

1st 1963339

After Recording Return to:
Housing and Community Services
Attn: Multifamily Housing Section
725 Summer Street, Suite B
Salem, OR 97301-1266

2012-014376
Klamath County, Oregon
12/27/2012 11:30:13 AM
Fee: \$147.00

SPACE ABOVE FOR RECORDERS USE

**HOUSING AND COMMUNITY SERVICES DEPARTMENT
STATE OF OREGON
LOW-INCOME WEATHERIZATION PROGRAM**

**ASSIGNMENT AND ASSUMPTION AGREEMENT,
DECLARATION OF RESTRICTIVE COVENANTS AND EQUITABLE SERVITUDES**

THIS Assignment and Assumption Agreement, Declaration of Restrictive Covenants and Equitable Servitudes (this "Agreement") is made this 27th day of December, 2012, among:

PARTIES:

Grantee: Northwest Real Estate Capital Corp.,
an Idaho Nonprofit Corporation

Owner: Northwest High Valley Estates LLC
an Idaho Limited Liability Company

Department: STATE OF OREGON, acting by and through its
Housing and Community Services Department,
together with its successors and assigns.

RECITALS

A. Grantee, as Recipient, received a Low-Income Weatherization Program Grant (the "Grant") from the Department as described in a Grant Agreement, Declaration of Restrictive Covenants and Equitable Servitudes executed between itself and the Department dated December 27, 2012 (the "Grant Agreement"), for the purpose of partially reimbursing the financing and construction costs of a thirty-six plus one manager unit (37) unit low-income housing project in Klamath County, Oregon, known as High Valley Estates Apartments (the "Project"). The real property for said Project is more particularly described in Exhibit A attached hereto and incorporated herein by reference.

B. The Grant Agreement was executed by Recipient and dated December 27, 2012. A copy of the original Grant Agreement, is attached hereto and incorporated herein as Exhibit B. Names and terms in this Agreement will have the meanings given them in this Agreement or in the Grant Agreement.

C. The parties desire to execute this Agreement to evidence and confirm the terms by which the Department hereby consents to Grantee loaning the funds received from the Grant to the Owner for the purposes described in the Grant Agreement.

D. The parties also desire that this Agreement will be recorded in the relevant county records and that certain terms herein will constitute restrictive covenants and equitable servitudes that shall run with the land and govern the maintenance and operation of the Project.

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ASSIGNMENT AND ASSUMPTION AGREEMENT – LOW-INCOME WEATHERIZATION PROGRAM
High Valley Estates Apartments - #1766

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AGREEMENT

NOW, THEREFORE, for value received, Grantee and Owner hereby agree with the Department as follows:

1. Provision of Grant to Owner; Assumption of Grant Agreement Obligations; Consent.

(a) Grantee has loaned or is loaning the Grant to Owner, pursuant to documented terms, copies of which have been delivered to the Department. The Department hereby approves of the loan of the Grant to Owner.

(b) Owner hereby unconditionally assumes, jointly and severally with Grantee, all obligations owed to the Department under the Grant Agreement. Owner also hereby agrees to perform all obligations to the Department described herein. Owner will, at its own expense, record and deliver this Agreement to the Department. Grantee and Owner also will execute and deliver to the Department such other documents reasonably requested by the Department to effect and maintain its restrictive covenants and equitable servitude interests in and rights against the Project.

(c) Department hereby consents to and approves of Grantee loaning the Grant to Owner without undertaking any obligations thereby to Owner and without affecting in any manner the restrictions and requirements of the Grant Agreement with respect to any further or additional transfers or third-party beneficiaries. Additionally, nothing in this Agreement or in the Grant Agreement shall be construed as restricting or impairing any right of the Department to resort to, proceed against, or otherwise exercise its rights with respect to any property in accordance with the rights granted to the Department by this Agreement or by any other agreement.

2. Representations, Warranties and Covenants of Owner. Owner, jointly and severally with Grantee, hereby adopts, assumes and ratifies the representations, warranties and covenants with respect to responsibility to the Department for proper use of the Grant, with respect to the maintenance, use, and operation of the Project, reporting with respect to same and compliance with Grant program requirements as contained in the Grant Agreement.

3. Restrictive Covenants and Equitable Servitudes to Run with the Land.

(a) Inducement. The Owner represents and warrants that consent to Grantee loaning it the Grant by the Department is an inducement to the Owner to construct and operate the Project in accordance with this Agreement. In consideration of such consent, the Owner 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. Therefore, the Owner covenants, agrees and acknowledges that the Department has relied on this Agreement in determining to consent to Grantee loaning the Grant to Owner.

(b) Covenants; Equitable Servitudes. The parties hereby declare their express intent that, during the term of this Agreement or until January 1, 2073 whichever is later, the covenants, restrictions, charges and easements set forth herein shall be deemed covenants running with the land and shall be deemed equitable servitudes running with the land, and shall pass to and be binding upon the Department's and the Owner's successors in title including any purchaser, grantee or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Project and 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 Project or any portion thereof or interest therein (other than a rental agreement or lease for a dwelling unit) shall contain an express provision making such conveyance subject to

the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

(c) Burden and Benefit. The Owner hereby declares its understanding and intent that the burdens of the covenants and equitable servitudes set forth herein touch and concern the land in that the Owner's legal interest in the Project is rendered less valuable thereby. The Owner hereby further declares its understanding and intent that the benefits of such covenants and equitable servitudes touch and concern the land by enhancing and increasing the enjoyment and use of the Project by tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Grant was issued.

4. Foreclosure. Except with respect to government lenders, in the event the construction and/or permanent lender, its successors or assigns, lawfully acquire title to the Project through foreclosure or deed in lieu of foreclosure, neither the lender nor any subsequent purchaser of the Project following such a foreclosure or deed in lieu of foreclosure shall be deemed a "successor or assign" of the Owner, and neither the lender nor such subsequent purchaser shall have any obligation to repay the Grant to the Department and all conditions and restrictions contained herein shall terminate on the date, if any, that the Project is so acquired by foreclosure or deed in lieu of foreclosure.
5. Indemnity. Owner and Grantee shall save, hold harmless, indemnify and (subject to ORS chapter 180) defend the State of Oregon, Department and their officers, agents, employees, members and assigns, from all suits, actions, claims, losses or damages of whatsoever nature, kind or description related to the Project or resulting from or arising out of their acts, omissions, neglect or misconduct or the acts, omissions, neglect or misconduct or their subcontractors, agents, or employees under this Agreement or related to the Project.
6. Time of the Essence. Time is of the essence in the performance of this Agreement.
7. Remedies.
 - (a) If this Agreement terminates prior to the term of the restrictive covenants, Grantee and Owner shall, within 120 days of written demand for repayment, repay to Department all Grant funds disbursed under this Agreement on the Project together with any earnings on such funds.
 - (b) Upon any breach of this Agreement by Grantee or Owner, Department, at its option, also 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 Owner or Grantee to perform its obligations and covenants under this Agreement or enjoin any acts or things that may be unlawful or in violation of the rights of Department under this Agreement;
 - (B) Have access to, and inspect, examine and make copies of, all of the books and records of Owner or Grantee pertaining to the Project;
 - (C) Withhold from Grantee or Owner, suspend or terminate, all or part of any un-disbursed Grant funding under this Agreement;
 - (D) Demand repayment of all Grant funding provided by Department to Grantee or Owner for the Project, and such amount shall be immediately due and payable by both of them, jointly and severally, to Department;

(E) Declare Grantee or Owner ineligible to receive further Low Income Weatherization Program funds or other Department financial assistance; or

(F) Take such other action at law, in equity or otherwise as may appear necessary or desirable to the Department to enforce the obligations, covenants and agreements of Grantee or Owner under this Agreement.

(c) The rights and remedies of Department provided for in this Agreement shall not be exclusive and are in addition to any other rights and remedies available at law, in equity or otherwise. No failure of or delay by Department to enforce any provision of this Agreement shall constitute a waiver by Department of that or any other provision, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

8. No Third Party Beneficiaries. Department, Grantee and Owner are the only parties to this Agreement and are the only parties entitled to rely on and enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly indirectly or otherwise, to third persons unless such third persons are individually identified by name in this Agreement and expressly described as intended beneficiaries of the terms of this Agreement.
9. Assignment; Successors and Assigns. Neither Owner nor Grantee shall assign or transfer any interest in this Agreement (other than leases for the residential units in the Project) without the prior express written consent of Department. Any attempted assignment or transfer in violation of this provision shall be null and void. The provisions of this Agreement shall be binding upon and shall run to the benefit of the parties to this Agreement and their respective successors and permitted assigns.
10. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid.
11. Survival of Obligations. The obligations of Grantee (and of Owner by assumption herein) as set forth in the application and award, shall survive the reservation of any Grant funds and shall not be deemed to terminate or merge with the awarding of the funds. Provisions of this Agreement which by their nature are intended to survive termination of this Agreement shall survive.
12. Attorney Fees. In the event a lawsuit is instituted regarding this Agreement, the prevailing party in any dispute arising under this Agreement shall, to the extent permitted by law, be entitled to recover from the other its reasonable attorney fees and all costs and disbursements incurred at trial and on appeal.
13. Governing Law; Venue; Consent to Jurisdiction. This Agreement shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") among two or more of the parties related to this Agreement shall be conducted exclusively within the Circuit Court of Marion County, Oregon (unless Oregon law requires that it be brought and conducted where the Project is located) or, if necessary, the United States District Court for the District of Oregon. In no event shall this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of

ASSIGNMENT AND ASSUMPTION AGREEMENT – LOW-INCOME WEATHERIZATION PROGRAM

High Valley Estates Apartments - #1766

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any court. GRANTEE AND OWNER, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

14. Merger Clause. This Agreement, including incorporations and exhibits, constitutes the entire agreement between the parties on the subject matter hereof. No modification or amendment of this Agreement shall bind either party unless in writing and signed by both parties (and the necessary approvals obtained), and no waiver or consent shall be effective unless signed by the party against whom such waiver or consent is asserted. Such waiver or consent, if given, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.

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

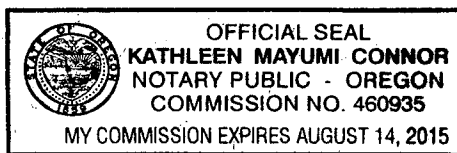
DEPARTMENT:

STATE OF OREGON, acting by and through its
Housing and Community Services Department

By: Heather Pate
Heather Pate, Manager
Multifamily Housing Section

STATE OF OREGON)
 : ss
County of Marion)

The foregoing instrument was acknowledged before me this 18th day of December 2012, by Heather Pate, who is the Manager of the Multifamily Housing Section, Housing and Community Services Department, on behalf of the Department.



Kathie Connor
NOTARY PUBLIC FOR OREGON
My Commission Expires: August 14, 2015

GRANTEE:

NORTHWEST HIGH VALLEY ESTATES LLC

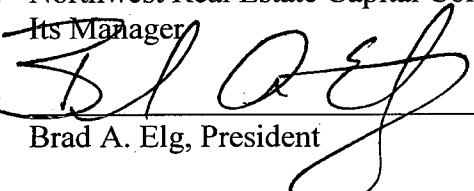
By: Community Development of Oregon IV LLC
Its Managing Member

By: Northwest Real Estate Capital Corp.
~~Its Manager~~

By: 
Brad A. Elg, President

COMMUNITY DEVELOPMENT OF OREGON IV LLC

By: Northwest Real Estate Capital Corp.
~~Its Manager~~

By: 
Brad A. Elg, President

NORTHWEST REAL ESTATE CAPITAL CORP.

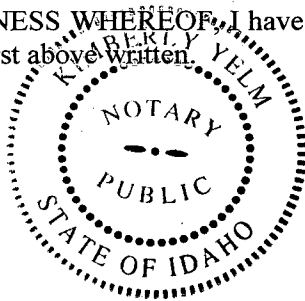
By: 
Brad A. Elg, President

****Officers of Northwest Real Estate Capital Corp. authorized to sign:
The President or any Vice President or any of them acting individually**

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of December, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of Northwest Real Estate Capital Corp., an Idaho nonprofit corporation, which nonprofit corporation is the manager of Community Development of Oregon IV LLC, an Idaho limited liability company, which limited liability company is the managing member of **NORTHWEST HIGH VALLEY ESTATES LLC**, an Idaho limited liability company (the "LLC"), or the person who executed the above instrument on behalf of said entities, in each of the aforesaid capacities, and on behalf of and in the name of the LLC, and that such LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

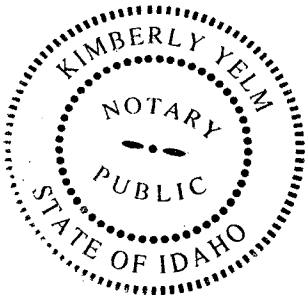


Kimberly Yelm
Notary Public for Idaho
Residing at Meridian, ID
My commission expires 6/15/2013

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of December, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of Northwest Real Estate Capital Corp., an Idaho corporation ("NWRECC"), which NWRECC is the manager of **COMMUNITY DEVELOPMENT OF OREGON IV LLC**, an Idaho limited liability company (the "LLC"), or the person who executed the above instrument on behalf of said NWRECC, and acknowledged to me that such NWRECC executed the same in its managerial capacity, and on behalf of and in the name of the LLC, and that such LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

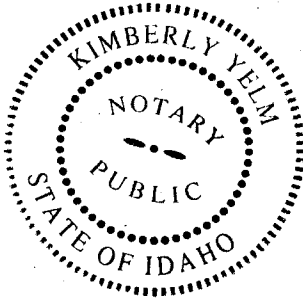


Kimberly Yelm
Notary Public for Idaho
Residing at Meridian, ID
My commission expires 6/15/2013

STATE OF IDAHO)
) ss.
County of Ada)

On this 28th day of December 2012, before me, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of **NORTHWEST REAL ESTATE CAPITAL CORP.**, an Idaho nonprofit corporation, and the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Kimberly Yelm
Notary Public for Idaho
Residing at Meredon, ID
My commission expires 6/13/2013

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EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Klamath, State of Oregon, described as follows:

A portion of Tract 31, ENTERPRISE TRACTS, in the County of Klamath, State of Oregon, more particularly described as follows:

Commencing at the Northeast corner of Lot 37 ENTERPRISE TRACTS, thence South 00° 15' 30" East, along the centerline of Avalon Street, 355.75 feet; thence South 56° 38' 10" East, 36.03 feet to a point on the East boundary of said street for the true point of beginning; thence South 56° 38' 10" East 108.05 feet; thence South 73° 31' 10" East, 41.51 feet; thence North 79° 52' East, 103.20 feet; thence North 70° 29' 20" East, 154.58 feet; thence North 89° 25' 40" East 82.78 feet; thence North 1° 24' 20" West 31.01 feet; thence North 89° 25' 40" East 50.00 feet; thence North 134.58 feet to a point on the Southwesterly boundary of the U.S.R.S. "A" Canal; thence along said canal boundary North 81° 17' West 23.93 feet; thence 94.98 feet along the arc of a curve right (which arc has a radius of 433.10 feet and a long chord of North 78° 00' 07" West 94.79 feet; thence South 00° 15' 30" East 59.01 feet; thence South 89° 44' 30" West 395.00 feet to a point on the East boundary of Avalon Street; thence along said boundary South 00° 15' 30" East, 132.87 feet to the true point of beginning.

Together with Easement Agreement which recorded May 21, 2003 in Volume M03 Page 34428, records of Klamath County, Oregon

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Weatherization Program
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EXHIBIT B
Copy of Recipient signed Agreement Attached

After Recording Return to:
Housing and Community Services
Attn: Multifamily Housing Section
725 Summer Street, Suite B
Salem, OR 97301-1266

SPACE ABOVE FOR RECORDERS USE

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

**LOW INCOME WEATHERIZATION PROGRAM
GRANT AGREEMENT, DECLARATION OF RESTRICTIVE COVENANTS
AND EQUITABLE SERVITUDES**

THIS LOW INCOME WEATHERIZATION PROGRAM GRANT AGREEMENT, DECLARATION OF RESTRICTIVE COVENANTS AND EQUITABLE SERVITUDES (this "Agreement") is made and entered into this 27th day of December, 2012, by and between Northwest Real Estate Capital Corp., an Idaho Nonprofit Corporation (the "Recipient") and the State of Oregon, acting by and through its Housing and Community Services Department, together with its successors and assigns (the "Department").

RECITALS

- A. The Recipient has requested and the Department desires to make available to the Recipient a conditional Low Income Weatherization Program ("LIWX") grant in the amount of Forty-six Thousand, Six Hundred and Twenty-six Dollars (\$46,626) (the "Grant") to partially finance the costs incurred by Recipient in its rehabilitation of a low-income residential housing development known as High Valley Estates Apartments, located at 1333 Avalon Street, Klamath Falls, Oregon (the "Project").
- B. The parties desire that the Project be weatherized and operated in accordance with this Agreement and that the restrictive covenants and equitable servitudes described herein shall run with the Project land for sixty (60) years until January 1, 2073 and encumbering the Project for the term of this Agreement, whichever is later, be binding and a burden upon the Project, and all portions thereof, and upon any purchaser, grant recipient, owner or lessee of any portion of the Project and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grant recipient, owner or lessee of any portion of the Project and any other person or entity having any right, title or interest therein, for the length of time that this Agreement shall be in effect.
- D. The Recipient is willing to receive the Grant, to satisfy the conditions thereof, and to execute and record this Agreement for the purpose, in part, of creating restrictive covenants and equitable servitudes that shall run with the Project land and bind any and all subsequent owners of the Project for the term of this Agreement.

AGREEMENT

For good and sufficient consideration, including the terms and conditions hereof, the parties hereto agree as follows

SECTION 1. INCORPORATION; DEFINITIONS.

- (a) The foregoing Recitals, Exhibit A, any application made by Recipient to the Department for the Grant (the "Application"), and any award letter from the Department to the Recipient approving or modifying the Application (the "Award") are incorporated herein by reference.
- (b) Capitalized terms in this Agreement shall have the meanings ascribed to them herein unless the context clearly requires otherwise.

SECTION 2. GRANT ISSUANCE.

- (a) Subject to the availability of LIWX funds, the Department's authority to disburse same, and conditioned upon the terms and conditions of this Agreement, the Department will make the Grant to Recipient up to the maximum principal amount of Forty-six Thousand, Six Hundred and Twenty-six Dollars (\$46,626).
- (b) The Department will disburse the Grant to Recipient after satisfaction of Award conditions at its sole discretion and after execution and recording of this Agreement and delivery to the Department of information satisfactory to it that Project work will commence. The Department may disburse the Grant prior to recording of this Agreement, at its sole discretion, upon placement of the Agreement in escrow with binding instructions to record this Agreement upon notice to the escrow officer by the Department or upon Recipient's establishment of fee title ownership to the Project.
- (c) The Department may review all receipts and other evidence, as well as require and obtain such other information as it determines appropriate, concerning the appropriateness and amount of Recipient weatherization activities and costs prior to disbursing Grant moneys to Recipient under this Agreement. The Department's determination as to the appropriateness and amount of such weatherization activities and costs shall be at the Department's sole discretion.
- (d) The Department's Award commitment will expire six (6) months from the date of this Agreement if the Borrower fails to timely satisfy the foregoing conditions and fails to commence acquisition and construction of the Project satisfactorily to the Department unless the Grant is sooner terminated by the Department. Approval of any extension, and the length of any approved extension, is at the Department's sole discretion.

SECTION 3. REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE RECIPIENT CONCERNING USE OF THE FUNDS AND MAINTENANCE OF THE PROJECT AS HOUSING FOR LOW AND VERY LOW INCOME HOUSEHOLDS.

Recipient hereby represents, covenants, warrants and agrees that:

- (a) Recipient assumes full responsibility for the ownership and construction of the Project and acknowledges that the Department has no direct or contractual responsibility for the construction of the Project.

- (b) Recipient shall expend Grant moneys only for reimbursement of its actual and reasonable costs of eligible weatherization activities as identified in Exhibit B or Department rules and directives. Exhibit B is attached hereto and incorporated herein by reference.
- (c) Recipient, upon request by the Department, or together with any request by Recipient to the Department for reimbursement of actual and reasonable costs of appropriate weatherization activities, will provide receipts or other evidence acceptable to the Department that verify such costs and the status of the weatherization activities.
- (d) Recipient will rent for a period of not less than sixty (60) years from the date of project completion August 2073 or until January 1, 2073, whichever is later (the "Compliance Period"), shall continuously rent at least 50% of the units in the Project to households whose incomes are at or below 60% of the area median income, adjusted by family size, as determined by the Department based upon information from the U. S. Department of Housing and Urban Development. The Project has a total of 36, plus one managers' residential unit, 50% of which, or 18 units, are subject to this affordable rent obligation. As part of this affordable rent obligation stated above, Recipient has agreed to restrict rents as follows:
36 units to households whose income is at or below 60% of median
- (e) Upon project completion, Recipient also shall obtain an energy inspection acceptable to the Department ascertaining the efficacy of the weatherization activities. Such inspection must be performed by an independent third party acceptable to the Department and provided promptly to the Department.
- (f) Recipient shall comply, and shall cause its agents, employees, contractors, subgrantees and assigns, if any, to comply with the terms and conditions of this Agreement and all otherwise applicable laws (including, without limitation, all applicable federal, state and local statutes, rules, regulations, ordinances and orders affecting the Project or activities related thereto).

SECTION 4. COVENANTS TO RUN WITH THE LAND; EQUITABLE SERVITUDE.

The Recipient represents, covenants, warrants and agrees that:

- (a) The Department is making the Grant to the Recipient as an inducement to the Recipient to develop and operate the Project in accordance with the terms of this Agreement. In consideration of the receipt of the Grant, the Recipient has entered into this Agreement with the Department and has agreed to restrict the use of the Project during the Compliance Period as set forth in Section 3 of this Agreement.
- (b) The covenants, restrictions, and charges set forth herein with respect to the Project shall be deemed restrictive covenants running with the Project land and also shall be deemed an equitable servitude running with the Project land for sixty (60) years and during the term of this Agreement, whichever is later. These restrictive covenants and equitable servitude shall pass to and be binding upon the Recipient's successors in title including any purchaser, grant recipient or lessee of any portion of the Project, shall pass to and be binding upon the respective heirs, executors, administrators, devisees, successors and assigns of the Recipient or any purchaser, grant recipient or lessee of any portion of the Project and shall pass to and be binding upon any other person or entity having any right, title or interest in the Project. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project 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 5. BURDEN AND BENEFIT.

The burdens of the covenants, restrictions, and charges set forth herein touch and concern the Project land and that the Recipient's legal interest in the Project is rendered less valuable thereby. The benefits of such covenants, restrictions, and charges touch and concern the Project land by enhancing and increasing the enjoyment and use of the designated units in the Project by low and very low income households, the intended beneficiaries of such covenants, restrictions, and charges and by furthering the public purposes for which the Grant is made.

SECTION 6. COMPLIANCE REPORTING.

Recipient will provide an annual certification, in a format and on a schedule approved by the Department in its sole discretion, that the Recipient is fulfilling its obligations under this Agreement. The Department may inspect the Project, and any part thereof, and may inspect and copy all records of the Project, upon reasonable notice to the Recipient. The Recipient, its agents, employees, and subcontractors will cooperate fully with the Department in any requested inspection or compliance monitoring.

SECTION 7: SUBORDINATION.

This Agreement and the restrictive covenants and equitable servitude created hereunder may be subordinated only to the lien of Recipient's primary financing loan in a principal amount not to exceed \$1,077,000. The Department, at its sole discretion, may subordinate this Agreement to other financing on the Project.

SECTION 8. TERM OF AGREEMENT.

This Agreement and the restrictive covenants and equitable servitude created hereunder shall become effective upon execution and recording of this Agreement and shall remain in full force and effect for the compliance period or sixty (60) years or until January 1, 2073, whichever is longer. Notwithstanding any other provision of this Agreement, this Agreement shall terminate and be of no further force and effect in the event of a completed foreclosure by the primary financing lender or by a lender to whom the Department has subordinated this Agreement, or their successors or assigns, or in the event of a delivery by the Recipient of a deed for the Project to the primary financing lender in lieu of foreclosure, or to a lender to whom the Department has subordinated this Agreement, or their successors or assigns.

SECTION 9. TERMINATION.

The Department may terminate this Agreement, without further liability, immediately upon notice to the Recipient:

- (a) If the Recipient fails to perform or breaches any of the terms of this Agreement; or
- (b) If the Recipient is unable or fails to commence the Project within six (6) months from the date of this Agreement;
- (c) If the Department loses the authority to administer the Program or Grant, is determined by its counsel or otherwise as lacking the authority to administer the Program or Grant, or fails to receive or loses necessary funding, appropriations, limitations or other expenditure or position authority sufficient to carry out the terms of this Agreement; or

- (d) If federal or state laws, regulations or guidelines are modified or interpreted in such a way that the Project cannot be funded with federally taxable moneys, or the Grant or expense reimbursement payments to be made hereunder are invalidated or otherwise prohibited.

SECTION 10. REMEDIES.

If the Recipient defaults in the performance or observance of any covenant, agreement, or 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 in its 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, specifically require the Recipient to perform its covenants, agreements and 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 Project;
- (c) Demand repayment of the full amount of the Grant in which event the amount thereof shall be immediately due and payable by the Recipient or its successors or assigns to the Department;
- (d) Terminate this Agreement without prejudice to its recovery rights and other remedies hereunder, at law or otherwise.
- (e) Take such other action under this Agreement, at law or in equity as may appear necessary or desirable to the Department to enforce the covenants, agreements, warranties, and obligations of the Recipient hereunder.

SECTION 11. 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 Project 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 such recording.

SECTION 12. GOVERNING LAW; VENUE.

This Agreement and all matters arising under or relating hereto shall be governed by and construed and interpreted in accordance with the laws of the State of Oregon without regard to principles of conflicts of laws except, where applicable, it shall be governed by and construed and interpreted in accordance with the laws of the United States of America. The parties hereby agree that the courts of the State of Oregon or, where necessary, the U.S. District Court for the District of Oregon, shall have exclusive jurisdiction over any action brought by or against the Department or the State of Oregon under this Agreement or in any way relating to the transactions contemplated hereby. In no event shall this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 13. AUTHORITY.

Recipient hereby represents, warrants and certifies that:

- (a) It possesses legal authority to apply for and accept the terms and conditions of the Grant and to carry out the proposed Project;
- (b) Its governing body, if any, has duly authorized the filing of the application, including all understandings and assurances contained therein;
- (c) The person identified as the official representative of the Recipient in the application is duly authorized to act in connection therewith and to provide such additional information as may be required. The Recipient's official representative has sufficient authority to make all certifications on its behalf;
- (d) This Agreement does not and will not violate any provision of any applicable law, rule, regulation or order of any court, regulatory commission, board or administrative Department applicable to the Recipient or any provision of the Recipient's organic laws or documents;
- (e) This Agreement has been duly executed by an official representative of Recipient, delivered by Recipient, and will constitute the legal, valid and binding obligations of the Recipient, enforceable in accordance with their terms.

SECTION 14. INDEPENDENT CONTRACTOR.

Recipient acknowledges and agrees that it is acting in its own independent capacity under this Agreement and not as an agent or subcontractor for the Department. Recipient assumes full responsibility for its own actions and shall provide for its own insurance and other compliance responsibilities, including providing for its own workers' compensation and other insurance coverage, as needed.

SECTION 15. AMENDMENTS.

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 16. 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 the Department: Oregon Housing and Community Services Department
725 Summer St NE, Suite B
Salem, Oregon 97301-1266
Attention: Multifamily Housing Section Manager

To the Recipient: Northwest Real Estate Capital Corp.
Attn: Jess Giuffre
210 W. Mallard Dr., Suite A
Boise, Idaho 83706

SECTION 17. ASSIGNMENT; SUCCESSORS AND ASSIGNS.

Recipient shall not assign or transfer any interest in this Agreement or in the Project (other than leases for the residential units in the Project) without the prior express written consent of Department. Any attempted assignment or transfer in violation of this provision shall be null and void. The provisions of this Agreement shall be binding upon and shall run to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

SECTION 18. SEVERABILITY.

The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

SECTION 19. WAIVER.

No 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. No waiver shall be construed against the Department unless it is expressly so stated in a signed writing by the Department. No waiver shall be construed against the Department on a continuing basis unless it is expressly so stated in a signed writing by the Department.

SECTION 20. ATTORNEYS FEES; COSTS.

The substantially prevailing party with respect to any dispute concerning this Agreement shall be entitled to its reasonable attorney fees, costs and expenses, including prior, during or after trial (including on appeal, in bankruptcy, in mediation or arbitration, or in any other legal proceeding). Reasonable attorney fees shall not exceed the rate charged to the Department by its attorneys.

SECTION 21. TIME OF THE ESSENCE.

Time is of the essence in the performance by Recipient of the terms of this Agreement.

SECTION 22. CONSTRUCTION.

The parties to this Agreement acknowledge that each party and its counsel have participated in the drafting and revision of this Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment, modification, supplementation or restatement of the foregoing or of any exhibit to this Agreement.

SECTION 23. NO IMPAIRMENT OF GOVERNMENTAL POWERS.

Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of the Department or State of Oregon in the exercise of their governmental powers. It is the express intention of the parties hereto that the Department and State of Oregon shall retain the full right and ability to exercise their governmental powers with respect to the Recipient, the Project, and the transactions contemplated by this Agreement to the same extent as if the Department were not a party to this Agreement or the transactions contemplated thereby, and

in no event shall the Department or the State of Oregon have any liability in contract arising under this Agreement by virtue of any exercise of their governmental powers.

SECTION 24. MERGER.

This Agreement and its incorporated documents and exhibits constitute the entire agreement between the parties. No other agreements, written or oral shall be deemed to merge with this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

DEPARTMENT:

STATE OF OREGON, acting by and through its
Housing and Community Services Department

By: Heather Pate
Heather Pate, Manager
Multifamily Housing Section

STATE OF OREGON)
 : ss
County of Marion)

The foregoing instrument was acknowledged before me this 18th day of December 2012,
by Heather Pate, who is the Manager of the Multifamily Housing Section, Housing and Community Services
Department, on behalf of the Department.



Kathie Connor
NOTARY PUBLIC FOR OREGON
My Commission Expires: August 14, 2015

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RECIPIENT:

NORTHWEST HIGH VALLEY ESTATES LLC

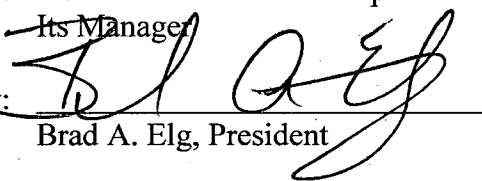
By: Community Development of Oregon IV LLC
Its Managing Member

By: Northwest Real Estate Capital Corp.
~~Its Manager~~

By: 
Brad A. Elg, President

COMMUNITY DEVELOPMENT OF OREGON IV LLC

By: Northwest Real Estate Capital Corp.
~~Its Manager~~

By: 
Brad A. Elg, President

NORTHWEST REAL ESTATE CAPITAL CORP.

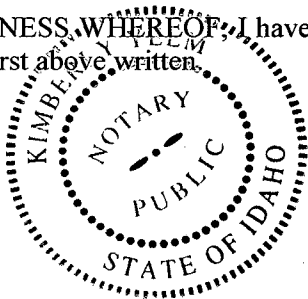
By: 
Brad A. Elg, President

****Officers of Northwest Real Estate Capital Corp. authorized to sign:
The President or any Vice President or any of them acting individually**

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of December, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of Northwest Real Estate Capital Corp., an Idaho nonprofit corporation, which nonprofit corporation is the manager of Community Development of Oregon IV LLC, an Idaho limited liability company, which limited liability company is the managing member of **NORTHWEST HIGH VALLEY ESTATES LLC**, an Idaho limited liability company (the "LLC"), or the person who executed the above instrument on behalf of said entities, in each of the aforesaid capacities, and on behalf of and in the name of the LLC, and that such LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

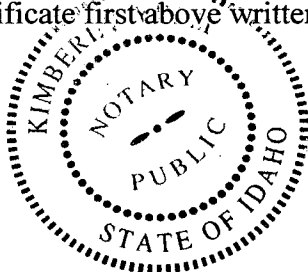


Kimberly Yellin
Notary Public for Idaho
Residing at Mountain, ID
My commission expires 6/15/2013

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of December, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of Northwest Real Estate Capital Corp., an Idaho nonprofit corporation ("NWRECC"), which NWRECC is the manager of **COMMUNITY DEVELOPMENT OF OREGON IV LLC**, an Idaho limited liability company (the "LLC"), or the person who executed the above instrument on behalf of said NWRECC, and acknowledged to me that such NWRECC executed the same in its managerial capacity, and on behalf of and in the name of the LLC, and that such LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

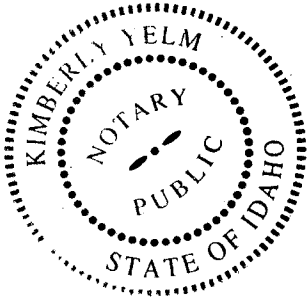


Kimberly Yellin
Notary Public for Idaho
Residing at Mountain, ID
My commission expires 6/15/2013

STATE OF IDAHO)
) ss.
County of Ada)

On this 20th day of December, 2012, before me, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of **NORTHWEST REAL ESTATE CAPITAL CORP.**, an Idaho nonprofit corporation, and the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Kimberly Yelm
Notary Public for Idaho
Residing at Meridian, ID
My commission expires 01/31/2013

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EXHIBIT A

WEATHERIZATION ITEMS TO BE COMPLETED WITH GRANT RESOURCES

Conservation Measure

Kilowatts Saved

Conservation Measure	Cost (labor & materials)	Kilowatts Saved
Windows	\$83,460	27,528
Sliders		0
Doors	\$27,300	2,652
Walls		0
Ceiling		0
Floors		0
SUBTOTAL	\$110,760	30,180

	Existing Efficiency	New Efficiency	Baseline Minus New Efficiency Value	Total Number of Units	# Units X Cost per Unit.	Total (KWh) kilowatt hours saved
Refrigerator	521	410	111	27	\$16,200	2,997
Electric Water Heater	0.86	0.93	-0.07	29	\$14,268	11,049
Dishwasher	414		414			0
Lighting (CFLs)	Insert cost of Energy Star CFLs			240	\$2,400	2,400
SUBTOTAL					32,868	16,446
TOTAL					143,628	46,626