

MTC 33788-KR

GRANT AGREEMENT  
SPECIAL PURPOSE GRANT OR16SPG23  
Oregon Housing and Community Services Department  
OPPORTUNITY PURCHASE PROGRAM

THIS AGREEMENT is made this 16<sup>th</sup> day of November, 1994, between the KLAMATH HOUSING AUTHORITY ("Grantee") and the STATE OF OREGON acting by and through its HOUSING and COMMUNITY SERVICES DEPARTMENT ("Department"). In reliance upon and in consideration of the mutual presentations and obligations hereunder, the Department and the Grantee agree as follows:

#### ARTICLE I. PURPOSE

The Department has made available to Grantee a grant in the amount of One Hundred and Two Thousand, Two Hundred and Seventy Eight Dollars (\$102,278) for the acquisition of land for the purpose of constructing up to 48 affordable housing units in a Homeownership Program for low income persons located on Homedale Road, Klamath Falls, Oregon known as the Homedale Road Project ("Project") and further described by the attached legal description, "Exhibit A"

#### ARTICLE II. TERMS AND CONDITIONS

1. Grantee agrees to commence building construction of up to 48 affordable housing units for low income persons within two years from the day first written above and to report in writing to the Department at the time construction begins in order to enable the Department, pursuant to 24CFR 85.40 and 85.41, to report on the performance and financial progress of this grant issued under OR16SPG23.
2. Grantee agrees to comply with all assurances in the Assurances for Non-Construction Programs of the Grantee's Application dated and signed August 3, 1994 incorporated herein by this reference.
3. Grantee agrees that the land acquired with the assistance of this grant will be developed by the Housing Authority named above and if, anyone other than the stated Grantee uses these funds for development of said parcel or otherwise, if Grantee uses the Grant or any part thereof for purposes other than those allowed herein, without the prior approval by the Department, the Grant immediately shall be due and payable, jointly and severally, to the Department by Grantee, its successors and assigns.
4. Grantee warrants and agrees that it has submitted to the Department any certifications and disclosures required by 24 CFR §87.110 concerning lobbying and by 24 CFR §24.510(b) regarding ineligibility, suspension and debarment.

After Recording Please Return to:  
Oregon Housing & Community Services Dept  
1600 State Street  
Salem, Oregon 97310 Attn: Roz Liebe

5. Grantee warrants and agrees that firm commitments for all sources of the construction financing have been obtained and that it has provided evidence acceptable to the Department of same with the Department's written permission. In lieu of the foregoing commitments, Grantee warrants and agrees that a resolution has been adopted by the Grantee's Board committing the Grantee to develop the acquired site for affordable housing use.
6. Grantee warrants and agrees that it has received an approved environmental review specific to the proposed site.
7. Grantee warrants and agrees that at least 12.5 acres of the total parcel will be subdivided into individual lots no later than March 31, 1996 and agrees to provide the Department a legal description for each individual lot within 30 days after such subdividing with sufficient evidence to confirm the subdivided lots and contiguous streets constitute a minimum area of 12.5 acres.
8. Grantee agrees to secure covenants, conditions and restrictions for the subdivided parcels with restrictions equal to or greater than comparable subdivisions within the immediate area.
9. The Department agrees to prepare and record an amendment to this Agreement to release all but 12.5 acres of the original 34.56 acres and prepare and record Grant Agreements for the lots resulting from the subdivision of the 12.5 acres, with all terms and conditions of this Grant Agreement.

### ARTICLE III. COMMITMENT TO AFFORDABILITY

1. Grantee agrees that the grant funds will be used for the acquisition of land to be developed into affordable housing units for low income persons at or below 80% of the county median income, as published annually by the U.S. Department of Housing and Urban Development, under the guideline stated above for a minimum of 25 years and if, at any time from the day first written above, the property is used for other than this purpose, the Grant provided by the Department shall, be immediately due and repayable, by Grantee, its successors or assigns to the Department. It is understood that if units constructed are subsequently sold, a proportionate share of the original Grant attributable to the unit sold, shall be deducted from the proceeds of the sale of said unit and used for acquisition of land for the construction of affordable housing units or otherwise returned to the Department as provided in Article V, Paragraphs 4 and 5. Once a unit is sold under contract or there is a transfer of fee title to the unit, however, the real property and improvements thereon shall be exempt from the requirement that the real property and improvements be used for affordable housing.
2. Grantee warrants and agrees that, the site acquired with this grant, except as provided in Article III, Paragraph 1, will be developed for affordable housing use as contemplated herein.

**ARTICLE IV. FINANCIAL AND PERFORMANCE REPORTS**

1. Grantee shall provide the Department with performance reports due not later than May 31st and November 30th each year from the date of receiving the grant funds until project completion as required under 24 CFR Part 85.40 (b)(2). The performance reports shall contain, but not be limited to:

A. A detailed statement of the project's development status;

B. A delineation of:

(1). The amount and type of project costs charged to the grant together with a certification of said costs; and

(2). The amounts and sources of other project funds, consistent with the accounting standards as governed by OMB Circular A-87 divided into three categories:

- a. Funds from applicant Grantee;
- b. Funds from Local Sources; and
- c. Funds from the Federal Government.

C. A certification of compliance with all requirements of this grant agreement.

2. In addition to the above reports, Grantee shall submit a final performance report, acceptable to the Department, within 30 days of project completion, providing a comparison of project commitments and objectives actually accomplished with those indicated in the approved application. Grantee also shall provide documented reasons why established commitments and objectives, if any, were not met as well as pertinent information including explained cost overruns.

**ARTICLE V. REVOLVING LINES OF CREDIT**

1. If, in the final performance report, the total funding sources for the Project exceeds the sum of the allowable project costs, the Grantee may establish a line of credit for the express purpose of purchasing additional parcels of land to be developed in accordance with all terms and conditions of this Grant Agreement.

2. If the Grantee elects not to establish such a line of credit for any excess over the total allowable project costs, according to the standard of OMB Circular A-87, the Grantee shall repay, within 30 days of the final performance report, the Department an amount equal to the excess amount.

3. If, at any time hereafter, the Grantee sells, assigns or otherwise conveys the individual home sites, outlined in ARTICLE II of this agreement, to any third party, the Grantee may establish an escrow account to deposit the original Grant amount from the

total proceeds of said sales for the express purpose of purchasing additional parcels of land to be developed in accordance with all terms and conditions of this Grant Agreement.

4. If the Grantee elects not to establish such an escrow account for the original Grant amount received from any proceeds from such individual home site parcel sales, as reflected in #3, the Grantee shall repay, within 30 days of receiving proceeds from any such sales, the Department an amount equal to the original Grant value attributed to said site.

5. Grantee agrees that if construction of affordable housing units on any parcel purchased with funds held in such an escrow account, does not commence within two years from their receiving the proceeds from a sale, the Grantee shall repay, within 30 days of the two-year anniversary of receipt of said proceeds, the Department the original Grant value attributed to said site.

6. Disclosure of the balance, deposits, and progress in using such funds held in a line of credit or escrow account shall be a part of the Financial and Performance Reports described in Article IV of this Agreement.

#### ARTICLE VI. FUNDS AVAILABLE AND AUTHORIZED

1. The Department certifies at the time this agreement is signed that sufficient funds are available and authorized for expenditure to finance the cost of this agreement within the Department's current appropriation or limitation.

#### ARTICLE VII. DEFAULT

1. Grantee shall be in default of this Grant Agreement if the grant funds are used for a purpose other than as authorized by this Agreement for any noncompliance with legislative, regulatory, or other requirements applicable to this Agreement, for any other material breach of this Agreement, or for any misrepresentation or significant mistake of fact in the submitted application.

2. If the Grantee defaults on this Grant Agreement, the Department may require reimbursement by the Grantee for grant amounts used improperly and take other remedial action legally available at its own discretion.

#### ARTICLE VIII. AUDIT AND MONITORING

1. The Department may monitor and make periodic inspections and evaluations of the Project, its records and accounts. The Grantee shall make its records available to the Department during regular working hours.

2. Grantee shall not withhold from the Department or its representatives reasonable access to the Project at any time.

**ARTICLE IX. MUTUAL COVENANTS AND AGREEMENTS**

Both the Department and Grantee covenant and agree that:

1. If any term, covenant or condition of this Grant Agreement shall be finally determined by a court of competent jurisdiction to be invalid, the term, covenant or condition so determined to be valid is hereby declared severable and shall not affect the validity of the remaining portions of this Grant Agreement;
2. No waiver by either party of any term, covenant, or condition of this Grant Agreement shall be binding unless in writing and signed by both parties hereto;
3. No amendment, modification, or termination of this Grant Agreement or any provision hereof shall be effective unless in writing and signed by both parties;
4. Except as otherwise provided, whenever any approval by the Department is required under this Grant Agreement, or whenever any action by the Department is required or permitted, the Director of the Department or the Director's successor or agent shall have the power and right to approve or act on behalf of the Department, as the case may be;
5. This Grant Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns;
6. The prevailing party in any dispute arising from this Grant Agreement shall be entitled to recover from the other its reasonable attorney's fees and costs at trial and on appeal;
7. This Grant Agreement, together with applicable law, constitutes the entire agreement between the parties;
8. This Grant Agreement shall be governed by the laws of the State of Oregon;
9. Whenever used, the singular number should include the plural, and the plural the singular, and the use of any gender shall apply to all genders;
10. All covenants and agreements of Grantee shall be joint and several;
11. The captions and headings of the sections of this Grant Agreement are for convenience only and are not to be used to interpret or define the provisions hereof; and
12. Time is of the essence in the performance of this Grant Agreement.

IN WITNESS WHEREOF, the parties have executed this Grant Agreement the day and year first above written.

GRANTEE:

KLAMATH HOUSING AUTHORITY

By: Wayne Kannonis

Title: Executive Director

GRANTOR:

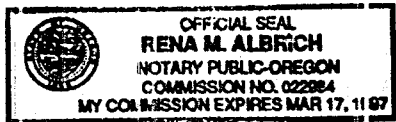
STATE OF OREGON, acting by and through OREGON  
HOUSING and COMMUNITY SERVICES  
DEPARTMENT

By: [Signature]

Title: Manager, Housing Resources Section

STATE OF OREGON )  
 )  
County of Marion )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 1994, by Robert Gillespie who is the Manager of the Housing Resource Section of Oregon Housing and Community Services Department, on behalf of the Department.



Rena M. Albrich  
Notary Public for the State of Oregon  
My commission expires:

STATE OF OREGON )  
 )  
County of Klamath )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of November 1994, by Wayne Connors who is an Executive Director of the Klamath Housing Authority, on behalf of Recipient.



Pamela J. Spencer  
Notary Public for the State of Oregon  
My commission expires: 8/16/96

EXHIBIT "A"  
LEGAL DESCRIPTION

Parcel 2 of Land Partition 58-94 on file in the office of the Klamath County Clerk, situated in the SE1/4 of the NE1/4 and the S1/2 of the NE1/4 of the NE1/4 of Section 14, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co the 28th day  
of Nov A.D., 1994 at 11:43 o'clock A M., and duly recorded in Vol. M94  
of Deeds on Page 36194.

FEE \$45.00

Evelyn Biehn County Clerk

By Caroline M. Anderson