
TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Frank Simas, Right of Way Manager

AGENDA ITEM TITLE: In The Matter of Authorizing the Release of Road Fund Restrictions From a Parcel of Land Adjacent to Property Identified as Tax Lot 17-04-34-30-00200.

I. MOTION

THAT THE ORDER BE APPROVED GIVING FINAL APPROVAL TO THE NEGOTIATED PRICE FOR RELEASE OF THE ROAD FUND RESTRICTIONS AND AUTHORIZING EXECUTION OF THE QUITCLAIM DEED NECESSARY TO RELEASE SAID RESTRICTIONS.

II. AGENDA ITEM SUMMARY

By Order 06-6-28-7, the Board authorized an Option Agreement with Eugene Self Storage, L.L.C. for the purchase of the release of the Road fund restrictions from a parcel of land adjacent to West 11th Avenue in Eugene that was formerly owned by Lane County. Eugene Self Storage L.L.C. (ESS) is electing to exercise its option right provided in the Agreement.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The above-referenced Option Agreement provides that the purchase price for the release of the Road Fund restrictions shall be determined by an appraisal prepared by an appraiser licensed by the State of Oregon, and that the appraisal report shall be subject to review and approval by the County. The Agreement further provides that the County shall inform ESS within 10 business days after receipt of the appraisal report as to whether it has been tentatively approved by County staff.

The appraisal report was submitted to Public Works staff on August 7, 2006, and on August 14, ESS was notified that the appraisal had been reviewed and was not approved. The appraiser hired by ESS had valued the parcel of Land that is owned in fee by ESS but that is subject to Road Fund restrictions at \$12,500, taking into account that this portion of the property is also subject to an underground, surface and aerial public utility easement. The reviewer was of the opinion that the highest and best use for the parcel is as plottage to the larger adjoining industrial property rather than as a stand-alone parcel as suggested by the appraiser hired by ESS.

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: _____

The review appraiser estimated that burden of the public utility easement was less onerous relative to the highest and best use for the property than the private appraiser, and was of the opinion that the value of the restrictions was in the range of \$25,000 to \$36,000.

The Option Agreement provided that in the event the appraisal was not approved as submitted, ESS has the option of revising the appraisal, negotiating with County staff subject to final approval by the Board, a price that exceeds the amount of the submitted appraisal, or terminating the agreement.

ESS opted to negotiate a price for the release of the restrictions that would be subject to final approval, and is willing to pay \$20,000 for the release of the restrictions.

B. Policy Issues

This project is located within the City of Eugene, and it is mutually beneficial to the City, the County and to ESS that this parcel be put back into productive use.

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

This property is a Road fund asset, and upon receipt of the funds they will be returned to the Road fund.

E. Analysis

Although there are comparable sales upon which to base an opinion of value for the land as if unencumbered, the burden of the Utility Easement and the highest and best use for the land are matters of opinion which resulted in the large disparity between the private appraiser and the staff reviewer’s opinions.

Because of the encumbrances, the value of this land is probably more accurately stated as a range between the high and low opinions. The negotiated price of \$20,000 falls near the middle of that range, and is recommended as a reasonable amount for the release of the Road Fund restrictions.

F. Alternatives/Options

1. Approve the Order giving final approval to the negotiated price and authorizing the execution of the Quitclaim Deed.
2. Reject the negotiated price and direct staff otherwise.

V. TIMING/IMPLEMENTATION

If the Board approves the Order, Public Works staff will notify ESS, and once the funds have been received, the Quitclaim Deed will be recorded.

VI. RECOMMENDATION

Option 1.

VII. FOLLOW-UP

N. A.

VII. ATTACHMENTS

Quitclaim Deed

IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON

Resolution and Order No.

(IN THE MATTER OF AUTHORIZING THE
(RELEASE OF ROAD FUND RESTRICTIONS
(FROM A PARCEL OF LAND ADJACENT TO
(PROPERTY IDENTIFIED AS TAX LOT 17-04-
(34-30-00200

WHEREAS, BY Order 06-6-28-7 the Board authorized an Option Agreement with Eugene Self Storage, L.L.C. (ESS) for the release of Road Fund Restrictions from a parcel of land adjacent to West 11th Avenue that was formerly owned by Lane County; and

WHEREAS, said real property was acquired by purchase for street and road right of way and not by tax foreclosure; and

WHEREAS, ESS is now electing to exercise its rights under the Option Agreement; and

WHEREAS, the terms of said option agreement provide for a negotiated price for the release in the event that the appraisal submitted by ESS is not tentatively approved by County Staff; and

WHEREAS, the appraisal submitted by ESS was not approved as submitted and ESS has opted to negotiate a price for the release of said restrictions at an amount that exceeds the submitted appraisal amount; and

WHEREAS, subject to final approval by the Board, ESS and County staff negotiated a price of \$20,000.00 for the release of the restrictions, and release of the restrictions for this amount has been recommended by County staff;

IT IS HEREBY RESOLVED that the purchase price of \$20,000.00 is approved.

IT IS HEREBY ORDERED that, in accordance with the terms of the said Option Agreement and pursuant to ORS 275.030 (2), that the quitclaim deed releasing the restrictions be executed and upon receipt of the funds from ESS 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 _____, 2006.

Bill Dwyer, Chair
Board of County Commissioners

APPROVED AS TO FORM
DATE 9-12-06
[Handwritten signatures]
COUNTY CLERK

After Recording Return to, and
Send Tax Statements to:
Eugene Self Storage, LLC
P. O. Box 906
Corvallis, OR 97339

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called GRANTOR, for the true and actual consideration of **twenty thousand and no/100 dollars (\$20,000.00)**, does hereby release and quitclaim to **EUGENE SELF STORAGE, LLC, an Illinois Limited Liability Company**, all its rights, title and interest in that real property situated in Lane County, State of Oregon, described as follows:

A parcel of land lying in the Northeast one-quarter of the Southwest one-quarter (NE ¼ SW ¼) of Section 34, Township 17 South, Range 4 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that tract of land conveyed to LANE COUNTY, a political subdivision of the State of Oregon, by that certain deed recorded April 17, 1934, in Book 177, Page 565, LANE COUNTY OREGON DEED RECORDS, and being more particularly described as follows:

All those restrictions set forth in that certain deed to CITY OF EUGENE, a municipal corporation of the State of Oregon, recorded September 19, 1969, on Reel 453, Recorder's Reception Number 81417, LANE COUNTY OREGON DEED RECORDS, included in the description of that certain deed conveyed to EUGENE SELF STORAGE, LLC, an Illinois Limited Liability Company, recorded April 28, 2006, Recorder's Reception Number 2006-029408, LANE COUNTY OREGON DEED RECORDS.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). 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 FEE 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.