

BEFORE THE BOARD OF COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

In the Matter of the Acquisition)
of Real Property for the Department)
of Community Corrections East County)
Dist Probation Services Field Office)

O R D E R
94-48

Whereas the Multnomah County Department of Community Corrections provides parole and probation services to clients in the East County District in the Gresham area and immediately surrounding areas of Multnomah County; and

Whereas there is presently no district office to serve said clients within the District community and the Department and Board of County Commissioners finds that the clients and community would be better served by the location of an office in said District; and

Whereas a real property suited to the provision of said services has been located and determined to be available at a reasonable price which may be acquired and operated more economically than the lease of office spaces available; and

It appearing that the purchase of the real property situated at 495 N.E.Beech Street in Gresham, Oregon and described in the PURCHASE AND SALE AGREEMENT before the Board this date will benefit Multnomah County and the Board being fully advised in the matter:

It is ORDERED that Multnomah County execute this PURCHASE AND SALE AGREEMENT before the Board this date and any other documents required for completion of this purchase and that the County Chair be, and she is hereby, authorized and directed to execute the same on behalf of Multnomah County.

Dated this 10th day of March, 1994.

LAURENCE KRESSEL, County
Counsel for Multnomah
County, Oregon

By John L. DuBay
John L. DuBay

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By Beverly Stein
Beverly Stein, County Chair

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made this first day of March, 1994 between David A. Solberg and Kathryn F. Solberg (Seller) and Multnomah County, Oregon (Purchaser).

RECITALS

A. Seller owns certain real property (Property) situated in Multnomah County, Oregon and more particularly described as follows:

Lots 7 and 8 and a portion of Lot 6, Block 14 of the duly recorded plat of ZENITH ADDITION TO THE TOWN OF GRESHAM, situated in Section 10, Township 1 South, Range 3 East of the Willamette Meridan, in the City of Gresham, County of Multnomah and State of Oregon, TOGETHER WITH that part of the vacated alley West of and adjacent to Lots 7 and 8, which inured thereto by Ordinance No. 647 of the City of Gresham, recorded May 4, 1973 in Book 924, Page 1114, said premises being more particularly described as follows:

Beginning at the Northeast corner of said Lot 8; thence South along the East line of said Block 14, a distance of 136.36 feet to a point; thence West, parallel with the South line of said Lot 6, a distance of 96.00 feet to a point; thence North, parallel with the East line of said Lot 6, a distance of 36.36 feet to a point in the North line of said Lot 6; thence West along said North line and its Westerly extension, a distance of 14.00 feet along to the center line of the vacated alley in said Block 14; thence North along said center line, a distance of 100.00 feet to a point in the North line of said Block 14; thence East along said North line a distance of 110.00 feet to the point of beginning.

SUBJECT TO AND TOGETHER WITH a 20.00 foot easement for the purposes of ingress and egress and utility purposes being 10.00 feet in each side of the most Westerly line of the above described tract. TOGETHER WITH an 8.00 foot parking easement lying adjacent to the South of the most Southerly line of the above described tract.

B. Seller desires to sell and Purchaser desires to purchase the Property for the price and upon the terms and conditions recited below.

TERMS AND CONDITIONS

1. Purchase and Sale: Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Property for the price and in accordance with the terms and conditions set forth in this Agreement.

2. Purchase Price and Payment: The purchase price for the Property shall be Three Hundred Twenty Five Thousand Dollars (\$325,000.00), payable in full in cash upon closing.

3. Title: Seller shall furnish to Purchaser, within ten days from the date hereof, a preliminary title report covering the Property, to be prepared by Fidelity National Title Company of Oregon (Fidelity); Purchaser shall have ten days from the receipt of said title report to examine the condition of title to the Property and notify Seller of any objections to exceptions to title shown therein. Not later than five days following Seller's receipt of Purchaser's objections, Seller shall notify Purchaser in writing either that Seller will remove the objectionable exceptions, or that Seller is terminating this Contract. If Seller terminates this Contract, the Contract shall be null and void, and neither party shall have or make any claim against the other, and any provision of this Contract to the contrary notwithstanding. Failure to notify Seller of such objections within said time shall be deemed approval by Buyer of any exceptions to which Buyer fails to object.

4. Warranty Deed, Title Insurance and Closing Expenses: Upon closing, the Property shall be conveyed by Seller by statutory warranty deed, free of encumbrances except for the approved exceptions as provided in paragraph 3 above and Seller shall deliver exclusive possession of the Property to Purchaser. Seller, at its expense will furnish to Purchaser a standard form of owner's title insurance policy in the amount of the purchase price insuring title to be vested in Purchaser subject only to the usual printed exceptions and the exceptions authorized to be included in the statutory warranty deed. The sale will be closed in escrow by Fidelity and the escrow fees will be shared equally by Seller and Purchaser.

5. Closing Date: Closing will take place by May 1, 1994. In the event that closing is delayed beyond May 1, 1994 as a result of Seller's inability to close and deliver exclusive possessions of the Property to Purchaser by May 1, 1994, the purchase price shall be reduced by the amount of One Hundred Fifty Dollars (\$150.00) for each day of such delay after May 1, 1994 and prior to June 1, 1994 and shall be further reduced by the amount of Two Hundred Dollars (\$200.00) for each day of such delay after June 1, 1994. If Seller is unable to close and deliver exclusive possession of the Property

to Purchaser by July 1, 1994, Purchaser shall have the right to terminate this Purchase and Sale Agreement upon five (5) days written notice, excluding Saturdays, Sundays and Legal Holiday, to Seller. Prior to the Closing Date, each party will deposit with Fidelity the funds, documents and instruction necessary for closing.

6. Prorations:

(a) **General:** For purposes of calculating prorations, Purchaser shall be deemed to be entitled to the Property, therefore entitled to any income and responsible for the expenses, commencing on the day after the Closing Date and the reference to the Closing Date in this paragraph 6 shall be construed as May 1, 1994 or such other date as closing shall occur as provided in paragraph 5.

(b) **Taxes and Assessments:** Real property taxes and assessments shall be prorated as of the Closing Date.

(c) **Operating Expenses:** All utility service charges for electricity, heat and air conditioning service, other utilities, and other expenses incurred in operating the Property that Seller customarily pays in the ordinary course of operation of the Property shall be prorated on an accrual basis. Seller shall pay all such expenses that accrue prior to the Closing Date. To the extent possible, Seller and Purchaser shall obtain billings and meter readings as of the Closing Date to aid in such prorations.

(d) **Service Contracts:** Amounts payable under service contracts shall be prorated as of the Closing Date on an accrual basis. Seller shall pay all amounts due thereunder which accrue prior to the Closing Date and Purchaser shall pay all amounts accruing from and after the Closing Date; provided, however that Purchaser shall not be deemed to have assumed or required to assume any liability or responsibility for such service contracts.

(e) **Adjustments:** Prorations, if and to the extend known and agreed upon as of the Closing Date, shall be paid by Purchaser to Seller (if the prorations result in a net credit to Seller) or by Seller to Purchaser (if the prorations result in a net credit to Purchaser), by adjusting the cash to be paid by Purchaser at closing. Any such adjustments not determined or not agreed upon as of the Closing Date shall be paid by Purchaser to Seller, or by Seller to Purchaser, as the case may be, in cash as soon as practicable following the closing of escrow.

7. Condition of Property:

(a) No representations as to the condition or repair of the Property have been made by Seller or any agent of Seller except as expressly set forth in this Agreement. No agreement to alter, repair or remove the Property has been made by Seller or by any agent of Seller and except as otherwise herein provided, Purchaser shall take the Property "as is" and in the condition existing at the closing Date, subject to the condition that the Property shall be in substantially the same condition at the Closing Date as at the time of execution of this Agreement, ordinary wear and tear excepted.

(b) Purchaser shall have a period of fifteen (15) days from the date hereof in which to inspect the Property and to object, in writing to Seller, to any condition of the Property unsatisfactory to Purchaser. Seller shall eliminate any such conditions to the satisfaction of Purchaser prior to the Closing Date or, at its election, Seller may terminate this Purchase and Sale Agreement by written notice to Purchaser with fifteen (15) days after receipt of said written objections from Purchaser. Purchaser shall be deemed to have waived any objections to conditions of the Property if it does not notify Seller thereof as herein provided.

8. Casualty or Condemnation: In the event that prior to the closing Date condemnation proceedings are commenced against the Property or any part thereof or if the Property or any part thereof is destroyed or damaged and not restored or agreed to be restored by Seller, then, at Purchaser's option, (i) this Agreement shall terminate and neither party shall have any further rights or obligations hereunder, or (ii) the closing shall proceed as provided pursuant to this Agreement and Purchaser shall receive any and all insurance or condemnation proceeds attributable to casualty or condemnation, which proceeds shall not be credited against Purchaser's obligation to pay the purchase price.

9. Brokers: Purchaser represents to Seller that it has not employed or dealt with any real estate brokers, sales persons or finders in connection with this sale and purchase. Seller will be responsible for the commission due to any real estate brokers, agents or finders employed by Seller.

10. Remedies: There is no earnest money in connection with this Purchase and Sale. In the event of a breach or default by either party, the other party shall be entitled to such remedies for breach of contract as may be available under applicable law.

11. Entire Agreement: This instrument is the entire, final and complete agreement of the parties pertaining to the Sale and Purchase of the Property, and supersedes and replaces all written or oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Property is concerned. Neither party shall be bound by any promises, representations or agreements except as are herein expressly set forth.

12. Notices: Any notice required or permitted under this Agreement shall be in writing and shall be deemed given when actually delivered in person or forty eight (48) hours after having been deposited in the United States mail as certified or registered mail addressed as follows:

Seller: David A. Salberg and Kathryn F. Salberg
c/o Kohler, Meyers, O'Halloran Realtors
15 N.E. 3rd Street
Gresham, Oregon 97030

Purchaser: Multnomah County Property Management
2505 S.E. 11th Avenue
Portland, Oregon 97202

13. Attorney Fees: In the event any controversy or claim arises under this Agreement, the prevailing party shall be entitled to its reasonable costs, disbursements and attorney fees together with all expenses which it may reasonably incur in taking such action, including, but not limited, to costs incurred in searching records, expert witnesses and consulting fees, discovery depositions whether or not introduced into evidence in the trial, hearing or other proceeding and travel expenses in any arbitration, trial or other proceeding, including any proceeding brought to enforce an award of judgement and any and all appeals taken therefrom.

14. Nonwaiver: Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

15. Governing Law: This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

16. Captions: All captions and paragraph heading used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

17. Binding Effect: The covenants, conditions and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

18. Fire Protection: 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.

19. Agreement as Offer: The execution of this Agreement by the first party to do so constitutes an offer to purchase or sell the Property and the subsequent execution of the Agreement with changes to the Agreement constitutes a counteroffer to purchase or to sell the Property. Unless within ten (10) days from the date of execution or last initialling of this Agreement by the party making an offer or counteroffer, this Agreement is executed by the other party and a fully-executed copy is delivered to and accepted by the Escrow Agent, the offer of this Agreement will be null and void and withdrawn.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER:

By _____

PURCHASER:

Multnomah County, Oregon

By _____

Beverly Stein, County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By _____

John L. DuBay