



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 10, 2021

Board of Commissioners  
Clackamas County

Members of the Board:

**Approval of a Settlement Agreement with Streamside Village Condominium Owners' Association and Acceptance of a Deed to Resolve Issues Related to an Encroachment Created by Improvements to Sunnybrook Blvd.**

<b>Purpose/Outcomes</b>	To resolve long-standing issues related to an encroachment created by improvements to Sunnybrook Blvd.
<b>Dollar Amount and Fiscal Impact</b>	The Development Agency will pay Streamside the sum of \$9,285.59 to cover a portion of Streamside's legal and surveying fees incurred in the course of resolving the issues described below.
<b>Funding Source</b>	Development Agency
<b>Duration</b>	Upon execution; permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	1. Build public trust through good government
<b>Counsel Review</b>	Reviewed and approved by County Counsel 10-26-21. NB
<b>Procurement Review</b>	Was this item processed through Procurement? No This item is a settlement agreement and acceptance of a deed.
<b>Contact Person</b>	Nate Boderman, Assistant County Counsel; 503-655-8364

In the early 2000's, property was acquired by the Development Agency for construction of Sunnybrook Boulevard. The roadway was constructed and necessary easements for public access, stormwater drainage and conservation were attached to the property. Following the closure of the Sunnybrook Construction Project, Agency staff determined that there was an encroachment (parking area) by Streamside Condominiums onto the property owned by the Development Agency. In 2009, the Development Agency deeded property to Streamside Village Condominiums to address the encroachment. As part of this transfer, the Agency inadvertently deeded more property to Streamside than was needed to resolve the encroachment issues and now has an agreement in place to have Streamside return the excess property.

Since 2013, Agency staff have worked off and on with Streamside Village Condominiums to take the steps necessary to reconfigure the property in a way that would allow Streamside to return the excess portion to the Development Agency. These efforts have involved an

amendment to the condominium plat to reconfigure the property, and the drafting of a deed and preparation of legal descriptions and exhibits to implement the transfer. After many years, both the Agency staff and Streamside have made progress and are in a position to finalize documents which will resolve all outstanding issues related to this matter. Along those lines, County Counsel's office has drafted a settlement agreement to provide payment from the Agency to Streamside in an amount of \$9,285.59 to cover a portion of Streamside's survey and legal costs. In exchange, Streamside will deed to the Agency a portion of property that was transferred to Streamside in 2009, but was above and beyond what was needed to resolve the original encroachment issue. The settlement agreement includes a full and final release and hold harmless provisions whereby the parties agree that any and all outstanding issues have been resolved.

**RECOMMENDATION:**

Staff respectfully requests that the Board approve the attached settlement agreement, and authorize the Chair to accept the attached deed on behalf of the Development Agency.

Respectfully submitted,

*Dan Johnson*

Dan Johnson - Director  
Department of Transportation and Development

Attachments:  
Settlement Agreement  
Deed

## Mutual Release and Settlement Agreement

Streamside Village Condominium Owners' Association ("Streamside"), and the Clackamas County Development Agency (the "Agency"), hereby agree to settle and release each other from further liability related to issues caused in connection with improvements to Sunnyside Road made in the vicinity of SE 110<sup>th</sup> Court, Clackamas, OR 97045, subject to the following terms and conditions:

1. Settlement and Payment. The Agency shall pay to Streamside the sum total of **nine thousand two hundred eighty five and 59/100 dollars** (\$9,285.59) and the Agency shall accept a deed from Streamside conveying property commonly identified as Tax Lot 301 on Clackamas County Assessor's Map #22E03B, as full and final payment in the above referenced matter. Acceptance of the deed is to remedy an inadvertent transfer of property that occurred from the Agency to Streamside previously, and the payment of funds noted above is to contribute to legal and surveying costs associated with amending the plat affecting the Streamside Village Condominium Owners' Association, to remedy those issues identified by Streamside brought about by the improvements to Sunnyside Road that were completed by the Agency.
2. Full and Final Release. Streamside hereby waives, discharges, and releases the Agency, Clackamas County, Water Environment Services, and their 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 Agency hereby waives, discharges, and releases Streamside, its insurers, employees, 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 that gave rise to the above-referenced dispute.
3. No Admission of Liability. Nothing in this release and settlement 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.
4. Indemnity and Hold Harmless. Streamside agrees to indemnify and hold harmless the Agency, Clackamas County, Water Environment Services, and their 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. The Agency hereby agrees to indemnify and hold harmless Streamside, its insurers, employees, 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 that gave rise to the above-referenced dispute.
5. Knowing Release. Each party declares that it fully understands the terms and provisions of this release and settlement 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.

6. Representations. The parties agree and acknowledge that this release agreement provides each party, Clackamas County, Water Environment Services, 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.

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

THE UNDERSIGNED STATES THAT THEY HAVE READ THIS RELEASE AND SETTLEMENT 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 RELEASE AND SETTLEMENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO, THAT THEY VOLUNTARILY AND KNOWINGLY ACCEPT ITS TERMS AND PROVISIONS.

Streamside Village Condominium Owners' Association

\_\_\_\_\_  
Rachel Phelps, President

Dated: \_\_\_\_\_

Clackamas County Development Agency

\_\_\_\_\_  
Tootie Smith, Chair

Dated: \_\_\_\_\_

GRANTOR'S NAME AND ADDRESS

Streamside Village Condominium  
Owners' Association  
12704 SE 110<sup>th</sup> Ct.  
Clackamas, OR 97015

GRANTEE'S NAME AND ADDRESS

Clackamas County  
2051 Kaen Road  
Oregon City, OR 97045

AFTER RECORDING RETURN TO:

Clackamas County  
2051 Kaen Road  
Oregon City, OR 97045

UNTIL A CHANGE IS REQUESTED

SEND TAX STATEMENTS TO:

Clackamas County  
2051 Kaen Road  
Oregon City, OR 97045

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**BARGAIN AND SALE DEED**

Streamside Village Condominium Owners' Association, an Oregon nonprofit corporation ("Grantor") conveys to Clackamas County, a corporate body politic ("Grantee"), the following described real property:

See Exhibit A attached hereto and incorporated herein by this reference.

The true consideration for this conveyance is \$-0-; however, the actual consideration consists of other property or value given and received, which is the whole thereof.

**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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**

**[Signatures and Acknowledgements on Following Page]**

**GRANTOR:**

STREAMSIDE VILLAGE CONDOMINIUM OWNERS' ASSOCIATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

This instrument was acknowledged before me on \_\_\_\_\_, 2019,  
by \_\_\_\_\_ as \_\_\_\_\_ of Streamside Village  
Condominium Owners' Association.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

The foregoing conveyance is hereby **ACCEPTED:**

CLACKAMAS COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

This instrument was acknowledged before me on \_\_\_\_\_, 2019,  
by \_\_\_\_\_ as \_\_\_\_\_ of the Clackamas County.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

# EXHIBIT A

## PARCEL 1

A tract of land in the Southwest one-quarter of Section 34, Township 1 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the South line of said Section 34, a distance of 1602.2 feet East of the Southwest corner thereof, said point being on the East line of that tract of land conveyed to Harry J. Roman, et ux, by deed recorded October 26, 1961, in Book 594, Page 325, Clackamas County Deed Records; thence North along said East line 510.18 feet to the South line of Sunnyside Road and the true point of beginning; thence Easterly along said road, 138 feet to a point; thence South parallel to the East line of said Roman Tract, 63.5 feet to a point; thence West parallel to the South line of said Section 34, a distance of 138 feet, more or less, to the East line of said Roman Tract; thence North along said East line, 77.5 feet more or less, to the true point of beginning.

## PARCEL 2

A tract of land being a portion of that parcel described in deed to L.J. Lott and Margaret L. Lott recorded March 8, 1961 in Book 584, Page 258, Clackamas County Deed Records, said tract of land also being a portion of Private Survey No. 20012, Clackamas County Survey Records, situated in the Southwest one-quarter of Section 34, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at the Southwest corner of said Section 34; thence South  $88^{\circ}42'08''$  East

1602.26 feet to an iron pipe (found) on the East line of that parcel of land described in Quit Claim Deed to Rodolph Groeger recorded in Book 432, Page 347 of said Deed Records; thence along said East line North  $02^{\circ}20'01''$  East, 107.07 feet to the true point of beginning of the tract herein described; thence continuing along said East line, North  $02^{\circ}20'01''$  East, 325.00 feet; thence South  $87^{\circ}39'59''$  East, 135.00 feet; thence North  $02^{\circ}20'01''$  East 66.14 feet more or less, to the Southerly right-of-way line of Sunnyside Road; thence along said right-of-way line, South  $82^{\circ}38'39''$  East, 280.00 feet; thence leaving said right-of-way line, South  $32^{\circ}53'34''$  West, 118.00 feet; thence South  $47^{\circ}56'00''$  West, 95.00 feet; thence South  $30^{\circ}22'07''$  West, 250.00 feet; thence North  $80^{\circ}11'23''$  West, 170.00 feet to the true point of beginning.

TOGETHER WITH AND SUBJECT TO EASEMENTS AND  
RESTRICTIONS OF RECORD.