


W.3.E.1.

Memorandum Date: February 25, 2008
 Order Date: March 19, 2008

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division

PRESENTED BY: D. Michael Jackson, Lane County Surveyor 

AGENDA ITEM TITLE: **IN THE MATTER OF ACCEPTING A PERMANENT EASEMENT FOR HIGHWAY RIGHT OF WAY AS A PUBLIC ROAD EASEMENT FOR BOB STRAUB PARKWAY (18-02-03-20; 18-02-04-10)**

I. MOTION

TO APPROVE THE ORDER ACCEPTING A PERMANENT EASEMENT FOR HIGHWAY RIGHT OF WAY AS A PUBLIC ROAD EASEMENT FOR BOB STRAUB PARKWAY (18-02-03-20; 18-02-04-10)

II. DISCUSSION

A. Background / Analysis

Lane County is constructing in two phases a new arterial roadway in southeast Springfield, the Bob Straub Parkway. Part of this project involves conveyance of permanent easements from the Oregon Department of Transportation (ODOT) to Lane County.

On July 17, 2007 Lane County, acting by and through its County Administrator, as authorized by Lane County Board of Commissioners Order 07-5-16-4, entered into an Intergovernmental Agreement (IGA), Jurisdictional Transfer Agreement No. 786, with the Oregon Department of Transportation (ODOT) for cooperative improvement and jurisdictional transfer of a portion of the Springfield-Creswell Highway (State No. 222), and for conveyance of right of way by permanent easement from ODOT to Lane County to facilitate construction of Phase 2 of the Bob Straub Parkway (57th Street to Jasper Road Project).

On October 3, 2007, the Board of Commissioners approved Order No. 07-10-3-7 which accepted the jurisdictional transfer from ODOT to Lane County of the portion of Springfield-Creswell Highway No. 222 (Jasper Road) from the easterly edge of South 42nd Street-Jasper Road intersection southeasterly to County Road No. 1020 (Jasper-Lowell Road), said portion of road also known as Unit A in the Jurisdictional Transfer Agreement No. 786, and simultaneously established that portion of road as County Road No. 2273 to be known as Jasper Road.

Lane County Department of Public Works has completed Phase 1 of the Bob Straub Parkway. On March 22, 2006, the Board of Commissioners approved Order of

Establishment No. 06-3-22-6 which established Phase 1 of the Bob Straub Parkway from Main Street (State Hwy 126) southerly to the 57th/58th Street intersection as Bob Straub Parkway, County Road No. 2255.

As part of Phase 2 of the Bob Straub Parkway, and in accordance with Jurisdictional Transfer Agreement No. 786, ODOT has provided Lane County with a Permanent Easement for Highway Right of Way for Units B and C as agreed upon in the Jurisdictional Transfer Agreement No. 786, and as described in Exhibit A of said easement and shown on the map Attachments A and B attached to this order.

The Board is now being asked to accept this easement as public road right of way to be combined with other right of way acquisitions for Phase 2 of the Bob Straub Parkway, which will by separate action and order be established as County road.

B. Recommendation

Acceptance of this Permanent Easement for Highway Right of Way being conveyed from ODOT to Lane County is a necessary part of the process of acquisition of right of way for the completion of Phase 2 of the Bob Straub Parkway. Therefore, it is recommended that The Board of County Commissioners approve the Order to accept this Permanent Easement for Highway Right of Way.

C. Follow-up

If the Board of County Commissioners approves the Order Accepting the Permanent Easement for Highway Right of Way, it is to be entered in the records of the Board of Commissioners' Journal of Administration. The Easement is to be recorded in the Deed Records of Lane County, and the Easement Instrument Number noted on the Order. Copies of the Order and Easement are to be forwarded to the Lane County Surveyor and County Assessor for appropriate action. If the acceptance is denied, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

III. ATTACHMENTS

Final Order w/attachments:

- Permanent Easement for Highway Right of Way (5 pages, including Exhibit A)
- Attachment A-Site Map
- Attachment B-Jurisdictional Transfer Agreement 786 Area Site Plan Map

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**IN THE MATTER OF ACCEPTING A PERMANENT)
EASEMENT FOR HIGHWAY RIGHT OF WAY AS A PUBLIC) ORDER NO.
ROAD EASEMENT FOR BOB STRAUB PARKWAY)
(18-02-03-20; 18-02-04-10))**

THIS MATTER now coming before the Board of County Commissioners of Lane County and the OREGON DEPARTMENT OF TRANSPORTATION (ODOT), owning land within Lane County which is also within the city limits of Springfield, having on this 19th day of March, 2008, presented to the Board of County Commissioners of Lane County a good and sufficient Permanent Easement for Highway Right of Way, said easement being properly executed and forever dedicating a portion of such land to the use of the public for road purposes and granting a public road easement and the Board of County Commissioners of Lane County deeming it proper, as a convenience for property owners in the area and as a benefit to the general public, to accept said easement for a public road easement; and

WHEREAS, Lane County is in the process of constructing a new arterial roadway in southeast Springfield known as Phase 2 of the Bob Straub Parkway (57th Street to Jasper Road project), a portion of which will consist of right of way comprised of permanent easements conveyed to Lane County by ODOT; and

WHEREAS, on July 17, 2007 Lane County, acting by and through its County Administrator, as authorized by Lane County Board of Commissioners Order 07-5-16-4, entered into an Intergovernmental Agreement (IGA), Jurisdictional Transfer Agreement No. 786, with the Oregon Department of Transportation (ODOT), part of which called for the conveyance of right of way by permanent easement from ODOT to Lane County to facilitate construction of Phase 2 of the Bob Straub Parkway (57th Street to Jasper Road Project); and

WHEREAS, Lane County Department of Public Works has completed Phase 1 of the Bob Straub Parkway, and on March 22, 2006, the Board of Commissioners approved Order of Establishment No. 06-3-22-6 which established Phase 1 of the Bob Straub Parkway from Main Street (State Hwy 126) southerly to the 57th/58th Street intersection as Bob Straub Parkway, County Road No. 2255; and

WHEREAS, acceptance of this Permanent Easement for Highway Right of Way for Phase 2 of the Bob Straub Parkway will be in accordance with Jurisdictional Transfer Agreement No. 786 regarding Units B and C as referred to in said Jurisdictional Transfer Agreement No. 786, and as further described in Exhibit A of said easement and shown on the map Attachments A and B attached hereto and made a part of this order; and

WHEREAS, with the acceptance of this Permanent Easement for Highway Right of Way as public road easement, it will be combined with other right of way acquisitions for

Phase 2 of the Bob Straub Parkway which will by separate action and order be established as County road;

NOW, THEREFORE, IT IS HEREBY ORDERED that the said Permanent Easement for Highway Right of Way shall be and is hereby accepted by the Board of County Commissioners of Lane County as a public road easement and not as a county road; and

IT IS FURTHER ORDERED that the above Order shall be entered in the records of the Board of County Commissioners' Journal of Administration, Lane County, Oregon; and

IT IS FURTHER ORDERED that the easement be recorded in the Deed Records of the County and the Easement Instrument Number be noted on this Order.

DATED this _____ day of _____, 2008.

**DEPARTMENT OF PUBLIC WORKS
LAND MANAGEMENT DIVISION**

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

Approved Jan, 30, 2008

By 
Matt Laird, LMD Manager

By _____
Chair

Easement Instrument Number _____
Lane County, Oregon Deed Records.

APPROVED AS TO FORM

Date 3-6-08 lane county


OFFICE OF LEGAL COUNSEL

PERMANENT EASEMENT FOR HIGHWAY RIGHT OF WAY

STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Grantor, for no monetary consideration does grant to LANE COUNTY, a political subdivision of the State of Oregon, Grantee, its successors and assigns, a permanent easement to construct, reconstruct, repair, and maintain a public highway and its appurtenances and facilities, and also to construct and maintain water, gas, electric and communication service lines, fixtures and facilities, and appurtenances therefore, all upon, over and across the property described on Exhibit "A" attached hereto and by reference made a part hereof.

This conveyance is made and delivered upon the following express conditions, reservations, and restrictions:

1. Subject to special assessments, existing restrictions, reservations and easements of record, if any.

2. This Grant of Easement Does Not convey any access rights to Grantee, and Grantor reserves all access rights between the easement granted herein (for Jasper Road) and Grantor's remaining real property. Further, any access rights between the easement described in Exhibit "A" and any other properties that abut it are subject to Grantor's not Grantee's review.

This reservation shall run with the land and shall not be subject to modification, cancellation, or destruction by adverse user or estoppel, no matter how long continued.

3. That the above described land shall never be used for the placing or maintenance of any advertising sign, display, or device, except such sign, display, or device used to advertise the activities on said land, or the lease or sale of said land or any portion thereof. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents, or employees to enter upon said land and remove, destroy, or obliterate any unauthorized sign, display, or device, without liability for damage or injury thereto; and to recover the cost of such removal, destruction or obliteration from the owner of said land.

AFTER RECORDING RETURN TO:

OREGON DEPARTMENT OF TRANSPORTATION
PROPERTY MANAGEMENT RIGHT OF WAY SECTION
355 CAPITOL STREET NE, ROOM 420
SALEM OR 97301-3871

4. That no junk, scrap, junked motor vehicles, or parts thereof, debris, trash, waste, or other such materials shall be placed on said land for whatever purpose in any manner so as to be visible from a state highway, provided that such items as listed above can otherwise be placed on said land without violating any applicable law, ordinance, or regulation. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents, or employees, to enter upon said land and remove or destroy any unauthorized junk, scrap, or other material mentioned above and recover the cost of such removal or destruction from the owner of said land.

5. That this property shall not be used for the operation of any garbage dump or sanitary land fill. If such use is made of the property, Grantor may, at its election, enter upon said land and restore it to the condition that existed prior to said use for garbage dump or sanitary land fill purposes and recover the cost thereof from the owner of said land.

6. That this conveyance is made upon the further condition, which shall constitute a covenant running with the land, that Grantor shall not at any time become liable to Grantee and grantee's heirs, successors and assigns in interest, for damages to the land herein described or any buildings, structures, improvements, or property of any kind or character now or hereafter located upon said land or for any injuries to any owner, occupant, or any person in or upon said land or for any interference with the use and enjoyment of said land or for damages which except for this covenant might constitute a nuisance caused directly or indirectly by noise or air pollutant emissions from transportation vehicles using the highway or transportation facility adjacent to said land. Any reference in this covenant to the highway or transportation facility adjacent to said land refers to the highway or transportation facility as it now exists and also as it will exist with future improvements. Grantee and grantee's heirs, successors and assigns covenant not to sue Grantor for any said injuries or damages.

It is understood that if the property described on attached Exhibit "A" or any portion thereof is used other than for public roadway purposes, easement rights to the property or portions thereof used other than for public roadway purposes shall automatically revert to and vest in Grantor.

It is understood that the conditions, reservations, restrictions, and covenants herein set out have been considered in determining the amount of consideration of this conveyance.

The rights and remedies herein reserved or provided shall not be exclusive and shall not be in derogation of any other right or remedy which Grantor may have. The conditions and restrictions herein contained shall run with said land and shall forever bind Grantee and grantee's heirs, successors and assigns. Where any action is taken to enforce the above mentioned conditions and restrictions, Grantor shall not be liable for any trespass or conversion as to any real or personal property. Where legal proceedings are commenced by Grantor to enforce the foregoing conditions and restrictions or for the recovery of the aforementioned removal or destruction costs, the successful party shall be entitled to reasonable attorney fees and court costs.

In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed 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 197.352. 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 APPROVED USES, 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 197.352.

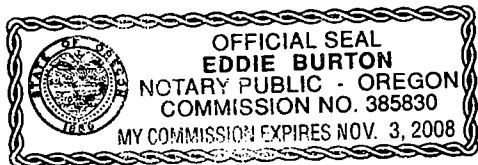
Dated this 7th day of FEBRUARY, 2008.

STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION

By *Richard R. Dunlap*
Richard R. Dunlap, Acting State Right of Way Manager

STATE OF OREGON, County of Marion

Dated Feb 7, 2008. Personally appeared Richard R. Dunlap, who being sworn, stated that he is the Acting State Right of Way Manager for the State of Oregon, Department of Transportation, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:



Eddie Burton
Notary Public for Oregon
My Commission expires 11-3-2008

Accepted on behalf of Lane County, a political subdivision of the State of Oregon

Chair, Lane County Board of Commissioners Date

EXHIBIT A – page 1 of 2Unit B

A parcel of land lying in the Northwest one-quarter (NW ¼) of Section 3 and the Northeast one-quarter (NE ¼) of Section 4, Township 18 South, Range 2 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that tract of land conveyed to the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, by that certain deed recorded February 13, 1975, on Reel 729, Recorder's Reception Number 7505572, LANE COUNTY OREGON DEED RECORDS, being described as follows:

Beginning at a point on the easterly right of way line of Bob Straub Parkway being 119.36 feet left of Engineers' Centerline Station L 57+41.47 POC (Bob Straub Parkway), said point being 6,919.07 feet North and 834.44 feet West of the Lane County Surveyors Office Brass Cap '1977' marking the West Northwest Corner of the John C. Looney Donation Land Claim Number 39, located in Section 10, Township 18 South, Range 2 West of the Willamette Meridian, Lane County, Oregon; run thence along said easterly right of way line South 26° 51' 29" East, 145.02 feet to a point being 119.09 feet left of Engineers' Centerline Station L 58+89.27 POT; thence continuing along the easterly right of way line South 27° 09' 53" East, 1,036.50 feet to a point being 115.29 feet left of Engineers' Centerline Station L 69+25.77 POT; thence South 25° 22' 29" East, 800.39 feet to a point being 99.08 feet left of Engineers' Centerline Station L 77+14.62 POC; thence South 27° 09' 53" East, 163.01 feet to a point being 124.82 feet left of Engineers' Centerline Station L 78+65.35 POC; thence South 9° 28' 38" West, 60.80 feet to a point being 100.07 feet left of Engineers' Centerline Station L 79+17.32 POC; thence leaving the easterly right of way line and run North 88° 22' 25" West, 186.83 feet to a point being 79.39 feet right of Engineers' Centerline Station L 78+65.62 POC, said point being on the westerly right of way line of Bob Straub Parkway; thence along the westerly right of way line North 27° 09' 53" West, 921.78 feet to a point being 109.73 feet right of Engineers' Centerline Station L 69+24.97 POT; thence continuing along the westerly right of way line North 30° 58' 44" West, 300.67 feet to a point being 128.63 feet right of Engineers' Centerline Station L 66+24.89 POT; thence North 27° 09' 53" West, 226.81 feet to a point being 127.80 feet right of Engineers' Centerline Station L 63+98.09 POT; thence North 15° 54' 57" West, 197.39 feet to a point being 88.58 feet right of Engineers' Centerline Station L 62+04.64 POT; thence leaving the westerly right of way line North 1° 38' 21" East, 131.82 feet; thence North 33° 56' 39" West, 289.00 feet; thence North 88° 21' 39" West, 34.98 feet to the westerly right of way line of Bob Straub Parkway; thence along said westerly right of way line along a 4,025.59 foot radius curve right (the long chord of which bears North 26° 21' 59" West, 45.89 feet) a distance of 45.90 feet to a point being 88.58 feet right of Engineers' Centerline Station L 57+41.47 POC; thence leaving the westerly right of way line and run North 63° 57' 37" East, 207.95 feet to the point of beginning and there ending, all in Lane County, Oregon.

The parcel of land to which this description applies contains 10.39 acres, more or less.

EXHIBIT A - Page 2 of 2

Unit C

A parcel of land lying in the Northeast one-quarter (NE 1/4) of Section 4, Township 18 South, Range 2 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that tract of land conveyed to the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, by that certain deed recorded February 13, 1975, on Reel 729, Recorder's Reception Number 7505572, LANE COUNTY OREGON DEED RECORDS, being described as follows:

Beginning at a point on the westerly right of way line of Bob Straub Parkway being 88.58 feet right of Engineers' Centerline Station L 56+10.24 POC (Bob Straub Parkway), said point being 6,949.31 feet North and 1,078.16 feet West of the Lane County Surveyors Office Brass Cap '1977' marking the West Northwest Corner of the John C. Looney Donation Land Claim Number 39, located in Section 10, Township 18 South, Range 2 West of the Willamette Meridian, Lane County, Oregon; run thence along the westerly right of way line on a 4,025.59 foot radius curve left (the long chord of which bears South 25° 24' 41" East, 180.06 feet) a distance of 180.08 feet; thence leaving said westerly right of way line and run North 88° 21' 39" West, 161.26 feet to the easterly right of way line of 57th Street; thence along said right of way line North 1° 38' 21" East, 49.56 feet; thence along a 164.75 foot radius curve right (the long chord of which bears North 14° 50' 07" East, 75.22 feet) a distance of 75.89 feet; thence North 43° 54' 57" East, 59.58 feet; thence South 71° 57' 08" East, 23.06 feet to the point of beginning and there ending, all in Lane County, Oregon.

The parcel of land to which this description applies contains 0.40 of an acre, more or less.

The bearings used herein for Units B and C are based on a bearing of South 53° 36' 19" West between LCCM 1159 and LCCM 1160 set by the Lane County Surveyors Office. Said bearing is based on the Oregon Coordinate System (NAD 83/91), South Zone.

ATTACHMENT A

Permanent Easement From ODOT For Bob Straub Parkway

NW1/4 Section 3 and NE1/4 Section 4, T. 18 S., R. 2 W., W.M.
LANE COUNTY
NO SCALE



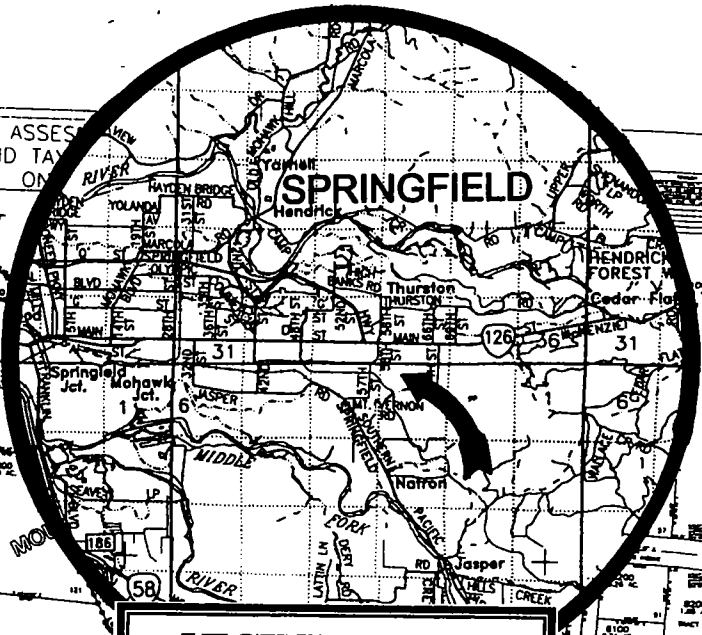
NE 1/4 NE 1/4 SEC. 04 T.18S. R.2W. W.M.
LANE COUNTY

NEW MOBILE HOME ESTATES

SCALE 1" = 100'

SEE MAP 17 02 33 44

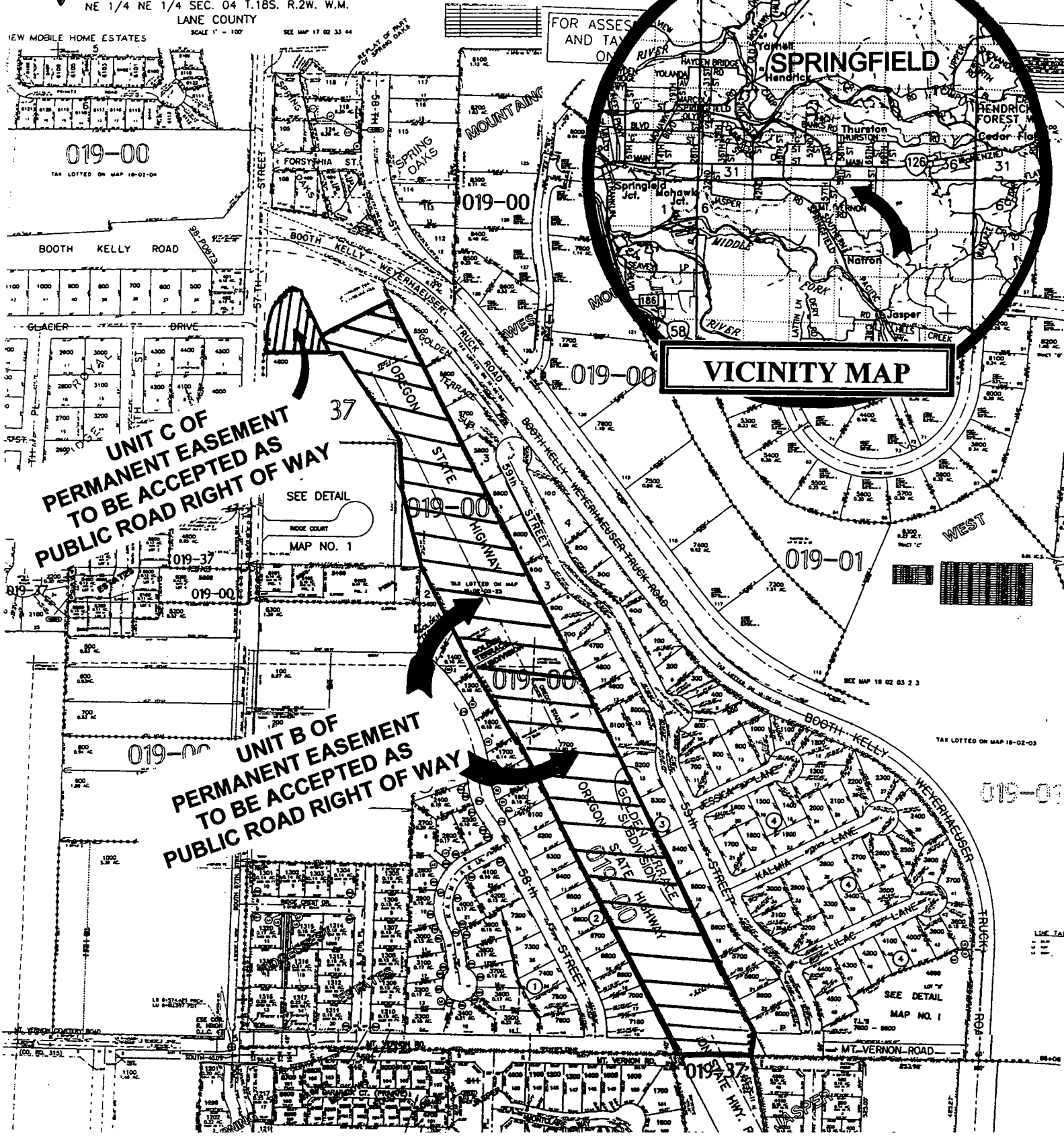
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VICINITY MAP

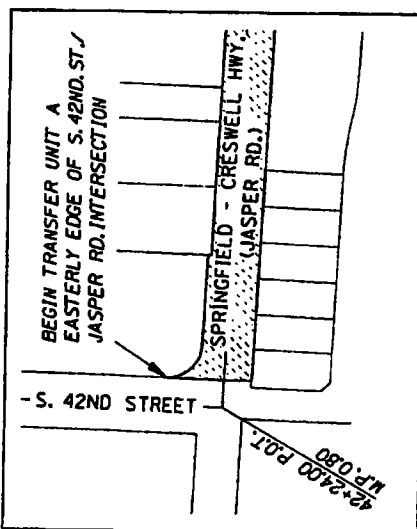
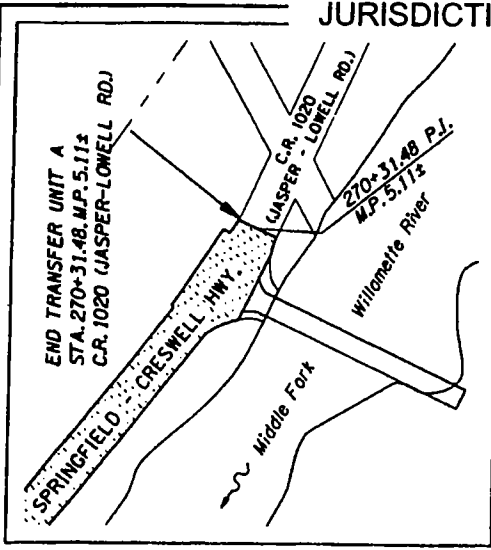
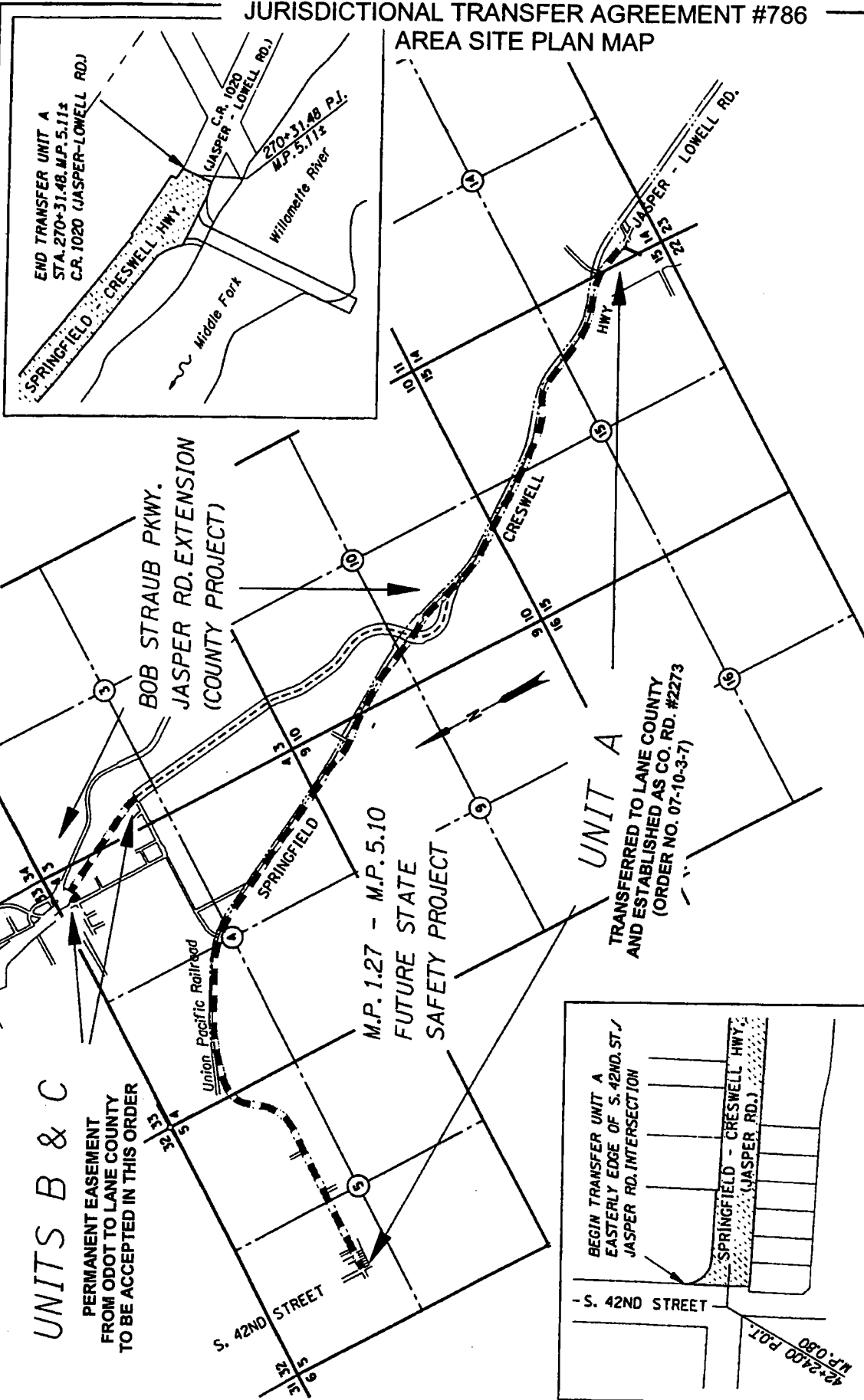
UNIT C OF PERMANENT EASEMENT TO BE ACCEPTED AS PUBLIC ROAD RIGHT OF WAY

UNIT B OF PERMANENT EASEMENT TO BE ACCEPTED AS PUBLIC ROAD RIGHT OF WAY



JURISDICTIONAL TRANSFER AGREEMENT #786

AREA SITE PLAN MAP



UNITS B & C
 PERMANENT EASEMENT
 FROM ODOT TO LANE COUNTY
 TO BE ACCEPTED IN THIS ORDER

OREGON DEPARTMENT OF TRANSPORTATION



JURISDICTIONAL
 TRANSFER

EXHIBIT A SHEET 1 OF 4

Section

Jasper Road (M.P. 0.80 to M.P. 5.11)

Scale

NOT TO SCALE

Highway

Springfield - Creswell Highway No. 222

Date

May, 2007

County

Lane County

File

JT No. 786