

**Resolution No. 16-20**

**A RESOLUTION OF THE CITY OF SCAPPOOSE TO CONSENT TO THE COUNTY'S DEDICATION OF DUTCH CANYON DRIVE AS A PUBLIC RIGHT OF WAY AND RELIEVE THE COUNTY FROM ANY FURTHER MAINTENANCE OBLIGATIONS OF THIS PARCEL**

**WHEREAS**, the City of Scappoose entered into an intergovernmental agreement (IGA) with Columbia County (the County) in December 2014 in which the County agreed to grade the road surface and apply rock as necessary to improve the gravel surface of the roadway commonly known as Dutch Canyon Road; and

**WHEREAS**, the IGA also provided that, upon completion of the County's obligations, the City would consent to the County's dedication of the property as a public right of way and relieve the County of any further obligation for maintenance of this parcel; and

**WHEREAS**, the City Council is the road authority for all highways, roads, streets, and alleys within the corporate limits of Scappoose; and

**WHEREAS**, the Council wishes to relieve the County of further maintenance obligations and assume maintenance responsibility for Dutch Canyon Drive.

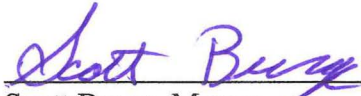
**NOW, THEREFORE BE IT RESOLVED,**


**Section 1:** The Scappoose City Council consents to the County's dedication of Dutch Canyon Drive as a public right of way and relieves the County from any further maintenance obligations of this parcel.

**Section 2:** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** by the City Council this 19<sup>th</sup> day of September, 2016 and signed by the Mayor and City Recorder in authentication of its passage.

**CITY OF SCAPPOOSE, OREGON**

  
Scott Burge, Mayor

Attest:   
Susan M Reeves, MMC, City Recorder

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
COLUMBIA COUNTY AND THE CITY OF SCAPPOOSE**

This Agreement is made by and between Columbia County, a political subdivision of the State of Oregon (hereinafter the "County"), and the City of Scappoose, a municipality (hereinafter the "City").

WHEREAS, the County and the City are authorized under ORS 190.003 to 190.030 and ORS 221.410 to enter into intergovernmental agreements for the performance of any and all functions that the County or City has authority to perform; and

WHEREAS, On October 11, 2010, the County took deed through foreclosure of the subject property commonly referred to as the "Havlik Trust property" and "Dutch Canyon Road" (Tax Map ID Nos. 3N2W13-CA-01600 and 01700) and legally described in the Dedication Deed attached hereto as Attachment 1 and incorporated herein by this reference; and

WHEREAS, the subject property is a 20-foot wide strip of land that has been used as a gravel roadway for many years, serving as access to three properties, including the Scappoose Senior Center; and

WHEREAS, the subject property also contains a City sewer line; and

WHEREAS, because the subject property was clearly intended to be used as a roadway, the County Public Works Director recommended that the County dedicate the property as public, local access road rather than sell it through the sales process for tax foreclosed properties; and

WHEREAS, by County Board Order No. 68-2011, the County dedicated the subject property to the public for public road and utility purposes; and

WHEREAS, because the subject property is within the City's boundaries, ORS 368.016(2)(b) provides that the County must obtain the City's consent to dedicate the subject property as a local access road; and

WHEREAS, the City has agreed to consent to the dedication of the subject property as a local access road, provided the County perform certain maintenance to improve the gravel surface of the roadway; and

WHEREAS, because the County has the equipment, staff and resources necessary to perform the work in an efficient and cost-effective manner, County and the City have determined that it is in the public interest for the County to perform the work on a one-time basis.

NOW THEREFORE, in consideration of the benefits that will accrue to the County and City, as set forth herein, the parties agree to the following:

1. **Recitals True.** The recitals set forth above are true and correct and are incorporated herein by this reference.
2. **Term.** This Agreement shall become effective on the date last signed, below, and shall terminate on June 1, 2015.
3. **County's Obligations.** The County shall prepare the roadway, commonly known as

Dutch Canyon Road and legally described in Attachment 1, by grading the surface and applying rock as necessary in the County's determination to improve the gravel surface on the roadway from Old Portland Road to Highway 30.

4. **City's Obligations.** Upon completion of the County's obligations set forth above, the City shall adopt an order or resolution consenting to the County's dedication of the property as a public right of way, as described in the Dedication Deed attached hereto as Attachment 1 and incorporated herein by this reference. The City shall relieve the County of any further obligation for maintenance of this parcel. If the City should fail to consent to the dedication within 30 days of completion of the County's obligations, the County may vacate the right of way and sell the property through its sales process for tax foreclosed properties.

5. **Hold Harmless.** To the extent possible under the limits of the Oregon Tort Claims Act, City and County shall hold each other harmless, indemnify and defend each other's officers, agents and employees from any and all liability, actions, claims, losses, damages, or other costs including attorney's fees that may be asserted by any person or entity arising from, during or in connection with the performance of the work described in this Agreement, except liability arising out of the sole negligence of either party or its employees. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification. This Agreement is subject to the limits and provisions of Article XI, Section 10 of the Oregon Constitution.

6. **Independent Contractor.** County is hereby engaged as an independent contractor, and will be so deemed for purposes of this Agreement and any applicable laws, regulations or policies relating to contracting or employment.

7. **Termination.** Either party may terminate this Agreement for convenience upon written notice to the other party prior to commencement of any work performed by the County pursuant to paragraph 3, above.

8. **Contract Representatives.** Contract representatives for this Agreement shall be:

For County:

For City:

Tristan Wood  
Engineering Project Coordinator  
1054 Oregon Street  
St. Helens, OR 97051

Larry Lehman  
City Manager  
33568 E. Columbia Ave  
Scappoose, OR 97056

All correspondence shall be sent to the above addressees when written notification is necessary. Contract representatives can be changed by providing written notice to the other party at the address listed.

9. **Time.** Time is of the essence in this Agreement.

10. **Severability.** If any term or provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement, including the application of any term or provision to persons or circumstances other than those as to which the application is declared invalid or unenforceable, shall not be affected.

11. **Attorney Fees.** If suit or action is instituted arising out of this Agreement, each party shall be responsible for its own attorney fees.

12. **Governing Law; Venue.** This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed under the laws of the State of Oregon (without regard to conflicts of law principles). Venue shall lie exclusively in the Circuit Court of the State of Oregon for Columbia County in St. Helens, Oregon.

13. **Amendment.** This Agreement may only be amended by a writing signed by the County and City.

14. **No Waiver.** Waiver by either party of the strict performance of any term or covenant of this Agreement or any right under this Agreement shall not be a continuing waiver.

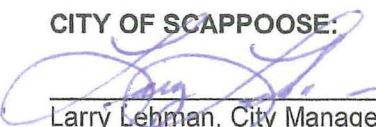
15. **Successors and Assigns.** This Agreement and the covenants, agreements, obligations, and restrictions herein contained shall be binding upon and shall inure to the benefit of the parties hereto and to their respective representatives, successors, and permitted assigns.

16. **Entire Agreement.** This is the entire Agreement between the parties and supersedes all prior agreements, proposals or understandings, whether written or oral. All such previous agreements, proposals or understandings, whether written or oral, are rescinded.

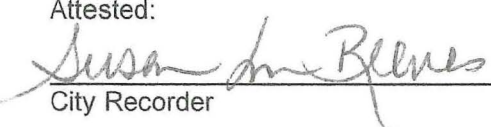
IN WITNESS WHEREOF the parties have caused this Agreement to be executed and do each hereby warrant and represent that their respective officers, whose signatures appear below, have been and are on the date of this Agreement authorized by all necessary and appropriate legal action to execute this agreement.

DATED this 17<sup>th</sup> day of December, 2014.

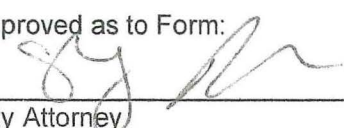
**CITY OF SCAPPOOSE:**

  
\_\_\_\_\_  
Larry Lehman, City Manager

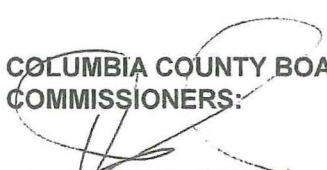
Attested:

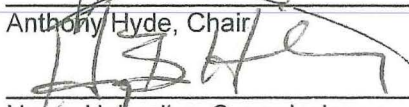
  
\_\_\_\_\_  
Susan de Bevoise  
City Recorder


Approved as to Form:

  
\_\_\_\_\_  
City Attorney


**COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS:**

  
\_\_\_\_\_  
Anthony Hyde, Chair

  
\_\_\_\_\_  
Henry Heimuller, Commissioner

  
\_\_\_\_\_  
Earl Fisher, Commissioner

Approved as to Form:

  
\_\_\_\_\_  
Office of County Counsel

**ATTACHMENT 1**

**GRANTORS' NAME AND ADDRESS:**

Columbia County, Oregon  
Board of County Commissioners  
230 Strand, Room 331  
St. Helens, OR 97051

**AFTER RECORDING, RETURN TO GRANTOR:**

Columbia County, Oregon  
Office of County Counsel  
Columbia County Courthouse  
230 Strand, Room 318  
St. Helens, OR 97051

COLUMBIA COUNTY, OREGON **2011-006566**

DEED-DD

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This is a no fee document

**NO FEE**



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I, Elizabeth E. Huser, County Clerk for Columbia County, Oregon  
certify that the instrument identified herein was recorded in the Clerk  
records.

Elizabeth E. Huser - County Clerk

**DEDICATION DEED**

**COLUMBIA COUNTY**, a political subdivision of the State of Oregon, Owner of certain real property situated in Columbia County, Oregon, does hereby forever dedicate to the public for public road and utility purposes the land which is described below and depicted on the map labeled Exhibit A, said exhibit being attached hereto and incorporated herein by this reference.

Parcel 1: A parcel of land along the South line of the Jesse Miles D.L.C. #39, in the South half of Section 13, Township 3 North, Range 2 West of the Willamette Meridian, Columbia County, Oregon, more particularly described as follows:

A 20 foot strip of land, on the Northerly side of, measured perpendicular from and parallel with the South line of the Jesse Miles D.L.C. #39, bound by the West right-of-way of the Portland & Western Railroad (formally known as the SP & S and B& N Railroads), and the Easterly right-of-way of the SW Old Portland Road (A.K.A. Old Columbia River Highway).

**EXCEPTING THEREFROM:**

The southerly 15 feet, measured perpendicular to and parallel with the above described land, along with that portion of said land deeded to the State of Oregon, recorded in Deed Book 67 page 446 and Deed Book 67 page 549, Columbia County Records.

Parcel No. 2: A parcel of land along the South line of the Jesse Miles D.L.C. #39, in the South half of Section 13, Township 3 North, Range 2 West of the Willamette Meridian, Columbia County, Oregon, more particularly described as follows:

A 15 foot strip of land, on the Northerly side of, measured perpendicular from and parallel with the South line of the Jesse Miles D.L.C. #39, bound by the West right-of-way of the Portland & Western Railroad (formally known as the SP & S and B& N Railroads), and the Easterly right-of-way of the SW Old Portland Road (A.K.A. Old Columbia River Highway).

**EXCEPTING THEREFROM:**

That portion of said land deeded to the State of Oregon, recorded in Deed Book 67 page 446 and Deed Book 67 page 549, Columbia County Records.





