

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 00-053**

Approving purchase of Real Property at 7220 N Lombard Street, Portland, Oregon and Authorizing the County Chair to Execute Documents Necessary to Enter into and Perform an Agreement with the Owner of the Real Property for its Purchase by Multnomah County

**The Multnomah County Board of Commissioners Finds:**

- a. The Department of Community Justice conducts a long term program in a leased facility at 7220 N Lombard Street, Portland, Oregon, referred to as the Adult Community Justice Peninsula Office.
- b. The leased facility is suited to the long-term need of the program.
- c. The owner of the real property containing the facility is willing to sell the real property to Multnomah County for the sum of \$642,000, which is within the range of appraised fair market value as determined by independent appraisal.
- d. The purchase of the real property before the Board in this matter will benefit Multnomah County.

**The Multnomah County Board of Commissioners Resolves:**

1. Multnomah County shall enter into an agreement for the purchase of the real property at 7220 N Lombard Street, Portland, Oregon at a price not to exceed \$642,000.00.
2. The County Chair shall be and hereby is authorized and directed to execute such agreement for purchase of the real property at 7220 N Lombard Street, Portland, Oregon and any other documents required for completion of purchase of the said real property.

Adopted this 20th day of April, 2000.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

Thomas Sponsler, County Attorney  
For Multnomah County, Oregon

By   
John Thomas, Assistant County Attorney

## PURCHASE AND SALE AGREEMENT

DATED AS OF: \_\_\_\_\_

BETWEEN: David E. Mazzocco  
975 SE Sandy Boulevard  
Portland, Oregon 97214 ("Seller")

AND: Multnomah County, a political subdivision of the State of Oregon  
Facilities & Property Management  
2505 S.E. 11<sup>th</sup> Avenue  
Portland, Oregon 97202 ("County")

Seller agrees to sell to County and County agrees to purchase from Seller the real property and all improvements thereon located in Multnomah County, Oregon and commonly known as 7220 N Lombard Street, Portland, Oregon, and more particularly described on the attached Exhibit A (the "Property") on the terms and conditions set forth herein.

### SECTION 1 PURCHASE PRICE, PAYMENT

- 1.1 Purchase Price. County agrees to pay as the purchase price for the Property the sum of Six Hundred Forty Two Thousand Dollars (\$642,000.00).
- 1.2 Payment of Purchase Price. On the Closing Date, County shall deliver to Fidelity National Title Insurance Company, Portland, Oregon (the "Title Company") the balance of the purchase price, less the Earnest Money paid, by Federal wire transfer.

### SECTION 2 EARNEST MONEY

Upon full execution of this Purchase And Sale Agreement (the "Agreement"), County shall pay One Thousand Dollars (\$1,000) as earnest money (the "Earnest Money"). The Earnest Money shall be applicable to the purchase price. The Earnest Money shall be deposited with Title Company.

### SECTION 3 CONDITIONS TO PURCHASE

The Property shall be in the same condition at closing as at the time of full execution of the Agreement by the parties hereto.

### SECTION 4 PROPERTY INSPECTION

County is currently conducting an environmental evaluation of the Property, and it is a condition to closing that the results of the environmental evaluation be acceptable to County in its sole discretion. If the environmental condition of the Property is not acceptable to County all earnest money deposited shall be refunded to County.

## SECTION 5                      TITLE REPORT

Within ten (10) business days after both parties have executed this Agreement, Seller shall provide County with a preliminary title report on the Property issued by the Title Company (the "Preliminary Report"), together with copies of all documents which establish the underlying title exceptions set forth in the Preliminary Report. County shall have thirty (30) days after receipt of the Preliminary Report and the underlying title exceptions within which to give Seller written notice of any exceptions which are unacceptable to County. Within fifteen (15) days after receipt of County's notice, Seller shall notify County in writing whether Seller, in his sole discretion, will cause the removal of the exceptions objected to by County, on or before the Closing Date. If Seller does not elect to remove an objected to exception or fails to respond to County within such period, County shall give Seller written notice within ten (10) days after the expiration of such period stating either: that County is terminating this Agreement, or that County is waiving its objection to the exceptions which Seller will not remove. If County fails to give any such notice, then such inaction shall be deemed to be County's election to waive its objection to such exceptions. If County notifies Seller that it is terminating this Agreement, all Earnest Money paid by County shall, within ten (10) days of such notice, be refunded to County.

## SECTION 6                      CLOSING

- 6.1 Manner of Closing. The closing of the purchase and sale of the Property (the "Closing") will occur in an escrow to be administered by the Title Company. The parties agree to provide the Title Company with escrow instructions consistent with the terms of this Agreement.
- 6.2 Closing Date. The closing date shall be the date which is no later than thirty (30) days after Seller has agreed to remove all exceptions to title objected to by County or County has waived or accepted all exceptions to title, whichever is earlier.
- 6.3 Documents to Be Deposited Into Escrow by Seller. On or before the Closing Date, Seller shall deposit into escrow:
  - 6.3.1 an executed and acknowledged warranty deed (the "Deed") conveying the Property to County; and
  - 6.3.1 an executed certificate of non-foreign person (the "FIRPTA Certificate").
- 6.4 Documents and Sums to Be Deposited Into Escrow by County. On or before the Closing Date, County shall deposit into escrow such funds (by wire transfer) as are necessary to complete payment of the purchase price and to pay County's portion of the closing costs.
- 6.5 Close of Escrow. On the Closing Date, the Title Company shall:
  - 6.5.1 cause the Deed to be recorded in the official records of Multnomah County, Oregon;
  - 6.5.2 deliver the balance of the purchase price to Seller;
  - 6.5.3 deliver to County the following:
    - (a) the County's Title Policy (as defined below),
    - (b) executed FIRPTA Certificate

- 6.5.4 Promptly after Closing, the Title Company shall deliver to each of County and Seller an accounting of all funds received and disbursed and copies of all executed and recorded or filed documents deposited with the Title Company with the recording or filing information noted on such documents.
- 6.6 Title Insurance. On the Closing Date, the Title Company shall issue to County an owner's policy of title insurance (the "Title Policy"), insuring County as the owner of the Property subject only to non-delinquent real property taxes and assessments and such other exceptions as are deemed approved or waived by County pursuant to Section 5. The Title Policy shall have a liability limit equal to the purchase price. Seller shall pay the premium for standard coverage, but if extended ALTA coverage is requested by County, County shall pay all costs and expenses of the extended ALTA coverage.
- 6.7 Closing Costs. County shall pay the Title Company's escrow fee and all recording fees. Seller shall pay any transfer taxes.
- 6.8 Prorations.
- 6.8.1 The Title Company shall prorate, as of the Closing Date, real property taxes and assessments payable in the real property tax year of the Closing between County and Seller based upon the number of days the Property is owned by the respective parties during such year.
- 6.8.2 All items of income or expense from the operation of the Property shall be prorated by the parties, outside of escrow, as of the Closing Date.

## SECTION 7

### WARRANTIES

- 7.1 Seller's Warranties. Seller hereby represents and warrants as follows:
- 7.1.1 Seller has full power and authority to enter into and perform this Agreement in accordance with its terms.
- 7.1.2 Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.
- 7.1.3 Except as may be disclosed in writing to County, there is no litigation, claim, arbitration or condemnation proceeding pending with respect to the Property.
- 7.1.4 Neither the execution of this Agreement nor the execution, delivery or recordation of any documents or agreements referenced herein, will constitute a default under any other agreement or contract affecting the Property or to which Seller is a party.
- 7.1.5 To Seller's actual knowledge, without investigation or inquiry, Seller has not used, stored or transferred Hazardous Materials (as defined herein) on or from the Property in violation of any applicable laws. "Hazardous Materials" means any hazardous or toxic substance, material or waste, including but not limited to those substances, materials and waste listed in the U.S. Department of Transportation Hazardous Materials Table or by the U.S.

- Environmental Protection Agency as hazardous substances, petroleum products, or such other substances, materials and waste that are regulated under any applicable local, state or federal law.
- 7.2 County's Warranties. County hereby represents and warrants that County has full power and authority to enter into and perform this Agreement in accordance with its terms, and all requisite action has been taken by County in connection with the execution of this Agreement.

## SECTION 8 BROKERAGE COMMISSIONS

Subject to any limitation in the Oregon Tort Claims Act, County shall protect, defend, indemnify and hold harmless Seller for, from and against any and all other claims, liabilities or demands with respect to any fees or other compensation asserted as a result of County's actions in connection with this Agreement. Seller shall protect, defend, indemnify and hold harmless County for, from and against any and all claims, liabilities or demands with respect to any fees or other compensation asserted as a result of Seller's actions in connection with this Agreement. These indemnities shall survive the closing or termination of the Agreement.

## SECTION 9 BREACH

- 9.1 County's Failure to Close. In the event that County is obligated to pay the purchase price and fails to do so, Seller shall have any right or remedies available to Seller at law or in equity.
- 9.2 Seller's Failure to Close. In the event that Seller is obligated to convey the Property to County but fails to do so, County shall be entitled to all available legal and equitable remedies, including, but not limited to, specific performance and a return of the Earnest Money.
- 9.3 Other Breaches. Upon any other default by a party, the other party shall be entitled to all available legal or equitable remedies.

## SECTION 10 GENERAL PROVISIONS

- 10.1 Assignment. Any assignment or other transfer shall not relieve the assigning party from its liability under this Agreement. Except as provided herein, this Agreement shall be binding upon and inure to the benefit of any permitted assignee or successor in interest to a party.
- 10.2 Notices. All written notices and demands which either party may give the other may be given by hand delivery, registered or certified mail, electronic facsimile or telecopy, or by delivery service guaranteeing overnight delivery to a party at the address set forth above or as may be changed upon written notice to the other party. Notices shall be effective as follows: if given by hand delivery, then upon delivery; if given by electronic facsimile or telecopy, then upon receipt so long as the sending device electronically confirms receipt; if by overnight courier, then the business day after delivery to the overnight courier; and if given by certified mail, then the third day (excluding the day of mailing) after mailing.

- 10.3 Headings. The headings of the sections of this Agreement are intended for reference only and are not intended to be used for interpretation of this Agreement.
- 10.4 Invalidity. If any provision of this Agreement shall be invalid or unenforceable, the remaining provisions shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 10.5 Attorney's Fees. If a suit, action or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to enforce or interpret any rights hereunder, the prevailing party shall be entitled to recover its attorneys', paralegals', accountants' and other experts' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.
- 10.6 Entire Agreement. The terms of this Agreement are intended by the parties as a final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Agreement constitute the exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceedings involving this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.
- 10.7 Time of the Essence. Time is of the essence of this Agreement.
- 10.8 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.
- 10.9 Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by Association and County.
- 10.10 Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit such party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself. Any waiver of any provision of this Agreement shall be effective only if set forth in writing and signed by the party to be bound.
- 10.11 Effectiveness of Agreement. This Agreement shall not be effective and shall not be binding upon County and Association unless and until fully executed by County and Association.
- 10.12 Exhibits. All exhibits attached to this Agreement are an integral part of this Agreement and are incorporated into this Agreement by reference.
- 10.13 Statutory Disclaimer.  
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 REAL 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 first written above.

SELLER:

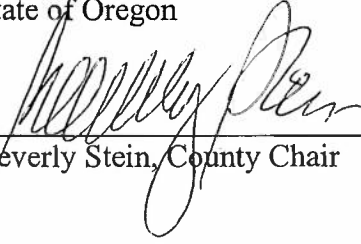
David E. Mazzocco

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COUNTY:

Multnomah County, a political subdivision of the State of Oregon

By:

  
Beverly Stein, County Chair

REVIEWED:  
THOMAS SPONSER, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY

BY   
ASSISTANT COUNTY ATTORNEY

DATE April 20, 2000

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-7 DATE 4/20/00  
DEB BOGSTAD  
BOARD CLERK

**EXHIBIT A**

**LEGAL DESCRIPTION**

Lots 1, 2, 3 and 4, Block 4, South St. Johns in the City of Portland, County of Multnomah, State of Oregon.