

2020-012672

Klamath County, Oregon

10/02/2020 02:46:01 PM

Fee: \$122.00

After Recording Return to:

State of Oregon, OHA/HSD
Attn: Housing Investments Coordinator
500 Summer Street NE, E-86
Salem, OR 97301-1118

Award #: 158304

All tax statements should be delivered to:

Klamath Housing Authority
1445 Avalon Street
Klamath Falls, OR 97603

This space reserved for recorders use

STATE OF OREGON

TRUST DEED WITH ASSIGNMENT OF RENTS

This trust deed (the "*Trust Deed*") is made this 30th day of **September 2020**, between **Klamath Housing Authority**, an Oregon public corporation created under ORS Chapter 456, ("Grantor"), and **AmeriTitle** ("Trustee"), and the **State of Oregon acting by and through its Oregon Health Authority Health Systems Division** ("Beneficiary").

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust for the benefit and security of Beneficiary, with power of sale and right of entry and possession, all of Grantor's rights, title, and interest in and to the real property located in Klamath County, Oregon, described as follows (the "Property"):

See legal description attached as Exhibit A

TOGETHER WITH all interests, estates, and rights that Grantor now has or may acquire in (1) the Property; (2) all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Property or interests in the Property; (3) all easements, rights-of-way, and rights used in connection with the Property or as a means of access to the Property; and (4) all tenements, hereditaments, and appurtenances in any manner belonging, relating, or appertaining to the Property; and

TOGETHER WITH all rights, titles, and interests of Grantor, now owned or hereafter acquired, in and to all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (the "*Improvements*"); and

TOGETHER WITH all rights, title, and interest of Grantor in, to, and under all present and future plans, specifications, and contracts relating to the design, construction, management, or inspection of any Improvements; all rights, titles, and interests of Grantor in and to all present and future licenses, permits, approvals, and agreements relating to the development, improvement, division, or use of all or any portion of the Property or Improvements; and

TOGETHER WITH all rights of Grantor in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development,

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improvement, management, sale, or use of all or any portion of the Property or any of the Improvements; and

TOGETHER WITH Grantor's rights under any payment, performance, or other bond in connection with construction of any Improvements, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of any Improvements; and

TOGETHER WITH all rights, interests, and claims that Grantor now has or may acquire with respect to any damage to or taking of all or any part of the Property or the Improvements, including all proceeds of insurance in effect with respect to the Improvements, all awards made for taking by eminent domain or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property or the Improvements, and all awards resulting from any other damage to the Property or the Improvements, all of which are assigned to Beneficiary, subject to the terms of this Trust Deed. Beneficiary is authorized to collect and receive such proceeds, to give proper receipts and acquaintances for the proceeds, and to apply them to the Obligations secured by this Trust Deed.

As used below, the term "Property" may also mean, collectively, the real property described in Exhibit A, Improvements and all property and property rights described above.

Section I. **Secured Obligations**

1. This Trust Deed secures the following obligations (the "Obligations"):
 - A. Grantor's obligations as maker of that certain Community Housing Development Promissory Note (the "Note") dated September 30, 2020, with Beneficiary as Payee, in the maximum principal amount of Two Hundred Forty Thousand Dollars *** (\$240,000.00) which terminates on September 30, 2050; and
 - B. Grantor's obligations under the Community Housing Development Agreement (the "Agreement"), dated May 9, 2019 and as amended on January 27, 2020 and as amended on July 30, 2020 and as amended on September 23, 2020.

Unless otherwise agreed in writing by Beneficiary, the Note is due and payable in full upon sale or transfer of the Property, when the Grantor ceases to use the Property exclusively as community housing, in accordance with the terms of the Agreement or in accordance with Section III.2. hereof.

Section II. **Grantor's Obligations**

To protect the security of this Trust Deed, Grantor agrees to the following terms and conditions:

1. Grantor shall protect, preserve and maintain the Property in good condition and repair, and shall not remove or demolish any building or improvement on the Property or commit or permit any waste of the Property.
2. Grantor shall complete or restore promptly and in good and workmanlike manner any Improvements which may be damaged or destroyed and shall pay when due all costs incurred for such work.
3. Grantor shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property.

4. If the Beneficiary so requests, Grantor shall join in executing such financing statements pursuant to the Uniform Commercial Code as the Beneficiary may require and pay for filing them in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the Beneficiary.
5. Grantor shall obtain and maintain in full force and effect during the term of this Trust Deed: (a) all risk property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverage (if applicable), all in amounts not less than the full replacement cost of all Improvements, without reduction for co-insurance; and (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverage, and risks insured acceptable to Beneficiary, and in no event less than \$2,000,000.00 combined single limit coverage and \$4,000,000 aggregate.

A. **WARNING.** Grantor must provide Beneficiary with evidence of the insurance coverage as required by the contract or loan agreement between Grantor and Beneficiary. Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the collateral becomes damaged, the coverage purchased by Beneficiary may not pay any claim Grantor may make or any claim made against Grantor. The coverage obtained by Beneficiary may be canceled by Grantor providing Beneficiary evidence that Grantor has obtained property coverage elsewhere.

Grantor is responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to the contract or loan balance. If the cost is added to the contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.

The coverage Beneficiary may purchase may be considerably more expensive than insurance Grantor may obtain and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

6. All insurance must: (a) be written by a company or companies reasonably acceptable to Beneficiary; (b) contain a long form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed; (c) require 30-days prior written notice to Beneficiary of cancellation or reduction in coverage; (d) contain waivers of subrogation and endorsements that no act or negligence of Grantor or any occupant will affect the validity or enforceability of such insurance as against Beneficiary. Beneficiary must be named as additional insured on all property and liability policies. Grantor shall forward to Beneficiary, upon request, certificates evidencing the coverage required under this Trust Deed and copies of all policies.
7. After the occurrence of any casualty to the Property or Improvements, Grantor shall give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of the casualty and the extent of the damage or destruction to the Trust Property. In the event of any casualty to any Improvement, Grantor shall immediately take such action as is necessary to make the site safe and legal, including, if necessary, demolition of the improvement, removal of debris, and grading the site. Grantor assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. If Grantor desires to rebuild or restore the Property, insurance proceeds must be placed in escrow, with escrow instructions to release funds for invoices related to such reconstruction. Beneficiary may review and approve reconstruction plans and

may require the release of liens as condition of escrow payments. No proceeds may be released if Grantor is in default under this Trust Deed or under the Obligations secured by this Trust Deed. If Grantor i) does not elect to restore the Property; or ii) is in default under this Trust Deed or the Obligations secured by this Trust Deed, Beneficiary may apply the insurance proceeds to satisfy the Obligations.

8. Grantor shall keep the Property and Improvements free from construction and all other liens and shall pay all taxes, assessments, and other charges that may be levied or assessed upon or against the Property before any part of them become past due or delinquent and shall promptly deliver receipts therefore to Beneficiary; if the Grantor fails to pay any taxes, assessments, insurance premiums, liens or other charges payable by Grantor, either by direct payment or by providing Beneficiary with funds with which to make such payment, Beneficiary may, at its option, make payment and the amount so paid with interest at the rate of 10% will be added to and become a part of the debt secured by this Trust Deed, and all such payments will be immediately due and payable and Grantor's failure to pay will, at the option of the Beneficiary, render all sums secured by this Trust Deed immediately due and payable and constitute a breach of this Trust Deed.
9. Grantor shall not place any consensual lien on the Property, including any mortgage, trust deed or security interest, without the prior written consent of Beneficiary, which consent may not be unreasonably withheld.
10. Grantor shall pay all costs, fees, and expenses of Trustee and Beneficiary in enforcing their rights under this Trust Deed, including attorney's fees.
11. If any portion of the Property is taken under the right of eminent domain or condemnation, Beneficiary may require that all or any portion of the monies payable as compensation for such taking, shall be paid to Beneficiary and applied by it first upon any reasonable costs and expenses, and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by Beneficiary in the proceedings, and the balance applied upon the Obligations; and Grantor shall, at its own expense, take such actions and execute such instruments as may be necessary in obtaining such compensation, promptly upon Beneficiary's request.

Section III. **Default and Remedies**

1. **Events of Default.** Each of the following constitutes an Event of Default under this Trust Deed:
 - A. **Non-Performance.** If Beneficiary believes Grantor is not operating the Property described in Exhibit A in accordance with Sections 1 and 2 of the Agreement, Beneficiary shall give a 60-day notice to Grantor, and during said 60-day period Grantor shall demonstrate that it is, in fact, complying with the terms of the Agreement and has cured any defects in performance. If Grantor fails to demonstrate compliance and to cure all defects in performance to Beneficiary's reasonable satisfaction within the time specified in the notice, Beneficiary may demand repayment and exercise any other rights available to it under the Agreement, Note, or this Trust Deed.
 - B. **Breach of Other Covenants.** Failure of Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Agreement, Note, or in this Trust Deed.

2. **Remedies in Case of Default.** If an Event of Default occurs, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:
- A. **Acceleration.** Beneficiary may declare all or any portion of the Obligations immediately due and payable.
 - B. **Receiver.** Beneficiary may have a receiver appointed for the Property. Beneficiary is entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Property exceeds the amount of the indebtedness secured by this Trust Deed.
 - C. **Possession.** Beneficiary, either through a receiver or as lender-in-possession, may enter and take possession of all or any part of the Property and use, operate, manage, and control it as Beneficiary deems appropriate in its sole discretion. Upon request after an Event of Default, Grantor shall peacefully relinquish possession and control of the Property to Beneficiary or any receiver appointed under this Trust Deed.
 - D. **Rents.** Beneficiary may revoke Grantor's right to collect any rents and, either itself or through a receiver, may collect the same. Beneficiary will not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection (D). If rents are collected by Beneficiary under this subsection (D), Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact, with power of substitution, to endorse instruments received in payment thereof in the name of Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts must be paid to Grantor and this power will terminate.
 - E. **Power of Sale.** Beneficiary may direct Trustee, and Trustee is empowered, to foreclose the Property by advertisement and sale under ORS 86.705 et. seq.
 - F. **Foreclosure.** Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Property.
3. **Sale.** In any sale under this Trust Deed or pursuant to any judgment, the purchaser will take title to the Property free of the estate of Grantor. Any person, including Beneficiary, may purchase at any such sale. Beneficiary and each of its officers are irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Property or any portions of it so sold and, for that purpose, Beneficiary and its officers may execute all appropriate instruments of transfer. Nevertheless, Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose.
4. **Cumulative Remedies.** All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy does not preclude the exercise of any other remedy. No delay or omission in exercising any right or remedy impairs the full exercise of that or any other right or remedy or constitute a waiver of the default.

Section IV.
General Provisions

1. This Trust Deed applies to, inures to the benefit of and binds all parties to it, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. If the authority and responsibility to administer and regulate housing programs under ORS 430.335 are transferred from Beneficiary to another agency, division or government unit, the term "Beneficiary" hereunder will refer to such agency, division or governmental unit.

2. On the date this Trust Deed is executed, the mailing address of Beneficiary is:

State of Oregon, OHA/HSD
Attn: Housing Investments Coordinator
500 Summer Street NE, E-86
Salem, OR 97301-1118

3. For any reason permitted by law, Beneficiary may from time to time appoint a successor or successors to any trustee named in this Trust Deed or to any successor trustee appointed under it. Upon such appointment, and without conveyance to the successor trustee, the latter will be vested with all title, powers and duties conferred upon any trustee named in or appointed under this Trust Deed. Each such appointment and substitution must be made by written instrument executed by Beneficiary, containing reference to this Trust Deed and its place of record which, when recorded in the office of the County Clerk or Recorder of the county in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

4. **Statutory Disclaimer.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

5. **Notice.** Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed must be in writing and may be delivered by hand, or mailed by first class, registered, or certified mail, return-receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth below. Any party may change its address for notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph will be deemed to have been given upon the date of

mailing; notices given by hand will be deemed to have been given when actually received.

If to Grantor: Klamath Housing Authority
Attn: Executive Director
1445 Avalon St.
Klamath Falls, OR 97603

Bridgeway Apartments, LLC
c/o Luckenbill-Drayton & Associates, LLC
1007 NW Rimrock Drive
Redmond, Oregon 97756

If to Beneficiary: State of Oregon, OHA/HSD
Attn: Housing Investments Coordinator
500 Summer St. NE, E-86
Salem, Oregon 97301

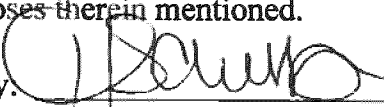
IN WITNESS WHEREOF said Grantor has executed this Trust Deed as of the date and year first above written.

Klamath Housing Authority

By: 
Diana Otero, Executive Director

STATE OF OREGON }
 }
 } ss.
County of Klamath }

On this 30th day of September 2020, before me personally appeared **Diana Otero**, in her official capacity as the Executive Director of Klamath Housing Authority, an Oregon public corporation created under ORS Chapter 456, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned.

By: 
Notary Public in and for the State of Oregon
My commission expires: Dec 17 2021

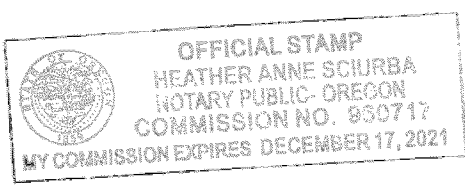


Exhibit A

Legal Description of Property

Parcels 1 and 2 of Land Partition No. 8-20, a replat of Parcel 3 Land Partition 2-17, situate in SE 1/4 NE 1/4 Section 14, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon recorded September 14, 2020 in 2020-011662, Records of Klamath County, Oregon.

Situs Address: NKA Homedale Road
 Klamath Falls, OR 97603

Tax Account No.: 900817