

T. Q. D. I.

03-8-12-5

AGENDA COVER MEMO

DATE: July 21, 2003

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas
Right of Way Manager

AGENDA ITEM TITLE: In The Matter of Transferring the Surface Rights to and Control and Maintenance of Land Adjacent to Northwest Expressway, Chambers Connector and Union Pacific Railroad to the City of Eugene.

I. MOTION

THAT THE ORDER BE APPROVED AUTHORIZING THE TRANSFER OF THE SURFACE RIGHTS TO AND CONTROL AND MAINTENANCE OF COUNTY-OWNED ROAD FUND LAND ADJACENT TO NORTHWEST EXPRESSWAY, CHAMBERS CONNECTOR AND UNION PACIFIC RAILROAD TO THE CITY OF EUGENE.

II. ISSUE OR PROBLEM

The City of Eugene has agreed to accept the surface rights to and control and maintenance responsibility for a portion of County-owned excess land in the vicinity of the intersection of Chambers Connector and Northwest Expressway.

III. DISCUSSION

A. Background

When the Chambers Connector was constructed, the right of way acquisition included land in excess of what was needed for the actual project limits. When the Road Legalization and Alteration process for this project was completed in 1993, areas outside the legal right of way remained as County-owned land. One of these areas is located within the triangle formed by Northwest Expressway, Chambers Connector and Union

Pacific Railroad, and is shown on the attached Assessor's Tax Lot Maps as portions of Tax Lots 17-04-25-24-2500 and 2600.

Chambers Connector and Northwest Expressway have been surrendered to the City, and the City currently maintains this County-owned excess land area along with the rights of way for the two streets. The City has been approached by a private, non-profit group that would like to install additional landscaping in this area, including trees and shrubs. Because the City will be directing the installation of the new plantings and will continue to maintain the landscaping once it is installed, legal control of the surface of this land should lie with the City.

B. Analysis

The land is not needed for use by Lane County at the present time or in the foreseeable future. The zoning for the property is C-2, General Commercial, but there is little, if any, potential for Commercial Use due to access restriction along the street frontages.

The City has agreed to accept jurisdiction over this land, but has requested the conveyance be made in the form of a street deed, which would convey a less-than-fee interest, with the underlying fee remaining in Lane County.

In order to accomplish the transfer, Lane County can convey the necessary rights at no cost to the city under ORS 271.330(1), provided that the property "shall be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon"

C. Alternatives/Options

1. Approve the transfer of control of the surface rights and maintenance responsibility for the land to the City of Eugene.
2. Reject the transfer as outlined above.

D. Recommendations

It is recommended that the Board approve this Order, and authorize the execution of the attached Street Deed.

IV. IMPLEMENTATION/FOLLOW-UP

Public Works Staff will transmit the signed document to the City for recording,

V. ATTACHMENTS:

1. Street Deed
2. Map

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

ORDER NO.

(IN THE MATTER OF TRANSFERRING
(THE SURFACE RIGHTS TO AND
(CONTROL AND MAINTENANCE OF
(LAND ADJACENT TO NORTHWEST
(EXPRESSWAY, CHAMBERS CONNECTOR
(AND UNION PACIFIC RAILROAD TO THE
(CITY OF EUGENE.

WHEREAS, the City of Eugene has agreed to accept the control and maintenance responsibility of the surface rights for a portion of County owned excess land in the vicinity of Chambers Connector and Northwest Expressway.

WHEREAS, the property is located within a triangle formed by Northwest Expressway, Chambers Connector and Union Pacific Railroad, and consists of portions of Tax Lots 17-04-25-24-2500 and 2600.

WHEREAS, the City will be directing the installation of landscaping of this area and will maintain it once it is installed, legal control of the surface of this land, should lie with the City.

WHEREAS, the land is not needed for use by Lane County, nor will it be in the foreseeable future, and the City has agreed to accept jurisdiction over this land, but has requested the conveyance be in the form of a street deed, which would convey a less-than-fee interest, with the underlying fee remaining in Lane County.

NOW, IT IS FURTHER ORDERED that the control of the surface rights and maintenance responsibility be transferred to the City of Eugene.

BE IT FURTHER ORDERED that the Board authorize the transfer to the City of Eugene via the Street Deed attached hereto and identified as "Exhibit A".

DATED this _____ day of _____, _____.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 7-30-03 lane county

OFFICE OF LEGAL COUNSEL

After Recording Return to, and
Send Tax Statements to:
City of Eugene
Public Works/Engineering
Attn. Russ Royer
858 Pearl Street
Eugene, Oregon 97401

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

STREET DEED

LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called **GRANTOR**, for the true and actual consideration of 0 dollars, does hereby convey to the **CITY OF EUGENE, an OREGON MUNICIPAL CORPORATION, GRANTEE**, the following described real property for public right of way purposes:

A parcel of land lying in Section 25, Township 17 South, Range 4 West of the Willamette Meridian, Lane County, Oregon and being all of those tracts of land conveyed to LANE COUNTY, a political Subdivision of the State of Oregon, by those certain deeds recorded September 7, 1979, on Reel 1020, Recorder's Reception Number 7953969, November 5, 1985, on Reel 1374, Recorder's Reception Number 8540054, and March 9, 1973, on Reel 628, Recorder's Reception Number 7310334, LANE COUNTY OREGON DEED RECORDS.

EXCEPTION THEREFROM: That portion of the above referenced property lying within Chambers Connector and the relocated Northwest Expressway as described in the establishment of said roads (Legal County Road Number 2233 - Final Order 91-2-26-3, filed March 4, 1991) and shown in survey plat of said roads, County Survey Filing Numbers 31129 and 31130.

City, by acceptance of this grant, hereby declares and otherwise agrees that City shall indemnify, hold harmless and defend the County, its officials, agents and employees, from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising in and from City acceptance and use of the subject property, unless such claims, damages, or losses are caused by grantor's negligent or intentional act(s).

This grant is conditioned upon the herein conveyed parcel being used, and continuing to be used, for public purposes. Should this property be used for other than public purposes, the interest of the recipient shall automatically terminate and ownership shall revert to Lane County.

THIS INSTRUMENT WILL 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 INTEREST TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN O.R.S. 30.930.

IN WITNESS WHEREOF, the undersigned have executed this instrument this _____ day of _____, 20____.

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

STATE OF OREGON)
) ss.
County of Lane)

On _____, 20____, personally appeared _____

who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon and that said instrument was signed and sealed in behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

Notary Public for Oregon

My Commission Expires: _____

Excerpt from Tax Lot Map 17-04-25-24 Showing Portions of Tax Lots 2500 and 2600 to be Transferred to City of Eugene for Control and Maintenance

