

AGENDA ITEM FOR ADMINISTRATIVE MEETING () Discussion only
(X) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Authorize Sale of Property

<p>Background: Authorization is sought for the sale of property foreclosed on for delinquent property tax - Tax Lot 2N35-114. The county received an offer to purchase from the Confederated Tribes of the Umatilla Indian Reservation. As provided under state law, the county can sell any property to an Indian tribe at any time on terms acceptable to the county. The offer is for \$28,000.</p>	<p>Requested Action: Adopt Order No. BCC2022-015 and authorize Chair to sign Real Estate Contract of Sale</p>
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ATTACHMENTS: Contract; Proposed Order

*****For Internal Use Only*****

Checkoffs:

- () Dept. Heard (copy)
- () Finance (copy)
- () Budget (copy)
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:

Needed at Meeting:

Scheduled for meeting on: March 2, 2022

Action taken:

Follow-up:

REAL ESTATE CONTRACT OF SALE

SELLER: Umatilla County
216 SE 4th St
Pendleton, OR 97801

BUYER: The Confederated Tribes of the Umatilla Indian Reservation
46411 Timine Way
Pendleton, OR 97801

RECITALS

Umatilla County (the "Seller") the fee simple owner of real property consisting of approximately 80.00 acres more or less more particularly described in Exhibit A which is attached hereto and incorporated herein. References to the Seller's interest shall be to "the Property."

The Confederated Tribes of the Umatilla Indian Reservation (the "Buyer") desires to purchase from Seller and Seller desires to sell to Buyer the Property.

The terms of Buyer and Seller's Agreement for the purchase of the Property are as follows:

AGREEMENT

1. **Purchase and Sale.** Buyer agrees to purchase the Property from Seller and Seller agrees to sell the Property to Buyer on the terms and conditions set forth herein.
2. **Purchase Price.** Buyer and Seller have agreed that the purchase price for the Property shall be \$28,000.00 (the "Purchase Price").
3. **Payment of Purchase Price.** The Purchase Price shall be paid as follows:
 - a. **Purchase Price Paid at Closing.** On or before the closing date, Buyer shall deposit into escrow \$28,000.00 with Pioneer Title and Escrow Company, 126 Southeast Court Avenue, Pendleton, OR 97801 (the "Closing Agent").
 - b. **Payment.** At closing, the Closing Agent shall distribute the Purchase Price to the Seller.
4. **Closing.** Closing shall take place on or before February 15, 2022 (the "Closing Date"), at the offices of the Closing Agent. Closing costs and fees shall be paid by Buyer and Seller, respectively, as indicated below.
5. **Preliminary Title Report.** Buyer has examined the Preliminary Title Report issued by Pioneer Title and Escrow Company, Report #96710, dated September 22, 2017, which shows the condition of title to the Property.

6. **Title Insurance.** Seller authorizes Closing Agent, to apply for a standard form owner's policy of title insurance in the amount of the Purchase Price. The Seller shall pay for the title insurance policy. The title policy shall contain no exceptions to title to the Property except those included in the Preliminary Title Report referred to in section 5 of this Agreement unless a new exception has been approved by Buyer. If title is not so insurable and cannot be made so insurable prior to closing, Buyer may elect to either waive such encumbrances or defects or to terminate this Agreement by written notice to Seller given prior to or on the Closing Date.
7. **Deed.** On the Closing Date, Seller shall execute and deliver to Buyer a quitclaim deed conveying to Buyer all of Seller's interest in the Property.
8. **Closing Costs and Prorations.** As provided in section 6 of this Agreement, Seller shall pay the title insurance premium. Real estate taxes on the Property shall be prorated as of the day following the Closing Date. Buyer and Seller shall each pay their own legal, professional and consultant fees. Buyer and Seller shall each pay one-half of all other escrow and closing expenses. Seller shall pay for any unpaid taxes on the Property as of the closing date.
9. **Possession.** Buyer shall be entitled to possession of the Property immediately upon closing.
10. **Seller's Representations and Warranties.** In addition to any express agreements of the Seller contained in this Agreement, the following constitute representations and warranties of the Seller to the Buyer. Seller acknowledges that the warranties and representations of Seller contained in this Agreement (the "Seller's Warranties"), are material inducements to Buyer to enter into this Agreement. All Seller's Warranties and Buyer's right to assert a breach of them, shall survive execution of this Agreement, the closing, and the execution and delivery of the closing documents. If, before closing, Buyer discovers or is advised that any of the Seller's Warranties were untrue when made, the Buyer shall have the option to either (1) terminate this Agreement, without waiving any cause of action that Buyer may be entitled to assert against Seller by reason of the breach of the warranty, or (2) continue this Agreement, waiving any warranty. Seller warrants and represents to Buyer that the following matters are true and correct:
 - a. The Seller has the legal power, right, and authority to enter into this Agreement and the instruments referred to here and to consummate the transactions contemplated here.
 - b. Neither the execution and delivery of this Agreement and documents referred to here, nor the incurring of the obligations set forth here, nor the consummation of the transactions here contemplated, nor compliance with the terms of this Agreement and the documents referred to here conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan,

partnership agreement, lease, or other agreements or instruments to which the Seller is a party or affecting the Property.

c. There is no litigation, claim, or arbitration, pending or threatened, with regard to the Property or its use or operation. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or, to the best of the Seller's knowledge, threatened against the Seller, nor are any such proceedings contemplated by the Seller.

d. The Seller has not entered into any other contracts for the sale of the Property, nor are there any rights of first refusal or options to purchase the Property.

e. Seller is not a "foreign person" as that term is defined in 26 U.S.C. § 1445.

11. **As Is Where Is.** Other than the Seller's representations and warranties contained in this Agreement and those contained in any instrument delivered to the Buyer at closing, the Buyer acknowledges that the Buyer is purchasing the Property AS IS WHERE IS, including all defects known and unknown. Other than Seller's Warranties, Buyer is purchasing the Property based upon its own opinion of the quantity and quality of the Property based upon its own examination and the examination of all other experts it desired. Other than Seller's Warranties, Buyer is not purchasing the Property based upon any representation, conversation, correspondence or promise of Seller as to the physical or environmental condition of the Property, any such representations being hereby waived.

12. **Buyer's Representations and Warranties.** In addition to any express agreements of the Buyer contained in this Agreement, the following constitute representations and warranties of the Buyer to the Seller. All representations and warranties of Buyer (the "Buyer's Warranties") contained in this Agreement will survive the close of escrow and the conveyance of the Property to Buyer. If, before the Closing Date, Seller discovers that any of Buyer's representations or warranties are untrue, Seller may, in their sole discretion, terminate this Agreement by written notice to Buyer given prior to or on the Closing Date, in which event this Agreement shall be null and void.

a. The Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to here and to consummate the transactions contemplated here.

b. All requisite action has been taken by the Buyer in connection with entering into this Agreement and the instruments referred to here and the consummation of the transactions contemplated here. No further consent of any of the Buyer's members, of any creditor, judicial or administrative body or other governmental authority is required.

c. The persons executing this Agreement and the instruments referred to here on behalf of the Buyer have the legal power, right and actual authority to bind the Buyer to

the terms and conditions of this Agreement.

d. Neither the execution and delivery of this Agreement and documents referred to here, nor the incurring of the obligations set forth here, nor the consummation of the transactions contemplated, nor compliance with the terms of this Agreement and the documents referred to here conflicts with or results in the material breach of any terms, conditions, or provisions of or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which the Buyer is a party.

13. **Binding Effect.** This Agreement is binding on and will inure to the benefit of Seller, Buyer and their respective heirs, legal representatives, successors and assigns.
14. **Remedies.** Time is of the essence regarding this Agreement. If Buyer, without legal excuse, fails to fulfill its obligations under this Agreement before the close of business on the Closing Date, this Agreement shall be of null and void and Seller shall be entitled to no further remedy under this Agreement. If Seller, without legal excuse, fails to fulfill its obligations under this Agreement before the close of business on the Closing Date, Buyer may seek a remedy against Seller for specific performance of this Agreement. This is the exclusive remedy of the Buyer. Other than the recovery of attorney fees, costs and expenses authorized under §16 of this Agreement, the Buyer expressly waives any right to seek damages or any other remedies other than those just listed. The covenants, agreements, representations and warranties made here shall survive the close of escrow and shall not merge into the deed and the recordation of it in the official records.
15. **Notice.** All notices and communications in connection with this Agreement shall be given in writing and shall be transmitted by certified or registered mail, return receipt requested, to the appropriate party at the address first set forth above. Any notice so transmitted shall be deemed effective on the date three days after it is placed in the United States mail, postage prepaid, with the exception that if a copy of the notice is also hand-delivered to the other party before the elapse of three days, the notice shall be deemed to have taken effect at the time the copy was hand-delivered. Either party may, by written notice, designate a different address for purposes of this Agreement.
16. **Attorney Fees.** If a party to this Agreement brings any action or suit against another party to this Agreement by reason of any breach of any of the covenants, agreements, or provisions on the part of the other party arising out of this Agreement, then the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or suit, including actual attorney fees, at trial and on appeal.
17. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall be effective when one or more counterparts have been signed and delivered by Buyer and Seller.

18. **Severability.** Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.
19. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the purchase and sale of the Property. This Agreement supersedes any and all prior negotiations, discussions, agreements and understandings between the parties. This Agreement may not be modified or amended except by a written agreement executed by both parties.
20. **Acceptance.** This Agreement shall be null and void unless accepted by Seller, as indicated by Seller's execution of it, on or before the fifth business day following Buyer's execution thereof.
21. **Enforcement of Agreement, Venue and Choice of Law.** Buyer and Seller expressly consents that any and all disputes or enforcement actions arising out of or in any way connected to this Agreement and all documents involved in this sale shall be filed, heard and decided in the Umatilla Tribal Court or the judicial courts of the State of Oregon. Except as expressly provided in this Agreement, this Agreement shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
22. **Notice to Buyer.**

a. 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 AND 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 THE 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 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 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 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007 AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

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, AND 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

b. THE PROPERTY DESCRIBED IN THIS AGREEMENT IS SUBJECT TO THE ZONING LAWS OF THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION PURSUANT TO THE MEMORANDUM OF AGREEMENT BETWEEN THE CONFEDERATED TRIBES AND UMATILLA COUNTY REGARDING TRIBAL ZONING JURISDICTION ON THE UMATILLA INDIAN RESERVATION. THE PARTY ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE TRIBAL PLANNING OFFICE REGARDING ALLOWABLE LAND USE PRACTICES.

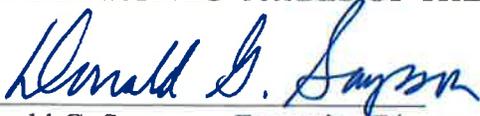
23. **Effective Date.** The effective date of this Agreement is the date the final signature is affixed below.

SELLER: Umatilla County

John M. Shafer, Chair

Date

**BUYER:
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION**



Donald G. Sampson, Executive Director



Date

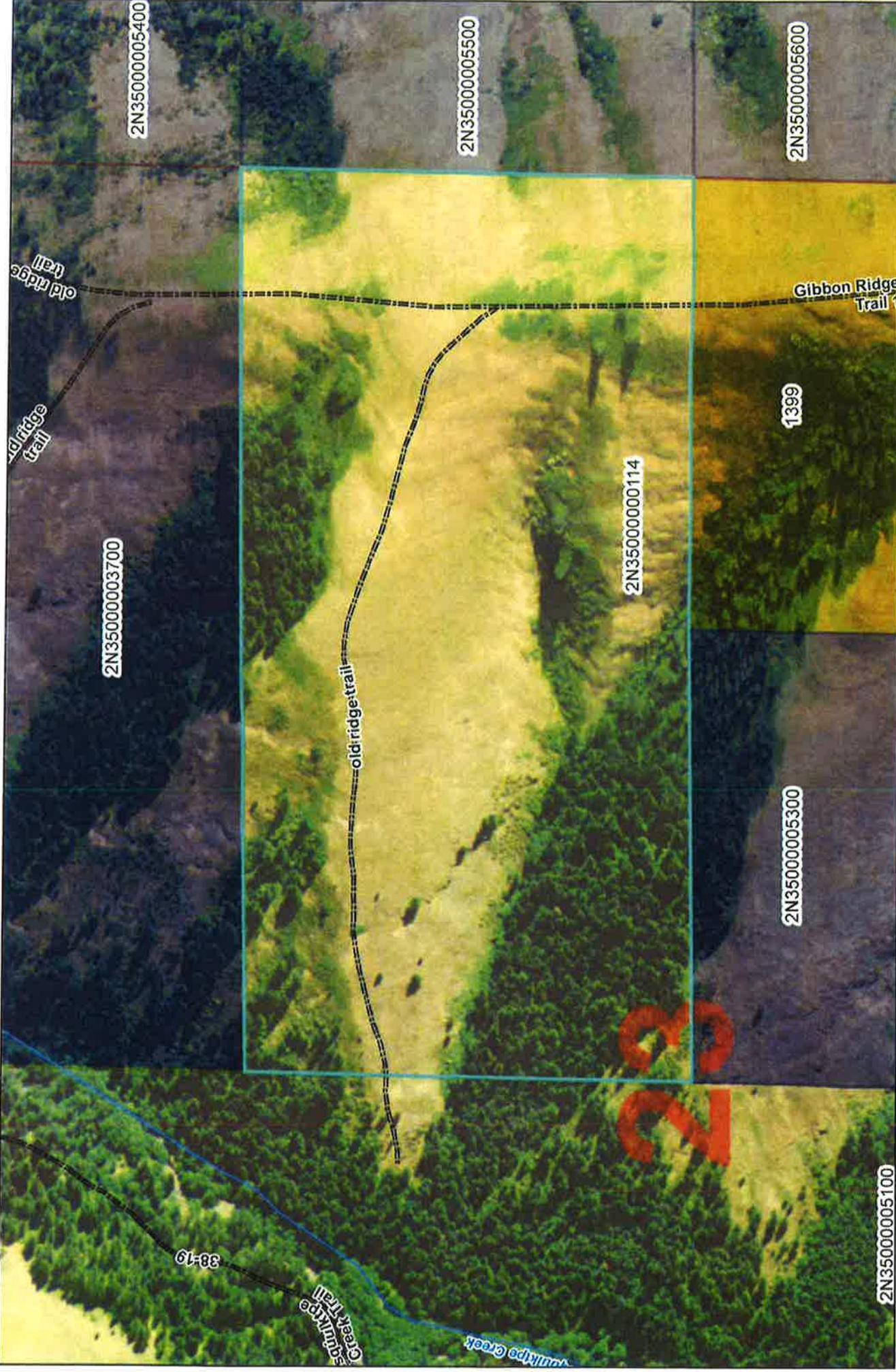
Exhibit A – Legal Description of the Property

Tract 9 (Umatilla County Tax Lot 2N35-00114)

South Half of Northeast Quarter of Section 23, Township 2 North, Range 35

All being East of Willamette Meridian, Umatilla County, Oregon. Subject to and excepting any and all water rights of way, roads, and highways, and easements of record.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Tax Lot 114 - T2N, R35E, Section 23



THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Selling)
to Confederated Tribes of the) ORDER NO. BCC2022-015
Umatilla Indian Reservation)
Property Acquired as a Result)
of Delinquent Property Taxes)

WHEREAS, pursuant to a General Judgment Foreclosing Tax Lien of the Circuit Court of the State of Oregon for the County of Umatilla, case number CV141517, signed by the court on November 21, 2014, and recorded as Instrument No. 2014-6230600 in the Umatilla County Records, in a suit in which Umatilla County, Oregon, was plaintiff, and Karen Adams, et al, were defendants, the property known as Umatilla County Tax Lot 2N35-00114 described below, was by the Judgment, sold subject to redemption to Umatilla County, Oregon; and

WHEREAS the said real property had been held by Umatilla County, Oregon, and on April 11, 2017, Umatilla County was conveyed the real property, by Deed recorded at Instrument No. 2017-6560762, Umatilla County Records; and

WHEREAS, pursuant to ORS 275.070, the county may sell and convey any real property owned by the county, including real property acquired pursuant to tax foreclosure proceedings, at such price and terms to an eligible Indian tribe; and

WHEREAS the Confederated Tribes of the Umatilla Indian Reservation has offered to purchase the property for \$28,000.

NOW THEREFORE, IT IS ORDERED THAT:

1. Umatilla County has received an offer for the purchase of Umatilla County Tax Lot 2N35-0014 by The Confederated Tribes of the Umatilla Indian Reservation for \$28,000.

2. Pursuant to ORS 275.070, Umatilla County accepts the offer for Umatilla County Tax Lot 2N35-00114.

3. The Board of Commissioners is authorized to execute a deed to The Confederated Tribes of the Umatilla Indian Reservation conveying all interest of Umatilla County in the following

described property:

South Half of Northeast Quarter of Section 23, Township 2 North, Range 35, East of Willamette Meridian, Umatilla County, Oregon. Subject to and excepting any and all water rights of way, roads and highways, and easements of record.

DATED this 2nd day of March, 2022.

UMATILLA COUNTY BOARD OF COMMISSIONERS

John M. Shafer, Chair

Daniel N. Dorran, Commissioner

George L. Murdock, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS

Records Officer