

Memorandum Date: August 16, 2007
Order Date: August 29, 2007

W. 3.E.7..

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 COUNTY ADMINISTRATOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH LANE TRANSIT DISTRICT REGARDING THE SALE OF A PORTION OF COUNTY-OWNED SURPLUS ROAD FUND PROPERTY LOCATED AT 11 RIVER AVENUE, EUGENE, AND IDENTIFIED AS TAX LOT 500 ON LANE COUNTY ASSESSOR'S MAP 17-04-13-22

I. MOTION

Move approval of the Order.

II. AGENDA ITEM SUMMARY

Lane Transit District (LTD) has been leasing the site occupied by the River Road Transit Station from Lane County since 1977 at an annual rental of \$100.00 per year. The lease will expire on September 29, 2007, and changes to the Oregon Constitution regarding the use of Road Fund revenues since the lease inception dictate that the lease cannot be renewed unless the rental is based upon market value.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

This parcel of surplus land containing approximately 2.53 acres was acquired by Lane County in connection with the construction of Beltline Highway in 1961. The property was leased to LTD in 1977 for a term of 20 years, with an option to renew for an additional 10-year period. LTD has constructed a bus transfer station and a park-and-ride on the property, and has been paying an annual rental of \$100.00 since 1977.

In 1980, the Constitution of the State of Oregon was amended to specify the permissible uses for revenue derived from motor vehicle use and fuel taxes. Based on case law subsequent to the constitutional amendment, Oregon Attorney General opinions and advice of Lane County Office of Legal Counsel, lease or sale of the property to LTD at less than market value is not an eligible use of Road Fund revenues or of assets purchased with Road Fund revenues.

Article IX, Section 3, of the Constitution defines the permitted uses as those in connection with the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in the state. There were exceptions included to allow the use of revenues raised from taxes on recreational vehicles to be used for acquisition and development of parks and recreation areas, and for the use of taxes levied on the use of vehicles used for commercial purposes to fund enforcement of commercial vehicle laws with regard to size, load, and equipment regulation.

LTD desires to continue using the site as a transit facility and would prefer to purchase the property using funding provided by a grant from the Federal Transit Administration (FTA).

Public Works has explored options for the property with regard to its sale or lease, which would provide the greatest public benefit with regard to reimbursement to the Road Fund based on market value, provide a continuing source of revenue for the Road Fund, and allow continued use of the property as a transit facility to benefit the citizens of Lane County.

B. Policy Issues

This proposal would further the policy of utilization of Road Fund assets in a manner that provides the greatest public benefit.

C. Board Goals

This project is related to the County Goal of Resource Planning and Allocation and Revenue Development.

D. Financial and/or Resource Considerations

This property has been leased for the past 30 years at less than market rates, and changes in the Constitution and sound management practices dictate that assets produce a return to the Road Fund reflective of market values for the benefit of the citizens of the County.

E. Analysis

The configuration of the property is generally as illustrated on the aerial photo identified as Attachment 1. The gross area contained within the boundaries of the legal description is approximately 2.53 acres, or about 110,751 s.f., but there is an area along River Avenue at the southwest corner of the property which has been previously dedicated for street purposes and an area which has not been dedicated but which is occupied by the public sidewalk and which will need to be dedicated to allow its continued use by the public. These two areas contain about 11,918 s.f., thereby reducing the net useable area of the property to about 98,333 s.f.

The property is roughly in the shape of a right triangle, and it has frontage on River Road and River Avenue. The northerly property line abuts the ODOT Beltline Highway right of way along the south side of the eastbound on-ramp. The easterly boundary of the property adjoins the McDonalds restaurant property, and it also extends to the north of another parcel that is currently used as an insurance office.

The property is ideally located for commercial use and has excellent visibility and accessibility, and is zoned C-2 (Community Commercial). Traffic counts are estimated at 26,200 Average Daily Traffic (ADT) on River Road and 42,000 ADT on Beltline Highway. Sites with these attributes are in short supply in the Eugene-Springfield Metro area, and this property should show higher than average rates of appreciation in the future.

The major options for the property are: 1) sale of the property in its entirety to LTD or a private investor; 2) partitioning the property to create an approximate 20,000 s.f. commercial lease pad

to be retained by the County to provide an income stream for the Road Fund for the long term, with the balance of the property to be sold to Lane Transit District; and 3) retention of the property by Lane County and leasing the entire parcel to either LTD or a private investor.

Under Option 1, a sale to LTD would allow continued use as a transit site but would not provide a revenue stream to help fund Road Fund-dependent operations in the future as would be consistent with the goals for Revenue Development as stated in the adopted Lane County Strategic Plan and in accordance with Lane Manual 21.420(2).

A sale to a private investor would likewise provide immediate return of approximately \$2.4 million to the Road Fund but would not provide any long-term revenue stream.

Under Option 2, the costs of partitioning the property, completing the lease and providing minimal management and oversight of the leased portion of the property over a 25-year lease term is estimated at approximately \$81,000. At the end of the lease term, the lease pad could be sold, or retained and released to the lease tenant or to another investor and/or user. This option would balance the needs of LTD for a Transit site and the needs of the Road Fund for a long-term revenue source for road fund operations.

Option 3 would provide a long-term revenue source for the Road Fund estimated at approximately \$194,000 per year, and retain a valuable asset that will significantly appreciate over the term of the lease. This option produces the greatest return to the Road Fund on a present worth basis when the value of the reversion is added to the present worth of the income stream over a 25-year period. This option would serve the Road Fund well, but would not serve the needs of LTD, because although they are able to obtain funding from the FTA for the purchase of real property for transit facilities, they do not have a source of funding for long-term lease of property. In addition, LTD wishes to remain in occupancy while the approval process for the Land Partition is proceeding.

The land partition process may take 6 months or longer, and LTD must obtain an appraisal meeting FTA requirements before the funding for the purchase may be approved. Because of the source of funding and restrictions as to how the funding is spent, it is more feasible for the rental that accrues during this time to be paid at closing rather than on a monthly basis.

The data below summarizes the estimated present worth of the 3 options for this property based on a recent staff appraisal and takes into account the estimated expenses associated with each option, and for Option 2, the present worth of property tax payments based on an assessed value of \$1.4M. Property tax revenue for options 1 and 3 would be zero if the property were sold or leased to LTD and no private development was included.

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|---|--------------------|
| 1.) Sell the property in its entirety to either LTD or a private investor: | \$2,458,325 |
| 2.) Partition the property and sell the Transit Station portion to LTD and lease a 20,000± pad to a private investor: | \$2,880,754 |
| 3.) Retain the entire property in Lane County ownership and lease to either LTD or a private investor for a 25-year term: | \$3,504,206 |

As noted in the previous analysis, Option 1 provides an immediate return to the Road Fund and serves the needs of LTD in that they are able to obtain funding for the purchase, but it does not provide any long-term revenue to support Road Fund operations. Option 3 does not provide the greatest public benefit in that LTD does not have funding to provide for lease payments at market rates on a long-term basis. As with Option 1, there will be no benefits in the form of property tax payments if no private development takes place on the property.

Option 2 provides a balance in the form of an immediate inflow to the Road Fund, continued useage by LTD, a long term revenue stream to benefit the Road Fund as well as reversion of the valuable asset at the end of the lease term and the return of a portion of the property to the tax rolls.

Based upon the results of several meetings between Lane County Public Works staff and LTD staff, a draft of an Intergovernmental Agreement between Lane County and LTD has been prepared. Staff will continue to meet with LTD over the next few weeks in order to finalize the details of the IGA. A memo from Mark Pangborn, General Manager of LTD expressing general concurrence with either Option 1 or Option 2 is attached and marked as Attachment 2.

The major elements of the proposed IGA are as follows:

- 1.) LTD agrees to purchase and the County agrees to sell a portion of the property containing approximately 78,753 s.f. for the sum of \$1,890,072. The final price for the property is to be determined based on the survey and partition map that will be prepared and adjusted either up or down based on a unit value of \$24.00 per s.f. of area.
- 2.) The County will initiate the Land Partition and pay all fees associated therewith.
- 3) If the Land Partition is not approved within one year, LTD agrees to purchase and the County agrees to sell the approximate 20,000 s.f. potential lease parcel for the sum of \$548,240, with the final area and price to be adjusted based on a unit value of \$28.00 per s.f., based on the survey.
- 4) LTD may remain in occupancy of the property during the Land Partition process under the terms of the expired lease with the exception that in lieu of the payment of rent, the price for the transit station property will be increased in the amount of \$9,500 per month or portion thereof up to the date of closing.
- 5) LTD and the County agree to cooperate on all items of mutual interest with regard to partitioning or development of the property.
- 6) The closing date for the escrow to complete transaction shall occur no later than one year after execution of the agreement unless extended by mutual agreement.

F. Alternatives/Options

The Board may choose any of the above options or direct staff otherwise.

IV. TIMING/IMPLEMENTATION

If directed, staff will process complete discussions with LTD with the goal of finalizing the IGA, and will transmit the Agreement to the County Administrator for signature if authorized. If the final IGA is not in conformance with elements as outlined above, the County Administrator will direct staff to return to the Board for further direction.

V. RECOMMENDATION

Approve the Order authorizing the County Administrator to sign the Intergovernmental Agreement.

VI. FOLLOW-UP

Once the Land Partition has been approved, staff will return to the Board for final approval of the sale.

VII. ATTACHMENTS

- Aerial photograph depicting the subject property
- Memo from Mark Pangborn, LTD General Manager
- Exhibit A

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

ORDER NO.

(**IN THE MATTER OF AUTHORIZING THE
(COUNTY ADMINISTRATOR TO SIGN AN
(INTERGOVERNMENTAL AGREEMENT WITH
(LANE TRANSIT DISTRICT REGARDING
(THE SALE OF A PORTION OF COUNTY-
(OWNED SURPLUS ROAD FUND PROPERTY
(LOCATED AT 11 RIVER AVENUE, EUGENE,
(AND IDENTIFIED AS TAX LOT 500 ON LANE
(COUNTY ASSESSOR'S MAP 17-04-13-22**

WHEREAS, ORS 190.010 AND THE Lane County Home Rule Charter provide that units of local government may enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agents have the authority to perform; and

WHEREAS, Lane County owns property located at 11 River Avenue, Eugene that is presently occupied by Lane Transit District (LTD) under a lease from Lane County and is used for a transit station which will expire on September 29, 2007; and

WHEREAS, LTD wishes to purchase and Lane County wishes to sell a portion of said property to LTD for continued use as a transit station and the County wishes to lease a separate portion of the property to provide for a source of revenue for the Road Fund and so that this portion of the property may be returned to the tax rolls; and

WHEREAS, a Land Partition will be required in order to create separate legal lots for both the transit station and for the leased portion of the property, and LTD wishes to remain in occupancy of the property until the Land Partition can be approved and the sale completed; 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 interest of the County to sell and convey this property through a Sheriff's sale; 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 through a Sheriff's sale may require that LTD vacate the property and replace the extensive transit station improvements at another location, and the present location enhances the delivery of public transportation service to the citizens of Lane County; and

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

WHEREAS, the Board of County Commissioners has reviewed the major elements of the Agreement, and wishes to authorize the County Administrator to sign the Intergovernmental Agreement consistent with the major elements as described in Exhibit A, and directs staff to return to

the Board for final approval of the sale once the Land Partition has been approved; **NOW THEREFORE BE IT**

ORDERED that the County Administrator is hereby authorized to sign an intergovernmental agreement in substantial conformance with the major elements as described in Exhibit A, with LTD concerning the sale of the property occupied by the River Road Transit Station; and

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.

Chair,
Board of County Commissioners

APPROVED AS TO FORM

Date 8-21-07 lane county

OFFICE OF LEGAL COUNSEL

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH LANE TRANSIT DISTRICT REGARDING THE SALE OF A PORTION OF COUNTY-OWNED SURPLUS ROAD FUND PROPERTY LOCATED AT 11 RIVER AVENUE, EUGENE, AND IDENTIFIED AS TAX LOT 500 ON LANE COUNTY ASSESSOR'S MAP 17-04-13-22





Lane Transit District

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Eugene, OR 97401-0470

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(800) 735-2900 (TTY)

ltd@ltd.org (e-mail)

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August 15, 2007

TO: Board of County Commissioners
FROM: Mark Pangborn, LTD General Manager
RE: Sale of River Road Station to LTD

On June 27, 2007, LTD met with the commissioners to discuss the disposition of the River Road Transit Station. The station, which is on property owned by Lane County, has been used as a Park & Ride and transfer center since 1980. The current lease, which charges LTD \$100 per year, expires next month. The proposed new lease, with a market-set rate of approximately \$200,000 per year, is not a cost-effective option for LTD. At the June 27 meeting, LTD and the County agreed to pursue a sale of the property to LTD.

We appreciate the commissioners' willingness to consider a sale of the property. This direction allows an important transit facility to continue operating and serving the community for many years to come.

Two options for sale of the property have been developed by LTD and County staff:

- Option 1: LTD purchases the entire station site for approximately \$2.4 million.
- Option 2: LTD purchases approximately three-quarters of the site, with a parcel of approximately 20,000 square feet retained by the County and leased for private development. The cost for the portion to be purchased by LTD under this option is a little more than \$1.7 million.

LTD finds either of these options acceptable.

Option 1 provides the greatest flexibility for LTD and we are prepared to purchase the site at fair market value. That option retains all the existing parking and does not require any changes in site circulation. While LTD has no plans to change the current use of the site, it is quite possible that, at some point, a future LTD Board would choose to develop the southwest portion of the site for private development, much as the County would in Option 2. This would likely be done as part of a site redesign and possible acquisition of other adjacent land in order to maintain adequate parking supply to meet future needs.

Option 2 would reduce the station's parking supply from 145 spaces to approximately 100 spaces. This reduced parking supply would continue to serve current needs (average weekday parking demand is about 75 to 80 spaces). Site circulation can be accommodated with minor changes. LTD would likely look at possible acquisition of parcels to the east to meet expected future growth in Park & Ride demand.

ATTACHMENT 2

Next Steps

It is clear that the property transfer cannot be completed prior to the expiration of the lease on September 29, 2007. LTD is proceeding with its own appraisal of the site, as is required when federal funds are used for the purchase. The appraiser will be developing an estimated value for both the entire site and the partial acquisition. The appraisal should be completed by the middle of September.

LTD and County staff are working on an interim agreement to bridge the time between the expiration of the current lease and the completion of the property sale. County staff have indicated that a market-value monthly lease payment would be \$9,500. LTD would prefer to minimize these monthly payments, since those funds come directly from the General Fund and compete with funds used to provide transit service.

Option 2 appears to meet both LTD and County needs. One complication is that a partitioning of the property is required, a process that takes six to nine months. One option that minimizes LTD's lease payments while the County pursues the partition is to have LTD's lease payments credited to the sale price. When the agreement is in place, LTD will need minimal time to provide full payment to the County.

Thank you once again for your willingness to consider a sale of the property. We look forward to meeting with you on August 29.

Q:\Development Services\Facilities\memo to BCC on RR Station 8-29-07.doc

Exhibit A

Intergovernmental Agreement Lane County and LTD Sale of County-Owned Surplus Land Occupied by River Road Transit Station

- 1.) LTD agrees to purchase and the County agrees to sell a portion of the property containing approximately 78,753 s. f. for the sum of \$1,890,072. The final price for the property is to be determined based on the survey and partition map that will be prepared and adjusted either up or down based on a unit value of \$24.00 per s.f. of area.
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