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Vol M04 Page 30120

AFTER RECORDING RETURN TO:
Oregon Economic and Community Development Commission
775 Summer St. NE, Suite 200
Salem, OR 97301-1280

OBDF Loan No. 414
State of Oregon, County of Klamath
Recorded 05/14/2004 3:24 p m
Vol M04 Pg 30120-25
Linda Smith, County Clerk
Fee \$ 46.00 # of Pgs 6

INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT ("Agreement") is made as of the 12th day of May 2004, between the STATE OF OREGON, acting by and through its Economic and Community Development Commission, ("Commission") and South Central Oregon Economic Development District ("SCOEDD"). Commission and SCOEDD may be referred to below individually without distinction as "Party" or collectively as "Parties".

WHEREAS, Commission is loaning to John W. and B. Paulette Knoll (together "Borrower") the sum of EIGHT THOUSAND THREE HUNDRED AND NO/100 DOLLARS (U.S. \$8,300.00) for the purpose of connecting a well ("Commission's Loan"), which is or will be subject to the terms and conditions of and evidenced by a loan agreement and promissory note and secured by a trust deed (the trust deed referred to collectively as "Commission's Collateral Documents"; together with the loan agreement and note and any other agreement or instrument relating to Commission's Loan collectively "Commission's Loan Documents"); and

WHEREAS, SCOEDD is loaning to Borrower the sum of TEN THOUSAND FOUR HUNDRED SEVEN AND NO/100 DOLLARS (U.S. \$10,407.00) for the purpose of purchasing certain real property ("Lender's Loan") which is or will be subject to the terms and conditions of and evidenced by a loan agreement and promissory note and secured by a security agreement and/or trust deed (the security agreement and trust deed referred to collectively as "Lender's Collateral Documents"; together with the loan agreement and note and any other agreement or instrument relating to Lender's Loan are collectively referred to as "Lender's Loan Documents"); and

WHEREAS, Commission's Collateral Documents and SCOEDD's Collateral Documents encumber or will encumber certain real and personal property described in Attachment A which is by this reference incorporated herein ("Common Collateral"); and

WHEREAS, contemporaneously with the above, Commission and Lender wish to establish equal priority as to the liens and/or security interests of Commission and Lender in the Common Collateral, on the following terms and conditions; The full amount cannot exceed the extended version.

NOW, THEREFORE, in consideration of the transactions described in the recitals above and the mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Commission and Lender agree as follows:

SECTION 1

1.1 Pari Passu. The liens and/or security interests of Commission and SCOEDD in the Common Collateral securing Commission's and SCOEDD's, respectively, pursuant to Commission's and SCOEDD's Collateral Documents, respectively, are pari passu and of equal priority, as though Commission's and SCOEDD's Collateral Documents were recorded simultaneously; provided, however, that this Agreement applies only to (a) Commission's Loan up to a maximum principal amount of Eight Thousand Three Hundred and No/100 Dollars (\$8,300.00) plus interest and (b) SCOEDD's Loan up to a maximum principal amount of Ten Thousand Four Hundred Seven and No/100 Dollars (\$10,407.00) plus interest; Except as provided in Section 4.3, each Party shall receive its Pro Rata Share of Net Proceeds (as defined below) upon the occurrence of a Realization Event (as defined below), and a Party receiving any proceeds from a Realization Event of any Common Collateral or Owned Common Collateral (as defined below) shall promptly remit to the other Party such Party's Pro Rata Share of Net Proceeds. The duty to remit upon a Realization Event shall only apply with respect to a Realization Event that results in sums being paid to a Party or the Parties from the Common Collateral.

1.2 Certain Definitions. As used in this Agreement, unless the context requires otherwise:

1.2.1 Net Proceeds. "Net Proceeds" means all proceeds of the Common Collateral or Owned Common Collateral received by a Party as a result of a Realization Event, after deduction of all costs incurred by either Party for the benefit of both Parties to achieve such Realization Event, except for real property taxes that are assessed based solely on a Party's pro rata share of ownership in the Owned Common Collateral.

1.2.2 Pro Rata.

"Pro Rata Share of Costs" means a Party's pro rata share of costs and expenses incurred by either Party for the benefit of both Parties in regard to a Realization Event calculated on the basis of: (a) that Party's Pro Rata unpaid Loan balance (not to exceed the sums set forth in Section 1.1) through such time the Parties

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acquire the Common Collateral; and (b) thereafter based upon that Party's Pro Rata Ownership Interest.

"Pro Rata Share of Net Proceeds" means: a Party's pro rata share of Net Proceeds calculated on the basis of the unpaid balance (excluding the Party's costs and expenses) of that Party's Loan as of the date of a Realization Event; provided however, that, for the purposes of calculating a Party's Pro Rata Share of Net Proceeds, the unpaid balance amount used for that Party shall not exceed the maximum amount specified in Section 1.1 above; and

"Pro Rata Share of Net Foreclosure Proceeds" means: a Party's pro rata share of Net Proceeds calculated based upon each party's bid (by credit bid of the amount due under the Commission's Loan or the Lender's Loan, as the case may be, or otherwise) at the foreclosure sale; provided, however, that, for the purposes of calculating a Party's Pro Rata Share of Net Foreclosure Proceeds, the credit bid amount used for that Party shall not exceed the maximum amount specified in Section 1.1 above. In the event of a deed-in-lieu of foreclosure, the Pro Rata Share of Net Proceeds shall be substituted for the Pro Rata Share of Net Foreclosure Proceeds for distributions under Section 4.3.3.

"Pro Rata Ownership Interest" means a Party's pro rata undivided tenancy in common interest in the Owned Common Collateral calculated on a basis of the principal amount of such Party's outstanding balance that was bid (by credit bid of the amount due under the Commission's Loan and SCOEDD's loan, as the case may be, or otherwise) in, or was otherwise deemed satisfied as a result of, the Realization Event that resulted in ownership of such Owned Common Collateral. For the purpose of this Agreement, an Ownership Interest shall include any right of the Parties arising under a Sheriff's Certificate of Sale.

1.2.3 Realization Event. A "Realization Event" means, as to the Common Collateral, any sale or disposition thereof, whether under the Uniform Commercial Code, bankruptcy (including a plan of reorganization in which the interest of a Party is impaired except when impairment is only as to that Party's interest rate due under its Loan Documents) or other insolvency proceeding or otherwise; any foreclosure or other realization thereon; receipt of insurance proceeds (other than the proceeds of insurance obtained by a Party to insure only its interest in the Owned Common Collateral) or condemnation proceeds; the sale or other transfer thereof by Borrower, the proceeds of which Borrower is obligated to pay to either Party as proceeds of the Common Collateral; or the sale or disposition of Owned Common Collateral.

SECTION 2

Nothing in this Agreement shall in any way limit (a) the amount owed by Borrower or any guarantor to either Party, which amount shall be determined under the terms of the applicable Loan Documents, or (b) the amount of the balance due on a Party's Loan submitted as a credit bid on the Common Collateral in any Realization Event. Nothing contained in this Agreement shall in any way (a) require either Party to share with the other Party the proceeds of any guaranty of its Loan to Borrower or the proceeds of any security for any such guaranty or (b) limit the ability of or require either Party to realize on, or require either Party to share with the other Party the proceeds of, property or assets of the Borrower that are not Common Collateral.

SECTION 3

3.1 Notice of Default by Borrower. Each Party retains all rights with respect to the enforcement, collection and administration of its own Loan and the security therefor; provided, however, that each Party shall, promptly after having knowledge of the occurrence thereof, and in any event within thirty (30) days thereof, inform the other Party of any default by Borrower under any of its Loan Documents and of any material fact relating to any other aspect of its Loan which might have an adverse effect on the value of its lien and/or security interest in the Common Collateral. However, neither Party shall be liable to the other Party for failure or alleged failure to give such notice.

3.2 Cross-Default, Acceleration. The Parties (and, by signing below, the Borrower and any guarantors) agree that any default under either Party's Loan Documents shall be deemed to be a default under the other Party's Loan Documents. Further, the Parties (and, by signing below, the Borrower and any guarantors) agree that any acceleration under either Party's Loan Documents shall be deemed to be acceleration under the other Party's Loan Documents. Any notice of acceleration issued by Lender or the Commission to the Borrower shall, at the time it is delivered to the Borrower, also be delivered to the other Party to this Agreement; provided however, that failure to do so shall not affect the validity of such notice.

SECTION 4

4.1 Joint Realization.

4.1.1 Realizing Party. Upon any default by Borrower, the Parties shall promptly consult and attempt to agree upon a mutually acceptable course of action to take with respect to such default and then pursue such course of action without delay and with due diligence. If agreement is reached, the Parties may designate and authorize a Party (in such a case the "Realizing Party") to pursue such course of action ("Joint Realization")

on behalf of both Parties, and the Realizing Party may to the extent allowed by law bid all or a portion of the aggregate balance due on the Parties' Loans at a Realization Event with respect to all or any portion of the Common Collateral. If the Realizing Party is Lender, its authority is subject to ORS chapter 180.

4.1.2 Indemnification. A Realizing Party shall not be deemed to be a fiduciary of the other Party with respect to any Joint Realization and shall have no liability to the other Party with respect to its actions in connection therewith except for its own negligence or intentional misconduct. The non-Realizing Party further agrees to indemnify the Realizing Party against any liability (other than costs and expenses) incurred by the Realizing Party in the course of a Joint Realization except for such liability incurred as a result of the Realizing Party's own negligence or intentional misconduct; provided that the Commission's obligation to so indemnify is subject to Article XI, Section 7 of the Oregon Constitution. If the Commission is barred by law from indemnifying SCOEDD, then SCOEDD shall be entitled to a recoupment payment for any liability referred to in this Section from the Commission's portion of any Net Proceeds payable upon a Realization Event.

4.2 Individual Realization. If the Parties cannot agree on a procedure for a Joint Realization, then both Parties shall proceed to foreclose their respective liens and/or security interests in the Common Collateral judicially in a single action in which the Parties shall also seek a court declaration setting forth their respective rights in the Common Collateral pursuant to this Agreement. Nothing in this Agreement shall restrict the ability of either Party (except as provided in Section 4.3 below) to sell any Common Collateral without restriction after becoming the purchaser thereof at a Realization Event.

4.3 Joint Ownership of Common Collateral.

4.3.0 Reimbursement of Costs. Whenever cash proceeds are derived from Common Collateral from a Realization Event, the Party paying the costs deducted to identify Net Proceeds shall be reimbursed for those costs before any other distribution is made.

4.3.1 Management of Jointly Owned Common Collateral. In the event any or all of the Common Collateral is acquired by the Parties through a Realization Event, each Party shall have an undivided tenancy in common interest in all Common Collateral so acquired ("Owned Common Collateral"). Each Party's undivided tenancy in common interest in the Owned Common Collateral shall be determined in accordance with its Pro Rata Ownership Interest. Title to any Owned Common Collateral shall be in the name of Commission and Lender as tenants in common in accordance with their respective Pro Rata Ownership Interests. The Parties shall prepare a proposed plan for sale, management, maintenance, repair or improvement of the Owned Common Collateral, including cost estimates. Such plan shall be subject to the written approval of both Parties. So long as both Parties continue to have joint ownership interest in the Common Collateral, all costs, expenses and liabilities arising out of the possession and management of the Owned Common Collateral shall, to the extent permitted by law, be shared by the Parties in accordance with their Pro Rata Ownership Interests.

4.3.2 Foreclosure Sale of Common Collateral After the distributions pursuant to Section 4.3.0 to reimburse costs, the Net Proceeds from a foreclosure sale shall be shared by the Parties as follows:

(a) First, each Party shall receive its Pro Rata Share of Net Foreclosure Proceeds until one Party has received all sums it bid (by credit bid of the amount due under the Commission's Loan or the Lender's Loan, as the case may be, or otherwise) for the Common Collateral, with any such payment being subject to any recoupment payment provided by Section 4.1.2. Such sum shall not exceed the amount set forth for that Party in Section 1.1.

(b) Second, to the other Party until that Party has received all sums it bid (by credit bid of the amount due under the Commission's Loan or the SCOEDD's Loan as the case may be, or otherwise) for the Common Collateral, with any such payment being subject to any recoupment payment provided by Section 4.1.2. Such sum shall not exceed the amount set forth for that Party in Section 1.1.

(c) Third, each Party shall receive its Pro Rata Share of Net Foreclosure Proceeds (but as to a Party only to the extent its Loan has not been repaid in full up to the amount set forth in Section 1.1)

(d) Any remaining Net Proceeds to be distributed as provided by law.

4.3.3 Sale of Jointly Owned Common Collateral. Upon sale of any Owned Common Collateral by the Parties, the Net Proceeds thereof shall be shared by the Parties as follows:

(a) First, each Party shall receive its Pro Rata Share of Net Foreclosure Proceeds until one Party has received all sums it paid (by credit bid or otherwise) for the Owned Common Collateral, and a further sum for interest on such amount at the Party's original interest rate, with any such payment being subject to any recoupment payment provided by Section 4.1.2. Such sum shall not exceed the amount set forth for that Party in Section 1.1.

(b) Second, to the other Party until that Party has received all sums it paid (by credit bid or otherwise) for the Owned Common Collateral, and a further sum for interest on such amount at the Party's original interest rate, with any such payment being subject to any recoupment payment provided by Section 4.1.2. Such sum shall not exceed the amount set forth for that Party in Section 1.1.

(c) Third, each Party shall receive its Pro Rata Share of Net Foreclosure Proceeds (but as to a Party only to the extent its Loan has not been repaid in full up to the amount set forth in Section 1.1)

(d) Fourth, if a Party has not received the amount it paid (by credit bid or otherwise) for the Owned Common Collateral, the remaining Net Proceeds shall be distributed towards that amount in order of priority of the claims.

(e) Thereafter, all Net Proceeds shall be shared by the Parties according to their Pro Rata Ownership Interests.

SECTION 5

A Party may freely modify or amend its Loan and Loan Documents without notice to or the consent of the other Party and may enter into additional transactions with Borrower and any guarantor.

SECTION 6

6.1. Notices. Any notices which may be required herein shall be in writing and shall be given by personal delivery, facsimile or deposit in the United States Mail with registered or certified postage prepaid, return receipt requested, to the following addresses or facsimile numbers:

Oregon Economic and Community Development Commission
c/o Oregon Economic and Community Development Commission
775 Summer Street N.E., Suite 200
Salem, Oregon 97301-1280
Attn: Manager, Business Finance
Tel: (503) 986-0165
Fax: (503) 581-5115

South Central Oregon Economic Development District
409 Pine Street
PO Box 1777
Klamath Falls, OR 97601
Tel: (541) 882-9600
Fax: (541) 882-7648

Any notice delivered by mail shall be deemed to be given three (3) days after mailing as provided above. Any notice delivered by facsimile shall be deemed to be given, when a confirmation of successful transmission is generated by the transmitting machine. To be effective against Commission, such facsimile transmission must be confirmed by telephone notice to a Business Finance officer of the Oregon Economic and Community Development Commission. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. A Party may designate a change of address by notice to the other Party.

6.2 Security Interests Not Limited. Nothing contained in this Agreement is intended to affect or limit in any way whatsoever the security interests and liens that each of the Parties hereto has or may hereafter acquire in the property and assets of Borrower, whether tangible or intangible, insofar as the rights of Borrower, any guarantor and any third parties are involved. The Parties hereto specifically reserve any and all of their respective rights, security interests and liens as against Borrower, any guarantor and any third parties.

6.3 Nonavoidability, Perfection and Absence of Intervening Liens. The priorities in and to the Common Collateral specified in this Agreement are expressly conditioned upon the nonavoidability and perfection of the security interests of Commission and Lender in such Common Collateral and the absence of any Intervening Liens therein. If the security interest of a Party is not or ceases to be perfected or is avoided for any reason, or if a valid Intervening Lien exists therein, then this Agreement shall not be effective as to the particular property or asset of Borrower that is the subject of the unperfected or avoided security interest or of the Intervening Lien.

6.4 ORS 79 Notice. Each Party agrees to give the other written notice of the time and place of any public sale or the time after which any private sale or other intended disposition is to be made by it of the Common Collateral. This Agreement is intended, in part, to constitute a request for notice and a written notice of a claim by each Party hereto to the other of an interest in the Common Collateral in accordance with the provisions of ORS 79.0611 and ORS 79.0613 and any successor thereto.

6.5 Not a Security; No Pledge or Joint Venture. The granting of pari passu rights represented by this Agreement shall not be deemed to be a security within the meaning of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Oregon Securities Law (ORS chapter 59). This Agreement shall not be deemed to represent a pledge of any interest in Commission's Loan to Lender, or by SCOEDD's to Commission. In addition, this Agreement shall not be construed to create a joint venture or partnership between Commission or SCOEDD.

6.6 Further Assurances. A Party will execute and deliver to the other Party all such documents, instruments and agreements and do all such other acts and things as may be reasonably requisite to enable the said Party to exercise and enforce its rights hereunder and in connection with this Agreement.

6.7 No Third Party Beneficiaries. All of the understandings and agreements contained herein are solely for the benefit of Commission and Lender, and neither Borrower, any guarantor or any other person or entity is intended to be benefited, in any way whatsoever, by this Agreement.

6.8 Assignments; Successors. Without the prior written consent of the other, neither Party shall assign or otherwise dispose of all or any part of its interest in this Agreement or any of the Loan Documents. All rights, benefits, burdens, and obligations set forth in this Agreement shall bind and inure to all successors in interest of each of the Parties.

6.9 Amendment. This Agreement may be modified only by a written amendment executed by both Parties for which all necessary State approvals have been obtained. Nothing herein shall be construed to require that the Parties give notice to or obtain the consent of the Borrower for any amendment to this Agreement.

6.10 Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon without regard to the principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Commission (and/or any other agency or Commission of the State of Oregon) and SCOEDD that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. SCOEDD, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. However, if such Claim is raised in a judicial proceeding which includes claims to foreclose the Common Collateral, then the Circuit Court of the County where the Common Collateral is located shall be the proper venue and jurisdiction for such Claim.

6.11 Headings; Counterparts. The captions or headings of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement. This Agreement may be executed in any number of counterparts and by each signatory on a separate counterpart, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

6.12 Warranty of Authority. Each Party warrants and represents that it has full and complete lawful authority to execute this Agreement and to fulfill and perform the duties and obligations set forth herein.

IN WITNESS WHEREOF, Commission and SCOEDD have duly executed this Agreement as of the day and year first above written.

STATE OF OREGON, acting by and through its Oregon Economic and Community Development Commission

By: 

Mark D. Huston, Manager, Business Finance
Oregon Economic and Community Development Commission

SOUTH CENTRAL OREGON ECONOMIC DEVELOPMENT DISTRICT

By: 

Title: CHAIR

CONCUR:

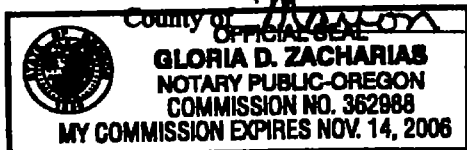
John W. and B. Paulette Knoll (Together, "Borrower")

By: John W. Knoll (Trust)
John W. Knoll
Date: 5/13/2004

30125

By: B. Paulette Knoll (trustee)
B. Paulette Knoll
Date: 5/13/2004

STATE OF OREGON



) This instrument was acknowledged before me on
) May 10, 200⁴, by Mark D. Huston, Manager,
) Business Finance,
) Oregon Economic and Community Development
) Commission.

Notary Public for Oregon Gloria D. Zacharias
My commission expires: Nov. 14, 2006

STATE OF OREGON

County of Klamath

Notary Public for Oregon
My commission expires: 11/16/2007

) This instrument was acknowledged before me on

) May 14, 2003, by Joseph S. McBride, Chairperson
) South Central Oregon Economic Development District
) Department.



STATE OF OREGON



) The foregoing instrument was acknowledged before me
) this 13th day of May, 2003, by John W. Knoll,
) ss. aka John W. Knoll, Trustee of the Knoll Family Trust

Kristi L. Redd
Notary Public for Oregon
My commission expires: 11/16/2007

STATE OF OREGON

County of Klamath



) The foregoing instrument was acknowledged before me
) this 13th day of May, 2003, by B. Paulette Knoll,
) ss. aka B. Paulette Knoll, Trustee of the Knoll Family Trust

Kristi L. Redd
Notary Public for Oregon
My commission expires: 11/16/2007

Attachment A

Common Collateral



OBDL Loan No. 414

Trust Deed

Parcel 2 of Land Partition 28-96, filed September 30, 1997 in Klamath County Clerks Office being Parcel 3 of Major Land Partition 8-90 and property line adjustment 8-95, situated in the E1/2 of Section 20 and the NW1/4 and the N1/2 SW1/4 of Section 21, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

Ella