

## ORDINANCE NO. NS-2425

### **AN ORDINANCE VACATING THE NORTHERN 57 FEET OF THE RIGHT OF WAY OF OLD COOLEY ROAD BETWEEN COOLEY ROAD AND NE 18<sup>TH</sup> STREET, DECLARING CERTAIN REAL PROPERTY SURPLUS, AND AUTHORIZING AN EXCHANGE OF REAL PROPERTY.**

#### Findings:

- A. The previous Cooley Road right-of-way initially aligned with the northern property line of two properties owned by the Bend LaPine School District (Lava Ridge Elementary and Sky View Middle School). With the construction of the roundabout at Cooley Road and NE 18<sup>th</sup> Street, the City rerouted Cooley Road further north and removed the roadway improvements within the previous alignment.
- A. The City initiated vacation of the northern 57 feet of right of way of the previous Cooley Road alignment between Cooley Road and NE 18<sup>th</sup> Street, leaving the southern 23 feet of right of way for the retention of the existing concrete pedestrian path.
- B. On October 6, 2021, and October 13, 2021, the City published notice of a public hearing on the vacation in The Bulletin, a newspaper of general circulation in the City, consistent with ORS 271.110.
- C. On September 30, 2021, the City posted notice of the proposed street vacation at each end of the proposed vacation. The first publication and posting of the notice occurred not less than 14 days prior to the hearing on the proposed vacation.
- D. The City Council held a public hearing on the proposed vacation on October 20, 2021.
- E. The City has not received objections to the proposed vacation.
- F. The City Council has determined that the vacation is in public interest in order to add employment land to the City's tax rolls and remove a redundant right-of-way to improve the transportation system at Juniper Ridge, and that the property should be vacated.
- G. The vacated property will transfer to the property from which it was previously dedicated, which is owned by the Bend LaPine School District (BLSD). The City has entered into a memorandum of understanding (MOU) with BLSD to perform a land swap to acquire this vacated right-of-way from BLSD in return for surplus property on NE 2<sup>nd</sup> Street (Exhibit C). The SE 2<sup>nd</sup> Street parcels are zoned Light Industrial and are currently undeveloped but are of an insufficient size for industrial uses if not consolidated with adjacent property. The parcels are not currently in use by any City department. The City Council has determined these properties are surplus to the City's needs and authorizes an exchange of property with the Bend LaPine School District consistent with the MOU.
- H. At least once during the week of October 11, 2021, the City published notice of a public hearing on the proposed exchange of real property in The Bulletin, a newspaper of general circulation in the City, consistent with ORS 221.725.

## THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The northern 57 feet of the previous alignment of Cooley Road, right-of-way in the City of Bend, Deschutes County, Oregon, is vacated as described in Exhibit A and shown on Exhibit B.
- Section 2. The properties located at 405 and 409 SE 2nd Street (tax lots 181205AD00601 and 181205AD00701) in Bend, Oregon, are surplus to the City's needs and shall be exchanged as a condition of the right-of-way vacation as further described herein.
- Section 3. Based on the memorandum of understanding between the City and BLSD (Exhibit C), BLSD shall sell the vacated right-of-way, totaling approximately 57,165.39 square feet, to the City for a net price of \$169,608.99 adjusted based on actual square footage, broken down as follows:
- Northerly Portion of the previous alignment of Cooley Road: City will pay three dollars and seventy cents (\$3.70) per square foot or approximately two hundred eleven thousand five hundred thirteen dollars and seventy-one cents (\$211,513.71); adjusted based on actual square footage upon completion of the vacation; and,
  - NE 2<sup>nd</sup> Street Properties: BLSD will acquire tax lots 181205AD00601 and 181205AD00701, totaling approximately 11,325.60 square feet, for three dollars and seventy cents (\$3.70) per square foot or approximately forty-one thousand nine hundred and four dollars and seventy-two cents (\$41,904.72), adjusted based on the actual square footage transferred to BLSD. The City shall retain easements or a dedication for the public sidewalk located on these tax lots.
- Section 4. After the land swap occurs per Section 2, the City will approve and record property line adjustments to add the vacated right-of-way to Lots 1 and 2 of the Juniper Ridge Employment Subdistrict Phase 1 subdivision.
- Section 5. The City Recorder is directed to file and record this Ordinance in the Deschutes County Clerk's Office.

First Reading Date: October 20, 2021

Second Reading and adoption by roll call vote: November 3, 2021

YES: Mayor Sally Russell  
Mayor Pro Tem Gena Goodman-Campbell  
Councilor Barb Campbell  
Councilor Melanie Kebler  
Councilor Anthony Broadman  
Councilor Megan Perkins  
Councilor Rita Schenkelberg

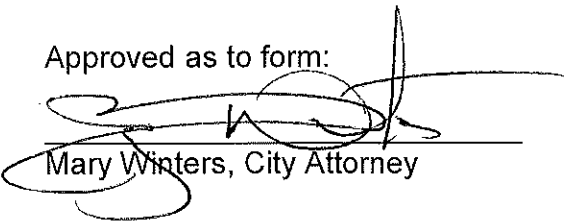
NO: none

  
Sally Russell, Mayor

ATTEST:

  
Robyn Christie, City Recorder

Approved as to form:

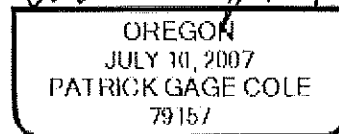
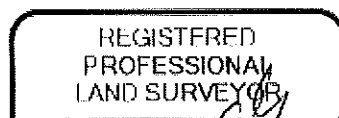
  
Mary Winters, City Attorney

**Exhibit A**  
**Northerly Portion of Vacated Cooley Road**

A strip of land being a portion of vacated Cooley Road, located in the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section 15, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

The northerly 57.00 feet of the following described parcel:

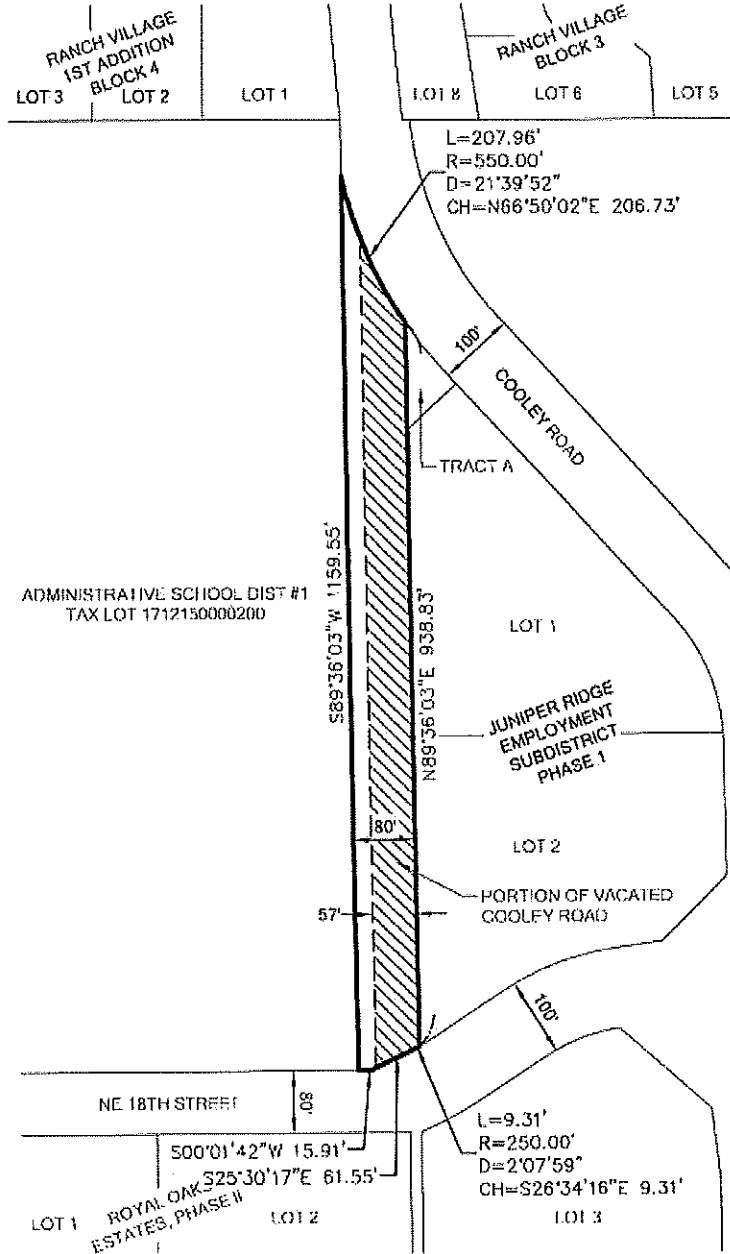
**Beginning** at the most westerly corner of Tract A, Juniper Ridge Employment Subdistrict Phase 1, being on the north right of way line of Cooley Road; thence along said north right of way line, North 89°36'03" East a distance of 938.83 feet to the southeast corner of Lot 2, Juniper Ridge Employment Subdistrict Phase 1; thence leaving said north right of way line, 9.31 feet along the arc of a non-tangent curve to the right with a radius of 250.00 feet, the chord of which bears South 26°34'16" East a distance of 9.31 feet; thence South 25°30'17" East a distance of 61.55 feet; thence South 00°01'42" West a distance of 15.91 feet to the south right of way line of said Cooley Road also being the west right of way line of 18<sup>th</sup> Street; thence along said south right of way line, South 89°36'03" West a distance of 1159.55 feet; thence leaving said south right of way line, 207.96 feet along the arc of a non-tangent curve to the left with a radius of 550.00 feet, the chord of which bears North 66°50'02" East a distance of 206.73 feet to the **Point of Beginning**, the terminus of this description.



EXPIRES: 12/31/21

# EXHIBIT B

LOCATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (NW1/4 NW1/4)  
OF SECTION 15, TOWNSHIP 17 SOUTH, RANGE 12 EAST, W.M.,  
CITY OF BEND, DESCHUTES COUNTY, OREGON



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*(Signature)* 4/27/21

OREGON  
JULY 10, 2007  
PATRICK GAGE COLE  
79157

EXPIRES: 12/31/21

S:\Land Projects\210104-Cooley ROW Vacat.on\dwg\210104-RW.dwg Apr 27, 2021

<b>HWA</b> <small>INCORPORATED SURVEYING &amp; MAPPING</small>	PORTION OF VACATED COOLEY ROAD			SHEET  1/1
	JUNIPER RIDGE			
	SCALE: 1" = 200'	DRAWN BY: AQR	DATE: 4/27/2021	

## **EXHIBIT C**

### **MEMORANDUM OF UNDERSTANDING WITH BLSD**

## **MEMORANDUM OF UNDERSTANDING**

**by and between**

**City of Bend**

**and**

**Administrative School District No. 1, Deschutes County**

### **General statement of intent of the Parties:**

The City of Bend ("City") intends to vacate the Northerly Portion of the Former Cooley Road Right-of-Way along the southern boundary of the Juniper Ridge Subdistrict Phase I and acquire the vacated Northerly Portion of the Former Cooley Road Right-of-Way from Administrative School District No. 1, Deschutes County ("School District") (each a "Party" and together "Parties"), to enable the development of employment based facilities in Juniper Ridge. The City also intends to sell City owned property along NE 2<sup>nd</sup> Street, north of SE Willow Lane, to the School District as part of the transaction for the School District's future plans. Any of the City's obligations described in this MOU may be met by the Bend Urban Renewal Agency (BURA) as appropriate or necessary.

### **Defined terms:**

**Former Cooley Road Right-of-Way:** An approximately 1,160 by 80 foot wide section of right-of-way, totaling approximately 82,807.98 square feet, adjacent to taxlots 1712100000107, 1712100000108, and 1712150000200, and bounded to the west by Cooley Road and east by NE 18<sup>th</sup> Street, dedicated by the School District when it developed the Sky View Middle School / Lava Ridge Elementary School site (Exhibit A).

**Northerly Portion of the Former Cooley Road Right-of-Way:** The portion of the Former Cooley Road Right-of-Way, approximately 57 feet wide and totaling approximately 57,165.39 square feet in area, to be vacated by the City, and acquired by the City from the School District (Exhibit B).

**NE 2<sup>nd</sup> Street Properties:** Taxlots 181205AD00601 and 181205AD00701, totaling approximately 11,325.60 square feet in area, located along the west side of NE 2<sup>nd</sup> Street, bounded to the north by SE Vine Lane and to the south by SE Willow Lane, and to be acquired by the School District from the City (Exhibit C).

### **Transaction Outline:**

1. The City will initiate the vacation of the Northerly Portion of the Former Cooley Road Right-of-Way. Pursuant to ORS 271.140, title to a vacated right-of-way attaches to the adjacent land in equal portions, except where the right-of-way was originally dedicated by different persons. The School District dedicated all of the Former Cooley Road Right-of-Way and is entitled to title once vacated. The Parties intend to exchange property as follows: City to purchase from the School District the Northerly

Portion of the Former Cooley Road Right-of-Way and the School District to purchase from the City the NE 2<sup>nd</sup> Street Properties, on terms outlined in this MOU.

2. Purchase Price: The Total Purchase Price shall be the net total of:

a. Northerly Portion of the Former Cooley Road Right-of-Way: City will pay three dollars and seventy cents (\$3.70) per square foot or approximately two hundred eleven thousand five hundred thirteen dollars and seventy-one cents (\$211,513.71); adjusted based on actual square footage upon completion of the vacation; and,

b. NE 2<sup>nd</sup> Street Properties: School District will pay three dollars and seventy cents (\$3.70) per square foot or approximately forty-one thousand nine hundred and four dollars and seventy-two cents (\$41,904.72).

3. Purchase Terms: The City intends to provide payment of the Total Purchase Price of approximately \$169,608.99 in cash, at Closing.

4. Property Lot Line Adjustment: Prior to closing School District will participate with the City and Owner of taxlot 1712100000107, in the application process to perform the necessary Property Lot Line Adjustments in order for the Northerly Portion of the Former Cooley Road Right-of-Way to be combined with taxlots 1712100000107 & 1712100000108. City shall pay any fees associated with the Lot Line Adjustment.

5. Property Surplus: Prior to closing the City will declare the NE 2<sup>nd</sup> Street Properties surplus per Bend Code 1.50.095 and ORS 221.727 for an exchange of real property.

6. Closing: The Closing shall occur within fifteen (15) business days following the vacation of the Northerly Portion of the Former Cooley Road Right-of-Way or the application for the Property Lot Line Adjustments; whichever comes later.

7. Closing Costs: City and School District intend to convey property by deed. The City shall be responsible for recording costs, and each party shall be responsible for any extended coverage title insurance or endorsements it desires.

8. Possession: City shall deliver the NE 2<sup>nd</sup> Street Properties at Closing free and clear of all trash and debris not part of this transaction. Any extension of the date of Possession must be by mutual agreement by both parties in writing.

This MOU may be executed by digital signatures or in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Said counterparts may be transmitted by one party to the other by facsimile or electronic mail.

Other than the obligation to negotiate in good faith with respect to the transaction described in this MOU, this MOU is non-binding on the Parties and is only an expression



of intent to further negotiate binding agreements. No contract shall be deemed to exist unless and until the Parties execute the definitive agreements set forth above in this MOU.

## ACKNOWLEDGED

### City of Bend

DocuSigned by:

*Jon Skidmore*

COO

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for Eric King, City Manager

Date: 7/8/2021

Approved by Legal Counsel:

DocuSigned by:

*Elizabeth Oshel*

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City Attorney's Office

### Administrative School District No. 1, Deschutes County

DocuSigned by:

*Brad Henry*

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Brad Henry, Chief Operations & Financial  
Officer

Date: 7/8/2021

Approved by Legal Counsel:

DocuSigned by:

*Sharon R. Smith*

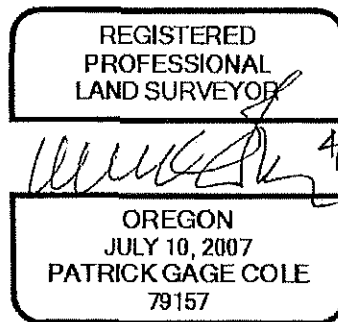
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## EXHIBIT A

**Cooley Vacation Legal Description**

A parcel of land being a portion of Cooley Road, located in the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section 15, Township 17 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

**Beginning** at the most westerly corner of Tract A, Juniper Ridge Employment Subdistrict Phase 1, being on the north right of way line of Cooley Road; thence along said north right of way line, North 89°36'03" East a distance of 938.83 feet to the southeast corner of Lot 2, Juniper Ridge Employment Subdistrict Phase 1; thence leaving said north right of way line, 9.31 feet along the arc of a non-tangent curve to the right with a radius of 250.00 feet, the chord of which bears South 26°34'16" East a distance of 9.31 feet; thence South 25°30'17" East a distance of 61.55 feet; thence South 00°01'42" West a distance of 15.91 feet to the south right of way line of said Cooley Road also being the west right of way line of 18<sup>th</sup> Street; thence along said south right of way line, South 89°36'03" West a distance of 1159.55 feet; thence leaving said south right of way line, 207.96 feet along the arc of a non-tangent curve to the left with a radius of 550.00 feet, the chord of which bears North 66°50'02" East a distance of 206.73 feet to the **Point of Beginning**, the terminus of this description.



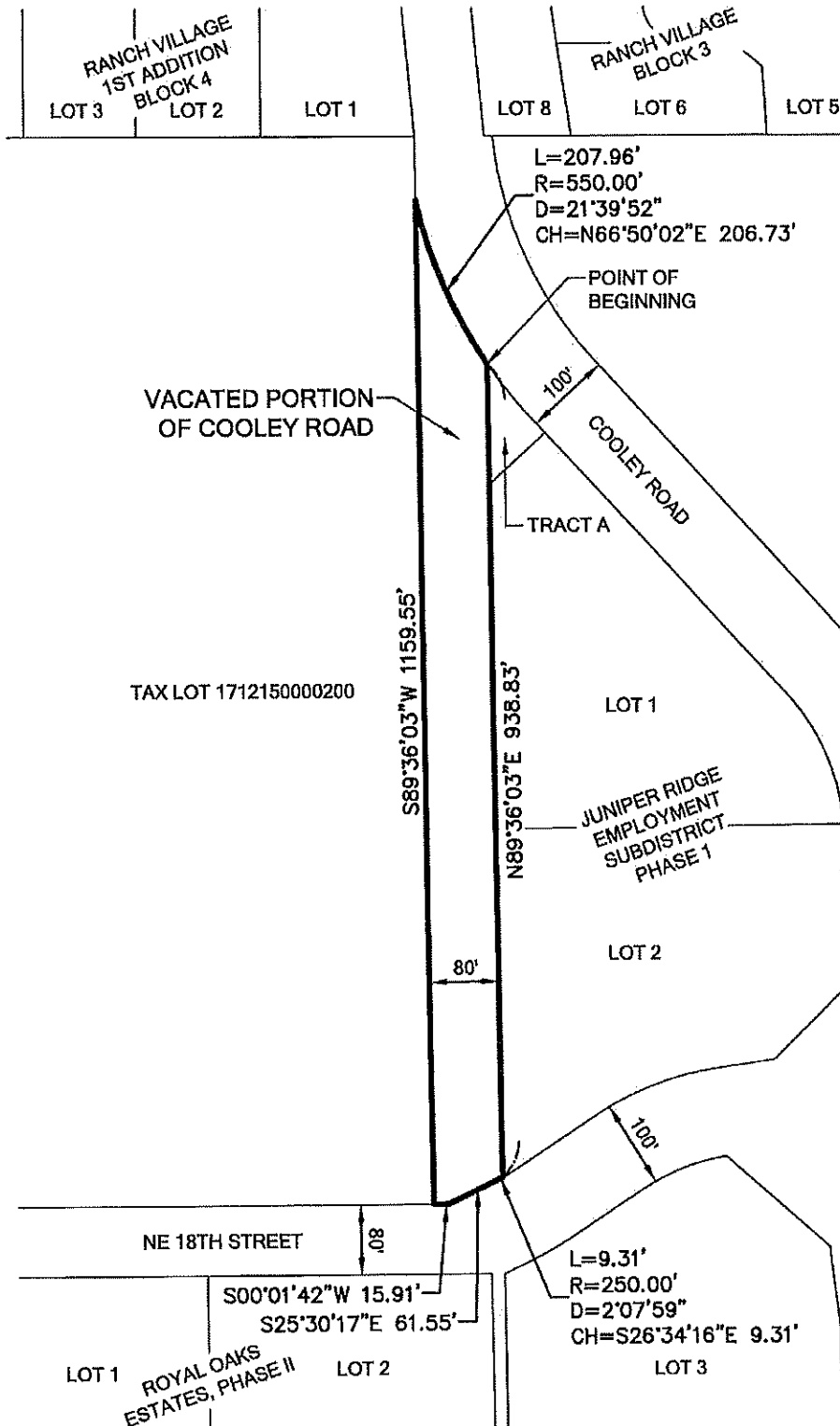
EXPIRES: 12/31/21

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**HWA**  
CIVIL ENGINEERING | SURVEYING | PLANNING

COOLEY ROAD VACATION

JUNIPER RIDGE

SCALE: 1" = 200'

DRAWN BY: AQR

DATE: 4/26/2021

SHEET

1/1

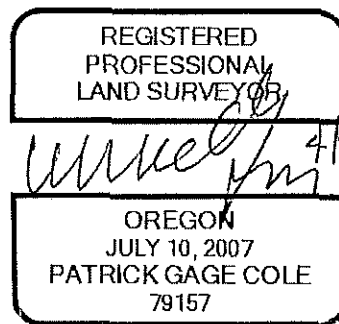
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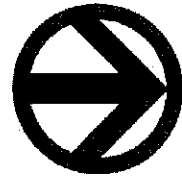
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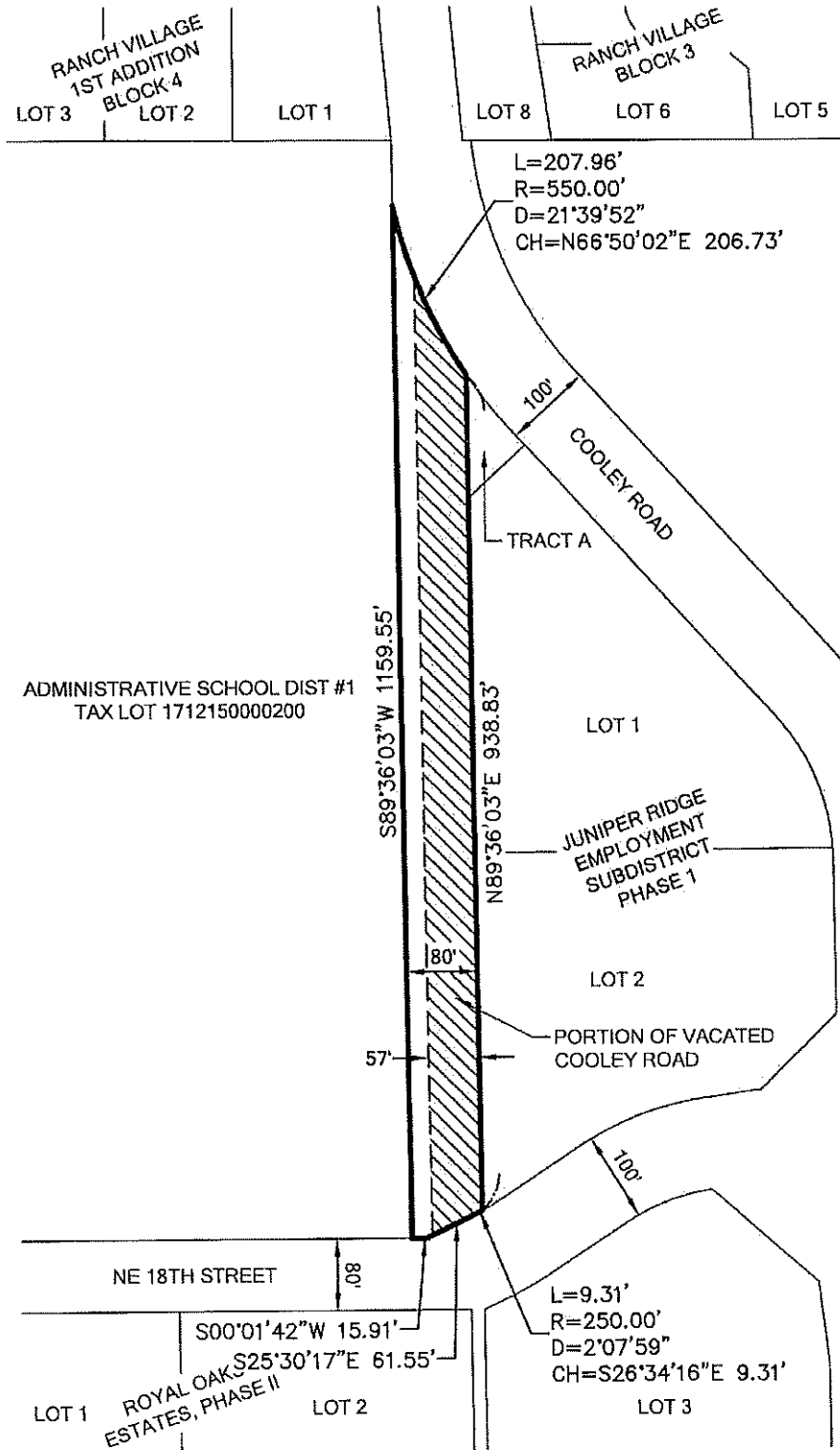
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**HWA**  
CIVIL ENGINEERING SURVEYING PLANNING

PORTION OF VACATED COOLEY ROAD

JUNIPER RIDGE

SCALE: 1" = 200'

DRAWN BY: AQR

DATE: 4/27/2021

SHEET

1/1

# SURPLUS PROPERTIES FOR LAND SWAP

(Exhibit C of MOU)

