

RECORDING REQUESTED BY:

Klamath Housing Authority  
1445 Avalon Street  
Klamath Falls, OR 97603-4489

WHEN RECORDED MAIL TO:

U.S. Department of Housing and  
Urban Development  
1220 SW 3rd Avenue, Suite 400  
Portland, OR 97204-2825

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**USE AGREEMENT**  
**(KLAMATH HOUSING AUTHORITY, KLAMATH FALLS, OREGON)**

This Use Agreement (this "**Agreement**") dated as of May 25, 2021, is by and between the Klamath Housing Authority, an Oregon housing authority ("**KHA**"), and Housing Now, Inc., an Oregon not-for-profit corporation ("**Owner**"), with an address of 1445 Avalon Street, Klamath Falls, OR 97603-4489.

**RECITALS**

WHEREAS, KHA owns and operates dwelling buildings containing 59 dwelling units and 2 non-dwelling units on 7 acres (Klamath Scattered Sites OR 017000001), more particularly described in the attached Exhibit A (the "**Restricted Property**"), as encumbered by that certain Declaration of Trust executed by the Klamath Housing Authority in favor of the United States of America, Secretary of Housing and Urban Development, dated May 24, 1983, and recorded May 24, 1983, in Book M83 at Page 8055, (the "**Declaration of Trust**");

WHEREAS, in accordance with the Declaration of Trust, the Restricted Property has been operating as low-rent public housing with financial assistance provided by the U.S. Department of Housing and Urban Development ("**HUD**"), under the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et. seq.*), as amended (the "**Act**");

WHEREAS, KHA requested HUD approval of the sale of the Restricted Property to Owner, which is an instrumentality of KHA, via a negotiated sale at less than fair market value, and HUD, as documented in the letter from HUD to KHA dated July 6, 2020, as amended May 5, 2021 (the "**Approval Letter**"), attached hereto as Exhibit B and incorporated herein, agreed to

such sale on the terms and conditions set forth in the Approval Letter and this Agreement (collectively, the "**HUD Disposition Approval**");

WHEREAS, upon recording of this Agreement, the Declaration of Trust is hereby released;

WHEREAS, HUD has approved the sale of the Property to Owner at a negotiated sale for a nominal amount which shall be One Dollar (\$1.00);

WHEREAS, the HUD Disposition Approval is further conditioned on the Units being operated as residential housing for low-income families at or below eighty percent (80%) of area median income ("**Commensurate Public Benefit**") for a minimum 30 years from the date of conveyance of the Units from KHA to Owner (the "**Restricted Period**");

WHEREAS, HUD has determined that the Commensurate Public Benefit satisfies the requirements of Section 18 of the Act, subject to KHA and Owner entering into a use agreement in a format approved by HUD that ensures that the Units are operated as residential housing for low-income families for the Restricted Period;

WHEREAS, as a condition of the HUD Disposition Approval, KHA and Owner have agreed for themselves, and for their successors and assigns, that the Restricted Property shall be subject to certain use restrictions and other requirements, as set forth herein.

#### AGREEMENT

NOW THEREFORE, in consideration of the promises and covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Owner, for itself and for its successors and assigns, hereby covenants and agrees for the benefit of KHA that the Units shall be used exclusively as units of residential housing for low-income families at or below eighty percent (80%) of area median income (the "**Use Requirement**") for the duration of the Restricted Period. To the extent an existing, previously qualifying tenant's income exceeds the limit set forth in the Use Requirement, there shall be no Notice of Violation or Event of Default (as such terms are defined in Section 4 of this Agreement) so long as the next available Unit is rented to a family meeting the Use Requirement restriction.

2. Owner shall not convey, assign, transfer, sublease, pledge, hypothecate, encumber or otherwise dispose of the Restricted Property or any interest therein or permit the conveyance, assignment, transfer, sublease, pledge or encumbrance of the Restricted Property during the Restricted Period without the prior written approval of HUD and KHA. Notwithstanding the foregoing, Owner need not obtain the prior written approval of HUD or KHA for (i) the conveyance or dedication of land for use as streets, alleys or other public rights-of-way, (ii) the granting of easements for the establishment, operation and maintenance of public utilities, (iii) entering into residential agreements with tenant families; (iv) the conveyance of the Restricted Property at a judicial or non-judicial foreclosure sale, or to the holder of a previously approved mortgage or an affiliate thereof through a deed in lieu of foreclosure and the first conveyance

thereafter to an entity unaffiliated with the holder of the approved mortgage, so long as in each of the foregoing circumstances, this Agreement remains a valid and enforceable encumbrance on the Restricted Property senior in priority to the interest of the foreclosing party in, or the grantee of, the Restricted Property; *provided, however*, (i) Owner (or any successor-in-interest to Owner) shall provide thirty (30) days prior written notice of the date of such foreclosure sale or conveyances by deed in lieu of foreclosure in accordance with the provisions of Section 8 of this Agreement; (ii) KHA and HUD shall each be provided a reasonable time to cure any monetary or covenant defaults related to such foreclosure, which shall not be greater than thirty (30) days; and (iii) any Successor Owner shall agree to be bound by and subject to all terms, conditions and covenants of this Agreement, and shall enter into an assumption agreement, if deemed appropriate by HUD, at its sole and absolute discretion.

3. The following events shall not constitute a breach of the Use Requirement:

A. If one or more of the Units are left vacant for a commercially reasonable period (i) while one tenant is moving out of a Unit and before another has moved in to such Unit, (ii) while waiting for a new qualifying tenant for a Unit in the event there are no tenants immediately available to move in after the previous qualifying tenant vacates, or (iii) while a Unit is being renovated and/or repaired.

B. If one or more of the Units are damaged or destroyed by fire or other casualty and the use of such Unit(s) in conformance with the Use Requirement ceases during a period of repairs and/or reconstruction; provided that (i) Owner uses commercially reasonable efforts to cause the Unit(s) to be repaired or restored to substantially the same condition as existed prior to the event causing damage or destruction, (ii) the Unit(s) are actually repaired or restored within two (2) years after the date of the casualty, and (iii) the Unit(s) are thereafter operated in accordance with the Use Requirement for the remainder of the Restricted Period.

C. If the Units are taken for any public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a "Taking"), or if any other portion of the Restricted Property in which one or more of the Units are located, which property is necessary for a tenant's occupancy of one of the Units, has been subject to a Taking; provided that (i) Owner applies funds received as a result of the Taking to the acquisition and development of other residential units that will be operated in accordance with the Use Requirement, (ii) the new units are acquired or developed within two (2) years after the date of the Taking, and (iii) the new units are thereafter operated in accordance with the Use Requirement for the remainder of the Restricted Period.

4. In the event the Use Requirement ceases to be satisfied prior to the expiration of the Restricted Period:

A. At the time the Use Requirement ceases to be satisfied, KHA shall give to the Owner written notice of the failure (a "Notice of Violation"). Owner shall have thirty (30) days after the date on which a Notice of Violation is received in accordance with Section 8 below to cure the failure. KHA is hereby authorized, and shall take whatever investigative steps it deems necessary in order to ensure compliance. If, after receiving a Notice of Violation, the failure is not

corrected to the satisfaction of KHA within the proscribed amount of time, KHA may declare a default under this Section 4 (an "**Event of Default**") without further notice.

B. In an Event of Default by Owner, to the extent permitted by applicable law, KHA shall have the right to seek specific performance of the Use Requirement and/or to enjoin any violation of the Use Requirement in a court of competent jurisdiction. The right to specific performance and injunction shall be in addition to all other remedies available under statute, at law and in equity.

5. As stated in the initial paragraph of this Agreement, "KHA" means the Klamath Housing Authority and/or its successors and assigns. No party other than KHA shall exercise the rights and privileges reserved herein to KHA, or bear the obligations imposed herein on KHA, unless such party shall receive and record in the Official Records a written assignment of all or a portion of such rights, privileges and obligations.

6. Recordation of this Agreement in the Official Records shall constitute the agreement by KHA and Owner to be bound by and to comply with the restrictions set forth in this Agreement. The benefits and burdens of this Agreement touch and concern and run with the land and are binding upon and shall inure to the benefit of the respective successors and assigns of the parties to this Agreement. Wherever the term "Owner" is used herein such term shall be construed to include any successor owner to title to the Restricted Property (each, a "**Successor Owner**").

7. Upon the expiration of the Restricted Period, the Use Requirement shall cease and terminate, and the Restricted Property shall be deemed released of the Use Requirement and this Agreement without the requirement of any further writing between the parties. Notwithstanding the foregoing, upon expiration of the Restricted Period, KHA and HUD agree to execute and deliver to Owner such documents as Owner shall reasonably request releasing and confirming the release of the Use Requirement and this Agreement from title to the Restricted Property and clearing title to the Restricted Property from any cloud created by the Use Requirement or this Agreement.

8. All notices under this Agreement shall be in writing and shall be served by (a) personal service or receipted courier service, (b) by registered or certified first class mail, return receipt requested, or (c) nationally-recognized overnight delivery service, addressed to HUD, KHA or Owner, as appropriate, at the addresses for such parties set forth below:

If to HUD: U.S. Department of Housing and Urban Development  
Office of Public Housing  
1220 SW 3rd Avenue, Suite 400  
Portland, OR 97204-2825

If to KHA: Klamath Housing Authority  
1445 Avalon Street  
Klamath Falls, OR 97603-4489

If to Owner: Housing Now, Inc.

1445 Avalon Street  
Klamath Falls, OR 97603-4489

A courtesy copy of any notice delivered under this Agreement shall be provided to HUD at the address for HUD set forth above. Any notice or other communication sent pursuant to clause (a) hereof shall be deemed received upon such personal service, if sent pursuant to clause (b) shall be deemed received five (5) days following deposit in the mail, and/or if sent pursuant to clause (c) shall be deemed received the next succeeding business day following deposit with such nationally recognized overnight delivery service. Any party may change its address by notice given in accordance with this Section 8.

9. HUD shall be deemed a third party beneficiary of this Agreement.

10. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Oregon, and the parties shall submit to the jurisdiction and venue of the courts of the State of Oregon in Klamath County in any legal proceeding necessary to interpret or enforce this Agreement.

11. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

12. This Agreement may be executed in any number of original counterparts, all of which evidence only one agreement, and only one of which need be produced for any purpose.

13. In the event the Restricted Property is owned by a Successor Owner, such Successor Owner shall reimburse KHA for all attorneys' fees and expenses reasonably incurred by KHA in connection with the enforcement of KHA's rights under this Agreement, including, but not limited to, all such fees and expenses for trial, appellate proceedings, out-of-court workouts, mediation, and settlements and for enforcement of rights under any state or federal statute, including, but not limited to, all such fees and costs relating to any such Successor Owner's bankruptcy and insolvency proceedings such as in connection with seeking relief from stay in a bankruptcy proceeding or negotiating and documenting any amendment or modification of this Agreement.

14. Notwithstanding anything to the contrary set forth in Sections 4 or 6, in no event shall the mortgagee of any mortgage encumbering the Restricted Property (the "**Holder**") or any other purchaser at foreclosure have any liability for sums which are due and payable under this Agreement prior to its acquisition of title to the Restricted Property.

15. Notwithstanding anything to the contrary set forth in this Agreement, this Agreement shall extend to and be binding upon the Holder only in the event and after the Holder acquires ownership of the Restricted Property.

16. The above recitals are incorporated herein by reference.

17. The following Exhibits are attached to and incorporated into this Agreement:

Exhibit A – Legal Description of the Restricted Property

Exhibit B – Approval Letter


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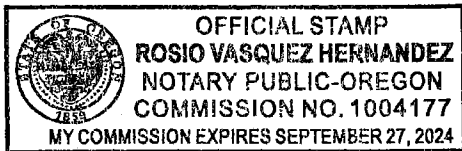
IN WITNESS WHEREOF, KHA and Owner, by their respective duly authorized representatives, have caused their names to be subscribed hereto, as of this 25 day of May, 2021.

KHA:

Klamath Housing Authority,  
an Oregon housing authority

By:


  
Diana Otero, Executive Director

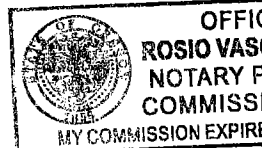
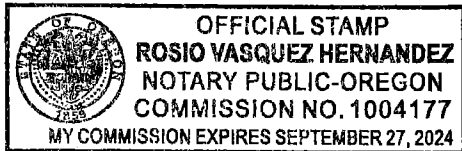


OWNER:

Housing Now, Inc.  
An Oregon not-for-profit corporation

By:

  
Diana Otero, pursuant to Written  
Consent of the Board of Directors

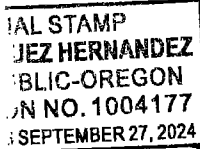


This instrument was prepared by Richard M. Joseph, Miller, Hall & Triggs, LLC, 416 Main Street, Suite 1125, Peoria, IL 61602

STATE OF OREGON       )  
                                      ) SS  
COUNTY OF KLAMATH   )

CP Rosio Hernandez

I, ~~Diana Otero~~, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Diana Otero, personally known to me to be the Executive Director of Klamath Housing Authority, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in her capacity as the Executive Director of the Klamath Housing Authority, as her free and voluntary act and deed and as the free and voluntary act and deed of the Klamath Housing Authority, for the uses and purposes therein set forth.



Given under my hand and official seal this 25 day of May, 2021.

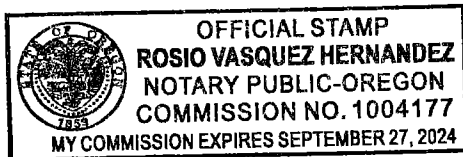
[Signature]  
Notary Public

STATE OF OREGON       )  
                                      ) SS  
COUNTY OF KLAMATH   )

CP Rosio Hernandez

I, ~~Diana Otero~~, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Diana Otero, personally known to me to be authorized to sign on behalf of **Housing Now, Inc.**, an Oregon not-for-profit corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument in her aforesaid capacity of Housing Now, Inc. as her free and voluntary act and deed and as the free and voluntary act and deed of Housing Now, Inc. for the uses and purposes therein set forth.

Given under my hand and official seal this 25 day of May, 2021.



[Signature]  
Notary Public



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

PARCEL 1: (3909-002BB-03100)

Lots 16 and 17, Block 9, PLEASANT VIEW TRACTS, in the County of Klamath, State of Oregon, EXCEPT the Westerly 5 feet of Lot 17 for road, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

PARCEL 2: (3809-029DA-10700)

Lot 17, Block 13, HOT SPRING ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

PARCEL 3: (3809-032BB-04100)

The Westerly 150 feet of Lot 8, Block 102, BUENA VISTA ADDITION to the City of Klamath Falls, EXCEPT the Northwesterly 5 feet of said Lot 8, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

PARCEL 4: (3809-032BB-03700)

Lot 5, Block 102, BUENA VISTA ADDITION to the City of Klamath Falls, in the County of Klamath, State of Oregon, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

PARCEL 5: (3809-034DA-01200 and 3809-034DA-01100)

Lots 3 and 20, Block 1, Tract No. 1031, SHADOW HILLS SUBDIVISION of Klamath, State of Oregon, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

PARCEL 6: (3809-029BC-02700)

Lots 9, 10, 11 and 12, Block 59, BUENA VISTA ADDITION to the city of Klamath Falls, in the County of Klamath, State of Oregon, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

PARCEL 7: (3909-003DA-01300)

A tract of land being the Southwesterly portion of Lot 1, Townsend Tracts, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon, said tract of land being more particularly described as follows:

Beginning at the Southeasterly corner of said Lot 1, said corner being on the Northerly right of way line of Boardman Avenue; thence North 00°24'26" West 346.50 feet; thence North 89°19'00" West 275.11 feet; thence South 00°15'00" East, parallel with said Crest Street, 346.48 feet to the Northerly right of way line of said Boardman Avenue; thence South 89°19'00" East 276.06 feet to the point of beginning, with bearings based on Survey No. 3009, as recorded in the office of the Klamath County Surveyor.

EXCEPTING THEREFROM the Westerly 10 feet as conveyed by deeds M80, page 20549; M84, page 1260 and Re-Recorded in M84, page 2429.

PARCEL 8: (3809-034CD-00700)

A parcel of land, situate in Tract 31, ENTERPRISE TRACTS, in the County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a 1/2 inch rebar marking the Northwest corner of Block 1, SUNNYLAND SUBDIVISION, said point also being on the Easterly right of way line of Avalon Street; thence North 00°15'30" West 237.85 feet along the Easterly right of way line of Avalon Street, to a 1/2 inch rebar; thence South 56°38'10" East 99.79 feet to a 1/2 inch rebar; thence South 73°31'10" East 47.66 feet to a 1/2 inch rebar; thence North 79°52'00" East 108.29 feet to a 1/2 inch rebar; thence North 70°29'20" East 50.00 feet to a 1/2 inch rebar; thence South 89°24'00" East 54.07 feet to a 1/2 inch rebar; thence South 00°11'48" East 183.24 feet to a 1/2 inch rebar; thence South 89°45'30" West 20.00 feet to a 1/2 inch rebar; thence South 00°11'48" East 20.00 feet to a 1/2 inch rebar on the Northerly boundary of Sunnyland Subdivision; thence South 89°45'30" West 316.48 feet, along the Northerly boundary of Sunnyland Subdivision to the place of beginning.

EXCEPTING THEREFROM all that portion described as follows:

Beginning at a point on the Northerly boundary of SUNNYLAND SUBDIVISION being North 89°45'30" East 316.48 feet from the Northwest corner of Block 1 of said Subdivision and being the Southeast corner of the tract of land described in Deed Volume M80, page 18566 of Klamath County Deed Records; thence South 89°45'30" West, along said Northerly boundary, 15.00 feet; thence along the arc of a curve to the right (radius point bears North 89°45'30" East 35.00 feet and central angle equals 90°02'42") 55.01 feet to a point on the East line of said Deed Volume; thence along the boundaries of said Deed Volume South 00°11'48" East 15.00 feet, South 89°45'30" West 20.00 feet and South 00°11'48" East 20.00 feet to the point of beginning with bearings based on recorded Survey No. 2954.

EXHIBIT B  
[Approval Letter]



OFFICE OF PUBLIC AND INDIAN HOUSING

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Special Applications Center  
77 W. Jackson Blvd., Room 2401  
Chicago, Illinois 60604-3507  
Phone: (312) 353-6236 Fax: (312) 886-6413

July 6, 2020

Ms. Diana Ostero  
Executive Director  
Klamath Housing Authority  
1445 Avalon Street  
Klamath Falls, 97603-4489

Dear Ms. Ostero:

The U. S. Department of Housing and Urban Development's (HUD) Special Applications Center (SAC) received the Klamath Housing Authority's (KHA) Streamlined Voluntary Conversion Plan (SVC Plan) via the Information Management System/Public and Indian Housing Information Center (IMS/PIC), application DDA0010501. Pursuant to Section 22 of the U.S. Housing Act of 1937 (the 1937 Act), and PIH Notice 2019-05, KHA's SVC Plan proposes to convert the Section 9 public housing assistance in 59 dwelling units to Section 8 Housing Choice Voucher (HCV) tenant-based assistance and dispose of 34 dwelling buildings, one non-dwelling building, and seven acres of underlying land at Klamath Scattered Sites, OR017000001. The SAC received this application on October 16, 2019. HUD discontinued processing the application on October 30, 2019, as KHA submitted the Streamlined Voluntary Conversion application before an environmental review (ER) was performed in accordance with 24 CFR part 50 or 58; and returned the application to draft status. KHA resubmitted the application on April 29, 2020, via the Information Management System/Public and Indian Housing Information Center (IMS/PIC), Application DDA0010280. Following the conversion, as required by PIH Notice 2019-05, KHA will then close out its Section 9 public housing program and terminate its Public Housing ACC with HUD. Supplemental information was received through June 24, 2020.

**Environmental and Fair Housing and Equal Opportunity Review**

The HUD Portland Office of Public Housing (OPH) performed the Environmental Review (ER) in accordance with 24 CFR 50 on March 6, 2020 for the proposed disposition action. On June 10, 2020, the Seattle Fair Housing and Equal Opportunity (FHEO) Program and Compliance Branch recommended the Streamlined Voluntary Conversion approval.

**Voluntary Conversion Assessment**

PIH Notice 2019-05 waives the Conversion Assessment for streamlined voluntary conversions, so KHA was not required to prepare a Conversion Assessment, discuss it at its Annual Public Hearing, or submit it to HUD.

### Streamlined Voluntary Conversion Plan and Annual Plan

KHA's Plan for Voluntary Conversion of the subject properties includes the following components: (1) a description of the future use of the real property consisting of one non-dwelling building, 59 dwelling units in 34 dwelling buildings, and seven acres of underlying land at Klamath Scattered Sites, OR017000001; (2) an analysis of the impact of the conversion on the affected community; (3) evidence that the Plan was developed with significant participation from residents; (4) a certification from KHA that it has developed a relocation plan that addresses the needs of the existing residents; and (5) a summary of why the SVC Plan will: principally benefit the residents of the units, the PHA, and the community; and will not adversely affect the availability of affordable housing in the community.

The KHA submitted a Significant Amendment to its PHA Annual Plan to the Portland Office of Public Housing (OPH) on September 24, 2019, which includes a description of the proposed inventory removal action. The HUD Portland OPH approved the Significant Amendment to the Annual Plan on October 3, 2019. The Portland OPH has determined that the Voluntary Conversion Plan is consistent with and part of the KHA's PHA Annual Plan as required by section 22(d)(2) and 24 CFR 972.233.

### Prior Removal History, Description of Development and Proposed Conversion

KHA has received previous approval from HUD for the following removal actions at the development Klamath Scattered Sites, OR017000001.

PIC Application	Removal Type	Number of Units Approved	Number of Acres Approved	Date of Approval
IBSOR01710	Disposition	6	-	10/14/1997

KHA proposes the voluntary conversion of its entire Section 9 inventory, which consists of 59 public housing dwelling units at Klamath Scattered Sites, OR017000001. Details of the proposed conversion are as follows:

Klamath Scattered Sites, OR017000001					
DOFA: 02/28/1981					
Bedroom Size	1-BR	2-BR	3-BR	4+BR	Total
Existing Units	0	35	16	8	59
Units Proposed for Conversion	0	35	16	8	59
Existing Land					7 Acres
Proposed Land					7 Acres
Number of Dwelling Buildings Existing					34
Number of Dwelling Buildings Proposed for Conversion					34
Number of Non-Dwelling Buildings Existing					1
Number of Non-Dwelling Buildings Proposed for Conversion					1
Number of (Dwelling and Non-Dwelling) ACC Units in PHA's Total Housing Inventory for All Developments					59

### **Future Use of Property**

The SVC Plan indicates that KHA proposes to convey its one non-dwelling building, 59 dwelling units in 34 dwelling buildings, and seven acres of underlying land at Klamath Scattered Sites, OR017000001 at less than Fair Market Value (FMV) to its non-profit subsidiary, Housing Now, Inc. (HNI) for the value of \$1.00. KHA will retain an ownership interest of the 59 dwelling units and one non-dwelling property by transferring title of the property to HNI, which is owned and controlled by KHA. The HNI shares a mirrored Board of Directors with KHA. HNI will contract with the KHA for the on-going management of the property. KHA proposes to maintain the affordability through the use of tenant-based vouchers for those tenants opting to remain in their unit; for those units not occupied by a current resident or units in which the resident has voluntarily consented to relinquish their voucher, the units will be covered by a Section 8 Project Based Voucher (PBV) Housing Assistance Payments (HAP) contract. The non-dwelling building contains a community room on one side and laundry facilities on the other. The residents use the community room for family gatherings and as a classroom for trainings. The building will continue to serve the same purpose following the conversion.

### **Impact Analysis**

The impact analysis submitted with the Conversion Plan discusses the impact on the residents and the surrounding community. KHA certified that the proposed conversion of units at the development would not negatively impact affordable housing because the entire development, including the proposed converted units, will continue to be controlled by KHA as permanent housing for low-income families. Therefore, the proposed action will not result in a loss of affordable housing, the added revenue will facilitate the increase of future affordable housing opportunities, and KHA believes that there is adequate supply of housing for those residents wishing to explore other housing options.

### **Evidence of Resident Consultation**

As required by Section 22(d)(1) of the 1937 Housing Act, KHA has demonstrated that the proposed conversion plan was developed with significant participation by the residents of the 59 dwelling units to be converted. KHA invited all residents of the affected development to attend a resident meeting held on May 21, 2019, in which the agency provided copies of the Plan to the attendees. Through this consultation process, the KHA explained the specific requirements and rights residents had under 24 CFR 972. Copies of the letters informing the residents of the meeting and sign-in sheets are included with the application.

### **Relocation**

When the voluntary conversion application was developed and transmitted to the Department, 58 of the 59 units proposed for conversion were occupied. As part of its conversion plan, the KHA certified to the Department that it will comply with all applicable relocation provisions of 24 CFR 972.230(g). KHA does not anticipate that any families will be required to relocate as a part of the conversion. In addition, KHA will ensure that each family is afforded the opportunity and right to remain in their current unit using a Tenant Protection Voucher (TPV) issued to the tenant. Families may opt to remain in their units using the TPV or may

choose to relocate to other private market units under the HCV program. Households that opt to relocate elsewhere will be provided with referrals to housing by KHA and/or its designee. KHA estimates that it will cost \$50,000 in relocation/counseling expenses. The agency expects to use FY 2019 Operating and/or Capital funds to pay for these expenses. Families who voluntarily consent to PBV assistance will have the opportunity to remain in their unit under a PBV contract administered by KHA.

Section 22 of the 1937 Housing Act requires that residents be provided a minimum 90-day notice that the assistance in their unit will be converted to tenant-based assistance. Residents may choose to move prior to the expiration of the 90-day notice period. Section 22 of the 1937 Housing Act also stipulates that residents exercising their mobility option are not considered "relocated" with tenant-based assistance until they are actually moved and under a lease at an off-site unit.

#### **Board Resolution**

KHA certified that its Board of Commissioners approved submission of the Plan for converting one non-dwelling building, 34 dwelling buildings containing 59 dwelling units and seven acres of underlying land at Klamath Scattered Sites, OR017000001, on September 24, 2019, via Resolution Number 614.

#### **Local Government Consultation**

KHA certified to the Department that the Plan was developed in consultation with appropriate public officials as required by 24 CFR 972.227. As part of its Plan, KHA included a letter dated August 22, 2019, from the Honorable Carol Westfall, Mayor of the City of Klamath Falls. KHA included a letter from Donnie Boyd, Chair of the Klamath County Board of Commissioners, dated August 20, 2019. Both letters state that the conversion supports the goals of the City of Klamath Falls Consolidated Plan.

#### **Capital Fund Financing Program**

As of October 16, 2019, and April 29, 2020, the KHA did not have HUD approval of a Capital Fund Financing Program (CFFP) proposal.

#### **Necessary Conditions for Approval of Conversion**

KHA demonstrated that the conversion will principally benefit the residents, KHA, and the community and will not adversely affect the availability of affordable housing in the community. KHA demonstrated through the impact analysis and the proposed future use of the property that there is no elimination of any affordable housing units in the neighborhood due to the transaction. KHA will continue to provide low-income housing as previously discussed. Those families who choose to exercise a mobility option with tenant-based assistance will have their moving expenses paid for if they move within a six-month period after the conversion. KHA anticipates by converting the project out of the public housing program, the project will be able to remain an affordable housing asset in the community.

### Approval

The Department approves the KHA's Voluntary Conversion Plan and application and finds it is complete and includes all of the information required under 24 CFR 972.230 and is consistent with Section 22 of the Act and the implementation regulations at 24 CFR 972.

Klamath Scattered Sites, OR017000001 DOFA: 02/28/1981					
Bedroom Size	1-BR	2-BR	3-BR	4+BR	Total
Units Proposed for Conversion	0	35	16	8	59
Land Approved for Disposition				7 Acres	
Number of Dwelling Buildings Approved for Conversion					34
Number of Non-Dwelling Buildings Approved for Conversion					1
Method of Sale				Negotiated sale at less than FMV, nominal value of \$1.00	
Terms				30-year use restriction	

### Family Briefing

As part of its SVC Plan, KHA indicated that it plans to attach PBV assistance to the property after conversion. Prior to attaching PBV assistance to any occupied unit, in accordance with the requirements of Appendix A of PIH Notice 2019-05, KHA must hold a Family Briefing with the impacted families and obtain each family's informed written consent. Units cannot be added to the PBV HAP if families choose to remain in their units using tenant-based assistance.

PHAs may hold the Family Briefing at any point in the process (before or after submitting the SVC Plan to HUD). PHAs must provide families with at least 30-days to make a decision. In addition, to ensure informed consent, PHAs must fully inform families of their relocation rights under 24 CFR part 972. Specifically, KHA must inform the family that it has the right to move off-site with the tenant-based assistance (in addition to the option to stay in the unit), and that KHA will pay for actual and reasonable relocation expenses and provide any necessary counseling, including appropriate mobility counseling. HUD recommends KHA not accept a family's written consent until after HUD approves the SVC Plan and the PHA issues the 90-day notice required by 24 CFR 972.230(g).

### Tenant Protection Vouchers

This approval allows KHA to apply for and receive TPVs from HUD and to begin implementing its relocation plan, as indicated in its Plan.

Upon KHA's request, HUD will provide, dependent only on the availability of funds, TPVs to affect the conversion of assistance from the subject public housing dwelling units to tenant-based assistance. HUD's provision of TPVs requires that the public housing units will not be replaced with public housing and that the KHA will exit the Section 9 housing program. PIH Notice 2018-09 provides that TPVs may be available to PHAs based on conversions that permanently remove units from a PHA's public housing inventory.



- **Replacement TPVs:** HUD provides replacement TPVs in cases where the public housing will not be replaced in connection with the disposition and where the vouchers become part of the PHA's permanent HCV program. Replacement TPVs must be used first to assist displaced residents. Any remaining replacement TPVs can then be issued to families on its waiting list and/or project-based in accordance with all applicable Section 8 rules. Based on current appropriations law and HUD policy, the maximum number of replacement TPVs that a PHA is eligible to receive is currently based on units that were occupied within the previous 24 months of the date that the disposition application is approved by HUD. A PHA's replacement TPV award will not change from the maximum award identified below unless its redevelopment plans change and it decides to develop replacement public housing units in connection with the disposition. KHA must keep HUD updated on any changes and submit a request to amend this approval if its redevelopment plans change.

At the time of this approval, 59 public housing units were occupied. In connection with this conversion, the KHA reported that it does not intend to redevelop public housing units. Based on this, the KHA may be eligible for maximum TPVs as follows:

Type of TPVs	Replacement TPVs
Maximum TPV Award	59

HUD will not automatically issue TPVs to the KHA as part of this approval. Instead, the KHA must apply to HUD separately for TPVs in accordance with PIH Notice 2018-09 (or any successor notice). The KHA cannot submit the TPV request until it needs the TPVs for purposes of relocating the residents who will be displaced (generally no sooner than 30-60 days from the planned start of relocation). The timing of the KHA's TPV application submission and the start of relocation noted in this approval should be consistent.

As part of its TPVs request, the KHA must submit the following to the HUD Portland Program Center OPH:

- a) The name and IMS/PIC application number of the public housing project in this disposition approval;
- b) The number of TPVs requested (subject to the limitations above);
- c) Form HUD-52515 (Voucher Funding Application). If lease-up will cover more than one calendar year, the KHA must submit a separate Form HUD-52515 for each calendar year;
- d) A leasing schedule that identifies the number of TPVs that will be leased on a month-to-month basis. If lease-up will cover more than one calendar year, the KHA must submit separate leasing schedules for each calendar year; and
- e) A copy of this approval (PDF version, signed and dated).

The HUD Portland Program Center OPH will conduct a threshold review of the TPV request prior to sending the request to HUD's Financial Management Division (FMD) for a final determination and processing. HUD's Financial Management Center (FMC) will notify LHRA in writing of its TPV award.

### **Removal of All Public Housing Property from Inventory**

The KHA has provided the Department with a signed HUD-5837 dated December 23, 2019, indicating that it intends to exit the Section 9 program. After all units are converted (Removed from Inventory Status in IMS/PIC) and the HUD Declaration of Trust (DOT) has been released, KHA must begin closing out its public housing program in accordance with PIH Notice 2019-13 or PIH Notice 2014-24. KHA should coordinate this process with the Portland OPH. At the conclusion of the closeout process, HUD will terminate its ACC with KHA.

### **Other Conditions**

- The HUD Portland OPH, with concurrence from the HUD Office of the General Counsel (OGC), must approve all terms and conditions in the conveyance of real property, whether in whole or in part, described in this approval;
- KHA shall ensure that 234 units at the property must be developed and operated as affordable housing for low-income families with incomes at or below 80 percent of AMI for not less than 30 years;
- The long-term affordability must be specifically ensured through use agreement, ground lease, or seller-financing notes and other legal mechanisms as determined by the HUD Portland OPH. Such use restriction documents must be recorded in a first priority position against the properties, prior to any financing documents or other encumbrances, and remain in effect even in the event of default or foreclosure on the properties;
- HNI shall maintain ownership and operation of the property during the use restriction period. The owner shall not convey, sublease, or transfer the property approved for this disposition without prior approval from KHA and HUD at any point during the period of use restriction;
- The use restrictions shall be covenants that run with the land, and shall bind and inure to the benefit of the parties, their successors and assigns, and every party now or hereafter acquiring any right, title, or interest therein or in any part thereof;
- Certain involuntary transfers of the property, such as to a secured lender upon default under the security documents, or pursuant to foreclosure, may occur, with the use restrictions surviving the transfer;
- Any subsequent transfers shall require prior written approval from KHA and HUD; and.
- KHA is responsible for monitoring and ensuring the long-term affordability of the property under the Affordability Covenant.

### PIC and Monitoring - PHA

In accordance with 24 CFR 970.7(a)(4), the KHA provided the following general timetable based on the number of days major actions will occur following approval of the application:

Milestone	Number of Days after Approval
Begin relocation of residents	90
Complete relocation of residents	120
Execution of contract for removal (i.e, sales contract)	135
Actual Removal Action (i.e., disposition/sale closing)	135

Any modifications to or deviations for any reason from the general timetable must be reported in writing to the HUD Portland Program Center OPH within five (5) business days and accompanied by an updated timetable.

For families that have chosen to move off-site with tenant-based assistance, KHA must issue TPV to families and assist with relocation (ensuring families find appropriate units). KHA must submit an "Issuance of Voucher" in HUD-50058 in PIC to document the relocation. HCV requirements (24 CFR 982) apply, including the requirement to brief the family once selected to participate in the HCV program. KHA must also revise the HUD-50058 to indicate the family's "End of Participation" (EOP) status in the public housing program and "New Admission" to the HCV or PBV program.

Within seven days after all families in the project have been converted to Section 8 HCV assistance and or relocated to comparable housing (through the HUD-50058), KHA must send an email to [SACTA@hud.gov](mailto:SACTA@hud.gov) and the Portland OPH requesting that the units be changed to "RMI" or "Removed from Inventory" status in IMS/PIC.

Since the property will be used as rental housing after conversion, the following occurs simultaneously (i.e., same day):

- KHA submits a release of Declaration of Trust (DOT) to the Portland OPH;
- KHA issues tenant-based TPVs to families who have chosen to stay in their units with tenant-based assistance and submits an "Issuance of Voucher" in HUD-50058 in PIC
- KHA transfers; the property (if applicable);
- If PBV is planned, KHA enters a PBV HAP contract for vacant units and for units where the family provided written consent to PBV assistance (see Appendix A of PIH Notice 2019-05);
- Families and the project owner execute leases for units under a PBV or tenant-based HAP contract. A Statement of Family Responsibility is also required under the PBV program (HUD-52578-B);
- For each family who will remain at the project with HCV or PBV assistance, KHA revises the family's HUD-50058 to indicate its "End of Participation"

(EOP) status in the public housing program and "New Admission" to the HCV or PBV program;

- HUD releases the property from DOT, KHA sells or retains (in accordance with SVC Plan), and HUD changes the status of the units/property to "Removed from Inventory" in IMS/PIC.

The HUD Portland OPH has been informed of this approval. Its staff are available to provide any technical assistance necessary for your agency to proceed with the conversion. As the KHA starts the process of implementation, I urge you to continue to maintain an open dialogue with your residents and local officials. If you must modify your plans, please contact the SAC at [SACTA@hud.gov](mailto:SACTA@hud.gov). As always, my staff and I are available to assist you in any way possible.

Sincerely,

JANE

HORNSTEIN

For Robert E. Mulderig  
Deputy Assistant Secretary for  
Public Housing Investments

Digitally signed by: JANE HORNSTEIN  
DN: cn = JANE HORNSTEIN c = US o  
= U.S. Government ou = Department  
of Housing and Urban Development  
Office of Public and Indian Housing  
Date: 2020.07.06 19:23:48 -0500

cc: Portland Program Center OPH



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

May 5, 2021

Diana Otero  
Executive Director  
Klamath Housing Authority  
1445 Avalon Street  
Klamath Falls, OR 97603

Dear Ms. Otero:

On April 12, 2021, the U. S. Department of Housing and Urban Development's (Department) Special Applications Center (SAC) received the Klamath Housing Authority's (KHA) request via email to amend the Streamlined Voluntary Conversion Plan (SVC Plan) approval for Scattered Sites, OR017000001. Supplemental information was received through April 12, 2021.

### History

On July 6, 2020, the Department approved Klamath Housing Authority's (KHA) Streamlined Voluntary Conversion Plan (SVC Plan) application via the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) system application DDA0010280, as identified below:

### July 6, 2020 Approval Summary

Klamath Scattered Sites, OR017000001					
DOFA: 02/28/1981					
Bedroom Size	1-BR	2-BR	3-BR	4+BR	Total
Units Proposed for Conversion	0	35	16	8	59
Land approved for Disposition					7 Acres
Number of Dwelling Buildings Approved for Conversion					34
Number of Non-Dwelling Building Approved for Conversion					1*
Method of Sale				Negotiated sale at less than FMV, nominal value of \$1.00	
Terms				30-year use restriction	

\*The non-dwelling building was understood to be the KHA office building at 1445 Avalon Street.

### Field Office Certification/Environmental Review

Pursuant to 24 CFR 970.7(a)(15), an approved environmental review (ER) of the proposed action in accordance with 24 CFR parts 50 or 58 for any demolition or disposition of public housing property is required under 24 CFR 970.13. The Portland Program Center HUD

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field office performed the Environmental Review (ER) in accordance with 24 CFR § 50 on March 6, 2020, for the proposed disposition action that referenced one non-dwelling building. The review found the proposed Streamlined Voluntary Conversion action approvable.

#### **Other Conditions of the July 6, 2020 Approval**

- The HUD Portland OPH, with concurrence from the HUD Office of the General Counsel (OGC), must approve all terms and conditions in the conveyance of real property, whether in whole or in part, described in this approval;
- KHA shall ensure that all units at the property must be developed and operated as affordable housing for low-income families with incomes at or below 80 percent of AMI for not less than 30 years;
- The long-term affordability must be specifically ensured through use agreement, ground lease, or seller-financing notes and other legal mechanisms as determined by the HUD Portland OPH. Such use restriction documents must be recorded in a first priority position against the properties, prior to any financing documents or other encumbrances, and remain in effect even in the event of default or foreclosure on the properties;
- HNI shall maintain ownership and operation of the property during the use restriction period. The owner shall not convey, sublease, or transfer the property approved for this disposition without prior approval from KHA and HUD at any point during the period of use restriction;
- The use restrictions shall be covenants that run with the land, and shall bind and inure to the benefit of the parties, their successors and assigns, and every party now or hereafter acquiring any right, title, or interest therein or in any part thereof;
- Certain involuntary transfers of the property, such as to a secured lender upon default under the security documents, or pursuant to foreclosure, may occur, with the use restrictions surviving the transfer;
- Any subsequent transfers shall require prior written approval from KHA and HUD; and
- KHA is responsible for monitoring and ensuring the long-term affordability of the property under the Affordability Covenant.

#### **Current Request**

In the current request, KHA requests an amendment to the approval letter dated July 6, 2020 for the above application. KHA requests that the Department modify the approval to include the disposition of an additional non-dwelling building, for a total of two non-dwelling buildings. When the Portland Program Center Field Office completed the Part 50 review it had reviewed the KHA office building, but not a separate structure used as a community room. When the Field Office Certification (FOC) including the Environmental Review was submitted to the

SAC, it was under the assumption that the sole non-dwelling building intended to be included within KHA's application was the office structure, which was incorrect.

### Updated Field Office Certification/Environmental

Pursuant to 24 CFR 970.7(a)(15), an approved environmental review (ER) of the proposed action in accordance with 24 CFR parts 50 or 58 for any demolition or disposition of public housing property is required under 24 CFR 970.13. The Portland Program Center HUD field office updated the Environmental Review (ER) for the subject KHA property in accordance with 24 CFR § 50 on March 30, 2021, to include one additional non-dwelling building within the proposed disposition action.

### Current Approval

The SAC has completed its subsequent review; and based on the information provided by KHA and concurrence from the HUD Portland Program Center, Office of Public Housing (OPH), your request to amend the Streamlined Voluntary Conversion Plan (SVC Plan) approval, as shown below, is hereby approved. The approval is amended to include the disposition of two non-dwelling buildings—the previously approved KHA office structure and a separate community space structure—as shown in the revised Field Office Certification which incorporates the updated Environmental Review, and as noted below:

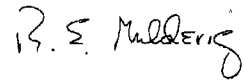
Klamath Scattered Sites, OR017000001					
DOFA: 02/28/1981					
Bedroom Size	1-BR	2-BR	3-BR	4+BR	Total
Units Proposed for Conversion	0	35	16	8	59
Land approved for Disposition					7 Acres
Number of Dwelling Buildings Approved for Conversion					34
Number of Non-Dwelling Buildings Approved for Conversion					2
Method of Sale				Negotiated sale at less than FMV, nominal value of \$1.00	
Terms				30-year use restriction	
Non-dwelling: KHA office at 1445 Avalon Street; community space at 2717 Crest Street					

This amended approval also provides a technical correction to one error in my approval letter of July 6, 2020, recognizing one instance on p. 7 of that letter which incorrectly reflected the number of dwelling units covered by the approval as 234, rather than the correct number, 59, shown elsewhere in that correspondence.

All other conditions of the original approval dated July 6, 2020 that are not specifically addressed in this letter remain as stipulated in those documents. Notwithstanding that, if there are any inconsistencies or ambiguities between this letter and the Department's previous approval, this letter shall control.

A copy of this modification will be forwarded to the HUD Portland Program Center OPH for their records. If you have any questions regarding this modification, please contact [SACTA@hud.gov](mailto:SACTA@hud.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read "R. E. Mulderig". The signature is written in a cursive, slightly stylized font.

Robert E. Mulderig  
Deputy Assistant Secretary  
Office of Public Housing Investments.

CC: Portland Program Center OPH