



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

June 1, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of a Settlement Agreement and Mutual Release of Claims between Jason and Tiffany Staehely, Paul and Diane Staehely and Clackamas County and shall effectuate a settlement and release of claims related to potential issues caused in connection with improvements to S. Central Point Rd. and S. New Era Rd. Total Value: \$20,000.00. Funding through County Road Fund. No County General Funds are involved.

Previous Board Action/Review	5/30/23 –Discussion item at Request for Consent 5/6/21– BCC approval of a construction contract award with Eagle Elsner. Inc. for the S Central Point Rd and New Era Rd Intersection Realignment 9/22/20 – BCC Policy Session to discuss design options to proceed with for the S. Central Point and S New Era Safety Project 9/5/19– BCC approval of a resolution declaring the public necessity and purpose for acquisition of the easements or other property rights for the S Central Point and S New Era Safety Project		
Performance Clackamas	1. Build a strong infrastructure.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Stan Monte	Contact Phone	503-742-4678

EXECUTIVE SUMMARY: In 2021, the County completed construction of a project to realign and improve the intersection of S. Central Point Rd. and S. New Era Rd. The project also improved stormwater drainage structures that discharge storm water from the County's right of way in accordance with the historical and natural drainage course for the drainage basin. The project was adjacent to properties owned by Jason and Tiffany Staehely and Paul and Diane Staehely, and the improvements required removal of portions of the Staehelys' private drainage structures that were installed within the County's right of way.

Since the completion of construction, the Staehelys allege that the roadway and drainage improvements exacerbated ground movement that both parties had awareness preexisted the intersection improvements.

For Filing Use Only

To settle this matter and release each party from any further liability or possible claims staff, with assistance of County Counsel, negotiated a settlement where the County shall pay to the Staehelys \$20,000.00 as full and final payment. This one-time payment is equivalent to the agreed-upon amount needed for the construction of a retaining wall and associated stormwater drainage improvements expected to minimize the ground movements.

The County's obligation under this agreement is limited to the one-time payment. In return, the Staehelys release the county from any present and future obligations or liability regarding any stormwater affects known or unknown that may occur on their private property. The County shall not be responsible for the design, engineering, or review of any such drainage improvement proposed or installed by the Staehelys. The County will not be responsible or participate in the installation of any such improvements and shall not be responsible for any maintenance related to drainage improvements installed on the Staehelys' private property.

RECOMMENDATION: Staff recommends approval of a Settlement Agreement and Mutual Release with Jason and Tiffany Staehley, Paul and Diane Staehely and Clackamas County and shall effectuate a settlement and release of claims related to potential issues caused in connection with improvements to S. Central Point Rd. and S. New Era Rd.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

Settlement Agreement and Mutual Release

This Settlement Agreement and Mutual Release of Claims ("Agreement") is entered into by and between Jason and Tiffany Staehely ("Staehely"), Paul and Diane Staehely ("P&D Staehely") and Clackamas County, by and through its Department of Transportation and Development (the "County"), and shall effectuate a settlement and release of claims between these parties related to potential issues caused in connection with improvements to S. Central Point Rd., and S. New Era Rd. in Clackamas County, Oregon. This Agreement is effective upon execution by the parties.

Recitals:

1. Staehely owns property commonly identified as 21367 S. Central Point Rd., Oregon City, OR 97045, and identified as tax lot 601 on Clackamas County Assessor's Map No. 31E24. P&D Staehely owns property adjacent to Staehely, and to the project described below.
2. In 2021, the County completed work on a project to improve the intersection at S. Central Point Rd., and S. New Era Rd., adjacent to the Staehely's property, described above. As part of this project, the County replaced and extended its existing drainage structures, removed portions of the Staehely's private drainage structures installed within the County's right of way, installed additional storm water treatment and drainage control structure improvements that discharge stormwater from the County's right of way and onto Staehely's property. The parties hereto acknowledge that the location of the stormwater discharge follows and maintains the normal and historical course of natural drainage for this area.
3. Since that time, Staehely has alleged that these roadway improvements may have exacerbated an issue related to drainage and land movement that the parties acknowledged preexisted the County's work to construct these improvements. The Staehely's concerns are more fully described in the attached letter dated May 31, 2022 from attorney Bill Davis and attached to and incorporated into this Agreement.
4. The parties wish to settle this matter and release each other from further liability related to the potential issues described in this Agreement.

Agreement:

The settlement of this matter, and the mutual release of potential claims is subject to the following terms and conditions:

1. Settlement and Payment. The County shall pay to Staehely the sum total of **twenty thousand and 00/100 dollars** (\$20,000.00) as full and final payment in the above referenced matter. This one-time payment is equivalent to the agreed-upon amount of certain improvements intended to remedy and improve a drainage issue that Staehely alleges has been exacerbated by the County as a result of improvements to the

intersection of S. Central Point Rd., and S. New Era Rd. Staehely intends to use the funds to construct and install certain drainage improvements that will be connected to an existing storm outlet in the County's right of way. The County's obligation under this paragraph is limited to the payment identified above. For the avoidance of doubt, the County shall not be responsible for the design, engineering, or review of any such drainage improvement proposed or installed by Staehely, shall not be responsible or participate in the installation of any such improvement, and shall not be responsible for any maintenance related to drainage improvements that may be installed. The Parties further agree and acknowledge that the County has not evaluated the existing private drainage improvements that exist on Staehely's property and shall not be responsible for reviewing these private drainage improvements for adequacy of size, the manner of conveyance, the condition of the existing improvements, or whether the system (or improvements thereto) are subject to regulation by other regulatory or government agencies.

2. Permit. Notwithstanding anything to the contrary in Paragraph 1 above, the County will allow Staehely to connect their drainage improvements to an existing storm outlet in the County's right of way, provided the connection does not adversely affect the operation of the existing drainage system in the right of way and otherwise meets the requirements set forth in the County's adopted Roadway Standards. The County shall issue a permit related to the connection described herein, shall inspect the work within the County's right of way pursuant to its normal procedures, and shall continue to maintain the drainage outlet that currently exists in the right of way. Consistent with Paragraph 1 above, the County assumes no responsibility to review, construct or maintain any drainage improvements that are designed or installed by Staehely, but that are located within the County's delineated right of way.

3. Full and Final Release. Staehely hereby waives, discharges, and releases Clackamas County and its insurers, employees, elected officials, officers, directors, and agents, from all claims, actions, suits, and damages that were asserted or that could have been asserted in connection with the facts and events related to the above-referenced dispute. The County hereby waives, discharges, and releases Staehely and its insurers and agents, from all claims, actions, suits, and damages that were asserted or that could have been asserted in connection with the facts and events that gave rise to the above-referenced dispute.

4. No Admission of Liability. Nothing in this Agreement shall be construed to be or used as an admission of liability or fault by any party. No part of this Agreement shall be admissible in any court or alternative dispute resolution proceeding for the purpose of proving liability, causation, or fault.

5. Indemnity and Hold Harmless. Staehely agrees to indemnify and hold harmless Clackamas County, its insurers, employees, elected officials, officers, directors, and agents for any and all claims and liabilities that were asserted or that could have been asserted in connection with the facts and events related to the above-referenced dispute.

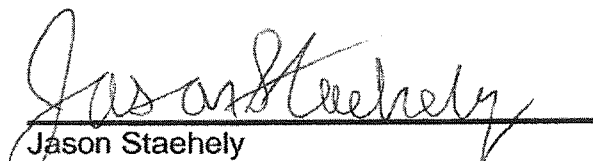
6. Knowing Release. Each party declares that it fully understands the terms and provisions of this Agreement, and voluntarily accepts the above terms and conditions for the purpose of making a full compromise and settlement of the disputed claims at issue in the above-referenced dispute.

7. Representations. The parties agree and acknowledge that this Agreement provides each party, and each party's insurers, employees, elected officials, officers, directors, and agents, with the maximum legal protection possible against future claims or suits related to the claims at issue in the above-referenced dispute.

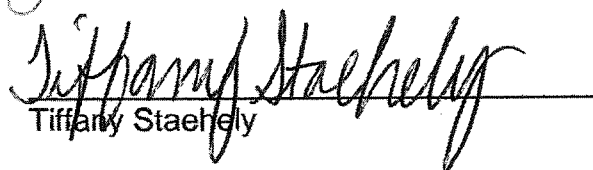
8. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and the terms and provisions of this Agreement are contractual and not a mere recital.

THE UNDERSIGNED STATES THAT THEY HAVE READ THIS AGREEMENT IN ITS ENTIRETY AND HAVE BEEN ADVISED TO REVIEW THIS AGREEMENT WITH AN ATTORNEY OF THEIR CHOOSING, AND NO PROMISE, INDUCEMENT, OR AGREEMENT NOT HEREIN EXPRESSED HAS BEEN MADE TO THEM, THAT THIS AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO, THAT THEY VOLUNTARILY AND KNOWINGLY ACCEPT ITS TERMS AND PROVISIONS.

Jason and Tiffany Staehely

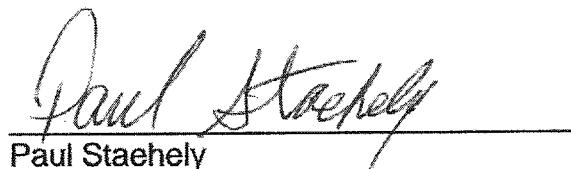

Jason Staehely

Dated: 4/7/23


Tiffany Staehely

Dated: 4/7/23

Paul and Diane Staehely


Paul Staehely

Dated: 4-6-23


Diane Staehely

Dated: 4-6-23

Clackamas County

Tootie Smith, Chair
Clackamas County Board of County Commissioners

Dated: _____

Acknowledged by:

P&D Staehely Valley Farm, LLC

Paul Staehely, Member

Paul Staehely, Member

Dated: 4-6-23

Diane Staehely, Member

Diane Staehely, Member

Dated: 4-6-23