



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: May 15, 2019

Department: Finance Agenda Planning Date: May 9, 2019 Time required: 5

Audio/Visual aids: N/A

Contact: LeAnne M Aurand Phone: 503-373-4364

Department Head Signature:

TITLE

Consider approval for DEQ Access Agreement to allow access at 137 Old Pacific Hwy, Jefferson, OR.

Issue, Description & Background

Marion County acquired Tax ID #R100485 through the tax foreclosure process in January 2018. Due to it being a former gas station proper DEQ testing needs to be completed to test for possible ground contamination. The City of Jefferson has expressed an interest in the property. The City of Jefferson plans to build a Welcome Kiosk. Before Marion County is able to sell the property to the City of Jefferson DEQ will need access to the property to complete contamination testing.

Financial Impacts:

If the DEQ access agreement is not approved DEQ will be unable to complete the required testing for contamination. Marion County will be unable to transfer or sell the property to the City of Jefferson until the ground contamination testing is completed. This would result in losing sales revenue for the county and taxing districts and Marion County would be liable for the property and any repairs or maintenance that is needed.

Impacts to Department & External Agencies

Tax ID #R100485 will belong to the City of Jefferson and will be maintained by the City to be used as a Welcome Kiosk for the visitors of The City of Jefferson.

Options for Consideration:

- 1. Approve the request for DEQ Access Agreement.
2. Deny the request for DEQ Access Agreement.
3. Postpone the decision to grant DEQ Access to the property.

Recommendation:

Staff recommends the Marion County Board of Commissioners grant the Access Agreement for DEQ to finish required testing to allow for future sale of this property to the City of Jefferson.

List of attachments:

DEQ Access Agreement
Contract Review Sheet

Presenter:

LeAnne M Aurand, Foreclosed Property Coordinator; Camber Schlag, Contracts & Procurement Manager

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

LeAnne Aurand, laurand@co.marion.or.us; Camber Schlag, cschlag@co.marion.or.us



Marion County  
OREGON  
FINANCE DEPARTMENT

# Contract Review Sheet

Contract #: FI-2852-19

Person Sending: LeAnne Aurand Department: Finance

Contact Phone #: 503-373-4364 Date Sent: Tuesday, April 30, 2019

Contract  Amendment#       Lease  IGA  MOU  Grant (attach approved grant award transmittal form)

Title: Access Agreement for DEQ Access at 137 Old Pacific Hwy, Jefferson, OR

Contractor's Name: Oregon Department of Environmental Quality

Term - Date From: Execution Expires: Three Years

Contract Total: \$0.00 Amendment Amount:                      New Contract Total: \$0.00

Source Selection Method: # IGA 50-0010

**Additional Considerations (check all that apply)**

- Board Order#
- Incoming Funds
- Independent Contractor (LECS) approval date:
- Insurance Waiver (attach)
- CIP#                      (required for all goods /software greater than \$5,000)
- Feasibility Determination (attach approved form)
- Federal Funds (attach sub-recipient / contractor analysis)
- Reinstatement (attach written justification)
- Retroactive (attach written justification)

**Description of Services or Grant Award:**

Marion County acquired Tax ID #R100485 through the tax foreclosure process in January 2018. Due to it being a former gas station proper DEQ testing needs to be completed to test for possible contamination. The city of Jefferson has expressed an interest in the property. Their plans are to build a Welcome kiosk as you enter the city. Before we are able to sell the property to the City of Jefferson DEQ needs access to the property to complete contamination testing.

**FOR FINANCE USE**

Date Finance Received:                      BOC Planning Date:                      Date Legal Received:                     

Comments:                       
                      
                    

**REQUIRED APPROVALS:**

Finance - Contracts                      Date                      Risk Manager                      Date                     

Legal Counsel                      Date                      Chief Administrative Officer                      Date                     

Date                       To be filed  Added to master list

Returned to                      Department for                      signatures

**ACCESS AGREEMENT**  
**BETWEEN THE**  
**OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**AND**  
**MARION COUNTY**

1. Marion County (herein after referred to as Owner) hereby gives consent to the Department of Environmental Quality (DEQ) and its employees, officers, agents, contractors, and authorized representatives to enter the property located at on 137 Old Pacific Hwy (0 S. Main St.) Jefferson, Oregon, Marion County Tax map 103W11AD Lot #05500. ("the Property") to conduct actions authorized by ORS 465.200 to 465.455, in accordance with the terms of this Agreement.

2. This access and right-of-way is granted to enable DEQ to undertake remedial action or removal activities as those terms are defined in ORS 465.200. Specifically, these actions include starting phase 1 and phase 2 of environmental testing for possible contamination and include sampling and inspecting soils and groundwater on or under the Property and photographing or otherwise documenting activities and site conditions, herein after referred to as the "Work".

3. All tools, equipment, improvements and other property taken upon or placed upon the Property by or at the direction of DEQ shall remain the property of DEQ, its employees, agents, authorized representative(s) or contractors.

4. DEQ shall properly abandon any soil borings immediately after collecting soil and/or groundwater samples. When DEQ determines that continued access to the Property is not necessary, or upon expiration or termination of this Agreement, DEQ, or its employees, agents, authorized representative(s) or contractors, shall properly abandon any well(s) in accordance with applicable regulations, shall remove all tools and equipment, soil, groundwater and other

waste of any kind generated on, at or under the Property and shall restore the surface condition of areas disturbed by DEQ's activities, to the maximum extent reasonably possible, to a condition equivalent to the condition existing prior to commencement of the Work (collectively, the "Restoration").

5. DEQ shall take all steps reasonably necessary (including, but not limited to performance of Work and Restoration during non-peak business hours with respect to business activities on the Property) to prevent injury resulting from the Work and Restoration to persons or property and to allow the full utilization of the Property by the Owner during the performance of the Work and Restoration.

6. The license granted herein shall be non-exclusive, and Owner retains for itself and its successors, assigns, lessees, franchisees, licensees, and invitees the right to continue to use the Property for all lawful purposes so long as such use does not unreasonably interfere with the use of the Property by DEQ for the purposes set forth herein.

7. Owner reserves the right, at its own expense, to have its consultant, agents, authorized representative(s) or contractors (herein referred to as "consultant") observe the Work, Restoration, or other activities performed by DEQ on the Property, provided that in no event shall such observation be deemed an approval by Owner or its consultant of (or waiver of any such rights of Owner in connection with) any such activities conducted by DEQ. Any consultant on the site must have health and safety training consistent with the requirements of the health and safety plan for this site. Before any consultant will be allowed access during the Work, Restoration, or other activities performed by DEQ on the Property, written notification, Owner approval, and acknowledgment that DEQ is in no way liable or responsible for the consultant's health and safety must be provided to the DEQ at least 48 hours before commencement of any Work activities on the Property and in accordance with Section 12 of the agreement.

8. The Owner may, at the Owner's own expense and in accordance with section 7, obtain "split samples" of any samples taken on the Property.

9. To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, the State of Oregon shall hold harmless and indemnify Owner from and against any and all claims arising from acts or omissions related to the Work or Restoration of the State of Oregon or its commissions, agencies, officers, employees, contractors, agents or authorized representatives. This indemnity does not extend to liability for any claim to the extent caused by negligent acts or omissions of Owner, or its officers, employees, agents, contractors, successors or assigns, any third party, or attributable to contamination already existing at or under the Property. Owner shall not be considered a party to any contract made by DEQ or its agents in carrying out activities under this Agreement.

10. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors and assigns.

11. At least 48 hours before commencement of any Work activities on the Property, DEQ shall notify Owner in writing, or verbally (with written confirmation after a verbal notification) of the intended activities.

12. All notices requests, and other communications hereunder shall be in writing (except in emergency situations, which may be telephoned to the Representative herein and then followed in writing) and shall be deemed to have been duly given if delivered by hand, or sent by telex or telecopy (fax), or sent by United States mail, first class, registered or certified, return receipt requested with proper postage prepaid, in each case addressed as follows:

**IF TO THE OWNER:**

LeAnne Aurand  
Property Specialist  
Marion County Finance Dept.  
PO Box 14500  
Salem OR 97309  
503-373-4364  
Fax: 503-373-4379  
E-Mail [laurand@co.marion.or.us](mailto:laurand@co.marion.or.us)

**IF TO DEQ:**

Oregon Department of Environmental Quality  
4026 Fairview Industrial Dr.  
Salem, OR 97302  
ATTN: Mary Camarata  
Ph No. 541-687-7435  
Fax 503-373-7944  
E-Mail [mary.camarata@state.or.us](mailto:mary.camarata@state.or.us)

