

Doc # 2004154248
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Date: 08/30/2004 10:25A
Filed by: SKAMANIA COUNTY TITLE
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of SKAMANIA COUNTY
J. MICHAEL GARVISON
AUDITOR
Fee: \$32.00

AFTER RECORDING MAIL TO:

Name Miller Nash LLP, Attn: Ron Shellan
Address 111 SW Fifth Avenue, Suite 3500
City/State Portland, OR 97204-3699

REAL ESTATE EXCISE TAX

NA

AUG 30 2004

Document Title(s) (for transactions contained therein):

1. Purchase Option and Right of First Refusal

PAID

NA

Reference Number(s) of Documents Assigned or released:

Andrew Fekete, Deputy
SKAMANIA COUNTY TREASURER

Grantor(s): (Last name first, then first name and middle initial)

1. Hamilton Park Limited Partnership, a Washington limited partnership
2.

[] Additional information on page of document

Grantee(s): (Last name first, then first name and middle initial)

1. Columbia Cascade Housing Corporation, an Oregon nonprofit corporation
2.

[] Additional information on page of document

Abbreviated Legal Description as follows: (i.e. lot/block/plat or section/township/range/quarter/quarter)
LOTS C-49 & C-50 THIRD ADDITION TO PLATS OF RELOCATED NORTH BONNEVILLE

Assessor's Property Tax Parcel/Account Number(s):
02-07-29-2-2-2600-00 & 02-07-29-2-2-2700-00

Gary H. Martin, Skamania County Assessor
Date 8-30-04 Parcel 02-07-29-2-2-2600-00
02-07-29-2-2-2700-00

[X] Complete legal description is on page 9 of document

[] I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand the recording, processing requirements may cover up or otherwise obscure some part of the text of the original document.

Note: The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

PURCHASE OPTION AND RIGHT OF FIRST REFUSAL AGREEMENT

This Purchase Option and Right of First Refusal Agreement (this "Agreement") is made as of the 17th day of August, 2004, by and between Hamilton Park Limited Partnership, a Washington limited partnership (the "Partnership") and Columbia Cascade Housing Corporation, an Oregon nonprofit corporation ("Grantee"), and is consented to hereinbelow by NEF Assignment Corporation, an Illinois not-for-profit corporation, as nominee (the "Consenting Limited Partner").

Whereas, Grantee is the general partner in the Partnership; and

Whereas, Grantee and one or more other parties, concurrently with the execution and delivery of this Agreement, are entering into that certain Amended and Restated Limited Partnership Agreement dated as of the date hereof (the "Partnership Agreement") forming the Partnership or continuing it by amending and restating a prior partnership agreement; and

Whereas, Grantee has been instrumental in the development of the Project, as described in the Partnership Agreement; and

Whereas, Grantee has performed, or has agreed to perform services (the "Services") relating to the acquisition and syndication of the Project, as defined in the Partnership Agreement, which services include procuring permanent financing, securing the low-income housing tax credits, and negotiating the Consenting Limited Partner's investment in the Partnership, and the Partnership wishes to compensate Grantee for the performance of such services by entering into this Agreement.

Whereas, the Project is or may be subject to one or more governmental agency regulatory agreements (collectively, the "Regulatory Agreement") restricting its use to low-income housing (the "Use Restrictions"); and

Whereas, as a condition precedent to the formation or continuation of the Partnership pursuant to the Partnership Agreement, Grantee has negotiated and required that the Partnership shall execute and deliver this Agreement, and the Consenting Limited Partner has consented to this Agreement in order to induce Grantee to execute and deliver the Partnership Agreement and perform the Services;

Now, therefore, in consideration of the execution and delivery of the Partnership Agreement, the performance of the Services by Grantee to the Partnership and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Grant of Option. The Partnership hereby grants to Grantee an option to either (a) purchase the real estate, fixtures, and personal property comprising the Project or associated with the physical operation thereof, located at the Project and owned by the Partnership at the time of purchase (the "Project Option"), or (b) purchase the Limited Partner's limited partnership interest in the Partnership (the "Partnership Interest Option") after the close of the fifteen (15) year compliance period for the low-income housing tax credit for the Project (the "Compliance Period") as determined under Section 42(i)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), on the terms and conditions set forth in this Agreement and subject to the

conditions precedent to exercise of such Options specified herein. The Project real estate is legally described in Exhibit A attached hereto and made a part hereof. The Regulatory Agreement containing the Use Restrictions to which the Project real estate will remain subject is described in Exhibit B attached hereto and made a part hereof.

2. **Grant of Refusal Right.** The Partnership will not sell the Project or any portion thereof without first providing Grantee with a written notice (the "Notice of Refusal Right") offering to Grantee a right of first refusal to purchase the Property (the "Refusal Right") after the close of the Compliance Period, on the terms and conditions set forth in this Agreement and subject to the conditions precedent to exercise of the Refusal Right specified herein. In addition to all other applicable conditions set forth in this Agreement, (a) the foregoing grant of the Refusal Right shall be effective only if Grantee is currently and remains at all times hereafter, until (i) the Refusal Right has been exercised and the resulting purchase and sale has been closed or (ii) the Refusal Right has been assigned to a Permitted Assignee described in Paragraph 9 hereof, whichever first occurs, a qualified nonprofit organization, as defined in Section 42(h)(5)(C) of the Code, and (b) any assignment of the Refusal Right permitted under this Agreement and the Refusal Right so assigned shall be effective only if the assignee is at the time of the assignment and remains at all times thereafter, until the Refusal Right has been exercised and the resulting purchase and sale has been closed, a Permitted Assignee described in Paragraph 9 hereof meeting the requirements of Section 42(i)(7)(A) of the Code as determined in its judgment by tax counsel to the Consenting Limited Partner.

3. **Purchase Price Under Options.** The purchase price under the Project Option or the Partnership Interest Option shall be as follows:

a. **Project Option.** The purchase price under the Project Option shall be the greater of the following amounts:

(i) **Debt, Taxes and Credit Adjusters.** The sum of: (a) an amount sufficient to pay all debts (including partner loans) and liabilities of the Partnership upon its termination and liquidation as projected to occur immediately following the sale pursuant to the Option, (b) an amount sufficient to distribute to the Limited Partner pursuant to Section 5.2(a)(ii) of the Partnership Agreement, cash proceeds equal to the state, local and federal taxes projected to be imposed on the Limited Partner as a result of the sale of the Project pursuant to the Option, and (c) any unpaid portion of any credit adjuster payments due and owing to the Limited Partner pursuant to Section 6.9 of the Partnership Agreement; or

(ii) **Fair Market Value.** The fair market value of the Project, appraised as low-income housing to the extent continuation of such use is required under the Use Restrictions, any such appraisal to be made by a licensed appraiser who is a member of the Master Appraiser Institute and who has experience in the geographic area in which the Project is located. The fair market value of the Project shall be determined by an MAI appraiser selected by Grantee, with the prior consent of the Limited Partner. The appraisal shall be paid for by the Partnership. If the parties are unable to agree upon an MAI appraiser, the fair market value of the Project shall be determined by an MAI

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appraiser agreed upon by an MAI appraiser selected by Grantee and an MAI appraiser selected by the Limited Partner, which appraisal shall be paid for by the Partnership.

b. Partnership Interest Option. The purchase price under the Partnership Interest Option shall be the greater of:

(i) Fair Market Value Plus Limited Partner Loan Balances. The sum of (1) the fair market value of the Limited Partner's Partnership Interest, based on the appraised value of the Partnership's assets, including the value of the Project as low-income housing to the extent continuation of such use is required under the Use Restrictions and Partnership reserve accounts, less any liabilities including all Partnership debt (including Partner loans), plus (2) an amount equal to the outstanding principal balance and all accrued and unpaid interest on any loans that the Limited Partner has made to the Partnership. Any such appraisal to be made by a licensed appraiser who is a member of the Master Appraiser Institute and who has experience in the geographic area in which the Project is located. The fair market value of the Project shall be determined by an MAI appraiser selected by Grantee, with the prior consent of the Limited Partner. The appraisal shall be paid for by the Partnership. If the parties are unable to agree upon an MAI appraiser, the fair market value of the Project shall be determined by an MAI appraiser agreed upon by an MAI appraiser selected by Grantee and an MAI appraiser selected by the Limited Partner, which appraisal shall be paid for by the Partnership; or

(ii) Partner Loans, Taxes and Credit Adjusters. The sum of: (a) an amount equal to the outstanding principal balance and all accrued and unpaid interest on any loans that the Limited Partner has made to the Partnership, (b) an amount sufficient to distribute to the Limited Partner pursuant Section 5.2(a)(ii) of the Partnership Agreement, cash proceeds equal to the state, local and federal taxes projected to be imposed on the Limited Partner as a result of the sale of its Partnership Interest pursuant to the Option, and (c) any unpaid portion of any credit adjuster payments due and owing to the Limited Partner pursuant to Section 6.9 of the Partnership Agreement.

4. Purchase Price Under Refusal Right. The purchase price for the Property pursuant to the Refusal Right shall be equal to the sum of: (a) an amount sufficient to pay all debts (including partner loans) and liabilities of the Partnership upon its termination and liquidation as projected to occur immediately following the sale pursuant to the Refusal Right, (b) an amount sufficient to distribute to the Limited Partner, pursuant to Section 5.2(a)(ii) of the Partnership Agreement, cash proceeds equal to the state, local and federal taxes projected to be imposed on the Limited Partner as a result of the sale pursuant to the Refusal Right, (c) any unpaid portion of any credit adjuster payments due and owing to the Limited Partner pursuant to Section 6.9 of the Partnership Agreement.

5. Conditions Precedent. Notwithstanding anything in this Agreement to the contrary, the Options and the Refusal Right granted hereunder shall be contingent on the following:

a. **General Partner.** Grantee shall have remained in good standing as the general partner of the Partnership without the occurrence of any event described in Paragraph 10.6 of the Partnership Agreement; and

b. **Regulatory Agreement.** Either (i) the Regulatory Agreement shall have been entered into and remained in full force and effect, and those Use Restrictions to be contained therein, as heretofore approved in writing by the Consenting Limited Partner, shall have remained unmodified as to material terms affecting the affordability of the Project or income eligibility standards therein, without its prior written consent, or (ii) if the Regulatory Agreement is no longer in effect due to reasons other than a default thereunder by the Partnership, such Use Restrictions, as so approved and unmodified, shall have remained in effect by other means and shall continue in effect by means of covenants recorded against the property.

c. **Performance by Grantee and/or General Partner of the Services.** Grantee has performed the Services set forth in the recitals of this Agreement. Grantee shall have been deemed to have performed the Services upon the completion of all of the following:

- (i) The admission of the Consenting Limited Partner to the Partnership;
- (ii) The closing of all permanent loans secured by the Project, as described in the Partnership Agreement;
- (iii) The acquisition of all of the real property comprising the Project by the Partnership; and
- (iv) The receipt by the Partnership of all Forms 8609 to be issued in connection with the Project, evidencing the low-income housing tax credits projected to be delivered by the Project, as described in the Partnership Agreement.

If any or all of such conditions precedent have not been met, the Options and the Refusal Right shall not be exercisable. Upon any of the events terminating the Options or the Refusal Right under Paragraphs 9.5 and 9.6 of the Partnership Agreement, terminating Grantee as the general partner of the Partnership under Article 10 of the Partnership Agreement, or affecting the Regulatory Agreement as described in this Paragraph 5, the Options and the Refusal Right shall be void and of no further force and effect.

6. **Exercise of Option or Refusal Right.** The Options and the Refusal Right may each be exercised by Grantee by (a) giving written notice of its intent to exercise the Options or the Refusal Right to the Partnership and each of its partners in the manner provided in the Partnership Agreement and in compliance with the requirements of this Paragraph 6, and (b) complying with the contract and closing requirements of Paragraph 8 hereof. Any such notice of intent to exercise either of the Options shall be given during the last twelve (12) months of the Compliance Period. Any such notice of intent to exercise the Refusal Right shall be given within ninety (90) days after Grantee has received the Partnership's Notice of Refusal Right pursuant to Paragraph 2 hereof. In either case, the notice of intent shall specify a closing date within one hundred eighty (180) days immediately following the end of the Compliance Period.

If the foregoing requirements (including those of Paragraph 8 hereof) are not met as and when provided herein, the Options or the Refusal Right, or all of them, as applicable, shall expire and be of no further force or effect. Upon notice by Grantee of its intent to exercise either one of the Options or the Refusal Right, all of the other rights shall be subordinate to the rights then being so exercised unless and until such exercise is withdrawn or discontinued, and upon the closing of any sale of the Project or the Limited Partner's Partnership Interest, as the case may be, pursuant to such notice shall expire and be of no further force or effect, provided that in the event that the Options and the Refusal Right are hereafter held by different parties by reason of any permitted assignment or otherwise, Grantee in its assignment(s) or such parties by written agreement may specify any other order of priority consistent with the other terms and conditions of this Agreement.

7. **Determination of Price.** Upon notice by Grantee of its intent to exercise either of the Options or the Refusal Right, the Partnership and Grantee shall exercise best efforts in good faith to agree on the purchase price for the Property or the Limited Partner's Partnership Interest, as the case may be. Any such agreement shall be subject to the prior written consent of the Consenting Limited Partner, which shall not be withheld as to any purchase price determined properly in accordance with this Agreement.

8. **Contract and Closing.** Upon determination of the purchase price, the Partnership and Grantee shall enter into a written contract for the purchase and sale of the Property or the Partnership Interest, as the case may be, in accordance with this Agreement and containing such other terms and conditions as are standard and customary for similar commercial transactions in the geographic area which the Project is located, providing for a closing not later than the date specified in Grantee's notice of intent to exercise the Option or the Refusal Right, as applicable, or thirty (30) days after the purchase price has been determined, whichever is later. In the absence of any such contract, this Agreement shall be specifically enforceable upon the exercise of either one of the Options or the Refusal Right, as applicable. The purchase and sale hereunder shall be closed through a deed-and-money escrow with the title insurer for the Project or another mutually acceptable title company.

9. **Assignment.** Grantee may assign all or any of its rights under this Agreement to (a) a qualified nonprofit organization, as defined in Section 42(h)(5)(C) of the Code, (b) a government agency, or (c) a tenant organization (in cooperative form or otherwise) or resident management corporation of the Project (each a "Permitted Assignee") that demonstrates its ability and willingness to maintain the Project as low-income housing in accordance with the Use Restrictions, in any case subject to the prior written consent of the Consenting Limited Partner, which shall not be unreasonably withheld if the proposed grantee demonstrates that it is reputable and credit-worthy and is a capable, experienced owner and operator of residential rental property, and subject in any event to the conditions precedent to the Refusal Right grant and the Option prices set forth in Paragraphs 2 and 3 hereof. Prior to any assignment or proposed assignment of its rights hereunder, Grantee shall give written notice thereof to the Partnership, the General Partner, and the Consenting Limited Partner. Upon any permitted assignment hereunder, references in this Agreement to Grantee shall mean the Permitted Assignee where the context so requires, subject to all applicable conditions to the effectiveness of the rights granted under this Agreement and so assigned. No assignment of Grantee's rights hereunder shall be effective unless and until the Permitted Assignee enters into a written

agreement accepting the assignment and assuming all of Grantee's obligations under this Agreement and copies of such written agreement are delivered to the Partnership, the General Partner, and the Consenting Limited Partner. This Agreement shall be binding upon the Limited Partner's successors and assigns. Except as specifically permitted herein, Grantee's rights hereunder shall not be assignable.

10. Lease-Purchase Program Provisions. If Grantee enters into an agreement with one or more Property tenants to purchase a Project unit prior to the end of the Compliance Period, or otherwise promotes, markets, or makes available to Project tenants a lease-purchase option or other similar homeownership program for Property units (the "Lease-Purchase Program"), the following provisions shall apply:

a. The administration, implementation, coordination, and management of, and payment of all costs associated with, the Lease-Purchase Program shall be the sole responsibility of Grantee. Neither the Partnership nor the Consenting Limited Partner shall have any responsibility for such Lease-Purchase Program or the costs associated therewith.

b. Grantee may transfer individual Property units to individual Project tenants at the end of the Compliance Period in conjunction with the Lease-Purchase Program only after all of the following events have occurred: (i) Grantee has exercised either one of its Options or the Refusal Right hereunder; (ii) Grantee has fulfilled all of its obligations hereunder; and (iii) the entire Property or the Limited Partner's Partnership Interest, as the case may be, has been transferred to Grantee or a Permitted Assignee in accordance with the requirements of this Agreement. Once the entire Property or the Limited Partner Interest, as the case may be, has been transferred to Grantee or a Permitted Assignee, Grantee or the Permitted Assignee will be responsible for the transfer of individual Property units to tenants, including making appropriate arrangements with all Property lenders and obtaining approvals from applicable federal, state and local governmental agencies.

c. Grantee shall not make any false, misleading, or inaccurate statements or representations regarding the Property, the Partnership, or the Lease-Purchase Program to potential tenants/unit purchasers in conjunction with the Lease-Purchase program.

d. If any claims, demands, disputes, lawsuits or liens arise against the Property, the Partnership or the Consenting Limited Partner in conjunction with the Lease-Purchase Program, it shall be the sole responsibility of Grantee to resolve such matters to the satisfaction of the Partnership and the Consenting Limited Partner. Grantee shall indemnify, hold harmless, and defend the Partnership and the Consenting Limited Partner against any and all costs, expenses and fees including reasonable attorneys fees, incurred in conjunction with any such claims, demands, disputes, lawsuits or liens.

e. If Grantee defaults in the performance of any of its obligations hereunder, and fails to cure such default within thirty (30) days of notice of such default by the Consenting Limited Partner, the Consenting Limited Partner may, at its option, and in

addition to enforcing the provisions of Paragraph 10(d) above, declare this Agreement to be null and void and of no further force or effect.

11. **Miscellaneous.** This Agreement shall be liberally construed in accordance with the laws of the state in which the Project is located in order to effectuate the purposes of this Agreement. This Agreement may be executed in counterparts or counterpart signature pages, which together shall constitute a single agreement.

12. **Termination of Grantee's Rights Under This Agreement.** If Grantee ceases to be the general partner of the Partnership, or at the end of the Compliance Period fails to be in compliance with the requirements of Paragraph 5 hereof, then all of Grantee's rights hereunder shall be null, void, and of no further force and effect. Grantee hereby agrees that Limited Partner shall serve as its attorney in fact in order to execute any documentation necessary to effectuate this Paragraph 12.

(continued on next page)

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In Witness Whereof, the parties have executed this document as of the date first set forth hereinabove.

PARTNERSHIP:


Hamilton Park Limited Partnership, a
Washington limited partnership

By: Columbia Cascade Housing Corporation,
an Oregon nonprofit corporation, its
General Partner

By: 
Ruby Mason, Executive Director

GRANTEE:

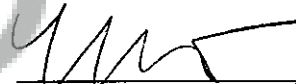
Columbia Cascade Housing Corporation, an
Oregon nonprofit corporation

By: 
Ruby Mason, Executive Director


The undersigned hereby consents to the foregoing Agreement as of the date first set forth hereinabove.

CONSENTING LIMITED PARTNER:

NEF ASSIGNMENT CORPORATION, an
Illinois not-for-profit corporation, as nominee

By: 
Title: Vice President

Attest:


Title: _____

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Partnership Acknowledgment

STATE OF Oregon)
COUNTY OF Multnomah) ss.

I, Patty Buslach a Notary Public in and for said County in the State aforesaid, do hereby certify that Ruby Mason, Executive Director of Columbia Cascade Housing Corporation, Inc., an Oregon nonprofit corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that she signed and delivered such instrument as her own free and voluntary act, and as the free and voluntary act of the partnership known as Hamilton Park Limited Partnership, a Washington limited partnership on behalf of which said corporation has executed the foregoing instrument as a general partner, all for the uses and purposes set forth therein.

Given under my hand and notarial seal on August 17, 2004.

Patty Buslach
Notary Public for Oregon
My commission expires: 12-4-05



Grantee Acknowledgment

STATE OF Oregon)
) ss.
COUNTY OF Multnomah)

I, Patty Buslach, a Notary Public in and for said County in the State aforesaid, do hereby certify that Ruby Mason, Executive Director of Columbia Cascade Housing Corporation, an Oregon nonprofit corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that she signed and delivered such instrument as her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

Given under my hand and notarial seal on August 17, 2004.

Patty Buslach
Notary Public for Oregon
My commission expires: 12/4/05



Consenting Limited Partner Acknowledgment

STATE OF ^{Oregon} ILLINOIS)
COUNTY OF ^{Multnomah} COOK) ss.

I, Patty Buslach, a Notary Public in and for said County in the State aforesaid, do hereby certify that MA Leonard, Vice President of NEF Assignment Corporation, and ~~Assistant Secretary~~ of said corporation, both personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such respective officers, appeared before me this day in person and acknowledged that they signed and delivered such instrument as their own free and voluntary acts, and as the free and voluntary act of said corporation, and as the free and voluntary act of the partnership known as NEF Assignment Corporation on behalf of which said corporation has executed the foregoing instrument as general partner, all for the uses and purposes set forth therein; and the latter officer also then and there acknowledged that (s)he, as custodian of the corporate seal of said corporation, affixed the same to the foregoing instrument as his/her free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.



Patty Buslach
Notary Public for Illinois ^{Oregon}

My commission expires: 12/4/05

EXHIBIT A

**LEGAL DESCRIPTION OF
PROJECT REAL ESTATE**

Lots C-49 and C-50, THIRD ADDITION TO PLATS OF RELOCATED NORTH BONNEVILLE, in the
County of Skamania and State of Washington.

Gary H. Martin, Skamania County Assessor
Date 8-30-04 Parcel # 02-07-29-2-2-2600-00
fn 02-07-29-2-2-2700-00

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EXHIBIT B

DESCRIPTION OF
REGULATORY AGREEMENT

None

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