



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

September 8, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
Assistants

Approval of an Agreement Conveying Land to ODOT
for the OR 213 (82nd Ave.): King Rd.- Mt. Scott Creek Bridge Project

Purpose/Outcomes	Approve an agreement conveying Clackamas County land to the Oregon Department of Transportation for the OR213 (82 nd Ave.): King Rd.-Mt. Scott Creek Bridge Project
Dollar Amount and Fiscal Impact	ODOT will pay \$7,250 to County for conveyance and project coordination, oversight and repair costs.
Funding Source	N/A
Duration	Fee Simple conveyance and temporary construction easement
Previous Board Action	None
Strategic Plan Alignment	1. Build a strong infrastructure
Contact Person	Stephen L. Madkour, County Counsel

BACKGROUND:

ODOT is working on a project that will impact some County property on the corner of 82nd and Sunnybrook. The project involves the construction of ADA complaint sidewalk ramps along 82nd and this portion of the project will impact a small portion of property where we have the Public Safety Training Center.

ODOT will acquire in fee 77 square feet of property for the ramps and other improvements and a temporary construction easement of 482 square feet. A right of entry has been provided. ODOT is paying \$7,250 for the property and for costs associated with county staff time associated with construction management and irrigation.

RECOMMENDATION:

Staff recommends that the Board authorize conveying the property and granting the construction easement and authorize the Chair sign the documents necessary to complete the transaction.

Respectfully submitted,

Stephen L. Madkour
County Counsel

Attachments:
Permit of Entry
Warranty Deed and Exhibit A
State's Obligation Agreement

PERMIT OF ENTRY

Drawing: 11B-07-50

File No.:	7729024
Grantor:	County of Clackamas, Oregon
Section:	OR213 (82 nd Ave): King Rd.-Mt. Scott Creek Bridge
Highway:	Cascade Highway North
County:	Clackamas
FAP No.:	

In order to proceed with the OR213 (82nd Ave.): King Rd.-Mt. Scott Creek Bridge project, the undersigned grant(s) to the State of Oregon, by and through its Department of Transportation, its employees, agents, or contractors, the right to enter upon real property described in the attached Exhibit "A"

THE UNDERSIGNED WILL BE SENT NOTICE OF THE DATE THE STATE PLANS TO ENTER UPON THE PROPERTY AND TAKE POSSESSION. Until that date, all rights and responsibilities of ownership remain with the owner.

In accordance with Public Law 91-646, Section 301(4) and ORS 35.510(3), no owner shall be required to surrender possession of real property before the State pays the agreed purchase price, or deposits with the court for the benefit of the owner, an amount no less than the agency's approved appraisal of fair market value for such property.

The undersigned understands that by signing this permit, the right of payment prior to possession is waived.

It is understood that this Permit of Entry will not jeopardize any rights in negotiating a settlement or any legal proceedings instituted by the State.

Dated this 25th day of AUGUST, 2016



Chairperson

County Commissioner

County Commissioner

County Clerk

WARRANTY DEED

CLACKAMAS COUNTY, a political subdivision, Grantor, for the true and actual consideration of \$ 7,250.00 does convey unto the **STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION** Grantee, fee title to the property described **Parcel 1 on Exhibit "A" dated 12/07/2015**, attached hereto and by this reference made a part hereof.

Grantor also grants to Grantee, its successors and assigns, a temporary easement for a work area for construction purposes over and across the property described as **Parcel 2 on Exhibit "A" dated 12/07/2015**, attached hereto and by this reference made a part hereof.

IT IS UNDERSTOOD that the temporary easement rights herein granted shall terminate three (3) years from the date hereof or upon completion of the above-mentioned construction project, whichever is sooner.

IT IS ALSO UNDERSTOOD that the temporary easement herein granted does not convey any right or interest in the above-described Parcel 2, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not interfere with the rights herein granted.

Grantor covenants to and with Grantee, its successors and assigns, that grantor is the owner of said property which is free from encumbrances, except for easements, conditions, and restrictions of record, and will warrant the same from all lawful claims whatsoever, except as stated herein.

**AFTER RECORDING RETURN TO &
TAX STATEMENTS TO:**
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
4040 FAIRVIEW INDUSTRIAL DRIVE SE, MS#2
SALEM OR 97302-1142

Map and Tax Lot #: 2-2E-4BB-4503

Property Address: 12700 SE 82nd Ave.
Clackamas, OR. 97015

Subject to the limitations of Article XI, § 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300). Grantee further agrees to indemnify and hold harmless Grantor from any and all claims, liabilities, losses, damage, costs and expenses (including attorney fees at trial and on any appeal or review) arising out of use of the premises by Grantee or its agents, employees, contractors or invitees, including but not limited to the costs of remediation or clean-up of any Hazardous Material used on the premises by Grantee or its agents, employees, contractors or invitees, whether with or without the approval of Grantor. In any action or suit to enforce any right or remedy under this instrument the prevailing party is entitled to recover its reasonable attorneys' fees and costs. Grantee's obligation under the preceding sentence is subject to the limitations of Article XI, section 7 of the Oregon Constitution.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all reduction in value 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.

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.

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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

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 (9) (d) or (e).

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_____.

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

ATTEST:

By _____
Chairperson

County Clerk

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, County Commissioners and County Clerk of Clackamas
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 _____

My Commission expires _____

Accepted on behalf of the Oregon Department of Transportation

Parcel 1 - Fee

A parcel of land lying in Parcel 1 of Partition Plat No. 2001-093 Clackamas County, Oregon and being a portion of that property described in that Statutory Bargain and Sale Deed to County of Clackamas, Oregon, recorded June 3, 2004 as Recorder's Fee No. 2004-050166, Film Records of Clackamas County; the said parcel being that portion of said property lying Southwesterly of the following described line:

Beginning at a point opposite and 84.10 feet Easterly of Engineer's Station "L" 445+25.25 on the center line of the relocated Cascade Highway North; thence Southeasterly in a straight line to a point opposite and 190.00 feet Easterly of Engineer's Station "L" 446+00.00 on said center line, which center line is described as follows:

Beginning at Engineer's center line station "L" 386+00.00, said station being 164.34 feet South and 0.09 feet East of a 3-1/4 inch Brass Disk marking the Northwest corner of Section 33, Township 1 South, Range 2 East, W.M.; thence South 0°01'52" East 2309.66 feet; thence on a 11459.16 foot radius curve right (the long chord of which bears South 0°53'43" West 370.61 feet) 370.62 feet; thence South 1°49'19" West 2274.35 feet to Engineer's center line station "L" 435+54.64 Back equals "L" 435+53.90 Ahead ; thence on a spiral curve left (the long chord of which bears South 1°09'19" West 399.98 feet) 400.00 feet; thence on a 5729.58 foot radius curve left (the long chord of which bears South 6°08'12" East 1189.54 feet) 1191.69 feet; thence on a spiral curve left (the long chord of which bears South 13°25'42" East 399.98 feet) 400.00 feet to Engineer's center line station "L" 455+45.59, said station being 1,783.42 feet south and 217.97 feet East of a 3-1/4 inch Brass Disk marking the Southwest corner of Section 33, Township 1 South, Range 2 East, W.M.

Bearings are based on the Oregon Coordinate Reference System, Portland Zone, NAD 83 (2011) EPOCH 2010.00.

This parcel of land contains 77 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 Parcel 1 of Partition Plat No. 2001-093 Clackamas County, Oregon and being a portion of that property described in that Statutory Bargain and Sale Deed to County of Clackamas, Oregon, recorded June 3, 2004 as Recorder's Fee No. 2004-050166, Film Records of Clackamas County; the said parcel being that portion of said property lying Southeasterly of the following described line:

Beginning at a point opposite and 84.36 feet Easterly of Engineer's Station "L" 445+10.00 on the center line of the relocated Cascade Highway North; thence Southeasterly in a straight line to a point opposite and 190.00 feet Easterly of Engineer's Station "L" 446+00.00 on said center line, which center line is described in Parcel 1.

EXCEPT therefrom Parcel 1.

This parcel of land contains 482 square feet, more or less.

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

DIGITAL SIGNATURE

OREGON
JANUARY 20, 1998
FESTUS I. OBIJIOFOR
*02852LS

EXPIRES: 12-31-2016

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LAND SURVEYOR

DIGITAL SIGNATURE

OREGON
JANUARY 20, 1998
FESTUS I. OBIJIOFOR
*02852LS

EXPIRES: 12-31-2016

STATE'S OBLIGATION(S) AGREEMENT

August 23, 2016

File No.:	7729-024
Grantor:	County of Clackamas, Oregon
Section:	OR213 (82nd Ave): King Rd - Mt Scott Creek Bridge ADA Ramps
Highway:	068 - CASCADE HWY NORTH
County:	Clackamas
FAP No.:	S068(030)

The State is to:

- Work around the tree located within the temporary easement as part of the project.
- Cap the irrigation system just inside the perimeter of the temporary easement.
- Contact Dan Hall (Clackamas County) a week prior to entering the property and capping the irrigation.

Because the ODOT contractor will be capping the irrigation system as part of the project, possession of the acquisition areas will now be on payment.

If any of the construction under the terms of this agreement is outside of the highway right of way, Grantors hereby grant State, its employees or contractors, permission to enter upon their remaining property for the purpose of performing any of said construction work.

It is understood and agreed that State's performance of this agreement shall be a portion of the consideration for the concurrent real property transaction evidenced by deed between Grantors and State. This agreement shall not be effective or binding until Grantors receive notice from the State accepting the conveyance of the real property interests.

County of Clackamas, Oregon

Date

ODOT Representative

Date