

BK: 2017 PG: 2557
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Fee Amount: \$42.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

Deed Restriction

Recorder's Cover Sheet

Preparer Information: John B. Lindsay
Kirton McConkie
50 East South Temple, Suite 400
Salt Lake City, UT 84111
Telephone: 801-239-3188

Taxpayer Information: N/A

Return Document To: John B. Lindsay
Kirton McConkie
50 East South Temple, Suite 400
Salt Lake City, UT 84111
Telephone: 801-239-3188

Grantors: RD ESW, LLC

Grantees: Bonneville Mortgage Company

Parcel Identification Number: N/A

Legal Description: See attached Exhibit A

Document or instrument number of associated documents previously recorded: N/A

WHEN RECORDED, RETURN TO:

Kirton McConkie
50 East South Temple, Suite 400
Salt Lake City, Utah 84111
Attn: John B. Lindsay

**DEED RESTRICTION
(Winterset II Apartments)**

THIS DEED RESTRICTION (the “Deed Restriction”) is made and agreed to this 15th day of August, 2017 (the “Closing Date”), by RD ESW, LLC, an Iowa limited liability company (“Borrower”).

PRELIMINARY STATEMENT

Borrower has requested that Bonneville Mortgage Company, a Utah corporation (“Lender”), make a loan to Borrower in the amount of Three Million Eight Hundred Thirty Thousand Dollars (\$3,830,000.00) (the “Loan”) and is secured by the Winterset II Mortgaged Property, the Madison Manor Mortgaged Property, and the Winterset II Mortgaged Property, as defined in the Loan Agreement. The Loan is for the financing of three (3) low income multi-family developments, including the 24-unit low income housing multi-family housing development known as Winterset II Apartments, located in Madison County, State of Iowa, on a site more particularly described in Exhibit A and by this reference made a part hereof (the “Land”). (The Land and all improvements existing or to be constructed thereon are hereafter referred to as the “Winterset II Mortgaged Property”). The Loan will be governed by a Construction and Term Loan Agreement (“Loan Agreement”) dated the Closing Date and executed by Borrower and Lender. The Loan will be evidenced by a Multifamily Note dated the Closing Date, executed by Borrower and payable to Lender (the “Note”) and will be secured by, among other collateral, a Multifamily Mortgage, Assignment of Rents and Security Agreement dated the Closing Date (the “Winterset II Security Instrument”), to be recorded in the land records of Madison County, State of Iowa.

Lender is agreeable to making the Loan to Borrower if the Loan is the subject of a ninety percent (90%) guarantee from the United States Secretary of Agriculture, acting through the United States Department of Agriculture, Rural Housing Service (“RHS”) under Section 538 of the Housing Act of 1949, 12 U.S.C., Section 1490p-2 (the “RHS Guarantee”). As a condition precedent to providing the RHS Guarantee, RHS requires that Borrower execute this Deed Restriction.

NOW, THEREFORE, in consideration of Lender making the Loan to Borrower, and of the mutual undertakings set forth below, Borrower agrees as follows:

1. **Definitions.** All capitalized terms that are used in this Deed Restriction but not defined in this Deed Restriction shall have the meanings assigned to them by the Loan Agreement.

2. **Covenants of Borrower.** Borrower, for itself and its successors in interest, agrees that until August 1, 2057, the Winterset II Mortgaged Property can only be utilized as rental housing (not home ownership) and can only be leased to low or moderate income families or persons, whose incomes at the time of initial occupancy do not exceed 115 percent of the median income of the area (“Eligible Tenant”), as determined by the United States Department of Agriculture in accordance with 42 U.S.C 1490p-2. No Eligible Tenants occupying the housing will be required to vacate nor any Eligible Tenant denied occupancy in violation of this provision unless such Eligible Tenant does not satisfy more stringent rent and/or income restrictions pertaining to the Mortgaged Property under any other state or federal affordable housing program. This restriction is enforceable by Eligible Tenants or the United States Department of Agriculture. For further questions contact the United States Department of Agriculture, Rural Housing Service at Director of Multi-Family Processing Division, 1400 Independence Avenue, SW, STOP 0781, Washington, DC 20250.

This Deed Restriction will apply to the Winterset II Mortgaged Property until August 1, 2057, unless the Winterset II Mortgaged Property is acquired by foreclosure or an instrument in lieu of foreclosure, or the United States Department of Agriculture waives the applicability of this Deed Restriction after determining that each of the following three circumstances exist.

- (a) There is no longer a need for low-and moderate-income housing in the market area in which the housing is located;
- (b) Housing opportunities for low-income households and minorities will not be reduced as a result of the waiver; and
- (c) Additional federal assistance will not be necessary as a result of the waiver.

3. **Covenants to Run With the Land.** Borrower hereby subjects the Winterset II Mortgaged Property to this Deed Restriction. Borrower hereby declares its express intent that this Deed Restriction shall be deemed a covenant running with the land and shall pass to and be binding upon Borrower’s successors in title to the Winterset II Mortgaged Property, until the Deed Restriction’s termination under Section 2 hereof. Every contract, deed or other instrument hereafter executed covering or conveying the Winterset II Mortgaged Property or any portion of the Winterset II Mortgaged Property shall be deemed to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in that contract, deed or other instrument.

4. **Governing Law.** This Deed Restriction shall be governed by and construed in accordance with the laws of the state in which the Winterset II Mortgaged Property is located and the United States of America, as applicable.

5. **Statutes and Regulations.** Any reference in this Deed Restriction to a statute or regulation shall include all amendments to and successors to such statute or regulation, whether adopted before or after the date of this Deed Restriction.

DATED: August 15, 2017.

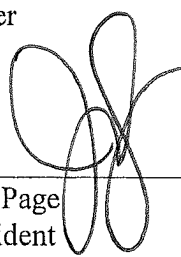
BORROWER

RD ESW, LLC,
an Iowa limited liability company

By: ESW I, LLC,
an Iowa limited liability company
Its: Managing Member

By: National Affordable Housing Foundation,
an Iowa Non-Profit Corporation
Its: Sole Member

By:




Jodi Page

Its: President

LENDER

BONNEVILLE MORTGAGE COMPANY,
a Utah corporation

By:  _____
Brent H. Peterson,
President, Multifamily Division

STATE OF IOWA

COUNTY OF POLK


On this 10th day of August, 2017, before me the undersigned, a notary public in and for the State of Iowa, personally appeared Jodi Page, to me personally known, who, being by me duly sworn, did say that s/he is President of National Affordable Housing Foundation, an Iowa Non-Profit Corporation which is the sole member of ESW I, LLC, an Iowa limited liability company which is the Managing Member of RD ESW, LLC, an Iowa limited liability company, executing the foregoing instrument, that the instrument was signed on behalf of the limited liability company, by authority of the limited liability company and the said President acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company.

Kelley Lynn Karns
Notary Public



STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 9th day of August, 2017, by Brent H. Peterson, President, Multifamily Division, Bonneville Mortgage Company, a Utah corporation.



Notary Public



EXHIBIT A

REAL PROPERTY DESCRIPTION

Real property in the City of Winterset, County of Madison, State of Iowa, described as follows:

Lots Twenty-four (24), Twenty-five (25) and Twenty-six (26), and all that part of Lot Twenty-seven (27) which is West of a line described as commencing at the Northeast corner of Lot Twenty-six (26), and running thence South to the South line of said Lot Twenty-seven (27), all in Northwest Development - Plat 1, to the City of Winterset, Madison County, Iowa.