

DOCH# 002070
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BK:1035 PG:191-195
BECKY ROBINSON
CLERK OF SUPERIOR COU
RT
HARALSON COUNTY

RETURN TO:

Hope Lanham
GAMMON, ANDERSON & McFALL
P.O. BOX 292
CEDARTOWN, GA 30125

Position 5

USDA
Form 1927-1 GA
(Rev. 07-06)

DEED TO SECURE DEBT FOR GEORGIA

THIS DEED TO SECURE DEBT is made and entered into by the undersigned

Kelly Foundation for Senior Living, Inc.

herein called "Borrower," and the United States of America, acting through the United States Department of Agriculture, herein called the "Government":

WHEREAS Borrower is indebted to the Government as evidenced by one or more promissory notes or assumption agreements or any shared appreciation or recapture agreement, herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
June 30, 2011	\$4,999,000.00	4.125%	June 30, 2041

The note evidences a loan to Borrower, and the Government, at any time, may assign the note pursuant to the Consolidated Farm and Rural Development Act, or any other statute administered by the Government;

It is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument, this instrument shall secure payment of the note.

NOW, THEREFORE, in consideration of the loan(s) and in order to secure the note held by the Government, or its assigns together with any renewals and extensions thereof and any agreements contained therein, all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, convey, and assign unto the Government, with general warranty, the

following property situated in the State of Georgia, County or Counties of Haralson

See Exhibit "A" attached hereto and made a part hereof.

together with all rights (including the rights to mining products, gravel, oil, gas, coal or other minerals), interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest there-in-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except:

AND COVENANTS AND AGREES as follows:

- (1) To pay promptly when due any indebtedness to the Government hereby secured.
- (2) To pay to the Government such fees and other charges as may now or hereafter be required by Government regulations.
- (3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.
- (4) The Government may at any time pay any other amounts including advances for payment of prior or junior liens, required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.
- (5) All advances by the Government, including advances for payment of prior or junior liens, in addition to any advances required by the terms of the note, as described by this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, including all charges and assessments in connection with water, water rights, and water stock pertaining to or reasonably necessary to the use of the real property described above, and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals.

(10) To comply with all laws, ordinances, and regulations affecting the property.

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.

(12) Except as otherwise provided by Government regulations, neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement(s) are being performed.

(14) The Government may (a) adjust the interest rate, payment, terms or balance due on the loan, (b) increase the deed to secure debt by an amount equal to deferred interest on the outstanding principal balance, (c) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (d) release any party who is liable under the note or for the debt from liability to the Government, (e) release portions of the property and subordinate its lien, and (f) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government—whether once or often—in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, personal property, or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower die or be declared incompetent, or should any one of the parties named as Borrower be discharged in bankruptcy or declared an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all rights and remedies provided herein or by present or future laws.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, or (d) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State laws.

(20) Borrower further agrees that the loans secured by this instrument will be in default should any loan proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land, as prohibited by 7 C.F.R. part 1940, subpart G.

(21) Upon Default by Borrower as aforesaid, the Government, its agents and its assigns may, with or without taking possession of the property, foreclose this deed by selling the property as a whole or in parcels at public sale (which need not be on a legal sales day) before the courthouse door in the county where the property lies to the highest bidder for cash, after advertising the time, place, and terms of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in a newspaper in which the Sheriff's advertisements for such county are published, and if the land lies in more than one county, in a newspaper in which the Sheriff's advertisement for any one of such counties are published, all other notice being hereby waived by Borrower, and thereupon execute and deliver to the purchaser or purchasers at such sale a sufficient conveyance of the premises in fee simple, which conveyance shall contain recitals as to the happening of the default upon which the execution of the power of sale herein granted depends, and Borrower hereby constitutes and appoints the Government the agent and attorney-in-fact of Borrower to make such recitals, and hereby covenants and agrees that the recitals so made by the Government, or assigns, shall be binding and conclusive upon Borrower, and that the conveyance thereby made by the Government, or assigns, shall be binding and conclusive upon Borrower and effectual to bar all equity of redemption of Borrower in and to the premises: the power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise.

(22) This instrument shall be subject to the present regulations of the Government, and to its future regulations not inconsistent with the express provisions hereof.

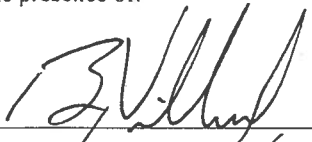
(23) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, addressed, unless and until some other address is designated in a notice so given, in the case of the Government to _____, and in the case of Borrower to Borrower at the address shown in the Government's Finance Office records.

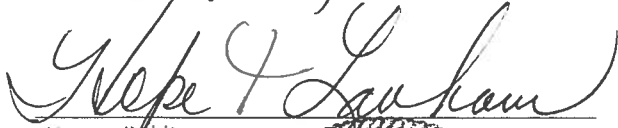
(24) This instrument is a deed and absolute conveyance passing title pursuant to the laws of the State of Georgia governing loan or security deeds and is not a mortgage.

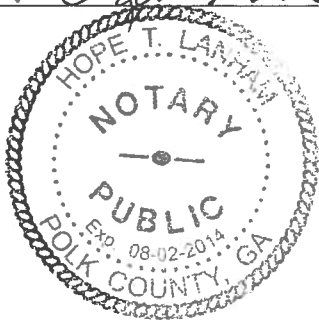
(25) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hands and seals this 30th day of June, in the year 2011.

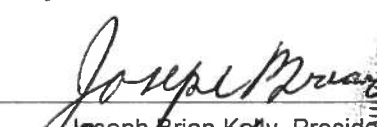
Signed, Sealed, and Delivered
in the presence of:




(Notary Public)



Kelly Foundation for Senior Living, Inc.

By: 
Joseph Brian Kelly, President
Attest: 
Cambria Moon, Secretary



The Grantee's address is:
United States Department of Agriculture

12 Felton Place

Suite A

Cartersville, Georgia 30120

Exhibit "A"

All that tract or parcel of land lying and being in Land Lot 41, 7th District, 5th Section, Haralson County, Georgia and being more particularly shown as Tract Two, containing 10.00 acres, according to a Plat of Survey for Joseph B. Kelly, prepared by Gregory Jack Dewberry, Georgia Registered Land Surveyor No. 2930, and recorded in Plat Book 43, Page 21, Haralson County, Georgia Deed Records, reference to which plat is hereby made for a more detailed description thereof.