AGENDA REQUEST & STAFF REPORT

For Board Business Meeting of September 14, 2016

DATE: September 6, 2016

FROM: George Kolb, County Engineer
       Road 541-322-7113

TITLE OF AGENDA ITEM:
Consideration of Board signature of Document No. 2016-607, A Termination and Release of Easement Document located at the Intersection of Kemple Drive/Campbell Road within the City of Bend.

PUBLIC HEARING ON THIS DATE? NO.

BACKGROUND AND POLICY IMPLICATIONS:
In 1984, Deschutes County vacated portions of Kemple Drive and Campbell Road. The Order vacating this right-of-way (Order No. 84-015) made this vacation subject to “the reservation of a utilities easement in an upon all of the property; for the purposes of continuing, constructing, installing, maintaining, repairing, reconstructing, replacing, enlarging and altering; wires poles, pipes, lines, structures, casings, supports, equipment, facilities and appurtenances; at the present and in the future; necessary or convenient; to Deschutes County, a political subdivision of the State of Oregon, its agents, licensees and permittees; forever.” This language was included in all vacations whether or not there were utilities located in the right-of-way to be vacated.

The current property owners, Brian and Kerri Ely approached the Road Department to see if the portion of the easement located on their property (see attached map) could be removed to clear up title. There are no utilities in the easement and since the property is developed, it is unlikely that any utilities will ever need this easement. Discussion with County Legal Counsel indicated that the best way to remove this easement was to notify all affected utilities of the termination and if there was not any interest in keeping the easement, it could be released by the Board of County Commissioners via a Termination and Release of Easement document. Notification to all affected utilities concerning this easement produced no correspondence indicating a need therefore it can be released by the Board.

FISCAL IMPLICATIONS:
None

RECOMMENDATION & ACTION REQUESTED:
Move approval of Board signature of Document No. 2016-607, AA Termination and Release of Easement Document located at the Intersection of Kemple Drive/Campbell Road within the City of Bend.

ATTENDANCE: George Kolb, County Engineer

DISTRIBUTION OF DOCUMENTS:
After recording, please return a copy to Sheila Odle (ext. 7148) at the Road Department.
Date: September 6, 2016
Department: Road

Contractor/Supplier/Consultant Name: Sun Country Engineering

Contractor Contact: Tim Weishaupt, 8882
Contractor Phone #: 541-382-

Type of Document: Document Number 2016-607: A Termination and Release of Easement Document located at the Intersection of Kemple Drive/Campbell Road within the City of Bend.

Goods and/or Services: This document will terminate utility easement that is no longer needed for use by area utilities.

Background & History: In 1984, Deschutes County vacated portions of Kemple Drive and Campbell Road. The Order vacating this right-of-way (Order No. 84-015) made this vacation subject to “the reservation of a utilities easement in an upon all of the property; for the purposes of continuing, constructing, installing, maintaining, repairing, reconstructing, replacing, enlarging and altering; wires poles, pipes, lines, structures, casings, supports, equipment, facilities and appurtenances; at the present and in the future; necessary or convenient; to Deschutes County, a political subdivision of the State of Oregon, its agents, licensees and permittees; forever.” This language was included in all vacations whether or not there were utilities located in the right-of-way to be vacated.

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Agreement Starting Date: Upon Signature
Ending Date: N/A

Annual Value or Total Payment: N/A

Insurance Certificate Received (check box)
Insurance Expiration Date: 

9/6/2016
Check all that apply:
☐ RFP, Solicitation or Bid Process
☐ Informal quotes (<$150K)
☐ Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)

Funding Source: (Included in current budget?  ☐ Yes  ☐ No)
If No, has budget amendment been submitted?  ☐ Yes  ☐ No

Is this a Grant Agreement providing revenue to the County?  ☐ Yes  ☐ No

Special conditions attached to this grant:

Deadlines for reporting to the grantor:

If a new FTE will be hired with grant funds, confirm that Personnel has been notified that it is a grant-funded position so that this will be noted in the offer letter:  ☐ Yes  ☐ No

Contact information for the person responsible for grant compliance:  Name:
Phone #:

Departmental Contact and Title:  George Kolb  Phone #: 541-322-7113

Department Director Approval:  Signature  Date

Distribution of Document:  Original returned to Sheila Odle (ext. 7148) at the Road Department for forwarding on to ODOT for their signature.

Official Review:

County Signature Required (check one):  ☐ BOCC  ☐ Department Director (if <$25K)
☐ Administrator (if >$25K but <$150K; if >$150K, BOCC Order No. ______________)

Legal Review ____________________________ Date ______________

Document Number ____________________________
Exhibit B  
Page 1 of 3

Engineer’s Report

TO:        Board of County Commissioners

FROM:      George Kolb, County Engineer, Deschutes County Road Department

DATE:      September 6, 2016

SUBJECT:  Termination and Release of a Utility Easement Reserved as Part of the Kemple Drive/Campbell Road Vacation

In 1984, Deschutes County vacated portions of Kemple Drive and Campbell Road. The Order vacating this right-of-way (Order No. 84-015) made this vacation subject to “the reservation of a utilities easement in an upon all of the property; for the purposes of continuing, constructing, installing, maintaining, repairing, reconstructing, replacing, enlarging and altering; wires poles, pipes, lines, structures, casings, supports, equipment, facilities and appurtenances; at the present and in the future; necessary or convenient; to Deschutes County, a political subdivision of the State of Oregon, its agents, licensees and permittees; forever.” This language was included in all vacations whether or not there were utilities located in the right-of-way to be vacated.

The current property owners, Brian and Kerri Ely approached the Road Department to see if the portion of the easement located on their property (see attached map) could be removed to clear up title. There are no utilities in the easement and since the property is developed, it is unlikely that any utilities will ever need this easement. Discussion with County Legal Counsel indicated that the best way to remove this easement was to notify all affected utilities of the termination and if there was not any interest in keeping the easement, it could be released by the Board of County Commissioners via a Termination and Release of Easement document. Notification to all affected utilities concerning this easement produced no correspondence indicating a need therefore it can be released by the Board. The following utilities/agencies were notified of the termination:

**Bend Broadband:** Correspondence from Branden Chenowith dated August 17, 2016 stated, “**BendBroadband has overhead lines running on the east side of the property. Please advise if pole 1811-128405 is remaining.**”
August 24, 2016: I sent this information to Sun Country Engineering who is representing the Ely’s in this matter and explained that I needed verification from Bend Broadband that they were okay with the termination or I could not proceed with the termination.
August 25, 2016: Received notification from Branden Chenowith that the termination of the easement was acceptable to Bend Broadband.

Cascade Natural Gas: no comment

Pacific Power: no comment

Centurylink: no comment

City of Bend: no comment

Deschutes County Legal Counsel: no comment

Recommendation

The Road Department recommends signature of Document 2016-607, Termination and Release of Easement by the Board of County Commissioners.
Legend

- Easement
- Taxlots
- Road Centerlines

The information on this map was derived from digital databases on Deschutes County's G.I.S. Care was taken in the creation of this map, but it is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

Printed: September 5, 2016
TENTATIVE PARTITION
FOR BRIAN AND KERRI ELY

JULY 2015
LOT 4, BLOCK 5, FIRST ON THE HILL SITES,
LOCATED IN THE SOUTHEAST 1/4 OF SECTION 12,
TOWNSHIP 1B SOUTH, RANGE 11 EAST,
WILLAMETTE MERIDIAN, CITY OF BEND,
DESHUTES COUNTY, OREGON

SITE

VICINITY MAP
NO SCALE

SITE MAP
SCALE 1"=40'

SUN COUNTRY ENGINEERING & SURVEYING, INC.
900 SE ARMOUR ROAD  BEND, OREGON 97702
PHONE 541-382-8802

TENTATIVE PARTITION
LOT 4, FIRST ON THE HILL SITES

APPLICANT/OWNER
BRIAN & KERRI ELY
19499 KEMPLE DRIVE
BEND, OREGON 97702

SURVEYOR
SUN COUNTRY ENGINEERING & SURVEYING, INC.
920 S.E. ARMOUR ROAD
BEND, OREGON 97702

TAX LOT: 16-11-1208-01800
ACRES: 1.10
ZONE: PS
WATER: CITY OF BEND
SEWER: CITY OF BEND
CABLE: BENDBROADBAND
PHONE: CENTURY LINK
SCHOOL: BEND-LAPINE DISTRICT
FIRE: CITY OF BEND
IRRIGATION: NONE

EXISTING EASEMENT
TERMINATED

CLEANOUT
SANITARY MANHOLE
UTILITY POLE
WATER-FIRE HYDRANT
SANITARY SEWER
HATCH
POWER OVERHEAD
PROPERTY BOUNDARY
PUMP REFINISHING
EDGE OF PAVEMENT

EXHIBIT 'A'
After recording return to:

Brian Ely
19489 Kemple Drive
Bend, OR  97702

TERMINATION AND RELEASE OF EASEMENT

THIS TERMINATION AND RELEASE OF EASEMENT is made by Deschutes County, a political subdivision of the State of Oregon ("County").

RECITALS

A. County enacted Order 84-015, recorded January 25, 1984, in Volume 51, Page 612 of the Official Records of Deschutes County, Oregon, to vacate a portion of the Kemple Drive and Campbell Road public right-of-way (the "Order").

B. As part of the Order, County reserved a utility easement within the former Kemple Drive and Campbell Road public right-of-way (the "Easement")

C. The Easement is located on the property identified in the attached Exhibit A (the "Burdened Property"), which the owner of the Burdened Property desires to extinguish.

D. The Burdened Property has been approved for partition under City of Bend File PZ-15-0728, and as such has constructed public facility improvements to serve the proposed parcels. The City of Bend and local utility companies have acknowledged these improvements by signature on the Public Improvement Plans, Exhibit 'B' and specific easements have been reserved for new utilities on the Partition Plat of the Burdened Property.

E. County desires to release that portion of the Easement on the Burdened Property as it is no longer needed.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County hereby terminates, releases and forever discharges all rights in that portion of the Easement located on the Burdened Property.
Dated this ___ Day of ____________, 2016

DESCHUTES COUNTY BOARD OF COUNTY COMMISSIONERS

__________________________
ALAN UNGER, CHAIR

__________________________
TAMMY BANEY, VICE CHAIR

__________________________
ANTHONY DEBONE, COMMISSIONER

STATE OF OREGON
)
) ss.
County of Deschutes
)

Before me, a Notary Public, personally appeared Alan Unger, Tammy Baney, and Anthony DeBone, the above-named Board of County Commissioners of Deschutes County, Oregon, and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon.

DATED THIS ___ DAY OF ____________, 2016

__________________________
NOTARY PUBLIC FOR OREGON.
MY COMMISSION EXPIRES: _________________
UTILITY EASEMENT VACATION
LEGAL DESCRIPTION

That reservation of utility easement contained in the vacation of a portion of Kemple Drive and West Campbell Road, recorded 26 January, 1984 in Order 84-015 Volume 51, Page 611 of the Deschutes County Official Record in its entirety;

as depicted in the attached "Tentative Partition Map for Brian and Kerri Ely", and hereby incorporated by reference.