

KLAMATH HOUSING AUTHORITY  
SYSTEMS DEVELOPMENT CHARGES  
AGREEMENT

This agreement is entered into this 27<sup>th</sup> day of February, 2001, by and between the Klamath Housing Authority, hereinafter referred to as "KHA" and the City of Klamath Falls, hereinafter referred to as "City".

RECITALS

A. KHA was created August 1, 1975, by resolution of the Klamath County Board of Commissioners pursuant to ORS 456.075.

B. City is an Oregon Municipal Corporation.

C. ORS 456.225 allows a housing authority created pursuant to ORS Chapter 456 to exempt its property from taxes and special assessments of a municipal corporation and in lieu thereof to agree to make payments to the municipality for improvements, services and facilities furnished by the City.

D. The parties acknowledge that Systems Development Charges as defined by ORS 223.299(4)(a) and (b) are not "special assessments" as defined by ORS 311.702(3).

E. In February 1994, the Community and Shelter Assistance Corporation of Oregon entered into a development services agreement with KHA to develop twenty-four (24) housing units for farm workers. In November 1995, the Klamath Falls City Planning Commission recommended approval of a zone change, comprehensive plan amendment and tentative subdivision plat approval for the building of 170 housing units. Included within this 170 housing unit complex is the twenty-four (24) unit apartment complex for farm workers. In February 1996 the Klamath Falls City Council approved a resolution adopting the Planning Commission's

recommendations. Final plat approval for the building of this twenty-four (24) unit apartment complex has been obtained. KHA proposes that in addition to a twenty-four (24) unit apartment complex for farm workers, low income housing will be developed as a part of a total subdivision plan. This entire complex is known as the "Sunrise Meadows Subdivision". The real property encompassing the Sunrise Meadows Subdivision is more specifically described as follows:

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.

F. City recognizes that providing housing for low income residents constitutes good public policy.

G. City recognizes that it could legally recover Systems Development Charges from KHA at the time the infrastructure for said subdivision is installed, but as hereinafter provided, agrees to delay the recovery of said Systems Development Charges.

H. Because KHA may, as a part of its Sunrise Meadows Subdivision, eventually sell lots and low income housing developed as a part of this subdivision - including the twenty-four (24) unit apartment complex - to private property owners, or to a "for-profit" business or entity, KHA and City desire to agree that assessment and collection of Systems Development Charges related to this development will be deferred as provided herein.

WHEREFORE, the parties agree as follows:

#### AGREEMENT

1. Deferral of SDC's. City agrees that Systems Development Charges for individual lots and apartment complexes within the Sunrise Meadows Subdivision shall not be assessed upon issuance of the building permits, development permits or utility connection

permits as required by City Code Section 3.545. City further agrees that assessment of Systems Development Charges shall be deferred until one of the following events occurs:

- a. The legal or equitable interest of an individual lot in the subdivision, excluding a leasehold interest in the lot, is sold, transferred or conveyed to a private individual; or
- b. The legal or equitable interest of an individual lot or apartment complex in the subdivision, or a leasehold interest in a lot or apartment complex, is sold, transferred or conveyed by KHA to a "for-profit" business or entity; or
- c. KHA, or any successor, no longer operates an individual lot or apartment complex in the subdivision as federally qualified "low-income" housing; or
- d. KHA transfers operational responsibility of the housing units in these subdivisions to any other entity that is operated "for-profit".

At the time of assessment of Systems Development Charges as provided herein, City shall be paid out of the closing escrow, and from the proceeds of the sale, transfer or conveyance, all of City's then existing Systems Development Charges assessed against the parcel of real property sold, transferred or conveyed.

2. Notification of Sale; Transfer for Conveyance. KHA shall notify City at least thirty (30) days prior to any anticipated sale, transfer or conveyance of any interest in the individual lots or apartment complexes. KHA shall further notify City at least thirty (30) days prior to any transfer of operational responsibility for the housing units. The notice shall include the name and status (governmental/non-governmental; for-profit/non-profit) of the entity to which the anticipated sale, transfer or conveyance will be made, the anticipated date of the

transaction, and whether KHA believes a Systems Development Charge will be assessed under this agreement as a result of the transaction.

3. Recording. KHA agrees to make the terms of this agreement deferring assessment of Systems Development Charges a condition of approval of the Sunrise Meadows Subdivision final plat that shall attach to and create a lien against all lots and parcels within the Subdivision.

Pending approval and filing of the final plat, the parties agree that a copy of this agreement shall be recorded in its entirety in the real property records of Klamath County, Oregon, and that all terms and conditions of this agreement shall attach to and create a lien and encumbrance against all lots and parcels to be identified and platted.

4. SDC Review. KHA shall have a continuing right to review Systems Development Charges proposed by the City and object, as KHA deems appropriate and as otherwise allowed by law, to increases or changes in Systems Development Charges.

5. Notices. All notices under this agreement shall be effective on the earlier of actual receipt or three (3) days after deposit as first class or certified mail, return receipt requested, postage prepaid and addressed to KHA or City at the addresses stated below, or to such other address as either party may specify by notice to the other party.

KHA:

Klamath Housing Authority  
1445 Avalon  
Klamath Falls, Oregon 97603

City:

City Manager  
P. O. Box 237  
Klamath Falls, Oregon 97601

6. Arbitration. The parties may agree to settle by arbitration any controversy or claim relating to this agreement. Any controversy or claim which is subject to arbitration shall be settled in accordance with the then current rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

7. Attorney Fees. If suit or action is instituted to enforce any provision of this agreement, or in connection with any claim or controversy arising out of this agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorney fees at trial and on any appeal of the suit or action. If arbitration is instituted in connection with any claim or controversy arising out of this agreement, attorney fees may be awarded by the arbitrator(s) as they may decide, and if so awarded shall be part of the arbitrator(s)' decision on which judgment may be rendered.

8. Severability. The invalidity or illegality of any provision of this agreement shall not affect the remainder of the agreement.

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This agreement was approved by the Klamath Housing Authority Board of Commissioners at a meeting held on the 27<sup>th</sup> day of February, 2001, upon an affirmative vote of a majority of the Board of Commissioners of the Klamath Housing Authority present, a quorum being present.

This agreement was approved the 5<sup>th</sup> day of February, 2001, by the Klamath Falls City Council.

CITY OF KLAMATH FALLS

By: Todd Kellstrom  
Todd Kellstrom, Mayor

02-07-01  
Date

Attest: Elisa D. Olson  
Elisa D. Olson, City Recorder

02-07-01  
Date

KLAMATH HOUSING AUTHORITY

By: Daniel King  
Daniel King, Chair

2-27-2001  
Date

By: Wayne Connors  
Wayne Connors, Executive Director

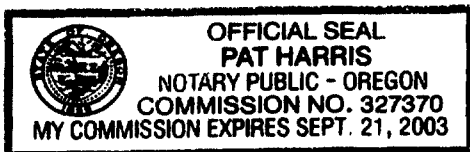
2-27-01  
Date

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STATE OF OREGON )  
 ) ss  
County of Klamath )

On the 2<sup>th</sup> day of Feb, 2001, personally appeared Todd Kellstrom and Elisa D. Olson, who, each being first duly sworn, did say that the former is the Mayor and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation; and that the instrument was signed on behalf of said municipal corporation; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

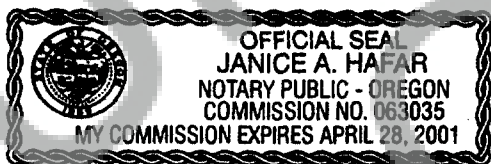


Pat Harris  
Notary Public - State of Oregon  
My commission expires: 9-21-2003

STATE OF OREGON )  
 ) ss  
County of Klamath )

On the 27<sup>th</sup> day of February, 2001, personally appeared <sup>Bruce Thomson</sup> ~~Dan King~~ and Wayne Connors, who, each being first duly sworn, did say that the former is the Chair and the latter is the Executive Director of the Klamath Housing Authority, and that the instrument was signed on behalf of the Klamath Housing Authority; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:



Janice A. Hafar  
Notary Public - State of Oregon  
My commission expires: 4-28-01

State of Oregon, County of Klamath  
Recorded 03/08/01, at 11:17 a.m.  
In Vol. M01 Page 9393  
Linda Smith,  
County Clerk Fee \$ 51<sup>00</sup>