

2024-003675

Klamath County, Oregon

05/10/2024 03:15:02 PM

Fee: \$142.00

AFTER RECORDING RETURN TO:

Klamath Housing Authority

1445 Avalon Street

Klamath Falls, Oregon 97603

**LEASEHOLD TRUST DEED
(KHA SPONSOR LOAN)**

THIS LEASEHOLD TRUST DEED ("Trust Deed") is made as of the 3rd day of May, 2024, by and between **MOUNTAINVIEW TOWNHOMES LIMITED PARTNERSHIP**, an Oregon limited partnership ("Grantor"), whose address is 1247 Villard Street, Eugene, Oregon 97403; with **LAWYERS TITLE OF OREGON** ("Trustee"), as trustee, whose address is 1455 SW Broadway, Suite 1400, Portland, Oregon 97201, in favor of **KLAMATH HOUSING AUTHORITY**, an Oregon public body corporate and politic ("Beneficiary"), whose address is 1445 Avalon Street, Klamath Falls, Oregon 97603.

Grantor owes Beneficiary the sum of **SIX HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$685,000.00)** which indebtedness is evidenced by a Promissory Note (as modified, supplemented, extended, renewed, or replaced from time to time the "Note") which Note is dated as of the same date as this Trust Deed. As a condition to making the loan evidenced by the Note, Beneficiary has required, and Grantor has agreed to execute and deliver, this Trust Deed. The maturity date of the Note secured by this Trust Deed is no later than December 31, 2056.

Grantor hereby irrevocably GRANTS, TRANSFERS, CONVEYS and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, all of Grantor's present and future estate, rights, title, claim, interest and demand, either in law or in equity, now existing or hereafter acquired, of, in and to the following property:

(a) Grantor's leasehold estate in the real property and all rights to the alleys, streets and roads adjoining or abutting the real property described on Exhibit "A" attached hereto (the "Realty"), together with and including all right, title and interest of Grantor therein;

(b) All buildings, improvements and tenements now or hereafter located on the Realty;

(c) All fixtures and articles of property now or hereafter attached to, or used or adapted for use in the ownership, development, operation or maintenance of the buildings, improvements, and Realty (whether such items be owned absolutely or subject to any title retaining or security instrument, or be otherwise used or possessed, but excluding leased property located on the Realty), including without limitation all heating, cooling, air conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces, all ranges, stoves, disposals, refrigerators and other appliances, all escalators and elevators, baths, sinks, all cabinets, partitions, mantels, built in mirrors, window shades, blinds, screens, awnings, storm doors, windows and sashes, all carpeting, underpadding, floor covering, paneling and draperies, all furnishings of public spaces, halls and lobbies, and all shrubbery and plants; all of which items shall be deemed part of the real property and not severable wholly or in part without material injury to the freehold;

(d) All of Grantor's rights, title and interests in the rents, revenues, issues, profits and income of the Property, and all rights, title and interests of Grantor in and to all present and future leases and other agreements for the occupancy or use of all or any part of the Realty, and all right, title and interest of Grantor thereunder, including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature; SUBJECT, HOWEVER, to the assignment of rents and other property to Beneficiary herein contained;

(e) All of Grantor's rights, title and interests in all intangible personal property used or useful in connection with the ownership, development, operation or maintenance of the buildings, improvements and Realty, including without limitation all permits, licenses and franchises with respect to the Property, the exclusive right to use of any trade names, all contract rights (including, but not limited to, architectural, engineering and management agreements), all accounts receivable, leases and rental agreements, escrow accounts, insurance policies, deposits (including but not limited to tenant deposits), instruments, documents of title, general intangibles and business records pertaining to the buildings, improvements and Realty;

(f) All of Grantor's rights, title and interests in materials, supplies and other goods, collectively referred to as "materials" now owned or hereafter acquired, wherever located, whether in the possession of Grantor or any warehouseman or bailee, or any other person, purchased for use in the construction or furnishing of improvements on the Realty, but excluding leased property located on the Realty, together with any documents covering such materials, all contract rights and general intangibles relating to such materials and proceeds of such materials, documents, contract rights and general intangibles;

(g) All other rights and privileges of every kind included within the Property, and all present and future contracts and policies of insurance which insure the Property or any part thereof, real or personal (whether or not Beneficiary is a loss payee thereof); and

(h) All products and proceeds of the foregoing property

Items (b) through (h) are collectively the “Improvements”. The Realty and Improvements are collectively the “Trust Property”.

TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations (as defined in Section 1.1 below) shall be paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed shall be reconveyed.

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

1. Particular Covenants and Warranties of Grantor.

1.1 Obligations Secured. This Trust Deed secures the payment of all principal and interest on, and other obligations under the Note, and the performance of all covenants and obligations of Grantor under this Trust Deed.

1.2 Compliance with Laws. Grantor will comply with all legal requirements affecting the Trust Property.

1.3 Maintenance and Improvements. Grantor shall maintain every portion of the Trust Property and Improvements in good repair, working order, and condition, except for reasonable wear and tear and casualty and condemnation.

1.4 Liens. Grantor shall pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. Grantor shall not create, or suffer, or permit to be created, any mortgage, Trust Deed, lien, security interest, charge, or encumbrance upon the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, except as previously approved by Beneficiary. In that certain Priority and Subordination Agreement dated on or about the date hereof, Beneficiary consents to the refinancing of any lien that is senior to the lien of this Trust Deed, and Beneficiary agrees to subordinate the lien of this Trust Deed to any such refinanced loan.

1.5 Impositions. Grantor shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Property. Grantor shall furnish to Beneficiary, promptly upon request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

1.6 Insurance. Grantor shall obtain and maintain in full force and effect during the term of this Trust Deed property and liability insurance on the Trust Property reasonably satisfactory to the Beneficiary. The Beneficiary agrees that insurance and condemnation proceeds shall be used to rebuild and restore the Project provided that: (i) if such proceeds are not reasonably sufficient to so build or repair, sufficient additional funds are provided from other sources to rebuild and restore the Project and (ii) Beneficiary shall have the right to reasonably approve plans and specifications for any major rebuilding and the right to reasonably approve disbursement of such proceeds under a construction escrow or similar arrangement, subject to the prior rights of any senior lenders.

1.7 WARNING: UNLESS YOU (GRANTOR) PROVIDE US (BENEFICIARY) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR 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 YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

2. Events of Default; Remedies.

2.1 Events of Default. Any failure to pay or perform, when due, any obligation under the Note or this Trust Deed shall constitute an "Event of Default" hereunder. If an Event of Default shall occur, Beneficiary or Trustee may exercise any one or more of the rights and remedies available by law, in equity, or otherwise. Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Property by advertisement and sale under applicable law. Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property. All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by Beneficiary to cure any breach of Grantor hereunder shall not constitute a waiver

of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default. With respect to any Event of Default that Grantor has a right to cure as set forth in the Note or this Trust Deed, the Limited Partner (as hereinafter defined) shall have the same right to cure, and Beneficiary shall accept the performance of such cure by Limited Partner, to the extent such performance constitutes a cure, as if Grantor had performed such cure. Grantor agrees to accept cures tendered by Limited Partner, as follows: (a) with respect to any monetary default under this Trust Deed or the Note (collectively, the "Loan Documents"), the Limited Partner shall have thirty (30) days after the receipt of notice of such monetary default to cure or cause to be cured such monetary default; and (b) with respect to any nonmonetary default under the Loan Documents, Limited Partner shall have ninety (90) days after the receipt notice of such nonmonetary default to cure or cause to be cured such default, and if such default is incapable of being cured within such ninety (90) day period, Grantor shall provide additional time needed to cure such default as long as such cure was commenced within such ninety (90) day period and is being diligently completed.

2.2 Limitation on Exercise of Remedies. Notwithstanding anything to the contrary set forth in this Trust Deed, in no event shall Beneficiary have the right to exercise a Remedy (as hereinafter defined) prior to the later of (A) the first day following the end of the Compliance Period, as such term is defined in the Grantor's Amended and Restated Limited Partnership Agreement ("Partnership Agreement") and (B) the date on which NEF Assignment Corporation or any affiliate is no longer a partner of Grantor. A "Remedy" shall mean (i) commencing foreclosure proceedings with under this Trust Deed or exercise any other rights or remedies it may have under this Trust Deed, including, but not limited to, accelerating sums due under the Note, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies hereunder and/or (ii) joining with any other creditor in commencing any bankruptcy reorganization arrangement, insolvency or liquidation proceedings with respect to the Grantor.

Should an Event of Default occur under this Trust Deed, Beneficiary shall provide prompt written notice to NEF Assignment Corporation, as nominee (or its successor and assign) (the "Limited Partner"), at the notice address set forth below of such Event of Default, and the Limited Partner, including any successor or assign, shall have the right to cure the Event of Default within 30 days after receipt of such notice, or such additional time as may be reasonably necessary to cure such default or event of default and Lender, and Beneficiary agrees, during such cure period, not to exercise its remedies under this Trust Deed. The Limited Partner's election to cure an Event of Default shall be in the sole and absolute discretion of the Limited Partner. If the Limited Partner makes any such deficiency payment or performs Borrower's defaulted obligations under this Trust Deed during any such period herein, Lender shall be obligated to perform under this Trust Deed. Notice to the Limited Partner shall be provided to the following address, or to such other address as the Limited Partner may in writing hereafter indicate:

NEF Assignment Corporation
10 South Riverside Plaza
Suite 1700
Chicago, Illinois 60606
Attention: General Counsel

3. General Provisions.

3.1 Time is of the Essence. Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

3.2 Reconveyance by Trustee. At any time upon the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting the liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto", and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

3.3 Notice. All notices pertaining to this Trust Deed shall 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 at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the date of mailing; notices given by hand shall be deemed to have been given when actually received; notices given by facsimile will be deemed to have been given when fax receipt confirmation is received. A copy of each notice of default shall be sent to the Limited Partner as provided in Section 2.2 above.

3.4 Substitute Trustee. In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

3.5 Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding upon and inure to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Trust Property or any portion thereof shall at any time be vested in any person other than Grantor, Beneficiary shall have the right to deal with such successor regarding this Trust Deed, the Trust Property, and the Obligations in such manner as Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantor and without impairing Grantor's liability for the Obligations.

3.6 Expenses and Attorney Fees. Beneficiary shall be entitled to recover its reasonable costs and attorneys' fees incurred in any legal action related to this Trust Deed in which it is the prevailing party.

3.7 Applicable Law. This Trust Deed and the validity, interpretation, performance, and enforcement of this Trust Deed shall be governed by the laws of the State of Oregon.

3.8 Severability. If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Trust Deed, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in this Trust Deed.

3.9 Entire Agreement. This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained herein shall be binding or valid.

3.10 Transfers.

(a) The withdrawal, removal, transfer and/or replacement of the general partner of Grantor pursuant to the terms of the Partnership Agreement shall not constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan; provided that Grantor agrees to notify the Beneficiary of any proposed replacement general partner prior to replacement, and, upon replacement, shall notify the Beneficiary of the name and contact information of the replacement general partner with reasonable promptness.

(b) Nothing in the Loan Documents shall limit or restrict the admission of the Limited Partner or the ability of Grantor's Limited Partner, NEF Assignment Corporation, its successors and assigns to transfer, sell or assign its ownership interest in Grantor, in accordance with the terms of the Partnership Agreement without consent of Beneficiary, provided that said Limited Partner remains liable for payment of any then unpaid capital contributions to Borrower, as and when payable, as set forth in the Partnership Agreement, notwithstanding any such transfer, sale or assignment.

(c) The Beneficiary acknowledges that Limited Partner has the right, under the Partnership Agreement, to direct the general partner to remove the Project property management agent. Grantor agrees to give Beneficiary notice of the proposed replacement management agent, and the Beneficiary agrees to consent to same, assuming that such replacement property manager is acceptable to Limited Partner and has experience in managing projects occupied by low-income households pursuant to Section 42 of the Internal Revenue Code.

(d) The Beneficiary consents to those purchase options and rights of first refusal in favor of the general partner of Grantor or its designee which are set forth in the Partnership Agreement, and agrees that transfer of title to the Project in accordance therewith shall not constitute a default under the Loan Documents, provided that Grantor gives Beneficiary prior written notice of such transfer and contact information for such transferee, and provided that the transferee agrees to assume the duties and obligations of the Grantor respecting the Loan on the same terms as those imposed on the Grantor.

(e) Beneficiary agrees that all amendments to the Partnership Agreement entered into in order to effect transfers or assignments of the Limited Partner's or the General Partner's interest pursuant to this Section 3.10 shall not require the consent or approval of the Beneficiary.

3.11 Partial Subordination of Section 42 Extended Use Commitment. Notwithstanding anything herein to the contrary, if the Beneficiary takes title to the Project through foreclosure or deed in lieu of foreclosure, the Property shall remain subject to the provisions of Section 42(h)(6)(E)(ii) of the Internal Revenue Code or any similar successor provision of the Code. This section shall apply notwithstanding the order of recording of any of the Loan Documents and the Extended Use Commitment, executed in connection with the allocation of federal low income housing tax credits to the Grantor for the Project pursuant to Section 42 of such Code.

3.12. Recourse. Notwithstanding anything to the contrary herein, the indebtedness evidenced by the Note is a recourse obligation of Grantor and its general partners.

O.R.S. 41.580 Disclosure. UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE MAKER'S RESIDENCE, MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY LENDER TO BE ENFORCEABLE.

[Remainder of page left intentionally blank.]
[Signature on following page.]

In witness whereof, Grantor hereby executes this Trust Deed as of the date first set forth above.

GRANTOR:

MOUNTAINVIEW TOWNHOMES LIMITED
PARTNERSHIP, an Oregon limited partnership

By: KHA Mountainview GP LLC,
an Oregon limited liability company,
Its: Managing General Partner

By: Klamath Housing Authority,
Its: Manager

By: 
Ann Malfavon, Executive Director

By: Stewardship Mountainview LLC,
an Oregon limited liability company,
Its: Administrative General Partner

By: Stewardship Development LLC,
an Oregon limited liability company,
Its: Manager

By: JCP Real Estate LLC,
an Oregon limited liability company
Its: Member

By: _____
Amanda Perkins, Member

In witness whereof, Grantor hereby executes this Trust Deed as of the date first set forth above.

GRANTOR:

MOUNTAINVIEW TOWNHOMES LIMITED
PARTNERSHIP, an Oregon limited partnership

By: KHA Mountainview GP LLC,
an Oregon limited liability company,
Its: Managing General Partner

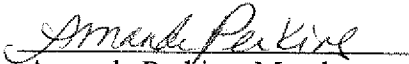
By: Klamath Housing Authority,
Its: Manager

By: _____
Ann Malfavon, Executive Director

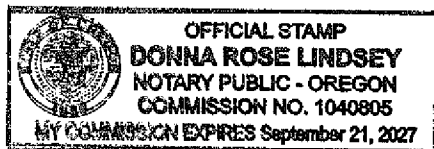
By: Stewardship Mountainview LLC,
an Oregon limited liability company,
Its: Administrative General Partner

By: Stewardship Development LLC,
an Oregon limited liability company,
Its: Manager

By: JCP Real Estate LLC,
an Oregon limited liability company
Its: Member

By: 
Amanda Perkins, Member

This instrument was acknowledged before me this 6th day of May, 2024 by Ann Malfavon, the Executive Director of the Klamath Housing Authority, the Manager of KHA Mountainview GP LLC, an Oregon limited liability company, the Managing General Partner of Mountainview Townhomes Limited Partnership, an Oregon limited partnership.



Notary Public; State of OREGON

Print Name: Donna Lindsey
My Commission Expires: 9/2/27

My Commission Expires: 9/2/27

This instrument was acknowledged before me this _____ day of _____, 2024 by Amanda Perkins, Member of JCP Real Estate LLC, an Oregon limited liability company, the Member of Stewardship Development LLC, an Oregon limited liability company, the Manager of Stewardship Mountainview LLC an Oregon limited liability company, the Administrative General Partner of Mountainview Townhomes Limited Partnership, an Oregon limited partnership.

Notary Public; State of OREGON

Print Name: _____

My Commission Expires: _____

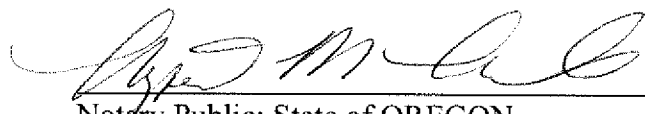
STATE OF OREGON)
) ss.
COUNTY OF KLAMATH)

This instrument was acknowledged before me this _____ day of _____, 2024 by Ann Malfavon, the Executive Director of the Klamath Housing Authority, the Manager of KHA Mountainview GP LLC, an Oregon limited liability company, the Managing General Partner of Mountainview Townhomes Limited Partnership, an Oregon limited partnership.

Notary Public; State of OREGON
Print Name: _____
My Commission Expires: _____

STATE OF OREGON)
) ss.
COUNTY OF Multnomah)

This instrument was acknowledged before me this 3 day of May, 2024 by Amanda Perkins, Member of JCP Real Estate LLC, an Oregon limited liability company, the Member of Stewardship Development LLC, an Oregon limited liability company, the Manager of Stewardship Mountainview LLC an Oregon limited liability company, the Administrative General Partner of Mountainview Townhomes Limited Partnership, an Oregon limited partnership.



Notary Public; State of OREGON
Print Name: MARGARET M. NEIKIRK
My Commission Expires: 1-26-27

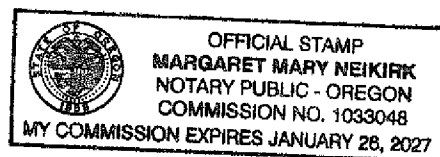


EXHIBIT A

LEGAL DESCRIPTION

Parcel 1, Land Partition 15-23, a replat of Parcel 3 Land Partition 8-20, a replat of Parcel 3 of Land Partition 2-17 situate in NE ¼ Section 14, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County Oregon and recorded December 26, 2023 as Instrument No. 2023-010962, Klamath County Records.