

AGENDA COVER MEMO

DATE: March 8, 2005

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas
Right of Way Manager

AGENDA ITEM TITLE: In the Matter of Relinquishing County-Owned Road Fund Property to the City of Eugene Pursuant to ORS 271.330.

I. MOTION

THAT THE BOARD ORDER BE APPROVED AUTHORIZING THE RELINQUISHMENT OF COUNTY-OWNED ROAD FUND PROPERTY TO THE CITY OF EUGENE IN CONNECTION WITH THE DELTA PONDS RESTORATION PROJECT.

II. ISSUE OR PROBLEM

Approval of the attached Order relinquishing certain County-owned Road Fund lands to the City of Eugene to assist in the development and construction of the Delta Ponds Restoration Project.

III. DISCUSSION

A. Background

By Resolution and Order 04-2-18-4, the Board directed Public Works staff to assist the City of Eugene in the Delta Ponds Project by providing necessary surveying and engineering needed to prepare the legal descriptions needed to submit the transfer and/or vacation proceedings for consideration by the Board. Nearly all of the land proposed for transfer to the City of Eugene is land that was originally acquired for road purposes in the 1960s in connection with the construction of Delta Highway.

Based upon the results of subsequent research completed by staff, it was found that (a) portions of County-owned Road fund land adjacent to the legal right of way of Delta Highway are needed for right of way purposes, and cannot be made available for the City's project; (b) there are certain portions of both the existing right of way for Delta Highway and of County-owned Road fund land that are needed for the Delta Ponds Project and are not needed for use as right of way now or in the foreseeable future, and can therefore be relinquished to the City pursuant to ORS 271.330; and (c) there is one area at the north end of the project that is currently held and needed as right of way over which temporary access is needed for the construction of the Ponds Restoration project.

In order to formalize the Delta Highway right of way to be retained and proceed with the transfer of the lands needed for the City's project two separate, but related, Board actions are required. They are:

(a) Approval of an Order authorizing the execution of a Dedication of Right of Way document to change the status of the County-owned land that is to be added to the permanent right of way for Delta Highway as shown on Exhibit "A", and incorporating the Alteration of the legal right of way, which will modify the legal right of way to incorporate the areas dedicated above and vacate the public's interest in those areas that are now included within the legal right of way and are to be transferred to the City for use in the project.

(b) Relinquishment pursuant to ORS 271.330, of those areas that are not required for present or future use by the County, but which are needed for the construction of the Delta Ponds Project. The locations of the areas proposed to be transferred by Bargain and Sale Deed are shown on Exhibit "B".

The above are separate actions, but it is necessary that the Board consider them concurrently because the Relinquishment cannot go forward without the approval of the Dedication and Alteration Process. The latter Order is to be submitted for your consideration and approval by the County Surveyor's Office.

The areas proposed to be relinquished to the City for use in the project include approximately 16.78 acres along the west side of Delta Highway and about 18.47 acres along the east side of Delta Highway, for a total of 35.25 acres. It is estimated that approximately 70% of the total area consists of water and the remainder of the total area is either riparian habitat or marginal upland areas, depending upon the time of year and the amount of seasonal rainfall. An appraisal has been completed, and based on the analysis and conclusions in the appraisal, the estimated value of the lands to be transferred to the City of Eugene is approximately \$150,000.

The large areas along the west side of Delta Highway both north and south of Goodpasture Island Road, are to be retained by Lane County. The land on the south side, between Delta Highway and the two ramps identified as the SW Ramp and SWW Ramp, will be retained as right of way, and the area to the immediate north of Goodpasture Island Road, lying between Delta Highway mainline and Debrick Slough will be retained as County-owned Road fund land.

At the extreme northerly end of the project, the toe of the fill for the eastbound Beltline/southbound Delta Highway ramp falls within the water of the slough. There is no excess right of way in this area, but the minor channel improvement work that is proposed can be accomplished under a Facility Permit issued to the City to allow access on a temporary basis.

Based on cross-sections and other survey work furnished by the City, it has been determined that the right of way to be retained along both sides of Delta Highway will be sufficient to accommodate the construction of an auxiliary lane in each direction. The restoration project includes habitat benches (relatively level areas adjacent to the existing road embankments) and trails requiring fills in the areas adjacent to Delta Highway. In exchange for the relinquishment of a portion of the former right of way and County-owned land, the City has agreed to obtain the necessary permits and to construct these additional fills of sufficient width to accommodate the possible future auxiliary lanes. Since this area is currently a combination of riparian land and

jurisdictional waters, the permitting and construction at this time will greatly facilitate any future construction in this area.

C. Analysis

As currently proposed, the Delta Ponds Project cannot be constructed without the conveyance of the needed land to the City. Because the City is procuring the environmental permits necessary to fill the riparian and wetland area to build the benches, and because the benches will be constructed of sufficient width to accommodate future road fills, it is anticipated that the value of work to be done by the City in connection with this part of the project will be equal to or greater than the value of the lands contributed by Lane County. Any additional filling by the County at a later date should be considerably facilitated from a permitting standpoint, which will increase the likelihood that this important transportation corridor can be expanded in the future to meet the transportation needs of the citizens of Lane County. In addition, the project is anticipated to have a beneficial effect on water quality and the quality of riparian habitat in the immediate area.

Transfer of this property is allowed in accordance with ORS 217.330, 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 relinquishment of the County-owned Road fund land to the City of Eugene for the Delta Ponds Restoration Project.
2. Deny the granting of the relinquishment and direct staff as to the County's future participation in the project.

D. Recommendations

In view of the overall public benefit to be derived, it is recommended that the Board approve the order and authorize the execution of the attached Bargain and Sale Deed.

IV. IMPLEMENTATION/FOLLOW-UP

Public Works staff will transmit the signed document to the City of Eugene for acceptance and recording.

V. ATTACHMENTS

Bargain and Sale Deed
Exhibits "A" and "B"

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

ORDER NO.

**(IN THE MATTER OF RELINQUISH-
ING COUNTY-OWNED ROAD
FUND PROPERTY TO THE CITY OF
EUGENE PURSUANT TO
ORS 271.330.**

WHEREAS, by Order 04-2-18-4, the Board directed Public Works staff to assist the City of Eugene in the Delta Ponds Restoration Project by providing necessary surveying and engineering needed to prepare the legal descriptions to submit the transfer and/or vacation proceedings for consideration by the Board; **AND**

WHEREAS, said engineering has been completed and the legal descriptions have been prepared for the necessary Dedication of Right of Way, Order of Alteration and Bargain and Sale Deed necessary for completion of the transfer of County-owned Road Fund land that is not needed for public use by Lane County; **AND**

WHEREAS, work to be performed in connection with said project will benefit the County road system in an amount equal to or greater than the value of the lands to be relinquished for use in the project; **AND**

WHEREAS, the project is anticipated to have a beneficial effect on water quality and the quality of riparian habitat in the immediate area; **AND**

WHEREAS, the relinquishment is permitted pursuant to ORS 217.330, provided that such property shall be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon;

NOW THEREFORE BE IT ORDERED, that the County relinquish said land as shown on Exhibit "B" to the City of Eugene pursuant to ORS 271.330; **AND**

IT IS FURTHER ORDERED that the County Commissioners sign the Bargain and Sale Deed needed to convey the County's interest in said land to the City of Eugene.

IT IS FURTHER ORDERED that this Order be entered into the records of the Board of County Commissioner's Journal of Administration of Lane County, Oregon.

Dated this _____ day of _____, 2005.

Chair,
Lane County Board of Commissioners

3-18-05

[Handwritten signatures]

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

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

BARGAIN AND SALE DEED

LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called GRANTOR, for no monetary consideration, does hereby convey to the CITY OF EUGENE, a municipal corporation of the State of Oregon, all that real property situated in Lane County, State of Oregon, described as follows:

Parcels of land lying in the Southwest one-quarter (SW ¼) of Section 18 and the West one-half (W ½) of Section 19, Township 17 South, Range 3 West of the Willamette Meridian, Lane County, Oregon, and being portions of those tracts of land granted to LANE COUNTY, a political subdivision of the State of Oregon, by those certain deeds recorded October 7, 1963, on Reel 228, Recorder's Reception Number 28090, October 7, 1963, on Reel 228, Recorder's Reception Number 28091, December 11, 1922, on Book 134, Page 517, October 30, 1963, on Reel 230, Recorder's Reception Number 31211, September 5, 1963, on Reel 226, Recorder's Reception Number 24457, February 11, 1963, on Reel 211, Recorder's Reception Number 99211, January 15, 1963, on Reel 210, Recorder's Reception Number 96237, June 29, 1964, on Reel 245, Recorder's Reception Number 61061, June 29, 1964, on Reel 245, Recorder's Reception Number 61062, February 18, 1965, on Reel 260, Recorder's Reception Number 92821, and March 31, 1961, on Reel 170, Recorder's Reception Number 27771, LANE COUNTY OREGON DEED RECORDS, which lie outside the easterly right of way of Delta Highway (County Road Number 1354) between Engineers' Centerline stations L 46+00 POT and L² 77+00 POC and the westerly right of way of said Delta Highway between Engineers' Centerline stations L 42+05 POT and L² 77+82 POC, as said right of way is defined in Order of Alteration Number XXXXXX, all in Lane County, Oregon.

ALSO: A parcel of land lying in the Southwest one-quarter (SW ¼) of Section 18, Township 17 South, Range 3 West of the Willamette Meridian, Lane County, Oregon, and being portions of those tracts of land granted to LANE COUNTY, a political subdivision of the State of Oregon, by those certain deeds recorded March 31, 1961, on Reel 170, Recorder's Reception Number 27771, and March 6, 1964, on Reel 237, Recorder's Reception Number 46464, LANE COUNTY OREGON DEED RECORDS, lying westerly of the line described as follows; beginning at a point being 388.45 feet North and 88.11 feet East of the NW corner of the Alexander King Donation Land Claim Number 55 in Section 18, Township 17 South, Range 3 West of the Willamette Meridian, said point being on the westerly right of way of Delta Highway (County Road Number 1354), as said right of way is defined in Order of Alteration Number XXXXXX, said point also being 221.67 feet right of Engineer's Centerline station L 28+00.53 POT; thence along said right of way South 11°51'35" West, 337.53 feet to a point being 176.43 feet right of Engineers' Centerline station L 31+35 POT; thence leaving said right of way along a 770 foot radius curve right (the long chord of which bears South 50°59'18" West, 255.78 feet) a distance of 256.97 feet; thence South 60°32'56" West, 86.74 feet; thence along a 600 foot radius curve left (the long chord of which bears South 54°53'34" West, 118.27 feet) a distance of 118.46 feet; thence South 49°14'13" West, 112.79 feet; thence along a 625 foot radius curve left (the long chord of which bears South 33°59'00" West, 328.86 feet) a

distance of 332.78 feet; thence South 18°43'48" West, 311.02 feet to a point on the westerly right of way of Delta Highway as said right of way is defined in Order of Alteration Number XXX, being 568.28 feet right of Engineers' Centerline station L 42+42.73 POT and there ending in Lane County , Oregon.

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 for public purposes for at least 20 years from the date of recording of this instrument. Should this property be used for other than public purposes for the next 20 years, 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)

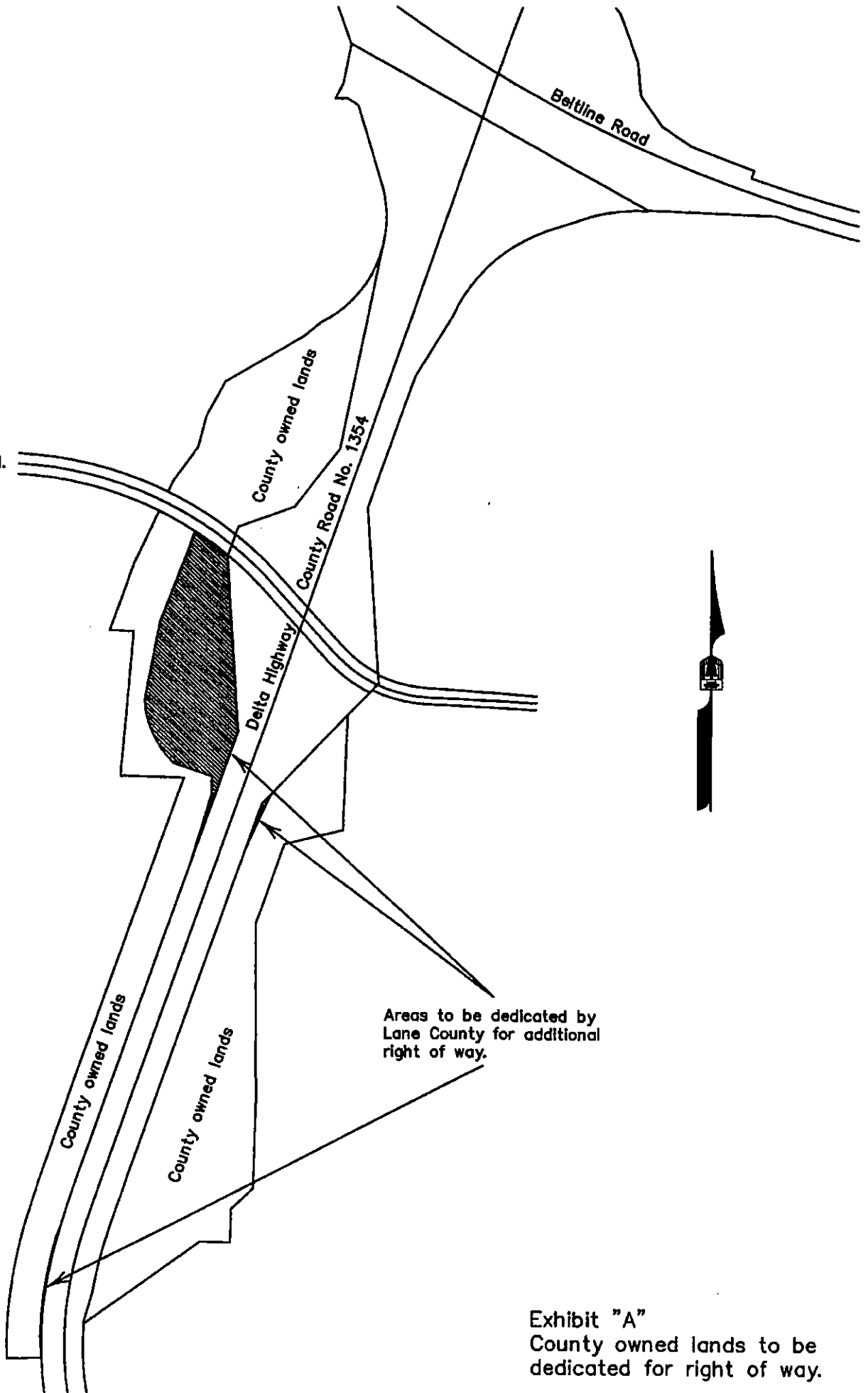
On _____, 20____, personally appeared _____

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: _____

Goodpasture Is. Rd.
(City of Eugene)



Areas to be dedicated by
Lane County for additional
right of way.

Exhibit "A"
County owned lands to be
dedicated for right of way.

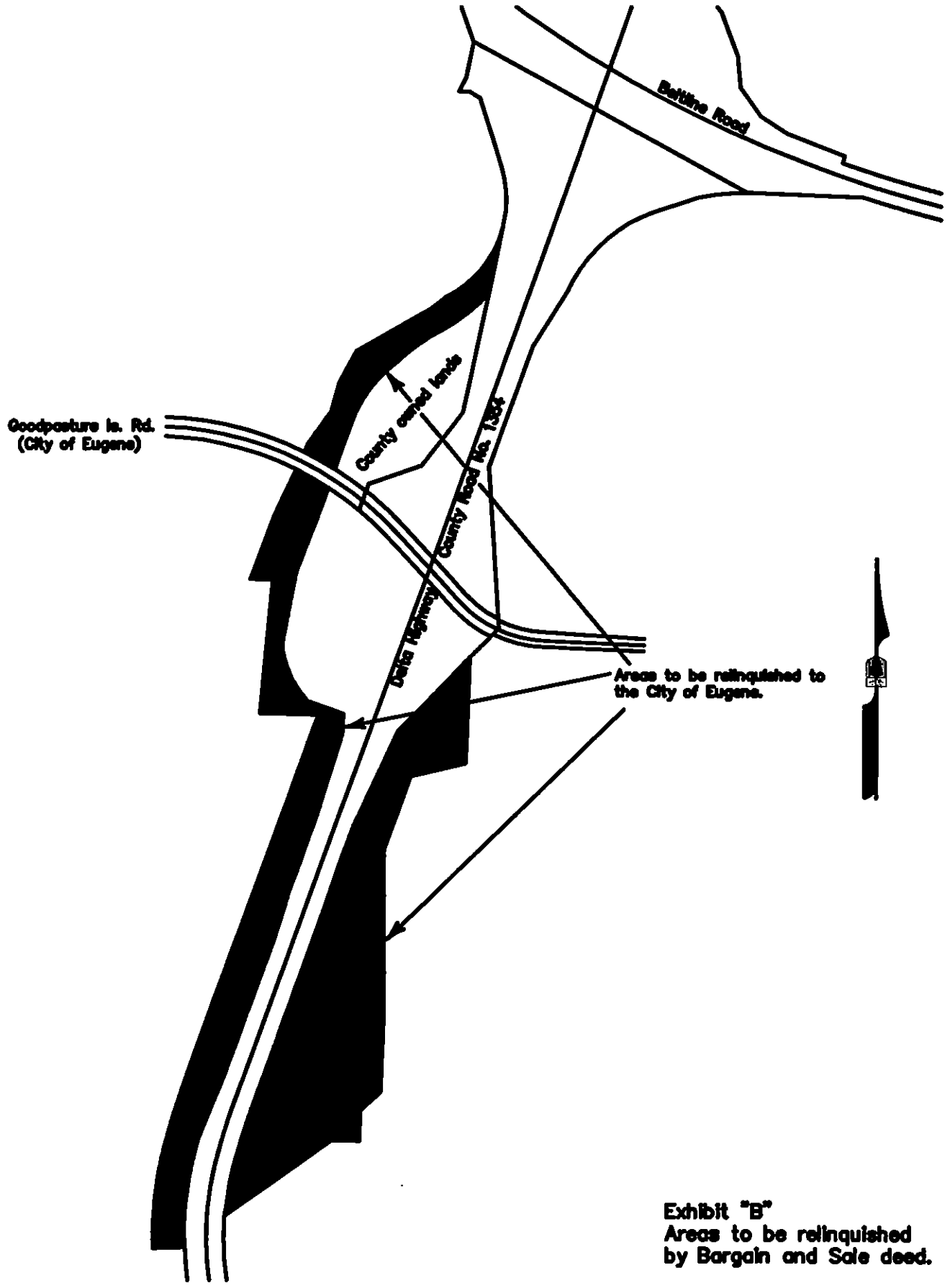


Exhibit "B"
Areas to be relinquished
by Bargain and Sale deed.