

**ORDINANCE NO. 1227**

**AN ORDINANCE AUTHORIZING PURCHASE OF ROAD RIGHT-OF-WAY FOR THE EXTENSION OF SW BERG PARKWAY AND DECLARING AN EMERGENCY.**

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

**Section 1. Purchase Authorized.** The City of Canby is hereby authorized to purchase from Fred A. Kahut, Nancy M. Kahut, Jerald A. Kahut, Trustee and Kathleen M. Kahut, Trustee for the Kahut Living Trust, the following described property to be used for road right-of-way:

See Exhibit "A"

**Section 2. Purchase Price.** The total purchase price to be the sum of Four Hundred Sixty-Two Thousand and no/100 dollars (\$462,000.00), plus such other consideration as set forth in a Letter Agreement dated November 8, 2006 between the parties. The sum of Four Hundred Forty-Two Thousand (\$442,000.00) of the total purchase price shall be deposited in escrow at or prior to the close of escrow in accordance with the terms of attached Letter Agreement. By this reference the attached Letter Agreement dated November 8, 2006 for the sale of road right-of-way is incorporated within as if set forth herein.

**Section 3. Funds to Pay Purchase Price.** The total sum of \$ 462,000.00 shall be paid from the City's current fiscal budget, account number 420-420-431-7600 titled "Transportation System Development Charge" fund.

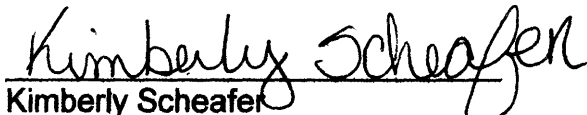
**Section 4. City attorney to approve Title Report and Deed.** The City Attorney shall first approve the preliminary title report and form of deed for the City's purchase of said right-of-way. All costs associated with the closing of this sale to be paid by the City.

**Section 5. City Administrator to Execute Deed for Road Purposes.** The City Administrator is authorized and directed to execute and deliver in the name of the City of Canby, as purchaser, the required deed and any other documents as may be required for closing the transaction.

**Section 6. Emergency Declared.** Inasmuch as it is necessary to proceed as quickly as possible with the extension of SW Berg Parkway for the use and benefit of

the citizens of the City of Canby, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon final reading and enactment by the Canby City Council.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, December 6, 2006, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, January 3, 2007, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

  
Kimberly Scheafer  
City Recorder - Pro Tem

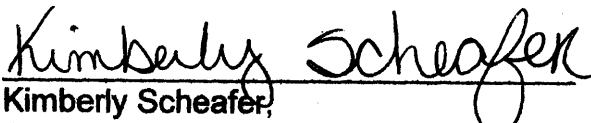
**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 3<sup>rd</sup> day of January, 2007, by the following vote:

YEAS 5

NAYS 0

  
Melody Thompson  
Mayor

**ATTEST:**

  
Kimberly Scheafer,  
City Recorder - Pro Tem

## EXHIBIT A

Fred A. Kahut, Nancy M. Kahut, Jerald A. Kahut & Kathleen M. Kahut  
A Portion of Township 4 South, Range 1E, Section 4B Tax Lot 901

### Berg Parkway Roadway Dedication Legal Description

A portion of that tract of land conveyed to Fred A. Kahut, Nancy M. Kahut, Jerald A. Kahut and Kathleen M. Kahut in deed recorded under fee number 78-26233 Clackamas County Deed Records, in Section 4, Township 4 South, Range 1 East of the Willamette Meridian, more particularly described as follows: Beginning at the northeast corner of that parcel conveyed to Fred A. Kahut, et al., under said fee number, said point also being the south east corner of Lot 2 in Partition Plat 1996-56 Clackamas County, Oregon, thence south  $0^{\circ}03'00''$  east 154.03 feet more or less along the easterly property line of said tract to the true point of beginning, said point being on the proposed northern right-of-way of SW 13<sup>th</sup> Avenue and 25 feet northerly measured perpendicularly to the projected centerline of the existing SW 13<sup>th</sup> Avenue right-of-way; thence continuing south easterly along the eastern boundary of said Kahut tract 147.08 feet more or less to the southeast corner of said Kahut tract thence north  $67^{\circ}22'48''$  west along the southern boundary of said tract a distance of 141.90 feet to an angle point; thence north  $63^{\circ}02'20''$  west along the southern boundary 132.21 feet to an angle point; thence north  $76^{\circ}19'16''$  west along the southern boundary 96.08 feet to an angle point; thence north  $76^{\circ}47'00''$  west along the southern boundary 147.70 feet to an angle point; thence north  $72^{\circ}33'00''$  west along the southern boundary 57.93 feet to an angle point; thence north  $25^{\circ}32'30''$  west along the southern boundary 144.14 feet to the most westerly corner of the said Kahut tract; thence north  $46^{\circ}53'45''$  east 20.37 feet along the western boundary of said tract to an angle point; thence south  $43^{\circ}50'38''$  east 60.00 feet along the northern boundary of said tract to an angle point; thence south  $63^{\circ}33'11''$  east 84.59 feet along the northern boundary of said tract; thence north  $73^{\circ}18'02''$  east 26.07 feet more or less along the northern boundary of said tract to a point on the proposed northern boundary of SW 13<sup>th</sup> Avenue (Berg Parkway), said point being north  $74^{\circ}56'51''$  west 433.13 feet and south  $88^{\circ}49'34''$  west 27.89 feet from the true point of beginning; thence along a non-tangent curve left with radius 775 feet, delta  $32^{\circ}27'11''$  and arc length 438.97 feet with long cord south  $74^{\circ}56'51''$  east and cord length 433.13 feet to a point of tangency; thence north  $88^{\circ}49'34''$  east 24.51 feet to the true point of beginning, total area being 51,384 square feet more or less.

In addition, an easement for utility and sidewalk purposes shall be granted, said easement being 12 feet wide, parallel and abutting the northerly line of the above described dedication, total area of the easement being 5,508 square feet more or less.

**EXHIBIT B**  
**KAHUT DEDICATION**  
**A PORTION OF MAP 04-01E-04B-901**  
**CLACKAMAS COUNTY, OREGON**

