

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN) RESOLUTION NO. 06-3724
APPLICATION FOR A WETLAND MITIGATION)
EASEMENT TO THE CITY OF WILSONVILLE) Introduced by Chief Operating Officer
AND MATRIX DEVELOPMENT CORPORATION) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, in May 1995, regional voters approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (the “1995 Open Spaces Bond Measure”) with a stated goal of acquiring land in 14 regional natural areas and six regional trails and greenway areas (“Target Areas”), and one Target Area identified during the implementation of the 1995 Open Spaces Bond Measure implementation was the Tonquin Geologic Area; and

WHEREAS, Metro purchased certain real property in the Tonquin Geologic Area with proceeds from the 1995 Open Spaces Bond Measure, including an approximate 28-acre parcel, consisting of multiple tax lots, that was donated to Metro by The Wetlands Conservancy subject to a Conservation Easement retained by the Wetlands Conservancy (“referred to herein as the Property”); and

WHEREAS, on November 6, 1997 the Metro Council adopted Resolution No. 97-2539B, “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department” (“Easement Policy”), which provides for formal staff review under specified criteria of all proposed easements, rights-of-way and leases for non-park uses, with final review and approval by the Metro Council; and

WHEREAS, the City of Wilsonville (“City” or “Wilsonville”) is engaged in a transportation construction project known as the Boeckman Road – Tooze Road Connection Project (“Boeckman Road Extension Project” or “Project”) which Project strongly supports multiple local, regional and state transportation and land use goals; and

WHEREAS, the Project purpose is to provide a critical east-west transportation connection to address rapid population growth, relieve congestion on Wilsonville Road, and improve multi-modal connectivity and access to the Villebois development in the City of Wilsonville; and

WHEREAS, the Boeckman Road Extension Project is one of the planned strategies outlined in both the Metro Regional Transportation Plan and the City’s Transportation Systems Plan to meet the transportation demand from planned growth in the western portion of the City of Wilsonville; the Project is also an essential component for the redevelopment of the former F.H. Dammasch State Hospital property and is consistent with the legislatively approved Dammasch Transportation Efficiency Land Use Plan, ORS 426.508(3); and

WHEREAS, the Project will serve a significant compact, mixed-use development project at the Dammasch Hospital site (called Villebois) that will provide needed housing in Wilsonville and is consistent with the region’s 2040 Growth Concept and Regional Transportation Plan, as well as State objectives for compact development; and

WHEREAS, on January 10, 2002 the Metro Council adopted Resolution No. 02-3151, "For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects," which committed funding in the amount of \$1,956,625 each from Metro, Oregon Department of Transportation, the City and Clackamas County to the Sunnyside Road and Boeckman Road OTIA projects, with the further commitment that those agencies will seek other funding sources to directly offset that commitment and make the Boeckman Road Extension Project a first priority for project advancement; and

WHEREAS, on June 19, 2003 the Metro Council adopted Resolution No. 03-3335, "For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality Conformity Determination," to award \$1,965,625 of 2006-07 Transportation Priorities funding to the City of Wilsonville for the Boeckman Road Extension Project, honoring the commitment made by Resolution No. 02-3151; and

WHEREAS, on December 11, 2003 the Metro Council adopted Resolution No. 03-3381A, "For the Purpose of Approving the 2004-07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area," to approve the 2004-07 Metropolitan Transportation Improvement Program ("MTIP"), programming \$1,965,625 of 2006-07 Transportation Priorities funds and \$3,932,625 of state modernization and Oregon Transportation Investment Act ("OTIA") funds for the Project; and

WHEREAS, the City has committed \$9,803,350 of local funds; and

WHEREAS, the City requires that Matrix Development Corporation (hereafter, "Matrix") perform wetlands mitigation in conjunction with their residential development in the Villebois master planned neighborhood; and

WHEREAS, the City and Matrix have submitted an easement application as set forth in Exhibit A attached hereto and incorporated herein ("Application") under the Easement Policy for a wetland mitigation easement over a portion of the Property, consisting of approximately 14 acres for wetland mitigation; and

WHEREAS, the Application cites the reason for the request is that Wilsonville needs to construct the Boeckman Road Extension Project, and to conduct related wetland mitigation in order to facilitate the completion of The Villebois Master Plan Neighborhood. As a result of the City's wetlands mitigation project utilizing property formerly intended to be used by Matrix, Matrix requires an alternate site for wetland mitigation; and

WHEREAS, pursuant to the Easement Policy, Metro Parks & Greenspaces staff, City staff and representatives of Matrix have consulted and determined that the appropriate course of action is to proceed by first removing the existing non-native reed canary grass and other noxious weeds on the Property either during the dry season of 2006 or 2007, while conducting further analysis of site hydrology and other factors of the Property. After further study it will be possible to determine if and how depressional wetlands and other alterations of the existing terrain can be constructed in order to achieve a more natural functioning wetland which will support native vegetation and exclude the re-introduction of non-native species; and

WHEREAS, in order to facilitate the acquisition by the City of all necessary property interests to establish the needed certainty to allow the construction of the Boeckman Road Extension Project it is appropriate to authorize the conceptual mitigation project described in the Application subject to the determination of the final design and feasibility; now therefore

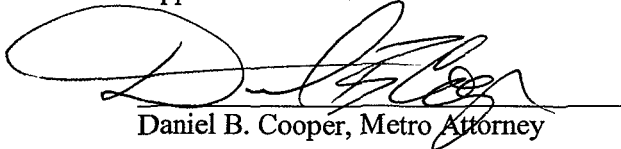
BE IT RESOLVED BY THE METRO COUNCIL THAT:

1. The City of Wilsonville's and Matrix Development Corporation's Application for Easement/Right-of-Way/Lease for Non-Park Uses is approved, subject to the approval of a Wetland Mitigation Plan by the Chief Operating Officer and subject to the City and Metro obtaining any necessary approvals from any priority recorded leaseholders or easement holders on the affected Properties, and that the final easements are in forms approved by the Metro Attorney.
2. The Chief Operating Officer is authorized to grant a limited right-of-entry to Matrix and the City to allow the suppression of reed canary grass and other noxious weeds and to allow further study of the Property in order to develop an acceptable Wetland Mitigation Plan.
3. Upon approval by the Chief Operating Officer of the Wetland Mitigation Plan and determination of the final feasibility and design, the Chief Operating Officer is authorized to grant easements to Matrix and the City for the construction of the wetland mitigation project consistent with the proposal contained in the Application.

ADOPTED by the Metro Council this 17th day of August 2006.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

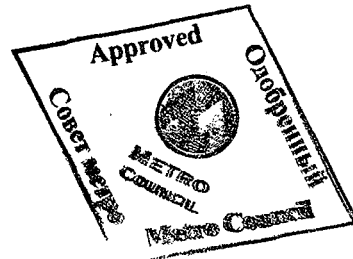


Exhibit A to Resolution No. 06-3724
**City of Wilsonville's and Matrix Development Corporation's Application for Easement/
Right-of-Way/Lease for Non-Park Uses Dated July 12, 2006**

[Placeholder]



**Application for Easement / Right-of-Way / Lease
For Non-Park Uses**

Applicant Name	Contact Person Name:
The City of Wilsonville and Matrix Development Corp.	Kristin Retherford
Address	Title
30000 Town Center Loop East	Urban Renewal Project Manager
City, State, Zip	Phone
Wilsonville, OR 97070	503-570-1539
Phone	Fax
503-682-4960	503-682-7025

Applicant shall fully and completely explain, describe and identify the elements of its proposed easement / right-of-way / lease, for non-park uses in accord with Metro Council Resolution No. 97-2539B, attaching additional materials if necessary, as set forth below.

Type of Request: Easement Right-of-Way Lease

Describe the purpose of your request:

The City of Wilsonville (City) is preparing to construct the Boeckman Road-Tooze Road Connector project (Boeckman Road project), which is an MTIP, STIP, and OTIA funded project. The purpose of this project is to improve transportation mobility regionally as well as in the City by providing east-west connectivity through the Coffee Lake Creek Basin and across Interstate 5. This project is one of the planned strategies to meet the transportation demand from planned growth in the western portion of the City.

In order to develop wetland mitigation required for the Boeckman Road project, the City is acquiring property from multiple property owners, including the Bischof/Lund family. The area to be acquired by the City from the Bischof/Lund parcel is part of a larger acquisition agreement between Matrix and the Bischof/Lund family to develop residential housing in the Villebois master planned neighborhood. Matrix had intended to use the area being acquired by the City for their wetland mitigation and for park development. Consequently, Matrix is now in need of an alternate location to develop the wetland mitigation needed for their residential development project.



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The City and Matrix, as co-applicants, are requesting an easement from Metro allowing Matrix to construct a wetland mitigation site on tax lots 3S1W15 200 and 290. The Matrix wetland mitigation plan is attached as **Exhibit A**.

Describe proposed terms of your requested easement/lease /right of way:

Matrix Development Corporation proposes to enhance approximately 13.37 acres of wetland on Metro-owned property to offset approximately 3.93 acres of wetlands to be filled on property they own adjacent to the Metro parcel. The cost of this enhancement is estimated at \$365,492. This includes five years of monitoring after construction at a cost of approximately \$5,000 per year. It is the applicants' understanding that Metro is not in a position to begin enhancement work on the property at this time and that the mitigation project proposed by the applicants would provide a public benefit.

Identify location of proposal on a base map of not less than 1"=500' showing topographical lines at 10' intervals and include significant natural and man-made features of the area:

See attached **Exhibit A**.

Describe the size of easement requested in both dimension and total area required:

This application is for a Wetland Mitigation Easement over Tax Lots 3S 1W 15 200 and 290. County tax records show that Tax Lot 200 is 16.36 acres and Tax Lot 290 is 3 acres. The actual area needed for the proposed mitigation is approximately 14.00 acres.

Dimensions are irregular as shown on the attached **Exhibit B** (Tax lot map).

Describe all components of your proposed use (grading, fill and removal, sub-surface elements, structures, etc.):

The principal goal of the proposed wetland mitigation plan is to enhance approximately 13.37 acres of degraded and/or cropped wetland within the Coffee Lake valley bottom. Wetlands in the project area have experienced substantial vegetative and hydrologic alteration associated with



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agricultural activities. Regional interest in large-scale restoration of the Coffee Lake valley bottom wetlands is significant and the applicant's approach toward mitigation has been prepared with this in mind. The proposed mitigation will facilitate future large-scale restoration. Measures that are incongruent or would otherwise complicate future efforts to achieve site conditions similar to the probable historic condition have been excluded from design consideration.

Hydrology: A substantial alteration to hydrology in the project area is not possible without the ability to dramatically alter the hydrology of neighboring parcels of land. Consequently, this mitigation plan proposes actions that will not affect flood frequency, magnitude, or risk to nearby private properties. This plan also proposes to enhance existing wetlands in a manner that serves to facilitate larger scale future restoration efforts. Minor excavation in this area will facilitate depressional wetland features and intersect the groundwater table in the area during significant portions of the year.

Vegetation: The proposed mitigation approach will permanently modify land use in the project area to conserve native wetland habitat. Invasive reed canarygrass is widespread in the area. This mitigation will seek to realistically reduce the prevalence of this species on-site and establish native shrub diversity. The management of the reed canarygrass will serve the specific purpose of enabling establishment of native species. Prior treatment of reed canarygrass in the mitigation site is important for plant diversity, long-term success, reduced future maintenance costs, and will aid in the establishment of native shrubs and trees during the first 5 years.

Prior to planting the plan proposes reed canarygrass treatment that includes:

- Mowing the entire mitigation site as soon as practicable.
- Spraying state approved non-specific herbicide.

Describe the existing conditions of the site:

The site consists of scrub-shrub wetlands and reed canary grass-dominated wetlands associated with the Coffee Lake Creek wetlands complex. The wetlands have been disturbed by



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plowing, planting, and the construction of ditched drainage-ways. The site is dominated by open fields and is generally unobstructed by trees.

Describe the proposed modifications to the site that would be required to accommodate your request (e.g., tree removal, soil disturbance, stream crossing, etc.):

Excavation and grading at the site will likely be accomplished with a variety of heavy equipment. A track-mounted excavator will be used for bulk excavation and shaping. Excess excavation spoils will be loaded into trucks for off-site disposal at an upland location in a legal manner. Small bulldozers and wheel-mounted backhoes using various attachments may be used for finish grading and site cleanup. Various wheel-mounted equipment and manual labor may be used during installation of prescribed plantings. Erosion control measures will be consistent with best management practices will be placed prior to any soil disturbing activity on the site to prevent construction impacts to adjacent areas.

Describe your proposed project schedule and phasing:

Mowing and spraying may begin as early as the summer of 2006. Implementation of the grading element of the mitigation plan will be completed during the course of a single summer construction season in 2008. The timing of the implementation is dependent on several factors, including availability of all required project permits and other factors. Site planting will be accomplished during the fall or spring periods following the completion of grading activity.

Explain your need for ongoing access. What is your proposal for accommodating this need?

Applicants will need access to the wetland mitigation site for at least five years after it has been constructed. This will include visits to monitor the site, and follow-up maintenance activities. Prior to construction of the wetland mitigation site, we will need to prepare it. No later than Summer 2007 the site will need to be mowed and sprayed to control invasive species.



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For Non-Park Uses**

Describe your ongoing maintenance requirements:

Same as above.

Describe other reasonable alternative routes that avoid the park or natural area property but are believed to not be feasible:

N/A

What is the public benefit of this lease, easement or right-of-way?

The public will benefit from private expenditure of over \$350,000 to enhance wetlands on public owned land. This easement will also benefit the public by facilitating construction of the Boeckman Road project, which is regionally supported.

Include any other relevant information describing and quantifying your proposal: None

By completing, executing and submitting this Application, Applicant hereby agrees to pay all Metro costs associated with processing, reviewing, analyzing, negotiating, drafting, approving, conveying and assuring compliance with the request hereunder and any easement, right-of-way or lease approved or denied hereby, in accord with Metro Council Resolution No. 97-2539B, unless waived by the Metro Council via resolution adopted at public session.

APPLICANT

METRO
Received and Accepted

By: *Kristin Betherford*

By: _____

Date: *7-12-06*

Date: _____

*Urban Renewal Project
Manager*

City of Wilsonville

Contact For Questions:

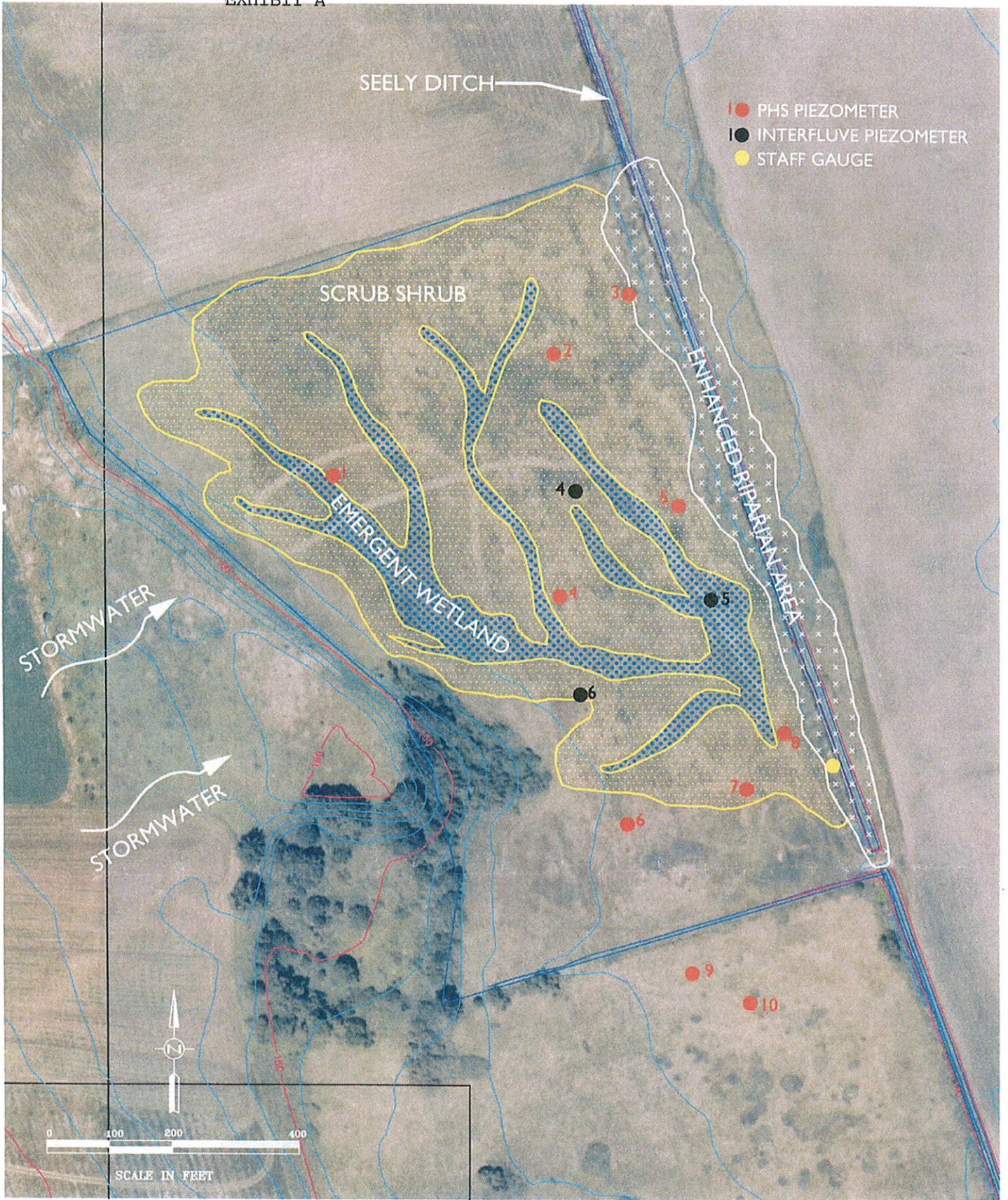


METRO
OPEN SPACES
PEOPLE PLACES

**Application for Easement / Right-of-Way / Lease
For Non-Park Uses**

METRO
Regional Parks & Greenspaces Department
Attn: Laurie Wulf
600 NE Grand Avenue
Portland, Oregon 97232-2736
Telephone: 503/797-1850
Facsimile: 503/797-1849
E-Mail: wulfi@metro.dst.or.us

EXHIBIT A



VILLEBOIS-MATRIX CONCEPTUAL WETLAND MITIGATION PLAN



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3724 FOR THE PURPOSE OF APPROVING AN APPLICATION FOR A WETLAND MITIGATION EASEMENT TO THE CITY OF WILSONVILLE AND MATRIX DEVELOPMENT CORPORATION

Date: August 17, 2006

Prepared by: Jim Desmond

BACKGROUND

Resolution No. 06-3724 requests authorization from Metro Council to approve an application for easement for the purpose of wetland mitigation on Metro property for the City of Wilsonville and Matrix Development Corporation.

On November 6, 1997 the Metro Council adopted Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department" ("Easement Policy"), which provides for formal staff review under specified criteria of all proposed easements, rights of way and leases for non-park uses, with final review and approval by the Metro Council.

Metro acquired certain real property in the Tonquin Geologic Area with proceeds from the 1995 Open Spaces Bond Measure, including a 28-acre parcel donated to Metro by The Wetlands Conservancy. The donated property was received encumbered with a conservation easement.

The City of Wilsonville ("City") is engaged in a transportation construction project known as the Boeckman Road – Tooze Road Connection Project ("Boeckman Road Project" or "Project") that supports multiple regional transportation and land use goals. The project purpose is to provide a critical east-west regional connection through the Coffee Lake Basin and across Interstate 5 to address rapid population growth, relieve congestion on Wilsonville Road, improve multi-modal connectivity and support the Villebois development in the City of Wilsonville.

Through the approval of the 2004-07 Metropolitan Transportation Improvement Program (MTIP), Metro Council authorized programming of state and federal funds for the Boeckman Road Extension Project. On November 14, 2005 in support of the proposed Boeckman Road Project, Metro Council approved Resolution No. 05-3630, "For the Purpose of Approving an Application for Easement/Right of Way/Lease to the City of Wilsonville for the Construction of the Boeckman Road Extension Project."

As the lead entity for the development of the road project, City of Wilsonville is responsible for providing wetland mitigation for anticipated impacts of the road project. To develop wetland mitigation for the Boeckman Road project, the City is acquiring property from the Bischof/Lund family. Matrix Development Corporation ("Matrix") had an acquisition agreement with the Bischof/Lund family that included the area the City needed for their wetland mitigation purposes. Consequently, Matrix is now in need of an alternate location to develop the wetland mitigation needed for their residential development project within the Villebois development.

The City and Matrix identified the Metro property 28-acre land parcel adjacent to the proposed Matrix development as opportunity for meeting their mitigation needs as well as enhancing the natural resources to the benefit of the public. To offset filling 3.9 acres of wetland in developing their property, Matrix proposes to enhance 13.4 acres on Metro property.

The proposed mitigation project is conceptual at this time as outlined in the application. The conceptual design appears feasible and appropriate for the site. The estimated cost of the wetland mitigation project provided by the applicant is approximately \$365,500. Until additional site information is gathered, particularly pertaining to site hydrology, a final design will not be developed. It is anticipated that the feasibility study and final design will be completed within a year. At that time, Metro's Chief Operating Officer will review the Wetland Mitigation Plan in terms of its feasibility and determine if the design will yield the appropriate enhancement qualities, will function long-term after the applicants' initial 5-year maintenance obligations are met, and be compatible with natural resources management of adjacent Metro properties.

If the City and Matrix easement application is approved by Metro, the City and Matrix must obtain other approvals before construction could begin on Metro properties: (1) The Wetlands Conservancy must release the City and Matrix from its Conservation Easement on that portion of the Metro property encumbered by that easement, and (2) the City and Matrix must obtain all permits necessary for the Matrix residential development, including a wetland fill/removal permit from U.S. Army Corps of Engineers and Oregon Division of State Lands.

It is anticipated that suppression of noxious and pest plants on the site, especially reed canarygrass, is necessary for long-term success of the proposed wetland mitigation project. Effective weed suppression requires a minimum of 1-year effort. The City and Matrix propose to conduct weed suppression on the proposed mitigation at their own expense with no obligations prior to approval of the anticipated Wetland Mitigation Plan.

As co-applicants, the City and Matrix are requesting an easement from Metro for the development of a wetland mitigation project on Metro property subject to (1) approval of a Wetland Mitigation Plan by the Chief Operation Officer, (2) the City and Matrix obtaining any necessary approvals from any priority recorded leaseholders or easement holders on the affected Metro properties, and (3) the final easements are in forms approved by Metro Attorney.

The City and Matrix easement application was deemed complete and evaluated according to guidelines set forth in Resolution No. 97-2539B.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:**

Metro Council Resolution **No. 02-3151**, "For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects"

Metro Council Resolution **No. 03-3335** "For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality

Conformity Determination”, to award \$1,965,625 of 2006-07 Transportation Priorities funding to the City of Wilsonville for the Boeckman Road Extension Project.

Metro Council Resolution **No. 03-3381A**, “For the Purpose of Approving the 2004 – 07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area”

Metro Council Resolution **No. 05-3630**, “For the Purpose of Approving an Application for Easement/Right OF Way/Lease to the City of Wilsonville for the Construction of the Boeckman Road Extension Project.

3. Anticipated Effects:

- A. Approval of the easement will allow the City and Matrix to complete their wetland mitigation obligations associated with the construction of the Boeckman Road Extension Project and residential development in the Villebois development.
- B. Enhancement of Metro’s wetland parcel in the Coffee Lake Basin will occur at no expense to Metro where wetland enhancement funds are not currently available to Metro.

4. Budget Impacts: None.

RECOMMENDED ACTION

Metro Chief Operation Officer Michael Jordan recommends that the requested Easement Application be approved, subject to the conditions outlines herein and recommends passage of Resolution No. 06-3724.