

First American Title
615 S. I-35 Service Rd.
Moore, OK 73160

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02/09/2023 08:28:30 AM Pgs: 6
Fee: \$28.00
Kerrie Hudson, Deputy County Clerk
Oklahoma County - State of Oklahoma



After recording return to:
The City of Oklahoma City
Planning Department, Housing & Community Development Division
420 West Main, Suite 920
Oklahoma City, OK 73102

2 **DECLARATION OF AFFORDABILITY REQUIREMENTS**

THIS DECLARATION OF AFFORDABILITY REQUIREMENTS (herein "Declaration") is made effective as of this 16th day of August 2022, by One Red Oak, LLC, an Oklahoma limited liability company in good standing, whose notice address is 12308 Beryl Lane, Oklahoma City, OK 73170, and Harmony Affordable Housing Partners LP, an Oklahoma limited partnership whose notice address is 100 W. Park, Suite 101, Tecumseh, OK 74873 (the "Developers"), in favor of The City of Oklahoma City, an Oklahoma municipal corporation ("City" or "The City"), whose notice address is 200 N Walker, Second Floor, Oklahoma City, OK 73102, Attention: City Clerk pursuant to a certain Loan Agreement; specifically, The City of Oklahoma City HOME Investment Partnerships Program (HOME) Loan Agreement with the Developers for Harmony School Apartments Multifamily Housing Development effective August 16, 2022; to carry out affordable housing development under The City's Home Investment Partnerships ("HOME") Program.

R E C I T A L S :

A. The Developers have entered into the aforementioned Loan Agreement with The City and obtained funds for new construction and rehabilitation of a multifamily housing development with HOME funds for the Harmony School Apartments at 1537 NE 24th Street, Oklahoma City, OK 73111 ("property"), its legal description as indicated in Exhibit "A" attached hereto.

B. The property is part of a project or projects that must be completed in accordance with the terms of the Loan Agreement, and applicable requirements of The City.

C. In consideration of the aforementioned, the Developers have agreed to impose certain Affordability Requirements on the property, as covenants running with the property. The Affordability Requirements consist of the period of time beginning on the date of "Initial Project Completion" as defined by the Loan Agreements and approved by the City and ending on the date which is twenty (20) years after the date of Initial Project Completion.

A G R E E M E N T S :

In consideration of the benefits that accrue to the Developers under the aforementioned Loan Agreement, and for other valuable consideration, the Developers agree for the benefit of The City as follows:

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1. Affordability Requirements. The Developers agree that 100% of the forty (40) units assisted with HOME funds shall be rented exclusively to income-eligible individuals as defined by the Loan Agreement.

2. Transfers or Sales Subject to City Approval. If the Developers, its grantees, successors or assigns, desires to sell, convey, assign, or otherwise transfer (collectively, "transfer") the property, or any part thereof or any interest therein to another entity: (a) the transfer shall be subject to the prior written approval of The City, and (b) if such approval is granted, the transfer shall provide for the continued imposition of the Affordability Requirements upon the transferee until such time as the Affordability Requirements are amended or otherwise satisfied.

3. Covenants Run With the Land. The Affordability Requirements contained in this Declaration shall be deemed to be covenants and restrictions running with the land and property and shall inure to the benefit of The City, and bind the Developers and its grantees, successors and assigns, immediate and remote.

4. Right to Enforce; Remedies. The City shall be entitled to enforce the Affordability Requirements created, imposed by, and contained in this Declaration. The rights to enforce contained herein specifically include, without limitation, the right to seek and obtain damages, specific performance, and injunctive relief (prohibitive or mandatory) preventing the breach of, or enforcing the performance or observance of, the Affordability Requirements and the other covenants, agreements, rights, and obligations contained herein. In addition to the foregoing remedies, The City shall be entitled to any other rights and remedies afforded by applicable law or equity. In any action to enforce or interpret, or otherwise arising out of this Declaration, the prevailing party shall be entitled to recover its reasonable costs and expenses incurred in connection therewith including, without limitation, the reasonable fees and disbursements of its attorneys and expert witnesses, and including the reasonable fees and expenses of its attorneys incurred in connection with any appellate, bankruptcy, or insolvency proceedings.

5. Release of Affordability Requirements. The City shall release the Affordability Requirements in this Declaration by a written instrument in recordable form executed and acknowledged by The City upon the satisfaction of the Affordability Requirements in accordance with the terms of the Agreement.

6. Other Covenants Unaffected. Nothing contained herein shall be deemed to waive, release, amend, or otherwise affect any other restrictions, covenants or agreements imposed in connection with the Property.

7. Miscellaneous. The parties further agree as follows:

7.1 Termination or Amendment; Binding Effect; Failure to Enforce Not a Waiver. The rights, restrictions, agreements, requirements and covenants created and imposed hereby may not be terminated, waived, released, modified, amended or changed, in whole or in part, temporarily or permanently, at any time or from time to time, except by a written instrument in recordable form executed and acknowledged by The City. No right, restriction, agreement, requirement or covenant contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the length or number of violations or breaches which may occur.

7.2 Notices. Any notice, demand, request or other communication required or permitted under this Declaration shall be in writing and either (a) delivered personally or by messenger or by a nationally recognized overnight courier service or (b) sent postage prepaid by express mail or first class certified mail, return receipt requested. The effective date of any notice or other communication shall be (1) the date of delivery of the notice, if by personal delivery, messenger or courier service, or (2) if mailed, on the date upon which the express mail receipt or the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as unclaimed or not deliverable. The parties hereby designate the notice addresses set forth in the first paragraph of this Declaration as the notice addresses under this Declaration; a copy of any such notice, demand, request or other communication shall be sent to the following:

The City of Oklahoma City
City Clerk
200 N. Walker, Second Floor
Oklahoma City, OK 73102

And to: The City of Oklahoma City
420 W. Main, Suite 920
Oklahoma City, OK 73102
Attention: Planning Dept. Community Development Div.

and a copies to:

One Red Oak LLC
12308 Beryl Lane
Oklahoma City, OK 73170
Attention: Norman Seaberg

Harmony Affordable Housing Partners, LP
100 W. Park, Suite 101
Tecumseh, OK 74873
Attention: Norman Seaberg

Either the Developers or The City may change its notice address(es) by giving timely written notice to the other as provided herein.

7.3 Time. Time is of the essence of the provisions of this Declaration and the observance and performance of the obligations herein.

1. 7.4 Governing Law; Venue. The provisions of this Declaration are to be interpreted, construed, applied, and enforced in accordance with the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12721 et seq., as amended, and regulations promulgated there under, and the laws of the State of Oklahoma. Any action to construe or enforce this Declaration shall be brought only in the federal or state courts located in Oklahoma City, Oklahoma County, Oklahoma.

7.5 Severability. If any of the provisions of this Declaration or the application thereof in any circumstances shall be finally held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity and enforceability of the remainder of this Declaration, which can be given effect without the invalid or unenforceable provision, and to that extent the provisions of this Declaration shall be deemed severable.

7.6 Captions. The captions contained herein are inserted only as a matter of convenience and for reference, and shall in no way define, limit, or describe the scope of this Declaration or the intent of any provision hereof.

IN WITNESS WHEREOF, the party hereto has executed this Declaration of Affordability Requirements as of the 16th day of August, 2022.

ONE RED OAK, LLC, an Oklahoma limited liability company

BY: *Norman Seaberg*
Norman Seaberg, Manager

ACKNOWLEDGMENT

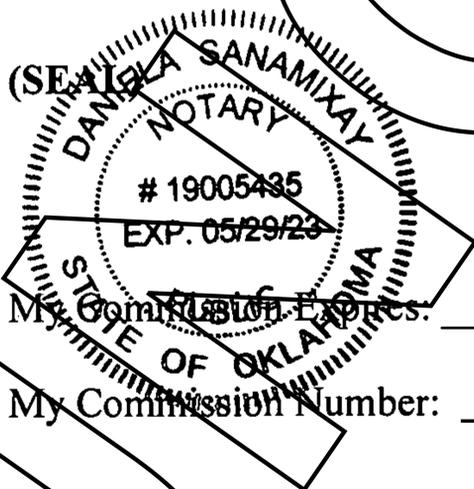
STATE OF OKLAHOMA)

) SS.

COUNTY OF OKLAHOMA)

This instrument was acknowledged before me on the 30th day of January 2023 by Noman Seaberg in witness whereof I have hereunto set my hand the day and year first above written.

[Signature]
Notary Public



My Commission Expires: 5-29-23

My Commission Number: 19005435

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF Oklahoma, STATE OF OK, AND IS DESCRIBED AS FOLLOWS:

Lot Fifteen (15), in RANEY'S ADDITION, to Oklahoma City, Oklahoma, according to the recorded plat thereof. LESS AND EXCEPT THE FOLLOWING TWO TRACTS:

A part of Block fifteen (15) of Raney's Addition, Oklahoma City, Oklahoma County, Oklahoma, more particularly described as follows;

Commencing at the Southeast Corner of said Block fifteen (15), Raney's Addition, Oklahoma City, Oklahoma County, Oklahoma; Thence N00°00'05"E along the East property line a distance of 149.57 feet; Thence N90°00'00"W a distance of 61.97 feet to the Point or Place of Beginning; Thence N00°00'00"W a distance of 79.52 feet; Thence N00°00'00"W a distance of 48.86 feet; Thence N90°00'00"E a distance of 22.85 feet; Thence S00°00'00"E a distance of 5.00 feet; Thence N90°00'00"E a distance of 16.82 feet; Thence N00°00'00"E a distance of 5.00 feet; Thence N90°00'00"E a distance of

39.85 feet; Thence S00°00'00"E a distance of 48.86 feet to the Point or Place of Beginning.

AND

A part of Block fifteen (15) of Raney's Addition, Oklahoma City, Oklahoma County, Oklahoma, more particularly described as follows:

Commencing at the Southeast Corner of said Block fifteen (15), Raney's Addition, Oklahoma City, Oklahoma County, Oklahoma; Thence N00°00'05"E along the East property line a distance of 198.43 feet; Thence N90°00'00"W a distance of 61.97 feet to the Point or Place of Beginning; Thence N90°00'00"W a distance of 39.85 feet; Thence S00°00'00"W a distance of 5.00 feet; Thence N90°00'00"W a distance of 16.82 feet; Thence N00°00'00"W a distance of 5.00 feet; Thence N90°00'00"W a distance of 47.52 feet; Thence N00°00'00"W a distance of 40.00 feet; Thence N90°00'00"E a distance of 104.19 feet; Thence S00°00'00"E a distance of 40.00 feet to the Point or Place of Beginning.