ORDINANCE NO. 2985

AN ORDINANCE of the City of Kent, Washington, authorizing execution of a Housing Cooperation Agreement between the City of Kent and the King County Housing Authority.

WHEREAS, the City has received voter approval of the issuance and sale of 6.7 million dollars in general obligation bonds to finance the design, construction and equipping of at least 92 units of low income housing and related facilities for senior citizens to be located within the City of Kent; and

WHEREAS, on November 6, 1990, the City Council approved the issuance of 6.7 million dollars in general obligation bonds for the construction of senior housing in the City of Kent, and on November 21, 1990, the City issued and delivered those bonds; and

WHEREAS, the cities in the State of Washington under existing state law do not have the authority to own and operate low income housing facilities; and

WHEREAS, the King County Housing Authority is legally authorized to develop, own and manage housing for low income senior citizens; and

WHEREAS, the Kent Senior Housing Advisory Committee has recommended that the Authority own and operate Kent senior citizen housing; and
WHEREAS, the Kent City Council approved the above-stated Advisory Committee recommendation; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Administration is hereby authorized to execute an agreement between the City of Kent and the King County Housing Authority for the purpose of developing, owning and operating senior citizen housing in the City of Kent in a form substantially similar to the draft Housing Cooperation Agreement currently on file with the City Clerk.

Section 2. Effective Date. This ordinance shall take effect and be in force thirty (30) days from the time of its final approval and passage as provided by law.

ATTEST:

BRENDA JACOBER, DEPUTY CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY
PASSED the 4th day of June, 1991.
APPROVED the 5th day of June, 1991.
PUBLISHED the 7th day of June, 1991.

I hereby certify that this is a true and correct copy of Ordinance No. 2985, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
BRENDA JACOB, DEPUTY CITY CLERK

srhs.ord
HOUSING COOPERATION AGREEMENT

THIS AGREEMENT is entered into this 13th day of June, 1991 by and between THE HOUSING AUTHORITY OF THE COUNTY OF KING, WASHINGTON, public corporation, hereinafter referred to as "Authority" and THE CITY OF KENT, a Washington municipal corporation, hereinafter referred to as "City".

I. RECITALS

WHEREAS, there is a need for additional affordable housing for low-income Senior Citizens in the City of Kent; and

WHEREAS, the City has received voter approval of the issuance and sale of $6.7 million dollars in general obligation bonds to finance the design, construction and equipping of at least 92 units of low-income housing and related facilities for Senior Citizens to be located within the City; and

WHEREAS, on November 6, 1990, the City Council approved the issuance of $6.7 million dollars in general obligation bonds for the construction of senior housing in the City of Kent and on November 21, 1990, the City issued and delivered those bonds; and

WHEREAS, cities in the State of Washington under existing state law do not have the authority to own and operate low-income housing facilities; and
WHEREAS, the Authority is legally authorized to develop, own, and manage housing for low-income Senior Citizens; and

WHEREAS, the Kent Senior Housing Advisory Committee has recommended that the Authority own and operate Kent Senior Citizen Housing subject to certain conditions specified herein; and

WHEREAS, the Kent City Council recently approved the above stated advisory committee recommendation; and

WHEREAS, under the Housing Cooperation Law, RCW 35.83, the City is expressly empowered to provide financial and other assistance in the development and operation of low-income housing projects which are owned and operated by a Housing Authority and to enter into agreements upon such terms as it may determine; and

WHEREAS, the Authority has many years of experience developing housing for Senior Citizens and currently owns and manages 21 senior housing developments comprising approximately 1300 units; and

WHEREAS, it is in the best interests of the residents of the City of Kent that the King County Housing Authority own and operate such a facility for low-income Senior Housing Citizens in Kent; and

WHEREAS, since the interests of Kent's low-income Senior Citizens are best served by a cooperative arrangement between the
City and the Authority, a need for the Authority to function within the City is hereby declared;

NOW, THEREFORE, the City and the Authority agree as follows:

II. DEFINITIONS

The following words and terms have the following meanings for purposes of this Agreement:

1. "City" means The City of Kent.

2. "Housing Authority" means the Housing Authority of the County of King.

3. "Project" means the work or undertaking by the City and Housing Authority, including the planning, design, purchase, acquisition, development, construction, equipping or rehabilitation of property, dwelling units and related facilities to be occupied by Low Income Seniors pursuant to the Ordinance and this Agreement.

4. "Ordinance" means, collectively, Kent City Ordinance No. 2875 submitting the proposition whether to issue bonds to finance housing for Low-Income Senior Citizens to the electors of the City and Ordinance No. 2948 authorizing
the issuance of Bonds to provide capital funds for the Project.

5. "Bond" or "Bonds" means any or all of the general obligation bonds of the City issued pursuant to the Ordinance.

6. "Senior" means over the age of 62 years.

7. "Low Income Seniors" means individuals or members of a household living as a single residential unit meeting the following requirements.

A. The head of a household or spouse is a Senior, and

B. The individual, or the household collectively lacks the amount of income (which income shall not exceed eighty percent (80%) of median income for King County or such other income level as shall be set by subsequent ordinance of the City), necessary to enable them without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding, as determined by the Housing Authority pursuant to RCW 35.82.020(10).

The above income levels and limitations may be amended by the Housing Authority in accordance with
RCW 35.82.020(10) subject to approval by ordinance of the City to reflect changing economic or social conditions as long as the general purpose of the ordinance to provide additional housing for Low-Income Senior Persons is being accomplished.

8. "Operating Expense" shall mean the amounts necessary,

A. To meet the cost of, and to provide for, maintaining and operating the Project in such a manner as to provide decent, safe and sanitary dwelling for Low Income Seniors including maintenance; repair or reconstruction of the Project and including cost of resident services; and a reasonable reserve fund for required improvements and replacements, and

B. To meet the portions of the administrative expenses of the Housing Authority fairly attributable to operation and maintenance of the Project.

9. "Revenues" shall mean all the rents, revenues, fees and income arising from or in connection with the ownership or administration of the Project, from whatever source derived (including specifically any federal subsidies, contributions, grants or financial assistance), including interest on reserves.
III. RESPONSIBILITIES OF THE CITY

1. The City, in consultation with the Authority on an advisory basis, will be responsible for the siting, design, and construction, equipping, and furnishing of the Senior Citizen Housing Project as contemplated by the Ordinance.

2. Upon completion of construction, the City will cause title to the Project to be conveyed to the Authority for the purpose of long-term ownership and operation in accordance with RCW 35.82 and RCW 35.83, the Ordinance and this Agreement. The conveyance will include all rights, ways, privileges, interests and appurtenances pertaining to the real property along with fixtures, furnishings, equipment and other personal property related thereto. Such conveyance will be made pursuant to a mutually agreeable transfer agreement upon completion of construction of the Project at such time as the Authority is to operate the Project.

3. The City will provide a ALTA owner's extended policy of title insurance at the time of conveyance in an amount equal to the total development cost of the Project. The City shall pay all closing costs incurred in transferring title to the Authority. Title of the Project will be free and clear of all encumbrances except those agreed to by the Authority or as otherwise specified herein.
4. The City will indemnify, defend and hold the Authority harmless from any and all claims and disputes arising from the siting, design and construction of the Project.

5. The City will assign, to the Authority, all warranties and guarantees in regard to the buildings, equipment, furnishings and other improvements connected with the Project.

6. Prior to transfer of the Project to the Authority, to the extent that correction of defects is not possible through the enforcement of warranties and guarantees, the City will be responsible to correct and/or pay all costs associated with the correction of all design defects, defects in material, workmanship and equipment.

7. The City will provide to the Authority copies of all building plans and specifications, soil studies, environmental reports and studies, architectural renderings, landscaping plans, utility plans, "as built" plans, and any other plans, specifications and studies relating to the Project.

8. The City will provide the Authority with originals of all certificates of occupancy, permits and licenses issued in connection with the construction and development of the Project.
IV. RESPONSIBILITIES OF THE AUTHORITY

1. The Authority will provide advice and technical assistance to the City on an as needed basis during the siting, design, and construction phases of the senior housing development project.

2. Upon transfer of the Project by the City to the Authority, the Authority will own and operate the housing units for the City for Senior Citizens Housing pursuant to Chapters RCW 35.82 and RCW 35.83, the Ordinance and this Agreement. In managing the Project, the Authority may contract with qualified agents to act under its direction and control.

3. The Housing Authority will, at all times, at its own cost and expense, use, administer and operate the Project for the purpose of providing affordable housing opportunities for Low-Income Seniors.

4. Subject to approval of the City, the Authority will establish an admissions policy which gives priority for admission to the Senior Housing Project to Kent residents, provided, however, it is mutually understood and agreed that this admissions policy must meet the test of compliance with local, state and federal laws.
5. Subject to approval by the City, the Authority will establish an admissions policy which gives priority for admission to seniors with incomes less than 50 percent of the King County median income, provided, however, that it is mutually understood and agreed that this admissions policy must meet the test of compliance with local, state and federal laws.

6. The Authority will establish a management plan for operation of the Project for the units and related facilities in accordance with the provisions herein. The plan shall be submitted to the City for review and approval prior to adoption and as amended from time to time.

7. The Authority will establish rents for the units at rates sufficient, but not higher than sufficient, to produce Revenues which will be adequate to meet Operating Expenses, establish reasonable reserves for replacement, and establish a reasonable operating/contingency reserve.

8. The Authority will indemnify, defend and hold the City harmless from any and all claims and disputes arising from its operation of the Senior Citizen Housing Project.

9. The transfer agreement and/or deeds by which title to the Project is transferred to the Authority, shall contain a
clause providing that title to the Project shall transfer or revert to the City should a Kent Housing Authority be established or should this Agreement be terminated. If title transfers or reverts to the City as contemplated herein, the Authority agrees to take such steps necessary to effectuate transfer to the City. The Authority shall convey title and possession of the Project along with all real property, buildings, structures, improvements, appurtenances attached thereto, equipment records, accounts, contracts assets and all furnishings connected with the Senior Housing Project to the City free of debt and encumbrances unless otherwise agreed upon or provided for herein or pursuant to the transfer agreement noted above.

10. It is acknowledged by the parties hereto that the Authority, by law, is not subject to real estate taxes and that no payments in lieu of taxes as authorized by RCW 35.63.040 shall be paid during the term of this Agreement, unless such payments in lieu of taxes are required by state or federal law.

11. The Authority agrees and will ensure that the Senior Housing Project will be kept in good physical condition, including good physical appearance of the building and grounds and that all equipment and facilities therein shall be maintained in good operating condition.
12. The Authority agrees that it shall keep title to the Project free and clear of all encumbrances and liens unless otherwise agreed by the City.

13. The Authority will maintain separate accounts or a system of account Revenues and Operating Expenses of the Senior Housing Project. Such records will be audited by the State and subject to review by the City upon request.

14. The Authority agrees that in operating and administering the Senior Housing Project, it will comply with all applicable state, local and federal laws.

V. TERMINATION

1. This Agreement may be terminated by either party without cause upon 120 days written notice to the other. Upon termination, the Authority shall convey title and possession of the Project along with all real property, buildings, structures, improvements, appurtenances attached thereto, equipment records, accounts, contracts, assets and all furnishings connected with the Senior Housing Project to the City free of debt and encumbrances unless otherwise agreed upon or provided for herein or pursuant to the transfer agreement noted above.
VI. MISCELLANEOUS PROVISIONS

1. **Condemnation.** If during the term of this Agreement, the whole or part of the Project or such portion as will make the Project unusable for the purpose contemplated herein, be condemned by public authority for public use, then, in either event, this Agreement shall terminate as of the date of the vesting of title in such public authority or when possession is given to such public authority, whichever event occurs last. Any and all awards granted as a result of said condemnation whether or not this Agreement is terminated as a result of said condemnation proceedings, shall be paid over to the City. The Housing Authority may remove any and all of its fixtures and equipment installed by the Housing Authority before any such public taking.

2. **Insurance.** During the term of this Agreement the Housing Authority shall also maintain in effect and industry standard, all-risk property policy based on replacement value for building and contents with deductible not to exceed $5,000.

During the term of this Agreement the Housing Authority shall also maintain in effect an industry standard commercial general liability policy with single limits of liability not less that $1,000,000.
Both policies shall be provided at the Housing Authority's sole cost and shall name the City as an additional insured. A Certificate of Insurance evidencing coverage in force shall be provided to the City risk manager annually.

3. Damage or Destruction of Project. In event the structures and facilities are destroyed by fire or other casualty, or is partially destroyed so as to render it unfit for occupancy, or in case it is so badly damaged that is cannot be repaired within a reasonable amount of time, then this Agreement shall at the option of the Housing Authority or the City cease and terminate; or, if neither City nor Housing Authority elects to terminate, the Project shall be restored and the insurance proceeds applied to such restoration to the extent available. If the City of Housing Authority elects to terminate this Agreement, the Housing Authority shall at once surrender the Project and all interest in the Project to the City and this Agreement shall be deemed to have terminated on the date of damage or destruction. In such case, all insurance proceeds will be paid directly to the City. If the Housing Authority elects to restore the structures and facilities, it shall promptly repair, restore and rebuild the same as nearly as possible to the condition they were in immediately prior to such destruction or with such changes or alterations as may be agreed upon by
the parties.

4. **Assignment.** Neither party shall assign any of its rights or delegate any of its duties under this Agreement without the express written approval of the other.

5. **Obligation to Third Parties.** Neither the City nor the Housing Authority shall be obligated or liable hereunder to any party other than each other, with respect to their undertakings under this Agreement.

6. **Actions Contesting Agreements.** Each party shall appear and defend any action or legal proceeding brought to determine or contest:

   A. The validity of this Agreement, or the Project;
   B. The legal authority of the City and/or the Housing Authority to undertake the activity contemplated by this Agreement.

If both parties to this Agreement are not named as parties to the action, the party named shall give the other party prompt notice of the action and provide the other an opportunity to intervene. Each party shall bear any costs and expenses taxed by the court against it, any cost and expenses assessed by a court against both parties jointly shall be shared equally.
7. **Counterparts.** This Agreement shall be executed in two counterparts, one for each of the parties, each of which shall be deemed to be an original, and the same instrument.

8. **Amendments.** Amendments to this Agreement shall be in writing and executed by the parties hereto.

9. **Condition Precedent.** All obligations and duties of the parties hereto are conditioned upon the completion of the Project and the transfer of the same to the Authority for the purposes contemplated herein.

IN WITNESS WHEREOF, the Authority and City have executed this Agreement as of the date first written above by and through their duly authorized representative.

Housing Authority of the County of King, Washington

City of Kent

By: Jim Wiley

Executive Director

By: Judy Woods

Mayor Pro-tem