

EXCHANGE AGREEMENT

BETWEEN: Deschutes County,
A political subdivision of the
State of Oregon (“County”)

AND: STATE OF OREGON acting by and
through the Oregon State Land Board on behalf of the Oregon
Department of State Lands (“DSL”)

The parties agree as follows:

1. Acquisition and Transfer of Properties. County shall convey to DSL the real property known as the “Long Butte Property” and the “Warrin Road Property” and more particularly described on Exhibit A and Exhibit B, respectively (the “*County Property*”) and DSL shall convey to County the real property known as the “North Parcel” and more particularly described on Exhibit C (the “*DSL Property*”), subject to the terms and conditions set forth in this Agreement. The County Property and the DSL Property are depicted on the map attached as Exhibit D.

2. Consideration. The intent of this transaction is to provide an equal value exchange of land between DSL and the County. The consideration for this Agreement is the respective properties to be exchanged and the expenditure of time and funds, by DSL and by County in acquiring appraisals and (if desired) Phase I environmental studies and other due diligence of the respective properties. It is possible that the parties may adjust the acreage of the offered properties or provide monetary payment in order to equalize the values of the acquired and transferred lands.

3. Closing.

3.1 Escrow Instructions. Upon execution of this Agreement, the parties shall deposit a copy of this Agreement with Deschutes County Title Company, 397 SW Upper Terrace Dr, Bend OR 97702 (“*Escrow Agent*”). County and State shall execute such reasonable additional and supplementary escrow instructions as may be appropriate to enable Escrow Agent to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement will control.

3.2 Closing Date and Location. Subject to the satisfaction of all conditions or the express waiver of any unfulfilled conditions by the parties and the obtaining of all approvals described in this Agreement, the closing of the exchange of Properties (the “*Closing*”) is to be held and delivery of all items to be made at the Closing under the terms of this Agreement are to be made at the offices of Escrow Agent within 60 days of the final approval of the exchange by the State Land Board and the Deschutes County Board of Commissioners (the “*Closing Date*”). Each party shall proceed with due diligence to remove or satisfy all conditions and obtain all approvals listed in the

Agreement with all reasonable speed, and the parties agree that the time of closing may be extended if reasonably necessary or desirable in order to allow for removal or satisfaction of conditions and obtaining of approvals.

3.3 Closing Costs. The parties shall share equally the costs of escrow.

3.4 Recording Fees. The parties shall each pay their own recording fees.

3.5 Attorney Fees. The parties shall pay the fees and costs of their own attorneys.

3.6 Prorations. All other costs (real property taxes and utilities, if any and costs that are due as of closing) are to be prorated as of the Closing Date.

3.7 County's Obligations at Closing. On or before closing, County shall deliver to the Escrow Agent and shall execute as necessary the following documents:

- a. One or more bargain and sale deeds conveying the County Property to DSL;
- a. A signed and acknowledged acceptance of the conveyance of the DSL Property to County;
- b. County's supplemental escrow instructions;
- d. A certification of non-foreign status;
- e. Any additional documentation required by the Escrow Agent in order to close; and
- f. Sufficient funds to close the transaction.

3.8 DSL's Obligations. On or before closing, DSL shall deliver to the Escrow Agent and shall execute as necessary the following documents:

- a. A bargain and sale deed conveying the DSL Property to County;
- b. A signed and acknowledged acceptance of the conveyance of the County Property to DSL;
- c. DSL's supplemental escrow instructions;
- d. Any additional documentation required by the Escrow Agent in order to close; and
- e. Sufficient funds to close the transaction.

4. Preliminary Title Report.

4.1 Within 20 business days after execution of this Agreement by both parties, each party shall furnish to the other a preliminary title report showing the condition of title to the properties, together with copies of all special exceptions listed in the report (the "***Title Report***").

4.2 Each party will have 20 business days following receipt of the Title Report to review the Title Report and to notify the other party, in writing, of the notifying party's disapproval of any exceptions shown in the Title Report. If a party notifies the other party that it disapproves of any exceptions, the party receiving notice will have 20 business days after receiving the disapproval notice to either: (a) remove the exceptions; or (b) provide the notifying party with reasonable assurances of the manner in which the exceptions will be removed before the transaction closes; or (c) inform the notifying party that the exceptions, or one or more of them, will not be removed.

4.3 If the party that has been notified does not remove the exceptions or provide the notifying party with such assurances, or if a party, in its sole discretion, is dissatisfied with any exception that the other party has said it will not remove, the dissatisfied party may terminate this Agreement by written notice to the other party given within ten business days after expiration of the 20 business day period. If a party does not so terminate this Agreement, any exceptions which the other party has not agreed to remove will be "***Permitted Exceptions.***" Zoning ordinances, building restrictions, taxes due and payable for the current tax year, and reservations in federal patents and state deeds are deemed to be Permitted Exceptions.

5. Environmental Review, Appraisals, Survey.

5.1 Either party may choose to have a Phase I or Phase II environmental study (a "***Study***") prepared at its expense for the property it is acquiring from the other party. Neither party shall be obliged to share the results of any such study with the other party.

5.2 Each party shall obtain, at its own expense, an appraisal of its own property from a licensed appraiser experienced in performing appraisals of properties of the type being exchanged. Each party shall provide a copy of its appraisal of the other property to the other party for review. If more than one appraisal is obtained, then all appraisals shall be shared with the other party.

5.3 Either party may request a survey of the DSL Property and the County Property. If a survey is requested, DSL shall conduct the survey(s) after coordinating with County. DSL shall provide a copy of the survey(s) to County. The parties shall share the survey costs equally.

5.4 The parties shall share equally in the cost of obtaining a legally valid land partition of the DSL Property. DSL will be the responsible party and will fully coordinate with the County on the terms and conditions of the partition.

6. Conditions. Closing is conditioned upon each of the following:

6.1 DSL's Conditions.

- a. Approval of the consideration as described in paragraph 2 of this Agreement;
- b. Approval of the Audit of the County Property (if obtained);
- c. Approval by the State Land Board
- d. Approval of legally valid land partition of the DSL property
- e. County's performance of all of its obligations under this Agreement.

6.2 County's Conditions.

- a. Completion of required actions under Deschutes County Code 11.08 relating to the exchange of real property;
- b. Approval of the consideration as described in paragraph 2 of this Agreement;
- c. Approval of the Audit of the DSL Property (if obtained); and
- d. DSL's performance of all of its obligations under this Agreement.
- [e. BoCC approval?]

These conditions are for the benefit of County and DSL as indicated above and may be waived, in whole or in part, only by the Party benefited by the condition. Any waiver must be in writing. Unless waived, if these conditions are not satisfied by the Closing Date, this Agreement may be terminated only by the party who benefits from the condition. Neither party shall be liable to the other for damages arising from such termination.

7. Status of Mineral Rights. The conveyance of the County Property to DSL must include all mineral and geothermal rights. County acknowledges and agrees that notwithstanding this requirement, however, DSL shall convey the DSL Property to County subject to the State's reservation of all rights in minerals and geothermal resources, as defined in ORS 273.775, and the bargain and sale deed from DSL to County will so recite. The appraisals required under Section 5.2 must reflect the fact that the value of the DSL Property does not include mineral or geothermal rights and the value of the County Property includes all mineral and geothermal rights.

8. Possession. Possession of each property will pass to the other party upon Closing.

9. Acknowledgment of Condition of Property.

9.1 DSL's Acknowledgment. DSL represents that it has executed this Agreement on the basis of its own examination and personal knowledge of the County Property; that County has made no representations, warranties or agreements concerning matters relating to the County Property other than as set forth herein; that County has made no agreement or promise to alter, repair or improve the County Property and that DSL takes the County Property in the condition, known or unknown, existing at the time of this Agreement. DSL acknowledges that DSL is purchasing the County Property "AS IS" and that County is making no warranties (except as reflected herein and in the deed to be delivered at Closing) regarding the condition of the County Property.

9.2 County's Acknowledgment. County represents that it has executed this Agreement on the basis of its own examination and personal knowledge of the DSL Property; that DSL has made no representations, warranties or agreements concerning matters relating to the DSL Property other than as set forth herein; that DSL has made no agreement or promise to alter, repair or improve the DSL Property and that County takes the DSL Property in the condition, known or unknown, existing at the time of this Agreement. County acknowledges that County is purchasing the DSL Property "AS IS" and that DSL is making no warranties (except as reflected herein and in the deed to be provided at Closing) regarding the condition of the DSL Property.

10. Default Remedies. If either party fails to perform as required by this Agreement, the other party may (i) bring an action for damages for breach of contract; (ii) file and maintain a suit against the defaulting party for specific performance of this Agreement; or (iii) pursue any other legal remedy against the defaulting party as may be allowed at law or in equity.

11. Instruments of Further Assurance; Good Faith. Each of the parties shall, at its own expense, execute and deliver to the other at or after Closing any further instruments and documents as either may reasonably request in order to carry out any of the provisions of this Agreement. County and DSL shall act in good faith in all respects relative to the transactions contemplated by this Agreement.

12. Notices. Any notice required or permitted by this Agreement must be in writing and will be deemed delivered if personally delivered or five business days after being sent by United States first class mail, postage prepaid, to County or DSL at the following addresses:

To: Deschutes County
Attn: Susan Ross, Director
Property and Facilities Department
14 NW Kearney St.
Bend OR 97701

To : Oregon Department of State Lands
Attn: John E. Lilly, Asset Management Section
775 Summer St NE Suite 100
Salem OR 97301

Notices may be addressed to any other person and address as may be specified from time to time by any party by written notice to the other party.

13. Brokerage. DSL represents that it has not employed any real estate broker or licensee in negotiating this Agreement. The parties agree that no broker or licensee is entitled to receive a fee or commission from State as a result of the subject matter of this Agreement, and any claims for fees or commissions arising from or associated with this Agreement must be paid by County.

14. No Third-Party Benefits. This Agreement is not intended, and may not be deemed or construed, to confer any rights, power or privileges on any person, firm, partnership, corporation or other entity that is not named as a party to the Agreement.

15. Time of the Essence. Time is specifically declared to be of the essence of this Agreement, and of acts required to be done and performed by DSL and County.

16. Governing Law. This offer is executed and delivered and is to be performed in, and governed by and construed in accordance with the laws of the State of Oregon.

17. Entire Agreement. This Agreement constitutes and contains the entire agreement between County and DSL and supersedes any and all prior negotiations, correspondence, understandings, and agreements between the parties respecting the subject matter contained in the Agreement.

18. Amendment. This Agreement may be amended only by a writing signed by Deschutes County and by Louise Solliday as Director of the Oregon Department of State Lands..

19. Survival. Paragraphs 9, 11 and 13 will survive closing.

20. Statutory Disclaimer. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. 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. 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES 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.

The parties have signed this Agreement as of the date first written above.

County:

Deschutes County,
a political subdivision of the State of Oregon

BY: BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

DENNIS R. LUKE, Chair Date

ATTEST: _____
TAMMY BANEY, Vice Chair Date

Recording Secretary MICHAEL M. DALY, Commissioner Date

DSL:

State of Oregon, acting by and through
the Oregon State Land Board
on behalf of the Oregon Department of State Lands

By: _____ Date: _____

Louise Solliday
As its: _____
Director

EXHIBIT A
Legal Description
Long Butte Property (County Property)

Long Butte Parcel." Approximately 120 acres described as the West Half of the Northeast Quarter ($W\frac{1}{2} NE\frac{1}{4}$) and the Northeast Quarter Northwest Quarter ($NE\frac{1}{4} NW\frac{1}{4}$) of Section 22, Township 16 South, Range 12 East, W.M., Deschutes County, Oregon.

EXHIBIT B
Legal Description
Warrin Road Property (County Property)

Warrin Road Parcel." Approximately 159.17 acres described as the Southeast Quarter (SE¹/₄) of Section 17, Township 15 South, Range 11 East, W.M., Deschutes County, Oregon.

EXHIBIT C
Legal Description
North Parcel (DSL Property)

South Redmond Tract North Parcel." Up to 238 acres in the North Half (N½) of Section 33, Township 15 South, Range 13 East, W.M., Deschutes County, Oregon, adjacent and contiguous to the Deschutes County Fair and Expo Center.

EXHIBIT D
Map showing
County and DSL Properties

