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the real property is located) or, if necessary, the United States District Court for the District of Oregon. In no event will this provision be construed as a waiver by OHCS or the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. OHCS and the State of Oregon expressly reserve all sovereignty rights. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

17. Merger Clause; Order of Precedence. This Agreement, including the Application, Reservation, and any exhibits, schedules, appendices and attachments hereto (which are by this reference incorporated herein), constitutes the entire agreement between the parties on the subject matter hereof. Recipient hereby acknowledges that the Application and the Reservation survive the execution and delivery of this Agreement. In the event of any inconsistencies between the body of the Agreement, the Application, the Reservation, and any of the attachments to the Agreement, the following is the descending order of precedence in which the various provisions are to be interpreted: the Agreement without any attachments or any incorporated provisions, the Management Plan, the Plan, the Reservation, the Application, the Property Description (Exhibit A), any other

attachments. No modification or amendment of this Agreement will bind either party unless in writing and signed by both parties (and the necessary approvals obtained), and no waiver or consent will be effective unless signed by the party against whom such waiver or consent is asserted. Such waiver or consent, if given, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.

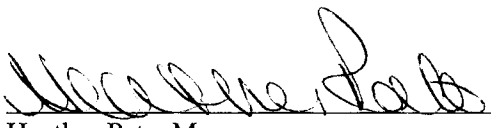
18. No Limitations on Actions of OHCS in Exercise of Its Governmental Powers. Nothing in this Agreement is intended, nor will it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the parties hereto that OHCS will retain the full right and ability to exercise its governmental powers with respect to the Recipient, the Project, this Agreement, and the transactions contemplated by this Agreement and applicable Program Requirements to the same extent as if it were not a party to this Agreement or the transactions contemplated hereby, and in no event will OHCS have any liability in contract arising under this Agreement, the Application, the Reservation, the Program Requirements, or otherwise by virtue of any exercise of its governmental powers.

[Signature Pages Follow]

IN WITNESS WHEREOF, OHCS and Recipient have caused this Agreement to be signed by their duly authorized officers as of the first day written above.

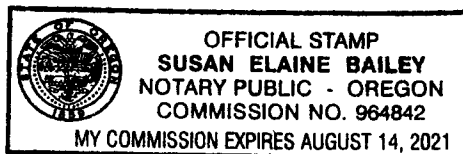
OHCS:

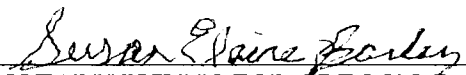
STATE OF OREGON, acting by and through its
Housing and Community Services Department

By: 
Heather Pate, Manager
Multifamily Housing Finance Section

STATE OF OREGON)
 : ss
County of Marion)

The foregoing instrument was acknowledged before me this 26th day of Sept. ~~August~~, 2017 by Heather Pate, who is the Manager of the Multifamily Housing Finance Section, for and on behalf of OHCS.



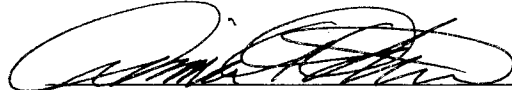

NOTARY PUBLIC FOR OREGON
My Commission Expires: 8/14/21

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RECIPIENT:

**Klamath Housing Authority,
an Oregon nonprofit corporation
Tax ID: 93-0637235**

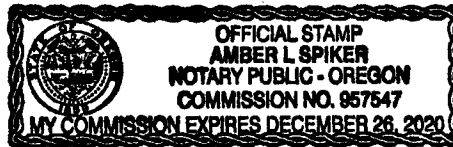
By:



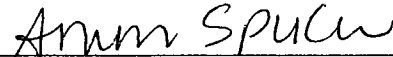
Diana Otero, Executive Director

STATE OF OREGON)

County of Klamath) : ss



The foregoing instrument was acknowledged before me this 26 day of **September**, 2017 by **Diana Otero Executive Director**, an **Oregon non-profit corporation**, who executed the foregoing instrument for and on behalf of the Recipient.



NOTARY PUBLIC FOR OREGON

My Commission Expires: December 26, 2020

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EXHIBIT A
[Legal Description]

Parcel 1 of Land Partition 2-17 Replat of Parcel 2 of Land Partition 8-00, situated in SE1/4 NE1/4 Section 14, Township 39 South, Range 09 East of the Willamette Meridian, Klamath County, Oregon and recorded May 8, 2017 as Instrument No. 2017-004773, Klamath County Records.

Exhibit B
[Eligible Weatherization Activities List]

[INSERT ACTIVITIES LIST]

ENERGY EFFICIENCY PLAN -NEW CONSTRUCTION WORKSHEET

Conservation Measure					Cost (labor & materials) to meet code	Cost (labor & materials) proposed	Kilowatts Saved
Windows and sliders kWh savings from Wx Calculator tab							
Doors kWh savings from Wx Calculator tab							
Walls kWh savings from Wx Calculator tab							
Ceiling kWh savings from Wx Calculator tab							
Floors kWh savings from Wx Calculator tab							
				SUBTOTAL			
	CODE	Efficiency over code	Delta Efficiency Value	Total # Units	Cost to meet code	Cost of proposed measures	Total (KWh) kilowatt hours saved
Refrigerator	450	363	87	36	\$19,800	\$24,660	3,132
Dishwasher	350	270	80	36	\$10,800	\$14,400	2,880
HVAC, Windows, Envelope	125620	95058	30,562	Lump Sum	\$95,427	\$191,468	30,562
Domestic Hot Water Measures	41,471	29,794	11,677	Lump Sum	\$34,200	\$42,300	11,677
Energy Star lighting	39,690	11369	28,322	Lump Sum	\$27,000	\$36,000	28,322
				SUBTOTAL	\$187,227	\$308,828	76,573
				TOTAL kWh			76,573
				TOTAL \$ to meet code	\$187,227	\$308,828	total to exceed
				Difference		\$121,601	

EXHIBIT B

8-1