

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDER NO. 98-184

In the Matter of the Acquisition of Land for Construction of Department of Health Services and Aging & Disability Services Department East County Facilities.

The Multnomah County Board of Commissioners finds:

- a) The Multnomah Department of Health Services and Aging & Disability Services Department provide services to the residents of East Multnomah County at a facility located at 50 NE Elliot, Gresham and Aging Services has an office leased at 501 NE Hood, Gresham.
- b) The existing service facility is structurally unsound and no longer adequate to sufficiently provide such services and should be replaced. Providing office space in the replacement service facility would be less expensive than the leased office.
- c) A suitable site for the construction of an adequate facility has been located and has been determined to be available for purchase from the owner at a price of \$6.50 per square foot, approximately \$1,107, 632.50, which is in the range of fair market value for the real property.
- d) The purchase of the real property described in the PURCHASE AND SALE AGREEMENT before the Board this date will benefit Multnomah County.

The Multnomah County Board of Commissioners Orders:

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

Adopted this 12th day of November, 1998.

**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**



Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 

Matthew O. Ryan, Assistant County Counsel



COMMERCIAL ASSOCIATION OF REALTORS® PORTLAND/VANCOUVER
PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY
(Oregon-Commercial Form)

Dated: November 2, 1998

BETWEEN: OSU Foundation ("Seller")

AND: Multnomah County ("Buyer")

Buyer agrees to buy and Seller agrees to sell, on the following terms, the real property and all improvements thereon (the "Property") commonly known as n/a and located at 604 NE 8th, in the City of Gresham, County of Multnomah, Oregon legally described as follows: to follow at escrow. If no legal description is inserted or attached, Buyer and Seller will attach a legal description upon receipt and reasonable approval by both parties of the Preliminary Commitment or, if applicable, the Survey.

1. Purchase Price. The total purchase price is Purchase price to be based on \$6.50/per square foot of land. Exact amount to be determined by a survey. The cost of said survey to be split equally between the buyer and seller. payable as follows: All cash at close of escrow.

2. Earnest Money Receipt. Upon execution of this Agreement, Buyer shall pay \$25,000.00 as earnest money (the "Earnest Money") in the form of ☐ cash or ☐ check or ☒ promissory note. If the Earnest Money is in the form of a promissory note, it is due and payable: ☒ upon execution of this Agreement by Buyer and Seller or ☐ no later than 5 PM Pacific Time one day after satisfaction or waiver by Buyer of the conditions to Buyer's obligation to purchase the Property set forth in this Agreement or ☐ other: _____. If the Earnest Money promissory note is not redeemed and paid in full when due, then (i) the Earnest Money promissory note shall be delivered and endorsed to Seller (if not already in Seller's possession), (ii) Seller may collect the Earnest Money from Buyer, either pursuant to an action on the promissory note or an action on this Agreement, and (iii) this Agreement shall be of no further force or effect. The Earnest Money shall be deposited with ☒ Ticor Title (the "Title Company") at the following branch: Corvallis or ☐ other: _____. The Earnest Money shall be applied to the payment of the purchase price for the Property at closing. Any interest earned on the Earnest Money shall be considered to be part of the Earnest Money. The Earnest Money shall be returned to Buyer in the event any condition to Buyer's obligation to purchase the Property shall fail to be satisfied or waived through no fault of Buyer.

3. Conditions to Purchase. Buyer's obligation to purchase the Property is conditioned on the following: ☒ 1. Buyers approval of an appraisal, to be paid for by buyer. 2. Buyers approval of a Level One Environmental Study to be paid for by buyer. ☐ n/a and/or ☐ Buyer's approval of the results of its property inspection described in Section 4 below. If Buyer has not given written waiver of these conditions, or stated in writing that these conditions have been satisfied, by written notice given to Seller within _____ (_____) days after the Execution Date (defined below), the Agreement shall be terminated, and the Earnest Money shall be promptly returned to Buyer.

4. Property Inspection. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk, to enter the Property, at reasonable times after reasonable prior notice to Seller and after prior notice to the tenants of the Property as required by the tenants' leases, to conduct inspections, tests, and surveys concerning the structural condition of the improvements, all mechanical, electrical and plumbing systems, hazardous materials, pest infestation, soils conditions, wetlands, American with Disabilities Act compliance, and other matters affecting the suitability of the Property for Buyer's intended use and/or otherwise reasonably related to the purchase of the Property. Buyer shall indemnify, hold harmless, and defend Seller from all liens, costs, and expenses, including reasonable attorneys' fees and experts' fees, arising from or relating to Buyer's entry on and inspection of the

1 Property. This agreement to indemnify, hold harmless, and defend Seller shall survive closing or any termination of
2 this Agreement. Any covenant by Buyer herein, to defend, indemnify or hold harmless
the Seller shall be subject to the provisions of the Oregon Tort Claims Act.

3 5. Seller's Documents. Within n/a (____) days after the Execution Date, Seller shall deliver to
4 Buyer, at Buyer's address shown below, legible and complete copies of the following documents and other items
5 relating to the ownership, operation, and maintenance of the Property, to the extent now in existence and to the
6 extent such items are within Seller's possession or control: _____.

7 6. Title Insurance. Within Fifteen (15) days after the Execution Date, Seller shall deliver to Buyer a
8 preliminary title report from the Title Company (the "Preliminary Commitment"), together with complete and
9 legible copies of all documents shown therein as exceptions to title, showing the status of Seller's title to the
10 Property. Buyer shall have Five (5) days after receipt of a copy of the Preliminary Commitment within which to
11 give notice in writing to Seller of any objection to such title or to any liens or encumbrances affecting the Property.
12 Within Five (5) days after the date of such notice from Buyer, Seller shall give Buyer written notice of whether it is
13 willing and able to remove the objected-to exceptions. Within Five (5) days after the date of such notice from
14 Seller, Buyer shall elect whether to purchase the Property subject to the objected-to exceptions which Seller is not
15 willing or able to remove or terminate this Agreement. On or before the Closing Date (defined below), Seller shall
16 remove all exceptions to which Buyer objects and which Seller agrees Seller is willing and able to remove. All
17 remaining exceptions set forth in the Preliminary Commitment and agreed to by Buyer shall be "Permitted
18 Exceptions." The title insurance policy to be delivered by Seller to Buyer at closing shall contain no exceptions
19 other than the Permitted Exceptions and the usual preprinted exceptions in an owner's standard form title insurance
20 policy.

21 7. Default; Remedies. If the conditions, if any, to Buyer's obligation to close this transaction are
22 satisfied or waived by Buyer and Buyer nevertheless fails, through no fault of Seller, to close the purchase of the
23 Property, Seller's sole remedy shall be to retain the Earnest Money paid by Buyer. In the event Seller fails, through
24 no fault of Buyer, to close the sale of the Property, Buyer shall be entitled to pursue any remedies available at law or
25 in equity, including without limitation, the remedy of specific performance.

26 8. Closing of Sale. The sale shall be closed ☐ on or before _____ or ☒ Fourteen (14) days after
27 the Execution Date (the "Closing Date") in escrow at the Title Company. The sale shall be "closed" when the
28 document conveying title is recorded and funds are disbursed to Seller. At closing, Buyer and Seller shall deposit
29 with the Title Company all documents and funds required to close the transaction in accordance with the terms of
30 this Agreement. At closing, Seller shall deliver a certification in a form approved by Buyer that Seller is not a
31 "foreign person" as such term is defined in the Internal Revenue Code and the Treasury Regulations promulgated
32 under the Internal Revenue Code. If Seller is a foreign person and this transaction is not otherwise exempt from
33 FIRPTA regulations, the Title Company shall be instructed by the parties to withhold and pay the amount required
34 by law to the Internal Revenue Service. At closing, Seller shall convey fee simple title to the Property to Buyer by
35 ☒ statutory warranty deed or ☐ _____ (the "Deed"). If this Agreement provides for the conveyance by Seller of a
36 vendee's interest in the Property by a contract of sale, Seller shall deposit with the Title Company (or other mutually
37 acceptable escrow) the executed and acknowledged Deed, together with written instructions to deliver such deed to
38 Buyer upon payment in full of the purchase price. At closing, Seller shall pay for and deliver to Buyer a standard
39 form owner's policy of title insurance in the amount of the purchase price insuring fee simple title to the Property in
40 Buyer subject only to the Permitted Exceptions and the standard preprinted exceptions in a standard form policy.

41 9. Closing Costs; Prorates. Seller shall pay the premium for the title insurance policy which Seller is
42 required to deliver pursuant to the above paragraph. Seller and Buyer shall each pay one-half of the escrow fees
43 charged by the Title Company, any excise tax, and any transfer tax. Real property taxes for the tax year in which the
44 transaction is closed, assessments (if a Permitted Exception), personal property taxes, rents on existing tenancies
45 paid for the month of closing, interest on assumed obligations, and utilities shall be prorated as of the Closing Date.
46 Prepaid rents, security deposits, and other unearned refundable deposits regarding the tenancies shall be assigned
47 and delivered to Buyer at closing. The Property ☐ does ☒ does not qualify for a special tax assessment or deferral

program as follows: _____. ☐ Seller ☐ Buyer ☒ N/A shall be responsible for payment of all taxes, interest, and penalties, if any, upon removal of the Property from such special assessment or program.

10. Possession. Buyer shall be entitled to exclusive possession of the Property, subject to tenancies existing as of the Closing Date, ☒ on the Closing Date or ☐ ____.

11. Condition of Property. Seller represents that, to the best of Seller's knowledge, there are no pending or threatened notices of violation of any laws, codes, rules, or regulations applicable to the Property ("Laws"), and Seller is not aware of any such violations or any concealed material defects in the Property. Risk of loss or damage to the Property shall be Seller's until closing and Buyer's at and after closing. No agent of Seller nor any agent of Buyer has made any representations regarding the Property. The real estate licensees named in this Agreement have made no representations to any party regarding the condition of the Property, the operations on or income from the Property, or whether the Property or the use thereof complies with Laws. Except for Seller's representations set forth in this Section 11, Buyer shall acquire the Property "AS IS" with all faults and Buyer shall rely on the results of its own inspection and investigation in Buyer's acquisition of the Property. It shall be a condition of Buyer's obligation to close, and of Seller's right to retain the Earnest Money as of closing, that all of the Seller's representations and warranties stated in this Agreement are materially true and correct on the Closing Date. Seller's representations and warranties stated in this Agreement shall survive closing.

12. Personal Property. This sale includes the following personal property: ☐ n/a or ☐ the personal property located on and used in connection with the Property and owned by Seller which Seller shall itemize in a schedule. Seller shall deliver to Buyer such schedule within n/a (____) days after the Execution Date.

13. Agency Disclosure. The following agency relationship(s) in this transaction is (are) hereby consented to and acknowledged:

(a) ☒ Sarah Bracey (selling real estate licensee) is the agent of (check one): ☐ Buyer exclusively as an agent of Buyer; ☒ Seller exclusively as an agent of Seller; ☐ both Seller and Buyer as set out in the in-company agreement.

(b) ☐ _____ (listing agent if not the same as selling agent) is the agent of (check one): ☐ Seller exclusively as Seller's agent; ☐ both Seller and Buyer as set out in the in-company agreement.

(c) ☐ _____ (real estate licensee) both Seller and Buyer in a limited dual agency relationship pursuant to separate agreement.

ACKNOWLEDGED

Buyer:	_____	Dated:	_____
Buyer:	_____	Dated:	_____ Designated
Seller:	_____	Dated:	_____ Broker(s)
Seller:	_____	Dated:	_____ Initials

14. Notices. Unless otherwise specified, any notice required or permitted in, or related to, this Agreement must be in writing and signed by the party to be bound. Any notice or payment will be deemed given when personally delivered or delivered by facsimile transmission (with electronic confirmation of delivery), or will be deemed given on the day following delivery of the notice by reputable overnight courier or through mailing in the U.S. mails, postage prepaid, by the applicable party to the address of the other party shown in this Agreement, unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day. If the deadline under this Agreement for delivery of a notice or payment is a Saturday, Sunday, or legal holiday, such last day will be deemed extended to the next following business day.

15. Assignment. Buyer ☐ may assign ☐ may not assign ☒ may assign, if the assignee is an entity owned and controlled by Buyer (may not assign, if no box is checked) this Agreement or Buyer's rights under this

1 Agreement without Seller's prior written consent. If Seller's consent is required for assignment, such consent may
2 be withheld in Seller's sole discretion.

3 16. Attorneys' Fees. In the event a suit, action, arbitration, or other proceeding of any nature
4 whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the
5 services of an attorney are retained, to interpret or enforce any provision of this Agreement or with respect to any
6 dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party its
7 attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred
8 and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the
9 amount thereof shall be determined by the judge or arbitrator, shall include fees and expenses incurred on any
10 appeal or review, and shall be in addition to all other amounts provided by law.

11 17. Statutory Land Use Disclaimer. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY
12 NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS
13 SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM AND FOREST ZONES, MAY
14 NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS
15 AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE
16 SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE
17 PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT
18 TO VERIFY APPROVED USES AND THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

19 18. Miscellaneous. Time is of the essence of this Agreement. The facsimile transmission of any signed
20 document including this Agreement shall be the same as delivery of an original. At the request of either party, the
21 party delivering a document by facsimile will confirm facsimile transmission by signing and delivering a duplicate
22 original document. This Agreement may be executed in two or more counterparts, each of which shall constitute an
23 original and all of which together shall constitute one and the same Agreement. This Agreement contains the entire
24 agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all
25 prior and contemporaneous agreements between them with respect thereto. Without limiting the provisions of
26 Section 15 of this Agreement, this Agreement shall be binding upon and shall inure to the benefit of the parties and
27 their respective successors and assigns. The person signing this Agreement on behalf of Buyer and the person
28 signing this Agreement on behalf of Seller each represents, covenants and warrants that such person has full right
29 and authority to enter into this Agreement and to bind the party for whom such person signs this Agreement to the
30 terms and provisions of this Agreement. This Agreement shall not be recorded unless the parties otherwise agree.

31 19. Addendums; Exhibits. The following named addendums and exhibits are attached to this
32 Agreement and incorporated within this Agreement: ☒ none or ☐ ____.

33 20. Time for Acceptance. Seller has until 5:00 p.m. Pacific Time on **November 12, 1998** to accept
34 this offer. Acceptance is not effective until a copy of this Agreement which has been signed and dated by Seller is
35 actually received by Buyer. If this offer is not so accepted, it shall expire and the Earnest Money shall be promptly
36 refunded to Buyer.

37 21. Seller's Acceptance and Brokerage Agreement. Seller agrees to sell the Property on the terms and
38 conditions in this Agreement and further agrees to pay a commission in the total amount computed in accordance
39 with the listing agreement or other commission agreement. If there is no written listing agreement or other
40 commission agreement, Seller hereby agrees to pay a commission of ☒ **Four** percent (**4%**) of the purchase price or
41 ☐ _____. The commission is earned as of the date this Agreement is signed by Seller and Buyer. Unless otherwise
42 provided in a separate written agreement, the real estate commission is due on the Closing Date or upon Seller's
43 breach of this Agreement, whichever occurs first. If the Earnest Money is forfeited and retained by Seller in
44 accordance with this Agreement, in addition to any other rights the listing agent may have, the listing agent shall be
45 entitled to fifty percent (50%) of the Earnest Money, not to exceed any agreed commission, and Seller hereby
46 assigns to the listing agent such amount.

22. Execution Date. The Execution Date is the later of the two dates shown beneath the parties' signatures below.

23. Governing Law. This Agreement is made and executed under, and in all respects shall be governed and construed by the laws of the State of Oregon.

CONSULT YOUR ATTORNEY. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE COMMERCIAL ASSOCIATION OF REALTORS® PORTLAND/VANCOUVER OR BY THE REAL ESTATE LICENSEES INVOLVED WITH THIS DOCUMENT AS TO THE LEGAL SUFFICIENCY OR TAX CONSEQUENCES OF THIS DOCUMENT.

THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING, INSERTION MARKS, OR ADDENDA.

Buyer: Multnomah County

Seller: OSU Foundation

By: Beverly Stein

By: John Irving

Title: County Chair

Title: Executive Director

Date: November 12, 1998

Date: _____

Office Phone: 503-248-3851

Office Phone: 1-800-354-7281

Address: c/o Property Management

Address: 517 Snell Hall

2505 SE 11th Ave. Portland 97202

Corvallis, Or. 97331

Fax: 503-248-5082

Fax: 1-541-737-2550

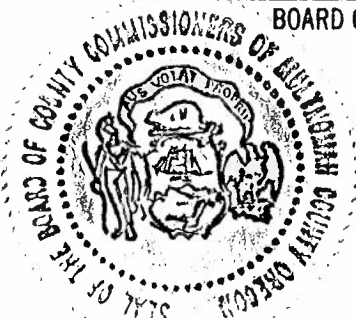
REVIEWED:
THOMAS SPONSER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY

BY [Signature]
ASSISTANT COUNTY COUNSEL

DATE November 9, 1998

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-6 DATE 11/12/98
DEB BOGSTAD

BOARD CLERK



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OFFICIAL SEAL
DEBORAH LYNN BOGSTAD
 NOTARY PUBLIC-OREGON
 COMMISSION NO. 063223
 MY COMMISSION EXPIRES JUNE 27, 2001

Wendy Lynn Boaster

My Commission expires: 6/27/01