

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1542 | FAX 503 797 1793



**METRO**

**Agenda**

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: February 22, 2007  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

**CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATIONS**

**3. CONSENT AGENDA**

3.1 Consideration of Minutes for the February 15, 2007 Metro Council Regular Meeting.

**4. ORDINANCES – FIRST READING**

**4.1 Ordinance No. 07-1141**, Amending the FY 2006-07 Budget and Appropriations Schedule Providing for Expenditures Related to the Natural Areas Bond and Declaring an Emergency.

**4.2 Ordinance No. 07-1142**, Amending the FY 2006-07 Budget and Appropriations Schedule Recognizing Donations to the Oregon Zoo, Providing Appropriation for Fleet Replacement and Declaring an Emergency.

**5. ORDINANCES – SECOND READING**

**5.1 Ordinance No. 07-1138**, For the Purpose of Amending Metro Code Chapter 5.01 and 5.05 to Ensure that Mixed Non-Putrescible Waste Material Recovery Facilities and Reload Facilities Are Operated in Accordance with Metro Administrative Procedures and Performance Standards Issued by the Chief Operating Officer, and to Make Related Changes. Park

**5.2 Ordinance No. 07-1139**, For the Purpose of Amending Metro Code Chapters 5.01 and 5.05 and the Regional Solid Waste Management Plan to Lift a Temporary Moratorium on Certain New Non-Putrescible Mixed Waste Material Recovery or Reload Facilities and Certain Non-System Licenses. Park

- 5.3 **Ordinance No. 07-1137A**, For the Purpose of Amending Metro Code Sections 3.07.120, 3.07.130 and 3.07.1120 and Adding Metro Code Section 3.07.450 to Establish a Process and Criteria for Changes to the Employment and Industrial Areas Map, and Declaring an Emergency. Newman

**6. RESOLUTIONS**

- 6.1 **Resolution No. 07-3782**, For the Purpose of Establishing Metro Council Recommendations Concerning the Range of Alternatives to Be Advanced to a Draft Environmental Impact Statement for the Columbia River Crossing Project. Burkholder
- 6.2 **Resolution No. 07-3787**, For the Purpose of Providing Metro Council Guidance to the Columbia River Crossing Task Force Concerning the Range of Alternatives to Be Advanced to a Draft Environmental Impact Statement. Liberty
- 6.3 **Resolution No. 07-3781**, For the Purpose of Approving a Timeline for the New Look at Regional Choices Project. Newman
- 6.4 **Resolution No. 07-3776**, For the Purpose of Entering an Order Relating to the Velma Pauline Povey Claim for Compensation under ORS 197.352 (Measure 37).

**7. CHIEF OPERATING OFFICER COMMUNICATION**

**8. COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for February 22, 2007 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b>  Channel 11 -- Community Access Network  <a href="http://www.tvctv.org">www.tvctv.org</a> -- (503) 629-8534  2 p.m. Thursday, Feb. 22 (live)</p>	<p><b>Portland</b>  Channel 30 (CityNet 30) -- Portland Community Media  <a href="http://www.pcmv.org">www.pcmv.org</a> -- (503) 288-1515  8:30 p.m. Sunday, Feb. 25  2 p.m. Monday, Feb. 26</p>
<p><b>Gresham</b>  Channel 30 -- MCTV  <a href="http://www.mctv.org">www.mctv.org</a> -- (503) 491-7636  2 p.m. Monday, Feb. 26</p>	<p><b>Washington County</b>  Channel 30 -- TVC-TV  <a href="http://www.tvctv.org">www.tvctv.org</a> -- (503) 629-8534  11 p.m. Saturday, Feb. 24  11 p.m. Sunday, Feb. 25  6 a.m. Tuesday, Feb. 27  4 p.m. Wednesday, Feb. 28</p>
<p><b>Oregon City, Gladstone</b>  Channel 28 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275  Call or visit website for program times.</p>	<p><b>West Linn</b>  Channel 30 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275  Call or visit website for program times.</p>

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.**

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website [www.metro-region.org](http://www.metro-region.org) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND ) ORDINANCE NO. 07-1141  
APPROPRIATIONS SCHEDULE PROVIDING )  
FOR EXPENDITURES RELATED TO THE ) Introduced by Mike Jordan, Chief Operating  
NATURAL AREAS BOND AND DECLARING AN ) Officer, with the concurrence of Council  
EMERGENCY ) President Bragdon

WHEREAS, the Metro Council has reviewed and considered the need to modify appropriations within the FY 2006-07 Budget; and

WHEREAS, the need for the change in appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2006-07 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of providing appropriation authority for expenditures related to the Natural Areas bond work program.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No. 07-1141**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Regional Parks &amp; Greenspaces Department</b>							
<u>Personal Services</u>							
<i>SALWGE</i>	<i>Salaries &amp; Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Assistant Public Affairs Specialist	1.00	46,359	-	0	1.00	46,359
	Associate Management Analyst	2.00	115,454	0.13	5,056	2.13	120,510
	Associate Regional Planner	1.25	57,136	0.25	10,936	1.50	68,072
	Director II	1.00	119,769	-	0	1.00	119,769
	Education Coordinator II	1.00	53,638	-	0	1.00	53,638
	Management Technician	1.13	48,853	0.06	2,330	1.19	51,183
	Manager I	4.00	334,758	-	0	4.00	334,758
	Manager II	1.00	85,344	-	0	1.00	85,344
	Program Analyst I	1.00	31,346	-	0	1.00	31,346
	Program Analyst III	1.00	55,668	-	0	1.00	55,668
	Program Director I	1.17	117,512	0.17	16,877	1.34	134,389
	Real Estate Negotiator	0.50	33,310	0.62	41,167	1.12	74,477
	Senior Regional Planner	4.00	270,693	-	0	4.00	270,693
	Service Supervisor III	1.00	61,406	-	0	1.00	61,406
5015	Reg Empl-Full Time-Non-Exempt						
	Arborist	1.00	49,336	-	0	1.00	49,336
	Education Coordinator I	1.00	48,526	-	0	1.00	48,526
	Park Ranger	12.00	522,163	0.17	6,066	12.17	528,229
	Secretary	3.17	94,945	0.17	4,100	3.34	99,045
5020	Reg Emp-Part Time-Exempt						
	Education Coordinator I	0.50	24,263	-	0	0.50	24,263
	Program Supervisor II	0.50	25,549	-	0	0.50	25,549
	Senior Regional Planner	1.60	112,293	-	0	1.60	112,293
	Volunteer Coordinator I	0.80	33,511	-	0	0.80	33,511
	Volunteer Coordinator II	0.50	29,557	-	0	0.50	29,557
5025	Reg Employees-Part Time-Non-Exempt						
	Program Assistant 2	0.50	17,320	-	0	0.50	17,320
5030	Temporary Employees		12,575		0		12,575
5040	Seasonal Employees		280,668		0		280,668
5080	Overtime		14,995		0		14,995
5089	Salary Adjustments						
	Salary Adjustment Pool (non-represented)		46,977		0		46,977
	Step Increases (AFSCME)		28,550		0		28,550
	COLA (represented employees)		38,080		0		38,080
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		976,007		40,062		1,016,069
5190	PERS Bond Recovery		78,126		3,258		81,384
<b>Total Personal Services</b>		<b>42.88</b>	<b>\$3,882,982</b>	<b>1.83</b>	<b>\$147,945</b>	<b>44.71</b>	<b>\$4,030,927</b>
<u>Materials &amp; Services</u>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		45,078		2,000		47,078
5205	Operating Supplies		55,299		0		55,299
5210	Subscriptions and Dues		2,423		0		2,423
5215	Maintenance & Repairs Supplies		81,185		0		81,185
5225	Retail		11,026		0		11,026

**Exhibit A  
Ordinance No. 07-1141**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Regional Parks &amp; Greenspaces Department</b>							
<i>SVCS</i>	<i>Services</i>						
	5240 Contracted Professional Svcs		918,849		50,000		968,849
	5250 Contracted Property Services		1,364,692		16,350		1,381,042
	5251 Utility Services		110,679		1,050		111,729
	5255 Cleaning Services		254		0		254
	5260 Maintenance & Repair Services		53,436		0		53,436
	5265 Rentals		28,409		0		28,409
	5270 Insurance		26,000		0		26,000
	5280 Other Purchased Services		42,558		2,500		45,058
	5290 Operations Contracts		5,242		0		5,242
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		262,299		1,000,000		1,262,299
	5310 Taxes (Non-Payroll)		199,461		0		199,461
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5450 Travel		2,620		0		2,620
	5455 Staff Development		21,600		700		22,300
	5490 Miscellaneous Expenditures		9,774		1,500		11,274
	<b>Total Materials &amp; Services</b>		<b>\$3,240,884</b>		<b>\$1,074,100</b>		<b>\$4,314,984</b>
	<b><u>Capital Outlay</u></b>						
<i>CAPNON</i>	<i>Capital Outlay (Non-CIP Projects)</i>						
	5700 Land (non-CIP)		4,200,000		2,605,500		6,805,500
	<b>Total Capital Outlay</b>		<b>\$4,200,000</b>		<b>\$2,605,500</b>		<b>\$6,805,500</b>
	<b>TOTAL REQUIREMENTS</b>	<b>42.88</b>	<b>\$11,323,866</b>	<b>1.83</b>	<b>\$3,827,545</b>	<b>44.71</b>	<b>\$15,151,411</b>

**Exhibit A**  
**Ordinance No. 07-1141**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Non-Departmental</b>							
<b>Total Personal Services</b>		<b>4.00</b>	<b>\$454,058</b>	<b>0.00</b>	<b>\$0</b>	<b>4.00</b>	<b>\$454,058</b>
<i>Materials &amp; Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		20,780		0		20,780
	5205 Operating Supplies		4,370		0		4,370
	5210 Subscriptions and Dues		32,500		0		32,500
	5215 Maintenance & Repairs Supplies		7,500		0		7,500
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		413,450		0		413,450
	5246 Sponsorships		30,000		0		30,000
	5251 Utility Services		1,000		0		1,000
	5280 Other Purchased Services		186,640		0		186,640
	5290 Operations Contracts		250		0		250
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		11,320,046		(3,827,545)		7,492,501
	5305 Election Expenses		300,000		0		300,000
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		1,175,000		0		1,175,000
	5450 Travel		6,000		0		6,000
	5455 Staff Development		2,000		0		2,000
	5470 Council Costs		0		0		0
	5475 Claims Paid		0		0		0
	5490 Miscellaneous Expenditures		50,000		0		50,000
<b>Total Materials &amp; Services</b>			<b>\$13,549,536</b>		<b>(\$3,827,545)</b>		<b>\$9,721,991</b>
	5635 Revenue Bond Payments-Interest		1,198,898		0		1,198,898
<b>Total Debt Service</b>			<b>\$1,198,898</b>		<b>\$0</b>		<b>\$1,198,898</b>
<b>TOTAL REQUIREMENTS</b>		<b>4.00</b>	<b>\$15,202,492</b>	<b>0.00</b>	<b>(\$3,827,545)</b>	<b>4.00</b>	<b>\$11,374,947</b>

**Exhibit B**  
**Ordinance No. 07-1141**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Council Office			
Operating Expenses (PS & M&S)	1,775,095	0	1,775,095
Subtotal	1,775,095	0	1,775,095
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,374,001	0	7,374,001
Capital Outlay	205,150	0	205,150
Subtotal	7,579,151	0	7,579,151
Human Resources			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Subtotal	1,527,312	0	1,527,312
Metro Auditor			
Operating Expenses (PS & M&S)	579,455	0	579,455
Subtotal	579,455	0	579,455
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,582,475	0	1,582,475
Subtotal	1,582,475	0	1,582,475
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	0	22,508,631
Capital Outlay	200,000	0	200,000
Subtotal	22,708,631	0	22,708,631
Planning			
Operating Expenses (PS & M&S)	23,822,826	0	23,822,826
Debt Service	29,250	0	29,250
Subtotal	23,852,076	0	23,852,076
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Subtotal	1,390,721	0	1,390,721
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	7,123,866	1,222,045	8,345,911
Capital Outlay	4,200,000	2,605,500	6,805,500
Subtotal	11,323,866	3,827,545	15,151,411



**Exhibit B**  
**Ordinance No. 07-1141**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	14,003,594	(3,827,545)	10,176,049
Debt Service	1,198,898	0	1,198,898
Subtotal	15,202,492	(3,827,545)	11,374,947
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	2,773,189	0	2,773,189
Subtotal	10,596,881	0	10,596,881
Unappropriated Balance	3,982,542	0	3,982,542
<b>Total Fund Requirements</b>	<b>\$102,100,698</b>	<b>\$0</b>	<b>\$102,100,698</b>

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 07-1141 AMENDING THE FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE PROVIDING FOR EXPENDITURES RELATED TO THE NATURAL AREAS BOND AND DECLARING AN EMERGENCY

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Date: January 31, 2007

Presented by: Kathy Rutkowski

## BACKGROUND

On December 14, 2006 the Metro Council approved Ordinance No. 06-1133 amending the FY 2006-07 budget and appropriations schedule to provide interim appropriation authority for the Natural Areas bond program. That amendment provided for appropriation through the end of February and assumed a bond closing date in March 2007. To accommodate a request from Moody's Investors Service for an on-site bond rating presentation and discussion, the closing date of the bonds has been delayed until early April 2007. It is necessary to provide for additional interim appropriation authority for the months of March and April 2007.

The FY 2006-07 budget was adopted assuming the Council would make an additional lump sum payment to PERS from the PERS Reserve to buy down additional unfunded liability. The budget includes approximately \$9.3 million for this purpose. It is unlikely that staff would recommend making any additional contribution at this time. This action seeks to "borrow" some of that appropriation authority to provide interim appropriation authority for the natural areas program until such time as the bonds are sold. It does not seek to use the funding associated with the PERS Reserve to pay for natural areas program expenditures. Any expenditures of the program will be reimbursed from bond proceeds once the bonds are sold. If approved, this action would transfer \$3,827,545 from the non-department appropriation in the General Fund to the Regional Parks Department appropriation.

## ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this ordinance.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
3. **Anticipated Effects:** This ordinance provides interim appropriation for the program until such time as the bonds are sold.
4. **Budget Impacts:** This action transfers \$3,827,545 from existing non-departmental appropriation to the Natural Areas program of the Regional Parks department. All expenditures of the Natural Areas program will be reimbursed with bond proceeds once bonds are sold.

## RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance 07-1141

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND	)	ORDINANCE NO. 07-1142
APPROPRIATIONS SCHEDULE RECOGNIZING	)	
DONATIONS TO THE OREGON ZOO,	)	Introduced by Mike Jordan, Chief Operating
PROVIDING APPROPRIATION FOR FLEET	)	Officer, with the concurrence of Council
REPLACEMENT AND DECLARING AN	)	President Bragdon
EMERGENCY	)	

WHEREAS, the Metro Council has reviewed and considered the need to modify appropriations within the FY 2006-07 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the change in appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2006-07 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing \$108,394 in donations to the Oregon Zoo and providing appropriations for fleet replacement.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No. 07-1142**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
<i><u>Resources</u></i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Prior year ending balance		7,821,384		0		7,821,384
	* Undesignated		1,425,437		0		1,425,437
	* Cash Flow Reserve		936,668		0		936,668
	* Project Carryover		2,214,833		0		2,214,833
	* Tourism Opportunity & Comp. Account		715,658		0		715,658
	* Recovery Rate Stabilization Reserve		1,191,247		0		1,191,247
	* Reserve for Future Debt Service		1,728,371		0		1,728,371
	* Reserved for Parks (prior year per ton)		217,000		0		217,000
	* Prior year PERS Reserve		4,040,126		0		4,040,126
<i>EXCISE</i>	<i>Excise Tax</i>						
4050	Excise Taxes		14,588,507		0		14,588,507
4055	Construction Excise Tax		2,000,000		0		2,000,000
<i>RPTAX</i>	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		9,397,215		0		9,397,215
4015	Real Property Taxes-Prior Yrs		281,916		0		281,916
<i>GRANTS</i>	<i>Grants</i>						
4100	Federal Grants - Direct		5,203,777		0		5,203,777
4105	Federal Grants - Indirect		4,987,781		0		4,987,781
4110	State Grants - Direct		1,688,308		0		1,688,308
4120	Local Grants - Direct		10,787,682		0		10,787,682
4125	Local Grants - Indirect		64,000		0		64,000
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		120,822		0		120,822
4139	Other Local Govt Shared Rev.		387,225		0		387,225
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
4145	Government Contributions		165,300		0		165,300
<i>LICPER</i>	<i>Licenses and Permits</i>						
4150	Contractor's Business License		405,000		0		405,000
<i>CHGSVC</i>	<i>Charges for Service</i>						
4160	Boat Ramp Use Permits		500		0		500
4165	Boat Launch Fees		150,000		0		150,000
4180	Contract & Professional Service		209,860		0		209,860
4200	UGB Fees		50,000		0		50,000
4230	Product Sales		225,600		0		225,600
4280	Grave Openings		165,000		0		165,000
4285	Grave Sales		138,000		0		138,000
4500	Admission Fees		6,432,456		0		6,432,456
4510	Rentals		758,645		0		758,645
4550	Food Service Revenue		4,276,698		0		4,276,698
4560	Retail Sales		1,922,987		0		1,922,987
4580	Utility Services		2,142		0		2,142
4610	Contract Revenue		840,976		0		840,976
4620	Parking Fees		503,047		0		503,047
4630	Tuition and Lectures		859,875		0		859,875
4635	Exhibit Shows		460,000		0		460,000
4640	Railroad Rides		494,884		0		494,884
4645	Reimbursed Services		232,558		0		232,558

**Exhibit A**  
**Ordinance No. 07-1142**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
4650	Miscellaneous Charges for Service		29,753		0		29,753
4760	Sponsorships		14,000		0		14,000
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		692,412		0		692,412
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,259,990		108,394		1,368,384
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Service		1,246,998		0		1,246,998
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		25,000		0		25,000
4890	Miscellaneous Revenue		205,008		0		205,008
<i>INFREQ</i>	<i>Special Items-Infrequent Items</i>						
4810	Sale of Fixed Assets		2,000		0		2,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from MERC Operating Fund		2,447,956		0		2,447,956
	* from MERC Pooled Capital Fund		76,196		0		76,196
	* from Metro Capital Fund-Zoo Projects		11,955		0		11,955
	* from Open Spaces Fund		62,443		0		62,443
	* from Risk Management Fund		37,599		0		37,599
	* from Solid Waste Revenue Fund		1,591,663		0		1,591,663
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,726,466		0		1,726,466
	* from Open Spaces Fund		326,520		0		326,520
	* from Solid Waste Revenue Fund		3,650,734		0		3,650,734
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from MERC Operating Fund		73,585		0		73,585
	* from Open Spaces Fund		0		0		0
	* from Smith & Bybee Lakes Fund		20,000		0		20,000
	* from Solid Waste Revenue Fund		508,935		0		508,935
<b>TOTAL RESOURCES</b>			<b>\$102,100,698</b>		<b>\$108,394</b>		<b>\$102,209,092</b>

**Exhibit A**  
**Ordinance No. 07-1142**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Oregon Zoo Department</b>							
<b>Total Personal Services</b>		<b>148.13</b>	<b>\$13,378,734</b>	<b>0.00</b>	<b>\$0</b>	<b>148.13</b>	<b>\$13,378,734</b>
<b>Total Materials &amp; Services</b>			<b>\$9,129,897</b>		<b>\$0</b>		<b>\$9,129,897</b>
<i><u>Capital Outlay</u></i>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
	5710 Improve-Oth thn Bldg (non-CIP)		80,000		0		80,000
	5740 Equipment & Vehicles (non-CIP)		0		108,394		108,394
	5750 Office Furn & Equip (non-CIP)		50,000		0		50,000
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
	5715 Improve-Oth thn Bldg (CIP)		70,000		0		70,000
<b>Total Capital Outlay</b>			<b>\$200,000</b>		<b>\$108,394</b>		<b>\$308,394</b>
<b>TOTAL REQUIREMENTS</b>		<b>148.13</b>	<b>\$22,708,631</b>	<b>0.00</b>	<b>\$108,394</b>	<b>148.13</b>	<b>\$22,817,025</b>

**Exhibit B**  
**Ordinance No. 07-1142**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Council Office			
Operating Expenses (PS & M&S)	1,775,095	0	1,775,095
Subtotal	1,775,095	0	1,775,095
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,374,001	0	7,374,001
Capital Outlay	205,150	0	205,150
Subtotal	7,579,151	0	7,579,151
Human Resources			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Subtotal	1,527,312	0	1,527,312
Metro Auditor			
Operating Expenses (PS & M&S)	579,455	0	579,455
Subtotal	579,455	0	579,455
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,582,475	0	1,582,475
Subtotal	1,582,475	0	1,582,475
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	108,394	22,617,025
Capital Outlay	200,000	0	200,000
Subtotal	22,708,631	108,394	22,817,025
Planning			
Operating Expenses (PS & M&S)	23,822,826	0	23,822,826
Debt Service	29,250	0	29,250
Subtotal	23,852,076	0	23,852,076
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Subtotal	1,390,721	0	1,390,721
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	8,345,911	0	8,345,911
Capital Outlay	6,805,500	0	6,805,500
Subtotal	15,151,411	0	15,151,411

**Exhibit B**  
**Ordinance No. 07-1142**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	10,176,049	0	10,176,049
Debt Service	1,198,898	0	1,198,898
Subtotal	11,374,947	0	11,374,947
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	2,773,189	0	2,773,189
Subtotal	10,596,881	0	10,596,881
Unappropriated Balance	3,982,542	0	3,982,542
<b>Total Fund Requirements</b>	<b>\$102,100,698</b>	<b>\$108,394</b>	<b>\$102,209,092</b>



## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1142 AMENDING THE FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE RECOGNIZING DONATIONS TO THE OREGON ZOO, PROVIDING APPROPRIATION FOR FLEET REPLACEMENT AND DECLARING AN EMERGENCY

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Date: February 2, 2007

Presented by: Craig M. Stroud

### BACKGROUND

The Oregon Zoo received unanticipated donations totaling \$108,394 during FY 2006-07. This action seeks to recognize the donations and appropriate them for the specific purposes designated in the donation.

#### *Vehicle Replacement*

Several of the vehicles in the Zoo's aging fleet are at the end of their useful life and due for replacement. The Oregon Zoo Foundation is donating \$95,894 specifically earmarked to the replacement of fleet vehicles. In addition, the Allergy and Dermatology Veterinary Referral Center provided a generous gift totaling \$12,500 with a stipulation the funds be used in the realm of veterinary services. The Oregon Zoo will combine these funds with the funds noted above from the Oregon Zoo Foundation to acquire a vehicle for the purpose of transporting animals to and from the zoo's veterinary hospital.

<i>General Fund – Oregon Zoo</i>	
<i>Revenues</i>	
Donations and Bequests	\$108,393.94
<i>Expenditures</i>	
Equipment and Vehicles (Non-CIP)	\$108,393.94

### ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose.
3. **Anticipated Effects:** This action allows the department to recognize the donations dedicated to the purpose described in this report and make expenditures to fulfill the terms of the donations.
4. **Budget Impacts:** This action recognizes \$108,394 in private contributions and increases by a like amount.

### RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance 07-1142.

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTERS 5.01 AND	)	
5.05 TO ENSURE THAT MIXED NON-	)	
PUTRESCIBLE WASTE MATERIAL RECOVERY	)	ORDINANCE NO. 07-1138
FACILITIES AND RELOAD FACILITIES ARE	)	
OPERATED IN ACCORDANCE WITH METRO	)	Introduced by Michael Jordan,
ADMINISTRATIVE PROCEDURES AND	)	Chief Operating Officer, with the
PERFORMANCE STANDARDS ISSUED BY THE	)	concurrence of David Bragdon,
CHIEF OPERATING OFFICER, AND TO MAKE	)	Council President
RELATED CHANGES.	)	

WHEREAS, on February 2, 2006, the Metro Council imposed a temporary moratorium until December 31, 2007, on all new mixed non-putrescible waste material recovery facilities and new mixed non-putrescible waste reloads in the region; and

WHEREAS, the moratorium was imposed by Council in order to: 1) provide time to conclude the Disposal System Planning project, 2) establish an enhanced dry waste recovery program, and 3) allow for the publication of non-putrescible waste facility standards; and

WHEREAS, the Metro Council directed staff to publish facility standards and application requirements that assure mixed dry waste facilities (non-putrescible material recovery facilities and reload facilities) consistently handle, reload or recover material without creating nuisance impacts or harm to people or the environment; and

WHEREAS, section 5.01.132 of the Metro Code directs the Chief Operating Officer to issue administrative procedures and performance standards governing the obligations of licensees and franchisees; and

WHEREAS, publication of the standards will provide a clear and level playing field for facilities and clarify the requirements prospective applicants must meet in advance of filing an application with Metro; and

WHEREAS, issues of persistent concern for both non-putrescible waste material recovery facilities and reload facilities are now addressed in the proposed standards including: 1) dust and blowing debris generated from on-site traffic and the tipping and processing of dry waste, 2) insufficient on-site capacity for reloading or processing, 3) contamination or degradation of unprocessed waste by other solid waste or wind and precipitation, and 4) inadequate load checking for prohibited or hazardous wastes; and now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

**SECTION 1.** Metro Code section 5.01.067 shall be amended as follows:

**5.01.067 Issuance and Contents of Licenses**

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within ten (10) days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer. **In addition to all other**

requirements of this Section, a license approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

- (1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
  - (2) Health and safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
  - (3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.
  - (4) Material recovery. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
  - (5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
  - (6) Record keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.
- (j) The term of a new or renewed License shall be not more than five years.

(k) Notwithstanding any other provision in this Section, no authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading shall be granted during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.

**SECTION 2.** Metro Code section 5.05.075 shall be amended as follows:

5.01.075 Contents of Franchise

(a) The Franchise shall constitute a grant of authority from the Council to accept the Waste(s) and perform the Activity(s) described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.

(b) Franchises approved by the Council shall be in writing and shall include the following:

- (1) The term of the Franchise;
- (2) The specific Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;
- (3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and
- (4) Indemnification of Metro in a form acceptable to the Metro Attorney.

(c) In addition to all other requirements of this Section, a franchise approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

- (1) **Environment.** Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
- (2) **Health and safety.** Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) **Nuisances.** Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors and noise.
- (4) **Material recovery.** Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.

- (5) **Reloading.** Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) **Record keeping.** Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

**SECTION 3.** Metro Code section 5.01.132 shall be amended as follows:

5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

(a) The Chief Operating Officer ~~shall~~ may issue administrative procedures and performance standards governing the obligations of Licensees and Franchisees under this chapter, including but not limited to procedures and performance standards for nuisance control, public notification of facility operations, management of unacceptable wastes, facility record keeping and reporting, yard debris composting operations, **non-putrescible waste material recovery, non-putrescible waste reloading**, transportation of Putrescible Waste, and designation and review of Service Areas and demand pursuant to Section 5.01.131 of this chapter.

(b) The Chief Operating Officer may issue administrative procedures and performance standards to implement all provisions of this chapter.

(c) The Chief Operating Officer shall substantially amend the administrative procedures and performance standards issued under subsections (a) or (b) of this section only after providing public notice and the opportunity to comment ~~and a public hearing~~ on the proposed amendment.

(d) **The Chief Operating Officer may hold a public hearing on any proposed new administrative procedure and performance standard or on any proposed amendment to any administrative procedure and performance standard, if the Chief Operating Officer determines that there is sufficient public interest in any such proposal.**

**SECTION 4.** Metro Code Section 5.05.030 shall be amended as follows:

5.05.030 Designated Facilities of the System

(a) Designated Facilities. The following described facilities constitute the designated facilities of the system, the Metro Council having found that said facilities meet the criteria set forth in Metro Code Section 5.05.030(b):

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) Metro Central Station. The Metro Central Station located at 6161 N.W. 61<sup>st</sup> Avenue, Portland, Oregon 97210.

- (3) Facilities Subject to Metro Regulatory Authority. All disposal sites and solid waste facilities within Metro which are subject to Metro regulatory authority under Chapter 5.01 of the Metro Code.
- (4) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of an agreement between Metro and the owner of Lakeside Reclamation authorizing receipt of solid waste generated within Metro.
- (5) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of an agreement between Metro and the owner of Hillsboro Landfill authorizing receipt of solid waste generated within Metro.
- (6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989, between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc. In addition, Columbia Ridge Landfill may accept special waste generated within Metro:
  - (A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.
- (7) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, located in Klickitat County, Washington. Roosevelt Regional Landfill may accept special waste generated within Metro only as follows:
  - (A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.
- (8) Finley Buttes Regional Landfill. The Finley Buttes Regional Landfill, located in Morrow County, Oregon. Finley Buttes Regional Landfill may accept special waste generated within Metro only as follows:
  - (A) As specified in an agreement entered into between Metro and Finley Buttes Landfill Company authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

- (9) Coffin Butte Landfill. The Coffin Butte Landfill, located in Benton County, Oregon, which may accept solid waste generated within the District only as follows:
- A) As specified in an agreement entered into between Metro and the owner of the Coffin Butte Landfill authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the facility special wastes not specified in the agreement.
- (10) Wasco County Landfill. The Wasco County Landfill, located in The Dalles, Oregon, which may accept solid waste generated within the District only as follows:
- (A) As specified in an agreement entered into between Metro and the owner of the Wasco County Landfill authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.
- (11) Cedar Grove Composting, Inc. The Cedar Grove Composting, Inc., facilities located in Maple Valley, Washington, and Everett, Washington. Cedar Grove Composting, Inc., may accept solid waste generated within the District only as follows:
- (A) As specified in an agreement entered into between Metro and Cedar Grove composting, Inc., authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to Cedar Grove Composting, Inc., solid wastes not specified in the agreement.
- (12) Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill, located in Castle Rock, Washington, and the Weyerhaeuser Material Recovery Facility, located in Longview, Washington. The Weyerhaeuser Material Recovery Facility is hereby designated only for the purpose of accepting solid waste for transfer to the Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill and the Weyerhaeuser Material Recovery Facility may accept solid waste generated within the District only as follows:
- (A) As specified in an agreement entered into between Metro and Weyerhaeuser, Inc., authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the Weyerhaeuser Regional Landfill or the Weyerhaeuser Material Recovery Facility solid wastes not specified in the agreement.



(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to or delete a facility from the list of designated facilities. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and
- (7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

(c) The Chief Operating Officer is authorized to execute an agreement, or an amendment to an agreement, between Metro and a designated facility for Non-putrescible waste. An agreement, or amendment to an agreement between Metro and a designated facility for Putrescible waste shall be subject to approval by the Metro Council prior to execution by the Chief Operating Officer.

(d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(e) An agreement between Metro and a designated facility that authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall demonstrate substantial compliance with facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities.

**SECTION 5.** Metro Code Section 5.05.035 shall be amended as follows:

#### 5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;
- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
  - (A) The total tonnage if the application is for a limited duration non-system license; or
  - (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities.

(b) Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

- (1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.
- (2) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars (\$100).
- (3) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).
- (4) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in Section 5.01.150, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.

(c) Factors to Consider To Determine Whether to Issue Non-System License. The Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to determine whether or not to issue a non-system license:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;
  - (2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;
  - (3) The adequacy of operational practices and management controls at the non-system facility;
  - (4) The expected impact on the region's recycling and waste reduction efforts;
  - (5) The consistency of the designation with Metro's existing contractual arrangements;
  - (6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and
  - (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.
- (d) Timetables To Determine Whether to Issue a Non-System License.
- (1) Non-system licenses for Non-putrescible waste, Special waste, Cleanup Material Contaminated By Hazardous Substances, or any other solid waste other than Putrescible waste.
    - (A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination within 60 days after receipt of a new completed application, including receipt of any additional information required by the Chief Operating Officer in connection therewith.
    - (B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 60 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Chief Operating Officer shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Chief Operating Officer is not obligated to make a

determination earlier than the expiration date of the existing license even if the renewal request is filed more than 60 days before the existing license expires.

- (2) Non-system licenses for Putrescible waste. The Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue or renew a non-system license for Putrescible waste. If the Chief Operating Officer recommends that the non-system license be issued or renewed, the Chief Operating Officer shall recommend to the council specific conditions of the non-system license.
  - (A) New licenses. The Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination within 120 days after receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith.
  - (B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 120 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Council shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Council is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.
- (3) At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a new or renewed non-system license as deemed necessary or appropriate under the circumstances.

(e) Issuance of Non-System License; Contents. Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;

- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than:
  - (A) 120 days from the date of issuance for a limited-duration non-system license;
  - (B) Three years from the date of issuance for a new full-term license; and
  - (C) Two years from the date of issuance of a renewed full-term non-system license.
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(f) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month; and
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.
- (4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary, the load in its entirety shall be reported to Metro by the non-system licensee as having been generated within the Metro boundary

and the Regional System Fee and Excise Tax shall be paid on the entire load unless the licensee provides Metro with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or unless Metro has agreed in writing to another method of reporting.

(g) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and
- (2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

- (h) Notwithstanding any other provision in this Section, and unless contrary to any other applicable law, the Chief Operating Officer shall not accept any application for, and neither the Chief Operating Officer nor the Metro Council shall issue a non-system license for mixed putrescible solid waste or mixed non-putrescible solid waste that has not first been delivered to a Metro licensed or franchised

Processing facility for material recovery during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that a licensee may request, and the Chief Operating Officer or Metro Council may issue, a replacement license with an effective date beginning the day after an existing license expires if the replacement license is to authorize the licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing license. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

BM:bjl  
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## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO.07-1138, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTERS 5.01 AND 5.05 TO ENSURE THAT NON-PUTRESCIBLE MIXED WASTE MATERIAL RECOVERY FACILITIES AND RELOAD FACILITIES ARE OPERATED IN ACCORDANCE WITH ADMINISTRATIVE PROCEDURES AND PERFORMANCE STANDARDS ISSUED BY THE CHIEF OPERATING OFFICER AND TO MAKE RELATED CHANGES

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Date: January 18, 2007

Prepared by: Bill Metzler

### INTRODUCTION

The purpose of Ordinance No.07-1138 is to amend Chapters 5.01 and 5.05 of the Metro Code to ensure that material recovery facilities (MRFs) and reload facilities (reloads) accepting mixed non-putrescible waste generated in the Metro region are operated in accordance with the facility standards and operating requirements to be issued by Metro's Chief Operating Officer (COO) as provided in Metro Code Section 5.01.132.

The COO will issue the facility standards within 90 days of adoption of this ordinance by the Metro Council (the effective date of the ordinance). An overview of the facility standards is attached to this staff report (see Attachment 1).

In addition, Chapter 5.01 of the Metro Code will be amended to articulate six general performance goals for MRFs and reloads that describe the broad expectations for these facilities. They are:

- (1) *Environment*. Facilities shall be designed and operated to preclude the creation of undue threats to the environment (such as stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste and asbestos).
- (2) *Health and safety*. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety (such as fires, vectors, and airborne debris).
- (3) *Nuisances*. Facilities shall be designed and operated to preclude the creation of nuisance conditions (such as litter, dust, odors, and noise).
- (4) *Material recovery*. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered from solid waste in a timely manner, to meet the standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) *Reloading*. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) *Record keeping*. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

### Development and issuance of the facility standards

The facility standards issued by the COO will be more detailed than the six general performance goals listed above, and include: 1) issue specific performance goals, 2) performance standards and operating conditions, 3) standard operating condition templates (license agreement), and 4) standard application form templates.

Issuance of the facility standards will help assure that MRFs and reloads consistently handle, reload or recover material without creating nuisance impacts or harm to people or the environment. They will also provide a clear and level playing field for facilities and clarify the requirements prospective applicants must meet in advance of filing an application with Metro. Region-wide standards ensure a minimum level of consistency, however, individual jurisdictions may still impose more strict regulations.

The facility standards were developed with input from a workgroup consisting of representatives from the solid waste industry and local governments. The workgroup included: Vince Gilbert (East County Recycling), Howard Grabhorn (Lakeside Landfill), Allen Kackman (Elder Demolition), Dean Kampfer (Waste Management), Scott Keller (City of Beaverton), Wendie Kellington (Lakeside Landfill), Theresa Kopang (Washington County), Michael Leichner (Pride Recycling), Mark McGregor (Clean-It-Up-Mark), Audrey O'Brien (DEQ), Ray Phelps (Willamette Resources, Inc.), and David White (ORRA).

In general, the standards are supported by members of the workgroup, and the standards have been reviewed and passed unanimously by the Metro Solid Waste Advisory Committee. In addition, Metro has also received letters of support from the DEQ and local government partners.

The standards are largely based on provisions found in existing Metro licenses and franchises for material recovery facilities and reload facilities. However, with input from the workgroup, the standards include some new provisions that are needed based on Metro's regulatory experience with non-putrescible waste handling facilities. Seven of the ten existing private material recovery and reload facilities already meet the standards.<sup>1</sup> All new non-putrescible mixed waste handling facilities will be required to meet the standards in order to operate.

### Major new requirements

- ❑ The major new operating standard will require dry waste facilities to conduct operations inside a building and on an impervious pad (asphalt or concrete). The building and pad requirements are intended to address common material recovery facility and reload facility problems related to off-site noise, dust, odor, nuisance, environmental and unprocessed material contamination.
- ❑ Existing facilities like East County Recycling, are provided a two-year time frame for compliance with the building and pad requirements.
- ❑ The ordinance provides that an applicant for a Metro non-system license to transport non-putrescible waste generated inside the region; or a designated facility outside the region accepting non-putrescible waste that has not yet undergone material recovery, is not processing residual and originated or was generated in the Metro boundary must provide documentation that the facility is in substantial compliance with the standards issued by the COO.

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<sup>1</sup> There are nine existing private facilities that conduct material recovery from non-putrescible mixed waste: Aloha Garbage, Columbia Environmental (not yet operational), East County Recycling, KB Recycling, PLC III (not yet operational), Pride Recycling, Troutdale Transfer Station, Wastech and Willamette Resources, Inc. There is one existing non-putrescible mixed waste reload :Greenway Recycling, LLC. Of these ten facilities, all but three meet the standard requiring a building and pad: Aloha Garbage, East County Recycling, and Greenway Recycling, LLC.

In addition, Metro Code section 5.01.132 – Adoption of Administrative Procedures and Performance Standards by the Chief Operating Officer will be amended so that provisions for the public hearing requirement related to amending administrative procedures and new administrative procedures will be more consistent, and based on sufficient public interest. The existing code provisions in 5.01.132 (b) and (c) requires that only substantially amended procedures and standards require a public hearing - while new procedures and standards do not.

## **BACKGROUND**

### Temporary moratorium imposed on certain dry waste facilities

On February 2, 2006, the Metro Council imposed a temporary moratorium, until December 31, 2007, on all new mixed dry waste MRFs and reloads in the region. The moratorium was imposed by Council in order to: 1) provide time to conclude the Disposal System Planning project, 2) establish an enhanced dry waste recovery program, and 3) allow for the publication of up-to-date facility standards.

### Issues with dry waste handling facilities

Experience has shown that one of the most persistent problems from uncovered facilities is dust and airborne debris, generated on-site, that inevitably drifts off-site and settles on adjacent properties. Uncovered facilities have proven to have a more difficult time employing adequate control measures that contain dust and its resulting nuisance and health impacts.

Attention to preventing these problems has been intensified with several recent license applications to Metro to operate dry waste facilities. These applications were submitted with very little consideration to facility design and the impacts that can be associated with dry waste dumping and handling. If approved by Metro, these types of facilities could significantly increase the risks of public nuisances and adverse health or environmental impacts on people in surrounding businesses and neighborhoods. Metro's existing standards do not explicitly address the design requirements needed for a facility to avoid having such adverse impacts (e.g., impervious pad, roof, cover or building, and stormwater collection and treatment).

Issues of persistent concern for both MRFs and reloads now addressed in the proposed standards include:

- Dust and blowing debris generated from on-site traffic and the tipping and processing of dry waste.
- Insufficient on-site capacity for reloading or processing.
- Contamination or degradation of unprocessed waste by other solid waste or wind and precipitation.
- Inadequate load checking for prohibited or hazardous wastes.

In response to these issues, Metro is publishing facility standards and new application requirements for dry waste facilities. These standards will ensure that new dry waste facilities are designed and operated to a standard consistent with the best facilities in the region. Applicants will know well in advance what will be expected of a Metro licensed facility. Existing dry waste facilities not meeting these standards will be expected to achieve compliance within a reasonable time frame. Once these standards are implemented, the region will benefit from better-designed and operated facilities.

## **ANALYSIS/INFORMATION**

1. **Known Opposition.** No known opposition.
2. **Legal Antecedents.** Ordinance No. 06-1098B, Metro Code Chapters 5.01 and 5.05, the Regional Solid Waste Management Plan and the Metro Charter.
3. **Anticipated Effects.** Facilities accepting non-putrescible waste for the purpose of reloading or conducting material recovery will operate in accordance with the up-to-date performance standards, design requirements and operating requirements issued by the Metro Chief Operating Officer pursuant to Metro Code section 5.01.132.
4. **Budget Impacts.** No Metro budget impacts are anticipated.

### **RECOMMENDED ACTION**

The Chief Operating Officer recommends the adoption of Ordinance No. 07-1138.

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## ATTACHMENT 1

### Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Reload Facilities

The following table identifies a specific facility issue with an associated performance goal, design requirement (to be addressed in the license application process) and performance standard / operating requirement (an enforceable, regulatory condition that will be embedded in the facility license or franchise). There are three sections:

- **Section 1** identifies operational issues and standards that are applicable to non-putrescible mixed waste material recovery facilities and reloads.
- **Section 2** lists the general administrative and legal obligations of all Metro licensed and franchised facilities.
- **Section 3** is added as a placeholder to describe new application procedures, existing facility phase-in and renewal requirements, and variances.

#### SECTION 1 – Issues, Standards and Requirements Applicable to Mixed Dry Waste Material Recovery Facilities and Reload Facilities

These standards and requirements are applicable to a material recovery facility or a dry waste reload facility. Many are also applicable to other licensed or franchised solid waste facilities. The design requirements are applicable to new facilities and existing facilities seeking new or expanded authority (to be addressed in the application process). Shaded sections denote new or amended provisions.

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<p><b>A. Material recovery</b></p> <p>Applicable performance goals (3, 4)</p> <p>Metro Code: 5.01.125(a)(b)</p>	<p>Facilities that perform material recovery must be designed and operated to achieve the level of material recovery from mixed non-putrescible waste as specified in Metro Code.</p> <p>Facility design and operations shall ensure that unprocessed mixed non-putrescible wastes and recyclables are protected from contamination from other solid wastes or degradation from wind and precipitation.</p>	<p>Describe how material recovery will be conducted at the facility. For example:</p> <ol style="list-style-type: none"> <li>1. waste sources (e.g. commercial, residential), expected incoming tonnage, and characteristics, and expected tons recovered, including commodities, and tons of waste to be disposed;</li> <li>2. the material recovery methods and equipment to be used on site (e.g., sorting lines, hand picking, magnets, etc.) ; and</li> <li>3. the general markets for the materials recovered at the facility (subject to confidential information provisions in Section 2 X).</li> </ol> <p>Submit a proposed facility design providing asphalt or concrete surfaces and a roofed building that is enclosed on at least three sides for the tipping floor, processing (sorting) areas,</p>	<p>The facility shall perform material recovery on mixed non-putrescible wastes. Recovery must be performed at no less than the minimum level stipulated in Metro Code Chapter 5.01 (at least 25% by weight of non-putrescible waste accepted at the facility). <i>This may change based on EDWRP implementation.</i></p> <p>Source-separated recyclable materials, including source-separated yard debris or wood wastes brought to the facility shall not be mixed with any other solid wastes</p> <p>Source-separated recyclable materials may not be disposed of by incineration or landfilling.</p> <p>All mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
		storage and reloading areas.	tip wastes outside, provided the tipped wastes are moved under cover for processing or reloading within 12 hours of receipt or by the end of the business day, whichever is earlier.  Mixed non-putrescible solid waste shall at all times be kept physically separated from, and shall not be mixed or allowed to commingle at any time with source-separated recyclable materials, including wood waste, yard debris and other recyclables.
<p><b>B. Reloading non-putrescible waste</b></p> <p>Applicable performance goal (3, 5)</p>	<p>Non-putrescible waste reload facilities shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to a Metro authorized processing facility is conducted rapidly and efficiently.</p> <p>Facility design and operations shall ensure that unprocessed non-putrescible wastes and recyclables are protected from contamination from other solid wastes or degradation from wind and precipitation.</p>	<p>Submit a facility design that supports the rapid and efficient reloading of solid waste. Describe the equipment and methods that will be used.</p> <p>Submit a proposed design providing asphalt or concrete surfaces and a roofed structure, that is enclosed on at least three sides for the tipping floor, storage and reloading areas.</p>	<p>All mixed non-putrescible waste must be reloaded and transferred to a Metro authorized facility that conducts material recovery.</p> <p>All unprocessed mixed non-putrescible waste must be removed from the site within 48 hours after it has been received.</p> <p>All mixed non-putrescible waste tipping, storage and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may tip wastes outside, provided the tipped wastes are moved under cover for reloading within 12-hours of receipt or by the end of the business day, whichever is earlier.</p>
<p><b>C. Dust, airborne debris and litter</b></p> <p>Applicable performance goals (2, 3)</p>	<p>Minimize and mitigate the generation of dust, airborne debris and litter on-site and prevent its migration beyond property boundaries.</p>	<p>Submit a proposed design providing a roofed structure enclosed on at least three sides for the tipping floor, processing (sorting) areas, and reloading areas. Unusually large vehicles may tip wastes outside, provided the tipped wastes are moved under cover for processing within 12-hours of receipt or the end of the business day whichever is earlier.</p> <p>Describe control measures to prevent fugitive dust, airborne debris and litter. The design shall provide for shrouding and dust prevention for the receiving area, processing area, reload</p>	<p>The facility shall be operated in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond property boundaries. The facility shall:</p> <p>Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.</p> <p>Maintain and operate all vehicles and devices</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
		<p>area, and all dry processing equipment and all conveyor transfer points where dust is generated.</p> <p>Provide a discussion of any additional facility design measures and procedures for the control of dust, windblown materials, airborne debris, litter and for the handling of the waste in the case of major processing facility breakdown.</p>	<p>transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.</p> <p>Maintain, and operate all roads and access areas, receiving, processing (including grinding), storage, and reload areas in such a manner as to minimize and mitigate dust and debris from being generated on-site and prevent such dust and debris from blowing or settling off-site.</p> <p>Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation.</p> <p>All mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may tip wastes outside, provided the tipped wastes are moved under cover for processing within 12-hours of receipt.</p> <p>Mixed non-putrescible waste and processing residual may not be stored unless it is on an impervious (asphalt or concrete) surface within a covered building or alternatively, inside water tight covered or tarped containers or within covered or tarped transport trailers.</p> <p>On-site facility access roads shall be maintained to prevent or control dust and to prevent or control the tracking of mud off-site.</p>
<p><b>D. Facility capacity</b></p> <p>Applicable performance goals (1, 2, 3, 4, 5)</p>	<p>The operational capacity of the facility or site shall not be exceeded.</p>	<p>Provide engineering plans/reports and specifications to document that the size and configuration of the facility grounds, building and equipment, including the facility layout, drainage structures, building design, and major facility equipment, processing systems and storage areas are of sufficient capacity to accommodate seasonal throughput of all</p>	<p>Covered elsewhere.</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
		materials that will be delivered to and generated by the facility.	
<p><b>E. Storage and exterior stockpiles</b></p> <p>Applicable performance goals (2, 3, 4)</p>	<p>Stored materials and solid wastes shall be suitably managed, contained and removed at sufficient frequency to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards.</p>	<p>The facility site plan shall identify stockpile footprints, the type of materials and the maximum height of each material stockpile.</p> <p>The facility design must include processing systems and storage areas of sufficient capacity to accommodate seasonal throughput of all materials that are delivered to and generated by the facility.</p>	<p>Exterior stockpiles shall be positioned within footprints identified on the facility site plan.</p> <p>Stored materials and solid wastes shall be suitably managed, contained and removed at sufficient frequency to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.</p> <p>Materials may not be stockpiled for longer than 180 days (6 months). Exceptions may be granted provided the facility has received written authority to store materials for longer periods of time based on a demonstrated need and the materials will be used productively and provided that such stockpiles will not create nuisances, health, safety or environmental problems.</p> <p>Mixed non-putrescible waste or processing residual may not be stored on-site unless it is on an impervious surface (i.e., asphalt or concrete) within a covered building or alternatively, inside water tight covered or tarped containers or within covered or tarped transport trailers.</p> <p>All non-putrescible waste processing residual shall at all times be kept physically separated from, and shall not be mixed or allowed to commingle at any time with, other source-separated recyclable or recovered materials, including wood waste, yard debris and other recyclables.</p>



Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<b>F. Fire prevention</b> Applicable performance goals (1, 2, 3)	Provide adequate fire prevention, protection, and control measures.	Submit proof of compliance with local and state fire codes. Stockpiles shall be located, sized and configured as required by local fire authorities. Identify water sources for fire suppression and layout that allows for isolation of potential heat sources.	The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)	
<b>G. Qualified operator</b> Applicable performance goals (1, 2, 3, 4)	Provide a qualified operator on-site during all hours of operation to carry out the functions required by the license and operating plan.	The facility shall, during all hours of operation, provide a qualified and competent operating staff. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of the license and the relevant procedures contained within the facility's operating plan. A qualified operator must be an employee of the facility with training and authority to reject prohibited loads and properly manage prohibited waste that is inadvertently received.	

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<b>H. Prohibited waste</b> Applicable performance goals (1, 2, 3, 4)	Prevent the acceptance of prohibited waste, including but not limited to putrescible waste, hazardous waste and asbestos. Prohibited waste shall be properly managed and disposed when inadvertently received.	Designate a load checking area on the facility site plan and a location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated. Containment areas shall be covered and enclosed and constructed to prevent leaking and contamination.	The facility shall provide qualified operators on-site during all hours of operation.  The facility shall not accept prohibited waste, including but not limited to putrescible waste, hazardous waste and asbestos. Prohibited loads must be rejected upon discovery. Prohibited waste shall be properly managed and disposed

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
			<p>when inadvertently received.</p> <p>The facility shall implement a load checking program to prevent the acceptance of waste which is prohibited by the license. This program must include at a minimum:</p> <p>Visual inspection. Ensure when each load is tipped it is visually inspected by a qualified operator to prevent the acceptance of waste which is prohibited by the license; and</p> <p>A location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated. Containment areas shall be covered and enclosed to prevent leaking and contamination.</p> <p>Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro.</p>
<p><b>I. Measurement of waste</b></p> <p>Applicable performance goals (6)</p>	<p>All non-putrescible waste and source-separated recyclable materials shall be accurately weighed when they are received, transferred to market or intra-facility, and transported from the facility.</p>	<p>The location of scales shall be designated on the facility site plan.</p>	<p>The facility operator shall weigh all non-putrescible waste and source-separated recyclable material when it is received, transferred to market or intra-facility, and transported from the facility.</p> <p>The scale used to weigh all solid waste shall be licensed by the state of Oregon (Weights and Measures Act)</p>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)	
<p><b>J. Transaction records and reporting</b></p> <p>Applicable</p>	<p>Maintain complete and accurate transaction records on the weights and types of all solid wastes and recyclable materials received, recovered, reloaded, removed or disposed from the facility.</p>	<p><b>Record transmittals.</b> Records required shall be transmitted to Metro no later than fifteen days following the end of each month in electronic format prescribed by Metro.</p> <p><b>Hauler account number listing.</b> Within 5 business days of Metro's request, licensee shall provide Metro with a computer listing that cross references the incoming hauler account number with the hauling company's name and address.</p>	

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)	
<p>performance goals (6)</p> <p>Metro Code: 5.01.137(a)</p>		<p><b>Transactions to be based on scale weights.</b> Except for minimum fee transactions for small, light-weight loads, the licensee shall record each transaction electronically based on actual and accurate scale weights using the licensee’s on-site scales.</p> <p>For all solid waste the licensee is authorized to receive, including all non-putrescible waste, source-separated recyclables, inert materials, and yard debris, the licensee shall keep and maintain accurate records of the amount of such materials the licensee receives, recovers, recycles, reloads, and disposes. The licensee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ol style="list-style-type: none"> <li>a. Ticket Number (should be the same as the ticket number on the weight slips);</li> <li>b. Account Number or Business Name: Incoming hauler account number on all incoming transactions and outgoing destination account number on all outgoing transactions. For incoming cash commercial customers, incoming hauler business name for all incoming commercial cash transactions;</li> <li>c. Materialcategory: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming mixed dry waste; (3) outgoing recyclable materials by type; (4) outgoing mixed dry waste;</li> <li>d. Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from out-of-state; <ol style="list-style-type: none"> <li>i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.</li> <li>ii. If the Licensee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Licensee is not required to designate the origin of loads in (d)(2) and (3) above.</li> </ol> </li> <li>e. Date the load was received at, transferred within, or transmitted from the facility;</li> <li>f. Time the load was received at, transferred within, or transmitted from the facility;</li> <li>g. Indicate whether Licensee or Franchisee accepted or rejected the load;</li> <li>h. Net weight of the load;</li> <li>i. The fee charged to the generator of the load.</li> </ol>	

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<p><b>K. Access control</b></p>	<p>Control access and prevent unauthorized pedestrian and vehicular traffic and illegal</p>	<p>Control pedestrian and vehicular access to the proposed facility by means of fencing, gates</p>	<p>Access to the facility shall be controlled as necessary to prevent unauthorized entry and</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<p>Applicable performance goals (1, 2, 3)</p>	<p>dumping.</p>	<p>which may be locked, natural barriers or security guards.</p>	<p>dumping. A gate or other suitable barrier shall be maintained at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.</p>
<p><b>L. Adequate vehicle accommodation</b> Applicable performance goals (2, 3)</p>	<p>Provide and maintain access roads to allow the orderly egress and ingress of vehicular traffic.</p>	<p>Access roads shall be provided from the public highways or roads, to and within the facility site and shall be designed and maintained to prevent traffic congestion and traffic hazards. Adequate on-site area at the facility's entrance, scales, loading and unloading points and exit points shall be provided to allow the number and types of vehicles expected to use the facility during peak times to safely queue off the public roads and right-of-way.</p>	<p>Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. Vehicles delivering solid waste to the facility shall not park or queue on public streets or roads in a manner that impedes normal traffic flow, except under emergency conditions. Signs shall be posted to inform customers not to queue on public roadways. Adequate off-street parking and queuing for vehicles shall be provided, including adequate space for on-site tarping and untarping of loads.</p>
<p><b>M. Water contaminated by solid waste and solid waste leachate</b> Applicable performance goals: (1, 2)</p>	<p>Provide pollution control measures to protect surface and ground waters from contamination from solid waste.</p>	<p>Submit a DEQ (or equivalent) approved plan with pollution control measures to protect surface and ground waters, including runoff collection and discharge and equipment cleaning and washdown water.</p>	<p>The Licensee shall operate the facility consistent with an approved DEQ (or equivalent) plan, and shall: Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and Dispose of or treat water contaminated by solid waste generated onsite in a manner complying with local, state, and federal laws and regulations. All mixed non-putrescible waste tipping, storing, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may tip wastes outside, provided the tipped wastes</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
			are moved under cover for processing within 12-hours of receipt or by the end of the business day whichever is earlier.
<p><b>N. Vectors (e.g.: birds, rodents, insects)</b> Applicable performance goals (2, 3)</p>	Prevent the attraction or harborage of rodents, birds, insects and other vectors.	Describe facility design features that will prevent vectors.	The Licensee shall operate the facility in a manner that is not conducive to the harborage of rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. If vectors are present or detected at the facility, vector control measures shall be implemented.
<p><b>O. Nuisance complaints</b> Applicable performance goals (3)</p>	Respond to all nuisance complaints in a timely manner, and keep a record of such complaints, and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.	Not applicable	<p>The facility operator shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>If the facility receives a complaint, the operator shall:</p> <p>Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and log all such complaints as provided by the recordkeeping and reporting standards. Each log entry shall be retained for one year and shall be available for inspection by Metro.</p>
<p><b>P. Noise</b> Applicable performance goals (2, 3)</p>	Prevent excessive noise that creates adverse off-site impacts.	Identify noise abatement design features on the facility site plan, if proposed.	The facility shall be operated in a manner that prevents the creation of excessive noise that creates adverse off-site impacts.
<p><b>Q. Odor</b> Applicable performance goals</p>	Prevent odors that create off-site impacts.	Identify odor abatement design features on the facility site plan, if proposed.	The facility shall be operated in a manner that prevents the generation of odors that create off-site impacts. Odors from the facility shall not be

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
(2, 3)			<p>detectable off-site.</p> <p>The Licensee shall establish and follow procedures in the operating plan for minimizing odor at the facility.</p>
<p><b>R. Signage</b></p> <p>Applicable performance goals (1, 2, 3)</p>	<p>Have signage that identifies the facility, shows the required information, and is posted in locations as required.</p>	<p>Identify where the sign(s) will be located on the facility site plan.</p>	<p>The Licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information:</p> <ol style="list-style-type: none"> <li>1. General facility information <ul style="list-style-type: none"> <li>Name of the facility</li> <li>Address of the facility;</li> <li>Emergency telephone number for the facility;</li> <li>Operating hours during which the facility is open for the receipt of authorized waste;</li> <li>Fees and charges;</li> <li>Metro's name and telephone number (503) 234-3000; and</li> <li>A list of authorized and prohibited wastes.</li> </ul> </li> <li>2. Vehicle / traffic flow information or diagram.</li> <li>3. Covered load requirements.</li> </ol>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
<p><b>S. Operating plan</b></p> <p>Applicable performance goals (1, 2, 3, 4, 5)</p>	<p>Develop, keep and abide by a Metro approved operating plan.</p>	<p><b>Plan compliance</b> The Licensee must operate the facility in accordance with an operating plan approved by the Manager of the Metro Solid Waste Regulatory Affairs Division. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this license. The operating plan may be amended from time to time, subject to approval by the Manager of the Metro Solid Waste Regulatory Affairs Division.</p> <p><b>Plan maintenance</b> The Licensee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Licensee must submit revisions of the operating plan to the Manager of the Metro Solid Waste Regulatory Affairs Division for written approval prior to implementation.</p> <p><b>Access to operating plan</b> The Licensee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.</p> <p>The operating plan shall establish:</p>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
		<p><b>Procedures for inspecting loads</b></p> <ul style="list-style-type: none"> <li>a. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;</li> <li>b. A set of objective criteria for accepting and rejecting loads; and</li> <li>c. An asbestos testing protocol for all material that appears as if it may contain asbestos.</li> </ul> <p><b>Procedures for processing and storage of loads</b></p> <ul style="list-style-type: none"> <li>a. Processing authorized solid wastes,</li> <li>b. Reloading and transfer of authorized solid wastes,</li> <li>c. Managing stockpiles.</li> <li>d. Storing authorized solid wastes; and</li> <li>e. Minimizing storage times and avoiding delay in processing of authorized solid wastes.</li> </ul> <p><b>Procedures for managing prohibited wastes</b></p> <p>The operating plan shall establish procedures for managing, reloading, and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p> <p><b>Procedures for odor prevention</b></p> <p>The operating plan shall establish procedures for preventing all objectionable odors from being detected off the premises of the facility. The plan must include:</p> <ul style="list-style-type: none"> <li>a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and</li> <li>b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.</li> </ul> <p><b>Procedures for dust prevention</b></p> <p>The operating plan shall establish procedures for preventing the production of dust from blowing or falling off the premises of the facility. The plan must include:</p> <ul style="list-style-type: none"> <li>a. A management plan that will be used to monitor and manage dust of any derivation; and</li> <li>b. Procedures for receiving and recording dust complaints, immediately investigating any dust complaints to determine the cause of dust emissions, and remedying promptly any dust problem at the facility.</li> </ul> <p><b>Procedures for emergencies</b></p> <p>The operating plan shall establish procedures to be followed in case of fire or other emergency.</p> <p><b>Procedures for nuisance complaints</b></p> <p>For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Licensee shall record:</p> <ul style="list-style-type: none"> <li>a. The nature of the complaint;</li> <li>b. The date the complaint was received;</li> <li>c. The name, address and telephone number of the person or persons making the complaint; and</li> <li>d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).</li> <li>e. Records of such information shall be made available to Metro upon request. The Licensee shall retain</li> </ul>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
<p><b>T. Pre-Operating conditions</b> <i>(for new construction or new authorizations)</i></p> <p>Applicable performance goals (1, 2, 3, 4, 5)</p>	<p>The facility shall not be permitted to accept solid waste until it has demonstrated that construction is complete and the facility will likely be able to comply with all license conditions.</p>	<p>each complaint record for a period of not less than two years.</p> <p>The facility may not accept any solid waste until the Director of the Solid Waste and Recycling Department has approved in writing that:</p> <ol style="list-style-type: none"> <li>The facility construction is complete according to plans submitted by the facility and approved by Metro. Any amendments or alterations to such plans must be approved by the Director of the Solid Waste and Recycling Department.</li> <li>The storm water management system must be constructed and in proper working order in accordance with the plans submitted to Metro and approved by the DEQ. Any amendments or alterations to such plans must be approved by the Director of the Solid Waste and Recycling Department.</li> <li>An adequate operating plan has been submitted and approved by the Director of the Solid Waste and Recycling Department.</li> </ol> <p>Such written approval shall be based upon the Licensee’s compliance with license provisions, including the Director’s inspection of the facility and the documents submitted to the Director by the Licensee.</p> <p>Prior to the required construction inspection, the Licensee shall submit to the Director of the Solid Waste and Recycling Department “as constructed” facility plans which note any changes from the original plans submitted to Metro.</p> <p>When construction is complete or nearly complete, the Licensee shall notify the Director of the Solid Waste and Recycling Department so that an inspection can be made before acceptance of any solid waste.</p>
<p><b>U. General Recordkeeping and Reporting</b></p> <p>Applicable performance goal (6)</p> <p>Metro Code 5.01.137(a)</p>	<p>Maintain complete and accurate records and report such information to Metro.</p>	<p><b>DEQ submittals.</b> Licensee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this license within two business days of providing such information.</p> <p><b>Copies of enforcement actions provided to Metro.</b> Licensee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to licensee by any federal, state, or local government other than Metro, and related to the operation of the facility.</p> <p><b>Unusual occurrences.</b> Licensee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. If a breakdown of the operator’s equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the operator shall notify Metro within 24-hours. The licensee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 234-3000 within 12 hours of the discovery of their occurrence.</p> <p><b>Nuisance complaints.</b> For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record: a) the nature of the complaint, b) the date the complaint was received, c) the name, address and telephone number of the person or persons making the complaint; and d) any actions taken by the operator in response to the complaint (whether</p>



Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
		<p>successful or unsuccessful). Records of such information shall be maintained on-site and made available to Metro upon request. The licensee shall retain each complaint record for a period not less than one year.</p> <p><b>Changes in ownership.</b> The licensee must, in accordance with Metro Code Section 5.01.090, submit a new license application to Metro if the licensee proposes to transfer ownership or control of (1) the license, (2) the facility property, or (3) the name and address of the operator.</p>

## SECTION 2 – General Administrative and Legal Obligations for Operating

This section identifies standard administrative and legal obligations, required by the Metro Code, for all solid waste facility licenses and franchises. These requirements are not unique to a material recovery facility or to a non-putrescible waste reload facility. Shaded sections denote new or amended provisions.

Issue	Performance Standard / Operating Requirement (license / franchise provision)
<p><b>V. Compliance by agents.</b> Metro Code: 5.01.410(c)(e)(g)(h)</p>	<p><b>Compliance by agents.</b> The Licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.</p>
<p><b>W. Compliance with law</b> Metro Code: 5.01.410(c)(e)(g)(h)</p>	<p><b>Compliance with law.</b> The Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.</p>
<p><b>X. Confidential information.</b> Metro Code: 5.01.137(f)</p>	<p><b>Confidential information.</b> The Licensee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Licensee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. Licensee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Licensee as confidential, Metro shall provide Licensee written notice of the request. Licensee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Licensee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 13.0 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information</p>
<p><b>Y. Deliver waste to appropriate destinations</b> Metro Code: 5.01.120(b)</p>	<p><b>Deliver waste to appropriate destinations.</b> The Licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;</p>

(Section 2 continued)

Issue	Performance Standard / Operating Requirement (license / franchise provision)
<p><b>Z. Enforcement</b></p> <p>Metro Code: 5.01.410(c)</p>	<p><b>Generally.</b> Enforcement of the license shall be as specified in Metro Code.</p> <p><b>Authority vested in Metro.</b> The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro’s authority, and to enforce all such requirements against Licensee.</p> <p><b>No Enforcement Limitations.</b> Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the Licensee’s operation of the facility.</p>
<p><b>AA. Indemnification.</b></p> <p>Metro Code: 5.01.120(d)</p>	<p><b>Indemnification.</b> The Licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney’s fees, or liability related to or arising out of or in any way connected with the Licensee’s performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.</p>
<p><b>BB. Modifications</b></p> <p>Metro Code: 5.01.180 5.01.410(d)</p>	<p><b>Modification.</b> At any time during the term of the license, either the Chief Operating Officer or the Licensee may propose amendments or modifications to this license. The Chief Operating Officer has the authority to approve or deny any such amendments or modifications provided that the activities authorized in the amended or modified license do not require a Metro Solid Waste Facility Franchise under Metro Code Chapter 5.01. No amendment or modification pursuant to this section shall be effective unless in writing and executed by the Chief Operating Officer.</p> <p><b>Modification, suspension or revocation by Metro.</b> The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> <li>a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;</li> <li>b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;</li> <li>c. Failure to disclose fully all relevant facts;</li> <li>d. A significant release into the environment from the facility;</li> <li>e. Significant change in the character of solid waste received or in the operation of the facility;</li> <li>f. Any change in ownership or control, excluding transfers among subsidiaries of the Licensee or Licensee’s parent corporation;</li> <li>g. A request from the local government stemming from impacts resulting from facility operations.</li> <li>h. Compliance history of the Licensee.</li> </ol>

(Section 2 continued)

Issue	Performance Standard / Operating Requirement (license / franchise provision)
<p><b>CC. Right of inspection and audit.</b></p> <p>Metro Code: 5.01.120(a) 5.01.135 (a)(b)(c)</p>	<p><b>Right of inspection and audit.</b> Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 13.5 of this license, Metro’s right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Licensee that are directly related to the operation of the Facility.</p>
<p><b>DD. Insurance</b></p> <p>Metro Code: 5.01.060(c)(1) 5.01.120(c)</p>	<p><b>General liability.</b> The Licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.</p> <p><b>Automobile.</b> The Licensee shall carry automobile bodily injury and property damage liability insurance.</p> <p><b>Coverage</b> Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.</p> <p><b>Additional insureds.</b> Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.</p> <p><b>Worker’s Compensation Insurance.</b> The Licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers’ Compensation Law shall comply with ORS 656.017, which requires them to provide Workers’ Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers’ Compensation insurance including employer’s liability. If Licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers’ Compensation.</p> <p><b>Notification.</b> The Licensee shall give at least 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage.</p>
<p><b>EE. Financial assurance</b></p> <p>Metro Code: 5.01.060(c)(4)</p>	<p><b>Financial assurance</b> The Licensee shall maintain financial assurance in an amount adequate for the cost of the facility’s closure and in a form approved by Metro for the term of the license, as provided in Metro Code section 5.01.060(c)(4).</p>

**Section 3** –New application requirements, existing facility phase-in and renewal requirements, and variances

<b>Issue</b>	<b>In addition to Metro’s current procedures and requirements for new applications and renewals, the following will also apply:</b>
<p><b>FF. New application requirements</b> (including applications from existing facilities seeking expanded authority)</p>	<p>New facilities and existing facilities seeking new or expanded authority to conduct reloading or material recovery will have to demonstrate compliance with all of the design requirements in the application process. Application submittals such as facility design, building plans, site plans and specifications that address the standards, must be prepared, as appropriate, by persons licensed in engineering, architecture, landscape design, traffic engineering, air quality control, and design of structures.</p>
<p><b>GG. Existing facility phase-in and renewal requirements</b></p>	<p>Upon adoption of the standards, existing facilities will have two years to demonstrate compliance with the requirement that all mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Other than that requirement, no additional design requirements will be required for existing facilities. New or revised operating requirements will become part of a facility replacement license or franchise upon renewal for all facilities.</p>
<p><b>HH. Variances</b></p>	<p>This section is a placeholder and will provide that the Chief Operating Officer may grant specific variances from particular requirements of the standards adopted as administrative procedures to applicants for licenses or franchises.</p>

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 07- 1139
CODE CHAPTERS 5.01 AND 5.05 AND THE	)	
REGIONAL SOLID WASTE MANAGEMENT	)	Introduced by Michael Jordan, Chief
PLAN TO LIFT A TEMPORARY	)	Operating Officer with the concurrence of
MORATORIUM ON CERTAIN NEW NON-	)	David Bragdon, Council President
PUTRESCIBLE MIXED WASTE MATERIAL	)	
RECOVERY OR RELOAD FACILITIES AND	)	
CERTAIN NON-SYSTEM LICENSES	)	

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and

WHEREAS, on February 2, 2006 the Metro Council approved Ordinance No. 06-1098B that amended the Metro Code Chapters 5.01 and 5.05 and the Regional Solid Waste Management Plan to impose a temporary moratorium until December 31, 2007 on new non-putrescible mixed waste material recovery or reload facilities that accept solid waste originating, generated, or collected within the Metro region; and

WHEREAS, the temporary moratorium provides that the Metro Council may lift the temporary moratorium at an earlier date if sufficient progress is made in setting system policy direction on disposal and material recovery, and toward development of more detailed material recovery facility standards; and

WHEREAS, through Disposal System Planning, the Interim Waste Reduction Plan, and more detailed material recovery facility standards, sufficient progress has been made in setting system policy direction on disposal and material recovery, the temporary moratorium on new non-putrescible mixed waste recovery or reload facilities and the temporary moratorium on changes of authorizations, the temporary moratorium on certain non-system licenses should be lifted in 90 days; and now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

**SECTION 1.** Metro Code Section 5.01.060 shall be amended as follows:

5.01.060 Applications for Licenses or Franchises

(a) Applications for a Franchise or License or for renewal of an existing Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;

- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any Closure plan required to be submitted to DEQ, or if DEQ does not require a Closure plan, a Closure document describing Closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of Closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of Closure of the facility. The proposal shall include an estimate of the cost to implement the Closure plan required in Section 5.01.060(c)(3). If an application is approved, the license or franchise shall require that financial assurance is in place prior to beginning any activities authorized by the license or franchise. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the Closure plan required in Section 5.01.060(e)(3) will be less than \$10,000.
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application and any permit that has been granted shall be provided.

(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter.

(e) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to operate a Transfer Station during the period commencing August 19, 2004, and continuing until December 31, 2007.

~~(f) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to accept non-putrescible solid waste originating, generated or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing January 12, 2006, and continuing until December 31, 2007. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.~~

**SECTION 2.** Metro Code Section 5.01.067 shall be amended as follows:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within ten (10) days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a



License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer.

(j) The term of a new or renewed License shall be not more than five years.

~~(k) Notwithstanding any other provision in this Section, no authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading shall be granted during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.~~

**SECTION 3.** Metro Code Section 5.05.035 shall be amended as follows:

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;

- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
  - (A) The total tonnage if the application is for a limited duration non-system license; or
  - (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

(b) Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

- (1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.
- (2) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars (\$100).
- (3) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the

application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).

- (4) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in Section 5.01.150, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.

(c) Factors to Consider To Determine Whether to Issue Non-System License. The Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to determine whether or not to issue a non-system license:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the non-system facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and
- (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

(d) Timetables To Determine Whether to Issue a Non-System License.

- (1) Non-system licenses for Non-putrescible waste, Special waste, Cleanup Material Contaminated By Hazardous Substances, or any other solid waste other than Putrescible waste.
  - (A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination within 60 days after receipt of a new completed application, including receipt of any additional information required by the Chief Operating Officer in connection therewith.

(B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 60 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Chief Operating Officer shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Chief Operating Officer is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 60 days before the existing license expires.

(2) Non-system licenses for Putrescible waste. The Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue or renew a non-system license for Putrescible waste. If the Chief Operating Officer recommends that the non-system license be issued or renewed, the Chief Operating Officer shall recommend to the council specific conditions of the non-system license.

(A) New licenses. The Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination within 120 days after receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith.

(B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 120 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Council shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Council is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.

(3) At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a new or renewed non-system license as deemed necessary or appropriate under the circumstances.

(e) Issuance of Non-System License; Contents. Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;
- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than:
  - (A) 120 days from the date of issuance for a limited-duration non-system license;
  - (B) Three years from the date of issuance for a new full-term license; and
  - (C) Two years from the date of issuance of a renewed full-term non-system license.
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(f) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month; and
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.
- (4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary,

the load in its entirety shall be reported to Metro by the non-system licensee as having been generated within the Metro boundary and the Regional System Fee and Excise Tax shall be paid on the entire load unless the licensee provides Metro with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or unless Metro has agreed in writing to another method of reporting.

(g) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and
- (2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance

(h) Notwithstanding any other provision in this Section, and unless contrary to any other applicable law, the Chief Operating Officer shall not accept any application for, and neither the Chief Operating Officer nor the Metro Council shall issue a non-system license for mixed putrescible solid waste ~~or mixed non-putrescible solid waste that has not first been delivered to a Metro licensed or franchised Processing facility for material recovery~~ during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that a licensee may request, and the Chief Operating Officer or Metro Council may issue, a replacement license with an effective date beginning the day after an existing license expires if the replacement license is to authorize the licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing license. ~~Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.~~

**SECTION 4.** The provisions of “Business Waste Reduction Practices: 4. Regional processing facilities for mixed dry waste,” located on pages 7-17 to 7-18 of the Regional Solid Waste Management Plan, are amended to delete the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with January 12, 2006, and continuing until December 31, 2007, provided, however that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006.

**SECTION 5.** The provisions of “Building Industries (Construction and Demolition) Waste reduction Practices” located on pages 7-19 to 7-22 of the Regional Solid Waste Management Plan, are amended to delete the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with January 12, 2006, and continuing until December 31, 2007, provided, however that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006.

**SECTION 6.** The provisions of “Solid Waste Facilities and Services: Transfer and Disposal System” located on pages 7-25 to 7-27 of the Regional Solid Waste Management Plan, are amended to delete the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with January 12, 2006, and continuing until December 31, 2007, provided, however that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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David Bragdon, Council President

Attest:

Approved as to Form:

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Christina Billington, Recording Secretary

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Daniel B. Cooper, Metro Attorney

BM:bjl  
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## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 07-1139, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTERS 5.01 AND 5.05 AND THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO LIFT A TEMPORARY MORATORIUM ON CERTAIN NEW NON-PUTRESCIBLE MIXED WASTE MATERIAL RECOVERY AND RELOAD FACILITIES AND CERTAIN NON-SYSTEM LICENSES

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Date: January 18, 2007

Prepared by: Bill Metzler

## BACKGROUND

On February 2, 2006 the Metro Council adopted Ordinance No. 06-1098B that amended the Metro Code Chapters 5.01 and 5.05 and the Regional Solid Waste Management Plan to impose a temporary moratorium until December 31, 2007, on certain new non-putrescible, mixed solid waste material recovery or reload facilities, and certain non-system licenses.

The temporary moratorium provides that the Metro Council may lift the temporary moratorium at an earlier date if sufficient progress is made in setting system policy direction on disposal and material recovery, and toward development of more detailed material recovery facility standards.

It is recommended that the temporary moratorium be lifted earlier than December 31, 2007, because sufficient progress has been made in setting system policy direction on disposal and material recovery through: 1) the Disposal System Planning project – which has been completed, and 2) the Interim Waste Reduction Plan, approved by Council in August 2006, and 3) the Enhanced Dry Waste Recovery Program (EDWRP) which will be presented to Council in the spring. In addition, detailed material recovery facility standards have been developed and will be issued by the Chief Operating Officer within 90 days of adoption of Ordinance No. 07-1138.

## ANALYSIS/INFORMATION

1. **Known Opposition.** No opposition to lifting the moratorium early has been identified.
2. **Legal Antecedents** Ordinance No. 06-1098B, Metro Code Chapter 5.01 and 5.05, The Regional Solid Waste Management Plan, and the Metro Charter.
3. **Anticipated Effects.** Adoption of this ordinance will lift the temporary moratorium imposed by Council on new non-putrescible mixed waste recovery or reload facilities that accept solid waste originating, generated, or collected within the Metro region, including the temporary moratorium on any changes of authorizations to allow existing facilities to begin new non-putrescible waste material recovery or reload operations involving solid waste originating, generated, or collected within the Metro region the temporary moratorium on certain non-system licenses. As soon as the ordinance is effective (90 days after adoption by Council), Metro can expect to begin receiving and evaluating new license applications for non-putrescible mixed material recovery facilities.
4. **Budget Impacts.** There are no Metro budget impacts.



**RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Ordinance No. 07-1139.

BM:bjl  
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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE	)	
SECTIONS 3.07.120, 3.07.130 AND 3.07.1120;	)	Ordinance No. 07-1137A
ADDING METRO CODE SECTION 3.07.450 TO	)	
ESTABLISH A PROCESS AND CRITERIA FOR	)	Introduced by Chief Operating Officer
CHANGES TO THE EMPLOYMENT AND	)	Michael J. Jordan, with the concurrence of
INDUSTRIAL AREAS MAP; AND DECLARING AN	)	Council President David Bragdon
EMERGENCY	)	

WHEREAS, Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (“UGMFP”) prescribes limitations on certain uses in Industrial Areas, Regionally Significant Industrial Areas and Employment Areas and makes reference to an “Employment and Industrial Areas Map,” which depicts the boundaries of these areas for regulatory purposes; and

WHEREAS, the Metro Council wishes to provide a process and criteria for making changes to the designations of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas on the Title 4 Employment and Industrial Areas Map; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the proposed amendments and recommends their approval; and

WHEREAS, the Council held a public hearing on the proposed amendments on January 18, 2007, and considered public comment on the amendments; now, therefore,

THE METRO COUNCIL ORDAINS as follows:

**SECTION 1.** Metro Code Sections 3.07.120 and 3.07.130 are amended to read as follows: Sections 3.07.120 and 3.07.130 of Title 1 (Requirements for Housing and Employment Accommodation) of the UGMFP are hereby amended as shown in Exhibit A, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

**SECTION 2.** Metro Code Section 3.07.450 is amended to read as follows: Section 3.07.450 is hereby added to Title 4 (Industrial and Other Employment Areas) of the UGMFP as shown in Exhibit B, attached and incorporated into this ordinance, to prescribe a process and criteria for amendments to the Employment and Industrial Areas Map.

**SECTION 3.** Metro Code Section 3.07.1120 is amended to read as follows: Section 3.07.1120 of Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended as shown in Exhibit C, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

**SECTION 4.** The Findings of Fact and Conclusions of Law in Exhibit D, attached and incorporated into this ordinance, explain how these amendments comply with Metro’s Regional Framework Plan and state land use planning laws.

**SECTION 5.** This ordinance is necessary for the immediate preservation of public health, safety and welfare because, without this ordinance, there is no clear process for amending the Employment and Industrial Areas Map in Title 4 of the UGMFP and no specific criteria for such amendments. Metro has received a number of requests from local governments for amendments that involve economic development and need immediate attention. This ordinance provides a process and criteria for amendments to the map. Therefore, a emergency is declared to exist. This ordinance shall take effect immediately, pursuant to section 39(1) of the Metro Charter.

ADOPTED by the Metro Council this \_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A to Ordinance No. 07-1137A**  
**Amendments to Title 1 of the Urban Growth Management Functional Plan**

**TITLE 1: REQUIREMENTS FOR HOUSING AND EMPLOYMENT ACCOMMODATION**

3.07.120 Housing and Employment Capacity

- A. Each city and county shall determine its capacity for housing and employment in order to ensure that it provides and continues to provide at least the capacity for the city or county specified in Table 3.07-1, supplemented by capacity resulting from addition of territory to the UGB. Local governments shall use data provided by Metro unless the Metro Council or the Chief Operating Officer determines that data preferred by a city or county is more accurate.
- B. A city or county shall determine its capacity for dwelling units by cumulating the minimum number of dwelling units authorized in each zoning district in which dwelling units are authorized. A city or county may use a higher number of dwellings than the minimum density for a zoning district if development in the five years prior to the determination has actually occurred at the higher number.
- C. If a city annexes county territory, the city shall ensure that there is no net loss in regional housing or employment capacity, as shown on Table 3.07-1, as a result of amendments of comprehensive plan or land use regulations that apply to the annexed territory.
- D. After completion of its initial determination of capacity, each city or county shall report changes in its capacity by April 15 of the first calendar year following completion of its initial determination and by April 15 of every following year.

Deleted: 3.01-7

3.07.130 Design Type Boundaries Requirement

For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map or on maps adopted by ordinances adding territory to the UGB:

Central City--Downtown Portland is the Central City which serves as the major regional center, an employment and cultural center for the metropolitan area.

Regional Centers--Seven regional centers will become the focus of compact development, redevelopment and high-quality transit service and multimodal street networks.

Station Communities--Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature a high-quality pedestrian environment.

Town Centers--Local retail and services will be provided in town centers with compact development and transit service.

Main Streets--Neighborhoods will be served by main streets with retail and service developments served by transit.

Corridors--Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities.

Employment Areas--Various types of employment and some residential development are encouraged in employment areas with limited commercial uses.

Industrial Areas--Industrial areas are set aside primarily for industrial activities with limited supporting uses.

Regionally Significant Industrial Areas--Industrial areas with site characteristics that are relatively rare in the region that render them especially suitable for industrial use.

Inner Neighborhoods--Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes are inner neighborhoods.

Outer Neighborhoods--Residential neighborhoods farther away from large employment centers with larger lot sizes and lower densities are outer neighborhoods.

**Exhibit B to Ordinance No. 07-1137A**  
**Amendments to Title 4 Of the Urban Growth Management Functional Plan**

**TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS**

*Add the following section:*

**3.07.450 Employment and Industrial Areas Map**

- A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.
- B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.
- C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by Title 4 upon a demonstration that:
  - 1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
  - 2. The amendment will not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;
  - 3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
  - 4. The amendment would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("[RTP](#)"), or exceed volume-to-capacity ratios on Table 7 of

the 1999 Oregon Highway Plan for state highways, ~~and would not require added road capacity to stay within the standards or ratios~~ unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;

5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and
6. If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by Title 4 upon a demonstration that:

1. The entire property is not buildable due to environmental constraints; or
2. The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and
3. The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by Title 4, exceeds the assessed value of the land by a ratio of 1.5 to 1.

DE. The Chief Operating Officer shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

EF. After consultation with Metropolitan Policy Advisory Committee, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area

and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.

G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

FH. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance ~~at any time~~ to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section ~~better achieve the policies of the Regional Framework Plan~~. To approve an amendment, the Council must conclude that the amendment:

1. Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;
2. Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to-capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, ~~and would not require added road capacity to stay within the standards or ratios unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses~~;
3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
4. Would not reduce the integrity or viability of a traded sector cluster of industries;
5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.



- GI. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
- HJ. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.
- IK. By January 31 of each year, the Chief Operating Officer (COO) shall submit a written report to the Council and the Metropolitan Policy Advisory Committee on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

**Exhibit C to Ordinance No. 07-1137A**  
**Amendments to Title 11 of the Urban Growth Management Functional Plan**

**TITLE 11: PLANNING FOR NEW URBAN AREAS**

**3.07.1120. Planning for Territory Added to the UGB**

Deleted: Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory added to the UGB as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

Deleted: Urban Growth Boundary

**A. Specific plan designation boundaries derived from the general boundaries of design type designations assigned by the Council in the ordinance adding the territory to the UGB.**

**B. Provision for annexation to the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services.**

Deleted: A

**C. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or such other densities that the Council specifies pursuant to section 3.01.040 of the Urban Growth Management Functional Plan.**

Deleted: B

**D. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.**

Deleted: c

**E. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined**

Deleted: D

permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.

**F.** Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.

Deleted: E

**G.** A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

Deleted: F

**H.** Identification and mapping of areas to be protected from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation, including, without limitation, all Habitat Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas, and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include zoning strategies to avoid and minimize the conflicts between planned future development and the protection of Habitat Conservation Areas, Water Quality Resource Areas, Flood Management Areas, and other natural hazard areas. The plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, and easement dedication to ensure that all significant natural resources are protected.

Deleted: G

**I.** A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

Deleted: H

| ~~J.~~ A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts. Deleted: i

| ~~K.~~ An urban growth diagram for the designated planning area showing, at least, the following, when applicable: Deleted: j

1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;
3. Location of Habitat Conservation Areas;
4. General locations for mixed use areas, commercial and industrial lands;
5. General locations for single and multi-family housing;
6. General locations for public open space, plazas and neighborhood centers; and
7. General locations or alternative locations for any needed school, park or fire hall sites.

| L. A determination of the zoned dwelling unit capacity of zoning districts that allow housing.

| ~~M.~~ The plan amendments shall be coordinated among the city, county, school district and other service districts. Deleted: k

**Exhibit D to Ordinance No. 07-1137A**  
**Findings of Fact and Conclusions of Law**

Ordinance No. 07-1137A amends various provisions of the Urban Growth Management Functional Plan (“UGMFP”) in order to establish a process and criteria for amendments to the Employment and Industrial Areas Map of Title 4 (Industrial and Other Employment Areas). The ordinance also clarifies the process for adjusting UGMFP maps and tables (housing and employment capacities) following completion of planning under Title 11 (Planning for New Urban Areas) of territory added to the UGB. The practical effects of these changes are as follows:

- Title 4 now provides specific procedures for changes to Title 4’s Employment and Industrial Areas Map, some of which are initiated by cities and counties and others by the Metro Council
- Title 4 now provides specific criteria derived from the policies of the Regional Framework Plan for review of proposed changes to the Employment and Industrial Areas Map
- Titles 1 and 11 more clearly set forth the process for bringing maps and tables of the UGMFP into conformance with city and county planning under Title 11 of territory newly added to the UGB. The Metro Council assigns general design-type designations to the territory in the ordinance which adds the territory to the UGB. The city or county responsible for planning the new territory develops comprehensive plan and zoning designations that generally conform to Metro’s design-type designation. After adoption by the city or county, Metro conforms UGMFP maps and tables to the local maps.

Ordinance No. 07-1137A does not change any of the regulatory boundaries contained in the maps. The ordinance, therefore, does not change requirements under the functional plans as they apply to any particular property under Metro’s jurisdiction.

**I. STATEWIDE PLANNING GOALS**

Statewide Planning Goal 1 – Citizen Involvement: Metro provided notice of the proposed amendments to stakeholders and the general public by following the notification requirements in its acknowledged code. Metro provided notice to the Oregon Department of Land Conservation and Development Commission as provided in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee (“MPAC”), which sought the advice of its Metropolitan Technical Advisory Committee (“MTAC”). On January 18, February 8 and February 15, 2007, the Metro Council held public hearings on the proposed ordinance. The Council concludes that these activities conform to Metro’s code and policies on citizen involvement and comply with Goal 1.

Statewide Planning Goal 2 – Land Use Planning: Metro sought and received comment from the local governments and special districts that comprise the metropolitan region. The Metro Charter establishes MPAC, composed principally of representatives of local governments, special districts and school districts in the region, and requires the Metro Council to seek its advice on amendments to the Regional Framework Plan and its components, such as the UGMFP. MPAC reviewed Ordinance No. 07-1137A and recommended revisions to the draft, some of which the Council adopted. The Council concludes that the ordinance complies with Goal 2.

Statewide Planning Goal 3 – Agricultural Lands: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the maps have no regulatory effect outside the UGB, the Council concludes that Goal 3 does not apply to the amendments.

Statewide Planning Goal 4 – Forest Lands: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the maps have no regulatory effect outside the UGB, the Council concludes that Goal 4 does not apply to the amendments.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the amendments made by the ordinance do not change the boundaries on any map that applies to resources protected by Goal 5, the Council concludes that the ordinance is consistent with Goal 5.

Statewide Planning Goal 6 – Air, Land and Water Resources Quality: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect resources protected by Goal 6. The Council concludes, therefore, that the amendments are consistent with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect areas subject to natural disasters and hazards. The Council concludes, therefore, that the amendments are consistent with Goal 7.

Statewide Planning Goal 8 – Recreational Needs: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect recreational needs. The Council concludes, therefore, that the amendments are consistent with Goal 8.

Statewide Planning Goal 9 – Economic Development: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The ordinance does not change any of the regulatory boundaries contained in the maps and, therefore, does not change requirements under the functional plans as they apply to any particular industrial or employment land. Thus, although Goal 9 does not apply to Metro, the Council concludes that the ordinance is consistent with the goal.

Statewide Planning Goal 10 – Housing: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The ordinance does not apply to land available for housing. The Council concludes that Goal 10 does not apply to the amendments.

Statewide Planning Goal 11 – Public Facilities and Services: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 11 will apply to proposed changes to the Title 4 map pursuant to this ordinance, but this ordinance itself does not amend or affect any public facility plan. The Council concludes that the amendments are consistent with Goal 11.

Statewide Planning Goal 12 – Transportation: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 12 will apply to proposed changes to the Title 4 map pursuant to this ordinance, but this ordinance itself does not amend or affect the Regional Transportation Plan or any city or county transportation system plan. The Council concludes that the amendments are consistent with Goal 12.

Statewide Planning Goal 13 – Energy Conservation: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect energy resources. The Council concludes, therefore, that the amendments are consistent with Goal 13.

Statewide Planning Goal 14 – Urbanization: Goal 14 governs the establishment and change of UGBs. Ordinance No. 07-1137A does not apply outside the UGB and does not apply to changes to the UGB. Goal 14 also requires management of “urbanizable land” within UGBs “to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.” The ordinance does not change any of the regulatory boundaries contained in the maps. For these reasons, the Council concludes that the amendments are consistent with Goal 14.

Statewide Planning Goal 15 – Willamette River Greenway: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 15 will apply to proposed changes to the Title 4 map pursuant to this ordinance for land that lies within the greenway, but this ordinance itself does not change any of the regulatory boundaries contained in the maps and, therefore, does not change requirements under the functional plans as they apply to any particular industrial or employment land. The Council concludes that the amendments are consistent with Goal 15.

## **II. REGIONAL FRAMEWORK PLAN**

Policy 1.4 – Economic Opportunity: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.4 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.4.

Policy 1.5 – Economic Vitality: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.5 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.5.

Policy 1.13 – Participation of Citizens: The public involvement actions described above under Statewide Planning Goal 1 comply with Metro’s code and Policy 1.13.



Policy 1.15 – Centers: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.15 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.15.

Policies 2.20 – Regional Freight System – and 2.21 – Regional Freight System Investments: Ordinance No. 07-1137A amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Changes to the map and to subsequent land uses can have significant effects on the regional freight system. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policies 2.20 and 2.21 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with these policies.

Because Ordinance No: 07-1137A does not make any changes to design-type designations or the Title 4 map itself and addresses only process and criteria for future amendments to the Title 4 Employment and Industrial Areas Map, the following policies of the Regional Framework Plan do not apply to the ordinance:

- Policy 1.1 – Urban Form
- Policy 1.2 – Built Environment
- Policy 1.3 – Affordable Housing
- Policy 1.6 – Growth Management
- Policy 1.7 – Urban/Rural Transition
- Policy 1.8 – Developed Urban Land
- Policy 1.9 – Urban Growth Boundary
- Policy 1.10 – Urban Design
- Policy 1.11 – Neighbor Cities
- Policy 1.12 – Protection of Agriculture and Forest Resource Land
- Policy 1.16 – Residential Neighborhoods

## STAFF REPORT

### **IN CONSIDERATION OF ORDINANCE NO. 07-1137, FOR THE PURPOSE OF AMENDING METRO CODE SECTIONS 3.07.120, 3.07.130 AND 3.07.1120; ADDING METRO CODE SECTION 3.07.450 TO ESTABLISH A PROCESS AND CRITERIA FOR CHANGES TO THE EMPLOYMENT AND INDUSTRIAL AREAS MAP; AND DECLARING AN EMERGENCY**

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Date: January 12, 2007

Prepared by: Richard Benner

#### **BACKGROUND**

Title 4 of the Urban Growth Management Functional Plan (UGMFP) places some limitations on uses and land divisions in Regionally Significant Industrial Areas (RSIAs), Industrial Areas and Employment Areas. The Title 4 “Employment and Industrial Areas Map” sets the boundaries of those 2040 Growth Concept design type designations and determines which land in the region is subject to Title 4 limitations. Local governments in the region rely upon the map to bring their comprehensive plans and land use regulations into compliance with Title 4. From time to time, a city or county wants to change its plan or zone designation for land on the Title 4 map. To remain in compliance with the UGMFP, these changes usually require an amendment to the map.

In recent weeks, Metro has received letters from cities requesting changes to the Title 4 map in order for those cities to allow uses on the subject properties that do not comply with Title 4. Also, the Metro Planning Department maintains an informal list of proposed map changes suggested by city and county planning departments. Neither Title 4 itself nor other provisions of the UGMFP provide a process or criteria to guide Metro Council review of these requests. In the absence of a specific process, all such requests require the Council to adopt an ordinance, through its customary process, to amend the Title 4 map, regardless how large or small, significant or insignificant. Because neither Title 4 itself nor the Regional Framework Plan (RFP) specifies criteria or particular policies in the RFP to guide consideration of proposed Title 4 map amendments, it is unclear which policies of the RFP apply to the request. Because the policies of the RFP are general in nature, cities and counties, landowners and the Council itself, face a large degree of uncertainty when considering a proposal.

Proposed Ordinance No. 07-1137 addresses these issues by providing procedures and criteria for consideration of proposed amendments to the map. The ordinance offers two procedures for map amendments. Smaller proposals (based upon size of the subject property) are left for cities and counties to decide on their own. Metro can participate in city or county land use hearing to express any concerns it has. If a city or county makes an amendment, Metro later conforms the Title 4 map to the local change. Larger proposals come to the Metro Council for consideration. In addition, the Council remains free to consider changes to the map – to make small adjustment or correct errors, for example – at any time, as it has done in the past. The ordinance also provides criteria to guide these local and Council decisions. The criteria are derived from the policies of the RFP and the preface to Title 4.

The proposed amendments to Title 1 (Requirements for Housing and Employment Accommodation) and Title 11 (Planning for New Urban Areas) conform those titles to the amendments to Title 4 and clarify the process for adding land to the Title 4 map following local planning for new urban areas under Title 11.

## **ANALYSIS/INFORMATION**

1. Known Opposition: Two principal issues have been raised by some cities, counties and stakeholders with the proposed ordinance and previous versions of it:
  - Sending any proposed map amendments to the Metro Council means there will be decisions at two levels – local and regional – subject to two sets of criteria and two potential appeals to LUBA. This, of course, is an issue with the current situation as well.
  - The criteria are seen as either too strict, meaning few proposed map amendments will meet them and prevent appropriate changes, or too lenient, meaning many amendments will meet them and inappropriately reduce the employment land base.
2. Legal Antecedents: The Metro Council adopted Title 4 and the Employment and Industrial Areas Map in 1996 as part of the UGMFP. The Council amended Title 4 and the map on December 5, 2002, to establish RSIA's. Statewide Planning Goal 14 requires Metro to ensure capacity for employment within the UGB. Changes to the process or criteria for Title 4 maps amendments may indirectly raise issues over the adequacy of the UGB's employment capacity.
3. Anticipated Effects: Adoption of the ordinance would likely speed the consideration of proposed amendment of the Title 4 map, reduce the number of changes that must come to the Metro Council for decision, reduce the uncertainty over criteria for decision-making, and reduce the number of appeals to LUBA. Adoption of the ordinance is unlikely to raise issues under Goal 14, although decisions on specific proposed map amendments may.
4. Budget Impacts: Adoption of the ordinance would likely reduce local and Metro costs of processing proposed amendments to the Title 4 map.

## **RECOMMENDED ACTION**

Adopt Ordinance No. 07-1137, after consideration of amendments to the ordinance that may be recommended by MPAC at its January 24, 2007, meeting.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING ) RESOLUTION NO. 07- 3782  
METRO COUNCIL RECOMMENDATIONS )  
CONCERNING THE RANGE OF ) Introduced by Councilor Rex Burkholder  
ALTERNATIVES TO BE ADVANCED TO A )  
DRAFT ENVIRONMENTAL IMPACT )  
STATEMENT FOR THE COLUMBIA RIVER )  
CROSSING PROJECT )

WHEREAS, the Interstate 5 freeway (I-5) is the only continuous north/south interstate freeway on the West Coast, providing a critical national and international transportation link for motor vehicles and truck-hauled freight in the western-most United States, between the Canadian and Mexican borders; and,

WHEREAS, in 1917 a bridge across the Columbia River was completed and in 1958 a second bridge was built adjacent to the first bridge, the two becoming today's I-5 north and south bound bridges. These bridges have had no significant modifications since their completion; and,

WHEREAS, for the Portland/Vancouver metropolitan region, I-5 is one of two major freeways that connect the two states and their shared metropolitan economy; and,

WHEREAS, the estimated cost of truck delay by the year 2020 is an increase of 140 percent to nearly \$34 million dollars; and,

WHEREAS, the I-5 bridge crossing the Columbia River and adjacent bridge influence area segments, known as the Columbia River Crossing (CRC), has extended peak-hour travel demand that exceeds current capacity; and,

WHEREAS, the Interstate 205 Bridge is also reaching its peak-hour period carrying capacity; and,

WHEREAS, current transit service in the I-5 corridor between Portland and Vancouver is also constrained by the limited capacity and congestion in the bridge influence area, greatly limiting transit reliability and operations; and,

WHEREAS, there are significant safety issues relating to the existing bridges with the bridge crossing area and its approach sections experiencing crash rates more than two times higher than statewide averages for comparable urban highways in Washington and Oregon. This is largely due to congestion and outdated designs including interchanges too closely spaced, weave and merge sections which are too short causing sideswiping accidents, vertical grade changes in the bridge span which restrict sight distance, and very narrow shoulders that prevent avoidance maneuvers or safe temporary storage of disabled vehicles; and,

WHEREAS, the I-5 bridges across the Columbia River do not meet current seismic standards, leaving travelers in the I-5 corridor vulnerable to bridge failure in the event of an earthquake; and,

WHEREAS, the configuration of the existing I-5 bridges relative to the downstream Burlington

Northern-Santa Fe rail bridge contributes to hazardous navigation conditions for commercial and recreational boat traffic; and,

WHEREAS, bicycle and pedestrian facilities for crossing the Columbia River along I-5 do not meet current standards; and,

WHEREAS, in 2002, the Metro Council approved Resolution 02-3237A, For the Purpose of Endorsing the I-5 Transportation and Trade Study Recommendations, including recommendations for light rail transit connecting the Portland area with southwest Washington and adding a new supplemental or replacement bridge; and,

WHEREAS, the I-5 Transportation and Trade Partnership Strategic Plan endorsed by the Metro Council in 2002 included light rail transit as the recommended transit mode and a maximum of ten lanes as the roadway improvement; and

WHEREAS, the Metro Council approved the Interstate MAX line to Expo center as the locally preferred alternative for high capacity transit in the I-5 north corridor; and,

WHEREAS, Interstate MAX light rail transit was built to Expo Center and has been in operation since May 2004; and,

WHEREAS, in February 2005, the Task Force began its study of the CRC problems and possible solutions; and,

WHEREAS, the Task Force adopted in October 2005 a CRC Project *Vision and Values Statement*; and

WHEREAS, after holding public open houses to gather public comment, in November 2005, the CRC Task Force adopted a CRC Project *Problem Definition*; and

WHEREAS, the Task Force approved a Purpose and Need statement in January 2006, which defined a discrete set of objectives; and,

WHEREAS, in February 2006, the Task Force approved project evaluation criteria against which alternatives would be evaluated; and

WHEREAS, thirty-seven transportation modes or design options were identified, analyzed and combined into alternative project packages; and,

WHEREAS, twelve alternative project packages, consisting of a No Build and eleven other transportation packages that included auto, truck freight, transit, bicycle and pedestrian investments in the CRC Project area were developed in summer 2006; and

WHEREAS, the twelve alternative project packages were screened using the approved evaluation criteria; those that met the evaluation criteria were recommended to advance; and those that did not meet the evaluation criteria were recommended to not advance; and,

WHEREAS CRC staff have recommended, consistent with the evaluation criteria, that the No Build and a Replacement Bridge and either light rail transit or bus rapid transit be advanced to a draft environmental impact statement; and

WHEREAS, any of the build alternatives would require a change to the Regional Transportation Plan and this would require Metro Council approval; and,

WHEREAS, any transportation investment decision about the Columbia River Crossing Project will have a substantial impact on the economy and livability of the Metro region; and,

WHEREAS, the CRC Project is guided, in part, by the recommendations of a 39 member Task Force, of which the Metro Council has one representative; and,

WHEREAS, the Metro Council has had CRC Project briefings or discussions on October 3 and 17, and December 5, 2006; and,

WHEREAS, the Metro Council has, through both existing policy and through public discussion by the Council, established policy concerns and objectives that should be advanced with regard to the CRC Project; and,

WHEREAS, the Metro Council desires to establish policy guidance for its representative on the Task Force concerning those alternatives to be advanced for study in a draft environmental impact statement; now therefore

BE IT RESOLVED,

that the Metro Council recommends the following policy guidance to its CRC Task Force representative:

1. The Metro Council supports the following CRC staff recommendations for alternatives to be advanced to a draft environmental impact statement (DEIS): a) a No Build option, b) a Replacement Bridge with Light Rail Transit (LRT) and express bus option and c) a Replacement Bridge with Bus Rapid Transit and express bus option.
2. In addition to the CRC staff recommended alternatives, the Metro Council supports including in the DEIS for additional analysis an alternative that includes a low rise with lift span supplemental bridge built to current seismic standards to carry cars, trucks, high capacity transit, bicycles and pedestrians. This alternative retains the existing I-5 bridges for freeway travel with incremental improvements to those bridges and the key access ramps, to improve flow and increase safety on I-5. Additionally, this alternative would include replacing the swing span of the downstream railroad bridge with a movable span located in a mid-river location on the railroad bridge, thereby aligning with the current lift span of the I-5 bridges.
3. The Metro Council recognizes that a range of transit alternatives between the Expo Center and Vancouver, Washington in the I-5 corridor must be considered in the Columbia River Crossing DEIS and that substantial data and analysis about ridership, costs, etc. have yet to be completed. However, based on

A) investments already made in this corridor by both the Metro region and the Federal Transit Administration to construct Interstate MAX; and, B) existing data that has been developed during the Alternatives Analysis over the past two years, the Metro Council notes that light rail transit has shown to date to have more promise to cost-effectively meet the transit demand in the corridor.

4. The alternatives advanced to the DEIS must be responsive to financial considerations. Tolling or another user pay financing source should be considered with all of the alternatives advanced to the DEIS.

5. Given the impact of the existing transportation facility and the potential impact of any future facility, the following should be part of any DEIS analysis: a) mitigation programs that address existing and potential future health impacts caused by motor vehicle emissions; b) creating motor vehicle, bicycle and pedestrian links across I-5 to the two halves of Hayden Island; and c) investigation of capping I-5 in downtown Vancouver as a mitigation measure that re-connects historic elements in the City of Vancouver, d) transportation demand management (TDM)/ transportation system management (TSM) policies augmenting build options, and e) other issues related to environmental justice.

ADOPTED by the Metro Council this        day of        , 2007.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3782, FOR THE PURPOSE OF  
ESTABLISHING METRO COUNCIL RECOMMENDATIONS CONCERNING THE RANGE  
OF ALTERNATIVES TO BE ADVANCED TO A DRAFT ENVIRONMENTAL IMPACT  
STATEMENT FOR THE COLUMBIA RIVER CROSSING PROJECT

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Date: February 14, 2007

Prepared by: Richard Brandman  
Mark Turpel

### BACKGROUND

The Interstate 5 Freeway (I-5) is the only continuous north/south interstate freeway on the West Coast, providing the primary corridor from Mexico to Canada for motor vehicles, including truck-hauled freight. The crossing of the Columbia River by I-5 near Hayden Island and Vancouver, Washington includes two bridges, one built in 1917 and the other in 1958. The extended peak hour demand at the I-5 Columbia River Crossing (CRC) exceeds current capacity and by the year 2020, demand is expected to grow significantly. For example, the cost of truck delay is expected to increase 140 percent by 2020.

In 1999, the Bi-State Transportation Committee recommended that the Portland/Vancouver region initiate a public process to develop a plan for the I-5 Corridor based on four principles:

- Doing nothing in the I-5 Corridor is unacceptable;
- There must be a multi-modal solution in the I-5 Corridor - there is no silver bullet;
- Transportation funds are limited. Paying for improvements in the I-5 Corridor will require new funds; and,
- The region must consider measures that promote transportation-efficient development.

Accordingly, the I-5 Transportation and Trade Partnership was constituted by Governors Locke and Kitzhaber, including a Metro Council representative. In June 2002, the Partnership completed a Strategic Plan and on November 14, 2002, the Metro Council, through Resolution No. 02-3237A, For the Purpose of Endorsing the I-5 Transportation and Trade Study Recommendations, endorsed the Strategic Plan recommendations including:

- Three through lanes in each direction on I-5, one of which an HOV lane, as feasible;
- Phased light rail loop in Clark County in the vicinity of the I-5, SR500/4th Plan and I-205 corridors;
- An additional or replacement bridge for the I-5 crossing of the Columbia River, with up to two additional lanes for merging plus 2 light rail tracks;
- Interchange improvements and additional auxiliary and/or arterial lanes where needed between SR 500 in Vancouver and Columbia Boulevard in Portland, including a full interchange at Columbia Boulevard;
- Capacity improvements for freight rail;
- Bi-state coordination of land use and management of the transportation system to reduce demand on the freeway and protect corridor improvement;
- Involving communities along the corridor to ensure final project outcomes are equitable and committing to establish a fund for community enhancement;
- Developing additional transportation demand and system strategies to encourage more efficient use of the transportation system.



Several of the recommendations from the Strategic Plan have been completed. For example, planning and environmental assessment of the I-5 Delta Park Project has been completed. Design engineering and financing are being completed currently with construction slated for initiation in the next few years to address capacity issues on I-5 between Delta Park and Lombard.

The I-5 bridge element began in February 2005 with the formation of a 39 member Columbia River Crossing (CRC) Task Force. This Task Force, which includes a Metro Council representative, developed a vision statement, purpose and need statement, screening criteria and reviewed 37 transportation modes/design options, narrowing these to 12.

Issues identified concerning alternatives in the CRC technical analysis included the following:

- Safety - the bridge crossing area and approach sections have crash rates more than two times higher than statewide averages for comparable urban highways. Contributing factors are interchanges too closely spaced, weave and merge sections too short contributing to sideswiping accidents, vertical grade changes that restrict sight distance and very narrow shoulders that prevent avoidance maneuvers or safe temporary storage of disabled vehicles.
- Seismic - neither I-5 bridges meet seismic standards, leaving the I-5 corridor vulnerable in the event of a large earthquake;
- Bridge Alignment - the alignment of the I-5 bridges with the downstream railroad bridge contributes to hazardous barge movements;
- Cost - rehabilitation of the existing bridges, bringing them to current standards would be more costly, both in money and some environmental impacts, such as water habitat conditions, than a replacement bridge;
- Traffic Impact - an arterial bridge would bring unacceptable traffic congestion to downtown Vancouver, Washington.

In October 2007, the Metro Council, after hearing CRC staff presentations and discussing the project, approved a letter to the CRC Task Force citing seven principles including:

- Recognize the I-5 Transportation and Trade Partnership Strategic Plan;
- Use desired outcomes as a guide;
- Determine project priorities;
- Recognize financial limitations;
- Coordinate with the railroad bridge;
- Provide alternatives in the DEIS that demonstrate the fundamental choices before us;
- Provide thorough public vetting before closing options.

In November 2007, CRC staff, after further consideration of technical analyses and using the approved screening criteria and project purpose and need, recommended three alternatives be advanced to a draft environmental impact statement (DEIS). These included:

- Alternative 1) No Action;
- Alternative 2) A Replacement Bridge and Bus Rapid Transit with Complementary Express Bus Service; and
- Alternative 3) A Replacement Bridge and Light Rail Transit with Complementary Express Bus Service.

The Task Force accepted the three alternatives for purposes of taking public comment. Open houses were held and the Task Force is scheduled to make a decision about what to recommend to advance to a DEIS on February 29, 2007.

In addition to Resolution No. 07-3782, FOR THE PURPOSE OF ESTABLISHING METRO COUNCIL RECOMMENDATIONS CONCERNING THE RANGE OF ALTERNATIVES TO BE ADVANCED TO A DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE COLUMBIA RIVER CROSSING PROJECT, there is Resolution No. 07-3787, FOR THE PURPOSE OF PROVIDING METRO COUNCIL GUIDANCE TO ITS REPRESENTATIVE ON THE COLUMBIA RIVER CROSSING TASK FORCE CONCERNING THE RANGE OF ALTERNATIVES TO BE ADVANCED TO A DRAFT ENVIRONMENTAL IMPACT STATEMENT. Resolution No. 07-3787 includes resolves that the three CRC recommended alternatives will not provide an adequate basis for the Metro Council to support an amendment of the RTP, that to obtain a proper basis for making choices the following should also be considered: a non-capital intensive alternative, land use alternative, supplemental bridge (as included in Resolution No. 07-3782), analysis of improvements to the railroad bridge, an alternative emphasizing transit investments. Further, Resolution 07-3787 includes resolves concerning a complete analysis of the full range of costs and benefits and that the ultimate recommended solution could be a blend of alternatives.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

Concerns with the CRC staff recommendations include: 1) interest in finding a lower cost option(s); 2) concerns that either bus rapid transit or light rail transit will not provide appropriate transit service; 3) air quality, noise, environmental justice equity and other impacts to those living along the I-5 alignment; 4) increased demands on southern portions of the Portland metropolitan freeway system such as Interstate 84, I-5 through the Rose Quarter and points south; 5) concern that the CRC project could use up most or all of the transportation funds needed for projects throughout the region; 6) concern that the CRC staff recommendation was not consistent with the I-5 Transportation and Trade Partnership Strategic Plan, including maximum number of lanes and transit mode.

### **2. Legal Antecedents**

#### **Federal**

- National Environmental Policy Act
- Clean Air Act
- SAFETEA-LU

#### **State**

- State Planning Goals
- State Transportation Planning Rule
- Oregon Transportation Plan
- Oregon Highway Plan
- Oregon Public Transportation Plan
- Oregon Bicycle and Pedestrian Plan

#### **Metro**

- Resolution No. 02-3237A, For the Purpose of Endorsing the I-5 Transportation and Trade Study Recommendations.
- Ordinance No. 04-1045A, For the Purpose of Amending the 2000 Regional Transportation Plan ("RTP") for Consistency with the 2004 Interim Federal RTP and Statewide Planning Goals.

The 2004 Regional Transportation Plan as adopted by the Metro Council includes the following in the RTP Project List: 1) Project 1002 Vancouver Light Rail Loop, Expo Center to Vancouver, 2) Projects 4002 and 4003, I-5 Interstate Bridge and I-5 widening, \$251 million for acquiring right-of-way and

"improving I-5/Columbia River bridge (local share of joint project) based on recommendations in I-5 Trade Corridor Study" and, 3) Project 4000, Vancouver Rail Bridge Replacements, to "replace rail bridge swing span based on recommendations from I-5 Trade Corridor EIS study". These projects are not presently part of the financially constrained system of the RTP.

### **3. Anticipated Effects**

The passage of this resolution would give policy guidance to the Metro Council representative serving on the Task Force. The Task Force vote of its 39 members will be taken under advisement by the Oregon Department of Transportation, Washington State Department of Transportation, Federal Highway Administration and Federal Transit Administration. Any action to advance alternatives to a DEIS would still require a decision about a preferred alternative and amendment of the Regional Transportation Plan - which would require a separate Metro Council approval.

### **4. Budget Impacts**

This action would not have a direct impact to the Metro budget. However, Metro Council policies about the funding of the Regional Transportation Plan could influence choices about alternatives.

## **RECOMMENDED ACTION**

Recommend adoption of Resolution 07-3782.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF PROVIDING	)	RESOLUTION NO. 07- 3787
METRO COUNCIL GUIDANCE ON THE	)	
COLUMBIA RIVER CROSSING TASK	)	
FORCE CONCERNING THE RANGE OF	)	
ALTERNATIVES TO BE ADVANCED TO A	)	
DRAFT ENVIRONMENTAL IMPACT	)	Introduced by Councilor Robert Liberty
STATEMENT	)	
	)	

WHEREAS, the Oregon Department of Transportation and the Washington State Department of Transportation have initiated an analysis of the I-5 bridges crossing the Columbia River and I-5 between State Route 500 on the north and Columbia Boulevard on the south and nearby lands, known as the Columbia River Crossing (CRC) Project; and,

WHEREAS, as part of the CRC project, thirty-seven transportation modes or design options were identified, analyzed, variously eliminated and combined into twelve alternative project packages studied up until now; and,

WHEREAS, CRC staff have recommended to the CRC Task Force, that only three alternatives go forward for study in the draft environmental impact statement; (1) “no action”; (2) the construction of a new 10 to 12 lane freeway bridge with bus rapid transit, and demolition of the existing bridges; and (3) the construction of a new 10 to 12 lane freeway bridge with light rail, and demolition of the existing bridges, and

WHEREAS, the recommended alternatives provide a choice only between no action and two very similar alternative projects that could each cost between \$2 billion and \$6 billion; and

WHEREAS, the Oregon part of the Portland metropolitan region has already identified a shortfall of about \$6 billion for new capital projects in the current Regional Transportation Plan; and

WHEREAS, the Metro Council has endorsed goals to achieve Smart Government and Great Places which place an emphasis on prudent stewardship of the public's tax dollars and creating livable communities with a balance of transportation modes and to use these goals to shape Metro plans; and,

WHEREAS, careful consideration of the financial implications, or fiscal constraints, upon all transportation projects is a guiding principle of the current update to the Regional Transportation Plan; and,

WHEREAS, in its October 19, 2006 letter to the Columbia River Crossing, the Metro Council stated that “...we believe that transportation solutions must take into consideration cost,

feasibility, and the place any one project may have in the overall transportation improvement picture. .. The Metro Council will be fiscally responsible when considering all public investments. Project cost and a comparison with the other projects proposed within the same horizon will need to be considered;” and

WHEREAS, the financing of either of the new freeway bridge alternatives could oblige the Council, and the Joint Policy Advisory Committee on Transportation to eliminate, delay or scale-back other important regional transportation investments; and

WHEREAS, it is inappropriate to eliminate, or fail to study alternatives, before determining and comparing the fiscal, economic, social and environmental costs and benefits of those alternatives; and

WHEREAS, the project Purpose and Need Statement and project area were defined so narrowly that many other potentially good alternatives were never studied because they did not conform to the Purpose and Need statement or were outside the study area; and

WHEREAS, the Metro Council in its letter to the CRC Task Force dated October 19, 2006 stated “We believe a wider range of alternatives must be studied in order to find the solutions that deliver the best results at the lowest costs,” and

WHEREAS in the same letter the Metro Council stated that “... in the absence of compelling information to the contrary, alternatives included in the environmental impact statement should include: 1) an alternative that reuses the present bridges” and no such alternative is recommended for further study; and

WHEREAS in the same letter the Metro Council stated: “We.. .believe that options that involve even greater coordination, including possible improvements to the railroad bridge, should be further explored,” and no alternatives involving improvements to the railroad bridge were analyzed; and

WHEREAS in the same letter the Metro Council stated: “we believe that alternatives should be considered in the draft environmental impact statement that include both capital intensive and alternative approaches – unless it is clearly demonstrated during the current phase of analysis that such approaches are not viable” and all of the alternatives studied were capital intensive; and

WHEREAS, in the same letter the Metro Council urged the CRC Task Force, consistently with one of the five principles adopted in the I-5 Transportation and Trade Partnership Strategic Plan, to “explore how land use changes could help address the problem,,” and also recommended “that all transportation alternatives be evaluated for their land use implications’ but no land use alternative was considered and no study of differential land use impacts were used to evaluate the alternatives proposed for elimination for further study; and

WHEREAS, in the same letter the Council urged the CRC Task Force to develop alternatives that achieved more outcomes than just congestion relief, including maintaining and

improving air quality in the corridor and creating a “dazzling waterfront and gateway for both sides of the River.... Including actions that the Metro area could take to support the City of Vancouver’s efforts to preserve and enhance [its] downtown,” but that neither set of outcomes was used to develop an alternatives or to evaluate among the alternatives that were analyzed; and

WHEREAS, in the same letter the Council stated: “We recommend that you consider each problem element and related goal and determine how important it is compared with the others,” but in eliminating many of the alternatives the goals were given equal and decisive weight; and

WHEREAS, members of the Clark County Commission have declined to endorse the CRC staff recommendation; and

WHEREAS, the Metro Council, through the Regional Transportation Plan, is charged with planning the region's transportation system, including the I-5 freeway through the region to the Washington State line and of which the CRC project is a portion and will, along with other units of government, be required to act on the final recommendation of the CRC Task Force; and,

WHEREAS, there remains as much as \$60 million left for future study of CRC alternatives; and

WHEREAS, given the regional significance of the decision to be made by the CRC Task Force, the Metro Council believes it has a responsibility to provide clear guidance to the CRC Task Force prior to its action on the staff recommendation, (currently scheduled for February 27, 2007); now therefore

BE IT RESOLVED,

1. A draft environmental impact study analyzing only the three alternatives in the CRC staff recommendation will not provide an adequate basis for the Metro Council to support an amendment to the Regional Transportation Plan endorsing any of those alternatives; and
2. In order for the Metro Council to have a proper basis for making choices regarding the best investment of limited transportation funds for a thoughtful and integrated approach to increased mobility, accessibility, economic opportunity, and quality of life, the Council respectfully requests that the CRC Task Force, working in conjunction with those members of the Task Force, Metro and other interested units of government, to develop and explore additional, lower priced alternatives for analysis in the draft environmental impact statement, including:
  - (a) A non-capital intensive alternative, or a major element of an alternative, that emphasizes investments in and system management for I-5 and I-205, to increase flow and capacity on both bridges, including special arrangements for long-distance freight movement; and

- (b) A land use alternative, or a major land use element for an alternative, that reduces the amount of peak-hour commuting across the Columbia River sufficiently to reduce the overall project cost; and
- (c) A supplemental bridge built to current seismic standards to carry cars, trucks, light rail, bicycle and pedestrians, that is part of an alternative that retains the existing I-5 bridges for freeway travel, with incremental improvements to the existing I-5 bridges and the key access ramps, to improve flow and increase safety on I-5; and
- (d) An analysis of what kinds of improvements to the downstream railroad bridge could be part of a lower cost alternative, including, moving the swing span from the northern side of the bridge to a location that better aligns with the existing I-5 shipping channel spans, or building a parallel bridge, and accepts the existence of lift spans on all bridges; and
- (e) An alternative emphasizing transit investments, including analysis of light rail using the I-205 bridge and a more comprehensive investment in transit in Vancouver, North Portland and Northeast Portland, sufficient to provide cost effect congestion relief on I-5.

3. Furthermore, that these alternatives be designed and examined in such a way that;

- (a) The ultimate recommended solution may reflect a blend derived from several alternatives that is cost-effective, multi-faceted and incremental; and
- (b) Each of these alternatives, and the alternatives recommended for further study by CRC staff, can be easily compared with each other, and with other projects in the region, across a full range of costs and benefits (including land use costs and benefits), and

4. The Metro Council would welcome the opportunity to work with the CRC Task Force to develop a method for developing, analyzing and reviewing these alternatives within the current budget and timeline for the project, including ways which build the level of confidence in the complete and objective nature of the analysis which is needed to assure a high level of agreement about, and support, for one of the region’s most important transportation decisions.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3787, FOR THE PURPOSE OF PROVIDING METRO COUNCIL GUIDANCE TO THE COLUMBIA RIVER CROSSING TASK FORCE CONCERNING THE RANGE OF ALTERNATIVES TO BE ADVANCED TO A DRAFT ENVIRONMENTAL IMPACT STATEMENT

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Date: February 14, 2007

Prepared by: Richard Brandman  
Mark Turpel

### BACKGROUND

The Interstate 5 Freeway (I-5) is the only continuous north/south interstate freeway on the West Coast, providing the primary corridor from Mexico to Canada for motor vehicles, including truck-hauled freight. The crossing of the Columbia River by I-5 near Hayden Island and Vancouver, Washington includes two bridges, one built in 1917 and the other in 1958. The extended peak hour demand at the I-5 Columbia River Crossing (CRC) exceeds current capacity and by the year 2020, demand is expected to grow significantly. For example, the cost of truck delay is expected to increase 140 percent by 2020.

In 1999, the Bi-State Transportation Committee recommended that the Portland/Vancouver region initiate a public process to develop a plan for the I-5 Corridor based on four principles:

- Doing nothing in the I-5 Corridor is unacceptable;
- There must be a multi-modal solution in the I-5 Corridor - there is no silver bullet;
- Transportation funds are limited. Paying for improvements in the I-5 Corridor will require new funds; and,
- The region must consider measures that promote transportation-efficient development.

Accordingly, the I-5 Transportation and Trade Partnership was constituted by Governors Locke and Kitzhaber, including a Metro Council representative. In June 2002, the Partnership completed a Strategic Plan and on November 14, 2002, the Metro Council, through Resolution No. 02-3237A, For the Purpose of Endorsing the I-5 Transportation and Trade Study Recommendations, endorsed the Strategic Plan recommendations including:

- Three through lanes in each direction on I-5, one of which an HOV lane, as feasible;
- Phased light rail loop in Clark County in the vicinity of the I-5, SR500/4th Plan and I-205 corridors;
- An additional or replacement bridge for the I-5 crossing of the Columbia River, with up to two additional lanes for merging plus 2 light rail tracks;
- Interchange improvements and additional auxiliary and/or arterial lanes where needed between SR 500 in Vancouver and Columbia Boulevard in Portland, including a full interchange at Columbia Boulevard;
- Capacity improvements for freight rail;
- Bi-state coordination of land use and management of the transportation system to reduce demand on the freeway and protect corridor improvement;
- Involving communities along the corridor to ensure final project outcomes are equitable and committing to establish a fund for community enhancement;
- Developing additional transportation demand and system strategies to encourage more efficient use of the transportation system.



Several of the recommendations from the Strategic Plan have been completed. For example, planning and environmental assessment of the I-5 Delta Park Project has been completed. Design engineering and financing are being completed currently with construction slated for initiation in the next few years to address capacity issues on I-5 between Delta Park and Lombard.

The I-5 bridge element began in February 2005 with the formation of a 39 member Columbia River Crossing (CRC) Task Force. This Task Force, which includes a Metro Council representative, developed a vision statement, purpose and need statement, screening criteria and reviewed 37 transportation modes/design options, narrowing these to 12.

In October 2007, the Metro Council, after hearing CRC staff presentations and discussing the project, approved a letter to the CRC Task Force citing seven principles including:

- Recognize the I-5 Transportation and Trade Partnership Strategic Plan;
- Use desired outcomes as a guide;
- Determine project priorities;
- Recognize financial limitations;
- Coordinate with the railroad bridge;
- Provide alternatives in the DEIS that demonstrate the fundamental choices before us;
- Provide thorough public vetting before closing options.

In November 2007, CRC staff, after further consideration of technical analyses and using the approved screening criteria and project purpose and need, recommended three alternatives be advanced to a draft environmental impact statement (DEIS). These included:

- Alternative 1) No Action;
- Alternative 2) A Replacement Bridge and Bus Rapid Transit with Complementary Express Bus Service; and
- Alternative 3) A Replacement Bridge and Light Rail Transit with Complementary Express Bus Service.

The Task Force accepted the three alternatives for purposes of taking public comment. Open houses were held and the Task Force is scheduled to make a decision about what to recommend to advance to a DEIS on February 29, 2007.

Resolution No. 07-3787 expresses concerns that the CRC staff recommendations leave a limited choice, that cost has not been given enough consideration, that seismic standards, while very important, have not been applied consistently, the interactions between the railroad bridge and existing or new bridges has not been analyzed for possible synergistic opportunities for finding solutions, bridge heights may be excessive at the northern end, land use alternatives have been dismissed without sufficient consideration and that tolling or different tax structures could help address the problem and have not been given adequate consideration.

Resolution No. 07-3787 includes resolves that the three CRC recommended alternatives will not provide an adequate basis for the Metro Council to support an amendment of the RTP, that to obtain a proper basis for making choices the following should also be considered: a non-capital intensive alternative, land use alternative, supplemental bridge (as included in Resolution No. 07-3782), analysis of improvements to the railroad bridge, an alternative emphasizing transit investments. Further, Resolution 07-3787 includes resolves concerning a complete analysis of the full range of costs and benefits and that the ultimate recommended solution could be a blend of alternatives.

In addition to Resolution 07-3787, there is Resolution No. 07-3782, FOR THE PURPOSE OF ESTABLISHING METRO COUNCIL RECOMMENDATIONS CONCERNING THE RANGE OF ALTERNATIVES TO BE ADVANCED TO A DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE COLUMBIA RIVER CROSSING PROJECT. Resolution No. 07-3782 recommends accepting the CRC staff recommendations with conditions. These conditions include: 1) a supplemental bridge option; 2) a notation that the Metro Council has a strong interest in light rail transit to Vancouver, Washington and for a maximum of ten lanes on I-5 crossing the Columbia River; 3) a caution about the ability to finance a large CRC project; 4) and the need for mitigation of air quality emissions, better transportation links to the two halves of Hayden Island, investigating capping I-5 in downtown Vancouver, pursuing transportation demand management and transportation system management policies and addressing environmental justice issues pertaining to the CRC project.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

Concerns with the CRC staff recommendations include: 1) interest in finding a lower cost option(s); 2) concerns that either bus rapid transit or light rail transit will not provide appropriate transit service; 3) air quality, noise, environmental justice equity and other impacts to those living along the I-5 alignment; 4) increased demands on southern portions of the Portland metropolitan freeway system such as Interstate 84, I-5 through the Rose Quarter and points south; 5) concern that the CRC project could use up most or all of the transportation funds needed for projects throughout the region; 6) concern that the CRC staff recommendation was not consistent with the I-5 Transportation and Trade Partnership Strategic Plan, including maximum number of lanes and transit mode.

### **2. Legal Antecedents**

#### **Federal**

- National Environmental Policy Act
- Clean Air Act
- SAFETEA-LU

#### **State**

- State Planning Goals
- State Transportation Planning Rule
- Oregon Transportation Plan
- Oregon Highway Plan
- Oregon Public Transportation Plan
- Oregon Bicycle and Pedestrian Plan

#### **Metro**

- Resolution No. 02-3237A, For the Purpose of Endorsing the I-5 Transportation and Trade Study Recommendations.
- Ordinance No. 04-1045A, For the Purpose of Amending the 2000 Regional Transportation Plan ("RTP") for Consistency with the 2004 Interim Federal RTP and Statewide Planning Goals.

The 2004 Regional Transportation Plan as adopted by the Metro Council includes the following in the RTP Project List: 1) Project 1002 Vancouver Light Rail Loop, Expo Center to Vancouver, 2) Projects 4002 and 4003, I-5 Interstate Bridge and I-5 widening, \$251 million for acquiring right-of-way and "improving I-5/Columbia River bridge (local share of joint project) based on recommendations in I-5 Trade Corridor Study" and, 3) Project 4000, Vancouver Rail Bridge Replacements, to "replace rail bridge

swing span based on recommendations from I-5 Trade Corridor EIS study". These projects are not presently part of the financially constrained system of the RTP.

### **3. Anticipated Effects**

The passage of this resolution would give policy guidance to the Metro Council representative serving on the Task Force. The Task Force vote of its 39 members will be taken under advisement by the Oregon Department of Transportation, Washington State Department of Transportation, Federal Highway Administration and Federal Transit Administration. Any action to advance alternatives to a DEIS would still require a decision about a preferred alternative and amendment of the Regional Transportation Plan - which would require a separate Metro Council approval.

### **4. Budget Impacts**

This action would not have a direct impact to the Metro budget. However, Metro Council policies about the funding of the Regional Transportation Plan could influence choices about alternatives.

## **RECOMMENDED ACTION**

Consider both Resolution No. 07-3782 and Resolution No. 07-3787 and establish Metro Council policy guidance.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING ) RESOLUTION NO. 07-3781  
A TIMELINE FOR THE NEW LOOK ) Introduced by Council Brian Newman  
AT REGIONAL CHOICES PROJECT )

WHEREAS, the Metro Council adopted Resolution No. 05-3628 designating additional council projects and confirming lead councilors and council liaisons for fall 2005 for the New Look at Regional Choices project on November 17, 2005; and

WHEREAS, the Metro Council adopted Ordinance No. 06-1111A amending the FY 2005-06 budget and appropriations schedule to support the New Look Work program, transferring 4113,000 from contingency to operating expenses in the Planning Department of the General Fund; adding one full-time senior regional planning; converting a limited duration position to regular status; and declaring an emergency on February 2, 2006; and

WHEREAS, major accomplishments of the New Look project to date include the establishment of an Integrated Policy Framework to guide the work program; the development of a regional legislative agenda supported by local elected officials; the definition of an integrated implementation strategy for Investing in Our Communities; the identification and evaluation of a range of tools to focus investments in centers and corridors; sponsorship of several Get Centered! Events through the region highlighting successful investments in vibrant mixed-use communities; completion of research on the agricultural economy, natural landscape features and elements of great communities that informs Metro's efforts to designate urban and rural reserves and promote innovative urban development; and the implementation of a regional construction excise tax to fund concept and comprehensive planning in recent expansion areas; and

WHEREAS, local elected officials and members of the public have expressed their support for the goals and principles of the 2040 Growth Concept; and

WHEREAS, the Metro Council worked collaboratively with partners to complete the work to date and is committed to continued collaboration through the use of Metro Policy Advisory Committee (MPAC), other committees, and partners; and

WHEREAS, House Bill 2051 introduced in the 2007 Oregon Legislative Assembly Regular Session extends the schedule for completion of the inventory, determination and analysis of housing capacity and need within the urban growth boundary to from five years to seven years; and

WHEREAS, the Metro Policy Advisory Committee endorsed a regional legislative agenda that includes support for an extension of the region's urban growth boundary evaluation cycle by two years as contained in House Bill 2051; and

WHEREAS, the Metro Council remains committed to the development and implementation of a new and innovative policy framework for managing future growth; now therefore

BE IT RESOLVED:

1. The Metro Council adopts a new timeline for the period 2007 to 2011 for the New Look at Regional Choices project as specified in Exhibit A, contingent on enactment into law of a two-year extension of the region's urban growth boundary evaluation cycle.

2. The Metro Council directs staff to prepare a detailed work plan that meets this timeline and demonstrates a collaborative approach to involve partners reaching agreement at key milestones.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

Resolution No. 07-3781  
Exhibit A

Timeline and Key Milestones for New Look at Regional Choices

**Fall 2007**

- Joint Policy Advisory Committee on Transportation (JPACT) and Metro Council adopt 2035 Regional Transportation Plan by resolution
- Region agrees on criteria for performance-based Urban Growth Boundary approach
- Region agrees on criteria and process to determine urban reserves and rural reserves and a process to engage neighboring cities in the discussion

**Winter 2008**

- Region agrees on 2040 investment strategy focusing investments in centers and corridors
- Region agrees on a regional infrastructure strategy and funding

**Spring 2008**

- JPACT and Metro Council adopt amended 2035 Regional Transportation Plan by ordinance

**Winter 2009**

- Region agrees on recalibrating capacity expectations
- Region agrees on performance-based urban growth boundary approach
- Metro Council designates urban reserves
- Region agrees on designating rural reserves

**Summer 2009**

- Metro Council accepts Urban Growth Report

**2010**

- Metro Council makes urban growth management decisions

**2011**

- Monitor performance

M:\plan\lrpp\projects\2040 New Look\Timeline-Road Map\Resolution 07-3781 approving timeline 02-12-07.doc

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 07-3781, FOR THE PURPOSE OF APPROVING A TIMELINE FOR THE NEW LOOK AT REGIONAL CHOICES PROJECT

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Date: February 6, 2007

Prepared by: Sherry Oeser

#### BACKGROUND

In FY 2006, the Metro Council established the New Look at Regional Choices as a Council Project and adopted a two-year budget and work plan. During the past year, significant accomplishments occurred including establishing an Integrated Policy Framework to guide the work program; developing a regional legislative agenda supported by MPAC; defining an implementation strategy to focus new investments in centers and corridors; identifying and evaluating a range of tools and strategies to focus investments in centers and corridors; sponsoring several "Get Centered!" events throughout the region and in Vancouver, B.C. to highlight successful investments in mixed-use communities; completing research on the agricultural economy, natural landscape features, and great communities to inform future work; and implementing a regional construction excise tax to fund concept planning in recent expansion areas.

Resolution No. 07-3781 lays out a general timeline for the New Look at Regional Choices project for the next five years with key milestones for regional agreements and Metro Council consideration of specific work products. This timeline will be used by the Council, staff and our regional partners as the New Look project proceeds. Attachment 1 to this staff report provides a graphic version of the timeline.

#### ANALYSIS/INFORMATION

1. Known Opposition: None known
2. Legal Antecedents: Resolution 05-3628, designating additional council projects and confirming lead councilors and council liaisons for fall 2005 for the New Look at Regional Choices project adopted on November 17, 2005; Ordinance No. 06-1111 amending the FY 2005-06 budget and appropriations schedule to support the New Look Work program, transferring 4113,000 from contingency to operating expenses in the Planning Department of the General Fund; adding one full-time senior regional planning; converting a limited duration position to regular status; and declaring an emergency adopted on February 2, 2006; and Resolution 06-3670, approving the FY 2006-07 budget and transmitting the approved budget to the Tax Supervising and Conservation Commission, adopted on April 27, 2006.
3. Anticipated Effects: The timeline provides the Metro Council, staff and our partners with a road map of what decisions need to be made and when.
4. Budget Impacts: The work necessary to implement the timeline contained in Resolution 07-3781 has budget impacts for staffing and material and services funding in the Planning Department for at least the next three fiscal years. This resolution directs staff to prepare a detailed work plan. As part of that work, staff will specify the level of staffing and funding for materials and services

needed to complete the work plan. Additional resources will likely be needed. Staff will identify and seek grants, assistance from our partners, and other resources.

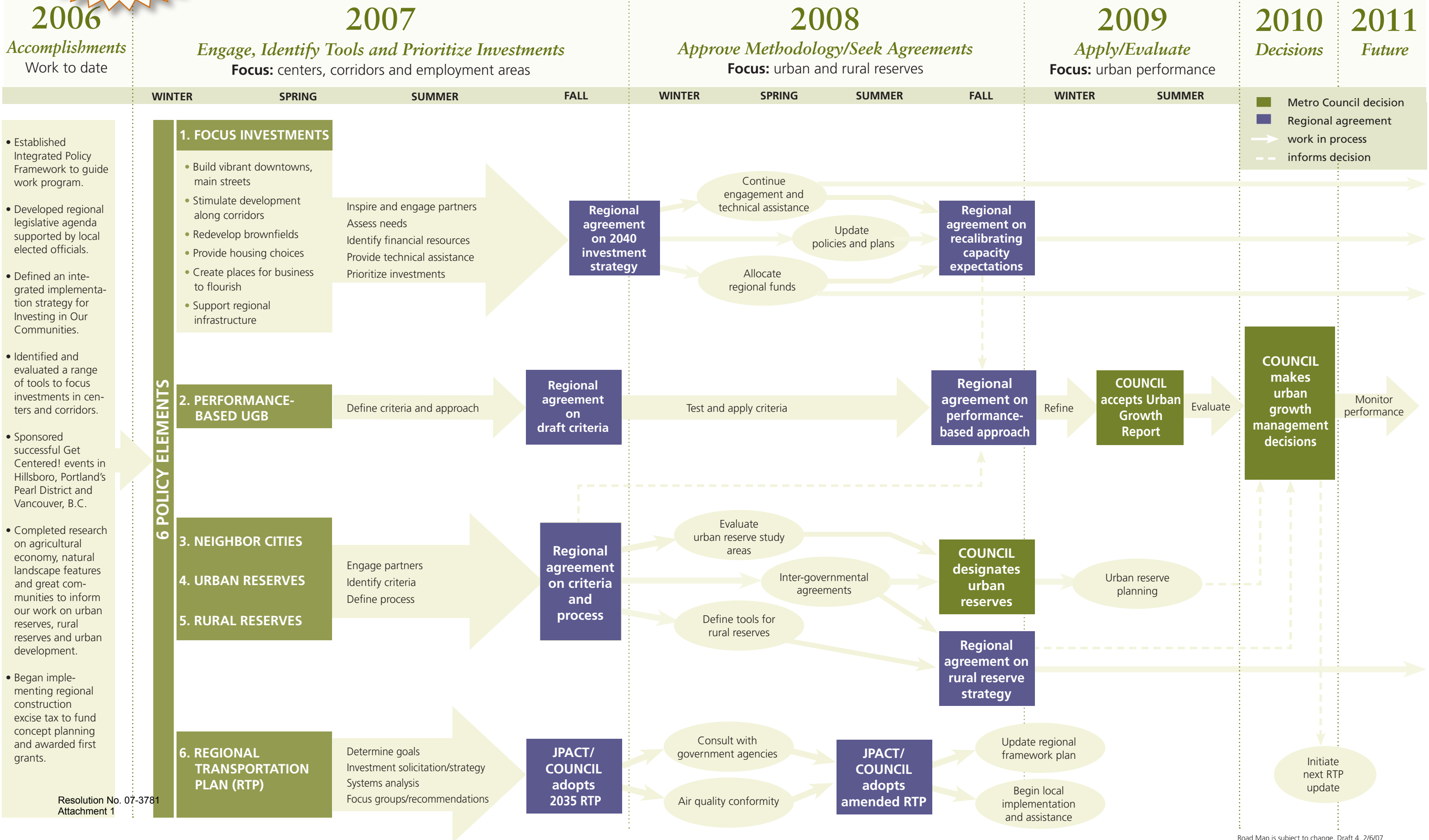
**RECOMMENDED ACTION**

Adopt Resolution No. 07-3781



**DRAFT**

# “Road Map” for New Look Regional Choices, 2007 – 2011



- Metro Council decision
- Regional agreement
- work in process
- informs decision

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER RELATING TO THE VELMA PAULINE POVEY CLAIM FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37) ) Resolution No. 07-3776 ) Introduced by Chief Operating Officer Michael Jordan with the concurrence of Council President David Bragdon

WHEREAS, Velma Pauline Povey filed a claim for compensation under ORS 197.352 (Measure 37) contending that Metro regulations had reduced the fair market value of property she owns in the city of Damascus; and

WHEREAS, the Chief Operating Officer (“COO”) reviewed the claim and submitted reports to the Metro Council, pursuant to section 2.21.040 of the Metro Code, recommending denial of the claim for the reason that the Metro regulation that is the basis for the claim did not reduce the fair market value of the claimants’ property; and

WHEREAS, the Metro Council held a public hearing on the claim on February 22, 2007, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

1. Enters Order 07-020, attached to this resolution as Exhibit A, which denies the claim for compensation.
2. Directs the COO to send a copy of Order No. 07-020, with Exhibit A attached, to the claimants, persons who participated in the public hearing on the claim, Clackamas County and the Oregon Department of Administrative Services. The COO shall also post the order and Exhibit A at the Metro website.

ADOPTED by the Metro Council this 22nd day of February, 2007

\_\_\_\_\_  
David Bragdon, Council President

Approved as to form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**CLAIM FOR COMPENSATION  
UNDER BALLOT MEASURE 37  
AND METRO CODE CHAPTER 2.21**

**REPORT OF THE METRO CHIEF OPERATING OFFICER**

**In Consideration of Council Order No. 07-020  
For the Purpose of Entering an Order  
Relating to the Measure 37 Claim of Velma Pauline Povey**

January 30, 2007

**METRO CLAIM NUMBER:** Claim No. 07-020

**NAME OF CLAIMANT:** Velma Pauline Povey

**MAILING ADDRESS:** c/o William C. Cox, Attorney at Law  
0244 SW California St.  
Portland, OR 97219

**PROPERTY LOCATION:** Damascus, OR 97089

**LEGAL DESCRIPTION:** Township 2S, Range 3E, Section 2  
Tax Lots 1410 and 1412

**DATE OF CLAIM:** November 29, 2006

**I. CLAIM**

Claimant Velma Pauline Povey seeks compensation in the amount of \$1,204,000 for a claimed reduction in fair market value (FMV) of property owned by the claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11 (Interim Protection of Areas Brought into the Urban Growth Boundary) and Metro Ordinance 02-969B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in Order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022). In lieu of compensation, claimant seeks a waiver of those regulations so claimant can apply to the City of Damascus to divide the 7.77-acre subject property into one-acre, single-family residential lots. Claimant would need to attain a waiver from Clackamas County to be eligible for one-acre lot zoning.

Claimant has also filed Measure 37 claims with the City of Damascus, Clackamas County, and the State of Oregon challenging each and every land use regulation that restricts the claimant's use of the property and has the effect of reducing the fair market value of the property.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on February 2, 2007. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at [www.metro-region.org/measure37](http://www.metro-region.org/measure37).

**II. SUMMARY OF COO RECOMMENDATION**

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that Metro's action to bring claimant's land into the Urban

Growth Boundary (UGB), designate it Inner Neighborhood (allowing high-density residential development), and applying a temporary 20-acre minimum lot size while planning is completed did not reduce the fair market value of claimant's property.

### **III TIMELINESS OF CLAIM**

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from a land use regulation enacted *prior* to the effective date of Measure 37 (December 2, 2004), within two years of that date, or of the date a public entity applies the regulation to the property as an approval criterion in response to an application submitted by the owner, whichever is later; or
2. For claims arising from a land use regulation enacted *after* the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the regulation, or of the date the owner of the property submits a land use application for the property in which the regulation is an approval criterion, whichever is later.

#### Findings of Fact

The claimant submitted this claim on November 29, 2006. The claim identifies Metro Code section 3.07.1110 C as the basis of the claim.

Metro Council applied the regulation to the claimant's property on December 5, 2002 (effective March 5, 2003), by Ordinance No. 02-969B, prior to the effective date of Measure 37 (December 2, 2004). This ordinance added 18,638 acres to the Urban Growth Boundary, primarily in the Damascus urban expansion area, that includes the claimant's property. This ordinance also designated the claimant's property as Inner Neighborhood.

#### Conclusions of Law

Metro adopted the regulation that gives rise to this claim prior to the effective date of Measure 37, and claimants filed the claim within two years of the effective date of Measure 37. The claim, therefore, is timely.

### **IV. ANALYSIS OF CLAIM**

#### 1. Ownership

Metro Code section 2.22.020(c) defines "owner" to mean the owner of the property or any interest therein. "Owner" includes all persons or entities that share ownership of a property.

#### Findings of Fact

Claimant acquired an ownership interest in the 7.77-acre subject property through a Contract recorded on September 26, 1972 and has had a continuous ownership interest since that time. The property consists of two tax lots, one of which is 2.65 acres and the other of which is 5.12 acres. Attachment 1 is a site map of the subject property (ATTACHMENT 1). There is a house on the 2.65-acre tax lot. The 5.12-acre tax lot has no improvements.

#### Conclusions of Law

The claimant, Velma Pauline Povey, Trustee of the Povey Trust is owner of the subject property as defined in the Metro Code.

## 2. Zoning History

### Findings of Fact

Claimant asserts that the zoning of the subject property at the time of claimant's acquisition allowed for one-acre lots. At the time of Metro's inclusion of the subject property into the UGB, the subject property was zoned RRFF-5, allowing one dwelling unit per five acres. Since a single-family dwelling is presently on the 2.65-acre tax lot, no further development could occur under the RRFF-5 designation on that tax lot. Under the RRFF-5 zoning, one additional dwelling unit could be constructed on the 5.12-acre tax lot.

### Conclusions of Law

Section 3.07.1110 C of Metro's Code does not reduce the number of lots allowable on the subject property. Under the existing RRFF-5 zoning, no subdivisions of either of the two tax lots would be allowed because of the five-acre per lot minimum.

## 3. Applicability of a Metro Functional Plan Requirement

### Findings of Fact

In 2002, Metro Council expanded the UGB by adopting Ordinance No. 02-969B, including the claimant's property in the UGB expansion area.

Section 3.07.1110 C of Metro's Code prohibits any division of land into lots or parcels smaller than 20 acres, except for public schools or other urban services, pending adoption of urban comprehensive plan designations and zoning.

### Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimant acquired the property. Thus, the section did not apply to the subject property at the time claimant acquired it. The section does not allow the claimant to partition or subdivide either of the two tax lots that constitute her 7.77-acre property until the City of Damascus adopts its comprehensive plan.

## 4. Effect of Functional Plan Requirements on Fair Market Value

### Findings of Fact

Section 2.21.040(d)(5) of the Metro Code requires the Chief Operating Officer (COO) to determine whether the temporary 20-acre minimum size for the creation of new lots or parcels applicable to territory newly added to the UGB has reduced the value of claimant's land. The COO's conclusion is based upon the analysis of the effect of Metro's action contained in ATTACHMENT 2 (Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel dated February 2, 2007 (Conder Memo)).

Claimant has submitted a request for compensation that is based on the proposed subdivision of the property into 7.77 lots, though only seven lots would be allowed under one-acre minimum lot zoning, should claimant be successful in her pending claim against Clackamas County. At that one-acre minimum lot size, only 7 lots would be allowable. Claimant further asserts that a one-acre lot is worth \$200,000, for a total potential value of \$1,554,000. Claimant provides no sales or assessor's data to support this claim.

Additionally, claimant does not account for the costs of subdividing and providing services to the subject property that would necessarily be incurred in order to realize the asserted fair market value.

Claimant asserts the following diminution in value attributable to Metro regulations:

Current FMV:

Land (2 lots):	\$350,000
Improvements:	\$ - (no distinction made between land & improvements)
<b>Current Total:</b>	<b>\$350,000</b>

Claimant assertion of potential FMV:

7.77 lots FMV at \$200,000/lot:	\$1,554,000
Less development costs:	\$(-)
<b>Potential FMV:</b>	<b>\$1,554,000</b>

**Claimed reduction in FMV: \$1,204,000**

Conclusions of Law

Given the 7.77-acre size of the property (one lot at 2.65 acres and one lot at 5.12 acres), no further subdivision would be allowed under either the RRFF-5 or the temporary 20-acre minimum lot size as any subdivision would necessarily result in at least one lot of less than five acres. Therefore, Metro's temporary regulation does not further restrict claimant's ability to subdivide her property beyond the property's zoning restrictions in place at the time of Metro's action.

The Conder Memo provides a more thorough analysis of the property's value, using two different methods for determining the effect of Metro's action on the value of claimant's property. The conclusions of that memo are summarized below.

A. "Comparable Sales" Method

This method compares the value of the property in its current regulatory setting with its value today as though Metro's action had not happened, using transactions involving comparable properties in both "before" and "after" scenarios. Under the "before" scenario, the property would be outside the UGB with the zoning that applied at the time of the application of Metro's regulation: 7.77-acres zoned RRFF-5 (Rural Residential-Farm/Forest, five acre minimum lot size). Given these zoning requirements, claimant would not have been able to obtain approval to further divide the two tax lots that constitute their 7.77-acre property and would only be eligible for one additional single-family dwelling (on the 5.12-acre tax lot).

Under the "after" scenario (current regulatory setting), the land lies within the UGB. The property is designated Inner Neighborhood. The property is subject to a temporary 20-acre minimum lot size to preserve the status quo while the City of Damascus completes the comprehensive planning necessary to allow urbanization of the previously rural (outside the UGB) land. The comparable sales method assumes claimant will eventually be able to use the property for high-density residential development (ranging from 38 to 54 residential lots on the buildable portions of the subject property).

Table 4 of the Condor Memo compares today's value of the property before and after Metro's action, adjusting in both cases for costs of development and limitations on development of the site that a prudent investor would take into account. The table shows that the FMV of the property under existing regulations greatly exceeds the value of the property under RRFF-5 zoning outside the UGB. The analysis using this methodology indicates that the current regulatory setting has not reduced the FMV of the subject property. In fact, the analysis indicates that Metro's actions have increased the property's FMV.

B. Alternative Method Using Time Trend Data Suggested by Plantinga/Jaeger

The Condor Memo uses time-series data to determine whether the application of Metro regulations to the property reduced its value. The data show values before and after Metro's inclusion of the property in the UGB and application of Metro's regulations. The data are displayed in Table 3 of the memo. There is no indication from the data that Metro's regulations reduced the value of the property. The data show that the property continued to increase in value after March 5, 2003, the date the regulations became applicable to the property.

Conclusions of Law

The comparable sales method compares the value of similarly situated properties before and after the application of Metro's regulations. The Plantinga-Jaeger method as applied in this case measures the assessor's real market value of the property before and after Metro's March 5, 2003, action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: Did Metro's action reduce the FMV of the subject property? Application of the method shows that the FMV of the subject property continued to rise after Metro included it in the UGB with the Inner Neighborhood designation and the temporary 20-acre minimum lot size.

Property value data indicate that Metro's action to bring claimant's land into the UGB, designate it Inner Neighborhood (allowing high-density residential development), and apply a temporary 20-acre minimum lot size while planning is completed did not reduce the FMV of her property.

5. Exemptions under ORS 197.352(3)

Findings of Fact

Section 3.07.1110 C of the Metro Code does not restrict or prohibit a public nuisance, the selling of pornography or nude dancing, is not intended to protect public health or safety, and is not required to comply with federal law.

Conclusions of Law

Section 3.07.1110 C of the Metro Code is not exempt from Measure 37 under ORS 197.352(3).

6. Relief for Claimant

Findings of Fact

The Metro Council has appropriated no funds for compensation of claims under Measure 37. Waiver of Metro Code Section 3.07.1110 C to the subject property would allow the claimant to apply to the City of Damascus to divide the subject property into one acre lots and to develop a single family dwelling on each lot that does not already contain a dwelling. The effect of development as proposed by the claimant will be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

Based on the record, the claimant has not established that they are entitled to relief in the form of compensation or waiver of the interim 20-acre minimum lot size requirement under Metro Code Section 3.07.1110 C.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Povey claim for the reason that the Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B did not reduce the value of the subject property.

**ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER**

Attachment 1: Site Map of Velma Pauline Povey Property

Attachment 2: Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Povey Measure 37 Claim," dated February 2, 2007


Attachment 3: Sample Area of 2004-2005 Sales Data for Damascus UGB Expansion Area and One Mile Buffer, Clackamas County, OR

Attachment 4: Velma Pauline Povey Measure 37 Claim Submittal to Metro



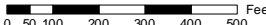
Resolution No. 07-3776  
Attachment 1 COO Report

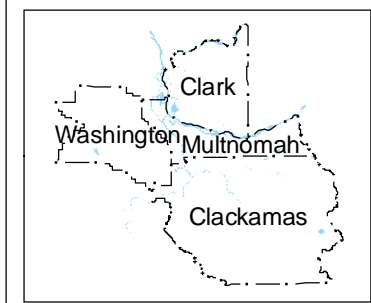
# Site Map Povey Measure 37 Claim

 Subject Property



The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

1 inch equals 0.08 miles  
 Feet  
0 50 100 200 300 400 500



Location Map



METRO DATA RESOURCE CENTER  
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736  
TEL (503) 797-1742 | FAX (503) 797-1909  
drc@metro.dst.or.us | www.metro-region.org

Resolution No. 07-3776  
Attachment 2 to COO Report

February 2, 2007

To: Ray Valone  
Richard Benner

From: Sonny Conder  
Karen Hohndel

Subject: Valuation Report on the Povey Measure 37 Claim

### **Conclusion**

Per your request, we have conducted a valuation analysis of the Povey Measure 37 Claim. The Metro designation of 'Inner Neighborhood' applies to the Povey Claim. We conclude, using the comparable sales method of determining possible reduction in value, that the Metro action of including the 2.65-acre tax lot and the 5.12-acre tax lot (7.77 acres in total) inside the urban growth boundary (UGB), designating it 'Inner Neighborhood', and imposing a temporary 20-acre minimum lot size for development did not produce a material loss of value for the subject property<sup>1</sup>. In all likelihood, the action produced an increase in value for the claimant's property.

Using a time series variation of the Plantinga-Jaeger method of determining property value loss due to regulation also indicates no loss of value for the 7.77-acre property. This conclusion rests on the observation that the assessor's market value for that particular property has continued to increase since the Metro 2003 regulation. Moreover, the entire class of comparably sized RRF-5 acre lot size designated parcels within the expansion area has continued to increase since the Metro 2003 regulation.

The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's action of March 5, 2003. The comparable sales method compares today's value of similarly situated properties under current regulations with today's value under the regulations in place before Metro's action. The Plantinga-Jaeger method provides a more clear and accurate answer to the question posed by Measure 37: Did Metro's action reduce the fair market value (FMV) of the Povey property? Application of the method shows that the FMV of the Povey property continued to rise after Metro included it in the UGB with the 'Inner Neighborhood' designation and the temporary 20-acre minimum lot size.

We consider the time trend and Plantinga – Jaeger methods to be consistent approaches to determining whether a claimant has experienced a property value loss due to a particular government regulation. The comparative sales method yields an estimate of what a particular property owner may gain, not an estimate of what they have lost.

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<sup>1</sup> We use the term "material" in the accounting/auditing sense that given the statistical variability inherent in the data there is no difference between two measurements of land value.

## **Conceptual Understanding for Basis of Property Value Analysis**

We understand the present Measure 37 valuation issue to consist of making two property value estimates. These are:

Estimate the FMV of the property subject to the regulation that the claimant contends has reduced the value of his property.

Estimate the FMV of the property today as though it were subject to the regulations in place prior to the date Metro first applied the regulation to the claimant's property.

Metro Ordinance No. 02-969B applied a set of new regulations to the claimant's property. First, the ordinance brought claimant's property into the region's UGB, making the property eligible for urban residential densities on the parcel rather than rural low-density development. One hundred percent of the 7.77-acre property was designated 'Inner Neighborhood', allowing urban-level residential use on the property. Second, the ordinance applied a temporary 20-acre minimum lot size to protect the status quo while local governments complete amendments to comprehensive plans, scheduled for completion in 2008, to allow urban development. Within this overall framework of these two land use designations, any particular property may have a substantial range of development types and lot sizes. Implicit in these design type designations is the availability of urban level capital facilities including sanitary sewers, storm water retention and management, water distribution, streets, roads, parks and other infrastructure and services associated with urban living. All development is assumed to occur in compliance with all health and safety regulations.

The default land use at the time of Metro's regulatory action was the Clackamas County designation of RRFF-5 on the 7.77-acre property. This land use designation is a rural designation allowing one dwelling unit per 5 acres. Since a single-family dwelling is presently on the 2.65-acre tax lot, no further development could occur under the RRFF-5 designation on that tax lot. Under RRFF-5 zoning one additional dwelling unit could be constructed on the 5.12-acre tax lot.

Most significant is that the reference default land use must be outside the present UGB in a rural setting. While seeming to be a subtle distinction, the requirement of a rural setting outside the UGB is conceptually pivotal to the valuation. To use RRFF-5 equivalent land inside the UGB as a basis for valuation includes the property value increasing amenity effects of urban services and infrastructure. It is logically contradictory to argue that inclusion inside the UGB and designation of the land for urban purposes has reduced a property's value but to include those very effects in the estimate of the property value without the subject action.

## **Alternative Method of Computing Property Value Loss Resulting From Regulation**

Estimating loss of property value using the usual appraisal method of "comparative sales" has been the subject of substantial criticism. Andrew Plantinga and William Jaeger 2, economists at

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<sup>2</sup> Andrew Plantinga, *Measuring Compensation Under Measure 37: An Economist's Perspective*, Dec. 2004, 15 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: [plantinga@oregonstate.edu](mailto:plantinga@oregonstate.edu)).

Resolution No. 07-3776  
Attachment 2 to COO Report

OSU, have written papers pointing out that using the method of comparative sales does not compute the loss due to regulation. Rather, the estimated “value loss” is actually the gain resulting from obtaining an exemption to the general rule. To better understand their arguments, we may think of the comparative sales method of determining an economic loss as equivalent to determining the value of issuing someone a special license or franchise to carry out an economically valuable function that others may not do. For instance, licenses to operate taxicabs in New York are seldom issued and in great demand. As a result, the license itself has acquired substantial economic value. An example closer to home is the value of an Oregon Liquor License prior to more liberal issuing standards in the 1980’s. In the 1950’s through roughly the 1970’s, an Oregon Liquor License for a restaurant or bar vastly increased the property value of the establishment that had one. Plantinga and Jaeger argue that the value of the property hinges on scarcity resulting from regulation. If everyone had a taxicab or liquor license, they would have no value. From an economic perspective, using a method that really measures value gained from regulation is not the same as determining economic loss resulting from regulation.

Plantinga and Jaeger go on to suggest an economically appropriate measure of loss resulting from subsequent land use regulation. Their method is grounded in the well-established and tested Theory of Land Rent. Simplified a bit, the Theory of Land Rent holds that the value of land at any particular time is the future net profit from the land used in its most efficient allowable use. The market also adjusts (discount factor) this value to account for time and uncertainty as to future uses. What this means is that the original sales price incorporates future expectations about how the land might be used. If we take the original sales price and bring it up to the current date by using an appropriate price index, we are able to measure in today’s prices what the land was worth when it was purchased under the original regulatory requirements.

As Metro’s regulatory action was taken in 2003, we have actual time series data to determine whether the subject property experienced a loss of value after Metro’s action. Consequently, we need not index the original sales price as we can observe whether the value actually decreased or not. We are able to make these observations for the particular property and for the entire class of subject properties within the Damascus UGB expansion area. In essence, the simplest approach to answering the question of whether a property lost value as a result of Metro’s regulation is to measure whether the property value decreased following Metro’s action.

This method allows a consistent computation of property loss due to subsequent regulatory changes. At the same time, it avoids awarding particular property owners a bonus that was not anticipated in the original purchase price. Owners should be compensated for what they lost due to the application of Metro’s regulations. They are not awarded an extra benefit owing to unanticipated growth, infrastructure investment or regulatory changes irrespective of any Metro changes.

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William K. Jaeger, *The Effects of Land Use Regulations of Land Prices*, Oct. 2005, 38 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: [wjaeger@oregonstate.edu](mailto:wjaeger@oregonstate.edu)).

Also: William K Jaeger, *The Effects of Land-Use Regulations on Property Values*, **Environmental Law**, Vol. 36:105, pp. 105 – 127, Andrew J. Plantinga, et. al., *The effects of potential land development on agricultural land prices*, **Journal of Urban Economics**, 52, (2002), pp. 561 – 581. and Sonny Conder and Karen Hohndel, *Measure 37: Compensating wipeouts or insuring windfalls?*, **Oregon Planners’ Journal**, Vol. 23, No 1. Dec. – Jan 2005. pp. 6 – 9.

Resolution No. 07-3776  
Attachment 2 to COO Report

**Property Valuation Analysis Procedure**

Our property valuation analysis procedure consists of the following steps:

Briefly describe the property and make a prudent assessment of development limitations to establish a likely range of development capacity under 'Inner Neighborhood', and RRFF-5, assuming health and safety regulations are enforced.

Estimate value of property based on recent sales (2004,2005,2006) of lots and existing properties inside the Damascus expansion area designation of 'Inner Neighborhood' development configurations and including a 10-year discount factor for lag time in service provision. Since we implicitly assume the existing residential structure will be removed, account for the existing dwelling unit by adding in the value of a 10-year rent annuity appropriately discounted.

Based on recent sales (2005) of property in a buffer zone extending 1 mile outside the present UGB within Clackamas County, determine the value of residential property on lots of 5 to 15 acres in size. This procedure establishes a reasonable range of values for residential properties of RRFF-5 configuration in a rural setting.

For the RRFF-5 valuation assume that the 2.65-acre tax lot continues as is with the existing residence.

Provide an alternative determination of loss of value of the Povey property based on time series before and after Metro's regulatory action.

Provide and compare estimates of the value of the subject property as of 2006 with Metro's 'Inner Neighborhood' designation versus Clackamas County's RRFF-5.

**Povey Property Description**

The subject property consists of two tax lots of 2.65 acres and 5.12 acres two tax lots north of 257<sup>th</sup> and Hoffmeister Road in the city of Damascus adjacent to but inside the Urban Growth Boundary. Clackamas County Assessor data show two tax lots with one residential structure located on the 2.65-acre tax lot. Assessor market value as of 2006 for the 2.65-acre lot is \$159,217 with the improvement at \$35,060 and the land at \$124,157. The 5.12-acre vacant tax lot has an Assessor RMV of \$133,661. Data submitted with the claim indicate 15 acres that included the property were purchased in 1972. Purchase price was \$ 26,400.

Outside visual inspection indicates the residential structure is a manufactured home in good, well-maintained condition on a concrete foundation with a substantial but unknown amount of floor space.

Visual inspection indicates a relatively level northeast sloping farm nursery land with a home and outbuildings in the northwest corner of the property. Other than the existence of the present

Resolution No. 07-3776  
Attachment 2 to COO Report

structures no visible impediments to development exist. Part of the property enjoys a modest view to the southeast Cascades foothills.

It is not in our professional capacity to assert with authority any definitive estimate of what the site limitations are, but rather to reflect what any prudent property investor must consider when pricing raw land. This holds true for both Metro's 'Inner Neighborhood' designation, and the default use of RRFF-5 zoning.

**Land Use Capacity Estimates – 5.12-Acre Parcel and 2.65-Acre Parcel as 'Inner Neighborhood' and as RRFF-5**

As noted above, the Povey property has Metro's 'Inner Neighborhood' designation. Metro's 'Inner Neighborhood' allows a wide range of residential densities more limited by market and site conditions than regulation. The market rather than site impose limitations on the Povey property. We estimate that the 'Inner Neighborhood' property will be developed within 10 years as moderate value single family with a density of 5 – 7 units per acre. In this case both the 2.65-acre parcel and the 5.12-acre parcel would be used with the existing residential structure on the 2.65-acre parcel being demolished.

Using the RRFF-5 Clackamas County land use designation in effect at the time of Metro's UGB action, we assume that the 2.65-acre property cannot be further subdivided. The remaining vacant 5.12-acre property may be used for one residence but cannot be further subdivided. This assumption results from the fact that the Clackamas County ordinance prohibits division of a parcel smaller than 10 acres. Consequently, one additional dwelling unit may be built under RRFF-5 zoning.

**Current Value Estimate of 'Inner Neighborhood' Land in Damascus Expansion Area**

In order to establish a reasonable range of lot values for developing urban areas with infrastructure and nearby urban services, we evaluated all recent sales (year 2005) of land and lots within the Damascus UGB expansion area. As detailed in relevant data file and confirmed by the Clackamas County Assessor's office, currently one area is under development. It consists of 38 acres that was included in the expansion area and annexed to city of Happy Valley. Data indicate that 152 lots of 7000 – 10000 square feet have been sold for \$22.6 million for an average of \$149,000 per lot. The lot price range was from \$127,000 to \$175,000. The lots in question are ready to build lots with complete urban services inside the city of Happy Valley. They were also designated 'Inner Neighborhood' when included within the UGB and subsequently zoned to R10 by Happy Valley.

Since these lots were located in the urbanized, extreme western portion of the expansion area, we also examined a recently developed residential area immediately south of Highway 212 in the Anderegg Road area. Relevant summary results are in Table 1 below.

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**Table 1: Summary Property Value Data – Damascus Area ‘Inner Neighborhood’ Designation Highway 212 Development**

Average Lot Size:	5,805 sq. ft.
Median Lot Size:	5,148 sq. ft.
Average Lot Value:	\$93,100
Median Lot Value:	\$92,200
Average Total Property Value:	\$273,600
Median Total Property Value:	\$267,100
Number of Sales:	51

When we adjust for lot size, and the availability of full urban services, the data support a lot value range of \$90,000 – \$110,000 per buildable lot in 2006 dollars for ‘Inner Neighborhood’ type development on the subject property.

**Current Value Estimate of “5 Acre Minimum Buildable Lots” in the 1-Mile Buffer Area Outside the UGB**

To establish the value range for “5-Acre Minimum” size lots with RRFF-5 zoning within the Clackamas County rural area, we selected all residential properties that sold in 2004 and 2005 within the 1 mile zone subject to the Land Conservation and Development Commission’s 20-acre minimum lot size with a lot size of 5 to 15 acres. These comprised 17 properties and their summary statistics are included below in Table 2.

**Table 2: Summary Property Value Data – Clackamas County 1-Mile Buffer RRFF-5 Zoning 5 – 15 Acre Lots with Recent Sales**

Average Lot Size:	7.3 acres
Median Lot Size:	6.3 acres
Average Acre Value:	\$26,435
Median Acre Value:	\$22,297

The data suggest that the Povey raw land value with a 5-acre minimum lot size restriction that limits the property to 1 residential unit would be worth \$114,000 to \$135,000 in a rural residential setting outside the Urban Growth Boundary. Adjusting for the modest view property adds another \$50,000 – \$75,000 to the value for a total range of \$164,000 - \$210,000 for the 5.12 acres in rural residential use.

As noted in the Povey property description the Assessor’s RMV for the 2.65-acre lot with existing improvement amounts to \$159,217. Using a net rental proceeds basis for the valuation we estimate the value of the 2.65-acre parcel to be \$185,000.

**Alternative Valuation of Povey Property Using the Time Trend Method Suggested by Plantinga and Jaeger**

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OSU economists Andrew Plantinga and William Jaeger have challenged the “comparable sales” approach of traditional appraisal methods. They have pointed out that it really measures the value obtained by an exception to the current rule, rather than a measure of economic loss suffered as a result of government land use regulation. Since the subject Metro regulatory change was recent (2003), we have before and after time series data to determine whether the Povey property actually experienced a loss of value after the Metro regulation.

Accordingly, we have tabulated property value data for the entire expansion area from assessor’s records for the years 2001 through 2006. Since the 2.65-acre property has an existing residence we show it separate from the 5.12-acre tax lot. We also present the data for all RRFF-5 designated properties within the expansion area between 5 and 15 acres in size. Table 3 below depicts the results by year.

**Table 3: Povey Per Acre Value and Expansion Area Land Values 2000 – 2006**

Year	Povey 5.12	Povey 2.65	Average All 5 – 15 Acre RRFF-5
2001	20,566	54,619	17,357
2002	21,575	56,596	18,854
2003	21,791	53,739	19,194
2004	22,869	56,787	20,280
2005	24,164	59,661	21,515
2006	26,106	60,082	23,275

Both the Povey property assessor’s market value and the average value of all RRFF-5 tax lots within the study area increased steadily from 2003 through 2006. There is no evidence that Metro’s action of including the property within the UGB and imposing a temporary minimum lot size of 20 acres has reduced property values.

**Table 4: Comparison of Estimated Market Value of Raw Land for Inner Neighborhood, and RRFF-5 Land Uses**

<b>Inner Neighborhood (7.77 acres)</b>	
Low Yield (7.77 x 5):	38 DU (dwelling units)
Low Range Lot Value:	\$90,000
Development Cost per Lot 3:	\$50,000
Net Raw Land per Lot:	\$40,000
Total Raw Land Value (38x40,000):	\$1,520,000
Current Market Value 7.77 acres	
Discounted 10 years:	\$810,000
Plus Discounted Rental Value of Residence for 10 years:	\$86,000

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<sup>3</sup> We are assuming the cost of converting raw land to buildable lots will be \$50,000 per lot. This figure includes on-site streets, curbs, sidewalks, streetlights, water, sewer, and drainage as well as SDC’s for sewer, water, drainage, parks and transportation.



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Total Low Value:	\$896,000
High Yield (7.77 x 7):	54 DU
High Range Lot Value:	\$110,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$60,000
Total Raw Land Value (54x60,000):	\$3,240,000
Current Market Value for 7.77 acres	
Discounted 10 years:	\$1,726,000
Plus Discounted Rental Value of Residence for 10 years:	\$86,000
Total High Value:	\$1,812,000
<b>Total Low Value (7.77 acres):</b> <sup>4</sup>	<b>\$896,000</b>
<b>Total High Value (7.77 acres):</b>	<b>\$1,812,000</b>

**RRFF-5 (5-Acre Minimum)**

Low Range:	
1 Residential Unit (5.12 acre Lot)	\$164,000
Existing Residential Lot (2.65 acre)	\$185,000
Total Low Range:	\$349,000
High Range:	
1 Residential Unit (5.12 acre Lot)	\$210,000
Existing Residential Lot (2.65 acre)	\$185,000
Total Low Range:	\$395,000

We estimate the current raw land value plus residence of the Povey property with 'Inner Neighborhood' designation to range from \$896,000 to \$1,812,000. The same property used as Rural Residential in a rural setting with a 5-acre minimum would yield \$349,000 to \$395,000. In other words, the most optimistic rural valuation falls well below the most pessimistic 'Inner Neighborhood' valuation. Given these results, we would conclude that the 'Inner Neighborhood' designation has not reduced the value of the property. Quite the contrary, it has most likely increased the value.

Moreover, in terms of establishing economic loss, the land values per acre established using the time trend Plantinga-Jaeger method shows land values increasing steadily since 2003. Clearly, under no circumstances has any regulatory change to the Povey property reduced its value. Again, the contrary is the case. Growth, infrastructure investment and regulation necessary for orderly growth have produced increases in property values well in excess of any alternative investment for the Povey property.

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<sup>4</sup> Total Low Value = Inner Neighborhood low yield

<sup>5</sup> Total High Value = Inner Neighborhood high yield

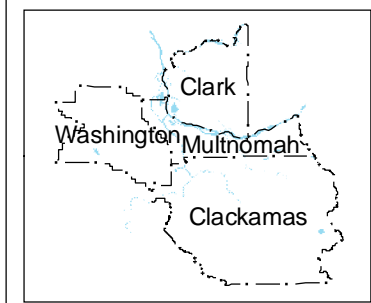
Resolution No. 07-3776  
Attachment 3 COO Report

# Sample Area of 2004-2005 Sales Data for Damascus UGB Expansion Area and One Mile Buffer, Clackamas County, OR

- Damascus UGB Expansion Area
- One Mile Buffer
- County Line
- Inside Metro UGB

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

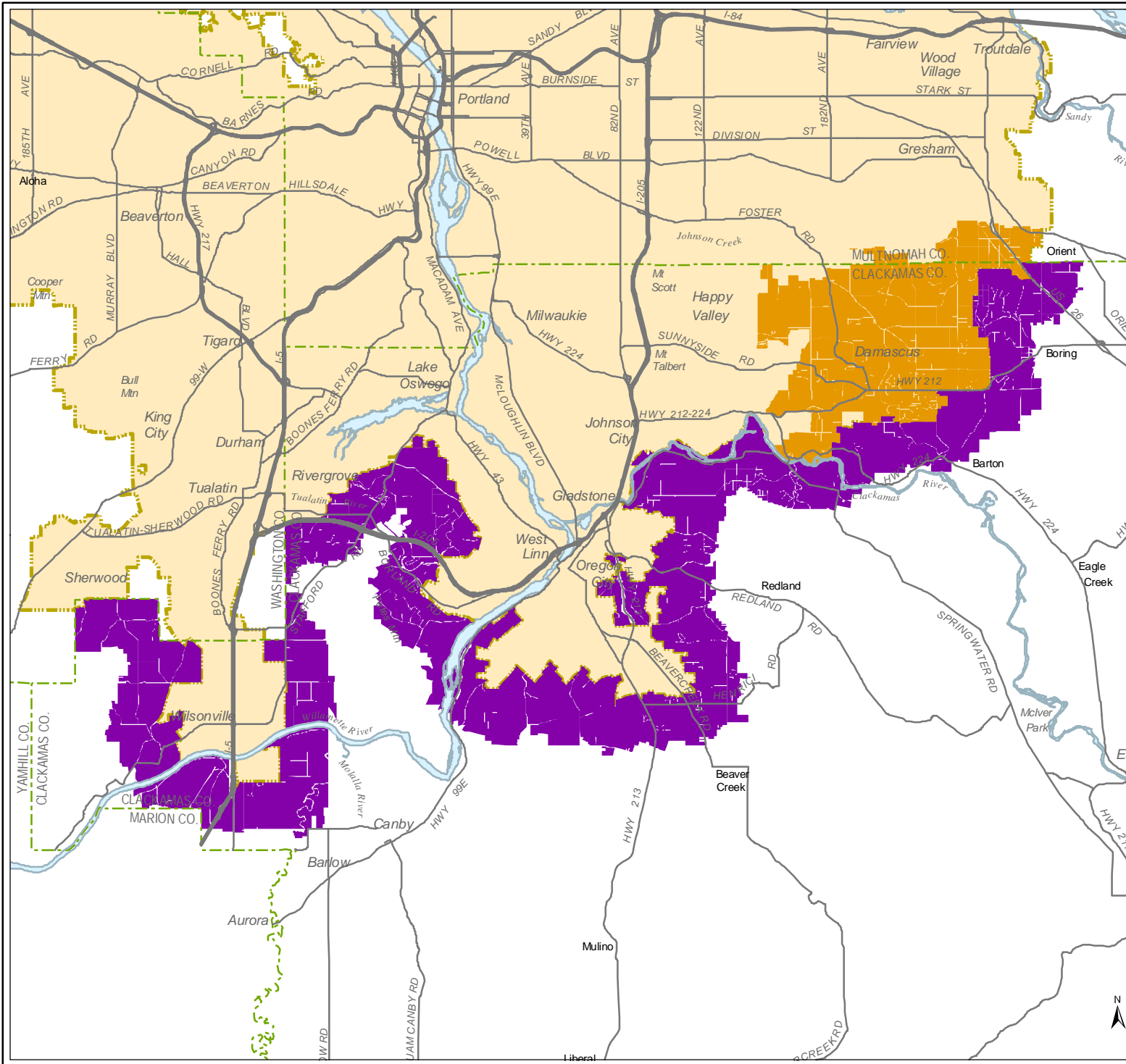
1 inch equals 3.31 miles  
0 1 2 Miles



Location Map



METRO DATA RESOURCE CENTER  
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736  
TEL (503) 797-1742 | FAX (503) 797-1909  
drc@metro.dst.or.us | www.metro-region.org



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NOV 29 2008

**METRO MEASURE 37 CLAIM**

**VELMA PAULINE ~~POVEY~~ REVOCABLE TRUST**

OFFICE OF METRO ATTORNEY

**WHAT IS PROPOSED:** DIVISION OF 7.77 ACRES INTO 1 ACRE LOTS AS ALLOWED AT DATE OF ACQUISITION.

AT THE TIME OF ACQUISITION THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.

**LEGAL DESCRIPTION:**

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	LOT 1410 5.12 ACRES LOT 1412 2.65 ACRES	23E02A 01410 23E02A 01412	ACCOUNT # 00601637 ACCOUNT # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

**NAME OF CONTACT PERSON:** WILLIAM C. COX, ATTORNEY AT LAW  
**MAILING ADDRESS:** 0244 SW CALIFORNIA STREET  
**CITY, STATE, ZIP:** PORTLAND, OREGON 97219

**OFFICE PHONE:** 503-246-5499  
**CELL PHONE:** 503-475-5475

**PROPERTY OWNER:** VELMA PAULINE POVEY, TRUSTEE

**OWNER SIGNATURE:**   
**ATTORNEY:** SEE ATTACHED POWER OF  
 BY WILLIAM C. COX, ATTORNEY IN FACT

**1. OTHER PERSONS WITH AN INTEREST IN THE PROPERTY:** SEE ATTACHED MEASURE 37 LOT BOOK  
**SERVICE DOCUMENTS:**

**2. EXACT DATE THE CURRENT OWNER ACQUIRED THE PROPERTY?** SEPTEMBER 15, 1972

**3. FAMILY HISTORY OF OWNERSHIP:** THE APPLICANT ACQUIRED THE PROPERTY IN 1972  
 NO PRIOR FAMILY OWNERSHIP.

**4. OFFENDING REGULATIONS:**

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020;	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION

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Attachment 4 to COO Report

	660-23-0000 TO 0250	
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM.  IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

5. DATE OF EFFECT

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	AFTER PURCHASE WHICH OCCURRED IN 1972; AT DATE OF CLACKAMS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	THE METRO COUNCIL ADOPTED THE REGULATION THAT GIVES RISE TO THIS CLAIM ON SEPTEMBER 10TH, 1998, BY ORDINANCE 98-772B. METRO COUNCIL APPLIED THE REGULATION TO A PORTION OF THE CLAIMANTS' PROPERTY FOLLOWING THAT DATE. EXACT DATE UNCERTAIN.

6. AMOUNT OF PROPERTY VALUE REDUCTION

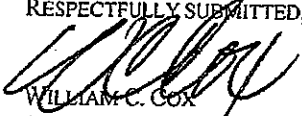
FAIR MARKET VALUE REDUCTION AMOUNT  APPROXIMATELY \$1,204,000.	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES AND LOCAL SPECIAL DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN
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Resolution No. 07-3776  
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	PROPERTY BY CLAIMANT	PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
LAW OR RULE:	OAR 660-14-0040	SEE ABOVE
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	SEE ABOVE
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

7. **CLAIM:** THIS IS THE FIRST CLAIM MADE FOR COMPENSATION UNDER THE TERMS OF BALLOT MEASURE 37. IT IS CLAIMANT'S DESIRED RESOLUTION THAT SHE BE ALLOWED TO DEVELOP THE PROPERTY AT THE DENSITY ALLOWED ON THE DATE OF ACQUISITION ON 9/15/72 WHEN THE PROPERTY CONTAINED NO ZONING OR OVERLAY DESIGNATIONS. THE DESIRED DENSITY SHOULD BE ALLOWED WITHOUT REGARD TO ANY RESTRICTIONS. IN THE ALTERNATIVE CLAIMANT REQUESTS THAT HE BE REIMBURSED THE ABOVE EXPRESSED \$1,204,000
  
8. **BASIS OF LOSS ESTIMATE:** AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
  
9. **ADDITIONAL MATERIALS REQUESTED:**
  - A. **REAL PROPERTY APPRAISAL:** THE VALUES USED HEREIN ARE CONSISTENT WITH SALES OF RURAL VIEW ACREAGE PROPERTIES IN THE COUNTY. IT IS APPLICANT'S OPINION THAT AN APPRAISAL IS ONLY RELEVANT IF THE COUNTY AND/OR STATE DECIDE TO ENFORCE THE CURRENT USE RESTRICTIONS. A CURRENT APPRAISAL WILL BE SUBMITTED WHEN NOTIFIED THAT THE COUNTY WILL PURCHASE THE PROPERTY. AN APPRAISAL SUBMITTED BEFORE KNOWING OF COUNTY'S DECISION WOULD LIKELY BE OUT OF DATE UNDER THE MEASURE 37 PROCESSING OBLIGATION OF 180 DAYS.
  
  - B. **A TITLE REPORT:** SEE ATTACHED.
  
  - C. **COPIES OF ANY LEASES OR COVENANTS.** NONE
  
  - D. **CLAIMS PROCESSING FEE.** SUCH A FEE WILL BE SUBMITTED UPON PROOF THAT A GOVERNING AUTHORITY HAS AUTHORITY TO DEMAND A PROCESSING FEE UNDER THE TERMS OF MEASURE 37.

RESPECTFULLY SUBMITTED,

  
WILLIAM C. COX  
ATTORNEY FOR APPLICANT



# M37 Claim Form

Risk Management - State Services Division  
1225 Ferry St. SE U160, Salem, Oregon 97301-4292  
Web Site: <http://www.oregon.gov/DAS/Risk/M37.shtml> Phone: 503-373-7475

**SECTION 1 NAME /PROPERTY OWNER**

NAME OF CLAIMANT: VELMA PAULINE POVEY, TRUSTEE	DAY TIME PHONE #: CONTACT AGENT IDENTIFIED BELOW
ADDRESS: SEE AGENT ADDRESS	

**SECTION 2 NAME AND CONTACT INFORMATION OF PERSON SUBMITTING CLAIM (AGENT)**

NAME OF AGENT: WILLIAM C. COX, ATTY. AT LAW	DAY TIME PHONE #: 503-246-5499	
ADDRESS: 0244 SW CALIFORNIA STREET		
CITY: PORTLAND	STATE: OREGON	97219
MUST ATTACH A WRITTEN NOTARIZED STATEMENT SIGNED BY THE OWNER(S) OR A POWER OF ATTORNEY PROPERLY AUTHORIZING SUBMITTAL OF THIS CLAIM. ATTACHMENT: YES X		

**SECTION 3 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY: NONE**

**SECTION 4 PROPERTY FROM WHICH THE CLAIM DERIVES**

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	Lot 1410 5.12 acres Lot 1412 2.65 acres	23E02A 01410 23E02A 01412	Account # 00601637 Account # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

**SECTION 5 EVIDENCE OF OWNERSHIP**

THE FOLLOWING IS ATTACHED AS PROOF OF OWNERSHIP:	FIRST AMERICAN TITLE MEASURE 37 LOT BOOK SERVICE
DATE OF ACQUISITION OF PROPERTY:	JUNE 1972 AND OCTOBER 1972
NATURE & SCOPE OF OWNERSHIP OF PROPERTY:	FEE SIMPLE

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Attachment 4 to COO Report

ALL ENCROACHMENTS, EASEMENTS, ETC.	SEE LOT BOOK SERVICE DOCUMENT AS REFERRED TO ABOVE
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**SECTION 6** NATURE AND MANNER OF RESTRICTION

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM.  IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

**SECTION 7** DATE ON WHICH EACH CITED LAND USE REGULATION BEGAN TO APPLY TO SUBJECT PROPERTY

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	AFTER PURCHASE WHICH OCCURRED IN 1972; AT DATE OF CLACKAMS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	THE METRO COUNCIL ADOPTED THE REGULATION THAT GIVES RISE TO THIS CLAIM ON SEPTEMBER 10TH, 1998, BY ORDINANCE 98-772B. METRO COUNCIL APPLIED THE REGULATION TO A PORTION OF THE CLAIMANTS' PROPERTY FOLLOWING THAT DATE. EXACT DATE UNCERTAIN.

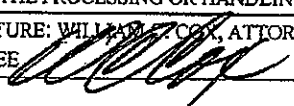
**SECTION 8** AMOUNT OF PROPERTY VALUE REDUCTION

FAIR MARKET VALUE REDUCTION AMOUNT APPROXIMATELY \$1,204,000.	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES AND LOCAL SPECIAL	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77
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Resolution No. 07-3776  
Attachment 4 to COO Report

	DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF PROPERTY BY CLAIMANT	ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
LAW OR RULE:	OAR 660-14-0040	SEE ABOVE
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	SEE ABOVE
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

**SECTION 9** AUTHORITY TO ENTER PROPERTY

I/WE AFFIX OUR SIGNATURE(S) TO THIS FORM GRANTING ACCESS TO THE SUBJECT PROPERTY IN ANY MANNER OR FORM DEEMED APPROPRIATE BY STATE AGENCY OR AGENCIES FOR THE REVIEW OF THE PROPERTY IN FURTHERANCE OF THE PROCESSING OR HANDLING OF THIS CLAIM:	
PRINTED NAME: VELMA PAULINE POVEY, TRUSTEE	SIGNATURE: WILLIAM COX, ATTORNEY FOR VELMA PAULINE POVEY TRUSTEE 

**SECTION 10** ATTACHMENTS

TITLE REPORT: YES X	DEED: YES X	AFFIDAVITS: YES X	TAX MAP(S) YES X
A FEE WILL BE SUBMITTED UPON PROOF THAT A GOVERNING AUTHORITY HAS AUTHORITY TO DEMAND A PROCESSING FEE UNDER THE TERMS OF MEASURE 37.			

**SECTION 11** OTHER CLAIMS FILED

COMPANION CLAIMS HAVE BEEN FILED WITH THE METROPOLITAN SERVICE DISTRICT (METRO) AND CLACKAMAS COUNTY, CITY OF DAMASCUS.



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I WILLIAM C. COX ATTEST THAT I HAVE FILLED OUT THIS FORM COMPLETELY AND THIS CLAIM IS TRUE AND CORRECT.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
DATE

STATE OF OREGON

COUNTY OF MULTNOMAH

SIGNED AND SWORN TO BEFORE ME ON NOVEMBER \_\_\_\_ 2006

\_\_\_\_\_  
NOTARY SEAL

\_\_\_\_\_  
(NOTARY PUBLIC -- STATE OF OREGON)

MY COMMISSION EXPIRES: \_\_\_\_\_

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**MEASURE 37 CLAIM WITH CITY OF DAMASCUS AND CLACKAMAS COUNTY**

CLACKAMAS COUNTY PLANNING DIVISION  
9101 SE SUNNYBROOK BLVD., CLACKAMAS, OREGON 97015  
PHONE (503)-353-4500, FAX (503)-353-4550

FILE NUMBER: \_\_\_\_\_  
DATE RECEIVED: \_\_\_\_\_  
STAFF MEMBER: \_\_\_\_\_  
CPO: \_\_\_\_\_

**NOTE: THIS CLAIM IS COMBINED FOR SUBMITTAL ON THE UNDERSTANDING THAT CLACKAMAS COUNTY IS ADMINISTERING ALL CLAIMS FOR DAMASCUS. IF THAT IS INCORRECT PLEASE LET THE REPRESENTATIVE IDENTIFIED BELOW KNOW.**

**WHAT IS PROPOSED:** DIVISION OF 7.77 ACRES INTO 1 ACRE LOTS AS ALLOWED AT DATE OF ACQUISITION.

AT THE TIME OF ACQUISITION THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.

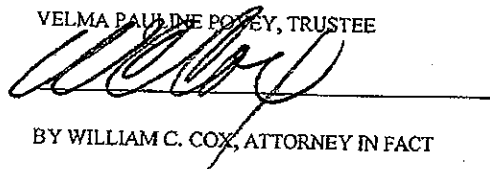
**LEGAL DESCRIPTION:**

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	LOT 1410 5.12 ACRES LOT 1412 2.65 ACRES	23E02A 01410 23E02A 01412	ACCOUNT # 00601637 ACCOUNT # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

NAME OF CONTACT PERSON: WILLIAM C. COX, ATTORNEY AT LAW  
MAILING ADDRESS: 0244 SW CALIFORNIA STREET  
CITY, STATE, ZIP: PORTLAND, OREGON 97219

OFFICE PHONE: 503-246-5499  
CELL PHONE: 503-475-5475

PROPERTY OWNER: VELMA PAULINE POSEY, TRUSTEE

OWNER SIGNATURE:   
ATTORNEY  
BY WILLIAM C. COX, ATTORNEY IN FACT

SEE ATTACHED POWER OF

**MEASURE 37 CLAIM SUPPLEMENTAL INFORMATION**

- OTHER PERSONS WITH AN INTEREST IN THE PROPERTY: SEE ATTACHED MEASURE 37 LOT BOOK  
SERVICE DOCUMENTS:
- EXACT DATE THE CURRENT OWNER ACQUIRED THE PROPERTY? SEPTEMBER 15, 1972

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3. **FAMILY HISTORY OF OWNERSHIP:** THE APPLICANT ACQUIRED THE PROPERTY IN 1972 NO PRIOR FAMILY OWNERSHIP.

4. **OFFENDING REGULATIONS:**

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM.  IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

5. **DATE OF EFFECT**

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	AFTER PURCHASE WHICH OCCURRED IN 1972; AT DATE OF CLACKAMS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	THE METRO COUNCIL ADOPTED THE REGULATION THAT GIVES RISE TO THIS CLAIM ON SEPTEMBER 10TH, 1998, BY ORDINANCE 98-772B. METRO COUNCIL APPLIED THE REGULATION TO A PORTION OF THE CLAIMANTS' PROPERTY FOLLOWING THAT DATE. EXACT DATE UNCERTAIN.

6. **AMOUNT OF PROPERTY VALUE REDUCTION**

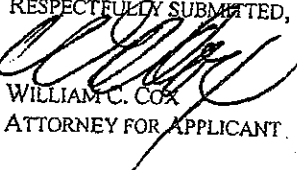
FAIR MARKET VALUE REDUCTION AMOUNT	ALL STATE WIDE PLANNING GOALS AND	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN
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APPROXIMATELY \$1,204,000.	ADMINISTRATIVE RULES, STATUTES AND LOCAL SPECIAL DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF PROPERTY BY CLAIMANT	DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
LAW OR RULE:	OAR 660-14-0040	SEE ABOVE
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	SEE ABOVE
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

7. CLAIM: THIS IS THE FIRST CLAIM MADE FOR COMPENSATION UNDER THE TERMS OF BALLOT MEASURE 37. IT IS CLAIMANT'S DESIRED RESOLUTION THAT SHE BE ALLOWED TO DEVELOP THE PROPERTY AT THE DENSITY ALLOWED ON THE DATE OF ACQUISITION ON 9/15/72 WHEN THE PROPERTY CONTAINED NO ZONING OR OVERLAY DESIGNATIONS. THE DESIRED DENSITY SHOULD BE ALLOWED WITHOUT REGARD TO ANY RESTRICTIONS. IN THE ALTERNATIVE CLAIMANT REQUESTS THAT HE BE REIMBURSED THE ABOVE EXPRESSED \$1,204,000
8. BASIS OF LOSS ESTIMATE: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
9. ADDITIONAL MATERIALS REQUESTED:
- A. REAL PROPERTY APPRAISAL: THE VALUES USED HEREIN ARE CONSISTENT WITH SALES OF RURAL VIEW ACREAGE PROPERTIES IN THE COUNTY. IT IS APPLICANT'S OPINION THAT AN APPRAISAL IS ONLY RELEVANT IF THE COUNTY AND/OR STATE DECIDE TO ENFORCE THE CURRENT USE RESTRICTIONS. A CURRENT APPRAISAL WILL BE SUBMITTED WHEN NOTIFIED THAT THE COUNTY WILL PURCHASE THE PROPERTY. AN APPRAISAL SUBMITTED BEFORE KNOWING OF COUNTY'S DECISION WOULD LIKELY BE OUT OF DATE UNDER THE MEASURE 37 PROCESSING OBLIGATION OF 180 DAYS.
- B. A TITLE REPORT: SEE ATTACHED.
- C. COPIES OF ANY LEASES OR COVENANTS. NONE
- D. CLAIMS PROCESSING FEE. SUCH A FEE WILL BE SUBMITTED WHEN THE COUNTY PRESENTS APPLICANT WITH PROOF THAT A COUNTY HAS AUTHORITY TO DEMAND A PROCESSING FEES UNDER THE TERMS OF MEASURE 37.

RESPECTFULLY SUBMITTED,

  
WILLIAM C. COX  
ATTORNEY FOR APPLICANT

**MEMORANDUM OF RESTRICTIONS IMPACTING SUBJECT PROPERTY**

Claimants hereby assert a claim against each and every State of Oregon statute, administrative rule, statewide planning goal, and/or land use regulation that restricts the use of claimants' property and has the effect of reducing the fair market value of the property. In addition to the Goals, rules, and regulations identified on the submitted State Claim Form, restrictive regulations that reduce the fair market value of the subject property include but are not limited to:

Statewide Planning Goal 3 (Agricultural Lands), ORS Chapter 215, and OAR 660, Division 33. EFU (Exclusive Farm Use) zoning is based on Statewide Planning Goal 3 and OAR 660-015-0000(3), as well as required provisions applicable to land zoned EFU in ORS Chapters 197 & 215 (ORS 215.203 to .311, ORS 215.263 (limitations on land divisions), ORS 215.700 to .710 and 215.780 (80 acre minimum lot size), and ORS 215.283-.284 (limitations on new dwellings)) and OAR 660-033-0010 to 0160. These laws restrict the zoning, use, division, development, and sale of the subject property. Goal 3 became effective on January 25, 1975. The Goal requires that agricultural land, as the term was defined, be zoned EFU pursuant to the demands of ORS Chapter 215. OAR 660-015-0000(3). Subsequently, additional restrictions on lots size and dwelling standards were imposed. *See* ORS 215.780 (became effective in November 1993); OAR 660-033-0100(1) (80 acre minimum for creation of new lots in EFU zone); OAR 660-033-0090, 0120, 0130 (limitations on new dwellings), and 0135. OAR 660, Division 33 was adopted in 1992 to implement the requirements of Goal 3 and was subsequently amended in 1994, 1996, 1998, 2000, 2002, and 2004. *See* administrative rule history for OAR 660, Division 33 hereby incorporated by reference as if set forth in full. Because the property is located in the Willamette Valley and consists of high value soils, it cannot be divided to allow or developed with a non-farm dwelling. ORS 215.263 (establishes standards for the creation of new parcels for non-farm uses and dwellings); 215.283; 215.284; 215.296; 215.705; 215.780; *see also* OAR 660-033-0135 (effective March 1994) which impose additional residential development standards and interprets the statutory standard for a primary dwelling in an EFU zone under ORS 215.283(1)(f).

Statewide Planning Goal 4 (Forest Lands), OAR 660, Division 6, and laws applicable to land zoned for forest use under ORS 215 restrict the right of an owner to divide and develop the property for purposes of sale and residential and/or other uses. *See* ORS 215.705 to .755 (limitations on new dwellings) and 215.780 (80 acre minimum lot size); *see also* OAR 660-006-0015, 0025, 0026, 0027, 0029, 0050 and 0055. Goal 4 became effective on January 25, 1975 and the forest land administrative rule (OAR, Division 6) became effective on or about November 4, 1982. ORS 215.700 to .755 and 215.780 became effective on November 4, 1993 and were adopted into OAR 660-006-0026 (80 acre minimum lot size) and 0027 (limitations on new dwellings) in March 1994 to implement those statutes.

Goal 2 (exceptions), Goal 14 (urbanization) and implementing rules (OAR 660-004-0000 to 0040; OAR 660-014-0000 to 0040; and OAR 660-021-0000 to 0100) also restrict the use of claimant's property by requiring an exception to permit nonresource uses, "urban uses" and "urban development" on resource land. The Goals and rules also impose restrictions on land divisions for rural residential use. *See* OAR 660-004-0040 and 660-014-0040; 660-021-0000 to 0100. Goal 14 became effective on January 25, 1975. OAR 660, Division 4, Interpretation of

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Goal 2 exception process, Section 0040 became effective October 4, 2000. The Goals and rules, among other things, prohibit the landowner from dividing the property into small acreage lots without demonstrating compliance with exception to the Goals, including Goal 14, and other rule criteria. This includes additional restrictions on property in close proximity to an existing UGB and demonstrating that rural or resource property is committed to urban uses; criteria that is impossible to satisfy. See OAR 660-004-0000 to 0040 (minimum lots size of two acres; minimum lot size of 20 acres within one mile of UGB); and OAR 660-014-0000 to 0040.

Nonresource development on what is otherwise classified as resource land cannot occur in close proximity to an Urban Growth Boundary without addressing and demonstrating compliance with restrictive regulations and standards found in Goal 2, Goal 11, and Goal 14 (prohibits urban development on rural lands) as well as OAR 660-004-0000 to 0040 (Goal 2 exception implementing rules); OAR 660-014-0000 to 0040 (prohibiting new "urban development" on rural and resource lands without an exception pursuant to Goal 2 and justifying why the policies in Goals 3, 4, 11 and 14 should not apply); and OAR 660-021-0000 to 0100 (restricts development and land divisions outside urban growth boundaries, prohibits division of land to lots less than 10 acres in size, requires development clustering, and requires land to be reserved for eventual inclusion in an urban growth boundary and to be protected from patterns of development that would impede urbanization), among other related administrative rules and Oregon Revised Statutes. For example: LCDC rules and case law dictate that development on rural or resource parcels less than 10 acres in size constitutes quasi-urban or urban development for which a Goal 2 exception to Goals 3, 4, 11, and/or 14 is required. See OAR 660-014 et al. Goal 2's exception requirement is identical to the requirement in ORS 197.732, the statute governing goal exceptions. *City of West Linn v. Land Conservation & Dev. Comm'n*, 200 Or App 269 (2005). Those standards regulate the use of resource land; require exceptions to permit nonresource uses, "urban uses" and "urban development" on resource land; restrict the ability to divide resource land; and otherwise restrict residential development.

Together, ORS Chapter 215, OAR 660, Divisions 4, 6, 14, and 33, enacted or adopted pursuant to Goals 2, 3, 4 and 14, prohibit division and development on parcels less than 80 acres. Standards established for development of dwellings on existing or proposed parcels prohibit the use, development, and or division of the subject property.

The list is not intended to be limiting or otherwise preclude claimants from seeking relief from other, but not specifically identified, restrictive regulations. Claimants request that the State identify other regulations that restrict the division and development of claimants' property as sought pursuant to this claim.

The current regulations enacted, enforced, or imposed on the property by the State after the claimant acquired the subject property, including but not limited to zoning, minimum lot size standards and other land use regulations, permit no additional development on the property. These standards preclude land divisions and new residential development on any newly created lots. The restrictions caused by the current EFU resource classification and zoning reduce the value of the property compared to no classification and no zoning in effect when the property was acquired by the claimant.

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Furthermore, it is not possible to know at this time whether or to what degree additional regulations will restrict the development of the property. Claimants request and reserve the right to resubmit to the State of Oregon for reconsideration under Measure 37 a land use regulation that may, during the development process, restrict the use of property and the enforcement of which will reduce the fair market value of the property.

A handwritten signature in black ink, appearing to be 'W. C. ...', is located below the text. The signature is stylized and somewhat illegible.

**POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENTS, that I, **Velma Povey**, Trustee for the Velma Pauline Povey Revocable Trust have made, constituted and appointed and by these presents do make, constitute and appoint **William C. Cox** my true and lawful attorney in fact ("my attorney") for me and in my name, place and stead, and for my use and benefit:

To sign and negotiate all documents necessary to process Measure 37 claims on my behalf.

I hereby give and grant unto my attorney full power and authority freely to do and perform every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes, as I might or could do if personally present, hereby ratifying and confirming all that my attorney shall lawfully do or cause to be done by virtue hereof.

In construing this power of attorney, the singular includes the plural, and all grammatical changes shall be implied to make the provisions hereof apply.

This power shall take effect on the date next written below.

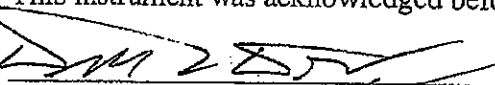
My attorney and all persons unto whom these presents shall come may assume that this power of attorney has not been revoked until given actual notice either of such revocation or of my death.

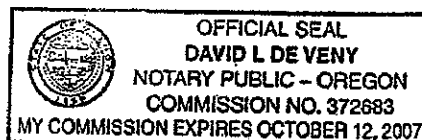
IN WITNESS WHEREOF I have signed this instrument on this 13<sup>th</sup> day of Nov., 2006.

  
Velma Povey

STATE OF OREGON     )  
  ) ss  
County of Multnomah )

This instrument was acknowledged before me on this 13<sup>th</sup> day of Nov., 2006 by Velma Povey.

  
Notary Public for the State of Oregon  
My commission expires Oct 12, 2007





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FORM No. 704—CONTRACT—REAL ESTATE—Partial Payments (Individual or Corporate) (Truth-in-Lending Series)

58

THIS CONTRACT, Made this 15th day of September, 1972, between

Vernon W. De Young and Bertha De Young, hereinafter called the seller,  
and Victor E. Povey and Velma Pauline Povey, husband and wife, hereinafter called the buyer,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Clatsop County, State of Oregon, to-wit: Section 2, T. 2 S., R. 3 E. of W. N., consisting of approximately 15 acres in the Northern portion of Tax Lots 1400 and 1401.

Buyer agrees not to sub-divide the property for 5 years unless back Greenbelt taxes are paid by buyer, and buyer also agrees to pay back Greenbelt taxes if he does not apply for Greenbelt exemption within 60 days after closing.

In the event the buyer desires an easement, seller will grant to buyer an easement for a 60 foot strip of land for road purposes from Hoffmeister Road to the property, upon the payment by buyer of \$250.00 to seller. The 25 foot easement for ingress and egress already provided for Tax Lots 1200, 1400 and 1401 will thereupon be terminated and cancelled.

for the sum of Twenty-six thousand four hundred and no/100 Dollars (\$26,400.00) (hereinafter called the purchase price) an account of which Two thousand and no/100 Dollars (\$2,000.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit: The remainder of \$24,400.00 payable in quarterly installments of not less than \$600.00 to include principal, interest at 7% per annum. Buyer agrees to pay taxes when due and to furnish seller with a receipt of such payment. First quarterly payment due 90 days from date of this contract.

Title Insurance not to be provided by the seller.

Recording of contract to be done by buyer.

Seller will deed to buyer one acre parcels of the above property, as selected by buyer, upon the payment by buyer of \$1,760.00 for each one acre parcel, such payments to be in addition to the down payment and quarterly installments provided for herein.

The buyer warrants to and covenants with the seller that the real property described in this contract is (A) primarily for family, household or agricultural purposes, (B) for an organization or (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 20% per cent per annum from Sept. 15, 1972 until paid, interest to be paid quarterly and the minimum regular payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of the date of this contract.

The buyer shall be entitled to possession of said lands on Sept. 15, 1972 and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or dilapidation thereof; that he will keep said premises free from mechanics' and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount not less than \$100,000.00 in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such taxes, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to the seller for buyer's benefit of contract.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, and except the usual printed exceptions and the building and other restrictions and encumbrances now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, he bears and shall bear, however, the said encumbrances and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further accepting all liens and encumbrances created by the buyer or his assigns.

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within ten days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void; (2) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and revert in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of return, reclamation or compensation for moneys paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default all payments and interest made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take complete possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$26,400.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the whole consideration (Indicate which). In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

Victor E. Povey, Vernon W. De Young, Bertha De Young

IMPORTANT NOTICE: Details, by listing out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable, and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, see Stevens-Ness Form No. 1300 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1307 or similar. NOTE: The sentence between the symbols (A) and (B) if not applicable, should be deleted. See Oregon Revised Statutes, Section 93.030. (Notarial acknowledgment on reverse).

Resolution No. 07-3776  
Attachment 4 to COO Report

RECEIVED PAYMENTS ON WITHIN CONTRACT. AS FOLLOWS:

DATE	INSURANCE OR TAXES	INTEREST	INTEREST PAID TO	PRINCIPAL	PRINCIPAL BALANCE	DATE	INSURANCE OR TAXES	INTEREST	INTEREST PAID TO	PRINCIPAL	PRINCIPAL BALANCE
12/15/77	-	427.00	12/15/77	172.00	24,227.00	3/12/78		78.69	3/15/78	521.00	3964.55
3/15/78		282.99	3/15/78	176.03	24,050.98	5/12/78		24.74	5/15/78	1984.94	1452.52
6/15/78		220.89	6/15/78	170.11	23,871.86	6/15/78		34.73	6/15/78	565.27	1419.17
9/15/78		417.76	9/15/78	182.24	23,689.62	9/15/78		24.84	9/15/78	575.76	844.51
12/15/78		418.57	12/15/78	185.43	23,504.19	12/15/78		14.77	12/15/78	565.27	259.28
3/15/79		411.30	3/15/79	188.68	23,315.51	3/15/79	213.51	41.87	3/15/79	259.34	0.00
6/15/79		408.20	6/15/79	191.28	23,124.23						
9/15/79				5320.00	19,164.23						
12/15/79		363.59	12/15/79	226.41	19,361.12						
3/15/80		338.92	3/15/80	261.08	19,106.04						
6/15/80		334.30	6/15/80	265.64	18,840.40						
9/15/80		329.70	9/15/80	270.30	18,570.10						
12/15/80		324.98	12/15/80	275.02	18,295.08						
3/15/81		231.44	3/15/81	368.56	17,926.52						
6/15/81				506.80	12,859.72						
9/15/81		225.00	9/15/81		12,634.72						
12/15/81		225.00	12/15/81	322.98	12,311.74						
3/15/82		218.15	3/15/82	381.55	11,930.19						
6/15/82		211.75	6/15/82	388.25	11,541.94						
9/15/82		204.98	9/15/82	395.02	11,146.92						
12/15/82		198.06	12/15/82	401.84	10,745.08						
3/15/83		191.03	3/15/83	408.77	10,336.31						
6/15/83		183.87	6/15/83	416.13	9,920.18						
9/15/83		176.57	9/15/83	423.41	9,496.77						
12/15/83		169.18	12/15/83	430.82	9,065.95						
3/15/84		161.84	3/15/84	438.36	8,627.59						
6/15/84		154.47	6/15/84	446.03	8,181.56						
9/15/84		147.07	9/15/84	453.73	7,727.83						
12/15/84		139.64	12/15/84	461.48	7,266.35						
3/15/85		132.18	3/15/85	469.26	6,797.09						
6/15/85		124.70	6/15/85	477.07	6,310.02						
9/15/85		117.20	9/15/85	484.91	5,815.11						
12/15/85		109.68	12/15/85	492.78	5,312.33						
3/15/86		102.14	3/15/86	500.68	4,801.65						
6/15/86		94.58	6/15/86	508.60	4,292.95						
9/15/86		87.00	9/15/86	516.54	3,786.41						
12/15/86		79.39	12/15/86	524.50	3,281.91						

CONTRACT

(FORM No. 704)

LITTON-KRUE LAW FIRM, P.C., PORTLAND, ORE.

BETWEEN

Address:

AND

STATE OF OREGON, }  
County of Clatsop, } ss.

I, George D. Poppen, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clatsop, do hereby certify that the within instrument of writing was received for and recorded in the records of

DEED

1972 SEP 26 PM 3:34 Clatsop County at

In Book

On Page

Witness my hand and seal, affixed:  
GEORGE D. POPPEN  
County Clerk

Signature: [Handwritten Signature]  
Deputy

Recording Certificate

AFTER RECORDING RETURN TO

Victor Povey  
1644 NE 162nd  
PO 97230

STATE OF OREGON, }  
County of Clatsop, } ss.

Sept 18, 1972

Personally appeared the above named Vernon W. De Young, Denah De Young, Victor Povey, and Delma Thelma Povey

and acknowledged the foregoing instrument to be their voluntary act and deed.

(OFFICIAL SEAL)

Before me: Clarence Samuel

Notary Public for Oregon, Dec 17, 1973

My commission expires:

STATE OF OREGON, County of \_\_\_\_\_, 19\_\_\_\_ ss.

Personally appeared \_\_\_\_\_ and \_\_\_\_\_ who, being duly sworn, each for himself and not one for the other, did say that the former is the \_\_\_\_\_ president and that the latter is the \_\_\_\_\_ secretary of \_\_\_\_\_

\_\_\_\_\_ a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.


Notary Public for Oregon

My commission expires:

(OFFICIAL SEAL)

9




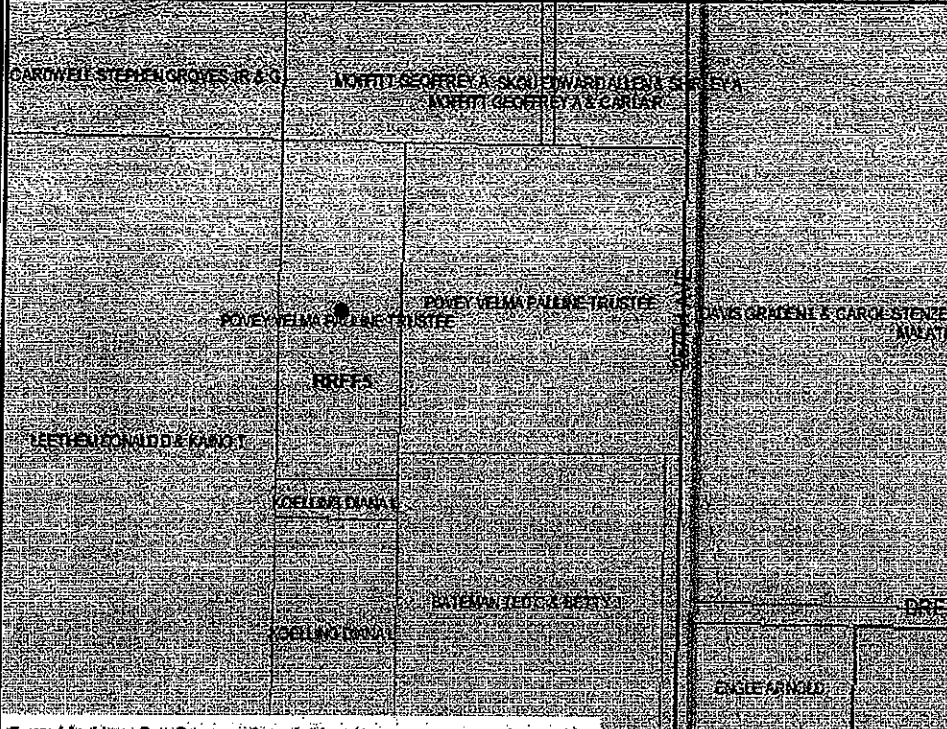


Enter an owner | [tips](#) OR Enter an address | [tips](#) OR Enter an intersection | [tips](#)

MAP IT More Info

Home
Advanced
Boundaries
Mapdata
Mail
Options





Created by Metro Data Resource Center's MetroMap, [www.metro-region.org/drc](http://www.metro-region.org/drc)

### Layers

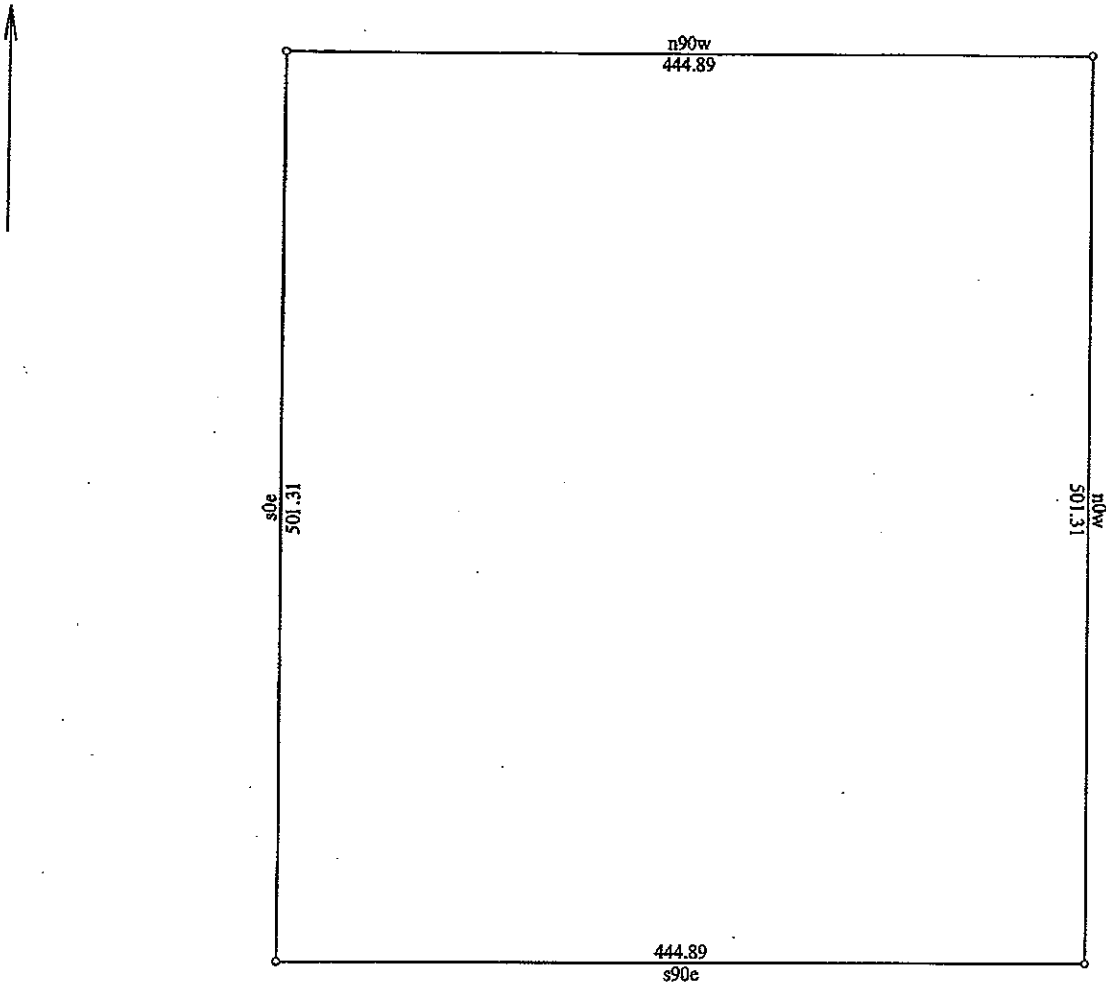
Aerial Map

Visible Active

- Places
- Bus stops
- Bus lines
- Bike routes
- Freeways
- Streets
- Taxlots
- Park and ride
- Transit centers
- Streams
- Contours
- Watersheds
- Metro boundary
- Urban Growth Boundary
- Stream shading
- 100 year flood plain
- Undeveloped land
- Portland environmental zones
- Parks
- Slope
- Wetlands
- 2005 aerial photo
- 2005 rural photo
- Land use

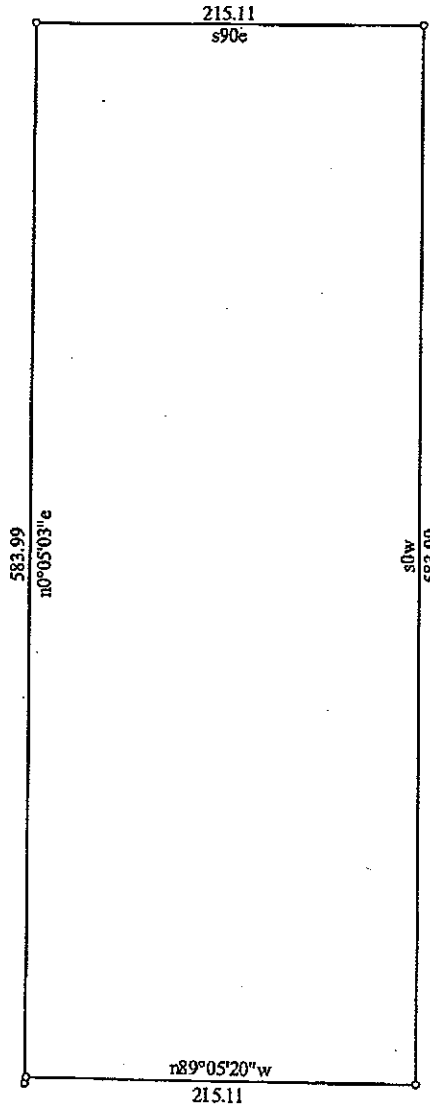
Taxlots				
Rec	TaxlotID	RNO	Owner1	Ow
1	23E02A 01410	601637	POVEY VELMA PAULINE TRUSTEE	

Resolution No. 07-3776  
Attachment 4 to COO Report



Title: Povey (M37) 81-17366		Date: 01-03-2007
Scale: 1 inch = 100 feet	File: Povey2.des	
Tract 1: 5.120 Acres: 223028 Sq Feet: Closure = n00.0000e 0.00 Feet: Precision >1/999999; Perimeter = 1892 Feet		
001=s0e 501.31	003=n0w 501.31	
002=s90e 444.89	004=n90w 444.89	

Resolution No. 07-3776  
Attachment 4 to COO Report



Title: Povey (M37) 75-29428 deed legal descr.		Date: 01-03-2007
Scale: 1 inch = 100 feet	File: Povey1.des	
Tract 1: 2.884 Acres: 125615 Sq Feet: Closure = s14.3036w 3.53 Feet: Precision = 1/452: Perimeter = 1598 Feet		
001=n0.0503e 583.99	003=s0w 583.99	
002=s90e 215.11	004=n89.0520w 215.11	

Resolution No. 07-3776  
Attachment 4 to COO Report

FORM No. 633—WARRANTY DEED (Individual or Copartners)

STEVENS-HERRIN LAW PUBLISHING CO., PORTLAND, OREGON

1-1-74

WARRANTY DEED

5315  
9

KNOW ALL MEN BY THESE PRESENTS, That YEPHORE E. DeYOUNG and BERTHA DeYOUNG

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by VICTOR E. POWEL and VEINA PAULINE POWEL, husband and wife, as tenants by the entirety, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereto belonging or appertaining, situated in the County of Clackamas and State of Oregon, described as follows, to-wit:

A tract of land situated in the east one-half of Section 2, Township 2 South, Range 3 East of the Willamette Meridian in the County of Clackamas and State of Oregon, more particularly described as follows:

Commencing at the center of said Section 2; thence S.89°05'20"E. along the east-west centerline of said Section 2, a distance of 666.57 feet to the southwest corner of the East one-half of the Southwest one-quarter of the Northeast one-quarter of said Section 2; thence N.0°05'03"E. along the west line of said legal subdivision, a distance of 327.10 feet to the point of beginning of the tract herein to be described; thence continuing N.0°05'03"E. along the west line of said legal subdivision, a distance of 405.00 feet to a point; thence S.89°05'20"E. parallel with the south line of said legal subdivision, a distance of 215.11 feet to a point; thence S.0°05'03"W. parallel with the west line of said legal subdivision, a distance of 405.00 feet to a point; thence N.89°05'20"W. parallel with the south line of said legal subdivision, a distance of 215.11 feet to the point of beginning. Containing an area of 2.00 acres.

TOGETHER WITH a 60.00 foot easement for the purposes of ingress and egress and utility purposes being 30.00 feet on each side of the following described centerline:

Beginning at a point on the south line of the above described tract which bears S.89°05'20"E. along said south line, a distance of 53.36 feet from the southwest corner thereof; thence S.54°08'57"E. a distance of 135.69 feet to a point of tangency curve; thence Southeasterly on the arc of a 100.00 foot radius curve to the right, through a central angle of 54°14'00", an arc distance of 94.66 feet (the chord bears S.27°01'57"E. 91.15 feet) to a point of tangency and a point that lies 205.00 feet east of the west line of the east one-half of the Southwest one-quarter of the Northeast one-quarter of said Section 2; thence S.0°05'03"W. parallel with said west line, a distance of 168.85 feet to an angle point and a point in the south line of said legal subdivision; thence S.0°38'13"W. parallel with the west line of the east one-half of the Northwest one-quarter of the Southeast one-quarter of said Section 2, a distance of 81.18 feet to the north line of Bohna Park road, County road No. 156 and the terminus of said easement.

SUBJECT TO an easement for ingress, egress and utility purposes, more particularly described as follows:

Beginning at the southwest corner of the above described tract; thence S.89°05'20"E. along the south line thereof, a distance of 105.76 feet to a point; thence N.54°08'57"W. a distance of 130.31 feet to a point in the west line of the above described tract; thence S.0°05'03"W. along said west line, a distance of 74.65 feet to the point of beginning.

Prepared by  
Francis National  
Title Insurance Company

74 14732

TL 1408  
how 196 201

Resolution No. 07-3776  
Attachment 4 to COO Report

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)  
To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.  
And said grantee hereby covenants to and with said grantor and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

No exceptions

and that grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$3,520,000.  
However, the actual consideration consists of or includes other property or value given or promised which is the actual consideration (circled or underlined). (The sentence between the symbols @, if not applicable, should be deleted. See OREGON STAT.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 20th day of May, 1974.  
If a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

*Victor E. and Velma F. Povey*  
*Bertie DeYoung*

(If executed by a corporation, affix corporate seal)

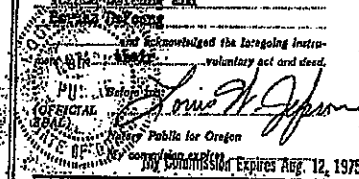
STATE OF OREGON,  
County of Clatsop  
May 20, 1974

STATE OF OREGON, County of \_\_\_\_\_ ss.

Personally appeared \_\_\_\_\_ and \_\_\_\_\_ who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of \_\_\_\_\_

Personally appeared the above named Victor E. and Velma F. Povey and Bertie DeYoung and acknowledged the foregoing instrument as their voluntary act and deed.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of these acknowledged said instrument to be its voluntary act and deed.



Notary Public for Oregon  
My commission expires: \_\_\_\_\_

Victor E. and Velma F. Povey  
25625 S. E. Hoffmeister Road  
Boring, Oregon 97009

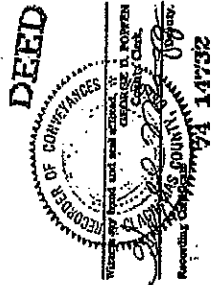
Victor E. and Velma F. Povey  
10th N. E. 162nd  
Portland, Oregon 97230

Victor E. and Velma F. Povey  
10th N. E. 162nd  
Portland, Oregon 97230

Victor E. and Velma F. Povey  
10th N. E. 162nd  
Portland, Oregon 97230

STATE OF OREGON,  
County of Clatsop,

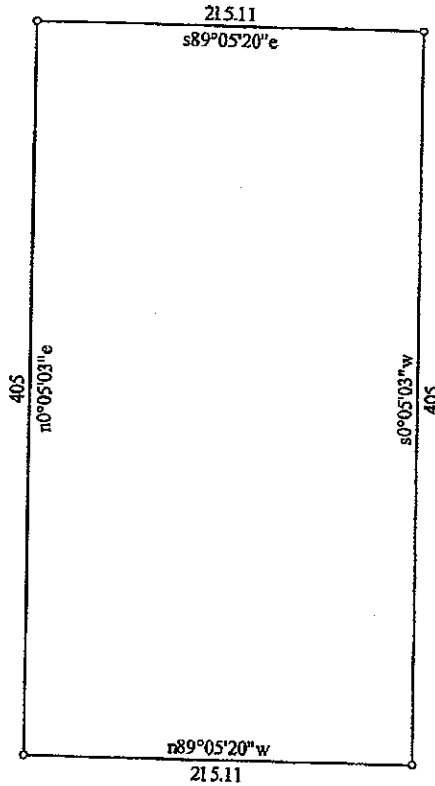
I, George D. Pappas, County Clerk, Esq., Office of County Records and Elections, Clerk of the County of Clatsop, do hereby certify that the within instrument of writing was recorded for and recorded in the records of said county at 5:17A JUN 5 PM 12 08



2



Resolution No. 07-3776  
Attachment 4 to COO Report



Title: Povey (M37) 74-14732 legal descr.		Date: 01-03-2007
Scale: 1 inch = 100 feet	File:	
Tract 1: 2.000 Acres: 87110 Sq Feet: Closure = n00.0000e 0.00 Feet: Precision >1/999999: Perimeter = 1240 Feet		
001=n0.0503e 405	003=s0.0503w 405	
002=s89.0520e 215.11	004=n89.0520w 215.11	

*TL 14108  
(sold by Povey)*



**First American**

*First American Title Insurance Company of Oregon*  
222 SW Columbia Street, Suite 400  
Portland, OR 97201  
Phn - (503)222-3651 (800)929-3651  
Fax - (503)790-7858

**MULTNOMAH COUNTY TITLE UNIT**  
FAX (503)790-7858

Title Officer: **Mike Brusco**  
(503)222-3651

**MEASURE 37 LOT BOOK SERVICE**

Bill Cox  
0244 SW California Street  
Portland, OR 97219

Order No.: 7019-938411  
November 21, 2006

Attn:  
Phone No.: (503)246-5499 - Fax No.: (503)244-8750  
Email: wccox@landuseattorney.com

Re:

Fee: \$500.00

We have searched our Tract Indices as to the following described property:

The land referred to in this report is described in Exhibit A attached hereto.

and as of November 08, 2006 at 8:00 a.m.

We find that the last deed of record runs to

Velma Pauline Povey, trustee, or her successor, under that certain Trust dated 01-30-92 between Velma Pauline Povey and Victor Eugene Povey as trustors, and Velma Pauline Povey, as trustee.

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. City liens, if any, of the City of Damascus.

Note: There are no liens as of November 08, 2006. All outstanding utility and user fees are not liens and therefore are excluded from coverage.

2. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.

Resolution No. 07-3776  
Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-938411  
Page 2 of 5

3. Easement, including terms and provisions contained therein:  
Recording Information: December 26, 1985 as Fee No. 85-45601  
In Favor of: R.C. Yule and Ella Yule, husband and wife  
For: Automobile driveway  
Affects: Parcel I
4. Unrecorded leases or periodic tenancies, if any.

NOTE: This report does not include a search for Financing Statements filed in the Office of the Secretary of State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a Financing Statement is filed in the Office of the County Clerk covering crops on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block.

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens:

1. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
2. Taxes for the year 2006-2007  
Tax Amount \$ 130.29  
Unpaid Balance: \$ 130.29, plus interest and penalties, if any  
Code No.: 026-029  
Map & Tax Lot No.: 23E02A 01410  
Property ID No.: 00601637  
Affects: Parcel I
3. Taxes for the year 2006-2007  
Tax Amount \$ 1,094.18  
Unpaid Balance: \$ 1,094.18, plus interest and penalties, if any.  
Code No.: 026-029  
Map & Tax Lot No.: 23E02A 01412  
Property ID No.: 01509656  
Affects: Parcel II

In our search for recorded deeds to determine the vestee herein we find the following:

Title of Conveyance: Quitclaim Deed  
Recorded: December 14, 1948  
As: Book 414, Page 701

*First American Title*

Resolution No. 07-3776  
Attachment 4 to COO Report

Lot Book Service

Guarantee No. 7019 014...

Grantor: Fred Anderson and Nettie Bohna Anderson, his wife  
Grantee: J.A. Fenton and A.M. Silverman

Title of Conveyance: Warranty Deed  
Recorded: December 14, 1948  
As: Book 414, Page 703  
Grantor: J.A. Fenton and Grace J. Fenton and A.M. Silverman and  
Silverman  
Grantee: Vernon W. De Young and Bertha De Young, husband and wife

Title of Conveyance: Warranty Deed  
Recorded: October 09, 1975  
As: 75-29428  
Grantor: Vernon W. De Young and Bertha De Young  
Grantee: Victor E. Povey and Velma Pauline Povey, husband and wife, as  
tenants by the entirety  
Affects: Parcel II

Title of Conveyance: Bargain and Sale Deed  
Recorded: May 19, 1981  
As: 81-17366  
Grantor: Vernon W. De Young and Bertha De Young  
Grantee: Victor E. Povey and Velma Pauline Povey, husband and wife  
Affects: Parcel I

Title of Conveyance: Bargain and Sale Deed  
Recorded: March 16, 1992  
As: 92-14835  
Grantor: Victor E. Povey and Velma P. Povey, husband and wife  
Grantee: Velma Pauline Povey, trustee, or her successor, under the  
certain Trust dated January 30, 1992, between Velma Pauline  
Povey and Victor Eugene Povey as trustors, and Velma Pauline  
Povey, as trustee  
Affects: Parcel I

Resolution No. 07-3776  
Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-938411  
Page 4 of 5

Title of Conveyance: Bargain and Sale Deed  
Recorded: March 16, 1992  
As: 92-14836  
Grantor: Victor E. and Velma P. Povey, husband and wife  
Grantee: Velma Pauline Povey, trustee, or her successor, under that certain Trust dated January 30, 1992, between Velma Pauline Povey and Victor Eugene Povey, as trustee, and Velma Pauline Povey, as trustee  
Affects: Parcel II

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listing do to include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Measure 37 Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

Resolution No. 07-3776  
Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-938411  
Page 5 of 5

**Exhibit "A"**

Real property in the County of Clackamas, State of Oregon, described as follows:

**PARCEL I:**

A TRACT OF LAND SITUATED IN THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 2; THENCE EASTERLY, ALONG THE EAST-WEST CENTERLINE THEREOF, A DISTANCE OF 666.57 FEET TO THE SOUTHWEST CORNER OF SAID LEGAL SUBDIVISION THENCE NORTHERLY, ALONG THE WEST LINE THEREOF, A DISTANCE OF 1316.09 FEET TO THE NORTHWEST CORNER OF SAID LEGAL SUBDIVISION; THENCE EASTERLY, ALONG THE NORTH LINE THEREOF, A DISTANCE OF 215.11 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN TO BE DESCRIBED; THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF SAID LEGAL SUBDIVISION, A DISTANCE OF 501.31 FEET TO A POINT; THENCE EASTERLY, PARALLEL WITH THE SOUTH LINE OF SAID LEGAL SUBDIVISION, A DISTANCE OF LONG SAID EAST LIEN, A DISTANCE OF 501.31 FEET TO THE NORTHEAST CORNER OF SAID LEGAL DESCRIPTION; THENCE WESTERLY, ALONG THE NORTH THEREOF DISTANCE OF 444.89 FEET TO THE POINT OF OF BEGINNING.

**PARCEL II:**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT THE CENTER OF SAID SECTION 2; THENCE SOUTH 89° 05' 39" EAST ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 2, A DISTANCE OF 666.65 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 2; THENCE NORTH 00° 04' 27" EAST ALONG THE WEST, LINE OF SAID LEGAL SUBDIVISION A DISTANCE OF 776.73 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 00° 04' 27" EAST ALONG SAID WEST LINE OF SAID LEGAL SUBDIVISION 538.17 FEET TO A POINT THAT IS 8.00 FEET SOUTH OF THE NORTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER; THENCE SOUTH 88° 58' 24" EAST AND PARALLEL WITH THE NORTH LINE OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER 214.11 FEET; THENCE SOUTH 00° 04' 27" WEST A DISTANCE OF 537.55 FEET; THENCE NORTH 89° 05' 19" WEST A DISTANCE OF 215.00 FEET TO THE TRUE POINT OF BEGINNING.

Tax Parcel Number: 00601637 and 01509656

Resolution No. 07-3776  
Attachment 4 to COO Report

FORM 52 - QUITCLAIM

NOV 11 1971

KNOW ALL MEN BY THESE PRESENTS, That

EDITH BURNS ANDERSON, his wife

in consideration of cash and no/100 Dollars

to them paid by A. E. Silvegran

do hereby remise, release and forever QUITCLAIM unto the said  
A. E. Silvegran and unto heirs and assigns  
all their right, title and interest in and to the following described parcel of real estate, together  
with the tenements, hereditaments and appurtenances, situate in  
Clackamas County of  
Clackamas State of Oregon, to-wit:

Part of the east half of the northeast quarter  
of Section 2, T.2.S., R.3.E., of S.W., containing  
beginning at a point 200 feet east of the  
the east half of the northern corner of the northeast quarter  
Section 2, in T.2.S., R.3.E., of S.W., thence south  
south 1312.00 feet thence west 300 feet to the  
to the place of beginning, containing 1.32 acres  
Also, the east half of the northeast quarter  
of Section 2, T.2.S., R.3.E., of S.W., with the  
corner of the above described land, beginning at the  
end of the northern corner of the northeast quarter  
to the center of the center road 100 feet  
side of said land; thence north 100 feet to the

TO HAVE AND TO HOLD the same to the said A. E. Silvegran  
and to his heirs and assigns forever.

IN WITNESS WHEREOF, we have hereunto set our hand and seal this  
day of December A. D. 1971

Executed in the presence of

Nettie Bohmer Anderson (SEAL)

Frank Anderson (SEAL)

(SEAL)

(SEAL)

Doc. 414 CASE 702

STATE OF OREGON,

County of Multnomah

BE IT REMEMBERED, That on this 5th day of December, A. D. 1913

before me, the undersigned, a Notary Public  
in and for said County and State, personally appeared the within named

FRED ANDERSON and ESTHER ANNE ANDERSON who are known  
to me to be the identical individual as described in and who executed the within instrument and acknowl-  
edged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
official seal the day and year last above written.

Notary Public for Oregon.

My Commission expires



17151  
Quitclaim Deed

FRED ANDERSON, et ux

TO  
J. A. FORTUNE and

STATE OF OREGON,  
County of Clatsop

I, Guy H. Pace, County Clerk, Es-Officer, Re-  
corder of Conveyances and Es-Officer, Clerk of  
the Circuit Court of Clatsop County, for the  
County of Clatsop, do hereby certify that the  
within instrument was received for  
recording in the office of



In Book 414 On Page 702

Witness my hand and seal of said court  
this 14th day of December, 1913.  
Guy H. Pace,  
County Clerk

Recording Certificate

J. A. Fortune  
55



Resolution No. 07-3776  
Attachment 4 to COO Report

FORM NO. 414 WARRANTY DEED, GRANTS BY THE ENTIRETY

OREGON CITY PRINTING & ENGRAVING CO.

NOV 11 1946

KNOW ALL MEN BY THESE PRESENTS, That

in consideration of

the sum of \$1000.00

do hereby grant, bargain, sell and convey unto the said grantees, as tenants by the entirety and not as tenants in community property, their heirs and assigns, all the following real property, with the improvements hereon and to all appurtenances, situated in the County of [ ] and State of Oregon, Four [ ] described as follows, to-wit:

[Faded text describing the real property being granted]



To Have and to Hold the above described and granted premises unto the said grantees, their heirs and assigns forever, as above stated.  
And the grantor do covenant that [ ] lawfully seized in fee simple of the above granted premises free from all incumbrances.

and that [ ] heirs, executors and administrators, shall warrant and forever defend the above granted premises, on every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

*A.M. Silverman*      *J. A. Penton*  
STATE OF OREGON      [ ]

County of [ ]  
BE IT REMEMBERED, That on this 2nd day of [ ] before me, the undersigned, a [ ] County and State, personally appeared the within named [ ] to be the identical individual [ ] described in and who executed the within instrument, and acknowledged [ ] executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year first above written.  
*Opal L. Howk*  
Notary Public for Oregon.



STATE OF OREGON  
County of [ ]

BE IT REMEMBERED, That on this 2nd day of [ ] before me, the undersigned, a [ ] County and State, personally appeared [ ] known to me to be the identical individual [ ] described in and who executed the within instrument, and acknowledged [ ] executed the same freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.  
*Opal L. Howk*  
Notary Public for Oregon.



REC'D DEC 11 1946 4:34P [ ] COUNTY CLERK

Resolution No. 07-3776  
Attachment 4 to COO Report


711 713

**KNOW ALL MEN BY THESE PRESENTS** that *J. A. Fenton*, her attorney in fact, of the County of *Clatsop*, State of *Oregon*, in consideration of *one and no part* of the sum of *one hundred and no part* Dollars to her in hand paid by *M. C. P. [unclear]*

do hereby grant, bargain, sell and convey unto the said grantee, as tenants by the entirety and not as tenants in community property, their heirs and assigns, all the following real property, with the tenements, hereditaments and appurtenances situated in the County of *Clatsop*, State of *Oregon*, bounded and described as follows, to-wit:

*Part of the east half of Section 3, T. 36 S., R. 3 E., containing 0.06 acres, more or less, beginning at a point on the east line of said Section 3, 135.00 feet south from the northeast corner of the above described land, thence running east and north 75 degrees 30 minutes west 135.00 feet to the center of the county road, thence south 75 degrees 30 minutes west 135.00 feet to a line parallel with the east line of said land; thence north 75 degrees 30 minutes east 135.00 feet to the place of beginning.*

*Residing at a point on the east line of said Section 3, 135.00 feet south from the northeast corner of the above described land, thence running east and north 75 degrees 30 minutes west 135.00 feet to the center of the county road, thence south 75 degrees 30 minutes west 135.00 feet to a line parallel with the east line of said land; thence north 75 degrees 30 minutes east 135.00 feet to the place of beginning.*



To Have and to Hold the above described and granted premises unto the said grantee, their heirs and assigns forever, as above stated.

And the grantor doth covenant that she is fully seized in fee simple of the above granted premises free from all incumbrances.

And that she, her will and heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

Witness my hand and seal this *1st* day of *October*, 19*46*.

*M. C. P. [unclear]* (SEAL)  
*J. A. Fenton* (SEAL)  
STATE OF OREGON, County of *Clatsop*

BE IT REMEMBERED, That on this *2nd* day of *October*, 19*46*, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named *M. C. P. [unclear]*, known to me to be the identical individual described in and who executed the within instrument, and acknowledged to me that she executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.

*Opal L. Howk*  
Notary Public for Oregon  
My Commission Expires *DEC. 9 1946*

STATE OF OREGON, County of *Clatsop*

BE IT REMEMBERED, That on this *2nd* day of *October*, 19*46*, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named *J. A. Fenton*, known to me to be the identical individual described in and who executed the within instrument, and acknowledged to me that she executed the same freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

*Opal L. Howk*  
Notary Public for Oregon  
My Commission Expires *DEC. 9 1946*

RECORDED *DEC 13 1946 4334P*  
CLERK

Resolution No. 07-3776  
Attachment 4 to COO Report

132-705 III

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That YERNON W. DeYOUNG and BERTHA DeYOUNG

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by VICTOR E. POVEY and VELMA PAULINE POVEY, husband and wife, as tenants by the entirety hereinafter called the grantees, does hereby grant, bargain, sell and convey unto the said grantees and grantees' heirs, successors and assigns, that certain real property, with the covenants, hereditaments and appurtenances thereto belonging or appertaining, situated in the County of Clackamas and State of Oregon, described as follows, to-wit:

A tract of land situated in the east one-half of Section 2, T. 2 S., R. 3 E., of the W. M., more particularly described as follows:

Commencing at the center of said Section 2; thence South 89° 05' 20" East along the East-West centerline of said Section 2, a distance of 666.57 feet to the southwest corner of the east one-half of the southwest one-quarter of the northeast one-quarter of said Section 2; thence North 0° 05' 03" East along the west line of said legal subdivision, a distance of 327.10 feet; thence continuing North 0° 05' 03" East along the west line of said legal subdivision a distance of 405.00 feet to the true place of beginning of the tract to be described; thence continuing North 0° 05' 03" East along said West line of said legal subdivision, 583.99 feet to the northwest corner of the East one-half of the southwest one-quarter of the northeast one-quarter; thence East along the North line of the said East one-half of the southwest one-quarter of northeast one-quarter, 215.11 feet; thence South parallel with the said West line, 583.99 feet to the northeast corner of the first described tract in Warranty Deed to Victor E. Povey and Velma Pauline Povey, husband and wife, recorded June 3, 1974, Fee No. 74 14732; thence North 89° 05' 20" West parallel with the south line of said legal subdivision, 215.11 feet to the true point of beginning.

Recorded by Pioneer Notional Title Insurance Company

75 29-128

7LW12 & III  
1403

51

IN SPACE HEREFORE, CONTINUE DESCRIPTION ON REVERSE SIDE  
To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.  
And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

No exceptions

and that grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 5,068.80.

However, the actual consideration consists of or includes other property or value given or promised which is considered in the consideration of this instrument. (The sentence between the symbols @, if not applicable, should be deleted. See ORS 91.010.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 30th day of September, 1975, if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

*Raymond W. DeYoung*  
*Bertha DeYoung*

(If executed by a corporation, affix corporate seal)

STATE OF OREGON,  
County of Clackamas }  
September 30, 1975

STATE OF OREGON, County of \_\_\_\_\_ )  
Personally appeared \_\_\_\_\_ and \_\_\_\_\_

Personally appeared the above named  
Vernon W. DeYoung and  
Bertha DeYoung.

\_\_\_\_\_ who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of \_\_\_\_\_

and acknowledged the foregoing instrument to be \_\_\_\_\_ voluntary act and deed.

and that the seal affixed in the foregoing instrument to the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me  
*Raymond W. DeYoung*  
Notary Public for Oregon  
My commission expires \_\_\_\_\_

Notary Public for Oregon  
My commission expires \_\_\_\_\_

(OFFICIAL SEAL)

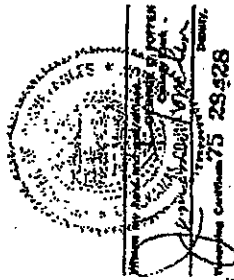
Vernon W. and Bertha DeYoung  
25625 S. E. Hoffmeister Road  
Boring, Oregon 97009

Victor E. and Valma P. Povey  
25441 S. E. Hoffmeister Road  
Boring, Oregon 97009

Victor E. and Valma P. Povey  
25441 S. E. Hoffmeister Road  
Boring, Oregon 97009

Victor E. and Valma P. Povey  
25441 S. E. Hoffmeister Road  
Boring, Oregon 97009

STATE OF OREGON  
County of Clackamas }  
I, C. George D. Patten, County Clerk, do hereby certify that the foregoing instrument is a true and correct copy of the original instrument as recorded in the County of Clackamas, and hereby certify that the within instrument of writing was recorded for and recorded in the records of said county on  
75 OCT 9 PM 2 13



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104-104-2-2-5/21 (new act 104 from 70)

FORM NO. 700-ORDINARY AND SALE DEED Subject to Code... 1474

KNOW ALL MEN BY THESE PRESENTS, That JAMES V. DEYOUNG and BEATHA DEYOUNG, hereinafter called grantor, for the consideration hereinafter stated, have hereby granted, bargained, sold and conveyed unto VICTOR E. POEY hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the tenements, hereafterments and appurtenances thereto belonging or in anywise appertaining, situated in the County of Clatsop, State of Oregon, described as follows, to-wit:

(± 5.12 Acre Tract)

A tract of land situated in the East one-half of the Southwest one-quarter of the Northeast one-quarter of Section 2, Township 2 South, Range 3 East of the Willamette Meridian, in the county of Clatsop and State of Oregon, being more particularly described as follows:

Commencing at the center of said Section 2; thence Easterly, along the East-West center-line thereof, a distance of 666.87 feet to the southeast corner of said legal subdivision; thence Northerly, along the west line thereof, a distance of 1316.09 feet to the northwest corner of said legal subdivision; thence Easterly, along the north line thereof, a distance of 215.11 feet to the point of beginning of the tract of land herein to be described; thence Southerly, parallel with the west line of said legal subdivision, a distance of 501.31 feet to a point; thence Easterly, parallel with the south line of said legal subdivision, a distance of 444.89 feet to a point in the east line of said legal subdivision; thence Northerly along said east line, a distance of 501.31 feet to the northeast corner of said legal subdivision; thence Westerly, along the north line thereof, a distance of 444.89 feet to the point of beginning.

To Have and to Hold the same unto the said grantee, and grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, stated in terms of dollars, is \$8,000.00. In consideration of the sum of eight thousand dollars, the receipt of which is hereby acknowledged, the grantor has granted, sold and conveyed unto the grantee, and unto grantee's heirs, successors and assigns, all of that certain real property with the tenements, hereafterments and appurtenances thereto belonging or in anywise appertaining, situated in the County of Clatsop, State of Oregon, described as follows, to-wit: In consideration of the sum of eight thousand dollars, the receipt of which is hereby acknowledged, the grantor has granted, sold and conveyed unto the grantee, and unto grantee's heirs, successors and assigns, all of that certain real property with the tenements, hereafterments and appurtenances thereto belonging or in anywise appertaining, situated in the County of Clatsop, State of Oregon, described as follows, to-wit: In Witness Whereof, the grantor has executed this instrument this 19th day of May, 1987. If a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

James V. DeYoung  
Beatha DeYoung

STATE OF OREGON,  
County of Multnomah }  
May 19, 1987.  
I, Beatha DeYoung, do hereby certify that the foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of Multnomah, Oregon.  
Beatha DeYoung  
County Clerk for Oregon  
My commission expires 3-7-84

STATE OF OREGON, County of \_\_\_\_\_ )  
I, \_\_\_\_\_, do hereby certify that the foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of \_\_\_\_\_, Oregon.  
\_\_\_\_\_ )  
County Clerk for Oregon  
My commission expires \_\_\_\_\_

James V. DeYoung and Beatha DeYoung  
Victor E. Poeys and his heirs, successors and assigns  
County of Multnomah, Oregon

Same as Above

STATE OF OREGON  
County of \_\_\_\_\_ )  
I, \_\_\_\_\_, do hereby certify that the foregoing instrument is a true and correct copy of the original instrument as the same appears from the records of the County of \_\_\_\_\_, Oregon.  
\_\_\_\_\_ )  
County Clerk for Oregon  
My commission expires \_\_\_\_\_

MAY 19 4:15

Victor E. Poeys  
County Clerk for Oregon  
My commission expires 01 17366

61 17366

TC 1410

SARASOTA AND HILLS DISTRICT

BY VICTOR E. ROYCE, TRUSTEE, GEORGE V. DEWIGHT AND BETTIE DEWIGHT,  
 hereinafter called grantors,  
 Grant, bargain, sell and convey unto VICTOR E. ROYCE  
 his heirs, assigns and assigns all of that certain real property with the  
 appurtenances thereto in anywise appertaining, situated in the County  
 of Washington, State of Oregon, to-wit:

None

The consideration of this deed is Five thousand dollars, \$5,000.00

Witness my hand and seal this 13th day of May, 1981.

*Vernon H. DeYoung*  
*Bettie DeYoung*

STATE OF OREGON, County of Washington,  
 May 19, 1981

STATE OF OREGON, County of \_\_\_\_\_  
 Personally appeared \_\_\_\_\_  
 who, being duly sworn,  
 do hereby certify that the above is a true and correct copy of the original  
 instrument as the same appears in the records of the County of \_\_\_\_\_,  
 State of Oregon, and that the said instrument was duly filed for record  
 in the office of the County Clerk of said County, Oregon, on the \_\_\_\_\_  
 day of \_\_\_\_\_, 1981, at \_\_\_\_\_ o'clock \_\_\_\_\_ of the said day.

(OFFICIAL SEAL)

Notary Public for Oregon  
 My commission expires \_\_\_\_\_

Vernon H. DeYoung and  
 Bettie DeYoung  
 25625 S. E. Hoffmeister Rd., Boring, Ore.  
 Victor E. Royce and Valma E. Royce  
 2441 S. E. Hoffmeister Rd.  
 Boring, Oregon 97009

Vernon H. DeYoung and Valma E. Royce  
 27441 S. E. Hoffmeister Rd.  
 Boring, Oregon 97009

Seen as Above

81 MAY 19 P 4 15

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5-20

KNOW ALL MEN BY THESE PRESENTS, That **VERNON E. EASTMAN** and **LESLIE E. EASTMAN**, husband and wife, for the consideration hereinafter stated, have lawfully grant, bargain, sell and convey unto **VERNON E. EASTMAN** and **LESLIE E. EASTMAN**, husband and wife, hereinafter called **grantee**, and all their heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, situated in the County of **Clatsop**, State of Oregon, described as follows, to-wit:

Section 2, Marie Easterly, along the East-  
... feet to the southwest corner of  
... the west line thereof, a distance of  
... feet, more or less, to-wit:

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.  
The true and actual consideration paid for this tract, stated in terms of dollars, is \$**150.00**  
In Witness Whereof, the grantor has executed this instrument this **19th** day of **May**, 19**84**.  
If a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereby by order of its board of directors.

*Vernon E. Eastman*  
*Leslie E. Eastman*

STATE OF OREGON,  
County of **Multnomah**,  
May 19, 1984.  
Personally appeared the above named **Vernon E. Eastman** and **Leslie E. Eastman**, who acknowledged the foregoing instrument to be their voluntary act and deed.  
Witness my hand and seal of office this 19th day of May, 1984.

STATE OF OREGON, County of **Multnomah**,  
Personally appeared **Walter H. Young**, who, being duly sworn, took the oath and did say that the former is the president and that the latter is the secretary of **Clatsop County**, and that the seal affixed to the foregoing instrument is the genuine seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them subscribed said instrument to be its voluntary act and deed.  
Notary Public for Oregon  
My commission expires **3-7-84**

Vernon E. Eastman and  
Leslie E. Eastman  
Walter H. Young, Notary Public for Oregon  
My commission expires 3-7-84  
Notary Public for Oregon  
My commission expires 3-7-84

STATE OF OREGON,  
County of **Multnomah**,  
May 19, 1984, P 4: 15  
Notary Public for Oregon  
My commission expires 3-7-84  
51 17366

Send as Above

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FORM No. 715 - DEEDS AND SALE DEED (Revised) or Conveyance

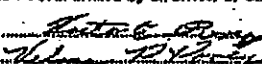
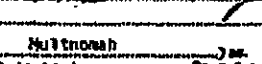
SARBAIN AND SALK 1998

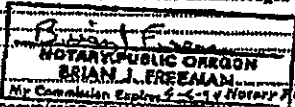
**KNOW ALL MEN BY THESE PRESENTS, That VICTOR E. POVEY and VELMA P. POVEY, husband and wife,**

for the consideration hereinafter stated, does hereby grant, bargain, sell and convey by **VELMA PAULINE POVEY, Trustee, or her successor, under this certain trust dated 1-30-92, together Velma Pauline Huffmeister called grantee, and wife grantee's heirs, successors and assigns all of that certain real property with the tenements, improvements and appurtenances thereto belonging or in anywise appertaining, situated in the County of Clackamas, State of Oregon, described as follows, to-wit:**

**(6-12 Acre Tract)**  
A tract of land situated in the East one-half of the Southwest one-quarter of the North-east one-quarter of Section 2, Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows:  
Commencing at the center of said Section 2; thence Easterly, along the East-West center-line thereof, a distance of 666.57 feet to the southwest corner of said legal subdivision; thence Northerly, along the West line thereof, a distance of 1316.09 feet to the northwest corner of said legal subdivision; thence Easterly, along the north line thereof, a distance of 215.11 feet to the point of beginning of the tract of land herein to be described; thence Southerly parallel with the west line of said legal subdivision, a distance of 501.31 feet to a point; thence Easterly, parallel with the south line of said legal subdivision, a distance of 444.89 feet to a point in the east line of said legal subdivision; thence Northerly along said east line, a distance of 501.31 feet to the north-east corner of said legal subdivision; thence Westerly, along the north line thereof, a distance of 444.89 feet to the point of beginning.

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.  
The true and actual consideration paid for this transfer, stated in terms of dollars, is \$.....  
However, the actual consideration contained or included in this property or value given or promised which is the true and actual consideration of this deed, shall be the true and actual consideration of this deed.  
In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.  
In Witness Whereof, the grantor has executed this instrument this ..... day of ..... 1992.  
If a corporate grantor, it has caused its name to be signed and its seal affixed by an officer or other person duly authorized to do so by order of its board of directors.  
THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAW, USE LAWS AND REGULATIONS, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE GRANTEE SHALL INQUIRE AS TO THE PROPERTY SUBJECT, WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

STATE OF OREGON, County of Multnomah  
This instrument was acknowledged before me on March 5, 1992  
by Victor E. Povey and Velma Povey  
This instrument was acknowledged before me on ..... 19.....  
by .....  
as .....  
of .....  
  
 BRIAN J. FREEMAN  
 My Commission Expires 2-28-97 Notary Public for Oregon  
 My commission expires .....


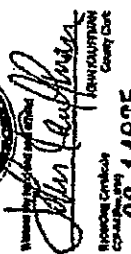
VICTOR E. & VELMA P. POVEY

GRANTEE'S NAME AND ADDRESS  
VELMA PAULINE POVEY, TRUSTEE

GRANTEE'S NAME AND ADDRESS  
Brian J. Freeman, Attorney  
P. O. Box 809  
Grasham, OR 97030

NAME, ADDRESS, ETC.  
Velma Pauline Povey, Trustee  
25929 SE Huffmeister Rd.  
Boring, OR 97009

52 MAR 16 PM 2:39

  
  
 92 14835

110

JA



Resolution No. 07-3776  
Attachment 4 to COO Report

20  
320  
Page X  
II

FORM NO. 715 - BAKED (AMOUNT) 6/18 (Individual or Corporate)

STATE OF OREGON

KNOW ALL MEN BY THESE PRESENTS, that **VICTOR E. and VELMA P. POVEY, husband and wife**, hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto **VELMA PAULINE POVEY, Trustee, or her successor, under that certain Trust Dated 1-30-92, between VELMA PAULINE POVEY and Victor Eugene Povey as Trustees**, hereinafter called trustee, all and singular the property with the tenements, hereditaments and appurtenances thereto in anywise appertaining, situated in the County of **Clackamas**, State of Oregon, described as follows, to-wit:

A parcel of land located in the Northeast one-quarter of Section 2, Township 2 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows, to-wit:

Commencing at the center of said Section 2; thence South 89° 05' 39" East along the East-West centerline of said Section 2, a distance of 666.65 feet to the Southwest corner of the East one-half of the Southwest one-quarter of the Northeast one-quarter of said Section 2; thence North 00° 04' 27" East along the West line of said legal subdivision a distance of 776.73 feet to the true point of beginning; thence continuing North 00° 04' 27" East along said West line of said legal subdivision 538.17 feet to a point that is 8.00 feet South of the Northwest corner of the East one-half of the Southwest one-quarter of the Northeast one-quarter; thence South 89° 05' 24" East and parallel with the North line of the East one-half of the Southwest one-quarter of the Northwest one-quarter 215.11 feet; thence South 00° 04' 27" West a distance of 537.55 feet; thence North 89° 05' 19" West a distance of 215.11 feet to the true point of beginning, said parcel containing **2.654 acres, more or less.**

X

TO HAVE and to HOLD the same unto the said grantor and grantor's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$         .

Witness My Hand and Seal of Office this          day of         , 19         .

Notary Public for Oregon, Commission Expires         .

STATE OF OREGON, County of Multnomah, ss.

This instrument was acknowledged before me on          day of         , 19         .

by VICTOR E. POVEY and VELMA P. POVEY

This instrument was acknowledged before me on          day of         , 19         .

by         

of         

**Brian J. Freeman**  
NOTARY PUBLIC OREGON  
BRIAN J. FREEMAN  
Notary Public for Oregon, Commission Expires         

My commission expires         

**VICTOR E. & VELMA P. POVEY**

STATEMENT NAME AND ADDRESS  
**VELMA PAULINE POVEY, TRUSTEE**

ALL ATTENDING ATTORNEYS:  
**Brian J. Freeman, Attorney**  
P. O. Box 809  
Gresham, Oregon 97030

Hold a charge to represent all fees and disbursements to be paid by the attorney to  
**Velma Pauline Povey, Trustee**  
28529 SE Hoffmeister Road  
Boring, Oregon 97009

CLACKAMAS COUNTY, OREGON  
92 MAR 16 PM 2:39

**John Freeman**  
Notary Public  
Commission Expires **03 14836**

83 92 14836

**RECIPROCAL EASEMENT**  
For Automobile Driveway Adjoining Parcels

THIS RECIPROCAL EASEMENT, Made and entered into this 12<sup>th</sup> day of December, 1985  
by VICTOR E. POVEY AND VELVA P. POVEY, husband and wife  
and R.C. YULE AND ELLA YULE, husband and wife  
WITNESSETH:

WHEREAS, the first party is the owner in fee simple of the following described real property in the County of Clackamas and State of Oregon:

A strip of land situated on the East one-half of the Northeast one-quarter of the Northeast one-quarter of Section 2, Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at the center of said Section 2; thence easterly, along the boundary between Section 2 and Section 3, a distance of 220 feet to the west corner of said parcel; thence easterly, along the west line of said parcel, a distance of 220 feet to the east corner of said parcel; thence southerly, along the south line of said parcel, a distance of 1312 feet to a point in the easterly extension of the north line of said parcel; thence southerly, along said easterly extension, a distance of 220 feet to the point of beginning.

WHEREAS, the second party is the owner in fee simple of the following described real property in said county and state,

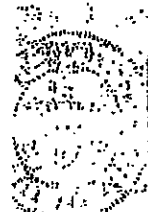
a tract of land located in the Northeast one-quarter of Section 2, Township 2 South, Range 3 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at a point 220 feet East of the Northwest corner of the East one-half of the Northeast one-quarter of the Northeast one-quarter of Section 2, Township 2 South, Range 3 East of the Willamette Meridian; running thence East 220 feet; thence South 1312 feet; thence West 220 feet; thence North 1312 feet to the place of beginning.

AND WHEREAS, the parties desire to grant to each other an easement and right to use a certain automobile driveway or about to be constructed along and upon a portion of both of said parcels;

NOW, THEREFORE, in consideration of each party's granting to the other an easement hereinafter described, and other valuable consideration each to the other in hand paid, the receipt of which is hereby acknowledged:

85 45601



Automobile  
Driveway

12-26-85

AWE/IB  
Parcel I

64

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EXHIBIT "A"

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, IN CLACKAMAS COUNTY, OREGON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT TRACT OF LAND AS CONVEYED BY DEED TO VICTOR E. POVEY AND VELMA P. POVEY AND RECORDED AT FILM RECORD NUMBER 81 17366. CLACKAMAS COUNTY FILM RECORDS, SAID POINT BEING ON THE WEST RIGHT-OF-WAY FOR SE 257TH AVENUE A COUNTY ROAD AS RECORDED AT PAGE 499 BOOK 123 CLACKAMAS COUNTY DEED RECORDS, SAID POINT OF BEGINNING BEARS NORTH 89° 55' 20" EAST 1333.05 FEET AND NORTH 0° 06' 55" WEST 1315.10 FEET FROM THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN; THENCE SOUTH 0° 06' 55" EAST 25.00 FEET ALONG SAID WEST RIGHT-OF-WAY LINE OF SE 257TH AVENUE; THENCE NORTH 88° 59' 52" WEST 25.00 FEET; THENCE NORTH 0° 06' 55" WEST 25.00 FEET TO A POINT ON THE NORTH LINE OF SAID POVEY TRACT; THENCE SOUTH 86° 59' 52" EAST 25.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

3

STATE OF OREGON  
County of Clackamas  
I, Joseph N. Orr, County Clerk, for the County of Clackamas, do hereby certify that the foregoing is a true and correct copy of the original as the same appears on file in the office of the County Clerk.

85 DEC 28 PM 2:59

*Joseph N. Orr*  
COUNTY CLERK  
CLACKAMAS COUNTY  
85 45501

DEC 28 1985

60

REVOCABLE LIVING TRUST AGREEMENT  
FOR JOINT TRUSTORS

DATED: January 30, 1992.  
BETWEEN: VELMA PAULINE POVEY and VICTOR EUGENE POVEY,  
as Trustors,  
AND: VELMA PAULINE POVEY  
as Trustee.

We, VELMA PAULINE POVEY and VICTOR EUGENE POVEY, as Trustors, hereby establish a trust with Trustee. The parties agree that the property of this trust shall be held, managed and distributed by our Trustee as hereafter provided.

ARTICLE I

NAME OF TRUST

This trust may be called the POVEY TRUST.

ARTICLE II

FAMILY

We are married and the parents of one child, VICTOR RONALD POVEY,

ARTICLE III

TRUST PROPERTY

We have transferred and delivered to our Trustee the property described on Schedule A. Such titles and interests as our Trustee has received or may hereafter acquire in that property and such other property as may hereafter be added to the trust shall be vested in our Trustee.

ARTICLE IV

ADDITIONS TO TRUST

Our Trustee shall have the power to receive other property, real or personal, tangible or intangible, including life insurance policies, devised, bequeathed, granted, conveyed, assigned or made payable to our Trustee by us or by any other person or persons, which property, upon acceptance by

Resolution No. 07-3776  
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our Trustee, shall be added to and become a part of the trust estate and shall be subject to this Agreement.

ARTICLE V

REVOCATION AND AMENDMENT

A. Revocation/Withdrawals. We reserve the right by written instrument signed by us as Trustors and filed with our Trustee to revoke this Agreement at any time or to withdraw from the trust estate, discharged of the trust, all or any part of the principal and accumulated income of the trust upon satisfying all sums due to our Trustee and indemnifying our Trustee to our Trustee's reasonable satisfaction against liabilities lawfully incurred in the administration of this trust.

B. Amendment. We reserve the right to alter or amend this Agreement at any time, by written instrument signed by us as Trustors and accepted by our Trustee.

C. Rights Personal to Us. The rights of revocation, withdrawal, alteration and amendment reserved by us must be exercised solely by us and may not be exercised by any other person, including any agent, guardian or conservator. However, if one of us is deceased or if during our joint lifetime one of us is incapacitated to the extent that he or she is unable to manage business affairs, the other Trustor acting alone may exercise the foregoing rights of revocation, withdrawal, alteration and amendment.

ARTICLE VI

DISPOSITION OF INCOME AND PRINCIPAL  
DURING OUR LIFETIME

During our lifetime, the trust shall be administered and distributed as follows:

A. Distributions. Our Trustee shall distribute to or for our benefit or to or for the benefit of either of us such portions of the income and principal of the trust as we may from time to time request in writing.

B. Incapacity. If both of us become incapacitated to the extent that we are unable to manage our business affairs, our Trustee shall distribute to or for our benefit income and principal in amounts determined by our Trustee to be necessary for our health, education, support and maintenance to enable us to maintain the standard of living to which we are accustomed.

ARTICLE VII

PAYMENT OF TAXES, DEBTS AND OTHER  
EXPENSES AFTER DEATH OF EITHER TRUSTOR

After the death of either of us:

A. Taxes.

1. Upon the death of either of us, unless his or her Will shall provide otherwise, and except as otherwise provided in this trust instrument, all estate, inheritance, succession or other transfer taxes, including any interest and penalties thereon, ("death taxes") that become payable by reason of the death of that person with respect to property passing under this Agreement shall be paid out of the residue of the trust without reimbursement from the recipient of such property and without apportionment. All death taxes upon property not passing under this Agreement shall be apportioned in the manner provided by law.

2. Except as otherwise provided herein, if one of us dies leaving an estate subject to probate of which a Personal Representative shall be appointed, our Trustee upon reasonable notice may pay to the Personal Representative all or any part of any death taxes arising by reason of the Trustor's death.

B. Debts and Expenses.

1. Upon the death of either of us, our Trustee may pay the following obligations and liabilities of that person or of his or her estate as soon as reasonably convenient (not necessarily in the order stated):

a. Just debts and claims, including income taxes and penalties and interest thereon, but our Trustee need not pay obligations not yet due and payable.

b. Expenses of last illness and funeral.

c. Costs and expenses, including professional fees, necessary to settle and administer his or her estate.

2. Our Trustee may pay the obligations and liabilities directly or through the Personal Representative of the deceased person's estate, if any. Our Trustee may rely upon a written statement of the Personal Representative as to the amount of such claims, expenses, taxes or other costs, and

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Attachment 4 to COO Report

shall be under no duty to see to the application of any funds so paid.

C. Transactions with Probate Estate. Our Trustee may acquire as an investment for the trust any securities or other property included as an asset of the deceased person's estate whether or not such investment shall be legal for the investment of trust funds in the State of Oregon, and may lend funds to the probate estate with or without security.

ARTICLE VIII

DISTRIBUTION OF RESIDUE AFTER  
DEATH OF EITHER TRUSTOR

After the death of either of us:

After the payment of the amounts authorized in the preceding Article, the remaining assets of the trust, including all principal and all accrued, accumulated and undistributed income, shall be administered and distributed as follows:

A. Distributions to Survivor. Our Trustee shall pay to or for the benefit of the survivor of us such portions of income and principal of the trust as he or she may from time to time request in writing, even if the withdrawal exhausts the trust.

B. Incapacity. If the survivor of us becomes incapacitated to the extent that he or she is unable to manage business affairs, our Trustee shall distribute income and principal in amounts determined by our Trustee to be necessary for the health (including, but not limited to, medical, dental, hospital and nursing expenses), education, maintenance and support of the survivor of us to enable him or her to maintain the standard of living that he or she maintained in his or her lifetime.

C. Distribution to Residual Beneficiary. Upon the death of the survivor of us, our Trustee shall then distribute all the property of the trust, including the principal and any accrued, accumulated and undistributed income, to our son, VICTOR RONALD POVEY.

D. Contingent beneficiaries. If our son, Victor Ronald Povey, does not survive both of us, then all of the property of the trust, including the principal and any accrued, accumulated and undistributed income, shall be divided equally among NANCY POVEY (wife of Victor Ronald Povey), KEVIN DOUGLAS POVEY and NICHOLAS BRANDON POVEY. The shares shall be administered and distributed as follows:

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1. Distribution of share to Nancy Povey. The share established for Nancy Povey shall be distributed forthwith.

2. Distribution of Shares to Grandchildren. A share established for Kevin Douglas Povey or Nicholas Brandon Povey shall be distributed forthwith; provided, however, that if any such grandchild or other lineal descendant is under twenty-five (25), his share shall be retained by our Trustee until the beneficiary is twenty-five (25), and in the interval our Trustee shall pay to or for the benefit of the beneficiary such amounts of income and principal of the share as our Trustee shall determine to be necessary for his or her health, education, support and maintenance. If any such beneficiary dies prior to receiving distribution in full of the share, all remaining assets of the share shall be distributed to the beneficiary's estate.

ARTICLE IX

SURVIVORSHIP

If any beneficiary named or described in this instrument dies within four (4) months after the death of the survivor of us, all the provisions in this instrument for the benefit of such deceased beneficiary shall lapse, and this instrument shall be construed as though the fact were that he or she predeceased the survivor of us.

ARTICLE X

CONTINGENT BENEFICIARIES

If in any circumstances not provided for in this instrument there is any portion of a trust for which there is no beneficiary named, described or otherwise, the portion shall be distributed to those persons then living who would be entitled to receive the estate of the last Trustor to die as provided by the intestate laws of the State of Oregon then in effect.

ARTICLE XI

TRUSTEE PROVISIONS

A. Resignation of Trustee. A Trustee may resign at any time without court approval by giving written notice to the successor Trustee, or if there is no successor, to the



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beneficiaries, to their legal Guardians, or to the persons having the care or custody of minor beneficiaries.

B. Successor Trustee. If Velma P. Povey shall become incapacitated or die, then Victor Ronald Povey shall be the Successor Trustee and if Victor Ronald Povey shall refuse or not be able to serve, then Nancy Povey shall be the Alternate Successor Trustee.

C. Appointment of Successor Trustee. If there shall be no Trustee of a trust, a majority in interest of those income beneficiaries who are of legal age and capacity and the Guardians, if any, of those who are not of legal age and capacity may by a written instrument appoint a successor Trustee or Trustees.

D. Responsibility of Successor. A successor Trustee shall have the same rights, titles, powers, duties, discretions and immunities and otherwise be in the same position as if the successor Trustee had been originally named as Trustee hereunder. No successor Trustee shall be personally liable for any act or failure to act of any predecessor Trustee or shall have any duty to examine the records of any predecessor Trustee. A successor Trustee may accept the account rendered and the property delivered to the successor Trustee by or on behalf of the predecessor Trustee as a full and complete discharge of the predecessor Trustee without incurring any liability or responsibility for so doing.

E. Compensation for Trustee. Our Trustee shall be entitled to reasonable compensation for its services as Trustee. If a corporate fiduciary is serving as Trustee, reasonable compensation shall be determined by reference to the fee schedule used by our Trustee at the time such compensation is payable.

F. Valuation. Our Trustee shall be indemnified against liability (including liability for penalties) for valuation positions taken or settled if made in good faith and with reasonable basis.

ARTICLE XII

LIFE INSURANCE

With respect to life insurance policies wherein our Trustee is the beneficiary of policies owned by us or either of us, the proceeds of all said policies shall be collected by our Trustee and held under the terms hereof. The payment to our Trustee by any insurance company of the proceeds of any such policy of insurance shall be a full discharge of the insurance.

company on account of said policy, and the insurance company shall in no way be responsible for the proper discharge of the trust or any part thereof. Our Trustee shall not be required to enter into collection proceedings or institute any litigation to enforce payment of the policies until reasonable provision has been made for indemnification of our Trustee against all expenses and liabilities related to such proceedings.

ARTICLE XIII

TRUSTEE'S DUTIES AND POWERS

My Trustee shall have all powers conferred upon a trustee by the laws of Oregon for the orderly administration of the trust estate, including those specified in the Oregon Uniform Trustee's Powers Act in effect in Oregon as it may be amended, from time to time.

ARTICLE XIV

TAX ELECTIONS/DISCRETIONS

The Personal Representatives of our estates and our Trustee shall have full power and authority, in their absolute discretion:

- A. To use administration expenses as deductions for estate tax purposes or for income tax purposes.
- B. To use date-of-death values or alternate values for estate tax purposes.
- C. To file with the survivor of us or the personal representative of the survivor's estate joint income tax returns for the year in which the death of either or the survivor of us occurs and for any previous year for which a return has not been filed prior to the death of one of us.
- D. To consent for gift tax purposes to treat gifts made by either of us during our joint lifetime as if made one-half (1/2) by each of us.
- E. To pay in full, as a debt of either of us who is deceased, any tax shown on any income tax return or gift tax return filed by his or her Personal Representative and any additional tax and interest that may be assessed as a result of the audit of any such return.
- F. To allocate all, some or none of any unused portion of the generation-skipping tax exemption of either of us who is

deceased to any property (including unallocated lifetime transfers) and in any manner.

G. To apportion to and deduct from the share of a beneficiary (exclusive of any charitable beneficiary) having an interest in income of the estate of either of us who is deceased any income taxes imposed upon or chargeable to that income, in such equitable manner as the deceased person's Personal Representative shall determine.

H. To make any other election, allocation or decision available under any federal or state tax laws. Any such election, allocation or decision may be made regardless of the effect thereof on any of the interests passing under this instrument and without adjustment between income and principal or among beneficiaries.

#### ARTICLE XV

#### MISCELLANEOUS PROVISIONS

A. Distributions to Minors and Others. If any beneficiary of the trust who is entitled to distributions of income or principal is incapacitated or under the age of majority, our Trustee may make distributions to which the beneficiary is entitled directly to the beneficiary, to a Guardian or Conservator of the beneficiary, to a Custodian for the benefit of a minor beneficiary or to any person who or corporation that shall be furnishing health, maintenance, support or education to the beneficiary. The receipt of any person to whom distributions are made as herein authorized shall be a sufficient voucher for our Trustee, and the recipient need not be required to account to our Trustee.

B. Consideration of Other Support. In making discretionary distributions, our Trustee may, but shall not be required to, determine other sources of income, support or property available to the beneficiary, and our Trustee shall have absolute discretion to determine the extent to which such other income, support or property must first be utilized by the beneficiary.

C. Undistributed Income. Unless otherwise provided in this agreement, income accrued, accumulated or undistributed upon the termination of any interest under any trust shall pass to the beneficiary entitled to the next eventual interest. Any income that is not distributable shall be accumulated, added to and thereafter administered as a part of the principal of the trust.

D. Election to Defer Distribution. A beneficiary may elect not to receive distribution of a share of a trust otherwise distributable to the beneficiary. In that event, our Trustee shall retain the distributable share in a separate trust. The separate trust shall be administered and distributed to or for the benefit of the beneficiary in accordance with the provisions of the trust established for that beneficiary, which by this reference are incorporated herein, and thereafter shall be subject to withdrawal by the beneficiary at any time.

E. Spendthrift Protection. No beneficiary shall have any power to sell, assign, transfer, encumber or in any other manner anticipate or dispose of his or her interest in the trust or the income produced thereby prior to its actual distribution by our Trustee to said beneficiary or to another for the benefit of the beneficiary in the manner authorized by this Agreement. No beneficiary shall have any assignable interest in any trust created under this Agreement or in the income therefrom. Neither the principal nor the income shall be liable for the debts of any beneficiary. The limitations herein shall not restrict the exercise of any power of appointment or the right to disclaim.

F. Rule Against Perpetuities. Unless sooner terminated or vested in accordance with other provisions of this instrument, all interests not otherwise vested, including but not limited to all trusts and powers of appointment created hereunder shall terminate (1) twenty-one (21) years after the death of the last survivor of my spouse and my lineal descendants living on the date of my death, or (2) 90 years after the date of my death, whichever period is later, at the end of which time distribution of all principal and all accrued, accumulated and undistributed income shall be made to the persons then entitled to distributions of income and in the manner and proportions herein stated, (or, if not stated, equally) irrespective of their then-attained ages.

G. Severability. If any provision of a trust should be invalid or unenforceable, the remaining provisions thereof shall continue to be fully effective.

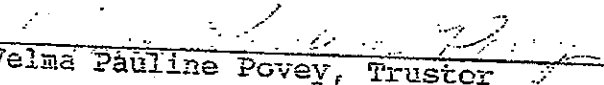
H. Statutory References. Unless the context clearly requires another construction, each statutory reference in this instrument shall be construed to refer to that statutory section mentioned, related successor sections and corresponding provisions of any subsequent law, including all amendments.

I. Table of Contents, Titles and Captions. The table of contents, titles and captions used in this instrument are for convenience of reference only and shall not be construed to have any legal effect.

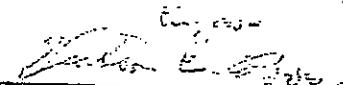
Resolution No. 07-3776  
Attachment 4 to COO Report

5. Interpretation. The laws of the state of Oregon shall govern with respect to the validity and interpretation of this instrument.


Executed this 30 day of January, 1992.

  
Velma Pauline Povey, Trustor

Social Security No. 512-31-4655

  
Victor Eugene Povey, Trustor

Social Security No. 541-14-4465

  
VELMA PAULINE POVEY, Trustee

FREEMAN, DOWNING & GRANATH, P.C.  
ATTORNEYS AT LAW  
510 N.E. Roberts (P.O. Box 809)  
Gresham, OR 97030  
665-4176

Resolution No. 07-3776  
Attachment 4 to COO Report

SCHEDULE "A"

1. All automobiles, motorhomes or other vehicles owned by Velma Pauline Povey and Victor Eugene Povey, or either one of us.
  2. A Vendors' interest in the Contract of Sale, dated September 18, 1989, between Victor E. Povey and Velma Pauline Povey, vendors, and Willard Warren, William Paul Young and Kimberly L. Young, vendees.
  3. Approximately 5.12 acres in Clackamas County purchased from Vernon W. DeYoung and Bertha DeYoung under a Bargain and Sale Deed dated May 19, 1981, said deed being recorded under Clackamas County Fee No. 81-17366.
  4. The interest of Victor E. Povey and Velma P. Povey, as set forth in a Deed of Crypt, dated May 4, 1981, describing the Crypt as "Companion Two Hundred and Four S Five (204S5) and Two Hundred and Five S Five (205S5) Laurel Corridor" in that certain Mausoleum Columbarium known as Riverview Abbey, located at 0319 SW Taylors Ferry Road, in the City of Portland, Multnomah, Oregon, as per plat on file in office of Abbey.
  5. All of our tangible and intangible personal property of whatever kind or nature and wheresoever situated, including but not limited to household furnishings, jewelry, vehicles, coin collections, stamp collections, stocks, bonds, bank accounts, and accounts receivable.
  6. Lots 32 and 33, Block 27 of Oregon Water Wonderland, Unit 2, Deschutes County, Oregon.
- (5 Povey.A)

Resolution No. 07-3776  
Attachment 4 to COO Report  
**7/1/2006 to 6/30/2007 REAL PROPERTY TAX STATEMENT**  
CLACKAMAS COUNTY, OREGON \* 168 WARNER MILNE RD. \* OREGON CITY, OREGON 97045

**PROPERTY DESCRIPTION**

25529 SE HOFFMEISTER RD  
DAMASCUS OR 97089

POVEY VELMA PAULINE TRUSTEE  
25529 SE HOFFMEISTER RD  
DAMASCUS OR 97089

MAP: 23E02A 01412

Code Area: 026-029

ACCOUNT NO: 01509656

Acres: 2.65

**2006 - 2007 CURRENT TAX BY DISTRICT:**

COM COLL MT HOOD	32.15
ESD MULTNOMAH	30.99
SCH GRESHAM/BRLW	306.56
<b>EDUCATION TOTAL:</b>	
CITY DAMASCUS	369.70
COUNTY CLACKAMAS	223.48
FD59 BORING	162.82
PORT OF PTLD	160.98
SRV 2 METRO - OREGON ZOO	4.67
URBAN RENEWAL COUNTY	6.43
VECTOR CONTROL	8.31
VECTOR CONTROL LOC OPT	0.44
GENERAL GOVERNMENT TOTAL:	1.69
SCH DAMASCUS BI	568.82
SCH GRESHAM/BRLW BOND	50.74
SRV 2 METRO BOND	92.85
EXCLUDED FROM LIMIT TOTAL:	12.07
<b>2006-2007 TAX BEFORE DISCOUNT</b>	<b>1,094.18</b>

VALUES:	LAST YEAR	THIS YEAR
REAL MARKET VALUES (RMV):		
RMV LAND	124,157	143,652
RMV BLDG	35,060	41,110
RMV TOTAL	159,217	184,762
SAV TOTAL	99,028	114,888
ASSESSED VALUE (AV):	65,751	67,722

PROPERTY TAXES: 1,050.15 1,094.18

Questions about your property value or taxes  
Please call 503-655-8671

Please Make Payment To: CLACKAMAS COUNTY TAX COLLECTOR  
(Refer to the insert enclosed for more information)

**DELINQUENT TAXES:** NO DELINQUENT TAXES DUE

See back for explanation of taxes marked with an (\*).  
Delinquent tax amount is included in payment options listed below.

TOTAL (after discount): 1,061.35

(See back of statement for instructions)

**TAX PAYMENT OPTIONS**

Payment Options	Date Due	Discount Allowed	Net Amount Due
FULL PAYMENT	Nov 15, 2006	32.83 3% Discount.....	1,061.35
2/3 PAYMENT	Nov 15, 2006	14.59 2% Discount.....	714.86
1/3 PAYMENT	Nov 15, 2006	No Discount.....	364.72

↑ TEAR HERE PLEASE RETURN THIS PORTION WITH YOUR PAYMENT See back of Statement for Instructions

TEAR ↑  
HERE

2006-2007 Property Tax Payment Clackamas County, Oregon

PROPERTY LOCATION: 25529 SE HOFFMEISTER RD

ACCOUNT NO: 01509656

Unpaid delinquent tax due is included in payment options.			
FULL PAYMENT	(Includes 3% Discount)	DUE Nov 15, 2006	1,061.35
2/3 PAYMENT	(Includes 2% Discount)	DUE Nov 15, 2006	714.86
1/3 PAYMENT	(No Discount offered)	DUE Nov 15, 2006	364.72

DISCOUNT IS LOST AND INTEREST APPLIES AFTER DUE DATE

Mailing address change or name change on back

Enter Amount Paid

POVEY VELMA PAULINE TRUSTEE  
25529 SE HOFFMEISTER RD  
DAMASCUS OR 97089

Please make payment to:  
**CLACKAMAS COUNTY TAX COLLECTOR**  
168 Warner Milne Rd  
Oregon City, OR 97045

Resolution No. 07-3776  
Attachment 4 to COO Report  
**7/1/2006 to 6/30/2007 REAL PROPERTY TAX STATEMENT**  
CLACKAMAS COUNTY, OREGON \* 168 WARNER MILNE RD. \* OREGON CITY, OREGON 97045

**PROPERTY DESCRIPTION**

POVEY VELMA PAULINE TRUSTEE  
25529 SE HOFFMEISTER RD  
DAMASCUS OR 97089

MAP: 23E02A 01410

ACCOUNT NO: 00601637

Code Area: 026-029

Acres: 5.12

**2006 - 2007 CURRENT TAX BY DISTRICT:**

COM COLL MT HOOD	3.83
ESD MULTNOMAH	3.69
SCH GRESHAM/BRLW	36.50
<b>EDUCATION TOTAL:</b>	<b>44.02</b>
CITY DAMASCUS	26.60
COUNTY CLACKAMAS	19.39
FD59 BORING	19.17
PORT OF PTLD	0.56
SRV 2 METRO - OREGON ZOO	0.77
URBAN RENEWAL COUNTY	0.99
VECTOR CONTROL	0.05
VECTOR CONTROL LOC OPT	0.20
<b>GENERAL GOVERNMENT TOTAL:</b>	<b>67.73</b>
SCH DAMASCUS BI	6.04
SCH GRESHAM/BRLW BOND	11.06
SRV 2 METRO BOND	1.44
<b>EXCLUDED FROM LIMIT TOTAL:</b>	<b>18.54</b>
<b>2006-2007 TAX BEFORE DISCOUNT</b>	<b>130.29</b>

VALUES:	LAST YEAR	THIS YEAR
REAL MARKET VALUES (RMV):		
RMV LAND	133,661	154,649
RMV TOTAL	133,661	154,649
SAV TOTAL	12,375	13,593
ASSESSED VALUE (AV):	7,833	8,064
PROPERTY TAXES:	125.11	130.29

**Questions about your property value or taxes**  
Please call 503-655-8671

Please Make Payment To: CLACKAMAS COUNTY TAX COLLECTOR  
(Refer to the insert enclosed for more information)

**DELINQUENT TAXES:** NO DELINQUENT TAXES DUE

See back for explanation of taxes marked with an (\*).  
Delinquent tax amount is included in payment options listed below.

**TOTAL (after discount): 126.38**

(See back of statement for instructions)

Payment Options	Date Due	Discount Allowed	Net Amount Due
FULL PAYMENT	Nov 15, 2006	3.91 3% Discount.....	126.38
2/3 PAYMENT	Nov 15, 2006	1.74 2% Discount.....	85.12
1/3 PAYMENT	Nov 15, 2006	No Discount.....	43.43

↑ TEAR HERE PLEASE RETURN THIS PORTION WITH YOUR PAYMENT See back of Statement for instructions

TEAR ↑ HERE

**2006-2007 Property Tax Payment Clackamas County, Oregon**

ACCOUNT NO: 00601637

Unpaid delinquent tax due is included in payment options.			
FULL PAYMENT	(Includes 3% Discount)	DUE Nov 15, 2006	126.38
2/3 PAYMENT	(Includes 2% Discount)	DUE Nov 15, 2006	85.12
1/3 PAYMENT	(No Discount offered)	DUE Nov 15, 2006	43.43

DISCOUNT IS LOST AND INTEREST APPLIES AFTER DUE DATE

Mailing address change or name change on back

Enter Amount Paid

POVEY VELMA PAULINE TRUSTEE  
25529 SE HOFFMEISTER RD  
DAMASCUS OR 97089

Please make payment to:  
**CLACKAMAS COUNTY TAX COLLECTOR**  
168 Warner Milne Rd  
Oregon City, OR 97045