BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

In the Matter of Granting a Non-Development Covenant to Big River Apartments, LLC, Related to Mineral Rights [Tax Account No. 10396])	ORDER NO.	4-2016

WHEREAS, ORS 275.090 provides Columbia County with broad discretionary authority over lands acquired on foreclosure of tax liens, including the authority to grant easements over, through and across such lands as specifically provided for in ORS 275.090(3); and

WHEREAS, Columbia County owns the reserved mineral estate associated with certain real property in the City of St. Helens, Oregon, and which has been assigned Tax Account No. 10396 and is more specifically described on Exhibit A and depicted on Exhibit B to this Order (the Property); and

WHEREAS, the surface estate of the Property is used for affordable housing purposes ("the Housing"), with said purposes consistent with the affordable housing goals of the County; and

WHEREAS, certain investment conditions associated with the ongoing uses of the Property for affordable housing purposes make it necessary for the County to agree to certain development restrictions to a vertical depth of 250 feet below the natural contour of the surface of the Property, and to allow the owner of the Property to disturb the same two hundred and fifty (250) feet for purposes related to the operation, maintenance and replacement of the Housing; and

WHEREAS, Big River Apartments, LLC intends to purchase the Property and to continue to use the Property for affordable housing purposes on the condition that the County grant a non-development covenant to Big River Apartments, LLC; and

WHEREAS, the Board of County Commissioners for Columbia County consider the requested non-development covenant to be the equivalent of an easement that will reasonably burden the County's reserved mineral estate;

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NOW, THEREFORE, IT IS HEREBY ORDERED that the Board of County Commissioners for Columbia County shall grant a non-development covenant to Big River Apartments, LLC in a form substantially the same as Exhibit C to this Order. Upon delivery of the non-development covenant, Big River Apartments, LLC shall record it in the office of the Columbia County Clerk and return a copy of the recorded non-development covenant to the County. In the event that Big River Apartments, LLC does not purchase the Property, the nondevelopment covenant will not be recorded, will be returned to the County and shall be considered null and void.

DATED this 2nd day of March, 2016.

BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

Approved as to form

Office of County

By:

Henry Heimuller, Commissioner

Anthony Hyde, Chair

By:

Earl Fisher, Commissioner

EXHIBIT A Legal Description

Beginning at the Southeast corner of Lot 13, Block 128, City of St. Helens, in the Southwest one quarter of the Northeast one quarter of Section 4, Township 4 North, Range 1 West, Willamette Meridian, Columbia County, Oregon, as per plat on file and of record in the Clerks office of Columbia County, Oregon, said point being on the Westerly right of way line of North 15th Street; thence South 73°02'30" West, along the South line of said Lot 13, Block 128, a distance of 37.00 feet to the true point of beginning of the following described tract; thence North 27°02'50" West 117.82 feet to the North line of said Block 128; thence North 69°27'30" West a distance of 119.28 feet; thence along the arc of a 326.48 foot radius curve to the right (the long chord bears North 43°12'30" West 288.80 feet) a distance of 299.15 feet to a point on the Westerly right of way line of North 16th Street which is North 16°57'30" West 19.64 feet from the Southeast corner of Lot 18, Block 140; thence along the Easterly line of said Lot 18, North 16°57'30" West a distance of 38.36 feet to the most Northerly corner of said Lot 18; thence along the Northerly line of said Lot 18, South 73°02'30" West 100 feet to the most Westerly corner of said Lot 18; thence along the Westerly line of Lots 18, 19, 20 and 21 of said Block 140, South 16°57'30" East 232 feet to the most Northerly corner of Lot 1 in said Block 140; thence along the Northerly line of said Lot 1, South 73°02'30" West a distance of 100 feet to the most Westerly corner of said Lot 1; thence along the Westerly line of said Lot 1 and its Southerly prolongation, South 16°57'30" East 138 feet to the most Westerly corner of Lot 11, Block 139; thence along the Westerly line of Lots 11 and 10 in said Block 139, South 16°57'30" East 116 feet to the most Southerly corner of said Lot 10; thence along the Southerly line of Lots 10 and 13 and its Easterly prolongation, North 73°02'30" East a distance of 280 feet to the most Southerly corner of Lot 10, Block 128; thence along the Southerly line of Lots 10 and 13, North 73°02'30" East 163 feet to the true point of beginning.

EXHIBIT B
Map of the Property



EXHIBIT C

Form of Non-Development Covenant

After Recording Return To: Knapp Law Office, P.C. PO BOX 236 Enterprise, OR 97828

Non-Development Covenant Agreement

This non-development covena	int is granted by Columbia County, State of
Oregon (Grantor), a political subdivis	sion of the State of Oregon by and through its
Board of Commissioners consisting of	of Anthony Hyde, Henry Heimuller, and Earl
Fisher, to Big River Apartments LLC,	an Oregon limited liability company
(Grantee), with an effective date of _	,2016.

RECITALS

- A. Grantee owns the surface estate to certain property having the legal description set forth in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter the "Mineral Estate"); and as depicted in Exhibit B, attached hereto and incorporated herein by this reference (the Property).
- B. Grantor owns the minerals or mineral rights, ore, metals, metallic clay, oil or gas and all hydrocarbon substances in on or under the Property under that certain conveyance recorded in Book 204, Page 517 in the Columbia County records on February 12, 1976.
- C. Grantee desires to commit the surface estate of the Property to affordable public housing uses through the year 2076, with said uses defined as subsidized housing for families with lower incomes in which rent or mortgage costs do not exceed a specific percentage, usually 30 percent, of the gross annual household income.
- D. Grantor is supportive of Grantee's intentions, which will result in significant benefits to the citizens of Columbia County.

For valuable consideration, said parties agree as follows:

AGREEMENT

- Grantor shall not disrupt the surface estate, disturb the lateral or subjacent support of the surface estate or exercise any of its rights to develop the Mineral Estate to a vertical depth of 250 feet below the natural contour of the surface of the Property.
- 2. Grantor shall not object to Grantee's use of the subsurface estate to a depth of not to exceed 250 feet from the natural surface contour of the Property for the purposes of excavation for and placement of foundations, pilings, pipe, septic systems and utility facilities.
- 3. Grantee will take no action that will compromise Grantor's Mineral Estate rights below the vertical depth of 250 feet below the natural contour of the surface of the Property.
- 4. The burdens and benefits of the covenants set forth herein will run with the land and shall be binding on the heirs, successors, and assigns of the parties hereto until such time that the Property is no longer used for affordable public housing uses, at which time it will terminate without the need for any other action by Grantor or Grantee.
- 5. Grantee will be responsible for recording this Agreement and providing a copy of said recorded document to Grantor.

In Witness Whereof, Grantor and Grantee have executed this Non-Development Covenant Agreement as of the date last signed below.

GRANTOR

County of Columbia, a political subdivision of the State of Oregon

By:	
- 0.0	Anthony Hyde, Chair
Ву:	Henry Heimuller, Commissioner
Ву:	
	Earl Fisher, Commissioner

Date:	
STATE OF OREGON	
COUNTY OF Columbia) ss.)
Heimuller, and Earl Fishe	before me personally appeared Anthony Hyde, Henry er, Board of County Commissioners for Columbia County, of Columbia County, Oregon
	Notary Public for Oregon
-	My Commissioner expires:
GRANTEE	
BIG RIVER APARTMENTS L Oregon limited liability compan	
By:	
Douglas Chrisman, President of Southern Oregon Affordable Housing VI, Inc., Member	
STATE OF OREGON)) ss.
County of Wallowa)
This instrument was ack CHRISMAN, President of South Apartments LLC, an Oregon lim	knowledged before me this day of, 2016, by DOUGLAS hern Oregon Affordable Housing VI, Inc., Member of Big River nited liability company.
	Notary Public for Oregon My commission expires: