

IN THE HACSA BOARD OF COMMISSIONERS

ORDER 95-2-7-1H

)In the Matter of Authorizing the Executive Director to Execute An Agreement to Purchase Real Estate for the Village Oaks Apartments, an)"Expiring Use" Multifamily Low-Income Housing Project in Eugene, Oregon.

WHEREAS, HACSA has entered into an Intergovernmental Agreement to participate with the City of Springfield, the City of Eugene, and Lane County in addressing the housing needs of Lane County;

WHEREAS, the Housing Policy Board – the intergovernmental body for overseeing joint housing development initiatives between jurisdictions in Lane County – has recommended HACSA investigate the acquisition of housing that can be operated as affordable housing in the community;

WHEREAS, HACSA has determined that it wishes to determine if the acquisition of the Village Oaks Apartments can be carried out in such a way to assist in maintaining additional affordable housing in the community;

WHEREAS, HACSA has the need to secure site control to continue exploring acquisition of this important low-income housing project in the community;

NOW, THEREFORE, IT IS HEREBY ORDERED:

That the order be approved to authorize the Executive Director to participate in HUD'S Low-income Housing Preservation and Resident Homeownership (LIHPRHA) Program to preserve the "Expiring Use" multifamily low-income housing project known as Village Oaks Apartments in Eugene, Oregon, including executing an Agreement to Purchase Real Estate (in a form substantially similar to Attachment 1 and hereby incorporated by this reference).

DATED this 7th day of February, 1995.

Ellie Sundt
Chair, HACSA Board of Commissioners

FILED

FEB 9 1995

COUNTY CLERK
BY *Alma Dubois*

APPROVED AS TO FORM

Date 2/1/95 in County _____
Terese Wilson
OFFICE OF LEGAL COUNSEL

In the Matter of Authorizing the Executive Director to Execute An Agreement to Purchase Real Estate for the Village Oaks Apartments, an "Expiring Use" Multifamily Low-Income Housing Project in Eugene, Oregon.

EXHIBIT 1
Purchase Agreement

AGREEMENT TO SELL AND PURCHASE

Village Oaks Apartments
Eugene, Oregon

THIS AGREEMENT TO SELL AND PURCHASE ("Agreement") shall serve to effect the sale and purchase of the real and personal property commonly known as Village Oaks Apartments (FHA Project No. 126-44037) (the "Property"), consisting of sixty-seven (67) apartment units located in the City of Eugene, Lane County, Oregon. This Agreement is entered into by and between _____ (the "Seller"), and the Housing Authority and Community Services Agency of Lane County, an Oregon public corporation (the "Buyer").

This Agreement shall be effective on the date (the "Effective Date") when both Buyer and Seller have signed this Agreement below and upon the receipt of an earnest money deposit in the sum of One Thousand and no/100th Dollars (\$1,000).

TERMS AND CONDITIONS

Seller agrees to sell the Property, and Buyer agrees to purchase the Property on the following terms and conditions:

1. **PURCHASE PRICE:** The purchase price for the Property shall be the Transfer Preservation Value for the Property, determined by the U.S. Department of Housing and Urban Development ("HUD") to be One Million, Nine Hundred and Ten Thousand and no/100th Dollars (\$1,910,000). The sum of Buyer's earnest money deposit shall be deposited in escrow and applied to the purchase price. The balance of the purchase price, less the principal amount of any existing HUD-held or HUD-insured loans, which shall be taken subject to or assumed by Buyer, shall be payable at the close of escrow.

2. **CLOSE OF ESCROW:** Escrow shall close on or before 12 months from the date that both parties have executed this Agreement, as evidenced by the latter of the two dates on the signature page of this Agreement. If for any reason Escrow does not close within this time period, this Agreement shall terminate and the parties shall have no further liabilities to each other and in accordance with the provisions of paragraph 20 the deposit shall be forfeited to the Seller as liquidated damages provided however that the Buyer shall be entitled to one 90 day extension if the failure to close within the initial 12 month period was due to circumstances beyond the control of the Buyer.

3. **DEPOSIT OF PAYMENTS:** Within five (5) calendar days of Buyer's and Seller's execution of this Agreement, Buyer shall make an earnest money deposit in the amount of One Thousand and no/100th Dollars (\$1,000). The earnest money deposit shall be deposited in an interest-bearing account with a title company to be selected by Buyer, hereinafter referred to as the "Escrow Holder." Seller agrees that it will comply with all HUD requirements to waive the maximum required deposit payment, under LIHPRHA, as defined elsewhere in this Agreement. The deposit and all interest on the deposit shall accrue to Buyer and shall be

credited towards the purchase price. The deposit and all accrued interest thereon shall be considered refundable until Buyer's written notice of satisfaction or waiver of the conditions set forth in Paragraph 7 (a)-(d). If Buyer fails to provide written notice of satisfaction or waive the conditions described in Paragraph 7(a)-(d) by the dates set forth therein, all deposit monies received, including accrued interest thereon, shall be refunded to Buyer, and this Agreement shall be considered null and void. If Buyer indicates satisfaction with or waives the conditions set forth in Paragraph 7(a)-(d), the earnest money deposit shall thereupon be considered nonrefundable.

4. **LIHPRHA:** The purchase and sale contemplated in this Agreement shall be conducted pursuant to and in accordance with the regulations, guidelines and procedures issued by HUD to implement the Low-Income Housing Preservation and Resident Homeownership Act of 1990 ("LIHPRHA"), also known as Title VI of the National Affordable Housing Act of 1990. Processing under LIHPRHA will require the cooperation of both Buyer and Seller to meet the HUD requirements. Both parties agree to cooperate and exercise their best efforts to assist each other in complying with all HUD requirements under LIHPRHA.

5. **HUD APPROVAL OF OFFER:** It is the intent of both parties that this Agreement shall constitute the contract of sale which, when combined with the earnest money deposit described in Paragraph 3 above, constitutes a Bona Fide Offer (the "Offer") as defined in the regulations described in Paragraph 4 above. Both Buyer and Seller understand that this Agreement is subject to approval by HUD pursuant to LIHPRHA, and that both parties shall cooperate fully in obtaining such approval by HUD. In the event HUD disapproves this Agreement and the parties are unable and/or unwilling to renegotiate terms that will be acceptable to HUD, this Agreement shall be considered null and void, all deposit payments and accrued interest shall be returned to Buyer, and the parties shall have no further liabilities to each other.

6. **BUYER'S CONDITIONS:** This offer and the obligations of Buyer under this Agreement are subject to the satisfaction of all the conditions set forth in this Paragraph 7. Buyer shall notify Seller in writing Buyer's being satisfied with or waiving the conditions set forth in subparagraphs 7(a), 7(b) and 7(c) on or before 90 days from the effective date of this agreement. In the event Buyer does not submit to Seller in writing its satisfaction or waiver of the conditions set forth in subparagraphs 7(a), 7(b) and 7(c) on or before the above date, Buyer shall be deemed to have disapproved the conditions, and this Agreement shall be terminated and of no force or effect, and all deposits plus accrued interest shall be returned to Buyer. Buyer shall notify Seller in writing upon Buyer's being satisfied with or waiving the conditions set forth in subparagraph 7(d) on or before dates set forth therein. In the event Buyer does not submit to Seller in writing its satisfaction with or waiver of the conditions set forth in subparagraph 7(d), Buyer shall be deemed to have disapproved the conditions, and this Agreement shall be terminated and of no force or effect, and all deposits plus accrued interest shall be returned to Buyer.

(a) **Document Inspections:** Seller will furnish to Buyer all of the Property records and documents listed below. Buyer's approval of the condition of the Property or of the title to the Property as demonstrated by these records and documents is a condition of Buyer's purchase of the Property. The time within which Buyer is required to remove any contingency set forth in this paragraph 7(a) shall be extended by a period of time equal to any delay caused in whole or in part by Seller.

- (i) Complete monthly operating statements for the past thirty-six (36) months;
- (ii) Utility bills for each of the past twelve (12) months including electricity, gas, water, sewer, trash removal, and any other public or private utility which services the Property;
- (iii) Copies of or access to current tenant files and current and previous rental agreements for the past twelve (12) months;
- (iv) Complete inventory of all items of personal property, and liens, warranties or other conditions thereon, to be included in sale of the Property;
- (v) A fully executed disclosure statement which addresses, in detail, full and complete disclosure of Seller's knowledge of the condition of the Property not disclosed in the Capital Needs Assessment, including, without limitation, environmental and hazardous waste conditions that may be known to the Seller;
- (vi) Buyer shall procure a preliminary title report issued by the Escrow Holder. The preliminary title report shall be dated not earlier than thirty (30) calendar days prior to the execution of this Agreement;
- (vii) Copies of any and all regulatory agreements, loan agreements, notes, deeds of trusts and copies of all other documents and exceptions recorded against the Property;
- (viii) Copy of two (2) most recent property tax bills;
- (ix) Copies of the last three (3) audits conducted pursuant to the HUD regulations governing operation of the Property;
- (x) Copies of documents related to any rehabilitation of the Property, if any, conducted since January 1, 1985, including, but not limited to: (a) all executed architectural, engineering and hazardous materials inspection reports; (b) complete scope of work as prepared by the contractor or architect; (c) all executed architectural, engineering and construction contracts; (d) complete plans and specifications; (e) copies of all city building department permits and approvals; and (f) replacement reserve withdrawal records;
- (xi) Copies of all reports and correspondence relating to the most recent HUD physical inspection and management review;
- (xii) Full and complete disclosure of any and all claims, actions, litigation, arbitration or other proceeding pending or threatened against the Seller, its agents or employees in connection with the ownership, operation, management or rehabilitation of the Property or the transaction contemplated by this Agreement, or which could result in the imposition of a lien against the Property;
- (xiii) Copies of all HUD-required documents prepared by owner, its consultants and/or HUD pursuant to LIHPRHA, including, but not limited to, the Initial Notice of

Intent, the Capital Needs Assessment, all appraisals, Form 9607, and any and all other information distributed to HUD, the tenants of the Property, and/or state or local governmental agencies; and

- (xiv) Any and all other such Property-related documentation that may be reasonably requested by Buyer and which is in the possession of Seller or Seller's agents or employees.
 - (xv) Copies of any and all architectural drawings, construction plans and specifications and any "as built" records of improvements.
- (b) **Hazardous Materials Inspections:** Buyer shall cause to be conducted by a qualified inspector selected by Buyer, at Buyer's expense, a hazardous materials survey, which shall include a Phase 1 report and/or bulk sampling of all suspect materials in or on the Property. Seller shall provide Buyer or Buyer's consultants reasonable access to the improvements for the purpose of conducting the hazardous materials inspections. Buyer's approval of the environmental condition of the Property is a condition of Buyer's purchase of the Property. Seller agrees to provide Buyer with any study or information it has regarding hazardous materials.
- (c) **Physical Inspections;** Buyer's approval of the Property after the following examinations is a condition of Buyer's purchase of the Property:
- (i) Buyer will engage in the physical examination and inspection of the Property, including the interior, exterior, the roofs, utilities and all other physical and function aspects of the Property. Buyer shall have the right to have any professional inspections, at Buyer's expense, that Buyer deems necessary. Seller shall provide Buyer reasonable access to all improvements for the purpose of conducting such examinations;
 - (ii) Buyer will engage in the physical examination and inspection of all personal property, including appliances, maintenance equipment, office equipment, recreational equipment, interior amenities, and any other personal property items located on the Property or included in the list prepared and delivered by Seller in accordance with Paragraph 14 of this Agreement. Buyer shall also have the right to have any professional inspections, at Buyer's expense, that Buyer deems necessary, and Seller will provide Buyer reasonable access to all personal property for the purpose of conducting such examinations and inspections; and
 - (iii) Buyer will be given reasonable access to engage in the on-site review and photocopying of staffing, job descriptions, labor contracts and qualifications of all persons employed or otherwise engaged in a maintenance and/or operations capacity.
- (d) **Financing and HUD Approval:** Buyer shall attempt, with all due diligence, to proceed with the terms of this Agreement and to approve, waive or object to all of the following conditions within the time periods specified. The terms and conditions of all third-party actions or approvals contemplated in the satisfaction with the following conditions must be satisfactory to the Buyer. In the event Buyer does not submit to Seller in writing its

satisfaction or waiver of all of the conditions to this subparagraph 7(d) prior to the expiration of the time periods specified herein, Buyer shall be deemed to have disapproved the conditions in this Agreement, and this Agreement shall be terminated upon the return of all deposit monies and accrued interest thereon to Buyer. All costs and fees associated with Buyer's financing and approvals listed in (i) to (vi) below, shall be the responsibility of Buyer.

- (i) **Predevelopment Financing:** Buyer agrees to exercise due diligence in obtaining commitments for grants and/or loans satisfactory to Buyer to fund up-front costs associated with the acquisition contemplated by this Agreement. Seller agrees to provide access to residents and to cooperate with Buyer where required in order to assist Buyer to obtain funding under local government grant or loan programs, and other programs if available.
- (ii) **Plan of Action Approval:** Buyer agrees to exercise due diligence in obtaining approval from HUD satisfactory to Buyer of all terms and conditions of the Plan of Action. Seller agrees to cooperate with the Buyer and provide any documentation to the Buyer that may be necessary in connection with the preparation of the Plan of Action.
- (iii) **Transfer of Physical Assets ("TPA") Approval:** This Agreement is expressly conditioned upon preliminary approval by HUD of the transaction as set forth in Form HUD 92266, Application For Transfer Of Physical Assets and supporting documents submitted to HUD, subject to approval by Buyer of any terms and conditions which may be required by HUD. No transfer of any interest in the project or the Property under this Agreement shall be effective prior to such HUD approval. Buyer will not take possession of the project or assume benefits of project ownership prior to approval by HUD. Buyer, its successors or assigns, shall have no right upon any breach by Seller hereunder to seek damages, directly or indirectly, from the HUD project which is the subject of this transaction, including from any assets, rents, issues or profits thereof, and Buyer shall have no right to impose a lien upon the project, the Property or its assets, rents, issues or profits thereof. TPA approval shall include approval by the HUD Loan Management Branch of this Agreement as a bona fide offer and approval of a Plan of Action submitted by the Buyer and approved by the Seller.
- (iv) Buyer agrees to exercise due diligence in obtaining HUD preliminary approval of the TPA. Seller agrees to cooperate with any and all HUD requirements associated with the TPA application.
- (v) **Section 241(f) Acquisition/Rehabilitation Loan Approval:** Buyer shall obtain a firm commitment for Section 241(f) Acquisition/Rehabilitation financing or other financing in an amount and with terms acceptable to Buyer.
- (vi) **Supplemental Funding Approval:** Buyer shall obtain a firm commitment for any supplemental funding deemed necessary by Buyer to complete the transaction contemplated in this Agreement in any amount and with terms satisfactory to Buyer prior to Close of Escrow.

Seller shall be responsible for the fees and charges of any consultant and counsel it may employ. All other fees and charges incurred in connection with the transaction including but not limited to its consultant, _____ and counsel, Michaud and Hoshiyama, shall be the responsibility of the Buyer.

7. **ESCROW TERMS:** Within five (5) calendar days after the execution of this Agreement, an escrow shall be opened by Buyer and Seller with the Escrow Holder at which time Buyer's earnest money deposit and a copy of this Agreement shall be deposited with Escrow Holder. Seller and Buyer agree to prepare and execute such escrow instructions as may be necessary and appropriate to close the transaction. "Close of Escrow" shall mean deed transfer of the Property and "Closing Date" shall mean the date on which the deed transferring title is recorded and the 241(f) acquisition loan is endorsed for insurance by HUD. All escrow fees, transfer taxes, recording fees and other charges incurred in connection with this escrow shall be split equally by Buyer and Seller. Buyer shall pay all title insurance premiums. At the close of Escrow, the Escrow Holder shall have issued or shall have committed to issue a standard Owner's title insurance policy in the amount of the purchase price, subject only to nondelinquent real property taxes and other matters approved in writing by the Buyer, along with the ALTA Lenders policy required by the mortgage lender and HUD..

8. **TITLE:** At the time of Close of Escrow, title is to be free of liens, encumbrances, easements, restrictions, rights and conditions of record or known to Seller, and any other covenants and conditions which adversely affect the continued use of Property, except those expressly revealed by Seller and specifically approved by Buyer pursuant to the inspection described in Paragraph 7(a). Seller shall convey fee simple title by statutory warranty deed.

9. **PRORATIONS:** Rents, real and personal property taxes and assessments, premiums on insurance policies acceptable to Buyer, mortgage insurance, and all other expenses of the Property shall be prorated as of the Closing Date. Seller shall further provide updates to all tenant files and rental agreements at the Close of Escrow. The amount of any bond or assessment which is a lien shall be paid by the Seller at or before the Close of Escrow. Security deposits, advance rentals, and consideration involving future lease credits shall be credited to Buyer.

10. **CONDITION OF PROPERTY:** Subject to the provisions set forth in Paragraph 7, it is understood and agreed that Buyer has or will have, prior to the Closing Date, inspected the Property, and that after such inspection, or after any subsequent inspections by Buyer undertaken prior to the Closing Date, any material change in the physical condition of the Property on or before the Closing Date will result in one of the following actions, at Buyer's sole discretion:

(a) Any material changes shall be corrected by Seller, to the Buyer's satisfaction, prior to the Closing Date; or

(b) The costs of correcting any material changes shall be agreed upon mutually by Buyer and Seller and an amount equal to such costs shall be credited to Buyer at Close of Escrow; or

(c) Buyer shall be released from this Agreement, and, notwithstanding any other provision of this Agreement, all deposits and accrued interest thereon shall be returned to Buyer.

Buyer and Seller agree that, for the purposes of Paragraphs 11(a) and 11(b) above, correction of material change shall constitute only the reasonable work required to return the Property to the same physical condition existing at the time of inspection.

11. **RISK OR LOSS:** Any risk of loss to the Property or any personal property located thereon shall be borne by Seller until title has been conveyed to Buyer. In the event that the improvements on the Property are destroyed or materially damaged between the effective date of this Agreement and the date title is conveyed to Buyer without correction by Seller to Buyer's satisfaction, Buyer shall have the option of demanding and receiving all deposit(s) made to date and accrued interest thereon and being released from all obligations hereunder.

12. **POSSESSION & VESTING:** Possession of the Property shall be delivered to Buyer on the Closing Date. Title shall vest as designated by Buyer prior to Close of Escrow. On or before the Closing Date, Seller shall deliver to Buyer the originals of duplicate originals (with Seller's warranty of authenticity) of all tenant leases, evidences of termination of any third party agreements not approved by Buyer, and all duly identified keys to all entrance doors and personal property.

13. **PERSONAL PROPERTY:** Within fifteen (15) days from the execution of this Agreement, Seller shall prepare and submit to Buyer a written inventory of all items of personal property to be conveyed to Buyer in connection with the sale of the Property. Title to these items shall be conveyed to Buyer by Bill of Sale on the Closing Date free and clear of all encumbrances. The purchase price for the Property includes all personal property and all installed fixtures that are permanently or otherwise attached to the Property. Personal property shall include all appliances, maintenance equipment, drapes, carpets, project furniture, vehicles, other equipment, tools, supplies and any and all other project-related personal property, located on or otherwise serving the Property.

14. **MISCELLANEOUS DEPOSIT ACCOUNTS:** Any and all tenant deposits, including but not limited to security, damage and key deposits will be credited to Buyer at Close of Escrow in an amount that equals the liability at Close of Escrow. Seller shall give Buyer an accounting of all such deposits at Close of Escrow, which shall detail for each tenant the date and amount of deposit received and all charges against such deposit. Seller shall provide an appropriate assignment to Buyer of all right, title and interest to the tenant leases and deposits at the Close of Escrow.

15. **EXISTING CONTRACTS:** Close of Escrow is subject to termination of all contracts that may be existing between Seller and any third parties in connection with the Property, as well as all personnel employed on or in connection with the Property, unless specifically approved in writing by Buyer prior to Close of Escrow.

16. **MANAGEMENT DURING ESCROW PERIOD:** Seller specifically retains the exclusive right to manage and operate the Property up to the date of Close of Escrow.

17. **VACANT UNITS:** During the Escrow Period, vacant units shall be rented in accordance with current program requirements. Buyer agrees to fully inform any new tenants of the terms and conditions set forth in the Plan of Action.

18. **REPLACEMENT RESERVE ACCOUNT, OPERATING ACCOUNT AND RESIDUAL RECEIPTS ACCOUNTS:**

(a) At Close of Escrow all funds in the Reserve for Replacement Account shall be credited to Seller, provided, however, that credit of said funds by Seller is contingent upon Buyer's receipt of an approved Plan of Action and 241(f) Firm Commitment that ensures the full funding of an initial deposit to the Reserve for Replacement Account from 241(f) loan proceeds in an amount satisfactory to Buyer, which approval by Buyer shall not be unreasonably withheld.

(b) At Close of Escrow, the funds in the Operating Account shall be used to pay Seller's share of the items to be prorated in accordance with Paragraph 10, and any funds remaining in the Operating Account after such payment shall be credited to Seller.

(c) At Close of Escrow, any funds in the Residual Receipts Account shall be credited to Seller.

(d) At the Close of Escrow any balance in the impound accounts for the taxes and insurance will be prorated between Buyer and Seller.

19. **LIQUIDATED DAMAGES:** If Buyer fails to complete the purchase of the Property as provided by this Agreement by reason of any default of Buyer, Seller shall be released from its obligation to sell the Property to Buyer. Buyer and Seller hereby acknowledge and agree that it would be impractical and/or extremely difficult to fix or establish the actual damage sustained by Seller as a result of such a default by Buyer and that the amount of the deposit made by Buyer as of the time of default is a reasonable approximation thereof. Accordingly, in the event that the Buyer breaches this Agreement for any reason whatsoever, Buyer's deposit shall constitute and be deemed to be the agreed upon liquidated damages of Seller and shall be paid by Buyer to Seller. The payment of this amount as liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to the Seller. Upon default by Buyer, this Agreement is terminated and neither party shall have any further rights or obligations under it to each other, except for the right of Seller to collect such liquidated damages from the Buyer and the Escrow Holder.

In the event the Close of Escrow does not occur by reason of any default by the Seller, the Buyer shall be entitled to all of its out-of pocket expenses incurred in connection with the transaction, including the Deposit and attorney fees, and shall have the right to pursue any other remedy available to it at law or equity, including the specific performance of this Agreement; provided, however, that Buyer shall not be entitled to reimbursement for those expenses covered under the terms of any grant, so long as it is not responsible for repayment of the grant.

20. **REPRESENTATIONS AND WARRANTIES OF SELLER:** Seller hereby represents and warrants the following to Buyer for the purpose of inducing Buyer to enter into this

Agreement and to purchase the Property, all of which shall be true as of the date hereof and as conveyance of title to the Property to Buyer:

(a) Seller has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein, and to consummate this transaction. The individuals executing this Agreement and the instruments referenced herein on behalf of Seller hereby represent and warrant that they have the power, right and authority to bind Seller.

(b) Seller has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of this transaction, and no consent of any other party other than HUD is required.

(c) Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any agreement, document, instrument or other obligation to which Seller is a party or by which Seller may be bound, or under any law, ordinance, rule, governmental regulation or any injunction, order or decree of any court or governmental body, applicable to Seller or to the Property.

(d) There is no claim, action, litigation, arbitration or other proceeding pending or, to the best of Seller's knowledge, threatened against Seller which relates to the Property or the transaction contemplated hereby or which could result in the imposition of a lien against the Property. If Seller receives notice of any such claim, litigation or proceeding prior to the Close of Escrow, Seller shall promptly notify Buyer of the same in writing and provide Buyer with a copy of such notice.

(e) There are no leases, management agreements, contracts, warranties, guaranties, bonds or other agreements which will affect or will be obligations of the Buyer or the Property, including without limitation, maintenance contracts, other services contracts, construction contracts, architects agreements, parking agreements, consulting agreements and landscaping agreements other than those disclosed pursuant to Paragraphs 9 and 16 which shall be terminated as of the Close of Escrow unless specifically approved in writing by Buyer.

(f) To Seller's knowledge, neither the Property nor Seller is in violation of any law including without limitation the Americans with Disabilities Act, ordinance, regulation, order or requirement applicable to the Property, including without limitation, requirements imposed under any recorded covenants, conditions, restrictions, easements or other rights affecting the Property. If Seller receives such a notice prior to the Close of Escrow, Seller shall immediately notify Buyer and provide Buyer with a copy of such notice.

(g) Other than as disclosed in the PCNA and the Phase 1 Report completed by Seller, to the best of Seller's knowledge there are no toxic or hazardous substances or pollution caused by Seller, Seller's tenants, or any prior occupant or owner of the Property, or caused by any prior use of the Property. To the best of Seller's knowledge, the Property is materially in compliance with applicable state and federally environmental standards and requirements affecting it. The Seller has not transferred hazardous waste from the Property to another location that is not in compliance with applicable environmental laws, regulations

or permit requirements. to the best of Seller's knowledge, no other person has transferred hazardous waste from the Property to another location that is not in compliance with applicable environmental laws, regulations or permit requirements.

(h) To the best of Seller's knowledge, as of the Closing Date, all permits, licenses, certificates, entitlements, grants of right and any other documents required for the construction, completion, ownership, use and occupancy of the Property shall have been obtained from all appropriate authorities. To the best of Seller's knowledge, the improvements are in conformity with all applicable governmental and other legal requirements, including, without limitation, all applicable building and zoning codes. Seller has not received any notice from any governmental authority that Seller or the Property (or any portion thereof) is in violation of any governmental or other legal requirements. If Seller receives such notice prior to the Close of Escrow, Seller shall immediately notify Buyer of the same in writing and provide Buyer with a copy of such notice.

(i) Any construction or rehabilitation work done by the Seller during the contract period that is set forth in the PCNA will be done in conformance with the provisions of the Davis-Bacon act, as amended (40 U.S.C. 276 @ 2 (a)).

(j) Seller's representations and warranties in this Agreement shall survive the Close of Escrow and shall not merge into the deed and the recordation of the deed.

During the term of this Agreement, Seller shall have a continuing duty to notify Buyer of any changes in this Paragraph 21. If information is disclosed to Buyer which Buyer reasonably considers unsatisfactory, Buyer may cancel this Agreement, and if Buyer cancels this Agreement, then notwithstanding any other provision to the contrary in this Agreement, all deposit monies and accrued interest thereon shall be returned to Buyer, and the parties shall have no further liability to each other.

21. BUYER'S ACKNOWLEDGMENTS:

(a) Buyer's Inspection: Buyer acknowledges that it shall have the right to thoroughly inspect the Property and all factors relevant to its use, including, without limitation, the physical condition of the Property, including the interior and exterior, the structure, condition of soils, all utilities and all physical and functional aspects of the Property; all operating records, leases, documents, and other material affecting the income and operation of the Property; and all matters relating to title; together with all municipal and other legal requirements such as taxes, assessments, zoning, use permits and building codes.

(b) Purchase "As is": Buyer further acknowledges that it has substantial experience with real property and that Buyer is acquiring the Property in an "as is" condition, and solely in reliance on its own inspection and examination. Except for the records and documents delivered to Buyer in accordance with subparagraph 7(a) or elsewhere in this Agreement, neither Seller nor any representatives or employees of Seller have made any representations or warranties, direct or implied, oral or written, with respect to the Property or its fitness for any particular purpose.

22. SUCCESSORS AND ASSIGNS: This Agreement and any addenda or exhibits attached hereto shall be binding upon and inure to the benefit of the heirs, successors,

representatives and assigns of the Seller and Buyer. This Agreement may be assigned by Buyer to any party or parties only with Seller's approval. Seller hereby approves and consents to Buyer's assignment of this Agreement to an affiliate nonprofit corporation of Buyer.

23. **ATTORNEYS' FEES:** If this Agreement gives rise to a lawsuit or other legal or arbitration proceeding between the parties, the prevailing party shall be entitled to recover actual court or arbitration costs and reasonable attorney's fees, in addition to any other relief to which such party may be entitled and deemed appropriate by a court or arbitrator with proper jurisdiction.

24. **NOTICES:** All notices required or permitted hereunder shall be made and given to the parties in writing at their respective addresses set forth below:

If to Seller:

If to Buyer: Housing Authority and Community Services Agency
177 Day Island Road
Eugene, OR 97401

25. **ADDENDA:** Any addenda attached hereto and either signed or initialed by the parties shall be deemed a part hereof. This Agreement, including all addenda and exhibits, expresses the entire agreement of the parties and supersedes any and all previous agreements between the parties with regard to the Property. There are no other understandings, oral or written, which in any way alter or enlarge its terms, and there are no warranties or representations of any nature whatsoever, either expressed or implied, except as may be set forth herein. Any future modification of this Agreement will be effective only if it is in writing and signed by both Buyer and Seller.

26. **CONSTRUCTION:** Seller and Buyer acknowledge that each party and its counsel have reviewed and revised this Agreement and that the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by either party in connection with the transactions contemplated by this Agreement. The captions in this Agreement are for convenience of reference only and shall not be used to interpret this Agreement.

27. **ACCEPTANCE:** Buyer's signature below constitutes an offer to Seller to buy the Property on the terms and conditions set forth herein, subject to HUD approval of the offer. Unless acceptance is made by Seller's execution of this Agreement and a fully-executed copy delivered to Buyer, either in person or by mail to the address indicated below or on or before the tenth (10) day after Seller's receipt of this offer, this offer shall be null and void, and any earnest money deposits and accrued interest that may have been deposited shall be returned to Buyer, and neither Seller nor Buyer shall have any further rights or obligations hereunder.

28. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

29. **ADDITIONAL DOCUMENTS:** Seller and Buyer agree to execute such additional documents, including escrow instructions, as may be reasonable and necessary to carry out the provisions of this Agreement.

30. **COUNTERPARTS:** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

31. **TIME:** Time is of the essence of this Agreement. When the term "days" is used in this Agreement, it is defined as calendar days, including weekends and holidays, not as business days.

32. **NO BROKER:** Seller and Buyer each represents to the other that it has not had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee. If any broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings, or communications, the party through whom the broker or finder makes this claim shall indemnify, defend with counsel of the indemnified party's choice, and hold the indemnified party harmless from all expense, loss, damage and claims, including the indemnified party's attorney's fees, if necessary, arising out of the broker's or finder's claim.

33. **OREGON STATUTORY LANGUAGE:** The property described in this instrument may not be within a fire protection district protecting structures. The property is subject to land use laws and regulations, which, in farm or forest zones, may not authorize construction or siting of a residence and which limit lawsuits against farming or forest practices as defined in ORS 30.930 in all zones. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses and existence of fire protection for structures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

SELLER:

By: _____

Date: _____

BUYER:

By: _____
Chris Todis
Title: Executive Director
Date: _____