



201805010079

When recorded return to:  
Seattle Foundation  
c/o Davis Wright Tremaine LLP  
Attn: Clayton P. Graham  
1201 Third Avenue - Suite 2200  
Seattle, Washington 98101

Skagit County Auditor

\$83.00

5/1/2018 Page

1 of

9 3:18PM

**Land Title and Escrow**

01-167184

OE

### DEED OF TRUST

**Grantor:** Museum of Northwest Art

**Grantee:** Seattle Foundation (Beneficiary)  
Land Title & Escrow (Trustee)

**Abbreviated Legal Description:**

LOTS 6 AND 7 AND THE SOUTH 15 FEET 6 INCHES OF LOT 8, BLOCK V,  
"MAP OF LACONNER, WHATCOM COUNTY, WASHN. TERRY., 1872," AS PER  
PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 49, RECORDS OF SKAGIT  
COUNTY, WASHINGTON

Full legal description appears in Exhibit A hereto.

**Assessor's Tax Parcel Number(s):** 4123-022-008-0100 (P108441);  
4123-022-008-0000 (P74100)

**Reference Numbers of Assigned or Released Documents (if applicable):** N/A

☐ Reference numbers of additional documents on page \_\_\_ of document

## DEED OF TRUST

THIS DEED OF TRUST is made this 1st day of May, 2018, between Museum of Northwest Art, a Washington nonprofit corporation, as Grantor, whose address is 121 South First Street, La Conner, Washington 98257, and Land Title & Escrow, as Trustee, whose address is 111 E. George Hopper Road, Burlington, WA 98233, and Seattle Foundation, as Beneficiary, whose address is 1601 Fifth Avenue, Suite 1900, Seattle, Washington.

Grantor irrevocably bargains, sells and conveys to Trustee in trust, with power of sale and right of entry, the following real property in Skagit County, Washington, described on Exhibit A attached hereto and incorporated herein by reference, together with all buildings and improvements thereon, all rents, issues and profits therefrom, all goods that are or are to become fixtures therein, all water rights however evidenced or manifested, and all other rights now or hereafter appurtenant thereto, and all interest and estate therein that the Grantor may hereafter acquire (the "Property")

Grantor covenants the Property is not used principally for agricultural purposes.

THIS DEED IS FOR THE PURPOSE OF SECURING PAYMENT AND PERFORMANCE of each agreement of Grantor incorporated by reference or contained herein and payment of the sum of \$219,867.66 with interest thereon and any late charges, according to the terms of a promissory note dated of even date herewith, payable to Beneficiary or order and made by Grantor (the "Note"); all renewals, modifications or extensions thereof; and also such further sums as may be advanced or loaned by Beneficiary to Grantor, or any of their successors or assigns, together with interest thereon at such rate as shall be agreed upon.

As used herein, "Loan Documents" means the Note, this Deed of Trust, and any other document executed by Grantor in connection with the indebtedness secured hereby, including without limitation any loan agreement, and all renewals, modifications and extensions thereof.

The Grantor covenants and agrees as follows:

1. To pay all debts and monies secured hereby, when from any cause the same shall become due. To keep the Property free from statutory and governmental liens of any kind. That the Grantor is seized in fee simple of the Property and owns outright every part thereof, that he has good right to make this Deed of Trust and that he will forever warrant and defend said Property unto the Beneficiary, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. The Grantor upon request by mail will furnish a written statement duly acknowledged of the amount due on this Deed of Trust and whether any offsets or defenses exist against the debt secured hereby.

2. To maintain the buildings and other improvements on the Property in a ~~rentable and tenantable condition and state of repair~~, to neither commit nor suffer any waste, to promptly comply with all requirements of the Federal, State and Municipal authorities and all other laws, ordinances, regulations, covenants, conditions and restrictions respecting Property or the use thereof, to pay all fees or charges of any kind in connection therewith, and to promptly repair or restore any building or other improvement after any damage thereto or destruction thereof. Grantor shall permit Beneficiary or its agents the opportunity to inspect the Property, including the interior of any structures, at reasonable times and after reasonable notice.

3. To maintain unceasingly, property insurance with premiums prepaid, on all of the Property, or hereafter becoming part of Property, against loss by fire and other causes of loss, on such forms and with such endorsements, as may be required from time to time by Beneficiary. Such insurance shall be in such amounts and for such periods of time as Beneficiary designates and shall include a standard mortgagee clause, and/or a loss payee endorsement (without contribution) in favor of and in form satisfactory to Beneficiary. Grantor covenants upon demand by Beneficiary to deliver to Beneficiary such policies and evidences of payment of premiums as Beneficiary requests.

4. To pay in full at least thirty (30) days before delinquent all rents, taxes, assessments and encumbrances, charges or liens with interest, that may now or hereafter be levied, assessed or claimed upon the Property or any part thereof, which at any time appear to be prior or superior hereto for which provision has not been made heretofore, and upon request to exhibit to Beneficiary official receipts therefor. On default under this paragraph, Beneficiary may, at its option, pay any such sums, without waiver of any other right of Beneficiary by reason of such default of Grantor, and Beneficiary shall not be liable to Grantor for a failure to exercise any such option.

5. To repay immediately on demand to Beneficiary all sums expended or advanced hereunder by or on behalf of Beneficiary or Trustee, with interest from the date of such advance or expenditure at the rate provided in the Note until paid and the repayment thereof shall be secured hereby. Failure to repay such expenditure or advance and interest thereon within ten (10) days of the mailing of such demand will, at Beneficiary's option, constitute an event of default hereunder.

6. Time is of the essence hereof in connection with all obligations of the Grantor herein or in the Note. By accepting payment of any amount secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

7. All sums secured hereby shall become immediately due and payable, at the option of the Beneficiary without demand or notice, after any of the following occur, each of which shall be an Event of Default: (a) default by Grantor in the payment of any indebtedness secured hereby and expiration of any applicable cure period provided for in

the Note without such default having been cured, (b) default in the performance or observance of any other agreement contained herein or secured hereby and expiration of any applicable cure period provided for herein or in any of the other Loan Documents without such default having been cured; or (c) if Grantor or any party liable on the Note (including guarantors) shall make any assignment for the benefit of creditors or shall permit the institution of any proceedings under any federal or state statutes pertaining to bankruptcy, insolvency, arrangement, dissolution, liquidation or receivership, whether or not an order for relief is entered. On or at any time after the occurrence of an Event of Default, Beneficiary may declare all amounts owed under the Loan Documents immediately due and payable without demand or notice and/or exercise its rights and remedies under the Loan Documents and applicable law including foreclosure of this Deed of Trust judicially or nonjudicially by the Trustee pursuant to the power of sale. Beneficiary's exercise of any of its rights and remedies shall not constitute a waiver or cure of a default. Beneficiary's failure to enforce any default shall not constitute a waiver of the default or any subsequent default. Grantor agrees to pay all reasonable costs, including reasonable attorneys' fees, accountants' fees, appraisal and inspection fees and cost of a title report, incurred by Beneficiary in connection with collection of the Note or any foreclosure of this Deed of Trust, which costs shall be included in the indebtedness secured hereby; and in any suit, action or proceeding (including arbitration or bankruptcy proceedings), or any appeal therefrom, to enforce or interpret the Note or any other Loan Document, or to foreclose this Deed of Trust, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees and costs of litigation. The Property may be sold separately or as a whole, at the option of Beneficiary. In the event of a foreclosure sale, Grantor and the holders of any subordinate liens or security interests waive any equitable, statutory or other right they may have to require marshaling of assets or foreclosure in the inverse order of alienation.

8. If the Property or any part thereof or any interest therein is sold, conveyed, transferred, encumbered, or full possessory rights therein transferred, or if a controlling interest in Grantor (if a corporation or limited liability company) or a general partnership interest in Grantor (if a partnership) is sold, conveyed, transferred or encumbered, voluntarily, involuntarily or by operation of law, without the prior written consent of the Beneficiary, then Beneficiary may declare all sums secured by the Deed of Trust immediately due and payable. This provision shall apply to each and every sale, transfer, conveyance or encumbrance regardless of whether or not Beneficiary has consented or waived its rights, whether by action, or nonaction, in connection with any previous sale, transfer, conveyance or encumbrance, whether one or more.

9. Beneficiary may commence, appear in, and defend any action or proceeding which may affect the Property or the rights or powers of Beneficiary or Trustee. If any proceeds of the Note are used to satisfy any lien against the Property, Beneficiary shall be subrogated to the rights of the holder of such lien and of the indebtedness satisfied.

10. If Beneficiary so requires, Grantor shall pay to Beneficiary monthly, together with and in addition to any payments of principal and/or interest due under the Note, a sum, as estimated by the Beneficiary, equal to the ground rents, if any, the real estate taxes and assessments next due on the Property and the premiums next due on insurance policies required under this Deed of Trust, less all sums already paid therefor, divided by the number of months to elapse before 2 months prior to the date when the ground rents, real estate taxes, assessments and insurance premiums will become delinquent, to be held by Beneficiary without interest and used to pay such items when due.

11. During the term of the loan, Grantor shall deliver a monthly report to Beneficiary in a form satisfactory to Beneficiary, which report shall include an income statement (Statement of Activities), balance sheet (Statement of Financial Position) and projected cash flows for the next twelve months, along with any updates or revisions to (a) Grantor's budget for its operations on the Property or (b) Grantor's use of the sums advanced pursuant to the Loan Documents.

12. If any payment made or to be made under the Loan Documents shall constitute a violation of the applicable usury laws, then the payment made or to be made shall be reduced so that in no event shall any obligor pay or Beneficiary receive an amount in excess of the maximum amount permitted by the applicable usury laws.

13. After the occurrence of an Event of default, any tender of payment sufficient to satisfy all sums due hereunder or under the Note or other documents secured hereby, if any, made at any time prior to foreclosure sale shall constitute an evasion of the prepayment terms of the Note, if any, and shall be deemed a voluntary pre-payment. Any such payment, to the extent permitted by law, shall include the additional payment required under the prepayment privilege in the Note, if any, or if at that time there is no prepayment privilege, then such payment, to the extent permitted by law, will include an additional payment of 5% of the then principal balance.

14. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to such obligation.

15. After the occurrence of an Event of Default, Grantor consents to and Beneficiary shall be entitled, without notice, without bond, and without regard to the adequacy of the Property as collateral, to the appointment of a receiver for the Property. The receiver shall have all the rights and powers customarily given to and exercised by a receiver of real property appointed pursuant to an agreement in a deed of trust or mortgage after default in payment or performance of the secured obligations. The receiver shall be entitled to receive a reasonable fee for management of the Property. If Grantor is an

occupant of the Property, Beneficiary has the right to require Grantor to pay rent at fair market rates and the right to remove Grantor from Property if Grantor fails to pay rent.

16. After the occurrence of an Event of Default and acceleration of the maturity date of the Note, upon written request of Beneficiary, Trustee shall sell the Property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Deed of Trust; (3) the surplus, if any, shall be distributed to the persons entitled thereto.

17. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the Property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. The deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be *prima facie* evidence of such compliance and conclusive evidence thereof in favor of *bona fide* purchaser and encumbrancers for value.

18. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy, and when not being foreclosed nonjudicially, Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

19. Beneficiary may appoint, in writing, a successor trustee, and on recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee.

20. Grantor represents and warrants to Beneficiary that to the best of Grantor's knowledge after due and diligent inquiry, no hazardous or toxic waste or substances are being stored on the Property or any adjacent property nor have any such waste or substances been stored or used on the Property or any adjacent property prior to Grantor's ownership, possession or control of the Property. Grantor agrees to provide written notice to Beneficiary immediately upon Grantor becoming aware that the Property or any adjacent property is being or has been contaminated with hazardous or toxic waste or substances. Grantor will not cause nor permit any activities on the Property which directly or indirectly could result in the Property or any other property becoming contaminated with hazardous or toxic waste or substances. For purposes of this Deed of Trust, the term "hazardous or toxic waste or substances" means any substance or material defined or designated as hazardous or toxic wastes, hazardous or toxic material, a hazardous, toxic or radioactive substance or other similar term by any applicable federal, state or local statute, regulation or ordinance now or hereafter in effect.


Grantor shall promptly comply with all statutes, regulations and ordinances which apply to Grantor or the Property, and with all orders, decrees or judgments of governmental authorities or courts having jurisdiction by which Grantor is bound, relating

to the use, collection, storage, treatment, transportation, disposal, control, removal or cleanup of hazardous or toxic substances in, on or under the Property or in, on or under any adjacent property that becomes contaminated with hazardous or toxic substances as a result of construction, operations or other activities on, or the contamination of, the Property, at Grantor's expense. Beneficiary may, but is not obligated to, enter upon the Property and take such actions and incur such costs and expenses to effect such compliance as it deems advisable to protect its interest as Beneficiary; and whether or not Grantor has actual knowledge of the existence of hazardous or toxic substances in, on or under the Property or any adjacent property as of the date hereof.

EXECUTED as of the day and year first above written.

**GRANTOR:**

MUSEUM OF NORTHWEST ART,  
a Washington nonprofit corporation

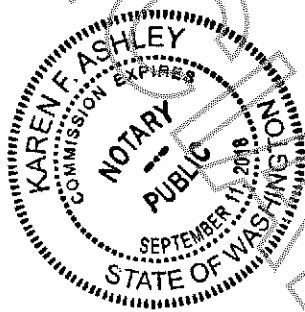
  
By: Michelle N. Hurteau  
Its: President; and

  
By: ~~Theresa Fredrich~~ JOANNE THERESA FREDRICH  
Its: Secretary

SS.

I certify that I know or have satisfactory evidence that Michelle N. Hurteau is the person who appeared before me and acknowledged that he signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as President of Museum of Northwest Art, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

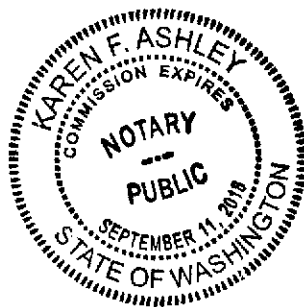


*Karen Ashley*  
NOTARY PUBLIC in and for the State of  
Washington, residing at *Des Moines, WA*  
My appointment expires *9-11-2018*

SS.

I certify that I know or have satisfactory evidence that Theresa Fredrich is the person who appeared before me and acknowledged that he signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as Secretary of Museum of Northwest Art, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Joanne

dence that Theresa Fredrich is the person who  
he signed this instrument, on oath stated that  
t and acknowledged it as Secretary of Museum  
orporation, to be the free and voluntary act of  
ned in the instrument.

ere to affixed the day and year in this certificate

Karen Ashley  
NOTARY PUBLIC in and for the State of  
Washington, residing at Sequoia-Washley  
My appointment expires 9-11-2018



## **EXHIBIT A**

### **LEGAL DESCRIPTION**

Lots 6 and 7 and the South 15 feet 6 inches of Lot 8, Block V, "MAP OF LACONNER, WHATCOM COUNTY, WASHN. TERRY., 1872," as per plat recorded in Volume 2 of Plats, page 49, records of Skagit County, Washington.

Situate in the Town of La Conner, County of Skagit, State of Washington.