

Memorandum Date: July 30, 2007  
Order Date: August 29, 2007

W.3.E.1.

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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works

**PRESENTED BY:** Frank Simas, Right of Way Manager

**AGENDA ITEM TITLE:** In The Matter of Authorizing the Sale of a Parcel of County-Owned Road Fund Property Identified as Lane County Assessor's Tax Lot 2000 on Map 17-04-07.

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**I. MOTION**

THAT THE ORDER BE APPROVED AUTHORIZING THE SALE OF A PARCEL OF COUNTY-OWNED ROAD FUND PROPERTY IDENTIFIED AS LANE COUNTY ASSESSOR'S TAX LOT 2000 ON MAP 17-04-07.

**II. AGENDA ITEM SUMMARY**

Cheryl Brown wishes to purchase a parcel of county-owned Road Fund property located at 28456 Kokkeler Road in Eugene. The parcel is not needed for use by Lane County, and sales of such property may be authorized pursuant to ORS 275.030(2).

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

In connection with the improvement of Clear Lake Road in 1974, it was necessary to purchase additional right of way. A portion of the right of way acquired included a parcel that was purchased as an uneconomic remainder and which had been previously encumbered with a life estate in favor of W.W. Brown and Margaret L. Brown. The parcel encumbered by the life estate is shown on the aerial photo and Assessor's Map excerpt on Attachment 1.

The portion of the property that was encumbered with the life estate containing about 1.18 acres was not needed for construction of the road project and it was determined to allow the Browns to continue to occupy the property under the life estate rather than to purchase their remaining interest and to provide relocation benefits in connection with requiring them to move.

W.W. Brown passed away some time ago, and although Mrs. Brown had not lived on the property for a number of years, Gary Brown, who is the father of Cheryl Brown, continued to live on the property as permitted under the terms of a life estate.

Margaret L. Brown passed away on April 20, 2007, and upon her death, any remaining rights granted under the life estate were extinguished. Upon learning that Mrs. Brown was deceased, Public Works staff notified Gary Brown that all rights had ceased under the life estate, but that in recognition that Mr. Brown was living in a manufactured home that could not be relocated to another site due to its age, staff would recommend to the Board that the parcel be sold to Cheryl Brown provided that she could obtain financing and could provide evidence of loan approval prior to July 31, 2007.

Cheryl Brown has been approved for financing and has offered to purchase the property for \$100,000. Terms are to be cash upon closing to Lane County and the property is to be conveyed "as-is" with no warranty as to the condition of the property or any improvements thereon. Because Mr. Brown has resided on the property since at least 1993, it is reasonable that he and Cheryl Brown are aware of any environmental or other conditions existing or affecting the property and its use.

An appraisal has not been completed for this property, but the amount offered appears to fall within the range of recent sales in the area, taking into consideration the well and septic system that are located on the property as well as the fact that the manufactured home and appurtenances are not owned by the County.

If the property is not sold to Ms. Brown, the County will incur costs for the preparation of at least a Level 1 Environmental Assessment, cleanup costs to remove any contamination that might be discovered, costs of removing and disposing of all accumulated scrap and junk on the property and the potential costs to dispose of the manufactured home should the Mr. Brown choose not to move it.

In addition, any legal costs that would be incurred in connection with an eviction of the occupants will be avoided through a sale to Ms. Brown.

**B. Policy Issues**

This parcel is not needed for any known current or prospective use by Lane County. Sale of the property will return it to the tax roll and should eliminate future expenses in connection with its management.

**C. Board Goals**

This proposal addresses the Goals related to Resource Planning and allocation and the use of the funds derived from the sale will be consistent with the Goals

stated in the Strategic Plan with regard to Road Fund Priorities.

**D. Financial and/or Resource Considerations**

This property is a Road Fund asset, and upon receipt of the funds they will be returned to the Road Fund.

**E. Analysis**

This parcel is not needed for County use now or in the foreseeable future. The sale of the property will return it to the tax roll and the revenue from the sale will benefit the Road Fund and the citizens of Lane County.

**F. Alternatives/Options**

1. Approve the Order authorizing execution of the Bargain and Sale Deed.
2. Reject the Order and direct staff otherwise.

**V. TIMING/IMPLEMENTATION**

Upon execution the Bargain and Sale Deed will be placed in escrow. When all conditions necessary for closing have been fulfilled, the escrow will be closed and the proceeds will be deposited in the Road Fund.

**VI. RECOMMENDATION**

Option 1.

**VII. FOLLOW-UP**

N. A.

**VII. ATTACHMENTS**

Bargain and Sale Deed  
Attachment 1-Map and Aerial Photo

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

Order No.

( IN THE MATTER OF AUTHORIZING THE  
( SALE OF A PARCEL OF COUNTY-OWNED  
( ROAD FUND PROPERTY IDENTIFIED AS  
( LANE COUNTY ASSESSOR'S TAX LOT 2000  
( ON MAP 17-04-07

**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, to wit:

An approximate 1.18 acre parcel located at 28456 Kokkeler Road, Eugene and identified as Tax Lot 2000 on Lane County Assessor's Tax Map 17-04-07; and

**WHEREAS**, said real property was acquired by purchase for road right of way and not by tax foreclosure; and

**WHEREAS**, Cheryl Brown has offered to purchase the property for \$100,000.00; and

**WHEREAS**, ORS 275.030(2) allows the sale of property in the manner provided in ORS Chapter 271 if the real estate was not acquired by foreclosure for nonpayment of real property taxes and if the Board determines that it would not be in the best interests of the County to sell and convey this property through a Sheriff's sale; and

**WHEREAS**, said real property is not needed for any public purpose and the sale of said property would benefit Lane County by its return to the tax rolls and is therefore in the best interest of the County to do so; and

**WHEREAS**, it would not be in the best interests of the County to sell and convey this property through a Sheriff's sale, as conveying this property to the current resident allows the County to save significant costs including, among other things, removing and/or disposal of personal property located on the property, **NOW THEREFORE**,

**IT IS HEREBY ORDERED** that, pursuant to ORS 275.030 (2), the real property be sold to Cheryl Brown for \$100,000.00 cash, that the bargain and sale deed be executed by the Board and that the proceeds be disbursed as follows:

Road Fund	(225-3632-446120-101)	\$100,000.00
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**IT IS ALSO 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 8-21-07 lane county

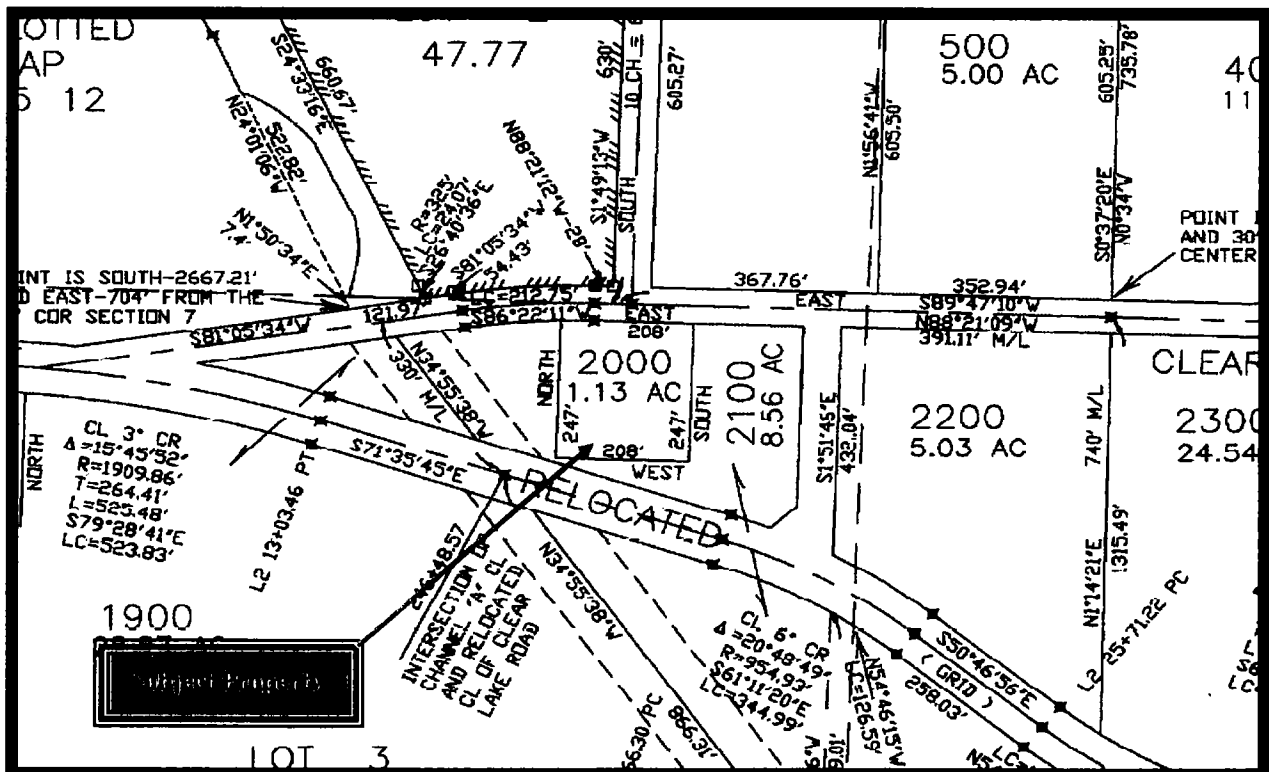
  
OFFICE OF LEGAL COUNSEL

\_\_\_\_\_  
Chair,  
Board of County Commissioners

**ATTACHMENT 1**  
**28456 Kokkeler Road, Eugene, OR**



**LANE COUNTY ASSESSORS MAP**  
**17-04-07-00, TAX LOT 2000**



After Recording Return to, and  
Send Tax Statements to:

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

**BARGAIN AND SALE DEED**

LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called GRANTOR, for the true and actual consideration of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00), conveys to Cheryl Brown, all that real property situated in Lane County, State of Oregon, described as follows:

A parcel of land lying in the Northwest one-quarter of the Southwest one-quarter (NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ ) of Section 7, Township 17 South, Range 4 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that tract of land conveyed to LANE COUNTY, a political subdivision of the State of Oregon, by that certain deed recorded December 6, 1974, on Reel 719, Recorder's Reception Number 7451551, LANE COUNTY OREGON DEED RECORDS, and being described as follows:

All of that portion of that tract of land conveyed to C & S LAND AND CATTLE COMPANY, being reserved in a life estate, by that certain deed recorded October 12, 1971, on Reel 553, Recorder's Reception Number 67925, LANE COUNTY OREGON DEED RECORDS, and being described as follow: Beginning at a point 3 chains East of the Southwest corner of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  (NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ ) of Section 7, Township 17 South, Range 4 West of the Willamette Meridian, in Lane County, Oregon; running thence East along the South line of the North  $\frac{1}{2}$  of said Southwest  $\frac{1}{4}$  40.43 chains to a point 50 links West of the Southeast corner of the North  $\frac{1}{2}$  of said Southwest  $\frac{1}{4}$ ; thence North 20 chains to the center of the County Road; thence West along the center of said County Road 1,552 feet; thence South to the South line of said County Road and the TRUE POINT OF BEGINNING; running thence South 247 feet; thence West 208 feet; thence North 247 feet to the South line of said County Road; thence East 208 feet to the true point of beginning, together with the right of ingress and egress to the above described property, all in Lane County, Oregon.

The parcel of land to which this description applies contains 1.18 acres, more or less.

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 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 INTEREST 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 O.R.S. 30.930.

IN WITNESS WHEREOF, the undersigned have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

STATE OF OREGON     )  
                                  )     ss.  
County of Lane        )

On \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon and that said instrument was signed and sealed in behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

\_\_\_\_\_  
Notary Public for Oregon

My Commission Expires: \_\_\_\_\_