

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 15-12-15-07

IN THE MATTER OF AUTHORIZING THE SALE OF COUNTY OWNED REAL PROPERTY FOR \$13,700 PURSUANT TO A LAND SALES CONTRACT TO JOHN D. DEBILT, JR., FRANK E. OPDYKE AND TERRY W. OPDYKE, FORMER OWNERS OF RECORD, MAP NO. 17-03-26-43-02500, 973 M ST., SPRINGFIELD

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to sell the following real property which was acquired through tax foreclosure, to wit:

Lot 1, Block 3, E.E. KEPNER'S ADDITION TO SPRINGFIELD, OREGON, as platted and recorded in Volume 4, Page 16, Lane County Oregon Plat Records, Lane County, Oregon

WHEREAS the real property is owned by Lane County and not in use for County purposes, and sale of the property would benefit Lane County by its return to the tax roll, and

WHEREAS John D. DeBilt Jr., Frank E. Opdyke and Terry W. Opdyke were the former owners of record and

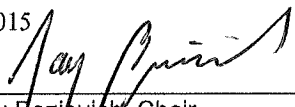
WHEREAS the real property was the residence of Mr. DeBilt at the time it was foreclosed upon and

WHEREAS Mr. DeBilt wishes to purchase the property pursuant to a land sale contract

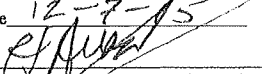
NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS** as follows:

1. Pursuant to ORS 275.180, 275.190 and Lane Manual 21.425(4) that the above described real property be sold to John D. DeBilt Jr., Frank E. Opdyke and Terry W. Opdyke for \$13,700
2. That the sale be made pursuant to a land sale contract with Mr. DeBilt, Jr, substantially similar to attached exhibit."A"
3. That the County Administrator is authorized to execute the contract
4. That the Board Chair is authorized to execute a Quitclaim deed upon fulfillment of the contract terms.
5. That the proceeds be disbursed through the foreclosure fund.

ADOPTED THIS 15th day of Dec., 2015



Jay Bozjevich, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 12-7-15


LANE COUNTY OFFICE OF LEGAL COUNSEL

Exhibit "A"

CONTRACT OF SALE

BETWEEN: Lane County, a political subdivision of the State of Oregon ("County")
125 E. 8th Avenue
Eugene, Oregon 97401

AND: John D. DeBilt Jr.
973 M St.
Springfield, OR 97477

IN CONSIDERATION OF the terms and conditions in this Contract, the parties agree as follows:

County is the legal Owner of the real property identified on Assessor's Map No. 17-03-26-43-02500 and more particularly described as follows (the "Property"):

Lot 1, Block 3, E.E. KEPNER'S ADDITION TO SPRINGFIELD, OREGON, as platted and recorded in Volume 4, Page 16, Lane County Oregon Plat Records, Lane County, Oregon

County agrees to sell to Purchaser, and Purchaser agrees to buy from County the Property for the price and on the terms and conditions set forth below:

SECTION 1. PURCHASE PRICE AND PAYMENT

- 1.1 Total Purchase Price.** Purchaser promises to pay County as the total purchase price for the Property the sum of Thirteen Thousand Seven Hundred dollars (\$13,700).
- 1.2 Payment of Total Purchase Price.** The total purchase price will be paid as follows:
 - 1.2.1 Down Payment.** On or before the Closing Date, Purchaser will pay the sum of Three Thousand Four Hundred Twenty Five Dollars (\$3,425) in immediately available funds as a down payment on the purchase price, paid in full upon execution of this document, receipt of which is hereby acknowledged.
 - 1.2.2 Interest Rate and Scheduled Payment Dates.** Interest on the remaining balance of Ten Thousand Two Hundred Seventy-five dollars (\$10,275) will accrue at the rate of Six and one-half percent (6.5%) per annum from the Closing Date.
The unpaid balance of the purchase price will be paid in monthly installments of Six Hundred One Dollars (\$601), including interest, with the first installment due within Thirty (30) days of full execution of this agreement, and with subsequent payments due monthly thereafter. Each payment will be applied first to interest to due date, then to amounts past due to County under this contract other than principal or interest, and the balance to principal. Monthly payment amount is based on an 18 month amortization period.
- 1.3 Place of Payments.** All payments to County must be made to Lane County, Property Management, 3050 N. Delta Hwy., Eugene, OR 97408
- 1.4 Late Payments.** A late payment fee of five percent (5%) of the delinquent amount of any late payment will be charged on payments received more than fifteen (15) days after the date due.

- 1.5 **Prepayments.** Purchaser may prepay all or any portion of the unpaid principal without penalty. All prepayments will be applied first to accrued but unpaid interest to date, then to amounts due County under this Contract other than principal or interest, then to the last installment of principal scheduled under this Contract, and will not excuse Purchaser from making the regular payments when due under this Contract until the remaining balance has been paid in full.
- 1.6 **Payments to Third Parties.** If Purchaser fails to pay when due any amounts required under this Contract to be paid to third parties by Purchaser, County may, but will not be obligated to, pay any or all such amounts directly to such third parties or otherwise to cure any such failure. If County makes any such payments, the amounts so paid will be immediately due and payable by Purchaser to County. Until paid, such amounts will be secured by this Contract and will be added to the principal balance due under this Contract and will bear interest at the Contract rate. County's election to make any payments pursuant to this Section 1.4 will not constitute a waiver of County's right to declare Purchaser to be in default of this Contract and to exercise any remedies described in Section 15.2.
- 1.7 **Payment Upon Sale.** Any remaining balance plus accrued interest owing on the property will be paid in full upon a sale or transfer of the property by Purchaser.

SECTION 2. TAXES AND LIENS

All real and personal property taxes and all governmental or other assessments levied against the Property for the current tax year will accrue to Purchaser from the date of this Contract as stated above. Purchaser must pay when due all taxes and assessments that are levied against the Property, but Purchaser may elect to pay taxes and assessments in accordance with any available installment method. Unless a change is requested, all tax statements will be sent to Purchaser at the address stated above.

SECTION 3. POSSESSION

Purchaser is entitled to possession of the Property as of the date of this Contract as stated above; however, County's agents may enter on the Property at reasonable times on prior notice to Purchaser for the purpose of inspecting the Property. In no event will County or County's agent interfere with the rights of any tenant of all or part of the Property.

SECTION 4. MAINTENANCE, USE, AND PROTECTION OF THE PROPERTY

- 4.1 **Maintenance.** Purchaser may not commit or suffer any waste of the Property and will maintain the Property in good and safe condition and repair.
- 4.2 **Compliance with Laws.** Purchaser will promptly comply and will cause all other persons to comply with all laws, ordinances, regulations, directions, rules, and other requirements of all governmental authorities applicable to the use or occupancy of the Property, and in this connection, Purchaser will promptly make all required repairs, alterations, and additions.
- 4.3 **Prohibited Activities.** Purchaser will not use or suffer the use of all or any of the Property for any "nuisance" as defined in ORS 105.555, or so as to constitute an *illegal drug manufacturing site* as that term is defined in ORS 453.858(2), as those statutes may now or hereafter be amended, supplemented, or superseded, or otherwise do or allow any act or omission on or about the Property that could subject the Property or County's or Purchaser's interest in the Property to forfeiture or the risk of forfeiture.
- 4.4 **Timber and Minerals.** Purchaser will not cut or remove any timber or forest products, nor extract, process, mine, or otherwise exploit any oil, gas, mineral, or other valuable deposit on or under the Property.

- 4.5 Development.** Purchaser may further develop the Property, subject to compliance with laws described in Section 4.2, and with the consent of County, which shall not be unreasonably withheld. County makes no warranties, expressed or implied, as to the ability to develop the property under current land use law, however County will cooperate with Purchaser in Purchaser's attempts to obtain necessary permits for development of the property. Any and all actions and costs necessary to develop the Property shall be borne by Purchaser. For actions that require the consent of the County as the Property's owner, such as permit applications or further subdivision or replatting of the Property, Purchaser must obtain such consent in writing, signed by the County Administrator or the Administrator's designee.

SECTION 5. INSURANCE

- 5.1 Property Insurance.** Purchaser will procure and maintain policies of fire or all-risk insurance covering all improvements on the Property in an amount sufficient to avoid application of any coinsurance clause and with loss payable to County under a standard mortgagee's clause and Purchaser as their respective interests may appear. The policies must be primary with respect to all covered risks, and must be written in such form with such terms and by such insurance companies reasonably acceptable to County.
- 5.2 Liability Insurance.** The insurance provided by Purchaser must include general liability insurance coverage with a combined single limit of not less than \$500,000 per occurrence.
- 5.3 Certificates of Coverage.** Purchaser must deliver to County certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of 10 days' written notice to County.
- 5.3.1 Insurance Coverage.** Unless Purchaser provides County with evidence of the insurance coverage as required by this contract, County may purchase insurance at Purchaser's expense to protect County's interest. This insurance may, but need not, also protect Purchaser's interest. If the property is damaged, the coverage County purchases may not pay any claim made by or against Purchaser. Purchaser may later cancel any coverage purchased by County by providing certificates of coverage showing coverage in the limits described in this Section. Purchaser is responsible for the cost of any insurance purchased by us under this subsection 5.3.1, and the cost of this insurance if may be added to the loan balance. If the cost is added to the loan balance, the interest rate on the underlying contract or loan will apply to this added amount.
- 5.4 Notice of Loss.** In the event of loss, Purchaser will give immediate notice to County. County may make proof of loss if Purchaser fails to do so within 15 days of the casualty.

SECTION 6. PURCHASER'S INDEMNIFICATION OF COUNTY

Purchaser will indemnify and hold County, its Commissioners, officers, divisions, employees, and agents harmless from and against any and all claims, costs, expenses (including attorney fees), losses, damages, fines, charges, actions, or other liabilities of any description arising out of or in any way connected with (a) Purchaser's possession, use, or conduct with respect to the Property, (b) any condition of the Property to the extent that the same arises from or after the date of this Contract and is not caused or contributed to by County, or (c) Purchaser's breach of any warranty or representation made by Purchaser in this Contract.

SECTION 7. DEED AND TITLE INSURANCE

- 7.1 Deed.** On payment of the total purchase price for the Property as provided in this Contract and Purchaser's performance of all other terms, conditions, and provisions of this Contract, County will forthwith convey its interest solely by a Quitclaim Deed in the form attached as Exhibit A.
- 7.1.2 Grantees.** Grantees named on the Quitclaim Deed conveying County's interest will be John D. DeBilt, Jr., Frank E. Opdyke and Terry W. Opdyke.
- 7.2 Title Insurance.** County makes no warranties or guarantees, expressed or implied, as to the condition of title of the property subject to this agreement. Title insurance, if any, shall be purchased at Purchaser's election and at Purchaser's expense.

SECTION 8. DEFAULT

- 8.1 Events of Default.** Time is of the essence of this Contract. A default will occur under any of the following circumstances:
- (a) Purchaser's failure to make any payment when due.
 - (b) Purchaser's failure to perform any other obligations contained in this Contract within 14 days after notice from County specifying the nature of the default or, if the default cannot be cured within 14 days, failure within such time to commence and pursue curative action with reasonable diligence.
 - (c) Purchaser's making fraudulent transfer or conveyance under applicable federal or state law, concealment of any of its property from creditors, making a preference within the meaning of the federal bankruptcy law, or the imposition of a lien through legal proceedings or distraint on the Property.
- 8.2 Remedies of Default.** In the event of a default, County may take any one or more of the following steps:
- (a) County may declare the entire balance of the purchase price and interest immediately due and payable.
 - (b) County may foreclose this Contract by suit in equity.
 - (c) County may specifically enforce the terms of this Contract by suit in equity.
 - (d) With respect to any part of the Property that constitutes personal property in which County has a security interest, County may exercise the rights and remedies of a secured party as provided by the Uniform Commercial Code.
 - (e) After complying with the notice requirements and affording Purchaser the right to cure the default contained in ORS 93.905–93.945, as the same may be amended or superseded from time to time, as long as the same is applicable, County may declare this Contract forfeited and retain the amount of the payments previously made under this Contract. On recordation of the affidavit required by Oregon law, this Contract will be extinguished and canceled, and Purchaser will have no further right, title, or interest in and to the real property or to any return or compensation for payments previously made under this Contract, as though this Contract and such payments had never been made. In that event, Purchaser agrees to surrender the Property to County. If Purchaser fails to do so, County may elect to treat Purchaser as a tenant holding over unlawfully after the expiration of a lease, and Purchaser may be ousted and removed as such, without affecting County's right to pursue other rights and remedies contained in this Contract or permitted by law.
- 8.3 Remedies Not Exclusive.** The remedies provided above are nonexclusive and in addition to any other remedies provided by law.

SECTION 9. MISCELLANEOUS PROVISIONS

- 9.1 Waiver.** The failure of either party at any time to require performance of any provision of this Contract will not limit the party’s right to enforce the provision, nor will any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.
- 9.2 Successor Interests.** This Contract is binding on and inures to the benefit of the parties, their successors, and assigns; but no interest of Purchaser may be assigned, subcontracted, or otherwise transferred, voluntarily or involuntarily, without the prior written consent of County
- 9.3 Merger.** This document is the entire, final, and complete agreement of the parties pertaining to the sale and purchase of the Property, and supersedes and replaces all prior or existing written and oral agreements between the parties or their representatives relating to the Property.
- 9.4 Notice.** Any notice under this Contract must be in writing and will be effective when actually delivered in person or deposited in the U.S. mail, registered or certified, postage prepaid and addressed to the party at the address stated in this Contract or such other address as either party may designate by written notice to the other.
- 9.5 Choice of Law and Venue.** This Contract shall be governed by, and construed in accordance with, the laws of the State of Oregon. Venue for all disputes and litigation will be in Lane County, Oregon.
- 9.6 Survival of Covenants.** Any covenants the full performance of which is not required before the closing or final payment of the purchase price and delivery of the deed will survive the closing and the final payment of the purchase price and the delivery of the deed and be fully enforceable thereafter in accordance with their terms.

SECTION 10. STATUTORY DISCLAIMER

The following disclaimer is made pursuant to ORS 93.040(2):

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 THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The following disclaimer is made pursuant to ORS 93.040(1):

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND

