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Vol M03 Page 37455

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:
Oregon Housing and Community
Services Department
PO Box 14508
Salem, Oregon 97309-0409
Attn: Roz Barnes

State of Oregon, County of Klamath
Recorded 06/03/2003 10:46 a m.
Vol M03 Pg 37455-63
Linda Smith, County Clerk
Fee \$ 66.00 # of Pgs 9

**OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT
STATE OF OREGON**

**PROJECT USE AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
AND EQUITABLE SERVITUDE**

THIS PROJECT USE AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS AND EQUITABLE SERVITUDE (this "Agreement") is made and entered into this 18th day of April, 2003 by and between Klamath County Community Corrections (the "Recipient") and the State of Oregon, acting by and through its Housing and Community Services Department ("OHCS") and its Department of Corrections ("DOC") (OHCS and DOC, when referred to collectively hereinafter, the "Department").

RECITALS

1. OHCS has made or will make available to Recipient, a conditional grant of Housing Development Grant Funds ("Grant Funds") at OHCS' discretion in an amount up to One Hundred Thousand Dollars (\$100,000) for the reimbursement of appropriate expenses incurred by Recipient in providing transitional housing for post incarceration offenders and other low or lower income residents satisfactory to the Department ("Housing"), which Housing shall be located in Klamath County, Oregon on property with a legal description as set forth in the attached Exhibit A, which is incorporated herein by reference (the "Property") (the Housing and the Property when referred to collectively hereinafter, the "Project"). In return for the Grant Funds, Recipient, both will select, place and supervise post incarceration offenders in the Project, and will operate and maintain such Project, in a manner satisfactory to the Department.

2. Recipient desires to receive the Grant Funds, among the Department's conditions precedent for which is the execution by Recipient of this Agreement and the recordation of this Agreement against the Project in the appropriate county records at Recipient's expense. Recipient is willing to execute this Agreement and to fulfill all other conditions herein described.

AGREEMENT

In consideration of the purposes set forth herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement agree as follows:

**SECTION 1. REPRESENTATIONS, WARRANTIES AND COVENANTS OF
RECIPIENT CONCERNING MAINTENANCE OF PROJECT AS HOUSING FOR
TRANSITIONAL POST INCARCERATION OFFENDERS AND OTHER LOW AND LOWER
INCOME TENANTS.** Recipient hereby represents, warrants, covenants and agrees that it will:

a. Satisfy the conditions of the Grant Funds, and comply with this Agreement for the purpose, in part, of creating restrictive covenants that shall run with the Property and Project and shall bind any and

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all subsequent owners of the Project for the term of this Agreement.

b. Use Grant Funds only for reimbursement of Department-approved construction and other SUCH costs related to the Project, which Project shall have one appropriate residential unit to serve up to seven residents.

c. Continuously rent residential units in the Project (the "Qualified Units"), or make such Qualified Units available for rent, to low and very low income post-incarceration offenders ("Qualified Tenants") as such Qualified Tenants are defined from time to time by the Department. In the event that any Qualified Unit is not occupied by a Qualified Tenant, and unavailable for rent by a Qualified Tenant, Recipient shall rent or make available for rent to Qualified Tenants the next available residential unit in the Project.

d. Continuously rent all Project units, or make such units available for rent, to low and very low income tenants consistent with this Agreement and the requirements of the Department. Of the total number of Project residential units, all shall be rented or made available for rent to very low income tenants. In the event that any Project residential unit is not occupied or available for rent by a very low income tenant as required in this Agreement, Recipient shall rent or make available for rent to a very low income tenant the next available residential unit in the Project. For purposes of this Agreement, a "very low income tenant" is defined as a person or family with total annual income at or below 50% of the county annual median income as determined by the Department. For purposes of this Agreement, a "low income tenant" is defined as a person or family with total annual income at or below 80% of the county annual median income as determined by the Department. In making such determinations of income, the Department, among other things, may consider relevant area income data, if any, published annually by the U.S. Department of Housing and Urban Development ("HUD").

e. Operate and maintain the Project in compliance with all applicable laws, regulations, codes, and ordinances, including but not limited to building, zoning, labor, health, and habitability codes and requirements, and as additionally required by the Department.

SECTION 2. COVENANTS TO RUN WITH THE LAND; EQUITABLE SERVITUDES.

Recipient further represents, warrants, covenants and agrees that:

a. The Project is financed in part by Grant Funds from OHCS to the Recipient as an inducement to the Recipient that it will operate the Project in accordance with the terms of this Agreement. In consideration of the receipt of the Grant Funds, the Recipient has entered into this Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein.

b. The covenants, restrictions, and charges set forth herein shall be deemed covenants running with the land and shall be deemed an equitable servitude running with the land, and shall pass to and be binding upon the Recipient's successors in title including any purchaser, grantee or lessee of any portion of the property, upon the respective heirs, executors, administrators, devisees, successors and assigns of the Recipient or any purchaser, grantee or lessee of any portion of the property and upon any other person or entity having any right, title or interest therein. Each and every contract, deed or other instrument hereafter executed covering or conveying the property or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants, restrictions, and charges contained herein; provided, however, that any such contract, deed or instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants, restrictions and charges regardless of whether or not such covenants, restrictions and charges are set forth or incorporated by reference in such contract, deed or instrument.

SECTION 3. BURDEN AND BENEFIT. Recipient hereby declares its understanding and intent that the burdens of the covenants, restrictions, and charges set forth herein touch and concern the land in that the Recipient's legal interest in the land, and the Project generally, is rendered less valuable thereby. The Recipient further declares its understanding and intent that the benefits of such covenants, restrictions, and charges touch and concern the land by enhancing and increasing the enjoyment and use of the property by transitional post incarceration offenders, the intended beneficiaries of such covenants, restrictions, and charges and by furthering the public purposes for which the Project was funded.

SECTION 4. OTHER REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT. Recipient further represents, warrants, covenants and agrees that it will:

- a. Select and place Qualified Tenants and other low and very low income tenants in the Project in a manner consistent with this Agreement and satisfactory to the Department.
- b. Supervise all Qualified Tenants and other Project residents in a manner satisfactory to the Department and, without limitation, in accordance with the Services Description attached to this Agreement and incorporated herein as Exhibit B. DOC may amend Exhibit B on any matter from time to time upon written notice to Recipient and OHCS.
- c. Provide or cause to be provided to Qualified Tenants, and other Project tenants as required, Exhibit B services in a manner satisfactory to the Department.
- d. Provide adequate security for all Project residents and visitors.
- e. Provide to the Department's satisfaction, as requested and at least yearly, case management assessment reports of the selection, supervision, services, and security provided with respect to Project tenants, particularly to each Qualified Tenant. Reports shall include at a minimum the following:
 1. Verification of Recipient compliance with the requirements of the Housing Development Grant Program, including without limitation, requirements identified in Exhibit B.
 2. An account of Qualified Tenants and other tenants residing in the Project, including the income level criteria of each tenant or tenant family.
 3. An account of all rent and other charges to Project tenants.
 4. An account of successful and unsuccessful Qualified Tenant discharges.
 5. Copies of the approved resident service plan for each Qualified Tenant during the report period.
- f. Provide to OHCS with each request for a Grant Funds reimbursement under this Agreement, an invoice and detailed documentation of expenses related to such request, all in form and content satisfactory to OHCS in its sole discretion.
- g. Allow Department representatives to inspect the Project from time to time upon reasonable notice and cooperate in any such inspections.
- h. Allow Department representatives to inspect and to copy all Project records from time to time upon reasonable notice and cooperate in any such inspections.
- i. Maintain Project records as required by the Department.
- j. Cooperate fully with Department regulatory activity and requirements.

SECTION 5. DEPARTMENT REPRESENTATIONS:

a. OHCS hereby represents and agrees that it will, subject to the terms and conditions of this Agreement:

1. Disburse the Grant Funds to Recipient for appropriate Project costs, as determined by OHCS, on an expense reimbursement basis. Upon approval by it of appropriate costs pursuant to a Recipient reimbursement request, OHCS will provide Grant Funds to Recipient for reimbursement of such approved costs. However, any such provision of Grant Funds by OHCS is specifically subject to the appropriation and availability of Grant Funds to OHCS for this purpose.
2. Monitor and regulate the Project, as it deems appropriate, for compliance by Recipient with restrictive covenants and equitable servitudes arising under this Agreement, as well as with habitability and security requirements under this Agreement and otherwise.
3. Monitor and regulate the Project with respect to such other matters as to OHCS seems appropriate.

b. DOC hereby represents and agrees that it will, subject to the terms and conditions of this Agreement:

1. Identify required supervision and services to be provided by Recipient to each Qualified Tenant and to such other tenants as DOC may require through the Exhibit B Services Description, which Services Description DOC may amend from time to time at its discretion.
2. Monitor and regulate the Project, as it deems appropriate, for compliance by Recipient with Recipient's supervision and services responsibilities under this Agreement and otherwise.
3. Monitor and regulate the Project, as it deems appropriate, for compliance by Qualified Tenants and other Project tenants with tenant qualifications and for cooperation by Project tenants with Recipient and others concerning Exhibit B supervision and services and otherwise.

SECTION 5. COMPLIANCE REPORTING. Recipient further represents, warrants, covenants, and agrees that it will:

a. Provide an annual certification, in a format and on a schedule satisfactory to the Department, that the Recipient is fulfilling its obligations under this Agreement. The Department may inspect the Project and may inspect and copy all records of the Project upon reasonable notice to the Recipient. The Recipient and its agents and employees shall cooperate fully with the Department in any requested inspection, records copying, or other compliance monitoring.

b. Maintain in an organized format available for inspection and copying by the Department all records relating to this Agreement, the Program, the Project, or Recipient's receipt or use of Grant Funds. Records subject to this requirement include, without limitation, all records related to performance by or on behalf of Recipient of activities or obligations arising from this Agreement or the Program, including as contained in the Application or otherwise.

c. Retain and keep accessible for inspection and copying all records or other property identified in this section for a minimum of three (3) years from the expiration of this Agreement, for such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever period of time is longer. Recipient specifically acknowledges and agrees that the Department, the Oregon Secretary of State's Office, and their duly authorized representatives, have the right hereunder of reasonable access to the Project and to the above-described records for inspection, copying or other purposes determined by them to be

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Klamath County Transitional House #00000381

appropriate. Recipient will cooperate fully with the Department and such other entities or persons in any and all inspections, records copying and other compliance monitoring.

SECTION 6. TERM OF AGREEMENT. The parties agree that this Agreement shall become effective upon execution and delivery of the Agreement and shall remain in full force and effect for a term of 25] years. However, this Agreement and its restrictive covenants and equitable servitudes shall terminate and be of no further force and effect in the event of a foreclosure action against Recipient by the primary financing lender for the Project, its successors or assigns, or delivery of a deed for the Project in lieu of foreclosure by Recipient to the primary financing lender, its successors or assigns. Notwithstanding the foregoing, this Agreement and its restrictive covenants and equitable servitudes shall not terminate pursuant to this section if the foreclosure or acceptance of a deed in lieu of foreclosure is made by or for the benefit of a party related to the Recipient, or if a party related to the Recipient obtains possession of the Property or Project, or any part thereof, within two years of the foreclosure or acceptance of the deed in lieu of foreclosure.

The Following Section does not apply.

SECTION 7. SUBORDINATION. This Agreement and the restrictions hereunder are subordinate to the original loan and loan documents on the Project executed between the Recipient and the primary financing lender in an original principal amount not to exceed \$ _____. The Department may subordinate this Agreement to other Project financing, in its sole discretion.

SECTION 8. REMEDIES. If the Recipient defaults in the performance or observance of any representation, warranty, covenant, or other obligation set forth in this Agreement and if such default remains uncured for a period of 30 days (or such shorter period as the Department may indicate by written notice) after the notice thereof shall have been given by the Department to the Recipient, then the Department, at its option, may take any one or more of the following steps:

- a. By mandamus or other suit, action or proceeding at law or in equity, require the Recipient to perform its obligations hereunder or enjoin any acts or things that may be unlawful or in violation of the rights of the Department hereunder;
- b. Have access to and inspect, examine and make copies of all of the books and records of the Recipient pertaining to the property;
- c. Demand repayment of all or any part of the Grant Funds provided by OHCS under this Agreement in which event the amount thereof shall be immediately due and payable by the Recipient or its successors or assigns to the Department;
- d. Require the Recipient to permanently or temporarily assign any or all of its rights and obligations under this Agreement as designated in writing by the Department; and
- e. Take such other action at law or in equity as may appear necessary or desirable to enforce the covenants, agreements and other obligations of the Recipient hereunder.

No waiver or delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any person entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

SECTION 9. RECORDING AND FILING. The Recipient shall cause this Agreement and all amendments and supplements hereto to be recorded and filed in the real property records of the county in which the Property is located and in such other places as the Department may reasonably request. The Recipient shall pay all fees and charges incurred in connection with any recording.

SECTION 10. GOVERNING LAW; VENUE. This Agreement shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law. The courts of the State of Oregon (and to the degree possible, the Circuit Court for Marion County, or as necessary, the Federal District Court for the District of Oregon, shall have exclusive jurisdiction over any action brought by or against the Department under this Agreement. The Recipient hereby consents to such exclusive jurisdiction and waives any and all objections it might have thereto.

SECTION 11. AMENDMENTS. Except with respect to Exhibit B (which may from time to time be modified by DOC), this Agreement may be amended only by a written instrument executed by the parties hereto or by their successors and duly recorded in the real property records of the County.

SECTION 12. NOTICES. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery or first class mail, postage prepaid, at the addresses specified below, or at such other addresses as may be specified in writing by the Department or the Recipient:

To OHCS:	Oregon Housing and Community Services Department PO Box 14508 Salem, Oregon 97309-0409 Attn: Housing Resources Section
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To DOC:	Oregon Department of Corrections 220 Main Street Klamath Falls, Oregon 97601 Attn: Steve Berger
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SECTION 13. SEVERABILITY. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

SECTION 14. NO LIMITATIONS ON ACTIONS OF DEPARTMENT IN EXERCISE OF ITS GOVERNMENTAL POWERS. Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of the Department in the exercise of its governmental powers. It is the express intention of the parties hereto that the Department shall retain the full right and ability to exercise its governmental powers with respect to the Recipient, the Project and the transactions contemplated by this Agreement to the same extent as if it were not a party to this Agreement, and in no event shall the Department have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

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IN WITNESS WHEREOF, Department and Recipient have caused this Agreement to be signed by their duly authorized officers as of the first day written above.

DEPARTMENT:
OREGON HOUSING AND COMMUNITY
SERVICES

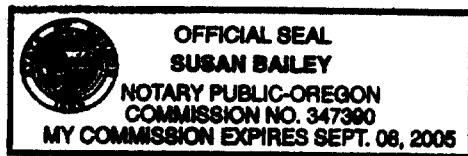
RECIPIENT:
KLAMATH COUNTY COMMUNITY
CORRECTIONS

By: Betty Markey
Title: Housing Resources Manager

By: [Signature]
Title: Director

STATE OF OREGON)
)ss:
County of Marion)

The foregoing instrument was acknowledged before me this 18th day of April 2003, by Betty Markey who is the Manager of the Housing Resources Section of Oregon Housing and Community Services, on behalf of the Department.



Susan Bailey
Notary Public for the State of Oregon
My commission expires: 9-8-05

STATE OF OREGON)
)ss:
County of _____)

The foregoing instrument was acknowledged before me this 7 day of April 2003, by Steve Berget who is the Director of Klamath County Community Corrections, on behalf of the Recipient.



Pam Mathes
Notary Public for the State of Oregon
My commission expires: 9-26-04

EXHIBIT A**LEGAL DESCRIPTION OF THE PROJECT**

3701 Bisbee Street

Lot 7 in block 8 of Altamont Acres, According to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, EXCEPTING THEREFROM, the Easterly 160 feet, and also EXCEPTING THEREFROM the West 5 feet thereof conveyed to Klamath County for road purposes.

SERVICES DESCRIPTION

Case management will be administered by Community Corrections in partnership with Good Soil Ministries. Certified parole and probation officers will have primary responsibility for case management of the residents since they will all be under Post Prison Supervision. Parole and probation officers hold at least a bachelors degree, and must complete the Basic Certification class at the police academy in Monmoth during their first year of employment. Upon graduation and completion of a detailed field manual, parole and probation officers are certified by the Department of Public Safety Standards and Practice. Probation officers in the Klamath office have an average of 12 years experience supervising adult offenders in the community.

Effective supervision/case management of offenders can only be achieved by working in close coordination with community partners serving this population. An individual resident/transition plan will be developed with the offender, his probation officer, the Residential Manager and relevant community agencies. [Please see attached letter of commitment from Klamath County Community Corrections].

Research shows that a structured, drug free residential environment is an essential, fundamental component in the stabilization of chemically dependant and dual diagnosed criminal offenders. Specialized services for chemically dependent and dual diagnosed residents will be provided. Service provision will include specialized supervision by seasoned parole and probation officers extensively trained in managing offenders who are chemically dependent, mentally ill or dual diagnosed. These officers work in close coordination with the department's Behavioral Health Specialist. The Behavioral Health Specialist has more than thirty years experience in the mental health field. He holds an M.A. in Counseling, and is a Registered Nurse. He performs mental health and chemical dependency screenings on site in the Klamath County Jail and in the field. He facilitates referrals to local chemical dependency treatment agencies and Klamath County Mental Health. He coordinates medication management with mental health staff and medical professionals. He also facilitates Allied Community Corrections Exceptional Needs Team [ACCENT], an interagency committee that meets regularly to develop and monitor coordinated service plans for dual diagnosed offenders. ACCENT has identified the lack of stable, structured residence as the major barrier to stabilizing dual diagnosed offenders in the community.

Outpatient treatment services are available locally from several agencies with whom Klamath Community Corrections enjoys a close working relationship. A local residential treatment program is also available should that level of treatment be warranted. Employment/job readiness services are available through The Work Connection, a federally funded employment program and Transition Wear, a Jeld-Wen Public Affairs program. [Partnership letters attached].

A general condition of Post Prison Supervision prohibits the use of illegal drugs for all offenders placed on such supervision. To ensure compliance, random urine analysis screening will be conducted by designated Community Corrections staff for all residents.

The Residential Manager will be an active participant in case planning and will provide a very important supportive role in assisting residents to accomplish their goals while living in the home.

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