

W.3.D.1.

Memorandum Date: October 14, 2008

Order Date: November 5, 2008

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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 Release of Deed Restrictions from a Portion of T. L. 17-03-17-34-00100 in Connection with the Beltline Highway/Coburg Road Interchange Improvement Project

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**I. MOTION**

Move approval of the Order.

**II. AGENDA ITEM SUMMARY**

The State of Oregon is in the process of purchasing right of way for the Beltline Highway/Coburg Road Interchange Improvement Project, which will expand the existing eastbound off-ramp from Beltline Highway to Coburg Road and will include an extension of the existing sound wall for the benefit of adjacent residential areas. The Oregon Department of Transportation (ODOT) will be purchasing a strip of land for the project which is a portion of what was conveyed by Lane County to the City of Eugene in 1966 for the use and benefit of the Eugene Water and Electric Board (EWEB). The state needs to acquire approximately 0.61 of an acre of the approximate 1.79 acres originally conveyed to the City in fee, in addition to temporary rights over an additional approximate 180 square feet for a temporary work area.

The subject property is identified as a portion of Tax Lot 100 on Lane County Assessor's Map 17-03-17-34. The deed contained a restriction that the property only be used for a right of way for public utilities, and the restrictions must be released so that ODOT may acquire the property unencumbered by the restrictions.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

Lane County conveyed the land to EWEB in 1966 by a Bargain and Sale Deed containing the above described restriction. ODOT plans to use the property to expand the off-ramp and to construct a sound wall extension, a use which is not consistent with the existing deed restrictions.

ODOT has appraised the 35 foot-wide landlocked strip along the south side of

Beltline Highway (State Highway 569) without the restrictions for \$22,000, and has offered to purchase the release of the restrictions from Lane County for \$11,000. The \$11,000 offer is in recognition of the fact that ownership interest is divided between EWEB which has the restricted-fee interest, and the County, which imposed the restrictions and controls the remainder of the ownership of the property.

**B. Policy Issues**

The Bargain and Sale Deed reserved unto Lane County the right to construct and maintain ditches and drainage ways on the property conveyed and the right to "locate, dedicate, convey and assign or permit right of way over and across the said property being conveyed for public roads, State Highways and County roads" provided that "reasonable compensation shall be paid to grantee for any necessary relocation, reconstruction or removal of grantee's facilities". Jurisdiction over Beltline Highway was transferred to the State of Oregon in the 1970s, and the property is now located totally within the City of Eugene. The rights reserved are not needed by Lane County now or in the foreseeable future.

The payment of \$11,000 for the release of the restrictions will comply with provisions of the Oregon Constitution regarding the use of funds received from fuel taxes. Upon receipt of the funds they will be deposited in the Road Fund.

**C. Board Goals**

This project addresses the County Goal of contributing to "appropriate community development" in the area of transportation and telecommunications infrastructure, housing, growth management and land development."

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

Because it is a Road Fund asset, the proceeds from the release, if approved by the Board, will be returned to the Road Fund.

**IV. Analysis**

ORS 271.310 provides that whenever the public interest may be furthered, a political subdivision may convey all or any part of its interest to a governmental body or private individual or corporation. The statute specifies that consideration for the transfer may be cash or real property or both.

All expenses in connection with the transaction will be paid by the State of Oregon.

**V. Alternatives/Options**

1. Approve the Order and resolution authorizing the release of the above-referenced restrictions to the State of Oregon, authorizing the execution of the attached Quitclaim Deed and authorizing the County Administrative Officer to sign any necessary documents in connection with the closing of the transaction.
2. Deny the Order and direct staff otherwise.

**VI. TIMING/IMPLEMENTATION**

Upon execution by the Board, the Quitclaim Deed will be returned to ODOT with instructions that they may use the deed upon payment to Lane County of the \$11,000 compensation. Upon receipt, the proceeds from the sale will be deposited in the Road Fund.

**VII. RECOMMENDATION**

Option 1.

**VIII. FOLLOW-UP**

N. A.

**IX. ATTACHMENTS**

Attachment 1 – Quitclaim Deed with Exhibit A

Property Map

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

**Resolution and Order No.**

( **IN THE MATTER OF RELEASE OF DEED  
( RESTRICTIONS FROM A PORTION OF T. L.  
( 17-03-17-34-00100 IN CONNECTION WITH  
( THE BELTLINE HIGHWAY/COBURG ROAD  
( INTERCHANGE IMPROVEMENT PROJECT**

**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 release deed restrictions from the following real property, to wit: a portion of Lane County Assessor's Tax Lot 100 on Map 17-03-17-34; and

**WHEREAS**, said deed restrictions were placed on said property in 1966 in connection with the sale of said property to the City of Eugene for the use and benefit of the Eugene Water and Electric Board; and

**WHEREAS**, said restrictions are not needed by Lane County for any public purpose now or in the foreseeable future; and

**WHEREAS**, said property is needed by the State of Oregon acting by and through the Oregon Department of Transportation (ODOT) in connection with the Beltline Highway/Coburg Road Interchange project; and

**WHEREAS**, ODOT has agreed to pay \$11,000 for the release of the restrictions from the approximate 26,198 square foot parcel to allow its permanent use by ODOT and for the removal of the restrictions from an additional 180 square feet of said land to allow its use as a temporary work area during construction of the project; and

**WHEREAS**, the board finds it is in the best interest of the County to release said restrictions to the State of Oregon for use in said project, and such sales are permitted pursuant to ORS 275.070; **NOW THEREFORE**,

**IT IS HEREBY RESOLVED AND ORDERED** that the Board authorize the execution of the Quitclaim Deed in favor of the State of Oregon, and that the County Administrative Officer be authorized to sign all documents in connection with the closing of the transaction,

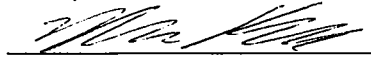
**IT IS FURTHER RESOLVED** that upon closing of the transaction and receipt of the proceeds, they be deposited in the Road Fund.

**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 \_\_\_\_\_, 2008.

APPROVED AS TO FORM:

Date: 10-24-08



Lane County Office of Legal Counsel

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

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, Grantor, for the actual consideration of \$ 11,000.00 does relinquish and forever quitclaim unto the **STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION**, Grantee, all of Grantor's right, title, and interest in and to the property described as **Parcel 1 on Exhibit "A" dated 1/14/2008** attached hereto and by this reference made a part hereof.

This deed is given specifically to release that certain restriction and covenant in the Bargain and Sale Deed recorded June 22, 1966, in Document No. 51756, Deed Records of Lane County, Oregon.

And subordinates all Grantor's right, title, and interest in and to the real property described in that certain temporary easement for work area heretofore granted by City of Eugene, Lane County, Oregon, a municipal corporation for the use and benefit of the Eugene Water & Electric Board to the State of Oregon, by and through its Department of Transportation, the property described as **Parcel 2 on Exhibit "A" dated 1/14/2008** attached hereto and by this reference made a part hereof.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all damages to Grantor's remaining property, if any, which may result from the acquisition or use of said property or property rights. However, the consideration does not include damages resulting from any use or activity by Grantee beyond or outside of those uses expressed herein, if any, or damages arising from any negligence.

SEND TAX STATEMENT TO: NO CHANGE

RETURN TO  
OREGON DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY SECTION  
355 CAPITOL STREET NE, ROOM 420  
SALEM OR 97301 3871

Map and Tax Lot #: 17-3-17-34-100

Property Address:

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. THIS INSTRUMENT DOES 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 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.

The statement above is required by law to be included in this instrument. PLEASE NOTE: the property described in this instrument is not a "lot" or "parcel" as defined in ORS 92.010 or 215.010. Nevertheless, the property is a legally created unit of land as described in ORS 92.010 (8) (d) or (e).

In construing this document, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this document shall apply equally to corporations and to individuals.

It is understood and agreed that the delivery of this document is hereby tendered and that terms and obligations hereof shall not become binding upon the State of Oregon Department of Transportation, unless and until accepted and approved by the recording of this document.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**LANE COUNTY, a political subdivision of the State of Oregon**

By \_\_\_\_\_  
Chairperson

By \_\_\_\_\_  
County Commissioner

By \_\_\_\_\_  
County Commissioner

STATE OF OREGON, County of \_\_\_\_\_

Dated \_\_\_\_\_, 20\_\_\_\_\_. Personally appeared \_\_\_\_\_,  
\_\_\_\_\_, and \_\_\_\_\_, who, being sworn, stated that

they are the Chairperson and County Commissioners of Lane County, a political subdivision of the State of Oregon, and that  
this instrument was voluntarily signed on behalf of the County by authority of an order of the Board of Commissioners.

Before me:

\_\_\_\_\_  
Notary Public for Oregon  
My Commission expires \_\_\_\_\_

Accepted on behalf of the Oregon Department of Transportation

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**PARCEL 1 – Fee**

A parcel of land lying in the Sarah S. Benson D.L.C. No. 42, the Garrett Bogart D.L.C. No. 71, and Lot 1 of Section 17, Township 17 South, Range 3 West, W.M., Lane County, Oregon and being a portion of that property described in that Bargain and Sale Deed to the City of Eugene, for the use and benefit of the Eugene Water & Electric Board, recorded June 22, 1966 on Reel 289D, Instrument No. 51756 of Lane County Official Records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southerly side of the center line of the relocated Belt Line Highway, which center line is described as follows:

Beginning at Engineer's center line Station 265+00.00, said station being 120.25 feet South and 733.48 feet West of the Northeast corner of the Sarah S. Benson D.L.C. No. 42, Township 17 South, Range 3 West, W.M.; thence South 85° 34' 48" East 3,059.82 feet to Engineer's center line Station 295+59.82.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Southerly Side of Center Line
269+25.00		272+32.00	60.00 in a straight line to 95.00
272+32.00		278+30.00	95.00

Bearings are based on County Survey No. 39540, recorded November 18, 2005, Lane County Oregon.

This parcel of land contains 26,198 square feet, more or less.

**PARCEL 2 – Temporary Easement For Work Area (3 years or duration of Project, whichever is sooner)**

A parcel of land lying in the Sarah S. Benson D.L.C. No. 42, Township 17 South, Range 3 West, W.M., Lane County, Oregon and being a portion of that property described in that Bargain and Sale Deed to the City of Eugene, for the use and benefit of the Eugene Water & Electric Board, recorded June 22, 1966 on Reel 289D, Instrument No. 51756 of Lane County Official Records; the said parcel being that portion of said property lying between lines at right angles to the center line of the relocated Belt Line Highway at Engineer's Stations 268+80.00 and 269+16.00, and included in a strip of land 65.00 feet in width, lying on the Southerly side of said center line, which center line is described in Parcel 1.

This parcel of land contains 180 square feet, more or less.

SCALE 1" = 100'

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OREGON DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY  
ENGINEERING  
SKETCH MAP

Section

Belt Line

1 one

Purpose

OR69: Belt Line Hwy @ Coburg Rd Interchange

## Property Map Beltline/Coburg Interchange Improvements Release of Deed Restrictions

Scale

Date \_\_\_\_\_

File

See Drawing 11B-1-24