

T. 7. B. 1.

AGENDA COVER MEMORANDUM

Memorandum Date: January 3, 2007

Agenda Date: January 17, 2007

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 FOR \$16,000 PURSUANT TO A LAND SALE CONTRACT TO VELMA A. WAGNER, FORMER OWNER OF RECORD, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE SAID CONTRACT (MAP NO. 17-04-27-11-09000, 236 ALVA PARK DRIVE, EUGENE)

1. **PROPOSED MOTION:** THE BOARD MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$16,000 PURSUANT TO A LAND SALE CONTRACT TO VELMA A. WAGNER, FORMER OWNER OF RECORD, AND AUTHORIZES THE COUNTY ADMINISTRATOR TO EXECUTE SAID CONTRACT (MAP NO. 17-04-27-11-09000, 236 ALVA PARK DRIVE, EUGENE)

2. **AGENDA ITEM SUMMARY:**

Velma Wagner is the Successor Trustee and beneficiary of the Myrtle Wagner Trust which was the entity foreclosed upon (Myrtle Wagner was Velma Wagner's mother). The property was Velma Wagner's residence at the time of the tax foreclosure and she wishes to purchase the property from the County pursuant to ORS 275.180 and LM 21.425(4). Ms. Wagner has proposed purchasing the property on a land sale contract. The proposed purchase price is \$16,000 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. **BACKGROUND/IMPLICATIONS OF ACTION:**

A. Board Action and Other History

The property was foreclosed upon in September, 2006. The property consists of an 1,100 sq. ft. house built in 1951 residing on a .23 acre lot. The property has a market value per the Assessor of \$166,000.

Myrtle Wagner purchased the property in 1992. Myrtle Wagner set up a living Trust which included the subject property. Velma Wagner, her daughter, was designated as the successor trustee as well as the sole beneficiary of the Trust's assets. Myrtle Wagner passed away in 2000 with the subject property then passing to Velma Wagner. Assistant County Counsel Marc Kardell has reviewed the Trust documents and is of the opinion that the assets of the Trust would pass to the daughter upon the death of Myrtle Wagner with the daughter (Velma) becoming the owner of record of the subject property. Velma Wagner has resided at the property since it was purchased in 1992 (Ms. Wagner is 54 years old).

Ms. Wagner has proposed purchasing the property on a land sale contract. Terms would be \$16,000 purchase price, \$1,600 down payment, 30 month term with an interest rate of 11.5%. A \$1,000 balloon payment would be due by the twelfth month of the contract.

B. Policy Issues

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.

ORS 275.190 provides for selling County property pursuant to a purchase agreement with the term not to exceed 20 years and with a minimum of a 10% downpayment.

C. Board Goals

The initial transfer of the property was consistent with the Board's goals to return tax foreclosed property to the tax roll.

Financial and/or Resource Considerations

The \$16,000 purchase price includes an additional 10% above the statutorily required minimum to cover the county's cost for processing the sale as well as an amount equal to taxes which would have been due for the current tax year.

Revenue from the sale of foreclosed property is disbursed to all the taxing districts in a manner similar to the disbursement of property taxes.

E. Analysis

The Board is not obligated to sell a foreclosed property back to the former owner. Additionally, the Board is not obligated to sell the property for the minimum required by statute but can sell for any amount above the required minimum. In the past, the Board has sold property back to the former owner when the requirements of Lane Manual have been met and has done so for the minimum required by statute plus an additional 10% plus taxes which should have been paid for the current tax year.

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). Ms. Wagner is unable to secure the entire amount owed at this time. Additionally, once a contract is executed it will be easier for her to secure a loan to pay off the county as she will be able to use the property as collateral.

F. Alternatives/Options

1. Sell the property 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 \$16,000.
2. Sell the property for an amount greater than #1 above.
3. Reject selling the property back to the former owner and offer the property at a Sheriff's sale which would yield greater consideration (\$150,000 +). Pursuing this option would require either evicting Ms. Wagner or entering into a rental agreement with her until such time the property is sold (with it then being the responsibility of the new owner to address Ms. Wagner's situation).

V. TIMING/IMPLEMENTATION

Ms. Wagner has executed the land sale contract and remitted the \$1,600 down payment.

VI. RECOMMENDATION

It is recommended that option 1 be pursued. It is also recommended that the Board executes a Quitclaim Deed at this time so it may be delivered to Ms. Wagner upon satisfaction of the contract.

VII. FOLLOW-UP

Upon the Board's approval, the Property Management Officer will process the land sale contract for signature by the County Administrator.

VII. ATTACHMENTS

Board Order
Quitclaim Deed
Land Sale Contract
Trust Document
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 FOR \$16,000 PURSUANT TO A LAND SALE CONTRACT TO VELMA A. WAGNER, FORMER OWNER OF RECORD, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE SAID CONTRACT (MAP NO. 17-04-27-11-09000, 236 ALVA PARK DRIVE, EUGENE)

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 5, Block 16 FAIRFIELD, 3RD ADDITION, as platted and recorded in Volume 17, Page 13, Lane County Oregon Plat 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 the entity foreclosed upon was the Myrtle Wagner Trust and

WHEREAS Velma Wagner was the successor trustee and beneficiary of said Myrtle Wagner Trust and

WHEREAS upon the passing of Myrtle Wagner Velma Wagner became owner of said property and said property was her residence prior to the tax foreclosure

IT IS HEREBY ORDERED that pursuant to Lane Manual 21.425(4), ORS 275.180, ORS 275.190 and ORS 275.275 the above described real property be sold to Velma A. Wagner, Successor Trustee and Beneficiary of the Myrtle Wagner Trust, for \$16,000 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	(268-5570270-446120)	\$15,429
General Fund	(124-5570260-436521)	571

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 _____, 2007.

APPROVED AS TO FORM

Date 1-4-07 lane county

Faye Stewart, Chair, Board of County Commissioners

~~OFFICE OF LEGAL COUNSEL~~

IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$16,000 PURSUANT TO A LAND SALE CONTRACT TO VELMA A. WAGNER, FORMER OWNER OF RECORD, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE SAID CONTRACT (MAP NO. 17-04-27-11-09000, 236 ALVA PARK DRIVE, EUGENE)

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, pursuant to Order No. _____ of the Board of County Commissioners of Lane County, releases and quitclaims to:

VELMA A. WAGNER, Successor Trustee and Beneficiary of the Myrtle Wagner Trust

all its right, title and interest in that real property situated in Lane County, State of Oregon, described as:

Lot 5, Block 16 FAIRFIELD, 3RD ADDITION, as platted and recorded in Volume 17, Page 13, Lane County Oregon Plat Records, Lane County, Oregon (17-04-27-11-09000)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT WILL/DOES 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 AND INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

The true and actual consideration for this transfer is \$16,000.00

LANE COUNTY BOARD OF COMMISSIONERS

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2007 personally appeared _____,

_____, _____, _____, _____,

_____, County Commissioners for Lane County, and acknowledged the foregoing instrument to be their voluntary act. Before me:

After recording, return to/taxes to:
Velma A. Wagner
636 Alva Park
Eugene, OR 97402

Notary Public for Oregon
My Commission Expires _____

LAND SALE CONTRACT

THIS AGREEMENT, is made by and between **LANE COUNTY**, a political subdivision of the State of Oregon, hereinafter called **COUNTY**, and **VELMA A. WAGNER**, Successor Trustee and Beneficiary of the Myrtle Wagner Trust 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.17-04-27-11-09000 and more particularly described as follows:

Lot 5, Block 16, **FAIRFIELD**, 3RD **ADDITION**, as platted and recorded in Volume 17, Page 13, Lane County Oregon Plat Records, Lane County Oregon.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES 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, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

2. **PURCHASE PRICE AND TERMS:** The purchase price of the property which **PURCHASER** agrees to pay shall be the sum of SIXTEEN THOUSAND DOLLARS (\$16,000.00) payable as follows:

- a. The sum of ONE THOUSAND SIX HUNDRED DOLLARS (\$1,600.00) paid upon execution of this document, receipt of which is hereby acknowledged.
- b. The balance of FOURTEEN THOUSAND FOUR HUNDRED DOLLARS (\$14,400.00) shall be payable in **monthly** installments of FIVE HUNDRED FIFTY-TWO DOLLARS AND NINETY CENTS (\$552.90). Said monthly installments are based on an amortization period of **THIRTY** (30) months with interest at the rate of 11.5% per annum. The first monthly payment of \$552.90 shall be due within thirty (30) days of full execution of this agreement. Subsequent payments of \$552.90 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.
- c. A late payment fee of 5% of the delinquent payment amount will be charged on accounts more than fifteen days late.

After Recording, Return to/Taxes to:

Approved for Recording _____

- 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
- g. **BALLOON PAYMENT:** A balloon payment of ONE THOUSAND DOLLARS (\$1,000) shall be due and payable by the twelfth month following execution of this agreement. Said balloon payment shall be in addition to the regular monthly payment required.

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**.

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:** **PURCHASER** 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.

TRUST MINUTES

Attention Trustees and Successor Trustees: This is a record of THE MYRTLE WAGNER TRUST, referred to as Trust Minutes. These Trust Minutes are instructions to successor trustees on the distribution desires of MYRTLE G. WAGNER. Each item included below, provided each is signed and dated by the Settlers, constitutes an important element of this revocable living trust, established on AUGUST 3, 1992

DIRECTIONS TO BE TAKEN:

MY ENTIRE ESTATE WILL BE GIVEN TO VELMA ANN WAGNER; THIS IS INCLUSIVE OF ALL TRUST PROPERTY.

Signed: _____

Myrtle G. Wagner

Date: _____

8-3-92

DIRECTIONS TO BE TAKEN:

Signed: _____

Date: _____

THE MYRTLE WAGNER TRUST

TRUST MINUTES Page 1

THE MYRTLE WAGNER TRUST

DECLARATION AND INSTRUMENT OF TRUST
(Revocable Intervivos Trust)

I. Trust Name

This trust shall be known as THE MYRTLE WAGNER TRUST.

II. Trust Property

(A) I, MYRTLE G. WAGNER, hereinafter called the "settlor" or "trustee", declare that: having set aside and holding in THE MYRTLE WAGNER TRUST, all my interest in that property described in the attached Schedule "A"; that the trust property shall be used for the benefit of the trust beneficiaries, and shall be administered and distributed by the trustee in accordance with this trust instrument.

(B) Additional or after-acquired property may be added to the trust by listing it on the appropriate Schedule.

III. Reserved Powers of Settlor

(A) As settlor, I reserve the power to amend or revoke this trust at any time during my lifetime, without notifying any beneficiary.

(B) Until the death of the settlor, all rights to income, profits, or control of the Trust Property shall be retained by or distributed to the settlor.

(C) If at any time, as certified in writing by two medical doctors, one of whom shall be the settlor's personal physician, the settlor has become physically or mentally incapacitated, the successor trustee shall manage this trust, and shall apply for the benefit of the settlor, any amount of trust income, or trust

principal, necessary in the trustee's discretion for the proper health care, support, maintenance, comfort or welfare of the settlor, in accordance with the settlor's accustomed manner of living, until the settlor, as certified by a licensed physician, is again able to manage his or her own affairs, or until death.

Any income in excess of amounts applied for the benefit of the settlor shall be accumulated and added to the Trust Property.

(D) After the death of the settlor, this trust becomes irrevocable, and may not be altered or amended in any respect, unless specifically authorized by this instrument, and may not be terminated except through distributions permitted by this instrument.

IV. Trustees

(A) The trustee of THE MYRTLE WAGNER TRUST, and all subtrusts created pursuant to Paragraph VI of this trust shall be MYRTLE G. WAGNER. Upon the death of the trustee, or the incapacity of the trustee, as certified by a licensed physician, the successor trustee(s) shall be VELMA ANN WAGNER.

(B) Any trustee shall have the right to appoint, in writing which shall be notarized, additional successor trustees to serve in the order nominated if all successor trustees named in Paragraph IV(A) cannot serve as trustee.

(C) As used in this instrument, the term "trustee" shall include any successor trustee(s).

(D) No bond shall be required of any trustee of this trust.

V. Beneficiaries

(A) Upon the death of the settlor, the specific beneficiaries of THE MYRTLE WAGNER TRUST shall be: VELMA ANN WAGNER, or, if VELMA ANN WAGNER doesn't survive THE MYRTLE WAGNER TRUST, that

property shall be given to: DELBERT A. SHURLEY.

(B) The Residuary beneficiary of the trust shall be the estate of; MYRTLE G. WAGNER, which shall be given all trust property not disposed of by Paragraph V(A).

(C) Upon the death of the settlor, the trustee(s) shall distribute the trust property outright to the beneficiaries named in Paragraphs V(A) and V(B), unless a beneficiary is a minor at the time of distribution, in which case that beneficiary's property shall be retained in trust according to the terms of Paragraph VI.

VI. Minor Beneficiaries

All trust property given in Paragraph V to any of the minor beneficiaries listed below in Section A shall be retained in trust for each such beneficiary in a separate subtrust of THE MYRTLE WAGNER TRUST. The following terms shall apply to each subtrust:

(A) Subtrust Beneficiaries and Age Limits

Each subtrust shall end when the beneficiary of that subtrust listed below becomes 30, except as otherwise specified in this section:

Trust for

Shall end at age

(B) Distribution of Subtrust Funds

1. Until a subtrust ends, the trustee(s) may distribute from time to time to, or for the benefit of the beneficiary, as much, or all, of the net income or principal of the subtrust, or both, as the trustee deems necessary for the beneficiary's health, support, maintenance or education.

Education includes, but is not limited to, college, graduate, postgraduate and vocational studies and reasonably related living expenses.

2. In deciding whether to make a distribution to the beneficiary, the trustee(s) may take into account the beneficiary's other income, resources, and sources of support.

3. Any subtrust income which is not distributed to a beneficiary by the trustee shall be accumulated and added to the principal of the subtrust administered for that beneficiary.

(C) Termination of Subtrust

A subtrust shall terminate when any of the following events occurs:

1. The beneficiary of that subtrust becomes the age specified in Paragraph VI(A).

2. The beneficiary of that subtrust dies before becoming the age specified in Paragraph VI(A).

3. The subtrust is exhausted through distribution allowed under these provisions.

If the subtrust terminates for reason (1), the remaining principal and accumulated net income of the subtrust shall be given outright to the beneficiary of that subtrust. If the subtrust terminates for reason (2), the remaining principal and accumulated net income of the subtrust shall pass to that subtrust beneficiary's heirs.

(D) Subtrust Administrative Provisions

1. The interests of subtrust beneficiaries shall not be transferable by voluntary or involuntary assignment or by operation of law and shall be free from the claims of creditors and from attachments, execution, bankruptcy or other legal process to the fullest extent permitted by law.

2. Any trustee of a subtrust created under this Paragraph VI

shall be entitled to reasonable compensation out of the subtrust assets for ordinary and extraordinary services, and for all services in connection with the termination of any subtrust.

VII. Trustees Powers and Duties

(A) To carry out the provisions of THE MYRTLE WAGNER TRUST, and any subtrust created pursuant to Paragraph VI, the trustee(s) shall have all authority and powers allowed or conferred on a trustee under the laws of the State of OREGON, and subject to the trustee's fiduciary duty to the settlor and the beneficiaries.

(B) The settlor's debts and death taxes shall be paid by the trustee(s) from the following trust property:

If this property is insufficient to pay all the settlor's debts and death taxes, the trustee shall determine how such debts and death taxes shall be paid.

VIII. General Administrative Provisions

(A) The validity of THE MYRTLE WAGNER TRUST, and the construction of its beneficial provisions shall be governed by the laws of the State of OREGON.

(B) If any provision of this Declaration of Instrument of Trust (Revocable Intervivos Trust) is held to be unenforceable, the remaining provisions shall be nevertheless carried into effect.

Executed on 8-3-92
By Myrtle G. Wagner
MYRTLE G. WAGNER

I certify that I have read this Declaration of Trust and that it correctly states the terms and conditions under which the trust is to be held, managed, and disposed of by the trustee(s). I approve the Declaration of Trust.

Dated: 8-3-92

Myrtle G. Wagner Settlor and Trustee
MYRTLE G. WAGNER

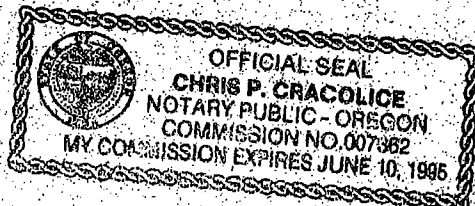
State of OREGON)
County of Lane) ss.

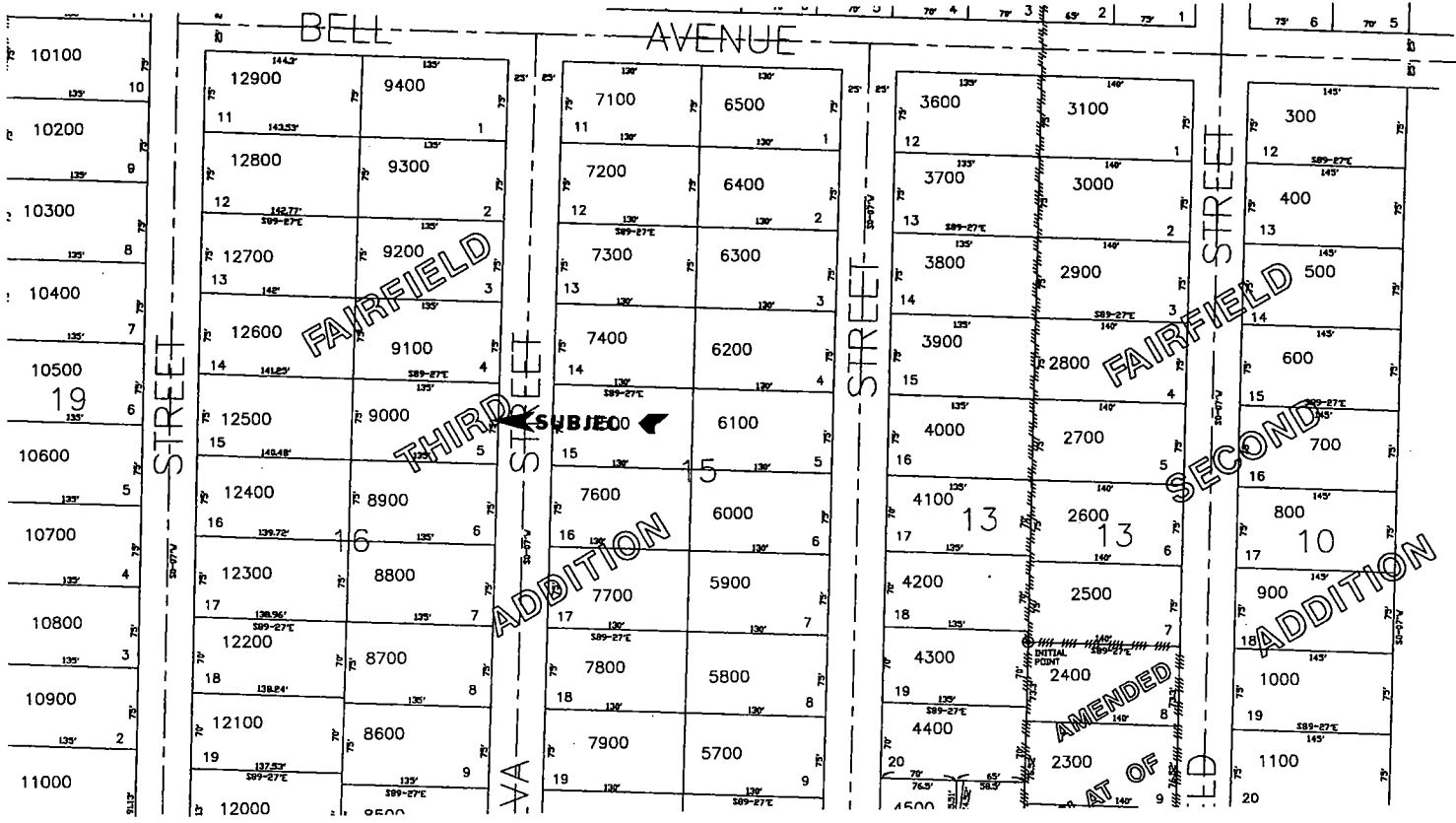
On August 3, 191992, before me, a Notary Public for the State of OREGON, personally appeared MYRTLE G. WAGNER; known to me, or proved on the basis of satisfactory evidence, to be the trustee and settlor of the trust created by the above instrument, and to be the person whose name is subscribed to the instrument, and acknowledged that it was executed as settlor and trustee.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year first above written.

Chris P. Cracolice
Notary Public for OREGON

My commission expires: 6-10-95





SEE MAP 17 04 26 22