

CITY OF BROOKINGS
State of Oregon

RESOLUTION 11-R-956

A RESOLUTION OF THE CITY OF BROOKINGS APPROVING THE DONATION OF PROPERTY TO THE STATE OF OREGON, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, FOR USE IN CONNECTION WITH THE JOE HALL CREEK CULVERT PROJECT, AND AUTHORIZING THE MAYOR TO SIGN THE DONATION DEED, DONATION AGREEMENT AND STATE'S OBLIGATION AGREEMENT.

WHEREAS, the Oregon Department of Transportation (ODOT) has proposed to construct a bridge as a migratory fish enhancement project on North Bank Chetco River Road at Joe Hall Creek; and

WHEREAS, as a part of that project, ODOT will relocate the City's water transmission line at that location as a project cost; and

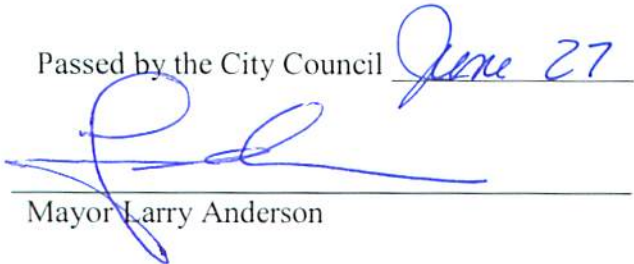
WHEREAS, temporary and permanent right-of-ways are needed for placement and maintenance of the future bridge, including portions of the City property located adjacent to the City's Water Treatment Plant; and

WHEREAS, it is in the interest of the City of Brookings to support this fish enhancement project as a benefit to local recreational and commercial fishing;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Brookings does hereby approve the donation of 1,081 square feet of property in fee, 5,829 square feet of slope easement, and 11,226 square feet of temporary construction easement, as described in the attached Donation Deed, to the State of Oregon, for use in connection with the Joe Hall Creek Culvert (Tuttle Creek Mitigation) Project; and

BE IT THEREFORE FURTHER RESOLVED that the Mayor of the City of Brookings is hereby authorized to sign the Donation Deed, Donation Agreement, and State's Obligation Agreement, attached herein.

Passed by the City Council June 27, 2011 and made effective the same date.



Mayor Larry Anderson

Attest:



City Recorder Joyce Heffington

COPY

DONATION DEED

CITY OF BROOKINGS, a municipal corporation of the State of Oregon, Grantor, for no monetary consideration does convey unto the **STATE OF OREGON**, by and through its **DEPARTMENT OF TRANSPORTATION**, Grantee, fee title to the property described as **Parcel 1 on Exhibit "A" dated 5/19/11**, attached hereto and by this reference made a part hereof.

Grantor also grants to Grantee, its successors and assigns, a permanent easement to construct and maintain slopes, upon the property described as **Parcel 2 on Exhibit "A" dated 5/19/11**, attached hereto and by this reference made a part hereof.

IT IS UNDERSTOOD that the 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 shall not be permitted to interfere with the rights herein granted or endanger the lateral support of the public way, that Grantee shall never be required to remove the slope materials placed by it upon said property, nor shall Grantee be subject to any damages to Grantor, and grantor's heirs, successors and assigns, by reason thereof or by reason of any change of grade of the public way abutting on said property.

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 3 on Exhibit "A" dated 5/19/11**, attached hereto and by this reference made a part hereof.

RETURN TO AND TAX STATEMENT TO
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
4040 FAIRVIEW INDUSTRIAL DRIVE SE MS#2
SALEM OR 97302-1142

Map and Tax Lot #: 40S-13W-33-504

Property Address: 98115 No. Bank Chetco River Rd.
Brookings, OR 97415

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 3, 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.

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

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).

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.

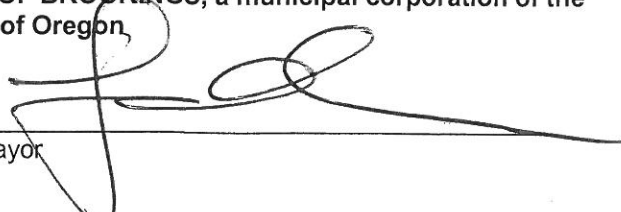
In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporations and to individuals.

Dated this 28th day of June, 2011.

APPROVED AS TO FORM:

By _____

CITY OF BROOKINGS, a municipal corporation of the
State of Oregon,

By 
Mayor

STATE OF OREGON, County of Curry
Dated June 28, 2011⁹. Personally appeared Larry Anderson,
who, being sworn, stated that he/she is the Mayor of the City of Brookings, a municipal corporation of the State of Oregon,
and that this instrument was voluntarily signed on behalf of said municipal corporation by authority of its ~~Ordinance~~ ^{Resolution} No.
11-R-956, passed by the Council of said City,
On this 27th day of June, 20 11.




Notary Public for Oregon
My Commission expires 1-4-2014

Accepted on behalf of the Oregon Department of Transportation

Parcel 1 – Fee

A parcel of land lying in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 40 South, Range 13 West, W.M., Curry County, Oregon; said parcel being a portion of that property described in that Warranty Deed to CITY OF BROOKINGS, recorded April 16, 1975 in Curry County Book of Records, Volume 38, Page 647; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of relocated North Bank Chetco River Road, which center line is described as follows:

Beginning at Engineer's center line station 77+00.00, said station being 742.22 feet North and 1598.27 feet West of the Center quarter corner of Section 33, Township 40 South, Range 13 West, W.M.; thence North 63°23'17" East 225.78 feet; thence on a 500.00 foot radius curve left (the long chord of which bears North 56°04'48" East 127.20 feet) 127.55 feet; thence North 48°46'19" East 196.32 feet; thence on a 500.00 foot radius curve right (the long chord of which bears North 67°11'06" East 315.87 feet) 321.37 feet; thence North 85°35'54" East 376.87 feet; thence on a 500.00 foot radius curve right (the long chord of which bears South 82°44'08" East 202.21 feet) 203.61 feet; thence South 71°04'10" East 47.19 feet to Engineer's center line Station 91+98.70.

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

Station	to	Station	Width on Northerly Side of Center Line
84+12.00		85+76.00	38.00
85+76.00		85+88.00	38.00 in a straight line to 25.00

Bearings are based on the Oregon Coordinate System of 1983(CORS96 Epoch: 2002), South Zone.

This parcel of land contains 1,081 square feet, more or less.

Parcel 2 - Permanent Easement for Slopes

A parcel of land lying in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 40 South, Range 13 West, W.M., Curry County, Oregon; said parcel being a portion of that property described in that Warranty Deed to CITY OF BROOKINGS, recorded April 16, 1975 in Curry County Book of Records, Volume 38, Page 647; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of relocated North Bank Chetco River Road, which center line is described in Parcel 1.

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

Station	to	Station	Width on Northerly Side of Center Line
84+88.00		85+26.00	153.00 in a straight line to 156.00
85+26.00		85+58.00	156.00 in a straight line to 58.00
85+58.00		85+76.00	58.00 in a straight line to 38.00

EXCEPT therefrom Parcel 1.

This parcel of land contains 5,829 square feet, more or less.

Parcel 3 – Temporary Easement for Work Area (3 years or duration of Project, whichever is sooner)

A parcel of land lying in the SE¼NW¼ of Section 33, Township 40 South, Range 13 West, W.M., Curry County, Oregon; said parcel being a portion of that property described in that Warranty Deed to CITY OF BROOKINGS, recorded April 16, 1975 in Curry County Book of Records, Volume 38, Page 647; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Northerly side of the center line of relocated North Bank Chetco River Road, which center line is described in Parcel 1.

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

Station	to	Station	Width on Northerly Side of Center Line
84+12.00		84+65.00	110.00 in a straight line to 214.00
84+65.00		85+12.00	214.00 in a straight line to 214.00
85+12.00		85+26.00	214.00 in a straight line to 156.00
85+26.00		85+58.00	156.00 in a straight line to 58.00
85+58.00		85+76.00	58.00 in a straight line to 38.00

EXCEPT therefrom Parcel 1.

This parcel of land contains 11,226 square feet, more or less.

DONATION AGREEMENT

When a public improvement project requires any government agency or its contractor to acquire or enter upon private property, the owners of that property are entitled to compensation based upon a valuation report under federal and state law. Federal law is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, PL 91-646, and state law is in Oregon Revised Statutes, 35.510, as amended.

The above federal and state laws also allow property owners to donate necessary property rights if they wish. To accomplish a donation, you only need to acknowledge that the agency has informed you of the right to compensation and that you wish to donate. Property owners may also release ODOT from its requirement to provide a valuation report.

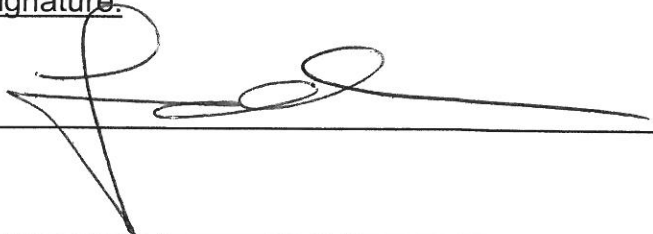
If you elect to donate the property rights as described in the attached Exhibit A or deed, subject to the above information, please date and sign this Donation Agreement in the space below.

☐ I release ODOT from providing a valuation report.

Date:

6-28-11

Signature:



STATE'S OBLIGATION(S) AGREEMENT

File No.: 7485002

Date: June 14, 2011

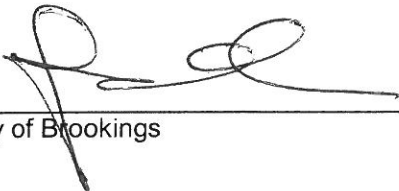
The State is to:

State will not impact or enter the fenced area of the detention pond and will protect the fencing around the pond during construction.

Any construction lying outside of the traveled portion and shoulders but within the right of way of the highway which is made for the use and benefit of the remaining property, either under the terms of this agreement or the construction plans, shall be completed in conformance with normal engineering construction practices and hereafter shall be maintained or reconstructed by the property owner in accordance with ORS 374.305, et seq. and OAR 734-051-0010 to 051-0400, OAR 734-055-0050 to 055-0600 and other applicable statutes and regulations.

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.



City of Brookings

6-28-11

Date