W.10.C./.

# AGENDA COVER MEMORANDUM

Agenda Date: April 26, 2006

**DATE:** 

April 11, 2006

TO:

**Board of County Commissioners** 

**DEPARTMENT:** 

Management Services

PRESENTED BY:

Jeff Turk, Property Management Officer 2

**SUBJECT:** 

ORDER/IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO HENRY O. NOICE, FORMER OWNER OF RECORD, FOR \$11,000 (MAP #17-06-29-30 TAX LOTS 1800, 2800, 2900; 22525 NOTI LOOP,

NOTI)

- 1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO HENRY O. NOICE, FORMER OWNER OF RECORD, FOR \$11,000 (MAP #17-06-29-30 TAX LOTS 1800, 2800, 2900; 22525 NOTI LOOP, NOTI)
- 2. **ISSUE/PROBLEM:** Mr. Noice is the former owner of record of the subject property. Mr. Noice wishes to repurchase the property pursuant to ORS 275.180 and LM 21.425(4). Mr. Noice has proposed purchasing the property on a land sale contract. The proposed purchase price is \$11,000 which includes all taxes, including those which would have been due for the current year, interest and penalties that were owed on the property at the time the County acquired title plus an additional 10% thereon.

#### 3. **DISCUSSION:**

### 3.1 Background

The County acquired title to the subject property in September 2005 through tax foreclosure. The subject property consists of three adjoining tax lots totaling .68 acre with a 1,064 sq. ft. house (on tax lot 2800). The house was built in 1948 and is in poor condition. The property is zoned RR2 and has a total assessed value of \$97,000.

The property was Mr. Noice's residence until 2 years ago when he entered a nursing facility for full time care due to a stroke (Mr. Noice continues to reside in the facility). The re-purchase is being initiated by his adult children and sister (the sister has Power of Attorney and will execute the contract).

They have proposed to purchase the property on a land sale contract. The terms would be; a \$2,600 down payment (cashier's check has been remitted); 24 month term; monthly payments of \$389.56; interest rate of 10.5% (prime + 3%, standard for county contracts).

## 3.2 Analysis

ORS 275.180 provides for selling foreclosed property back to the owner of record at any time but for not less than the amount of taxes, interest and penalties owing on the property at the time the County acquired title plus 6% interest thereon until the time the property is sold. Lane Manual 21.425(4) qualifies ORS 275.180 by requiring one of three conditions to exist for a sale to the former owner of record. Those conditions are that: (a) the property was the residence of the former owner at the time of the foreclosure; (b) an error was made by the Assessor in placing the property on the foreclosure list; (c) the former owner was physically or mentally incapacitated during the foreclosure period.

Mr. Noice would meet the requirements of Lane Manual 21.425(4)(a)&(c) as the property was his residence during the foreclosure and he had also become incapacitated.

Generally, when a property is being sold back to a former owner, Property Management staff negotiates for full payment of what was owed in delinquent taxes and refrains from forwarding such sales to the Board on a land sale contract (a former owner has not paid taxes for 5 years at the time the county forecloses which is not an indication of ability to make monthly payments). Mr. Noice's family is unable to secure the entire amount owed at this time. Additionally, once a contract is executed it will be easier for the family to secure a loan to pay off the county as they will be able to use the property as collateral.

The Board is not obligated to sell a foreclosed property back to the former owner but has done so in the past when the requirements of Lane Manual have been met.

# 3.3 Alternatives/Options

- 1. Sell the property to Mr. Noice for the minimum amount pursuant to ORS. 275.180 plus taxes which would have been owed for the current year plus 10% thereon. A total of \$11,000.
- 2. Sell the property to Mr. Noice for an amount greater than #1 above.
- 3. Reject selling the property back to Mr. Noice and offer the property at a Sheriff's sale which would yield greater consideration (\$100,000 +).

# 3.4 Recommendation

It is recommended that alternative #1 be implemented as Mr. Noice meets the requirements of Lane Manuel for a sale back to the former owner. There are no underlying reasons - such as money the County has put into the property for upkeep, repairs, etc. - for selling the property above the amount proposed except for any policy decisions by the Board.

# 3.5 Timing

None.

4. **IMPLEMENTATION/FOLLOW-UP:** Upon approval by the Board of County Commissioners, the land sale contract will be executed by the County Administrator.

## 5. ATTACHMENTS:

Board Order Land Sale Contract Power of Attorney Document Quitclaim Deed Plat Map

# IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO HENRY O. NOICE, FORMER OWNER OF RECORD, FOR \$11,000 (MAP #17-06-29-30 TAX LOTS 1800, 2800, 2900; 22525 NOTI LOOP, NOTI)

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:

Lots 1, 15, 16 and 17, Block 2, PORTOLA, as platted and recorded in Volume 4, Page 105, Lane County Plat Records, Lane County Oregon (17-06-29-30 tax lots 1800, 2800, 2900). ALSO: That portion of the alley adjoining said Lots vacated per ordinance #97-10-29-24, recorded on Reel 2355, Reception No. 9776955, Lane County Deed Records, Lane County Oregon.

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

WHEREAS Mr. Noice is the former owner of record of said real property and

WHEREAS said real property was the residence of Mr. Noice during the foreclosure and Mr. Noice had also become physically incapacitated at the time of foreclosure thereby meeting the requirements of Lane Manual 21.425 for a sale to the former owner of record

IT IS HEREBY ORDERED that pursuant to Lane Manual 21.425(4), ORS 275.180, ORS 275.190 and ORS 275.275 the real property be sold to Henry O. Noice for \$11,000 under terms substantially similar to the attached land sale contract; that the County Administrator is authorized to execute said contract; that the Quitclaim Deed be executed by the Board, and that the proceeds be disbursed as follows:

Foreclosure Fund

(228-5570270-446120)

\$10,506

General Fund

(124-5570260-436521)

494

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this	day of	, 2006.	
APPR	oved as to make		
i 7-	-17-06 Proposition	4	Bill Dwyer, Chair, Board of County Commissioners
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IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO HENRY O. NOICE, FORMER OWNER OF RECORD, FOR \$11,000 (MAP #17-06-29-30 TAX LOTS 1800, 2800, 2900; 22525 NOTI LOOP, NOTI)

#### LAND SALE CONTRACT

THIS AGREEMENT, is made by and between LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called COUNTY, and HENRY O. NOICE, hereinafter called PURCHASER.

#### WITNESSETH:

In consideration of the terms and conditions hereinafter stated, the parties agree as follows:

1. The COUNTY agrees to sell to PURCHASER and PURCHASER agrees to purchase from COUNTY that certain tract of land, with improvements thereon, identified as Assessor's map No.17-06-29-30, tax lots 1800, 2800 and 2900 and more particularly described as follows:

Lots 1, 15, 16 and 17, Block 2, PORTOLA as platted and recorded in Volume 4, Page 105, Lane County Plat Records, Lane County Oregon.

ALSO: That portion of the alley adjoining said Lots vacated per ordinance #97-10-29-24, recorded on Reel 2355, Reception No. 9776955, Lane County Deed Records, Lane County Oregon.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. 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 TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

- 2. **PURCHASE PRICE AND TERMS:** The purchase price of the property which **PURCHASER** agrees to pay shall be the sum of <u>ELEVEN THOUSAND DOLLARS</u> (\$11,000.00) payable as follows:
  - a. The sum of <u>TWO THOUSAND SIX HUNDRED DOLLARS</u> (\$2,600.00) paid upon execution of this document, receipt of which is hereby acknowledged.
  - b. The balance of <u>EIGHT THOUSAND FOUR HUNDRED DOLLARS</u> (\$8,400.00) shall be payable in **monthly** installments of <u>THREE HUNDRED EIGHTY-NINE DOLLARS AND FIFTY-SIX CENTS</u> (\$389.56). Said monthly installments are based on an amortization period of TWENTY-FOUR (24) months with interest at the rate of 10.5% per annum. The first monthly payment of \$389.56 shall be due within thirty (30) days of full execution of this agreement. Subsequent payments of \$389.56 shall be due monthly thereafter until the contract balance plus all accrued interest is paid in full. Payments shall first be applied to interest accrued to the date of payment, then to amounts past due **COUNTY** under this agreement other than principal or interest, and then to the principal amount owing.

After I	Recording,	Return	to/Taxes	to:

Approved for I	Recording	

- c. A late payment fee of 5% of the delinquent payment amount will be charged on accounts more than fifteen days late.
- d. **PURCHASER** may at any time pay off without penalty the entire balance of the purchase price remaining due, together with interest due thereon at the above specified rate to the date of payment.
- e. At such time as **PURCHASER** has complied with all the terms of this contract, the **COUNTY** shall convey its interest only by a Quitclaim Deed.
- f. Unless otherwise directed by **COUNTY**, payments shall be sent to: Lane County, Property Management Division. 125 East Eighth Avenue, Eugene, OR 97401
- 3. TAXES AND LIENS: PURCHASER agrees to pay all taxes and liens hereafter levied upon the property and all public or private liens which may hereafter be imposed upon the property as the same become due and before they become delinquent. In the event PURCHASER defaults in the payment of any taxes or liens, the COUNTY may, but shall not be obligated to, pay said taxes or liens on behalf of PURCHASER, all of which sums so added to the principal balance shall bear interest at the rate of 12% compounded annually from the date of payment by the COUNTY.

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- 4. **INSURANCE: PURCHASER** shall keep in force at all times a policy of fire insurance, with standard extended coverage endorsements, on a replacement cost basis 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. Said insurance policy shall also include liability coverage of not less than \$500,000 per occurrence.
- 5. **INDEMNIFICATION: PURCASER** shall defend and hold **COUNTY**, its Commissioners, officers, employees and agents harmless from all claims, losses, damages or liability of any kind arising out of or in any way connected with **PURCHASER'S** use or possession of the property.
- 6. **POSSESSION: PURCHASER** shall have the possession of, and the income from the premises so long as he/she is not in default in the performance of his/her agreement with **COUNTY**, but shall forfeit his/her rights under such agreement and to all payments made pursuant thereto if he/she fails to pay such purchase price or any part thereof, principal or interest, or to pay, before delinquency, the taxes thereafter levied against the premises, or commits or suffers any strip or waste of or on such premises, or violates any other reasonable provision of such agreement which the County Commissioners may see fit to require. The **PURCHASER** shall have the privilege of prepayment without penalty.
- 7. **ASSIGNMENT: PURCHASER** agrees that he/she may not assign this contract or his/her rights hereunder without the written consent of the **COUNTY**.
- 8. **DEFAULT:** In the event **PURCHASER** fails to make the payments provided for herein, or any of them, punctually and under strict terms and at the times above specified, or commits or suffers any strip or waste of or on such premises, or the other terms or conditions of this contract, time of payment and strict performance being declared to be the essence of this contract, then the **COUNTY** at its option, shall have the right:
  - a. To cancel this contract in accordance with ORS 275.220 or other applicable laws.
  - b. To foreclose this contract by suit, in equity, or any other right existing by law.

In either of such cases all of the right and interest herein created or then existing in favor of PURCHASER derived under this contract PURCHASER shall utterly cease and determine, and the right to possession of the real property above described and all rights acquired by the PURCHASER shall revert to and revest in COUNTY without an act of reentry or any other act of COUNTY to be performed, and without any right of PURCHASER of return, reclamation or compensation for moneys paid on account of the purchase of said property, as absolutely, fully and perfectly as if this contract and such payments had never been made; and, in the event of such default, all payments heretofore made on this contract are to be retained by and belong to COUNTY as the agreed and reasonable rent of said premises to the time of such default.

COUNTY, in the event of such default, shall have the right to immediately, or at any time thereafter, enter upon the real property aforesaid without any process of law and take immediate possession thereof, together with all improvements and appurtenances thereon or thereto belonging.

- 9. ATTORNEY'S FEES: In the event suit or action is instituted to enforce any of the provisions hereof, PURCHASER agrees to pay such sum as the trial court may adjudge reasonable for COUNTY'S attorney fees in said suit or action, and if an appeal is taken from any judgment or decree of the trial court, PURCHASER further agrees to pay such sum as the appellate court may adjudge reasonable as COUNTY'S attorney fees on appeal, together with all costs allowed by law.
- 10. **CONDEMNATION:** In the event of appropriation of said real property or any portion thereof by any public or private corporation under the laws of eminent domain, the sum or sums of money received by **PURCHASER** in payment of said appropriation shall be forthwith paid by **PURCHASER** on the purchase price of said property as an additional payment over and above the regular annual payments, and other payments due as herein expressed; provided, however, that in no event shall said payments be more than the full purchase price stated herein.
- 11. **WAIVER:** Failure by **COUNTY** at any time to require the performance by the **PURCHASER** of any of the provisions hereof shall in no way affect **COUNTY'S** right hereunder to enforce the same, nor shall any waiver by **COUNTY** of any breach be held to be a waiver of any succeeding breach or a waiver of this Non-Waiver Clause.
- 12. SUCCESSOR INTEREST: The covenants, conditions and terms of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, administrators, executors, and assigns of the parties hereto; provided, however, that nothing contained in this paragraph shall alter the restrictions hereinabove contained relating to assignments.
- 13. **TITLE POLICY: 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.
- 14. **DEVELOPMENT:** All actions and costs necessary to develop the property being sold under this agreement (the property) shall be borne by **PURCHASER. COUNTY** makes no warranties, expressed or implied, as to the ability to develop the property under current land use law. **COUNTY**, in **COUNTY'S** capacity as owner of the property, shall cooperate with **PURCHASER** in **PURCHASER**'S attempts to obtain necessary permits for development of the property. Any actions by **PURCHASER**, such as permit applications, further subdivision of the property or replatting of the property, which requires the consent of **COUNTY** due to **COUNTY'S** ownership of the property shall not be unreasonably withheld. Such consent shall be given in writing by the Administrator of Lane County or his/her designee.
- 15. **HEADINGS:** The headings herein contained are for reference only and are not to be construed as part of this Agreement.

### Land Sale Contract - Signature Page

IN WITNESS PURCHASER WHEREOF, the parties have executed this Agreement on the day and year written below. DATED: Mar 30, 2006 Signature, Pearl Pierce Pursuant to Power of Attorney Recorded on Reel , Reception No. Lane County Oregon Deed Records SOCIAL SECURITY OR TAX I.D. # OFFICIAL SEAL DONNA MOSER NOTARY PUBLIC-OREGON MISSION EXPIRES JAN 1, 2010 STATE OF OREGON ) marun )ss County of Lane (D) personally On appeared ,and acknowledged the foregoing instrument to be their voluntary act. Before me: Notary Public for Oregon My Commission Expires: LANE COUNTY: DATED: William VanVactor County Administrator Pursuant to Order No. STATE OF OREGON County of Lane \_\_\_\_\_, 20 \_\_\_\_, personally appeared the above-named William VanVactor, County Administrator for Lane County, and acknowledged the foregoing instrument to be his voluntary act. Before me: Notary Public for Oregon

My Commission Expires:

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POWER OF ATTORNEY		STATE OF OREGON, County of	} ss.
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noti , Oregon 97461	SPACE RESERVED FOR	and/or as fee/file/instrume No, Records of	ent/microfilm/reception
Tearl Olive Pilece	RECORDER'S USE		seal of County affixed.
Solon, Os 97301		NAME	TITLE
After recording, return to (Name, Address, Zip):		Ву	
		<i>by</i>	· · · · · · · · · · · · · · · · · · ·
KNOW ALL BY THESE PRESENTS that I. H.	mry Osnar	Trice	
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have made, constituted and appointed, and by these preser	its do hereby make,	constitute and appoint	se axwer asce
ditaments, and accept the seisin and possession thereof and all deeds and convey, mortgage and hypothecate lands, tenements and hereditaments, i ditions and with such covenants as my attorney shall think fit: to sell, training the self payment therefor, and to vote any such stock as my proxy: to but with goods, wares and merchandise, choses in action, and other propert whatsoever nature or kind; for me and in my name and as my act and diments, trust agreements, mortgages, pledges, hypothecations, bills of lad judgments and other debts payable to me and other instruments in writing to for my best interests; to have access to any safe deposit box which ha discount, endorse, deliver and/or deposit all checks, drafts, notes and negany bank, by check or otherwise, and generally to do any business with pay taxes thereon or collect refunds therefrom; also	ncluding my right of hon asfer and deliver all or an gain for, buy, sell, mortg y in possession or in acti eed, to sign, seal, execute ling, bills, bonds, notes, g of whatever kind and man s been rented in my name otiable instruments payab	nestead in any of the same for such pri y shares of stock owned by me in any age, hypothecate and in any and every ion, and to make, do and transact all a e. acknowledge and deliver all deeds, evidences of debt, receipts, releases an ature which my attorney in his/her abse e, or in the name of myself and any otle le to my order; to withdraw any money	ice, upon such terms and con- corporation for any price and y way and manner deal in and and every kind of business of covenants, indentures, agree- id satisfactions of mortgages, olute discretion shall deem to her person or persons: to sell, ys deposited in my name with
	1		
GIVING AND GRANTING unto my attorney the full power an to be done in and about the premises, as fully to all intents and purposes hereby ratifying and confirming all that my attorney shall lawfully do or This power shall take effect (delete inapplicable phrase):  (a) on the date next written below;	as I might or could do it	f personally present, with full power o	
(b) on the date I am adjudged incompetent by a court If neither phrase is deleted, this power shall take effect on the My attorney and all persons unto whom these presents shall con-	late next written below.	is power of attorney has not been reve	oked until given actual notice
either of such revocation or of my death. In construing this instrument, and where the context so requires	s, the singular includes th	ne plural.	
IN WITNESS WHEREOF, I have hereunto set my	hand on Man	() mar love	
	on M	ay 3,2005	<del> </del>
STATE OF OREGON, County		) ss	
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BAGGEA ON MOISSIMMOS		ic for Oregon	
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PUBLISHER'S NOTE: Use of this form in connection with real eatate may subject the user to real estate licensing requirements. To avoid the need to comply with those requirements: 1) record this form in the county or counties where the real estate is located; 2) specify the address(es) of the property to be managed, controlled, and/or sold; and 3) state that the egent, in dealing with the real property, may not receive any compensation that would require the agent to be licensed under ORS 596 or other applicable law.

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the St Commissioners of Lane County, releases and quitclaims to:	rate of Oregon, pursuant to Order No of the Board of County
HENRY O. NOICE	
all its right, title and interest in that real property situated in La	ne County, State of Oregon, described as:
Lots 1, 15, 16 and 17, Block 2, PORTOLA, as platted and r Oregon (17-06-29-30 tax lots 1800, 2800, 2900). ALSO: T 29-24, recorded on Reel 2355, Reception No. 9776955, Land	recorded in Volume 4, Page 105, Lane County Plat Records, Lane County hat portion of the alley adjoining said Lots vacated per ordinance #97-10-e County Deed Records, Lane County Oregon.
ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CITHIS INSTRUMENT WILL/DOES NOT ALLOW USE VIOLATION OF APPLICABLE LAND USE LAWS A INSTRUMENT, THE PERSON ACQUIRING FEE TITLE CITY OR COUNTY PLANNING DEPARTMENT TO VILAWSUITS AGAINST FARMING OR FOREST PRACT	NT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE HAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). E OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS E TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE ERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON TICES AS DEFINED IN ORS. 30.930 AND INQUIRE ABOUT THE IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT
The true and actual consideration for this transfer is \$11,000.0	0
	LANE COUNTY BOARD OF COMMISSIONERS
STATE OF OREGON ) ) ss COUNTY OF LANE )	
On, 2006 personally appeared	
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act. Before me:	e County, and acknowledged the foregoing instrument to be their voluntary
After recording, return to/taxes to: Henry O. Noice	Notary Public for Oregon

22525 Noti Loop Noti, OR 97461 My Commission Expires

