



## Metro | Agenda

Meeting: Metro Council  
Date: Thursday, December 2, 2010  
Time: 4 p.m.  
Place: Hillsboro Civic Center

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### CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CITY OF HILLSBORO VIRTUAL TOUR

John Southgate  
Colin Cooper

4. Consideration of the Minutes for November 18, 2010

5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 10-1244**, For the Purpose of Making the Greatest Place and Providing Capacity for Housing and Employment to the Year 2030; Amending the Regional Framework Plan and the Metro Code; and Declaring an Emergency.

5.2 **Ordinance No. 10-1248**, For the Purpose of Approving a Solid Waste Facility Franchise Application Submitted by Columbia Biogas, LLC to Operate an Anaerobic Digestion Facility and Authorizing the Chief Operating Officer to Issue a Franchise.

6. RESOLUTIONS

6.1 **Resolution No. 10-4216**, For the Purpose of Creating and Appointing Members of the East Metro Connections Plan Steering Committee.

Park

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

### ADJOURN

**5 PM METRO COUNCIL PUBLIC HEARING ON URBAN GROWTH BOUNDARY CAPACITY:**

Time **Ordinance No. 10-1244**, For the Purpose of Making the Greatest Place and Providing Capacity  
Certain for Housing and Employment to the Year 2030; Amending the Regional Framework Plan and  
the Metro Code; and Declaring an Emergency.

The December 2 Council meeting will not be video recorded. An audio recording of the meeting will be available online after the meeting at: <http://www.oregonmetro.gov/index.cfm/go/by.web/id=21730>.

**PLEASE NOTE:** Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. 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 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 web site [www.oregonmetro.gov](http://www.oregonmetro.gov) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 503-797-1804 or 503-797-1540 (Council Office).



Agenda Item Number 3.0

**City of Hillsboro Virtual Tour**

Metro Council Meeting  
Thursday, Dec. 2, 2010  
Hillsboro Civic Center



Agenda Item Number 4.0

**Consideration of the Minutes for November 18, 2010**

Metro Council Meeting  
Thursday, Dec. 2, 2010  
Hillsboro Civic Center





**METRO COUNCIL MEETING**  
Nov. 18, 2010  
Metro Regional Center, Council Chamber

Councilors Present: Council President Collette and Councilors Rod Park, Kathryn Harrington, Robert Liberty and Carl Hosticka

Councilors Absent: Councilor Rex Burkholder

Council President Carlotta Collette convened the regular Council meeting at 2 p.m.

**1. INTRODUCTIONS**

Council welcomed Councilor-elect Shirley Craddick, District 1.

**2. CITIZEN COMMUNICATIONS**

Les Poole, 15115 SE Lee, Milwaukie, OR: Mr. Poole urged Council to consider building the Portland to Milwaukie Light Rail project to the north end of the Kellogg Lake Park. He expressed concerns with extending the project further south. (A copy of Mr. Poole's testimony has been included as part of the meeting record.)

**3. AUDITOR COMMUNICATION**

**3.1 *Annual Report and Ethics Line Report***

Ms. Suzanne Flynn, Metro Auditor, provided a presentation on the Annual Report and Ethics Line Report. The Office of the Metro Auditor completed 6 audits in FY 2009-10: Oregon Zoo Construction, Natural Areas Audit Follow-up, Ethics Line Case 27, Tracking Transportation Project Outcomes, Functional Plan Compliance Audit Follow-up, and Financial Condition of Metro FY 2000-FY 2009. Ms. Flynn's presentation included audits completed, staffing, expenditures, audits currently suspended (i.e. Construction Excise Tax), audits currently underway (i.e. administrative/management or large contracts), and future audits (i.e. Zoo bond program, maintenance of natural areas, and transportation outcomes).

Her presentation on the Ethics Line Report included information on accomplishments made to date, number of reports, types of concerns, locations of incidents, action taken and average day to close. (Copies of both reports and presentation have been included as part of the meeting record.)

Council thanked Ms. Flynn for her report. Discussion included best practices, an audit's impact and ability to track trends, and audits that address internal management and efficiency verses audits that address Metro's impact on the region.

**4. OREGON ZOO AZA AWARD PRESENTATION**

Mr. Jim Maddy of the Association of Zoos and Aquariums (AZA) provided a brief overview of the accreditation process which evaluates zoos and aquariums on high standards for animal care and



welfare, education and wildlife conservation. Mr. Maddy presented Council and Oregon Zoo staff with the AZA's prestigious Exhibit Award for the zoo's Predators of the Serengeti exhibit as well as a plaque for the zoo's reaccreditation.

Council discussion included the AZA's high accreditation standards, global efforts for wildlife conservation, international participation in the AZA and improving international conservation and animal welfare standards.

## 5. **CONSENT AGENDA**

Councilors requested that Resolution No. 10-4213 be removed from the consent agenda.

Motion:	Councilor Carl Hosticka moved to adopt the consent agenda: <ul style="list-style-type: none"><li>• Consideration of the Minutes for November 4, 2010</li><li>• Resolution No. 10-4206</li><li>• Resolution No. 10-4207</li><li>• Resolution No. 10-4208</li><li>• Resolution No. 10-4209</li><li>• Resolution No. 10-4215</li></ul>
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Vote:	Council President Collette and Councilors Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed.
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Motion:	Councilor Robert Liberty moved to adopt Resolution No. 10-4213.
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Vote:	Council President Collette and Councilors Harrington, Liberty and Hosticka voted in support of the motion. Councilor Park abstained. The vote was 4 aye and 1 abstained, the motion passed.
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Councilor Park was appointed Deputy Council President through Jan. 3, 2011.

## 6. **ORDINANCES – SECOND READING**

6.1 **Ordinance No. 10-1249**, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule and the FY 2010-11 through 2014-15 Capital Improvement Plan, and Declaring an Emergency.

Councilor Rod Park overviewed Ordinance No. 10-1249 which would adopt a series of amendments to the FY 2010-11 budget. The proposed amendments would impact 7 areas:

- Active Transportation Partnership
- Natural Areas Management
- Regional Indicators
- Columbia River Crossing project director position
- Infrastructure finance manager position
- Printing costs
- MERC capital projects.

Council President Collette opened Ordinance No. 10-1249 for public comment. Seeing no comment, the public hearing was closed.



Council discussion included FTE reassignments, the Columbia River Crossing director position and MERC capital projects.

Motion:	Councilor Park moved to adopt Ordinance No. 10-1249.
Second:	Councilor Liberty seconded the motion.

Vote:	Council President Collette and Councilors Harrington, Liberty, Park and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed.
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## 7. **RESOLUTIONS**

- 7.1 **Resolution No. 10-4201**, For the Purpose of Amending the 2008-11 Metropolitan Transportation Improvement Program (MTIP) to Include the Funding of Land Acquisition, Construction and Related Costs to Complete the Portland – Milwaukie Light Rail Project.

Councilor Liberty briefly overviewed Resolution No. 10-4201 which would amend the 2010-13 Metropolitan Transportation Improvement Program (MTIP) in order to authorize funding to acquire land and primary construction for the Clackamas County and Milwaukie to Portland Light Rail line next year. Approval of the resolution would ensure the project remains on schedule. The project is scheduled to be completed in 2015.

Council discussion included the current project funding gap of \$15 to \$20 million caused by reduced federal match.

Motion:	Councilor Liberty moved to adopt Resolution No. 10-4201.
Second:	Councilor Park seconded the motion.

Vote:	Council President Collette and Councilors Harrington, Liberty, Park and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed.
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- 7.2 **Resolution No. 10-4210**, For the Purpose of Amending the 2010-13 Metropolitan Transportation Improvement Program (MTIP) to Transfer Funds to the Greenburg Road: Tiedeman to Hwy 217 Project to the Walnut Street: Tiedeman to 116<sup>th</sup> Project.

Councilor Hosticka overviewed Resolution No. 10-4210. The original project was to widen Greenburg Road from Tiedeman to Highway 217 to 5 lanes. However, during initial development of the project, the City of Tigard determined that the addition of vehicle lanes would require widening of a bridge structure and would result in previously unidentified environmental impacts that would make the construction of the project infeasible at the estimated cost. As a result the City has redirected funds to the Walnut Street: Tiedeman to 116<sup>th</sup> project in order to provide a series of street improvements (i.e. bike and pedestrian access) on the arterial that provides access to downtown Tigard, Washington Square regional center and Fowler middle school.

Motion:	Councilor Hosticka moved to adopt Resolution No. 10-4210.
Second:	Councilor Kathryn Harrington seconded the motion.



Vote:

Council President Collette and Councilors Harrington, Liberty, Park and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed.

- 7.3 **Resolution No. 10-4211**, For the Purpose of Amending the 2010-13 Metropolitan Transportation Improvement Program to Delete the Washington Square Regional Center Trail: Hall to Greenburg Project and Substitute the Fanno Creek Trail: Main to Hall Project.

Councilor Hosticka overviewed Resolution No. 10-4211. During the initial development of the Washington Square Regional Center Trail project, the City of Tigard discovered unidentified environmental and right-of-way impact issues that make the construction of the trail at the estimated cost infeasible. Through a Memorandum of Understanding (MOU) with Metro, the City has agreed redirect funds and to construct the Fanno Creek Trail in the Tigard Town Center. The project will provide improvements to bike and pedestrian access, circulation and safety.

Council discussion included the project's connection to the Westside trail.

Motion:	Councilor Hosticka moved to adopt Resolution No. 10-4211.
Second:	Councilor Harrington seconded the motion.

Vote:

Council President Collette and Councilors Harrington, Liberty, Park and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed.

- 7.4 **Resolution No. 10-4214**, For the Purpose of Adopting Metro's MWESB Contracting Recommendations and Authorizing the Metro Chief Operating Officer to Implement the Recommendations.

Councilor Liberty introduced Resolution No. 10-4214. Current Metro Code establishes agency policy for providing contracting opportunities to minority, women and emerging small businesses (MWESB). In April 2010, the Council increased the threshold for Sheltered Market contracts from \$25,000 to \$50,000. Metro senior staff has agreed that the policy can be better and as result have developed a set of eleven recommendations targeted at further strengthening the MWESB program. The recommendations intend to provide additional contract opportunities to MWESB's, place higher expectations on large contractors, improve Metro's outreach to the minority business community, and maximize the use of MWESB's within the bounds of our state and local procurement regulations.

Council discussion included the opportunity these recommendations provide, competitive bidding, and MWESB and FOTA.

Motion:	Councilor Liberty moved to adopt Resolution No. 10-4214.
Second:	Councilor Hosticka seconded the motion.

Vote:

Council President Collette and Councilors Harrington, Liberty, Park and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed.



**8. CHIEF OPERATING OFFICER COMMUNICATION**

Mr. Michael Jordan provided a brief update on the Irving Street garage project, the 1<sup>st</sup> Quarter report available on SharePoint, and cancellation of the annual agency holiday party.

**9. COUNCILOR COMMUNICATION**

Council discussed the November 17 MPAC meeting – in particular the discussions on Titles 1, 11 and 6, Portland to Lake Oswego Steering Committee meeting, the revised public hearing schedule for Ordinance No. 10-1244, Regional Flexible Funds Task Force, November 19 OMPOC Climate Summit, and the Livable Cities award.

**10. ADJOURN**

There being no further business, Council President Collette adjourned the meeting at 4:15 p.m. The Metro Council will reconvene with a special meeting on Monday, Nov. 29 in Oregon City at 5 p.m. This meeting will be a public hearing to receive testimony on Ordinance No. 10-1244.

Prepared by,



Kelsey Newell, Regional Engagement Coordinator



**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF NOVEMBER 18, 2010**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
2.0	Testimony	N/A	Testimony from Mr. Les Poole	111810c-01
3.1	PowerPoint	11/18/10	PowerPoint presentation provided by Metro Auditor, Ms. Suzanne Flynn	111810c-02
5.1	Resolution	11/18/10	Revised Resolution No. 10-4213	111810c-03



Agenda Item Number 5.1

**Ordinance No. 10-1244**, For the Purpose of Making the Greatest Place and Providing Capacity for Housing and Employment to the Year 2030; Amending the Regional Framework Plan and the Metro Code; and Declaring an Emergency.

Metro Council Meeting  
Thursday, Dec. 2, 2010  
Hillsboro Civic Center



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF MAKING THE GREATEST	)	Ordinance No. 10-1244
PLACE AND PROVIDING CAPACITY FOR	)	
HOUSING AND EMPLOYMENT TO THE YEAR	)	Introduced by Chief Operating Officer
2030; AMENDING THE REGIONAL FRAMEWORK	)	Michael Jordan with the Concurrence of
PLAN AND THE METRO CODE; AND DECLARING	)	Council President Carlotta Collette
AN EMERGENCY	)	

WHEREAS, Metro, the cities and counties of the region and many other public and private partners have been joining efforts to make our communities into “the Greatest Place”; and

WHEREAS, state law requires Metro to assess the capacity of the urban growth boundary (UGB) on a periodic basis and, if necessary, increase the region’s capacity for housing and employment for the next 20 years; and

WHEREAS, Metro forecasted the likely range of population and growth in the region to the year 2030; and

WHEREAS, Metro assessed the capacity of the UGB to accommodate the forecasted growth, assuming continuation of existing policies and investment strategies, and determined that the UGB did not provide sufficient and satisfactory capacity for the next 20 years; and

WHEREAS, the Metro Council, with the advice and support of the Metro Policy Advisory Committee (MPAC), established six desired outcomes to use as the basis for comparing optional amendments to policies and strategies to increase the region’s capacity; and

WHEREAS, the outcomes reflect the region’s desire to develop vibrant, prosperous and sustainable communities with reliable transportation choices that minimize carbon emissions and to distribute the benefits and burdens of development equitably in the region; and

WHEREAS, Metro undertook an extensive process to consult its partner local governments and the public on optional ways to increase the region’s capacity and achieve the desired outcomes; and

WHEREAS, joint efforts to make the region “the Greatest Place” not only improve our communities but also increase our capacity to accommodate growth and achieve the desired outcomes; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Regional Framework Plan (RFP) is hereby amended, as indicated by Exhibit A, attached and incorporated into this ordinance, to adopt: desired outcomes toward which the Metro Council will direct its policies and efforts; new policies on performance measurement to measure progress toward achievement of the outcomes; new policies on efficient use of land, public works and other public services; and new policies on investment in Centers, Corridors, Station Communities, Main Streets and Employment Areas.



2. Title 1 (Housing) of the UGMFP is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet housing needs to year 2030.
3. Title 4 (Industrial and Other Employment Areas) of the UGMFP is hereby amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet employment needs to year 2030.
4. The Title 4 Industrial and Other Employment Areas Map is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to show changes to design-type designations to conform to new comprehensive plan designations by cities and counties pursuant to Title 11 of the UGMFP, to respond to needs identified in the 2009 Urban Growth Report, and to make corrections requested by local governments to reflect development on the ground.
5. Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP is hereby amended, as indicated in Exhibit E, attached and incorporated into this ordinance, to implement new policies and investment strategies in those places.
6. The Title 6 Centers, Corridors, Station Communities and Main Streets Map is hereby adopted, as shown on Exhibit F, attached and incorporated into this ordinance, to implement Title 6 and other functional plan requirements.
7. Title 8 (Compliance Procedures) of the UGMFP is hereby amended, as indicated in Exhibit G, attached and incorporated into this ordinance, to reduce procedural burdens on local governments and Metro.
8. Title 9 (Performance Measures) is hereby repealed, as indicated in Exhibit H, to be consistent with new policies on performance measurement.
9. Title 10 (Functional Plan Definitions) of the UGMFP is hereby amended, as indicated in Exhibit I, attached and incorporated into this ordinance, to conform to the definitions to the use of terms in the amended UGMFP.
10. Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit J, attached and incorporated into this ordinance, to provide more specific guidance on planning for affordable housing in new urban areas.
11. Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) is hereby repealed, as indicated in Exhibit K, to be replaced by new Title 14 adopted by section 11 of this ordinance.
12. Title 14 (Urban Growth Boundary) is hereby adopted and added to the UGMFP, as indicated in Exhibit L, attached and incorporated into this ordinance, with amendments from Metro Code Chapter 3.01 to provide a faster process to add large sites to the UGB for industrial use.
13. The urban growth boundary (UGB), as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial



development in order to accommodate the demand identified in the 2009 UGR for large sites.

14. Metro Code Chapter 3.09 (Local Government Boundary Changes) is hereby amended, as indicated in Exhibit N, attached and incorporated into this ordinance, to conform to revisions to ORS 268.390 and adoption of urban and rural reserves pursuant to ORS 195.141, and to ensure newly incorporated cities have the capability to become great communities.
15. The 2040 Growth Concept Map, the non-regulatory illustration of the 2040 Growth Concept in the RFP, is hereby amended, as shown on Exhibit O, attached and incorporated into this ordinance, to show new configurations of 2040 Growth Concept design-type designations and transportation improvements.
16. *The Urban Growth Report 2009-2030* and the *20 and 50 Year Regional Population and Employment Range Forecasts*, approved by the Metro Council by Resolution No. 09-4094 on December 17, 2009, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August, 2010, it will direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.
17. The Findings of Fact and Conclusions of Law in Exhibit P, attached and incorporated into this ordinance, explain how the actions taken by the Council in this ordinance provide capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030 and how they comply with state law and the Regional Framework Plan.
18. This ordinance is necessary for the immediate preservation of public health, safety and welfare because it repeals and re-adopts provisions of the Metro Code that govern changes to local government boundaries that may be under consideration during the ordinary 90-day period prior to effectiveness. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 16th day of December, 2010.

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Carlotta Collette, Council President

Attest:

Approved as to form:

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Tony Andersen, Clerk of the Council

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Daniel B. Cooper, Metro Attorney



**Exhibit A to Ordinance No. 10-1244**

**AMENDMENTS TO THE REGIONAL FRAMEWORK PLAN**

**A. Add the following:**

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible.
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

It is also the policy of the Metro Council to:

Use performance measures and performance targets to:

- a. Evaluate the effectiveness of proposed policies, strategies and actions to achieve the desired Outcomes
- b. Inform the people of the region about progress toward achieving the Outcomes
- c. Evaluate the effectiveness of adopted policies, strategies and actions and guide the consideration of revision or replacement of the policies, strategies and actions; and
- d. Publish a report on progress toward achieving the desired Outcomes on a periodic basis.



**B. Amend Chapter 1 (Land Use) Policy 1.1 as follows:**

**1.1 Compact Urban Form**

It is the policy of the Metro Council to:

- 1.1.1 Ensure and maintain a compact urban form within the UGB.
- 1.1.2 Adopt and implement a strategy of investments and incentives to use land within the UGB more efficiently and to create a compact urban form.
- 1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities.
- 1.1.4 Encourage elimination of unnecessary barriers to compact, mixed-use, pedestrian-friendly and transit-supportive development within Centers, Corridors, Station Communities and Main Streets.
- 1.1.5 Promote the distinctiveness of the region's cities and the stability of its neighborhoods.
- 1.1.6 Enhance compact urban form by developing the Intertwine, an interconnected system of parks, greenspaces and trails readily accessible to people of the region.
- 1.1.7 Promote excellence in community design.
- 1.1.8 Promote a compact urban form as a key climate action strategy to reduce greenhouse gas emissions.

**C. Amend Chapter 1 (Land Use) Policy 1.2 as follows:**

**1.2 Centers, Corridors, Station Communities and Main Streets**

It is the policy of the Metro Council to:

- 1.2.1 Recognize that the success of the 2040 Growth Concept depends upon the success of the region's Centers, Corridors, Station Communities and Main Streets as the principal centers of urban life in the region. Recognize that each Center, Corridor, Station Community and Main Street has its own character and stage of development and its own aspirations; each needs its own strategy for success.
- 1.2.2 Work with local governments, community leaders and state and federal agencies to develop an investment strategy for Centers, Corridors, Station Communities and Main Streets with a



program of investments in public works, essential services and community assets, that will enhance their roles as the centers of urban life in the region. The strategy shall:

- a. Give priority in allocation of Metro's investment funds to Centers, Corridors, Station Communities and Main Streets;
- b. To the extent practicable, link Metro's investments so they reinforce one another and maximize contributions to Centers, Corridors, Station Communities and Main Streets;
- c. To the extent practicable, coordinate Metro's investments with complementary investments of local governments and with state and federal agencies so the investments reinforce one another, maximize contributions to Centers, Corridors, Station Communities and Main Streets and help achieve local aspirations; and
- d. Include an analysis of barriers to the success of investments in particular Centers, Corridors, Station Communities and Main Streets.

1.2.3 Encourage employment opportunities in Centers, Corridors, Station Communities and Main Streets by:

- a. Improving access within and between Centers, Corridors, Station Communities and Main Streets;
- b. Encouraging cities and counties to allow a wide range of employment uses and building types, a wide range of floor-to-area ratios and a mix of employment and residential uses; and
- c. Encourage investment by cities, counties and all private sectors by complementing their investments with investments by Metro.

1.2.4 Work with local governments, community leaders and state and federal agencies to employ financial incentives to enhance the roles of Centers, Corridors, Station Communities and Main Streets and maintain a catalogue of incentives and other tools that would complement and enhance investments in particular Centers, Corridors, Station Communities and Main Streets.

1.2.5 Measure the success of regional efforts to improve Centers and Centers, Corridors, Station Communities and Main Streets and report results to the region and the state and revise strategies, if performance so indicates, to improve the results of investments and incentives.

**D. Amend Chapter 1 (Land Use) Policy 1.3 as follows:**

**1.3 Housing Choices and Opportunities**

It is the policy of the Metro Council to:

1.3.1 Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices.



- 1.3.2 As part of the effort to provide housing choices, encourage local governments to ensure that their land use regulations:
- a. Allow a diverse range of housing types;
  - b. Make housing choices available to households of all income levels; and
  - c. Allow affordable housing, particularly in Centers and Corridors and other areas well-served with public services.
- 1.3.3 Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation.
- 1.3.4 Maintain voluntary affordable housing production goals for the region, to be revised over time as new information becomes available and displayed in Chapter 8 (Implementation), and encourage their adoption by the cities and counties of the region.
- 1.3.5 Encourage local governments to consider the following tools and strategies to achieve the affordable housing production goals:
- a. Density bonuses for affordable housing;
  - b. A no-net-loss affordable housing policy to be applied to quasi-judicial amendments to the comprehensive plan;
  - c. A voluntary inclusionary zoning policy;
  - d. A transferable development credits program for affordable housing;
  - e. Policies to accommodate the housing needs of the elderly and disabled;
  - f. Removal of regulatory constraints on the provision of affordable housing; and
  - g. Policies to ensure that parking requirements do not discourage the provision of affordable housing.
- 1.3.6 Require local governments in the region to report progress towards increasing the supply of affordable housing and seek their assistance in periodic inventories of the supply of affordable housing.
- 1.3.7 Work in cooperation with local governments, state government, business groups, non-profit groups and citizens to create an affordable housing fund available region wide in order to leverage other affordable housing resources.
- 1.3.8 Provide technical assistance to local governments to help them do their part in achieving regional goals for the production and preservation of housing choice and affordable housing.



- 1.3.9 Integrate Metro efforts to expand housing choices with other Metro activities, including transportation planning, land use planning and planning for parks and greenspaces.
- 1.3.10 When expanding the Urban Growth Boundary, assigning or amending 2040 Growth Concept design type designations or making other discretionary decisions, seek agreements with local governments and others to improve the balance of housing choices with particular attention to affordable housing.
- 1.3.11 Consider incentives, such as priority for planning grants and transportation funding, to local governments that obtain agreements from landowners and others to devote a portion of new residential capacity to affordable housing.
- 1.3.12 Help ensure opportunities for low-income housing types throughout the region so that families of modest means are not obliged to live concentrated in a few neighborhoods, because concentrating poverty is not desirable for the residents or the region.
- 1.3.13 Consider investment in transit, pedestrian and bicycle facilities and multi-modal streets as an affordable housing tool to reduce household transportation costs to leave more household income available for housing.
- 1.3.14 For purposes of these policies, “affordable housing” means housing that families earning less than 50 percent of the median household income for the region can reasonably afford to rent and earn as much as or less than 100 percent of the median household income for the region can reasonably afford to buy.

**E. Amend Chapter 1 (Land Use) Policy 1.4 as follows:**

**1.4 Employment Choices and Opportunities**

It is the policy of the Metro Council to:

- 1.4.1 Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion.
- 1.4.2 Balance the number and wage level of jobs within each subregion with housing cost and availability within that subregion. Strategies are to be coordinated with the planning and implementation activities of this element with Policy 1.3, Housing Choices and Opportunities and Policy 1.8, Developed Urban Land.



- 1.4.3 Designate, with the aid of leaders in the business and development community and local governments in the region, as Regionally Significant Industrial Areas those areas with site characteristics that make them especially suitable for the particular requirements of industries that offer the best opportunities for family-wage jobs.
- 1.4.4 Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.
- 1.4.5 Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services, including brownfield sites and sites that are re-developable.
- 1.4.6 Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

**Repeal Chapter 1 (Land Use) Policy 1.6**

**Repeal Chapter 1 (Land Use) Policy 1.15**



## **Exhibit B to Ordinance No. 10-1244**

### **TITLE 1: HOUSING CAPACITY**

#### 3.07.110 Purpose and Intent

The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

#### 3.07.120 Housing Capacity

- A. A city or county may reduce the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection D or E. A city or county may reduce its minimum zoned capacity in other locations under subsections C, D or E.
- B. Each city and county shall adopt a minimum dwelling unit density for each zone in which dwelling units are authorized except for zones that authorize mixed-use as defined in section 3.07.1010(hh). If a city or county has not adopted a minimum density for such a zone prior to March 16, 2011, the city or county shall adopt a minimum density that is at least 80 percent of the maximum density.
- C. A city or county may reduce its minimum zoned capacity by one of the following actions if it increases minimum zoned capacity by an equal or greater amount in other places where the increase is reasonably likely to be realized within the 20-year planning period of Metro’s last capacity analysis under ORS 197.299:
  - 1. Reduce the minimum dwelling unit density, described in subsection B, for one or more zones;
  - 2. Revise the development criteria or standards for one or more zones; or
  - 3. Change its zoning map such that the city’s or county’s minimum zoned capacity would be reduced.

Action to reduce minimum zoned capacity may be taken any time within two years after action to increase capacity.

- D. A city or county may reduce the minimum zoned capacity of a zone without increasing minimum zoned capacity in another zone for one or more of the following purposes:
  - 1. To re-zone the area to allow industrial use under Title 4 of this chapter or an educational or medical facility similar in scale to those listed in section 3.07.1340D(5)(i) of Title 13 of this chapter; or



2. To protect natural resources pursuant to Titles 3 or 13 of this chapter.
- E. A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.
- F. A city or county may amend its comprehensive plan and land use regulations to transfer minimum zoned capacity to another city or county upon a demonstration that:
1. A transfer between designated Centers, Corridors or Station Communities does not result in a net reduction in the minimum zoned capacities of the Centers, Corridors or Station Communities involved in the transfer; and
  2. The increase in minimum zoned capacity is reasonably likely to be realized within the 20-year planning period of Metro's last capacity analysis under ORS 197.299
- G. A city or county shall authorize the establishment of at least one accessory dwelling unit for each detached single-family dwelling unit in each zone that authorizes detached single-family dwellings. The authorization may be subject to reasonable regulation for siting and design purposes.



## **Exhibit C to Ordinance No. 10-1244**

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

#### **3.07.410 Purpose and Intent**

The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

#### **3.07.420 Protection of Regionally Significant Industrial Areas**

A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.



C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

E. No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.

F. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
  - a. To provide public facilities and services;
  - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;



- c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
- d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

G. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

### 3.07.430 Protection of Industrial Areas

A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.



D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
  - a. To provide public facilities and services;
  - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
  - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
  - d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

#### 3.07.440 Protection of Employment Areas

A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.



B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

1. The ordinance authorized those uses on January 1, 2003;
2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and
3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
2. Meet the Maximum Permitted Parking – Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

#### 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 (COO) 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 this title 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 employment capacity of 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 Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP 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 this title 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 this title, exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The COO 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 or D 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.

F. After consultation with MPAC, 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.

H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:

1. Would not reduce the employment capacity of the city or county;
2. Would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP 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.

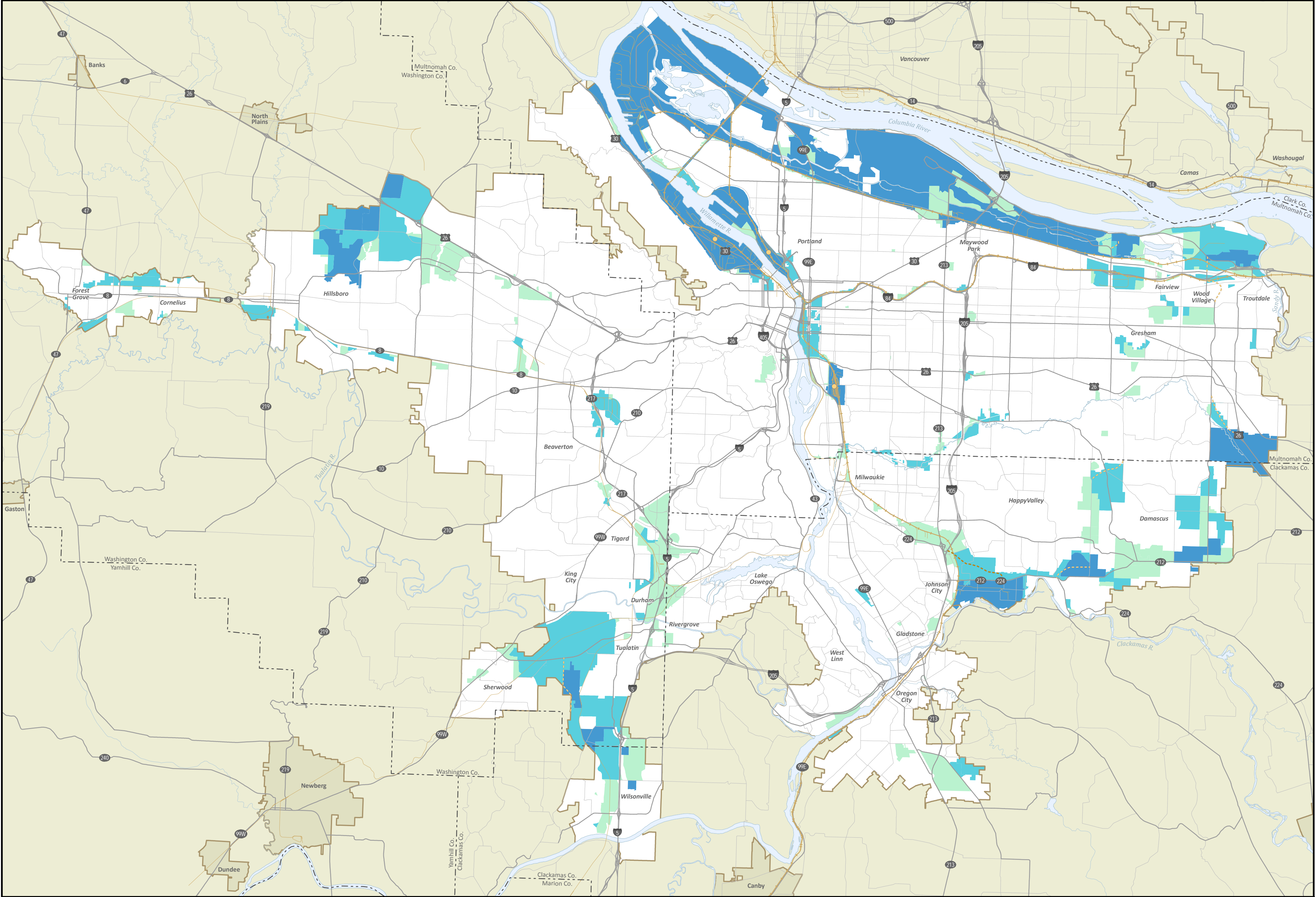


I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.

J. 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.

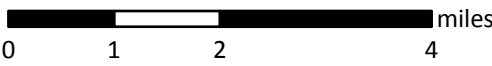
K. By January 31 of each year, the COO (COO) shall submit a written report to the Council and MPAC on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.





# Title 4, Industrial and Other Employment Areas

ORDINANCE 10-1244, EXHIBIT D  
November 18, 2010



- Employment areas
- Industrial areas
- Regionally significant industrial areas
- Proposed main roadway routes
- Proposed road connectors
- Mainline freight
- Branch line freight
- Rail yards
- County boundaries
- Urban growth boundaries
- Neighbor cities





## **Exhibit E of Ordinance No. 10-1244**

### **TITLE 6: CENTERS, CORRIDORS, STATION COMMUNITIES AND MAIN STREETS**

#### 3.07.610 Purpose

The Regional Framework Plan (RFP) identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

#### 3.07.620 Actions and Investments in Centers, Corridors, Station Communities and Main Streets

- A. In order to be eligible for a regional investment in a Center, Corridor, Station Community or Main Street, or a portion thereof, a city or county shall take the following actions:
  - 1. Establish a boundary for the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection B;
  - 2. Perform an assessment of the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection C; and
  - 3. Adopt a plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection D.
- B. The boundary of a Center, Corridor, Station Community or Main Street, or portion thereof, shall:
  - 1. Be consistent with the general location shown in the RFP except, for a proposed new Station Community, be consistent with Metro's land use final order for a light rail transit project;
  - 2. For a Corridor with existing high-capacity transit service, include at least those segments of the Corridor that pass through a Regional Center or Town Center;
  - 3. For a Corridor designated for future high-capacity transit in the Regional Transportation Plan (RTP), include the area identified during the system expansion planning process in the RTP; and
  - 4. Be adopted and may be revised by the city council or county board following notice of the proposed boundary action to the Oregon Department of Transportation and Metro in the manner set forth in subsection A of section 3.07.820 of this chapter.



- C. An assessment of a Center, Corridor, Station Community or Main Street, or portion thereof, shall analyze the following:
1. Physical and market conditions in the area;
  2. Physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development in the area;
  3. The city or county development code that applies to the area to determine how the code might be revised to encourage mixed-use, pedestrian-friendly and transit-supportive development;
  4. Existing and potential incentives to encourage mixed-use pedestrian-friendly and transit-supportive development in the area; and
  5. For Corridors and Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area under Title 4 of this chapter, barriers to a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP.
- D. A plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street shall consider the assessment completed under subsection C and include at least the following elements:
1. Actions to eliminate, overcome or reduce regulatory and other barriers to mixed-use, pedestrian-friendly and transit-supportive development;
  2. Revisions to its comprehensive plan and land use regulations, if necessary, to allow:
    - a. In Regional Centers, Town Centers, Station Communities and Main Streets, the mix and intensity of uses specified in section 3.07.640; and
    - b. In Corridors and those Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area in Title 4 of this chapter, a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP;
  3. Public investments and incentives to support mixed-use pedestrian-friendly and transit-supportive development; and
  4. A plan to achieve the non-SOV mode share targets, adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:
    - a. The transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;



- b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and
  - c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.
- E. A city or county that has completed all or some of the requirements of subsections B, C and D may seek recognition of that compliance from Metro by written request to the Chief Operating Officer (COO).
- F. Compliance with the requirements of this section is not a prerequisite to:
  - 1. Investments in Centers, Corridors, Station Communities or Main Streets that are not regional investments; or
  - 2. Investments in areas other than Centers, Corridors, Station Communities and Main Streets.

#### 3.07.630 Eligibility Actions for Lower Mobility Standards and Trip Generation Rates

- A. A city or county is eligible to use the higher volume-to-capacity standards in Table 7 of the 1999 Oregon Highway Plan when considering an amendment to its comprehensive plan or land use regulations in a Center, Corridor, Station Community or Main Street, or portion thereof, if it has taken the following actions:
  - 1. Established a boundary pursuant to subsection B of section 3.07.620; and
  - 2. Adopted land use regulations to allow the mix and intensity of uses specified in section 3.07.640.
- B. A city or county is eligible for an automatic reduction of 30 percent below the vehicular trip generation rates reported by the Institute of Traffic Engineers when analyzing the traffic impacts, pursuant to OAR 660-012-0060, of a plan amendment in a Center, Corridor, Main Street or Station Community, or portion thereof, if it has taken the following actions:
  - 1. Established a boundary pursuant to subsection B of section 3.07.620;
  - 2. Revised its comprehensive plan and land use regulations, if necessary, to allow the mix and intensity of uses specified in section 3.07.640 and to prohibit new auto-dependent uses that rely principally on auto trips, such as gas stations, car washes and auto sales lots; and
  - 3. Adopted a plan to achieve the non-SOV mode share targets adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:



- a. Transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;
- b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and
- c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.

### 3.07.640 Activity Levels for Centers, Corridors, Station Communities and Main Streets

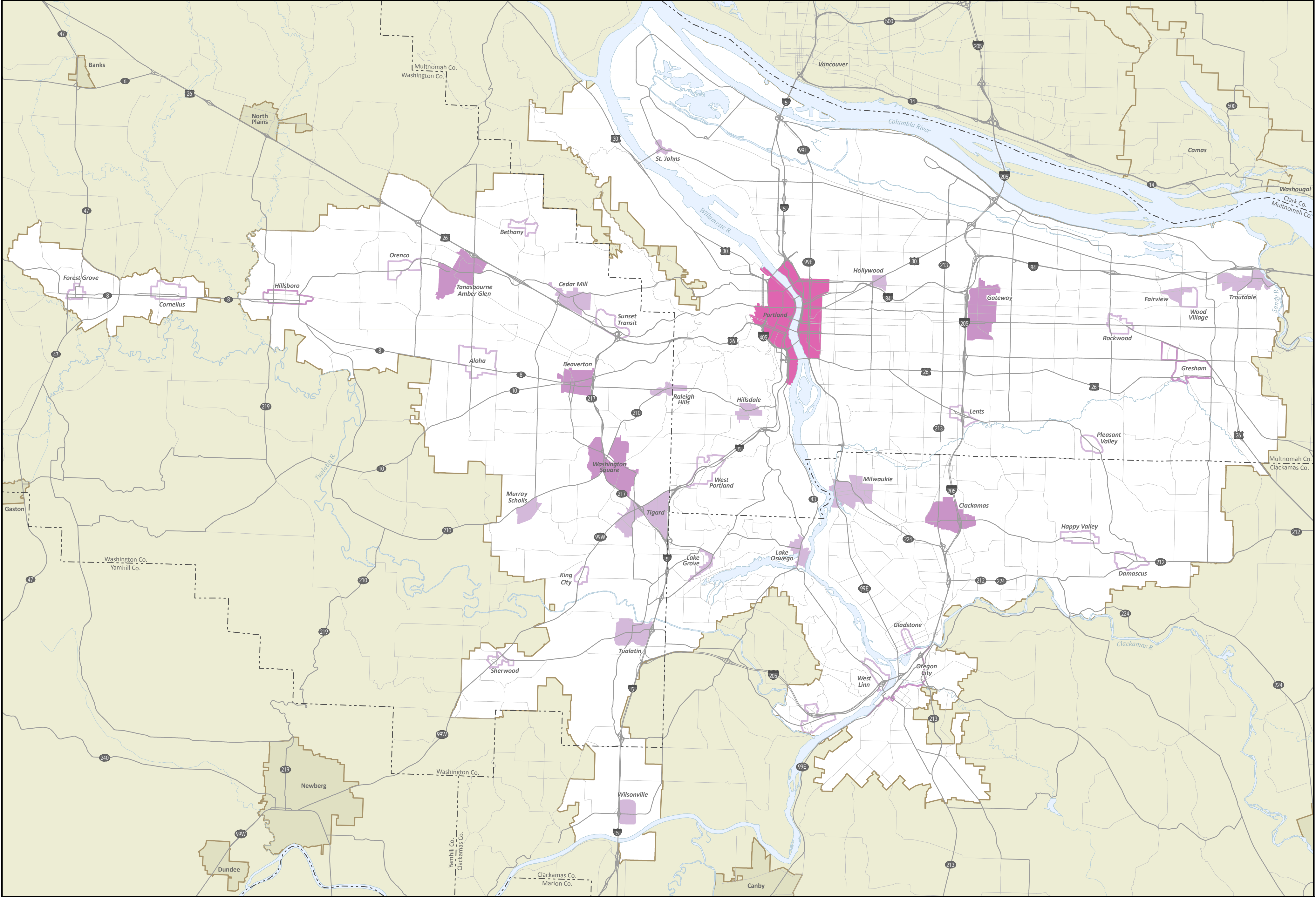
- A. Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:
  1. Central City - 250 persons
  2. Regional Centers - 60 persons
  3. Station Communities - 45 persons
  4. Corridors - 45 persons
  5. Town Centers - 40 persons
  6. Main Streets - 39 persons
- B. Centers, Corridors, Station Communities and Main Streets need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each:
  1. The land uses listed in *State of the Centers: Investing in Our Communities*, January, 2009, such as grocery stores and restaurants;
  2. Institutional uses, including schools, colleges, universities, hospitals, medical offices and facilities;
  3. Civic uses, including government offices open to and serving the general public, libraries, city halls and public spaces.
- C. Centers, Corridors, Station Communities and Main Streets need a mix of housings types to be vibrant and successful. The following mix of housing types is recommended for each:
  1. The types of housing listed in the “needed housing” statute, ORS 197.303(1);
  2. The types of housing identified in the city’s or county’s housing need analysis done pursuant to ORS 197.296 or statewide planning Goal 10 (Housing); and
  3. Accessory dwellings pursuant to section 3.07.120 of this chapter.



### 3.07.650 Centers, Corridors, Station Communities and Main Streets Map

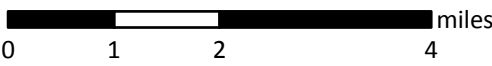
- A. The Centers, Corridors, Station Communities and Main Streets Map is incorporated in this title and is Metro's official depiction of their boundaries. The map shows the boundaries established pursuant to this title.
- B. A city or county may revise the boundary of a Center, Corridor, Station Community or Main Street so long as the boundary is consistent with the general location on the 2040 Growth Concept Map in the RFP. The city or county shall provide notice of its proposed revision as prescribed in subsection B of section 3.07.620.
- C. The COO shall revise the Centers, Corridors, Station Communities and Main Streets Map by order to conform the map to establishment or revision of a boundary under this title.





# Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries

ORDINANCE 10-1244, EXHIBIT F  
November 18, 2010



- |                                   |                                      |                         |
|-----------------------------------|--------------------------------------|-------------------------|
| Central city, adopted boundary    | Regional center, conceptual boundary | County boundaries       |
| Regional center, adopted boundary | Town center, conceptual boundary     | Urban growth boundaries |
| Town center, adopted boundary     |                                      | Neighbor cities         |





## TITLE 8: COMPLIANCE PROCEDURES

### 3.07.810 Compliance with the Functional Plan

A. The purposes of this chapter are to establish a process for ensuring city or county compliance with requirements of the Urban Growth Management Functional Plan and for evaluating and informing the region about the effectiveness of those requirements. Where the terms "compliance" and "comply" appear in this title, the terms shall have the meaning given to "substantial compliance" in section 3.07.1010.

B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after acknowledgement of the functional plan or amendment, or after any later date specified by the Metro Council in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.

C. After one year following acknowledgment of a functional plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new functional plan requirement.

D. Cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. For the purposes of this subsection, "land use decision" shall have the meaning of that term as defined in ORS 197.015(10).

E. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon the expiration of the appropriate appeal period specified in ORS 197.830 or 197.650 or, if an appeal is made, upon the final decision on appeal. Once the amendment is deemed to comply, the functional plan requirement shall no longer apply to land use decisions made in conformance with the amendment.

F. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection E only if the city or county provided notice to the COO as required by subsection A of section 3.07.820.

### 3.07.820 Review by the Chief Operating Officer

A. A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 45 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits



comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.

B. If the COO concludes that the proposed amendment does not comply with the functional plan, the COO shall advise the city or county that it may:

1. Revise the proposed amendment as recommended in the COO's analysis;
2. Seek an extension of time, pursuant to section 3.07.830, to bring the proposed amendment into compliance with the functional plan; or
3. Seek an exception pursuant to section 3.07.840.

### 3.07.830 Extension of Compliance Deadline

A. A city or county may seek an extension of time for compliance with a functional plan requirement. The city or county shall file an application for an extension on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county and those persons who request notification of applications for extensions. Any person may file a written comment in support of or opposition to the extension.

B. The COO may grant an extension if the city or county is making progress toward compliance or there is good cause for failure to meet the deadline for compliance. Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time to a city or county and shall grant no extension of more than one year. The COO shall send the order to the city or county and any person who filed a written comment.

C. The COO may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan requirement. A term or condition must relate to the requirement of the functional plan to which the COO has granted the extension.

D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).



### 3.07.840 Exception from Compliance

A. A city or county may seek an exception from compliance with a functional plan requirement by filing an application on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.

B. Except as provided in subsection C, the COO may grant an exception if:

1. it is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;
2. this exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
3. the exception will not reduce the ability of another city or county to comply with the requirement; and
4. the city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. The COO may grant an exception to the housing capacity requirements in section 3.07.120 if:

1. the city or county has completed the analysis of capacity for dwelling units required by section 3.07.120;
2. it is not possible to comply with the requirements due to topographic or other physical constraints, an existing development pattern, or protection of natural resources pursuant to Titles 3 or 13 of this chapter; and
3. this exception and other similar exceptions will not render the targets unachievable region-wide.

D. The COO may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the purposes of the requirement. A term or condition must relate to the requirement of the functional plan to which the COO grants the exception. The COO shall incorporate the terms and conditions into the order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).



### 3.07.850 Enforcement of Functional Plan

A. The Metro Council may initiate enforcement if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council has good cause to believe that a city or county is engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the COO or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection B.

B. If the Council decides there is good cause, the Council President shall set the matter for a public hearing before the Council within 90 days of its decision. The COO shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC and any person who requests a copy of such notices.

C. The COO shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Council. The COO shall publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.

D. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the Council decides the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or terms or conditions of an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively, the Council may adopt an order that:

1. Directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
2. Includes a remedy authorized in ORS 268.390(7).

E. The Council shall issue its order not later than 30 days following the hearing and send copies to the city or county, MPAC and any person who requests a copy.

### 3.07.860 Citizen Involvement in Compliance Review

A. Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.



B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

C. Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

### 3.07.870 Compliance Report

A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to MPAC, JPACT, MCCI and each city and county within Metro.

B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, MCCI, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:

1. Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections E and F of section 3.07.810; or
2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

C. Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

D. A city or county or a person who participated, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).



**Exhibit H to Ordinance No. 10-1244**

**TITLE 9: PERFORMANCE MEASURES**

Title 9 is repealed.



## **Exhibit I to Ordinance No. 10-1244**

### **TITLE 10: FUNCTIONAL PLAN DEFINITIONS**

#### 3.07.1010 Definitions

For the purpose of this functional plan, the following definitions shall apply:

- (a) "Balanced cut and fill" means no net increase in fill within the floodplain.
- (b) "COO" means Metro's Chief Operating Officer.
- (c) "Comprehensive plan" means the all inclusive, generalized, coordinated land use map and policy statement of cities and counties defined in ORS 197.015(5).
- (d) "DBH" means the diameter of a tree measured at breast height.
- (e) "Design flood elevation" means the elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies.
- (f) "Design type" means the conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial areas, and employment areas.
- (g) "Designated beneficial water uses" means the same as the term as defined by the Oregon Department of Water Resources, which is: an instream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife uses.
- (h) "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that less than 10 percent removal of vegetation on a lot must comply with section 3.07.340(C) - Erosion and Sediment Control. In addition, any other activity that results in the removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot is defined as development, for the purpose of Title 13. Development does not include the following: (1) Stream enhancement or restoration projects approved by cities and counties; (2) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm



uses are subject to the requirements of Titles 3 and 13 of this functional plan; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

- (i) "Development application" means an application for a land use decision, limited land decision including expedited land divisions, but excluding partitions as defined in ORS 92.010(7) and ministerial decisions such as a building permit.
- (j) "Division" means a partition or a subdivision as those terms are defined in ORS chapter 92.
- (k) "Ecological functions" means the biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.
- (l) "Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- (m) "Enhancement" means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.
- (n) "Fill" means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.
- (o) "Flood Areas" means those areas contained within the 100-year floodplain and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and all lands that were inundated in the February 1996 flood.
- (p) "Flood Management Areas" means all lands contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.
- (q) "Floodplain" means land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events.



- (r) "Growth Concept Map" means the conceptual map demonstrating the 2040 Growth Concept design types attached to this plan<sup>1</sup>.
- (s) "Habitat Conservation Area" or "HCA" means an area identified on the Habitat Conservation Areas Map and subject to the performance standards and best management practices described in Metro Code section 3.07.1340.
- (t) "Habitat-friendly development" means a method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.
- (u) "Habitats of Concern" means the following unique or unusually important wildlife habitat areas as identified based on cite specific information provided by local wildlife or habitat experts: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.
- (v) "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.
- (w) "Implementing ordinances or regulations" means any city or county land use regulation as defined by ORS 197.015(11) which includes zoning, land division or other ordinances which establish standards for implementing a comprehensive plan.
- (x) "Invasive non-native or noxious vegetation" means plants listed as nuisance plants or prohibited plants on the Metro Native Plant List as adopted by Metro Council resolution because they are plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities.
- (y) "Land Conservation and Development Commission" or "LCDC" means the Oregon Land Conservation and Development Commission.
- (z) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan, as defined in ORS 197.015.
- (aa) "Large-format retail commercial buildings" means a building intended for retail commercial use with more than 60,000 square feet of gross leasable area, or that amount or more of retail sales area on a single lot or parcel, or that amount or more on contiguous lots or parcels including lots or parcels separated only by a transportation right-of-way.

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<sup>1</sup> On file in the Metro Council office.



- (bb) "Local program effective date" means the effective date of a city's or county's new or amended comprehensive plan and implementing ordinances adopted to comply with Title 13 of the Urban Growth Management Functional Plan, Metro Code sections 3.07.1310 to 3.07.1370. If a city or county is found to be in substantial compliance with Title 13 without making any amendments to its comprehensive plan or land use regulations, then the local program effective date shall be December 28, 2005. If a city or county amends its comprehensive plan or land use regulations to comply with Title 13, then the local program effective date shall be the effective date of the city's or county's amendments to its comprehensive plan or land use regulations, but in no event shall the local program effective date be later than two years after Title 13 is acknowledged by LCDC. For territory brought within the Metro UGB after December 28, 2005, the local program effective date shall be the effective date of the ordinance adopted by the Metro Council to bring such territory within the Metro UGB.
- (cc) "Metro" means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.
- (dd) "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.
- (ee) "MCCI" means the Metro Committee for Citizen Involvement.
- (ff) "MPAC" means the Metropolitan Advisory Committee established pursuant to Metro Charter, Chapter V, Section 27.
- (gg) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (5) compensating for the impact by replacing or providing comparable substitute water quality resource areas or habitat conservation areas.
- (hh) "Mixed use" means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.
- (ii) "Mixed-use development" includes areas of a mix of at least two of the following land uses and includes multiple tenants or ownerships: residential, retail and office. This definition excludes large, single-use land uses such as colleges, hospitals, and business campuses. Minor incidental land uses that are accessory to the primary land use should not result in a development being designated as "mixed-use development." The size and definition of minor incidental, accessory land uses allowed within large, single-use



developments should be determined by cities and counties through their comprehensive plans and implementing ordinances.

- (jj) "Native vegetation" or "native plant" means any vegetation listed as a native plant on the Metro Native Plant List as adopted by Metro Council resolution and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Metro Native Plant List.
- (kk) "Net acre" means an area measuring 43,560 square feet which excludes:
- Any developed road rights-of-way through or on the edge of the land; and
  - Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected under statewide planning Goal 5 in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a Federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and
  - All publicly-owned land designated for park and open spaces uses.
- (ll) "Net developed acre" consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses.
- (mm) "Net vacant buildable land" means all vacant land less all land that is: (1) within Water Quality Resource Areas; (2) within Habitat Conservation Areas; (3) publicly owned by a local, state or federal government; (4) burdened by major utility easements; and (5) necessary for the provision of roads, schools, parks, churches, and other public facilities.
- (nn) "Perennial streams" means all primary and secondary perennial waterways as mapped by the U.S. Geological Survey.
- (oo) "Performance measure" means a measurement derived from technical analysis aimed at determining whether a planning policy is achieving the expected outcome or intent associated with the policy.
- (pp) "Person-trips" means the total number of discrete trips by individuals using any mode of travel.
- (qq) "Persons per acre" means the intensity of building development by combining residents per acre and employees per acre.



- (rr) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. As used in Title 13 of this functional plan, "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions.
- (ss) "Primarily developed" means areas where less than 10% of parcels are either vacant or underdeveloped.
- (tt) "Property owner" means a person who owns the primary legal or equitable interest in the property.
- (uu) "Protected Water Features"

Primary Protected Water Features shall include:

- Title 3 wetlands; and
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- Streams carrying year-round flow; and
- Springs which feed streams and wetlands and have year-round flow; and
- Natural lakes.

Secondary Protected Water Features shall include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

- (vv) "Public facilities and services" means sewers, water service, stormwater services and transportation.
- (ww) "Redevelopable land" means land on which development has already occurred, which due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period.
- (xx) "Regionally significant fish and wildlife habitat" means those areas identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map, adopted in Metro Code section 3.07.1320, as significant natural resource sites.
- (yy) "Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure,



function, and/or diversity to that which occurred prior to impacts caused by human activity.

- (zz) "Retail" means activities which include the sale, lease or rent of new or used products to the general public or the provision of product repair or services for consumer and business goods.
- (aaa) "Riparian area" means the water influenced area adjacent to a river, lake or stream consisting of the area of transition from a hydric ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics.
- (bbb) "Rural reserve" means an area designated rural reserve by Clackamas, Multnomah or Washington County pursuant to OAR 660-027.
- (ccc) "Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the Water Quality Resource Area, to the point where existing water quality functions and values are degraded.
- (ddd) "Straight-line distance" means the shortest distance measured between two points.
- (eee) "Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- (fff) "Substantial compliance" means city and county comprehensive plans and implementing ordinances, on the whole, conforms with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.
- (ggg) "Title 3 Wetlands" means wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3, section 3.07.340(E)(3). Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.
- (hhh) "Top of bank" means the same as "bankfull stage" defined in OAR 141-085-0010(2).
- (iii) "Urban development value" means the economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs ("employment value"), and the Metro 2040 design type designation of property. The urban development value of all properties containing



regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map referenced in Metro Code section 3.07.1340(E).

- (jjj) "UGB" means an urban growth boundary adopted pursuant to ORS chapter 197.
- (kkk) "Underdeveloped parcels" means those parcels of land with less than 10% of the net acreage developed with permanent structures.
- (lll) "Urban reserve" means an area designated urban reserve by the Metro Council pursuant to OAR 660 Division 27.
- (mmm) "Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television.
- (nnn) "Vacant land" means land identified in the Metro or local government inventory as undeveloped land.
- (ooo) "Variance" means a discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.
- (ppp) "Visible or measurable erosion" includes, but is not limited to:
  - Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
  - Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
  - Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.
- (qqq) "Water feature" means all rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, Flood Management Areas, wetlands, and all other bodies of open water.
- (rrr) "Water Quality and Flood Management Area" means an area defined on the Metro Water Quality and Flood Management Area Map, to be attached hereto<sup>2</sup>. These are areas that require regulation in order to mitigate flood hazards and to preserve and enhance water

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<sup>2</sup> On file in Metro Council office.



quality. This area has been mapped to generally include the following: stream or river channels, known and mapped wetlands, areas with flood-prone soils adjacent to the stream, floodplains, and sensitive water areas. The sensitive areas are generally defined as 50 feet from top of bank of streams for areas of less than 25% slope, and 200 feet from top of bank on either side of the stream for areas greater than 25% slope, and 50 feet from the edge of a mapped wetland.

- (sss) "Water Quality Resource Areas" means vegetated corridors and the adjacent water feature as established in Title 3.
- (ttt) "Wetlands." Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.
- (uuu) "Zoned capacity" means the highest number of dwelling units or jobs that are allowed to be contained in an area by zoning and other city or county jurisdiction regulations.



## **Exhibit J to Ordinance No. 10-1244**

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

#### 3.07.1105 Purpose and Intent

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas.

#### 3.07.1110 Planning for Areas Designated Urban Reserve

- A. The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435 of this chapter. The date for completion of a concept plan and the area of urban reserves to be planned will be jointly determined by Metro and the county and city or cities.
- B. A concept plan shall achieve, or contribute to the achievement of, the following outcomes:
  - 1. If the plan proposes a mix of residential and employment uses:
    - a. A mix and intensity of uses that will make efficient use of the public systems and facilities described in subsection C;
    - b. A development pattern that supports pedestrian and bicycle travel to retail, professional and civic services;
    - c. A range of housing needed in the prospective UGB expansion area, the prospective governing city, and the region, - including ownership and rental housing; single-family and multi-family housing; and a mix of public, nonprofit and private market housing – with an option for households with incomes at or below 80, 50 and 30 percent of median family incomes for the region;
    - d. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
    - e. Well-connected systems of streets, bikeways, parks, recreation trails and public transit that link to needed housing so as to reduce the combined cost of housing and transportation;
    - f. A well-connected system of parks, natural areas and other public open spaces;



- g. Protection of natural ecological systems and important natural landscape features; and
  - h. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.
2. If the plan involves fewer than 100 acres or proposes to accommodate only residential or employment needs, depending on the need to be accommodated:
- a. A range of housing needed in the prospective UGB expansion area, the prospective governing city, and the region, - including ownership and rental housing; single-family and multi-family housing; and a mix of public, nonprofit and private market housing – with an option for households with incomes at or below 80, 50 and 30 percent of median family incomes for the region;
  - b. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
  - c. Well-connected systems of streets, bikeways, pedestrian ways, parks, natural areas, recreation trails;
  - d. Protection of natural ecological systems and important natural landscape features; and
  - e. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.
- C. A concept plan shall:
- 1. Show the general locations of any residential, commercial, industrial, institutional and public uses proposed for the area with sufficient detail to allow estimates of the cost of the public systems and facilities described in paragraph 2;
  - 2. For proposed sewer, park and trail, water and storm-water systems and transportation facilities, provide the following:
    - a. The general locations of proposed sewer, park and trail, water and storm-water systems;
    - b. The mode, function and general location of any proposed state transportation facilities, arterial facilities, regional transit and trail facilities and freight intermodal facilities;
    - c. The proposed connections of these systems and facilities, if any, to existing systems;



- d. Preliminary estimates of the costs of the systems and facilities in sufficient detail to determine feasibility and allow cost comparisons with other areas;
  - e. Proposed methods to finance the systems and facilities; and
  - f. Consideration for protection of the capacity, function and safe operation of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
3. If the area subject to the concept plan calls for designation of land for industrial use, include an assessment of opportunities to create and protect parcels 50 acres or larger and to cluster uses that benefit from proximity to one another;
  4. If the area subject to the concept plan calls for designation of land for residential use, include strategies, such as partnerships and incentives, that increase the likelihood that needed housing types described in subsection B of this section will be market-feasible or provided by non-market housing developers within the 20-year UGB planning period;
  5. Show water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of the Urban Growth Management Functional Plan;
  6. Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;
  7. Include an agreement between or among the county and the city or cities and service districts that preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;
  8. Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;
  9. Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection C of section 3.07.1120; and
  10. Be coordinated with schools districts, including coordination of demographic assumptions.

D. Concept plans shall guide, but not bind:

1. The designation of 2040 Growth Concept design types by the Metro Council;
2. Conditions in the Metro ordinance that adds the area to the UGB; or



3. Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

E. If the local governments responsible for completion of a concept plan under this section are unable to reach agreement on a concept plan by the date set under subsection A, then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.

#### 3.07.1120 Planning for Areas Added to the UGB

A. The county or city responsible for comprehensive planning of an area, as specified by the intergovernmental agreement adopted pursuant to section 3.07.1110C(8) or the ordinance that added the area to the UGB, shall adopt comprehensive plan provisions and land use regulations for the area to address the requirements of subsection C by the date specified by the ordinance or by section 3.07.1455B(4) of this chapter.

B. If the concept plan developed for the area pursuant to section 3.07.1110 assigns planning responsibility to more than one city or county, the responsible local governments shall provide for concurrent consideration and adoption of proposed comprehensive plan provisions unless the ordinance adding the area to the UGB provides otherwise.

C. Comprehensive plan provisions for the area shall include:

1. Specific plan designation boundaries derived from and generally consistent with the boundaries of design type designations assigned by the Metro Council in the ordinance adding the area to the UGB;
2. Provision for annexation to a city and to any necessary service districts prior to, or simultaneously with, application of city land use regulations intended to comply with this subsection;
3. Provisions that ensure zoned capacity for the number and types of housing units, if any, specified by the Metro Council pursuant to section 3.07.1455B(2) of this chapter;
4. If the comprehensive plan authorizes housing in any part of the area, provision for a range of housing needed in the prospective UGB expansion area, the prospective governing city, and the region, - including ownership and rental housing; single-family and multi-family housing; and a mix of public, nonprofit and private market housing – with an option for households with incomes at or below 80, 50 and 30 percent of median family incomes for the region and implementing strategies that increase the likelihood that needed housing types will be market-feasible or provided by non-market housing developers within the 20-year UGB planning period;
5. Provision for the amount of land and improvements needed, if any, for public school facilities sufficient to serve the area added to the UGB in coordination with affected



school districts. This requirement includes consideration of any school facility plan prepared in accordance with ORS 195.110;

6. Provision for the amount of land and improvements needed, if any, for public park facilities sufficient to serve the area added to the UGB in coordination with affected park providers.
  7. A conceptual street plan that identifies internal street connections and connections to adjacent urban areas to improve local access and improve the integrity of the regional street system. For areas that allow residential or mixed-use development, the plan shall meet the standards for street connections in the Regional Transportation Functional Plan;
  8. Provision for the financing of local and state public facilities and services; and
  9. A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
- D. The county or city responsible for comprehensive planning of an area shall submit to Metro a determination of the residential capacity of any area zoned to allow dwelling units, using the method in section 3.07.120, within 30 days after adoption of new land use regulations for the area.

#### 3.07.1130 Interim Protection of Areas Added to the UGB

Until land use regulations that comply with section 3.07.1120 become applicable to the area, the city or county responsible for planning the area added to the UGB shall not adopt or approve:

- A. A land use regulation or zoning map amendment that allows higher residential density in the area than allowed by regulations in effect at the time of addition of the area to the UGB;
- B. A land use regulation or zoning map amendment that allows commercial or industrial uses not allowed under regulations in effect at the time of addition of the area to the UGB;
- C. A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in section 3.07.1010(ww) of this chapter, or for a new public school;
- D. In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:
  1. A commercial use that is not accessory to industrial uses in the area; and
  2. A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.



### 3.07.1140 Applicability

Section 3.07.1110 becomes applicable on December 31, 2011.



## **Exhibit K to Ordinance No. 10-1244**

Metro Code Chapter 3.01 is repealed.

### ~~3.01.005 Purpose~~

~~This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:~~

- ~~—— (a) —— Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long range growth in population and employment;~~
- ~~—— (b) —— Major amendments to address short term needs that were not anticipated at the time of legislative amendments; and~~
- ~~—— (c) —— Minor adjustments to make small changes to make the UGB function more efficiently and effectively.~~

### ~~3.01.010 Definitions~~

- ~~—— (a) —— "Council" has the same meaning as in Chapter 1.01 of the Metro Code.~~
- ~~—— (b) —— "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.~~
- ~~—— (c) —— "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.~~
- ~~—— (d) —— "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of properties.~~
- ~~—— (e) —— "Property owner" means a person who owns the primary legal or equitable interest in the property.~~
- ~~—— (f) —— "Public facilities and services" means sewers, water service, stormwater services and transportation.~~
- ~~—— (g) —— "UGB" means the Urban Growth Boundary for Metro.~~
- ~~—— (h) —— "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.~~



### ~~3.01.012 Urban Reserve Areas~~

~~———— (a) ——— Purpose. This section establishes the process and criteria for designation of urban reserve areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.~~

~~———— (b) ——— Designation of Urban Reserve Areas.~~

~~———— (1) ——— The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.~~

~~———— (2) ——— The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.~~

~~———— (3) ——— The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.~~

~~———— (4) ——— The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.~~

~~———— (c) ——— Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.~~

### ~~3.01.015 Legislative Amendment Procedures~~

~~———— (a) ——— The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.~~

~~———— (b) ——— Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.~~

~~———— (c) ——— Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

~~———— (d) ——— Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall provide copies of the report to all households located within one mile of the proposed~~



~~amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:~~

- ~~————— (1) ——— Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;~~
- ~~————— (2) ——— Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and~~
- ~~————— (3) ——— The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.~~

~~————— (e) ——— The Council shall base its final decision on information received by the Council during the legislative process.~~

~~————— (f) ——— The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to Section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.~~

### ~~3.01.020 Legislative Amendment—Criteria~~

~~————— (a) ——— The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.~~

~~————— (b) ——— The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:~~

- ~~————— (1) ——— Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and~~
- ~~————— (2) ——— Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and~~



~~————— (3) — A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.~~

~~————— (c) — If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:~~

~~————— (1) — Efficient accommodation of identified land needs;~~

~~————— (2) — Orderly and economic provision of public facilities and services;~~

~~————— (3) — Comparative environmental, energy, economic and social consequences;  
and~~

~~————— (4) — Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.~~

~~————— (d) — If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:~~

~~————— (1) — Equitable and efficient distribution of housing and employment opportunities throughout the region;~~

~~————— (2) — Contribution to the purposes of Centers;~~

~~————— (3) — Protection of farmland that is most important for the continuation of commercial agriculture in the region;~~

~~————— (4) — Avoidance of conflict with regionally significant fish and wildlife habitat;  
and~~

~~————— (5) — Clear transition between urban and rural lands, using natural and built features to mark the transition.~~

#### ~~3.01.025 Major Amendments Procedures~~

~~————— (a) — A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).~~

~~————— (b) — Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days~~



~~before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a vote of five members of the full Council.~~

~~—————(c)———— With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.~~

~~—————(d)———— The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.~~

~~—————(e)———— The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.~~

~~—————(f)———— Within 14 days after receipt of a complete application, the Chief Operating Officer will:~~

~~—————(1)———— Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and~~

~~—————(2)———— Notify the public of the public hearing as prescribed in Section 3.01.050 of this chapter.~~

~~—————(g)———— The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available to the public at least seven days prior to the hearing.~~

~~—————(h)———— If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in Section 3.01.015(d).~~



~~———— (i) ——— An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.~~

~~———— (j) ——— Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.~~

~~———— (k) ——— Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.~~

~~———— (l) ——— The hearings officer will provide the following information to participants at the beginning of the hearing:~~

~~———— (1) ——— The criteria applicable to major amendments and the procedures for the hearing;~~

~~———— (2) ——— A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and~~

~~———— (3) ——— A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.~~

~~———— (m) ——— The hearing shall be conducted in the following order:~~

~~———— (1) ——— Presentation of the report and recommendation of the Chief Operating Officer;~~

~~———— (2) ——— Presentation of evidence and argument by the applicant;~~

~~———— (3) ——— Presentation of evidence and argument in support of or opposition to the application by other participants; and~~

~~———— (4) ——— Presentation of rebuttal evidence and argument by the applicant.~~

~~———— (n) ——— The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.~~



~~——(o)—— If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.~~

~~——(p)—— Cross examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.~~

~~——(q)—— A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.~~

~~——(r)—— The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.~~

~~——(s)—— Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.~~

~~——(t)—— Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.~~

~~——(u)—— The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.~~

~~——(v)—— The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.~~



### ~~3.01.030 Major Amendments—Criteria~~

~~—— (a) — The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.~~

~~—— (b) — The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:~~

~~—— (1) — The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;~~

~~—— (2) — The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and~~

~~—— (3) — If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(f) has been completed.~~

~~—— (c) — If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.~~

### ~~3.01.033 Minor Adjustments—Procedures~~

~~—— (a) — A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(d).~~

~~—— (b) — The Chief Operating Officer will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.~~

~~—— (c) — Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~



~~———— (d) ——— The Chief Operating Officer shall review the application for compliance with the criteria in Section 3.01.035 of this chapter and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.~~

~~———— (e) ——— The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral.~~

~~———— (f) ——— Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

~~———— (g) ——— Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.~~

### ~~3.01.035 Minor Adjustments—Criteria~~

~~———— (a) ——— The purpose of this section is to provide a mechanism to make small changes to the UGB in order to make it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to minor adjustments.~~

~~———— (b) ——— Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.~~

~~———— (c) ——— To make a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:~~

~~———— (1) ——— The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;~~

~~———— (2) ——— Adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;~~

~~———— (3) ——— Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;~~



- ~~————— (4) ——— Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;~~
- ~~————— (5) ——— The adjustment will help achieve the 2040 Growth Concept;~~
- ~~————— (6) ——— The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and~~
- ~~————— (7) ——— If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.~~
  
- ~~————— (d) ——— To approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:~~
  - ~~————— (1) ——— The adjustment will result in the addition of no more than two net acres to the UGB;~~
  - ~~————— (2) ——— Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;~~
  - ~~————— (3) ——— Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;~~
  - ~~————— (4) ——— The adjustment will help achieve the 2040 Growth Concept; and~~
  - ~~————— (5) ——— The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.~~
  
- ~~————— (e) ——— Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:~~
  - ~~————— (1) ——— The delineation was done by a professional engineer registered by the State of Oregon;~~
  - ~~————— (2) ——— The adjustment will result in the addition of no more than 20 net acres to the UGB;~~
  - ~~————— (3) ——— The adjustment will help achieve the 2040 Growth Concept; and~~



~~(4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.~~

~~(f) If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.~~

~~(g) The Chief Operating Officer shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.~~

### ~~3.01.040 Conditions of Approval~~

~~(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07.1105, et seq.).~~

~~(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:~~

~~(1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.~~

~~(2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.~~

~~(3) Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.~~

~~(4) Establish the time period for city or county compliance with the requirements of Title 11, which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.~~



~~———— (c) ——— When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in Section 3.07.870 of the Urban Growth Management Functional Plan.~~

#### ~~3.01.045 Fees~~

~~———— (a) ——— Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of hearings officer and of public notice.~~

~~———— (b) ——— The fees for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.~~

~~———— (c) ——— Before a hearing is scheduled, an applicant shall submit a fee deposit.~~

~~———— (d) ——— The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit prior to final action by the Council.~~

~~———— (e) ——— The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.~~

#### ~~3.01.050 Notice Requirements~~

~~———— (a) ——— For a proposed legislative amendment under Section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:~~

~~———— (1) ——— In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;~~

~~———— (2) ——— In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and~~

~~———— (3) ——— To the general public by an advertisement no smaller than 1/8 page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.~~

~~———— (b) ——— For a proposed major amendment under Section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:~~



- ~~(1) In writing at least 45 days before the first public hearing on the proposal to:~~
  - ~~(A) The applicant;~~
  - ~~(B) The director of the Department of Land Conservation and Development;~~
  - ~~(C) The owners of property that is being considered for addition to the UGB; and~~
  - ~~(D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;~~
- ~~(2) In writing at least 30 days before the first public hearing on the proposal to:~~
  - ~~(A) The local governments of the Metro area;~~
  - ~~(B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and~~
- ~~(3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.~~
- ~~(c) The notice required by subsections (a) and (b) of this section shall include:~~
  - ~~(1) A map showing the location of the area subject to the proposed amendment;~~
  - ~~(2) The time, date and place of the hearing;~~
  - ~~(3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;~~
  - ~~(4) A statement that interested persons may testify and submit written comments at the hearing;~~



- ~~(5) The name of the Metro staff to contact and telephone number for more information;~~
- ~~(6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and~~
- ~~(7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;~~
- ~~(8) For proposed major amendments only:
  - ~~(A) An explanation of the proposed boundary change;~~
  - ~~(B) A list of the applicable criteria for the proposal; and~~
  - ~~(C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.~~~~
- ~~(9) For the owners of property described in paragraph (b)(1)(C) of this section, the information required by ORS 268.393(3).~~
- ~~(d) For a proposed minor adjustment under Section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:
  - ~~(1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;~~
  - ~~(2) In writing at least 20 days before the issuance of an order on the proposal to:
    - ~~(A) The applicant and the owners of property subject to the proposed adjustment;~~
    - ~~(B) The owners of property within 500 feet of the property subject to the proposed adjustment;~~
    - ~~(C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;~~
    - ~~(D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic~~~~~~



~~area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and~~

~~(E) Any other person requesting notification of UGB changes.~~

~~(e) The notice required by subsection (d) of this section shall include:~~

~~(1) A map showing the location of the area subject to the proposed amendment;~~

~~(2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;~~

~~(3) A statement that interested persons may submit written comments and the deadline for the comments;~~

~~(4) The name of the Metro staff to contact and telephone number for more information; and~~

~~(5) A list of the applicable criteria for the proposal.~~

~~(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.~~

#### ~~3.01.055 Regular Review of Chapter~~

~~The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.~~

#### ~~3.01.060 Severability~~

~~Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.~~



## **Exhibit L to Ordinance No. 10-1244**

Title 14 is added to the Urban Growth Management Functional Plan

### **TITLE 14: URBAN GROWTH BOUNDARY**

#### 3.07.1405 Purpose

The Regional Framework Plan (RFP) calls for a clear transition from rural to urban development, an adequate supply of urban land to accommodate long-term population and employment, and a compact urban form. Title 14 prescribes criteria and procedures for amendments to the urban growth boundary (UGB) to achieve these objectives.

#### 3.07.1410 Urban Growth Boundary

A. The UGB for the metropolitan area is incorporated into this title and is depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Cities and counties within the Metro boundary shall depict the portion of the UGB, if any, that lies within their boundaries on their comprehensive plan maps. Within 21 days after an amendment to the UGB under this title, the COO shall submit the amended UGB to the city and county in which the amended UGB lies. The city and county shall amend their comprehensive plan maps to depict the amended UGB within one year following receipt of the amendment from the COO.

B. Urban and Rural Reserves are depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Amendments to the UGB made pursuant to this title shall be based upon this map.

#### 3.04.1420 Legislative Amendment to UGB - Procedures

A. Legislative amendments follow periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment. The Metro Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

B. Except as otherwise provided in this title, the Council shall make legislative amendments to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC, other advisory committees and the general public.

C. Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.07.1465.

D. Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the COO shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The COO shall provide copies of the report to all households located



within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

1. Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
2. Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
3. The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

### 3.07.1425 Legislative Amendment to the UGB - Criteria

A. This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

B. The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

1. Demonstrated need to accommodate future urban population, consistent with a 20-year population range forecast coordinated with affected local governments; and
2. Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
3. A demonstration that any need shown under paragraphs 1 and 2 of this subsection cannot reasonably be accommodated on land already inside the UGB.

C. If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors:

1. Efficient accommodation of identified land needs;
2. Orderly and economic provision of public facilities and services;
3. Comparative environmental, energy, economic and social consequences; and
4. Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.



5. Equitable and efficient distribution of housing and employment opportunities throughout the region;
6. Contribution to the purposes of Centers and Corridors;
7. Protection of farmland that is most important for the continuation of commercial agriculture in the region;
8. Avoidance of conflict with regionally significant fish and wildlife habitat; and
9. Clear transition between urban and rural lands, using natural and built features to mark the transition.

D. The Council may consider land not designated urban or rural reserve for possible addition to the UGB only if it determines that:

1. Land designated urban reserve cannot reasonably accommodate the need established pursuant to subsection B of this section; or
2. The land is subject to a concept plan approved pursuant to section 3.07.1110 of this chapter, involves no more than 50 acres not designated urban or rural reserve and will help the concept plan area urbanize more efficiently and effectively.

E. The Council may not add land designated rural reserve to the UGB.

F. The Council may not amend the UGB in such a way that would create an island of urban land outside the UGB or an island of rural land inside the UGB.

### 3.07.1430 Major Amendments - Procedures

A. A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The COO will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may accept an application at other times by a vote of five members of the Council.

B. Except for that calendar year in which the Council is completing its analysis of buildable land supply, the COO shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained.



C. With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with section 3.07.1465. The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

D. The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

E. The COO will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The COO will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

F. Within 14 days after receipt of a complete application, the COO will:

1. Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
2. Notify the public of the public hearing as prescribed in section 3.07.1465 of this title.

G. The COO shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the COO to be used at the hearing shall be available to the public at least seven days prior to the hearing.

H. If the proposed major amendment would add more than 100 acres to the UGB, the COO shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in subsection D of section 3.07.1420.

I. An applicant may request postponement of the hearing within 20 days after filing a complete application. The COO may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the COO will return the unneeded portion of the fee deposit assessed pursuant to section 3.07.1460.

J. Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.



K. Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance prior to the hearing. The applicant has the burden of demonstrating that the proposed amendment complies with the criteria.

L. The hearings officer shall provide the following information to participants at the beginning of the hearing:

1. The criteria applicable to major amendments and the procedures for the hearing;
2. A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
3. A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.

M. The hearing shall be conducted in the following order:

1. Presentation of the report and recommendation of the COO;
2. Presentation of evidence and argument by the applicant;
3. Presentation of evidence and argument in support of or opposition to the application by other participants; and
4. Presentation of rebuttal evidence and argument by the applicant.

N. The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

O. If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

P. Cross-examination by parties shall be by submission of written questions to the hearings officer, who shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.



Q. A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

R. The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participants, and allocate the charges on the basis of cost incurred by each applicant.

S. Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the COO, who shall make it available for review by participants.

T. Within seven days after receipt of the proposed order from the hearings officer, the COO shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The COO shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

U. The Council shall consider the hearings officer's report and recommendation at the meeting set by the COO. The Council will allow oral and written argument by those who participated in the hearing before the hearings officer. Argument must be based upon the record of those proceedings. Final Council action shall be as provided in section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

#### 3.07.1435 Major Amendments – Expedited Procedures

A. The COO may file an application at any time to add land to the UGB for industrial use, pursuant to section 3.07.460, by major amendment following the expedited procedures in this section. The application under this section remains subject to subsections C, D, H, M and Q of section 3.07.1430.

B. Within 10 days after receipt of a complete application, the Council President will:

1. Set the matter for a public hearing before the Council for a date no later than 55 days following receipt of a complete application; and
2. Notify the public of the public hearing as prescribed in section 3.07.1465.

C. The COO shall submit a report and recommendation on the application to the Council not less than 15 days before the hearing and send copies to those who have requested copies. Any subsequent report by the COO to be used at the hearing shall be available to the public at least seven days prior to the hearing.



D. Participants at the hearing need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.

E. The Council President shall provide the following information to participants at the beginning of the hearing:

1. The criteria applicable to major amendments and the procedures for the hearing;
2. A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal.

F. The Council President may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the Council President grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

G. If new evidence is submitted at the continued hearing, the Council President may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the Council President grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

H. The Council President may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

I. Within 15 days following the close of the record, the Council shall adopt:

1. An ordinance, with findings of fact and conclusions of law, that amends the UGB to add all or a portion of the territory described in the application; or
2. A resolution adopting an order, with findings of fact and conclusions of law, that denies the application.

#### 3.07.1440 Major Amendments - Criteria

A. The purpose of the major amendment process is to provide a mechanism to address needs for land that cannot wait until the next analysis of buildable land supply under ORS 197.299. Land may be added to the UGB under sections 3.07.1430 and 3.07.1440 only for public facilities and services, public schools, natural areas and other non-housing needs and as part of a land trade under subsection D. An applicant under section 3.07.1430 must demonstrate compliance with this purpose and these limitations.

B. The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria



and factors in subsections B, C, D, E, F and G of section 3.07.1425. The applicant shall also demonstrate that:

1. The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
2. If the amendment would add land for public school facilities, the coordination required by subsection C(5) of section 3.07.1120 of this chapter has been completed; and
3. If the amendment would add land for industrial use pursuant to section 3.07.1435, a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site.

C. If the application was filed under section 3.07.1435, the applicant shall demonstrate that the amendment is consistent with any concept plan for the area developed pursuant to section 3.07.1110 of this chapter.

D. To facilitate implementation of the Metropolitan Greenspaces Master Plan of 1992, the Council may add land to the UGB in a trade that removes a nearly equal amount of land from the UGB. If the Council designates the land to be added for housing, it shall designate an appropriate average density per net developable acre.

#### 3.07.1445 Minor Adjustments - Procedures

A. Minor adjustments make small changes to the UGB so that land within the UGB functions more efficiently and effectively. A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by subsection D of section 3.07.1430.

B. The COO will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The COO will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.

C. Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in section 3.07.1465.

D. The COO shall review the application for compliance with the criteria in section 3.07.1450 and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The COO shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.



E. The applicant or any person who commented on the application may appeal the COO's order to the Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral.

F. Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in section 3.07.1465.

G. Following the hearing, the Council shall uphold, deny or modify the COO's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

### 3.07.1450 Minor Adjustments - Criteria

A. The purpose of this section is to provide a mechanism to make small changes to the UGB in order to make land within it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to minor adjustments.

B. Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.

C. To make a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:

1. The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
2. Adjustment of the UGB will make the provision of public facilities and services easier or more efficient;
3. Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
4. Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
5. The adjustment will help achieve the 2040 Growth Concept;



6. The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
7. If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is designated rural reserve or for agriculture or forestry pursuant to a statewide planning goal.

D. To approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:

1. The adjustment will result in the addition of no more than two net acres to the UGB;
2. Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
3. Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
4. The adjustment will help achieve the 2040 Growth Concept; and
5. The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

E. Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

1. The delineation was done by a professional engineer registered by the State of Oregon;
2. The adjustment will result in the addition of no more than 20 net acres to the UGB;
3. The adjustment will help achieve the 2040 Growth Concept; and
4. The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

F. If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate an appropriate average density per net developable acre for the area.

G. The COO shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.



### 3.07.1455 Conditions of Approval

A. Land added to the UGB pursuant to sections 3.07.1420, 3.07.1430 and 3.07.1435 shall be subject to the requirements of sections 3.07.1120 and 3.07.1130 of this chapter.

B. If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it shall:

1. In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11 of this chapter. If local governments have an agreement in a concept plan developed pursuant to Title 11 that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
2. Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate an appropriate average density per net developable acre consistent with the need for which the UGB is expanded.
3. Establish the boundaries of the area that shall be included in the planning required by Title 11. A planning area boundary may include territory designated urban reserve, outside the UGB.
4. Establish the time period for city or county compliance with the requirements of Title 11, which shall be two years following the effective date of the ordinance adding the area to the UGB unless otherwise specified.

C. If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it may establish other conditions it deems necessary to ensure the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.850 of this chapter.

### 3.07.1460 Fees

A. Each application submitted by a property owner or group of property owners pursuant to this title shall be accompanied by a filing fee in an amount to be established by the Council. Such fee shall not exceed Metro's actual cost to process an application. The fee may include administrative costs, the cost of a hearings officer and of public notice.

B. The fee for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.



C. Before a hearing is scheduled, an applicant shall submit a fee deposit. In the case of an application for a minor adjustment pursuant to section 3.07.1445, the applicant shall submit the fee deposit with the application.

D. The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit prior to final action by the Council.

E. The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

### 3.07.1465 Notice Requirements

A. For a proposed legislative amendment under section 3.07.1420, the COO shall provide notice of the public hearing in the following manner:

1. In writing to the Department of Land Conservation and Development and local governments of the Metro region at least 45 days before the first public hearing on the proposal; and
2. To the general public at least 45 days before the first public hearing by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

B. For a proposed major amendment under sections 3.07.1430 or 3.07.1435, the COO shall provide notice of the hearing in the following manner:

1. In writing at least 45 days before the first public hearing on the proposal to:
  - a. The applicant;
  - b. The director of the Department of Land Conservation and Development;
  - c. The owners of property that is being considered for addition to the UGB; and
  - d. The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
2. In writing at least 30 days before the first public hearing on the proposal to:
  - a. The local governments of the Metro area;
  - b. A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or



is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and

3. To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

C. The notice required by subsections A and B of this section shall include:

1. A map showing the location of the area subject to the proposed amendment;
2. The time, date and place of the hearing;
3. A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
4. A statement that interested persons may testify and submit written comments at the hearing;
5. The name of the Metro staff to contact and telephone number for more information;
6. A statement that a copy of the written report and recommendation of the COO on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
7. A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;
8. For proposed major amendments only:
  - a. An explanation of the proposed boundary change;
  - b. A list of the applicable criteria for the proposal; and
  - c. A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
9. For the owners of property described in subsection B(1)(c) of this section, the information required by ORS 268.393(3).

D. For a proposed minor adjustment under section 3.07.1445, the COO shall provide notice in the following manner:



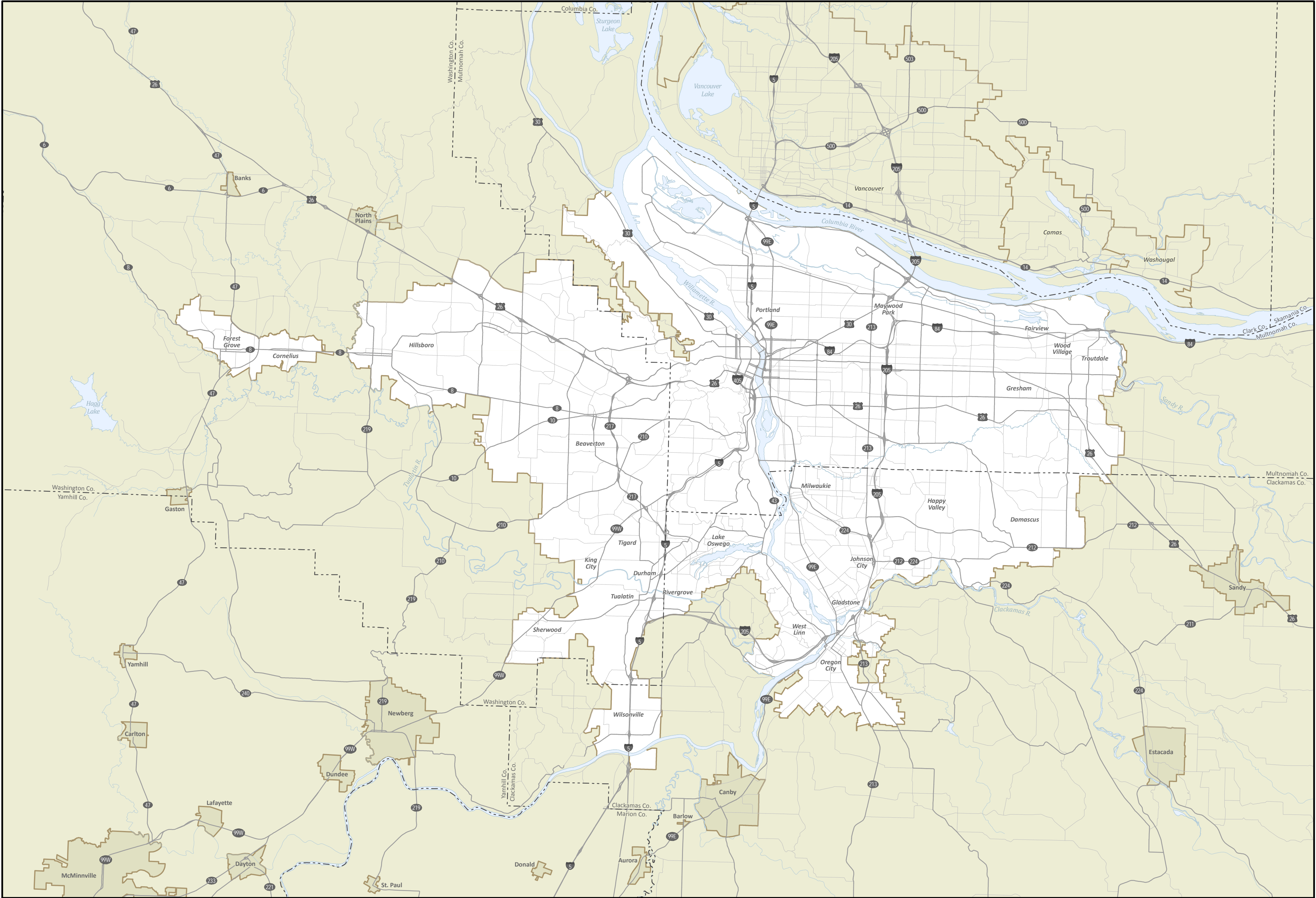
1. In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
2. In writing at least 20 days before the issuance of an order on the proposal to:
  - a. The applicant and the owners of property subject to the proposed adjustment;
  - b. The owners of property within 500 feet of the property subject to the proposed adjustment;
  - c. The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
  - d. Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and
  - e. Any other person requesting notification of UGB changes.

E. The notice required by subsection D of this section shall include:

1. A map showing the location of the area subject to the proposed amendment;
2. A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
3. A statement that interested persons may submit written comments and the deadline for the comments;
4. The name of the Metro staff to contact and telephone number for more information; and
5. A list of the applicable criteria for the proposal.

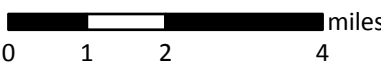
F. The COO shall notify each county and city in the district of each amendment of the UGB.





# Title 14, Urban Growth Boundary

ORDINANCE 10-1244, EXHIBIT M  
November 18, 2010



- County boundaries
- Urban growth boundaries
- Neighbor cities





## **Exhibit N to Ordinance No. 10-1244**

### **CHAPTER 3.09 LOCAL GOVERNMENT BOUNDARY CHANGES**

#### 3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS 268.354. This chapter applies to all boundary changes within the boundaries of Metro or of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary (UGB).

#### 3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

A. "Adequate level of urban services" means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate design type in section 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.

B. "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.

C. "Affected territory" means territory described in a petition.

D. "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of urban reserves designated.

E. "Deliberations" means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.

F. "District" means a district defined by ORS 199.420 or any district subject to Metro boundary procedure act under state law.

G. "Final decision" means the action by a reviewing entity whether adopted by ordinance, resolution or other means which is the determination of compliance of the proposed boundary change with applicable criteria and which requires no further discretionary decision or action by the reviewing entity other than any required referral to electors. "Final decision" does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors or to declare the results of an election, or any action to defer or continue deliberations on a proposed boundary change.



H. "Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.

I. "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a city-county to a city. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.

J. "Necessary party" means any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

K. "Petition" means any form of action that initiates a boundary change.

L. "Reviewing entity" means the governing body of a city, county or Metro, or its designee.

M. "Urban reserve" means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

N. "Urban services" means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

### 3.09.30 Notice Requirements

A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.

C. The notice required by subsection (b) shall:

1. Describe the affected territory in a manner that allows certainty;
2. State the date, time and place where the reviewing entity will consider the boundary change; and



3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.
4. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (b) of this section at least five days prior to the continued date of decision.
5. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060.

#### 3.09.040 Requirements for Petitions

A. A petition for a boundary change must contain the following information:

1. The jurisdiction of the reviewing entity to act on the petition;
2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
3. For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and
4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.
5. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

#### 3.09.045 Expedited Decisions

A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.

B. The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.



C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

D. To approve a boundary change through an expedited process, the city shall:

1. Find that the change is consistent with expressly applicable provisions in:
  - a. Any applicable urban service agreement adopted pursuant to ORS 195.065;
  - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
  - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
  - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
  - e. Any applicable comprehensive plan; and
  - f. Any applicable concept plan; and
2. Consider whether the boundary change would:
  - a. Promote the timely, orderly and economic provision of public facilities and services;
  - b. Affect the quality and quantity of urban services; and
  - c. Eliminate or avoid unnecessary duplication of facilities or services.

E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

#### 3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.



B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of section 3.09.045.

#### 3.09.060 Ministerial Functions of Metro

A. Metro shall create and keep current maps of all service provider service areas and the jurisdictional boundaries of all cities, counties and special districts within Metro. The maps shall be made available to the public at a price that reimburses Metro for its costs. Additional information requested of Metro related to boundary changes shall be provided subject to applicable fees.

B. The Metro Chief Operating Officer (COO) shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor and elections officer, the Oregon Secretary of State and the Oregon Department of Revenue. Notification of public utilities shall be accomplished as provided in ORS 222.005(1).

C. The COO shall establish a fee structure establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, and for related services. The fee schedule shall be filed with the Council Clerk and distributed to all cities, counties and special districts within the Metro region.

#### 3.09.070 Changes to Metro's Boundary

A. Changes to Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or other public agencies if allowed by ORS 198.850(3). Petitions shall meet the requirements of section 3.09.040 above. The COO shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.

B. Notice of proposed changes to the Metro boundary shall be given as required pursuant to section 3.09.030.



C. Hearings shall be conducted consistent with the requirements of section 3.09.050.

D. Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.

E. The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

1. The affected territory lies within the UGB;
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.

F. Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in this section.

#### 3.09.080 Incorporation of a City that Includes Territory within Metro's Boundary

A. A petition to incorporate a city that includes territory within Metro's boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in subsections (a), (c), and (e) of section 3.09.050, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.

B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.

C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(d). An approving entity shall demonstrate that:

1. Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
2. The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and



3. Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute.

#### 3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.







## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 10-1244, FOR THE PURPOSE OF MAKING A GREAT PLACE AND PROVIDING CAPACITY FOR HOUSING AND EMPLOYMENT TO THE YEAR 2030; AMENDING THE REGIONAL FRAMEWORK PLAN AND THE METRO CODE; AND DECLARING AN EMERGENCY

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Date: November 19, 2010

Prepared by: John Williams (503) 797-1635  
Richard Benner  
Chris Deffebach  
Sherry Oeser  
Ted Reid  
Gerry Uba

### Introduction

#### **Purposes of the proposed legislation**

Proposed Ordinance No. 10-1244 and its exhibits are intended to fulfill five primary purposes that are described in more detail in this report (section numbers refer to sections of this report, not the ordinance).

Section 1: Recommendations for residential capacity (to narrow the household forecast range and identify the actions that will address at least half the capacity gap identified in the 2009 UGR);

Section 2: Recommendations for employment capacity (to narrow the employment forecast range and to state an intent to add large-lot industrial capacity in 2011);

Section 3: Recommended amendments to the Regional Framework Plan, which articulates Metro Council policies;

Section 4: Recommended amendments to the Metro Code, which is intended to implement the regional vision, and;

Section 5: Recommended amendments to maps, including the 2040 Growth Concept map, the Title 4 map (Industrial and Other Employment Areas), the Title 6 map (Centers, Corridors, Station Communities and Main Streets), and the Title 14 map (Urban Growth Boundary).

#### **Refinement of August 2010 Chief Operating Officer recommendation**

In August 2010, Metro's Chief Operating Officer (COO) made a preliminary recommendation to the Metro Council on the contents of Ordinance No. 10-1244. Additional technical details on the topics summarized in this memo can be found in the August 2010 Growth Management Assessment. Since that recommendation was released, there have been a number of discussions at MPAC, MTAC, the Metro Council, amongst stakeholders, and with the general public. The version of Ordinance 10-1244 that is included in this legislative packet reflects staff's synthesis of input received to date. Its main components and staff's reasoning are described in this staff report.

#### **MPAC recommendation**

On November 17, 2010, MPAC unanimously recommended that the Council adopt Ordinance 10-1244. MPAC comments on specific portions of the proposed ordinance are noted throughout this staff report.



**Public comment period and public hearings**

On Aug. 10, 2010, Metro's COO released a set of recommendations in a report entitled, "Community Investment Strategy: Building a sustainable, prosperous and equitable region." A public comment period ran until Oct. 1, 2010.<sup>1</sup>

A wide range of views were submitted from across the region in response to the COO recommendations. During the comment period, Metro staff engaged in a coordinated outreach and engagement strategy that included more than 30 stakeholder meetings, website and e-mail information distribution, media releases, newsfeeds and Twitter feeds, seven open houses, a non-scientific online survey, and compilation of letter and e-mail correspondence relating to the Community Investment Strategy and urban growth boundary expansion options. In all, Metro received more than 600 survey entries, 55 e-mails, 16 letters and 10 other public comments.

In advance of the Metro Council's December 16, 2010 decision on Ordinance No. 10-1244, the Council will hold four public hearings:

November 29: Oregon City  
December 2: Hillsboro  
December 9: Metro Regional Center  
December 16: Metro Regional Center

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<sup>1</sup> A report on public comments received is available on Metro's website at:  
[http://library.oregonmetro.gov/files//11173\\_cis-ugb\\_comment\\_report\\_final.pdf](http://library.oregonmetro.gov/files//11173_cis-ugb_comment_report_final.pdf)



## Background on the regional capacity assessment

### Statutory requirements

Oregon land use law requires that, every five years, Metro assess the region's capacity to accommodate the numbers of people anticipated to live or work inside the Metro urban growth boundary (UGB) over the next 20 years. To make this determination, Metro forecasts population and employment growth over a 20-year timeframe; conducts an inventory of vacant, buildable land inside the UGB; assesses the capacity of the current UGB to accommodate population and employment growth either on vacant land or through redevelopment and infill; determines whether additional capacity is needed; and documents the results of these analyses in an urban growth report (UGR). The UGR is the basis for subsequent consideration of the actions to be taken to close any identified capacity gap.

### Metro Council intent to take an outcomes-based approach

In addition to addressing statutory obligations, on the advice of the Metro Policy Advisory Committee (MPAC), the Metro Council has indicated its desire to take an outcomes-based approach when it makes decisions. It is intended that the proposed legislation will help to foster the creation of a region where:

1. People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.<sup>2</sup>
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

### 2009 forecast and urban growth report

In 2009, Metro completed range forecasts of population, household and employment growth through the year 2030.<sup>3</sup> The use of a range forecast acknowledges uncertainty and allows for growth management decisions to focus on desired outcomes rather than a specific number. These range forecasts are incorporated into the UGR's analysis. The forecasts are for the seven-county primary metropolitan statistical area, which includes Clackamas, Multnomah, Washington, Yamhill, Columbia, Clark, and Skamania counties. These forecasts and the macroeconomic model that produces them have been peer reviewed by economists and demographers.

The 20-year forecast indicates that, by the year 2030, there will be a total of 1,181,300 to 1,301,800 households and a total of 1,252,200 to 1,695,300 jobs in the larger seven-county area. There is a 90 percent probability that growth will occur in the ranges identified in the forecast.

In addition to the 20-year range forecasts, the UGR determines how much of the 7-county growth may occur inside the Metro UGB and includes an analysis of the share of the UGB's zoned capacity that is likely to be developed by the year 2030. The UGR's analysis assumed a continuation of policies and investment trends in place at the time of the analysis. No changes to existing zoning were assumed, although it is likely that up-zoning will take place in the future as communities develop and implement their aspirations. The UGR's assessment of the likelihood of development was based on historic data,

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<sup>2</sup> Note: these are the desired outcomes as adopted by the Metro Council in 2008. One effect of proposed Ordinance No. 10-1244 is to incorporate these desired outcomes into the Regional Framework Plan. MPAC has recommended that this desired outcome be modified to be more inclusive. Staff has proposed alternative language to satisfy MPAC concerns. Please see Exhibit A, section A for the proposed language.

<sup>3</sup> A range forecast was also completed for the year 2060 in order to inform the urban and rural reserves process.



scenario modeling, and the professional expertise of Metro staff, local city and county staff, economic consultants, and business representatives. UGR results are portrayed for four different categories: residential, general industrial employment, general non-industrial employment, and large-lot employment.

#### **Timeline for addressing regional capacity needs**

On December 10, 2009, the Metro council, on the advice of MPAC, adopted Resolution No. 09-4094, which accepted the 2009 UGR and 20-year forecast as a basis for making growth management decisions.<sup>4</sup> According to state law, the Metro Council must, by the end of 2010, address at least half of the residential capacity needs identified in the UGR. If any capacity needs are to be accommodated through efficiency measures<sup>5</sup> inside the existing UGB, they must be accounted for by the end of 2010. If, after accounting for efficiency measures, there are any remaining capacity needs, the Council must address them with UGB expansions by the end of 2011.

On October 29, 2010, the state Land Conservation and Development Commission (LCDC) reached an oral decision on urban and rural reserves. LCDC remanded two of the urban reserves and all of the rural reserves in Washington County. As a consequence, the Council has directed that any needed UGB expansions will be made in 2011, which would allow time to finalize urban and rural reserves.

The 2009 UGR assessed regional capacity needs using a range demand forecast. Oregon Department of Land Conservation and Development (DLCD) staff has indicated that the Metro Council may carry a range through the decision that it makes in December 2010, but that the forecast range needs to be narrowed in order to demonstrate that at least half of the residential gap has been addressed. In order to finalize its growth management decision, the Council must, by the end of 2011, choose the point in the range forecast for which it wishes to plan. Depending on the point chosen, UGB expansions may be needed.

Under state statute, Metro can wait until 2011 to address all employment capacity needs identified in the UGR. For employment capacity, there is no requirement that at least half of the need be addressed by the end of 2010.

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<sup>4</sup> As indicated in the text of Ordinance No. 10-1244, the Council would, by adopting the ordinance, formally adopt the forecast and UGR as the basis for its growth management decisions.

<sup>5</sup> Oregon Revised Statute 197.296 instructs Metro to expand the UGB and/or amend plans in ways that increase the likelihood of higher density development inside the existing UGB. "Efficiency measures" refer to the latter option.



## Section 1: recommendations for residential capacity

### Residential capacity gap identified in 2009 UGR

The 2009 UGR indicates that there will be demand for between 224,000 to 301,500 new dwelling units inside the Metro UGB from 2007 to 2030. While there is ample zoned capacity within the current UGB to accommodate the next 20 years of residential growth, the UGR's analysis indicates that, without additional infrastructure investments or other policy changes, a portion of the zoned capacity will not be market feasible. As a result, there is unmet demand for 27,400 to 79,300 dwelling units.<sup>6</sup>

### Residential efficiency measures

Because a residential capacity gap is identified in the 2009 UGR, Oregon Revised Statute 197.296 instructs Metro to expand the UGB and/or amend plans in ways that increase the likelihood of higher density development inside the existing UGB. These latter actions are referred to as "efficiency measures." Reasonable efforts to implement efficiency measures must be undertaken before expanding the UGB. The statute states that efficiency measures may include, but are not limited to:

- Increases in the permitted density on existing residential land
- Financial incentives for higher density housing
- Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer
- Removal or easing of approval standards or procedures
- Minimum density ranges
- Redevelopment and infill strategies
- Authorization of housing types not previously allowed by the plan or regulations
- Adoption of an average residential density standard
- Rezoning or re-designation of nonresidential land

The August 2010 Growth Management Assessment<sup>7</sup> includes staff's preliminary assessment of a variety of efficiency measures that have been adopted since the completion of the 2009 UGR. Staff's preliminary analysis indicates that efficiency measures contribute an additional 30,300 dwelling units of capacity beyond what was counted in the 2009 UGR<sup>8</sup>.

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<sup>6</sup> Refill is a share of total growth. The high end of the gap (79,300 units) reported here is different than what was identified in the 2009 UGR (104,900), which, for illustrative purposes, held constant the dwelling unit capacity generated through refill (rather than expressing it as a share of the high demand forecast). When the Council makes its growth management decision, they will identify the point in the forecast for which they are planning. Refill capacity will be calculated as a share of that number. As discussed more thoroughly in the August 2010 Growth Management Assessment, a 38 percent refill rate is a reasonable assumption with the policies and investments that have been adopted since the 2009 UGR.

<sup>7</sup> Available at Metro's website:

[http://library.oregonmetro.gov/files//2010\\_growth\\_management\\_assessment.pdf](http://library.oregonmetro.gov/files//2010_growth_management_assessment.pdf)

<sup>8</sup> The August 2010 Growth Management Assessment attributed 32,050 dwelling units of capacity to efficiency measures with 38% refill capacity tied to an assumption of medium growth (demand). Because capacity from redevelopment and infill (refill) is expressed as a share of total growth, staff cannot determine a final capacity number until the Council chooses the point in the forecast range for which to plan. The 30,300 units cited here is an



## **Recommendations for narrowing the residential forecast range**

### Background

Oregon statutes require that the Council, by the end of 2010, determine that it has addressed at least half of the residential capacity gap identified in the 2009 UGR. However, the Metro Council has indicated that it would like to maintain a range through its December 2010 decision. To accommodate the Council's request and to meet statutory obligations, staff proposes that the Council determine that the efficiency measures described in the August 2010 Growth Management Assessment have addressed at least half of the residential capacity gap identified in the 2009 UGR. To make that determination, the Council will need to narrow the forecast range for which it intends to plan.

In August 2010, Metro's Chief Operating Officer (COO) recommended planning for a point in the middle third of the forecast range. Since that recommendation was issued, the Council, MPAC, and others have had the opportunity to discuss the risks and opportunities of planning for different points in the range. Some of the topics considered include:

- Statistical likelihood of growth occurring at different points in the range
- Need for consistency between the urban and rural reserves decision and this growth management decision
- Need for consistency in expectations for residential and employment growth
- Implications for meeting carbon reduction goals
- Implications of changing demographics and housing preferences
- Adaptability if we aim too high or too low

### MPAC recommendation

On October 27, 2010, MPAC discussed the question of where the Council should plan in the residential range forecast.<sup>9</sup> MPAC recommends (13 in favor, 4 opposed) that the Council plan for at least the low end of the middle third of the forecast range. To provide more guidance to the Council, MPAC also discussed, through an informal show of hands, several portions of the range, with the following results:

- 3 committee members showed support, through a show of hands, for recommending that the Metro Council target the upper part of the middle third of the range.
- 6 committee members showed support, through a show of hands, for recommending that the Metro Council target below the middle third of the range.
- 4 committee members showed support, through a show of hands, for recommending that the Metro Council target the middle part of the middle third of the range.

### Staff recommendation

With MPAC's recommendation, statutory requirements, and Council preferences in mind, staff proposes that the Council cap the range that it is considering at the high end of the middle third of the forecast range. This would entail planning for a marginal increase of 224,000 to 271,400 dwelling units inside the Metro UGB from the year 2007 through the year 2030. This proposed range can be in section 16 of Ordinance 10-1244.

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adjusted figure that assumes 38% refill tied to low demand. See Table 1 for more details on how supply may change with different demand assumptions.

<sup>9</sup> Minutes from the October 27, 2010 MPAC meeting are available on Metro's website.



Capacity for 196,600 dwelling units was accounted for in the 2009 UGR. As noted, an additional 30,300 dwelling units of capacity attributable to efficiency measures have been identified. Table 1 summarizes the potential capacity gaps (or surpluses) at different points in the forecast range after having accounted for efficiency measures identified in the August 2010 Growth Management Assessment.<sup>10</sup> Additional detail on these gap calculations is available in Attachment 1 to this staff report. Under the scenarios depicted in Table 1, UGB expansions made in 2011 would need to provide from zero to 26,600 dwelling units of additional capacity, depending on the point in the demand forecast that is chosen. In all cases, the remaining potential gap is less than the 30,300 dwelling units of capacity already attributed to efficiency measures. Consequently, as required by statute, less than half the capacity gap identified in the UGR would remain for the Council to address in 2011.

**Table 1: Dwelling unit gap or surplus at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)**

<b>Point in demand forecast range</b>	<b>Remaining gap or surplus (dwelling units)</b>
Low	2,900
Low end of middle 1/3 <sup>rd</sup>	(15,400)
Middle	(21,000)
High end of middle 1/3 <sup>rd</sup>	(26,600)

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<sup>10</sup> Because refill is a share of demand, using different points in the demand forecast will produce different capacity numbers. For this reason, determining the remaining gap at a particular point in the forecast range is not as straight forward as simply adding 30,300 dwelling units to the capacity identified in the 2009 UGR and deducting a demand number. Additional detail on these calculations is available in Attachment 1.



## Section 2: recommendations for employment capacity

### Employment range forecast

#### Background

The 2009 UGR indicates that there will be a total of 1.0 to 1.3 million total jobs inside the metro region UGB by the year 2030.

#### MPAC recommendation

On November 17, 2010, MPAC discussed the contents of Ordinance No. 10-1244. Metro staff proposed that the point chosen in the employment forecast range should be consistent with the point chosen in the residential range forecast.<sup>11</sup> MPAC had no comments on the employment range forecast.

#### Staff recommendation

Though there is no statutory obligation compelling the Council to do so, staff recommends that the Metro Council narrow this range to provide consistency with the recommendation on the residential range. As with the residential range, staff proposes capping the employment forecast range at the high end of the middle third of the forecast range. This would entail planning for between 1,083,200 and 1,211,600 total jobs inside the UGB by the year 2030.<sup>12</sup> When the Council ultimately picks a point in the residential and employment range forecasts, staff strongly recommends that the two points be consistent with one another.

#### Potential implications for non-industrial employment capacity

A portion of the UGR assesses the current UGB's capacity to accommodate non-industrial (e.g. office, retail, institutional) job growth on vacant land or through refill. The UGR finds that at the low end of the forecast range there is no need for additional non-industrial employment capacity inside the UGB. At the high end of the forecast range there is a need for 1,168 acres of additional capacity. At the high end of the middle third of the range, there is a need for 30 acres of additional capacity for non-industrial employment.<sup>13</sup>

#### Implications for general industrial employment capacity

A section of the UGR assesses the current UGB's capacity to accommodate industrial job growth on vacant land or through redevelopment and infill (refill). The assessment of demand for large, vacant lots is handled separately and recommendations can be found below. The UGR finds that, at or below the high end of the employment range forecast, there is adequate capacity inside the current UGB to accommodate the next 20 years of general industrial job growth. Consequently, within the narrowed employment forecast range proposed by staff, there is also no need for additional capacity for general industrial employment.

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<sup>11</sup> As noted in this report, on October 27, 2010, MPAC voted in favor of recommending that the Council plan for at the least the low end of the middle third of the residential range forecast.

<sup>12</sup> Section 16 of Ordinance No. 10-1244 refers to this proposed range.

<sup>13</sup> Many of the residential efficiency measures identified in the August 2010 Growth Management Assessment are also likely to increase non-industrial employment capacity inside the existing UGB. This is because many non-industrial jobs are in population-serving fields such as education, health care, and retail and these employers need to be close to population centers. Consequently, actions that encourage more residential growth in centers and corridors will likely have the same effect on non-industrial employment. Staff has not, however, performed a quantitative assessment of those effects.



## **Large lot industrial employment capacity**

### Background

The “large lot” portion of the UGR’s analysis was completed in recognition of the fact that some firms in traded-sector industries require large, vacant lots.<sup>14</sup> The UGR defines a large lot as a single tax lot with at least 25 vacant, buildable acres. The UGR’s forecast-based assessment determined that, over the 20-year period, there is demand for 200 to 800 acres of additional capacity for large-lot employment uses. This range depends on the amount of employment growth realized as well as whether assembly of adjacent lots of 25 acres or more was assumed.

### MPAC recommendation

For several reasons listed below, at its November 18, 2009 meeting, the Metro Policy Advisory Committee (MPAC) recommended that the UGR identify a wider range of potential large lot demand:

- Large traded-sector firms are crucial to the region’s economy since they sell goods and services outside the region, thereby bringing wealth to the region.
- Large traded-sector firms create spinoff employment.
- Large lot demand will be the result of the decisions of individual firms, so it is inherently difficult to forecast.
- The use of an employment forecast may be an inadequate means of estimating large lot demand for freight, rail, and marine terminal uses, which are space-intensive uses with relatively few employees, which play a crucial economic role.

The final 2009 UGR reflects MPAC’s recommendation that the Metro Council consider demand for 200 to 1,500 acres of additional capacity for large-lot industrial uses.

Since the completion of the 2009 UGR, no cities or counties in the region have adopted strategies that will make additional large-lot capacity available. In August 2010, Metro’s COO recommended that the Council address this need by expanding the UGB by 310 acres north of Hillsboro. MPAC endorsed this recommendation on October 13, 2010 with a vote of 9 in favor and 8 opposed. Committee discussion included:

- Reasons why the Metro COO has recommended incorporating 310 acres when the need for 200-1500 has been identified;
- The fact that Metro will have to demonstrate a need for more large-lot parcels in the region when justifying UGB expansion to the State;
- Whether it is more prudent to be conservative in expanding the UGB for large-lot industrial land, due to the continuing recession and other factors;
- Whether incorporating more land than the recommended 310 acres makes the region more economically competitive;
- Whether parcels can be consolidated to create large-lot sites within the UGB;
- The importance of thinking regionally when making this policy decision and not only considering individual jurisdictions;
- How we can learn from past experiences with UGB expansion and subsequent use of large-lot sites; and

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<sup>14</sup> Existing sites with significant acres of vacant land may give the initial impression that large-lot need is overestimated. However, firms seeking large sites often construct their facilities in phases. Recent examples of this phased approach can be found in the Metro region, including facility expansions completed or planned by large industrial firms such as Genentech, SolarWorld and Intel. This legitimate business practice factors into the UGR’s calculations of need for large lots.



- The decision of how many acres to incorporate into the UGB for large-lot industrial purposes is intertwined with the concept of a replenishment mechanism for parcels that get used up.

At the October 27, 2010 MPAC meeting, Mayor Lou Ogden of Tualatin requested that the Council also consider a UGB expansion, which would add 177 acres outside of Tualatin for large-lot industrial uses. MPAC did not make a recommendation on this request, but will discuss it in 2011.

Staff recommendation

Because urban and rural reserves in Washington County have been remanded by LCDC, the Council has directed that UGB expansions will be postponed until 2011. Staff recommends that, in 2011, the Council address regional needs for large lots for industrial uses by expanding the UGB to include at least the 310-acre area north of Hillsboro (assuming that urban and rural reserves are adopted and acknowledged).



### **Section 3: recommended amendments to the regional framework plan**

#### Background

The Regional Framework Plan, originally adopted in 1997, is a statement of the Metro Council's policies concerning land use, transportation, and other planning matters that relate to implementing the 2040 Growth Concept. While the Regional Framework Plan has helped guide efforts to implement the 2040 Growth Concept, it has become clear that these implementing plans need to be updated to better support community and regional goals. Based on Council and advisory committee discussion and experience during the past few years, staff proposes a number of updates to the policies in the Land Use chapter of the Framework Plan to more clearly articulate Metro Council policy positions. The changes are summarized below.

#### MPAC recommendation

MPAC discussed the Regional Framework Plan on September 8 and 22, 2010, including several proposed amendments. MPAC indicated preliminary support for staff's proposed changes to the Regional Framework Plan. The Council discussed MPAC's comments on the Regional Framework Plan at a work session in October and provided staff with direction. MPAC had a final discussion of proposed changes to the Regional Framework Plan on November 17, 2010. MPAC's recommendations are summarized below for each topic.

#### Staff recommendation

The proposed Regional Framework Plan is included as Exhibit A to the ordinance. Following is a summary of the proposed language, organized by topic.

### **Use the defined six desired outcomes for a successful region to guide growth management decisions (Exhibit A, section A)**

#### Background

In June 2008, the Metro Council, with the endorsement of MPAC, adopted Resolution No. 08-3940 which defined six desired outcomes for a successful region. The six desired outcomes are intended to guide decisions.

#### MPAC recommendation

MPAC recommended that the first desired outcome be changed to be more inclusive of those unable to walk and to reflect other non-motorized forms of transportation. MPAC also discussed adding "equitably" to the second outcome but did not make a recommendation.

#### Staff recommendation

Staff proposes incorporating the six desired outcomes into the Framework Plan to give them more official status as Metro Council policy. These would replace the fundamentals currently in the Framework Plan. Staff also proposes amending the wording of the first desired outcome in order to address concerns expressed by MPAC. The proposed six desired outcomes are:

- People live, work and play in vibrant communities where their everyday needs are easily accessible.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.



- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

### **Measure performance to guide growth management decisions (Exhibit A, policy 1.2.5)**

#### Background

The Metro Council has expressed its desire to take an outcomes-based approach to growth management. Reporting the region's historic and forecasted performance is an important element of implementing that type of decision-making model.

#### MPAC recommendation

MPAC did not comment on this recommendation.

#### Staff recommendation

Staff proposes that the Framework Plan should express the intent to provide performance information to help guide growth management decisions.

### **Prioritize public investments in Centers, Corridors, Station Communities, Main Streets, Employment and Industrial Areas (Exhibit A, policy 1.2)**

#### Background

The region intends to focus population and employment growth in centers, corridors, station communities, main streets and employment areas, but has not yet expressly stated its intent to strategically invest scarce public dollars in these specific 2040 design types.

#### MPAC recommendation

MPAC discussed an amendment to Policy section 1.2.2 through 1.2.5 that would add “developing residential areas” and “other industrial areas” as priorities for investments as part of the investment strategy for Centers, Corridors, Station Communities, and Main Streets. MPAC did not support this amendment because it would dilute the effectiveness of investing in those four design types.

#### Staff recommendation

Staff proposes that the Council should make explicit its policy intent to prioritize investments in centers, corridors, station communities, main streets, and employment areas.

### **Encourage elimination of barriers to compact, mixed-use, pedestrian-friendly and transit supportive development in centers, corridors, station communities, and main streets (Exhibit A, policy 1.1)**

#### Background

Since the adoption of the 2040 Growth Concept, some of the barriers to compact development have become more apparent (such as some parking requirements).

#### MPAC recommendation

MPAC did not comment on this recommendation.



#### Staff recommendation

Staff proposes that the Framework Plan should be amended to expressly state that it is the policy of the Metro Council to encourage the elimination of such barriers in targeted 2040 design types. Staff also proposes that the Framework Plan should underline the importance of creating the conditions for infill and redevelopment to occur in targeted 2040 design types.

### **Address housing affordability through a combination of actions, including investments in transportation facilities and transit services that make transportation more affordable, which in turn makes more household income available for housing and other needs (Exhibit A, policy 1.3)**

#### Background

Second to housing costs, many households spend a substantial portion of their income on transportation expenses.

#### MPAC Recommendation

MPAC discussed changes to this policy, including adding an investment in affordable housing as a strategy to reduce household transportation costs leaving more household income for other expenses. MPAC did not come to a consensus on a policy change.

MPAC also discussed Policy 1.3.1 (provide housing choices). Although staff had previously not recommended any changes to this policy, MPAC recommended that this policy be changed to focus on households with incomes at or below 80 percent of median family income. The language MPAC recommended is as follows:

*“1.3.1 That housing choices in the region include single family, multi-family, ownership and rental housing; and housing offered by the private, public and nonprofit sectors for households with incomes at or below 80, 50, and 30 percent of median family income.”*

#### Staff recommendation

Metro staff proposes that it be the policy of the Metro Council to take a holistic approach to ensuring an affordable cost-of-living that acknowledges both housing and transportation costs. This would be an addition to existing housing affordability policies. In response to MPAC suggestions and a discussion with the Metro Council, staff is recommending a slightly modified version of policy 1.3.1:

*“1.3.1 Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices.”*

### **Provide affordable housing in UGB expansion areas (Exhibit A, policy 1.3.10)**

#### Background

Planning for new urban areas offers a unique opportunity to ensure that development forwards community and regional goals. A commonly-held goal is that households of a variety of incomes have choices of where to live.

#### MPAC recommendation

MPAC did not comment on this recommendation.



#### Staff recommendation

Metro staff proposes that it should be the policy of the Metro Council to ensure that affordable housing is addressed in planning for new urban areas.

#### **Provide urban areas with access to parks, trails and natural areas (Exhibit A, policy 1.1.6)**

##### Background

Currently, the Land Use chapter of the Framework Plan addresses access to parks, trails and natural areas in several sections. Staff believes that the Framework Plan should take a stronger position on an integrated system.

##### MPAC recommendation

MPAC did not comment on this recommendation.

#### Staff recommendation

Staff proposes that an integrated system of parks, trails and natural areas is essential for fostering vibrant communities and that it should be a clearly stated Metro Council policy to provide urban areas with access to these amenities. The proposed change would add a section to the Land Use chapter that would specifically address this policy.

#### **Strengthen employment in the region's traded-sector industries (Exhibit A, policies 1.4.3 to 1.4.7)**

##### Background

Attracting and retaining traded-sector industrial firms is important to the region's economic prosperity. Traded-sector industrial firms sell products to consumers elsewhere in the country and world, bringing wealth into the Metro region.

##### MPAC recommendation

MPAC and its 2010 employment subcommittee proposed that the Metro Council adopt a policy to maintain a supply of large sites for traded-sector industrial uses inside the UGB. MPAC discussed two amendments to Policy 1.4.6 (maintain supply of large industrial sites). MPAC suggested amending the proposed language for Policy 1.4.6 to read:

*"1.4.6 Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient and geographically diverse supply of tracts 50 acres and larger to meet marketplace demand of traded sector industry clusters and that the region protects those sites from conversion to non-industrial uses and conversion into smaller lot sizes."*

MPAC also discussed adding to policy 1.4.6 the following clause:

*"transit availability shall be a critical factor in determining which sites are included"*

MPAC ultimately opposed including this clause because transit is unlikely to serve the area when a site is undeveloped and demand for transit does not yet exist.

#### Staff recommendation

The Council discussed MPAC's suggestions at a work session. Based on Council direction, staff proposes several policy statements that seek to strengthen employment in traded-sector industries. These proposals include establishing programs to clean up brownfields and consolidate smaller parcels, creating an



inventory of large tracts of land that may be suitable for traded-sector industrial uses, and protecting large sites from conversion to non-industrial uses.



## **Section 4: recommended amendments to the Metro Code**

### **Background**

The Urban Growth Management Functional Plan (UGMFP) is part of Metro Code (Chapter 3.07) and implements the policies contained in the Regional Framework Plan. City and county comprehensive plans and implementing ordinances must be consistent with the Functional Plan and have two years from any amendments to the Code to conform. MPAC reviewed proposed changes in October and November 2010. Changes to the Functional Plan included in Ordinance No. 10-1244 are summarized below.

Each of the titles of the UGMFP that is proposed for amendment is included as a separate exhibit to the ordinance. The contents of the proposed titles and MPAC's recommendations are summarized below.

### **Title 1: Housing Capacity (Exhibit B)**

#### **Background**

Currently, Title 1 specifies minimum zoned capacity for jobs and housing for each city and unincorporated area with the UGB. Metro staff has heard a number of concerns from local government staff about the existing Title 1 Requirements for Housing and Employment Accommodation – that it was time-consuming and staff intensive to produce an annual report on changes to housing and employment capacity as well as a biennial report on actual density of new residential density per net developed acre, that it was impossible to calculate an accurate employment number, that there was no consistency in how each local government calculated their zoned capacity, and that Table 1 was out-of-date because it did not include additions to the urban growth boundary or zone changes.

#### **MPAC recommendation**

On November 10, MPAC recommended approval of the revised Title 1 to the Metro Council, with several recommended changes:

- MPAC recommends clarifying that small property-specific zoning changes are not subject to the “no-net-loss” provision to reduce the regulatory burden of this requirement. Staff has added subsection 3.07.120(E) to address this recommendation.
- MPAC recommends clarifying that the “no-net-loss” policy focuses on changes to minimum zoned density rather than other actions such as revisions to design standards. Staff has revised the wording of section 3.07.120(C) in response.
- MPAC recommends re-instating the provision allowing transfers of capacity between jurisdictions, which is in the existing Title 1 but was proposed for deletion by staff due to lack of use. Staff has re-instated this language as section 3.07.120(F).
- MPAC recommends giving credit to jurisdictions for their recent actions to increase zoned capacity, allowing for future downzonings in those jurisdictions based on that work. MPAC noted that establishing a new minimum zoned capacity could be seen as “penalizing” jurisdictions that had recently upzoned and were considering downzones. Staff has not proposed any changes to Title 1 on this topic because of uncertainty about how to pick a point in time, whether the backdating would only include upzonings (some jurisdictions have recently completed downzonings), and related implementation concerns.
- MPAC recommends allowing more flexibility in both the timing and sequencing of allowing downzones in exchange for upzones. In the proposed Title 1, upzoning must occur before downzoning and jurisdictions have two years to downzone following upzones. MPAC recommends allowing more than two years and allowing downzones to occur first, to give more flexibility to local jurisdictions. Staff understands MPAC's desire for flexibility and agrees that



the vast majority of local government actions will not cause concern under this section. However, staff believes that two years is an adequate period and is concerned that allowing downzoning first could occasionally create difficult enforcement situations. It's also not clear what Metro's recourse would be if a jurisdiction reduces zoning, builds at that reduced density and then takes no action to replace that lost capacity.

#### Staff recommendation

Staff proposes that the Council revise Title 1 while continuing to implement the Regional Framework Plan policies of a compact urban form, efficient use of land, and a "fair-share" approach to meeting regional housing needs. The proposed Title 1 Housing Capacity moves to a "no-net-loss" approach for housing based on a project amendment basis, eliminates Table 1 and the need to calculate capacity city-wide, and eliminates the requirements for calculating and tracking job capacity.

### **Title 4: Industrial and Other Employment Areas (Exhibit C)**

#### Background

Title 4 seeks to protect a regional supply of sites for industrial uses. In recent years, several industrial-designated sites have been developed for non-industrial uses.

#### MPAC recommendation

On October 13, 2010 MPAC recommended that the Council amend Title 4 to prohibit new schools, places of assembly, recreational facilities and parks (with exceptions for habitat protection) in Regionally Significant Industrial Areas.

During fall, 2010, MPAC requested that Metro staff develop a proposal for a system that would maintain an inventory of large sites for industrial uses. MPAC also indicated that the site inventory should be organized in tiers to identify any obstacles to development readiness of sites inside the UGB. Metro staff has convened a small group of MTAC members to sort out the details of the proposal. Having met twice, it appears that, while there is considerable interest in the concept, additional time and expertise are needed to refine the proposal. The Metro Council also recently discussed the concept and indicated a desire to spend the time to get it right. Consequently, staff does not propose changes to Title 4 that would implement this concept at this time. Instead, staff proposes changes to the Framework Plan that would state the Council's policies on the topic (see above discussion of Framework Plan). Staff also proposes additional work on the concept and its details in 2011.

Several MPAC members indicated that they regarded industrial land protections, the proposed UGB expansion, and the inventory maintenance concept as a package. Dedicating additional time to refining the concept would allow for integration of the concept with the more comprehensive overhaul of the Title 4 map that was proposed by the MPAC employment subcommittee (following the recommendations of the Greater Metropolitan Employment Lands Study). It would also allow the Metro Council to consider those proposals concurrently with a UGB expansion for large-lot industrial capacity, which is now delayed in light of LCDC's decision on urban and rural reserves.



#### Staff recommendation

Staff proposes that Title 4 be amended to prohibit new schools, places of assembly, recreational facilities and parks (with exceptions for habitat protection) in Regionally Significant Industrial Areas. As described under MPAC's recommendations, staff does not, at this time, recommend that the Council adopt the previously-contemplated system for maintaining a supply of large sites for industrial uses. A summary of proposed changes to the Title 4 map (Industrial and Other Employment Areas) is included later in this report. In response to MPAC recommendations, staff also proposes a new Title 14 (see Exhibit L), which includes an expedited process for adding large industrial sites to the UGB.

### **Title 6: Centers, Corridors, Station Communities and Main Streets (Exhibit E)**

#### Background

The existing version of Title 6 requires local governments to develop a strategy to enhance all centers by December 2007 and to submit progress reports to Metro every two years. Only one local government developed a strategy for one of its centers. This approach has not been effective in encouraging center development and development in centers has not achieved the results originally anticipated.

An MTAC subcommittee spent considerable time earlier this year discussing possible revisions to Title 6. The subcommittee included staff from local governments, Department of Land Conservation and Development, Oregon Department of Transportation (ODOT) and TriMet. Metro staff worked extensively with ODOT to find mutually acceptable language concerning the 30% trip reduction credit and new auto dependent uses in centers, corridors, station communities, and main streets (3.07.630(B)(2)).

#### MPAC recommendation

MPAC discussed the amount of work that a local government might have to undertake to be eligible for the incentives listed in Title 6 and agreed that the incentive approach was appropriate. Some members of MPAC also expressed some concern that limiting the definition of regional investment to new High Capacity Transit lines may be too narrow. MPAC recommended that the Metro Council adopt the proposed Title 6.

#### Staff recommendation

Staff recommends changing Title 6 to an incentive approach to encourage cities and counties to develop centers and recommends expanding Title 6 to include corridors and main streets. The changes to Title 6 are intended to:

- Add corridors to Title 6 because of their potential for redevelopment and infill. Title 6 would link strategies for centers and corridors to a community investment strategy.
- Align local and regional investments to support local aspirations in centers, corridors, station communities, and main streets and make progress toward achieving the region's six desired outcomes
- Reflect a desire to focus development in all centers (central city, regional and town centers, and station communities) as well as along corridors and main streets
- Better link land use and transportation to support mixed-use, pedestrian-friendly, and transit-supportive development
- Provide incentives to local governments that adopt a plan of actions and investments to enhance their center, corridor, station community, or main street. These incentives include:



- Eligibility for a regional investment,<sup>15</sup>
- Ability to use a higher volume-to-capacity standard under the Oregon Highway Plan when considering amendments to comprehensive plans or land use regulations, and
- Eligibility for an automatic 30 percent trip reduction credit under the Transportation Planning Rule when analyzing traffic impacts of new development in plan amendments for a center, corridor, station community, or main street
- Address the problems that transportation impacts have on achieving mixed-use, pedestrian-friendly, and transit-supportive development

## **Title 8: Compliance Procedures (Exhibit G)**

### Background

Title 8 sets up a process for determining whether a city or county complies with requirements of the Urban Growth Management Functional Plan. Experience has demonstrated that the compliance process and annual compliance reporting place burdens on local governments who have limited staff resources and Metro. The Metro Council has indicated its desire to emphasize a more collaborative, outcomes-based approach to implementing the 2040 Growth Concept.

### MPAC recommendation

MPAC suggested that “citizen” should be changed to “person” in section 3.07.860 and that JPACT and MPAC receive the annual compliance report. MPAC generally supported the changes to Title 8 but expressed concern about how citizen involvement in the compliance process would be affected by the recommended changes.

### Staff recommendation

Staff proposes two primary changes for Title 8 to streamline the process. First, the current version of Title 8 requires the Metro Council to hold a public hearing to consider requests from local governments for extensions of compliance deadlines or exceptions from compliance. The Council may grant an extension or exception based on certain criteria (3.07.850 and 3.07.860). This process can be time-consuming for the Council and the local government involved. To streamline the process, proposed changes to Title 8 make these functions administrative but still allow an appeal to the Metro Council. The criteria for determining whether an extension or exception is granted would remain the same.

Second, Title 8 currently allows a local government to seek review by MPAC of noncompliance (3.07.830). This section is proposed to be removed. The Metro Council would be the final authority for determining noncompliance and it can seek MPAC advice without this provision. The Metro Council could request MPAC advice when an action raises policy issues.

## **Title 9: Performance Measures (Exhibit H)**

### Background

The Urban Growth Management Functional Plan contains requirements that are binding on cities and counties. Title 9 does not fit that category and is more appropriate as a regional policy statement.

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<sup>15</sup> Regional investments are currently limited to new high-capacity transit lines. In the future, the Council, in consultation with MPAC and JPACT, could add other major investments to this definition.



MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff proposes that the Council repeal Title 9 and include a performance measurement in the Regional Framework Plan (see Exhibit A, policy 1.2.5).

**Title 10: Functional Plan Definitions (Exhibit I)**

Background

Title 10 defines terms found in the Urban Growth Management Functional Plan.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff recommends that the Council update existing definitions to conform to the UGMFP revisions contemplated in Ordinance No. 10-1244.

**Title 11: Planning for New Urban Areas (Exhibit J)**

Background

An MPAC subcommittee chaired by Metro Councilor Liberty has met on several occasions to propose changes to Title 11. The committee was charged with making recommendations to MPAC and the Metro Council about adding specificity to the housing planning requirements for both concept planning of urban reserves and comprehensive planning for UGB expansion areas. Revisions discussed by the committee would emphasize affordable housing in the planning for urban reserve areas both before and they are added to the UGB. The revisions would also provide greater detail for planning by requiring attention to affordable types of housing and to strategies and incentive programs to facilitate the development of affordable housing once urban reserves are added to the UGB.

MPAC recommendation

MPAC discussed this topic in detail on November 17. All but one MPAC member supported three guiding principles proposed by the committee:

1. Plans should describe the variety of different housing types that are intended for the area;
2. Plans should describe how they would address housing needs in the prospective UGB expansion area, in the prospective governing city, and the region; and
3. Plans should identify the types of housing that are likely to be built in the 20-year planning period and describe additional strategies to encourage the development of needed housing types that would otherwise not be built.

Similarly, all but one MPAC member supported the general proposition that the planning process should require local governments to consider and describe which income groups would be expected to live in the areas when added to the UGB and describe strategies that would be used to make those housing opportunities possible.



MPAC and the subcommittee did not come to consensus on how best to implement these principles, and did not recommend language to the Council.

Staff recommendation

Councilor Liberty has proposed working with staff and subcommittee members in coming days to develop alternate language, hopefully in time for Council public hearings and decision-making. The current version of the capacity ordinance includes the proposed language for reference, but should not be interpreted as an MPAC recommendation, MPAC subcommittee recommendation, or staff recommendation.

**Metro Code Chapter 3.01: Urban Growth Boundary and Urban Reserves Procedures (Exhibit K)**

Background

Metro Code chapter 3.01 contains UGB and reserves procedures and criteria. Though part of the Metro Code, this chapter is not part of the Urban Growth Management Functional Plan.

MPAC recommendation

MPAC did not comment.

Staff recommendation

Metro staff proposes repealing Code Chapter 3.01 and moving the Urban Growth Boundary and reserves procedures and criteria Urban Growth Management Functional Plan (new Title 14) to join other growth management tools and strategies.

**Title 14: Urban Growth Boundary (Exhibit L)**

Background

Exhibit K would repeal Metro Code Chapter 3.01, but some portions of that Code chapter must be moved.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff proposes that the Council move the Urban Growth Boundary and reserves procedures and criteria currently found in Metro Code Chapter 3.01 to the Urban Growth Management Functional Plan (new Title 14) to join other growth management tools and strategies. In addition, Title 14 would include an expedited process for adding large industrial sites to the UGB.

**Metro Code Chapter 3.09: Local Government Boundary Changes (Exhibit N)**

Background

The Oregon Legislature recently made amendments to the law concerning local boundary changes. Those legislative changes necessitate amendments to the Metro Code for conformity.

MPAC recommendation

MPAC did not comment on this proposed change.



Staff recommendation

Staff proposes revisions to Metro Code Chapter 3.09 (Local Government Boundary Changes). The revisions conform Metro's criteria and procedures for city and service district boundary changes with changes to the law recently made by the Oregon Legislature. The revisions would also require petitioners to incorporate a new city to demonstrate that the city will have the fiscal capability to provide adequate urban services.



## Section 5: recommended map amendments

Staff recommends that the Metro Council make several map amendments as part of Ordinance No. 10-1244. Summaries of the proposed changes follow. The maps that would be affected by the proposed legislation include:

- 2040 Growth Concept map
- Title 4 Industrial and Other Employment Areas map
- Title 6 Central City, Regional Centers, Town Centers, and Station Communities map
- Title 14 Urban Growth Boundary map (new Functional Plan Title and map)

### **2040 growth concept map (Exhibit O)**

#### Background

Initially adopted in 1995, the 2040 Growth Concept presents a vision that guides development in the region. The 2040 Growth Concept Map illustrates this regional vision through the designation of centers, corridors, employment and industrial areas and other regional transportation, parks, trails and natural area features. Though local jurisdictions determine the boundaries of their centers and corridors, changes to the location or type of Center on the map require Metro Council action. In making their determination, Council must consider consistency between the changes and adopted center and corridor policies. The August 2010 Growth Management Assessment describes how the proposed changes are consistent with existing policies.

#### MPAC recommendation

MPAC discussed the COO recommendation to change these centers designations at their meeting on October 13, 2010 and voted to support the changes. During the discussion, MPAC members supported a motion to have a deeper policy discussion next year about the 2040 Growth Concept that would address questions such as:

- How many centers are too many?
- Does an area that is predominately shopping/retail function as a center
- How are we doing in achieving our vision for centers?

During MPAC's final discussion of Ordinance No. 10-1244, Tri-Met's representative requested two changes to staff's proposed map:

- Retain the distinction between inner and outer neighborhoods
- Depict fixed high-capacity transit along the southwest corridor

#### Staff recommendation

Metro staff recommends that the Metro Council approve the center designation changes illustrated in a revised 2040 Growth Concept Map (Exhibit O to the Capacity Ordinance). These requests are to:

- Relocate the existing Town Center in Happy Valley from King Road to Sunnyside and SE 172nd Avenue, about two miles to the east.
- Change the Main Street designation in downtown Cornelius to a Town Center designation.
- Expand the existing Tanasbourne Town Center to include the adjacent AmberGlen area and change the designation from a Town Center to Regional Center.

Staff suggests that the region should have high expectations for all centers, not just those that are proposed for new designations as part of Ordinance No. 10-1244.



The revised 2040 Growth Concept Map in Exhibit O also includes some changes to the depiction of the major highways and arterials, high capacity transit lines, parks, trails, and open space in order to reflect the new Regional Transportation Plan investments, changes to Vancouver and Clark County Plans and other updates. In addition to identifying the urban growth boundary location, the 2040 Map will depict urban and rural reserves once they are adopted and acknowledged by LCDC. These changes also follow the direction given by the Council at their November 4, 2010 work session, in which the Council expressed its desire for the map to depict center boundaries more realistically.

## **Recommended Title 4 map amendments (Exhibit D)**

### **Background**

The Regional Framework Plan calls for a strong regional economy. To improve the regional economy, Title 4 of the Urban Growth Management Functional Plan (“Industrial and Other Employment Areas”) seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. These areas are depicted on the Industrial and Other Employment Areas Map. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region’s transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Employment Areas, Corridors, Main Streets and Station Communities. Title 4 is implemented through city and county comprehensive plans and zoning.

### **MPAC recommendation**

In keeping with past practice regarding Title 4 map amendment requests, MPAC was not consulted on the proposed Title 4 map amendments that are found in Ordinance No. 10-1244.

### **Staff recommendation**

Staff proposes changes to Title 4 map designations in two locations – Washington Square Regional Center and the Beavercreek concept plan area – described below:

#### **Washington Square Regional Center**

The City of Tigard has submitted a request for an amendment to the Title 4 map. Metro staff recommends that the Council amend the Title 4 map as requested by the City of Tigard. The petition is assessed in detail in Attachment 2 following the criteria found in the Metro Code. The petitioner requests that the Council amend the Employment and Industrial Areas Map to authorize changing portion of the Washington Square Regional Center from “Industrial Area” to “Employment Area” so that the Title 4 Map will be consistent with the mixed use zoning that has been in place on the properties since 2002.

The proposed amendment would apply to 39-acre site consisting of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. Most of the site is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed-use zoning was adopted to implement the Washington Square Regional Center Plan in 2002. The site is almost completely developed with retail and office park uses.

#### **Beavercreek concept plan area**

Metro staff proposes that the Council amend the Employment and Industrial Areas Map to authorize a mix of uses in the city of Oregon City’s Beavercreek concept Plan area. Staff reasoning for the proposal is described in detail in Attachment 3. The proposed amendment would apply to the 308 gross acres of land



(245 acres in 2002 and 63 acres in 2004) that the urban growth boundary (UGB) was expanded into (Ordinance No. 02-969B and Ordinance No. 04-1040B) and an additional 151 gross acres already in the UGB before these expansions. The expansion and additional areas are part of the Beaver Creek Concept Plan area completed and adopted by the City of Oregon City Council on September 17, 2008.

The applicable criteria for this proposed amendment to the Employment and Industrial Areas Map are contained in Metro Urban Growth Management Functional Plan, section 3.07.450 G, which states that: *“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.”* Metro staff proposes that the basis of the proposed change is two-fold: a) the community’s proposal for how the area should be developed in order to achieve the local and regional goals; and b) the findings of the 2009 Urban Growth Report, which determined that the UGB has a surplus of general industrial capacity and a deficit of residential capacity.

### **Recommended Title 6 map amendments (Exhibit F)**

#### **Background**

In order for the incentive-based approach described in Title 6 to work properly, center, corridor, station community, and main street boundaries would need to be identified. Currently, several cities and counties have not officially adopted boundaries for these areas.

#### **MPAC recommendation:**

MPAC did not comment on this proposal.

#### **Staff recommendation**

To identify investment priorities and to provide local jurisdictions with a means to address Transportation Planning Rule requirements, staff proposes that the Metro Council adopt a revised Title 6 map, which would depict center boundaries and indicate instances where a city had officially adopted center boundaries. The proposed map also depicts centers without adopted boundaries as “conceptual centers.” Proposed revisions to Title 6 would make eligible for regional investments those cities that have adopted official boundaries for their centers, corridors, station communities and main streets. Regional investments include high capacity transit lines and could in the future include other major investments designated as such in the future by the Metro Council. Designation of other investments in the future would be subject to further discussion and recommendation by MPAC (and approval by JPACT, if a transportation investment). Adopted boundaries would also help to determine eligibility for alternative mobility standards and the 30 percent trip reduction credit described in proposed Title 6.

### **Recommendations on Title 14 map (Exhibit M)**

#### **Background**

Currently, urban growth boundary and urban reserves procedures are located in Metro Code Chapter 3.01. Staff proposes repealing Chapter 3.01 and moving its contents to a new Title 14 (Exhibit L) of the Urban Growth Management Functional Plan. This change will make it easier for local government staff and the public to find the requirements associated with the UGB and reserves. The proposed Title 14 refers to a Title 14 map, which depicts the current urban growth boundary. If the Council chooses to adopt the new Title 14, it is also necessary to adopt the map. The map would be amended in 2001 if the Council chooses to expand the UGB.



MPAC recommendation

MPAC did not comment on this proposal. MPAC will be consulted further in 2011 if UGB expansions are contemplated.

Staff recommendation

Staff proposes that the Council adopt a new Title 14 map to depict the UGB.



## **ATTACHMENTS**

- Attachment 1: Summary of residential supply and demand scenarios within the proposed narrowed forecast range
- Attachment 2: Staff report on a proposed Title 4 map amendment in the Washington Square Regional Center
- Attachment 3: Staff report on a proposed Title 4 map amendment in the Beavercreek concept plan area

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

This ordinance covers a variety of topics, including Framework Plan, Functional Plan, map amendments, and growth management determinations. As such, it cannot be expected to inspire universal support. Several components of the proposed legislation have strong advocates and critics with valid concerns. Staff believes that the proposed legislation strikes a good balance that is in keeping with the region's agreed-upon vision.

### **2. Legal Antecedents**

- Statewide Planning Goals 2 (Land Use Planning), 9 (Economic Development), 10 (Housing) and 14 (Urbanization)
- Oregon Revised Statutes 197.296, 197.299, and 197.303 (Needed Housing in Urban Growth Areas)
- Oregon Administrative Rules, Division 24 (Urban Growth Boundaries)
- Metro Regional Framework Plan, Chapter 1 (Land Use)
- Metro Urban Growth Management Functional Plan

### **3. Anticipated Effects**

Adoption of the proposed legislation would:

- Satisfy Metro's statutory requirements related to growth management;
- Narrow the forecast range that the Council will consider as it completes its growth management decisions in 2011;
- Amend the Regional Framework Plan;
- Amend Titles 1, 4, 6, 8, 10, and 11 of the Urban Growth Management Functional Plan;
- Repeal Title 9 of the Urban Growth Management Functional Plan;
- Repeal Metro Code section 3.01;
- Add Title 14 to the Urban Growth Management Functional Plan;
- Add a Title 14 map;
- Amend Metro Code section 3.09;
- Amend the Titles 4 and 6 maps;
- Amend the 2040 Growth Concept Map, and;
- Make a great place.

### **4. Budget Impacts**

If the UGB is ultimately expanded in 2011, Metro would incur expenses associated with staff time working on concept planning for new urban areas. The level of expense would depend on which, if any, UGB expansion areas are chosen by the Council. The level of expense would also depend on whether any concept planning has already been completed for an area as well as any complications that may arise in the course of concept planning.



Metro would also incur expenses associated with the implementation of proposed changes to the Urban Growth Management Functional Plan. These expenses are expected to be primarily associated with staff time. In some cases, these expenses are not expected to be substantially different from the costs of implementing the current version of the Functional Plan. However, in other cases, the proposed changes would require additional staff time.

**RECOMMENDED ACTION**

Staff recommends that the Council adopt Ordinance No. 10-1244.



**Attachment 1:****Summary of residential supply and demand scenarios within the proposed narrowed forecast range**

Staff analysis indicates that that policies and investment plans currently in place (including efficiency measures) will result in a 38% refill (redevelopment and infill) rate. Since refill is expressed as a share of total demand, higher points in the demand forecast range will result in additional capacity. The table below summarizes the potential gap that the Metro Council would need to address if it chooses to plan for different points in the range forecast.

**Dwelling unit supply and demand scenarios at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)**

		Supply			
		MID 1/3 <sup>rd</sup> HIGH	MEDIUM	MID 1/3 <sup>rd</sup> LOW	LOW
		244,800	241,400	238,000	226,900
Demand (marginal increase)					
MID 1/3 <sup>rd</sup> HIGH	271,400	(26,600)			
MEDIUM	262,400		(21,000)		
MID 1/3 <sup>rd</sup> LOW	253,400			(15,400)	
LOW	224,000				2,900



## Staff Report for the Washington Square Regional Center Title 4 Map Change

Prepared by Gerry Uba (503) 797-1737

### BACKGROUND INFORMATION

Petitioner: City of Tigard

Proposal: The petitioner requests that Metro amend the Employment and Industrial Areas Map to authorize changing portion of the Washington Square Regional Center from “Industrial Area” to “Employment Area” so that the Title 4 Map will be consistent with the mixed use zoning that has been in place on the properties since 2002. The proposed change is depicted in Attachment 2a.

The proposed amendment would apply to 39-acre site consisting of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. Most of the site is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed use zoning was adopted to implement the Washington Square Regional Center Plan in 2002. The site is almost completely developed with retail and office park uses.

Location: The 39 acre site consists of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks.

Application Review Criteria: Metro Code section 3.07.450.H

The petitioner’s application for the proposed Title 4 Map amendment is included as Attachment 2b of this staff report.

### APPLICATION REVIEW CRITERIA

The criteria for amendments to the Employment and Industrial Areas Map are contained in Metro Urban Growth Management Functional Plan, section 3.07.450 H. It states that the Metro Council may amend the Employment and Industrial Areas Map by ordinance if the Council concludes the proposed amendment meets certain criteria. Below are the criteria (**in bold**), petitioner responses to the criteria (*in italics*), and staff analysis.



**Criterion 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;**

Petitioner Response

*The proposed amendment to the Title 4 Employment and Industrial Areas Map is unlikely to reduce Tigard's jobs capacity below the number (17,801) shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. The Washington Square Regional Center Plan was intended to ensure a mix of housing, retail, and employment. The Plan estimated that new development would provide 7,443 new jobs for the portion of the Regional Center within Tigard and the unincorporated Metzger area.*

*Specifically, the Plan's Development and Redevelopment Opportunities Report allocated 1455 jobs to an area that roughly corresponds to Area 1. A mix of office, retail, and lodging jobs were specified. Industrial jobs were not included, likely because of their lower job per acre density.*

*Comprehensive Plan and Development Code amendments were adopted in 2002 to implement the Washington Square Regional Center Plan. The area in question was rezoned from Industrial Park (I-P) to Mixed Use Commercial (MUC) and Mixed Use Employment 2 (MUE-2). These zones, specifically created for the Center, allow a mix of denser employment and housing, as well as retail (subject to some restrictions.)*

*The job projections of the Washington Square Regional Plan were developed to help meet Tigard's target growth allocations and the job capacity of Table 3.07-1 of the Urban Growth Management Functional Plan. The City believes that the proposed amendment would not reduce job capacity, but would bring the Title 4 Map into accord with zoning that has already been implemented.*

Metro Staff Analysis

The 39-acre site is part of the Washington Square Regional Center that is envisioned to increase capacity for more jobs in the City of Tigard. Metro staff concurs with the petitioner's assessment that keeping the Title 4 Industrial Area designation for the area, with the required restrictions on retail and professional services could hamper development and job creation in the Regional Center as envisioned. The proposed change to the Title 4 map would not reduce the jobs capacity for the city below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not have the effect of reducing the jobs capacity of the City of Tigard below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. This criterion is met.



**Criterion 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, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;**

*Tigard Staff Response*

*The Metro 2004 Regional Freight System Map facilities that are located within or border Area 1 include Highway 217 (Main Roadway Route), Scholls Ferry Road (Roadway Connector), and the Portland & Western Railway (Branch Railroad Line and Spur Track.)*

*The 2004 Regional Transportation Plan presumably reflected the land uses and zoning of the Washington Square Regional Center that were in place as of 2002. The Washington Square Regional Center Plan included suggested transportation upgrades, some of which appear on the on the RTP's Financially Constrained System. The Plan also called for multi-modal transportation improvements, including the recently started Westside Express Service peak-hour commuter rail.*

*The proposed map amendment is necessary to resolve an inconsistency between the local zone adopted through the implementation of the Washington Square Regional Center Plan and the Title 4 map. This proposed map amendment will not change the uses that are allowed on the site, thus adoption of this map amendment will not allow new 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.*

*Metro Staff Analysis*

The petitioner explained that the land uses and zoning (Mixed Use Commercial and Mixed Use Employment) that was in place in 2002 when the Washington Square Regional Center Plan was adopted has not changed and that the city do not have any intention of changing the zoning as the current zoning is adequate for implementing the Washington Square Regional Center Plan. Metro staff concurs with the petitioner that since the proposed change in Title 4 designation will not allow new uses on the site, the approval of the change of the Industrial Area designation to Employment Area will not 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, or exceed volume-to-capacity ratios on Table 7 of the 1999 State Highway Plan for state highways.

In conclusion, Metro staff believes that this criterion is met.

**Criterion 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;**

*Tigard Staff Response*

*The area in question is within the boundaries of the Washington Square Regional Center, one of three designated regional centers in Washington County and one of eight in the region in Metro's 2040 Growth Concept.*



*After completing the Washington Square Regional Center Plan, in 2002 the City rezoned the area from industrial zoning to Mixed Use Commercial (MUC) and Mixed Use Employment-2 (MUE-2). This zoning permits a wide range of uses and was designed to reinforce and encourage the Washington Square Regional Center's development of concentrated retail, cultural, and civic services to serve its market area. Keeping the Title 4 Industrial Area designation for the area, with its restrictions on retail and professional service uses, could diminish the intended function of the Regional Center. For this reason the City believes that the Title 4 Map should be amended to change the area's designation to Employment Area, which is more compatible with a Regional Center.*

#### Metro Staff Analysis

Washington Square Regional Center has a clear boundary and development in the area will be guided by the plan adopted in 2002, recently adopted economic development policy in the updated city's Comprehensive Plan, and new development strategies the city and region may consider for the area in the future. The proposed change in the Title 4 designation for the area will assist the city to capture and retain the regional vision intended for the area, and encourage more retail, civic activities and services, and cultural services in the market area.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not have the effect of diminishing the intended function of the Washington Square Regional Center as the principal location of retail, cultural and civic services in this market area.

#### **Criterion 4: Would not reduce the integrity or viability of a traded sector cluster of industries;**

#### Tigard Staff Response

*The 2006 Regional Business Plan identified seven traded sector clusters: (1) high-tech, (2) metals, machinery, and transportation equipment, (3) forest products, (4) food processing, (5) creative services, (6) nursery products, and (7) sporting goods and apparel.*

*A review of the Tigard Business License data for Area 1 revealed that traded sector clusters are minimally represented in this area. The chart below summarized the types of businesses located in Area 1.*

<b>Type of Business</b>	<b># of businesses</b>
<i>Motor vehicle sales</i>	<i>2</i>
<i>Motor vehicle repair</i>	<i>1</i>
<i>Communications (cable provider)</i>	<i>1</i>
<i>Storage facility</i>	<i>1</i>
<i>Bakery (non retail)</i>	<i>1</i>
<i>Building Supplies</i>	<i>1</i>
<i>Other retail</i>	<i>3</i>
<i>Medical Technology Manufacturer</i>	<i>1</i>
<i>Electrical Goods Manufacturer</i>	<i>1</i>
<i>Church</i>	<i>1</i>
<i>State Government Offices</i>	<i>1</i>



*While the seven traded sector clusters are currently minimally represented in the area, the Mixed Use Employment-2 (MUE-2) and Mixed Use Commercial (MUC) zoning classifications would permit many of these kinds of businesses, subject to some restrictions (See Appendix B for more information on zoning.)*

*The area south of North Dakota Street (Area 2 on Map A) is zoned Industrial Park (I-P). According to Tigard Business License data there appears to be at least one identified traded sector company located in Area 2. The City believes that the "Industrial Area" designation is appropriate for these properties, which are outside the Washington Square Regional Center boundaries.*

*Traded sector clusters appear to be minimally represented in the area in question. As stated previously the proposal is unlikely to affect the freight routes that serve traded sector clusters in the region. Staff believes the proposed amendment will not reduce the integrity or viability of a traded sector cluster of industries.*

#### Metro Staff Analysis

Traded-sector industries are those in which member firms sell their goods or services into markets for which national or international competition exists. Firms in these sectors are important to the regional economy since they bring wealth into the region by exporting goods or services. The petitioner indicated that the traded sector cluster of industries is minimally represented in this area. The petitioner also indicated that its research shows that they appear to be at least one identified traded sector company in the area. Metro staff agrees with the petitioner that the current zoning presents an opportunity for increasing traded sector clusters in the area.

In conclusion, Metro staff believes that the proposed change in Title 4 area in the Washington Square Regional Center would not reduce the integrity or viability of a traded sector cluster of industries.

#### **Criterion 5: Would not create or worsen a significant imbalance between jobs and housing in a regional market area.**

##### Tigard Staff Response

*The City of Tigard as a whole has a job/household ratio of 2.03 (about 2 jobs for every household) compared to a ratio of 1.22 for Washington County as a whole (2004 data.)*

*While this is a healthy jobs/household ratio, the City recognizes that many employees must commute into Tigard and many residents must commute to jobs outside of the City.*

*One intention of the Washington Square Regional Center Plan was to improve the balance between jobs and housing in the South Washington County market. The Plan estimated 7,443 new jobs and 1,871 residential units for the portion of the Regional Center within Tigard (and a section of the unincorporated Metzger area.) The mixed use zoning allows high density housing in proximity to the major regional retail center of Washington Square Mall, and office complexes at Lincoln Center and the Nimbus area. The MUC zone has a minimum density of 50 units/acre and no maximum density, and MUE-2 has a minimum density of 25 units/acre and a maximum of 50 units/acre. While only a limited number of housing units have been built to date in the Regional Center, the capacity for*



*housing exists. The zoning provides the Center the potential to develop into a place where people can "live, work, and play."*

Metro Staff Analysis

The general location of the site in the Washington Square Regional Center and the current city zoning makes it one of the most suitable places in the region to transform suburban type of development into a vibrant community with jobs, housing, and urban amenities such as shopping, entertainment and services. Staff believes that the promising job-housing balance of the city will get better as the right partnerships and policies are created to improve the area's transportation infrastructure, build mixed use development that includes housing, and create more jobs.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not create or worsen a significant imbalance between jobs and housing in the City of Tigard area sub-regional market.

**Criterion 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.**

Tigard Staff Response

*This is not applicable; the subject properties are designated Industrial Area, not Regionally Significant Industrial Area.*

Metro Staff Analysis

No portion of the 39-acre site is designated as Regionally Significant Industrial Area.

In conclusion, this criterion does not apply to the proposed Title 4 Map amendment.

**ANALYSIS/INFORMATION**

**Known Opposition** [identify known opposition to the proposed legislation]

There is no known opposition.

**Legal Antecedents** [identify legislation related to the proposed legislation, including federal, state, or local law and Metro Code, using appropriate resolution or ordinance numbers, ballot measure numbers, etc.]

Statewide Planning Goals 2 (Land Use Planning) and 9 (Economic Development); Metro Code section 3.07.450 (Employment and Industrial Areas Map).



**Anticipated Effects** [identify what is expected to occur if the legislation is adopted]

Proposed changes to the City of Tigard zoning map and comprehensive plan map would become effective, allowing additional commercial uses in the Washington Square Regional Center.

**Budget Impacts** [identify the cost to implement the legislation]

There is no significant budget impact. Implementation would consist of updating the Employment and Industrial Areas Map.

**RECOMMENDED ACTION**

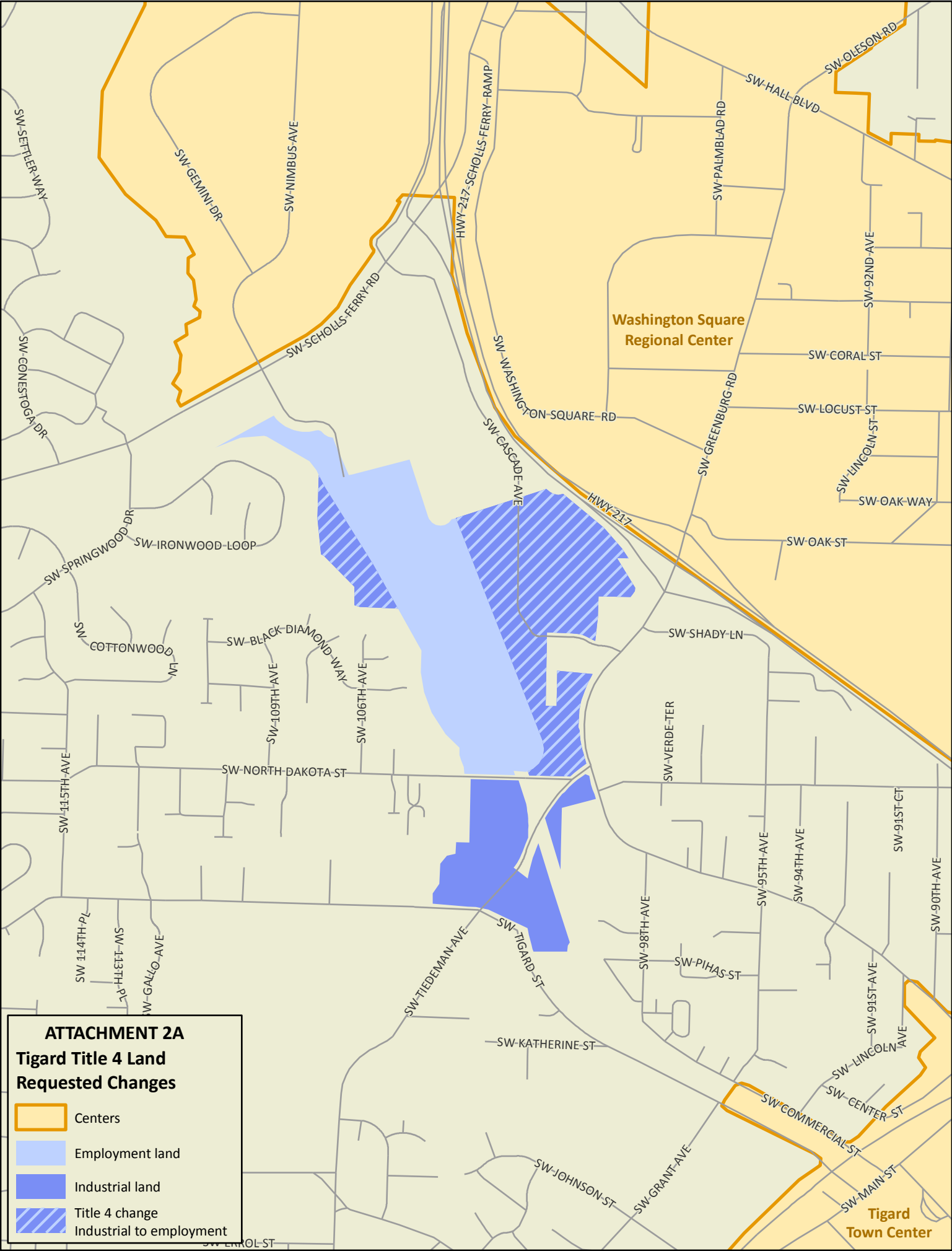
The petitioner requests the amendment of the Title 4 Employment and Industrial Areas Map. Metro Staff believes that the petitioner has provided sufficient evidence to demonstrate that the criteria are satisfied.

Staff recommends, therefore, that the Metro Council approve this ordinance.

**ATTACHMENTS**

<b>Attachment 2a</b>	(map of the proposed Title 4 map amendment)
<b>Attachment 2b</b>	(city's application)







City of Tigard, Oregon • 13125 SW Hall Blvd. • Tigard, OR 97223



February 20, 2009

Christina Deffebach, Manager, Long Range Planning  
Metro  
600 NE Grand Avenue  
Portland, OR 97232

Dear Ms. Deffebach,

This letter is in regard to the City of Tigard's compliance with Title 4 (Industrial and Other Employment Areas) of Metro's Urban Growth Management Functional Plan. The City has taken a number of steps to comply with Title 4, including adopting two Economic Development policies in its updated Comprehensive Plan stating its intention to implement the Title 4 map designations. However, there is an outstanding issue that the City would like resolved prior to incorporating the Title 4 map and associated restrictions into its Development Code.

We are requesting an Amendment to the Title 4 Employment and Industrial Areas Map under Metro Urban Growth Management Functional Plan section 3.07.450 H. The City is requesting that the designation for a 39-acre area of the Washington Square Regional Center ("Area 1" on Map A) be changed from "Industrial Area" to "Employment Area." City staff believes that this proposed amendment will remove an existing inconsistency that will make the Title 4 Map more accurate. Applying the Industrial Area restrictions to this area would not be in accordance with the envisioned character detailed in the Washington Square Regional Center Plan and implemented in the zoning which has been in place for the past six years.

Please see the attached memo, dated February 18, 2009, for the City's detailed response to the criteria of 3.07.450 H.

Thank you for your attention to this matter. If you have any other questions please call me at 503-718-2443.

Sincerely,

A handwritten signature in black ink that reads "Ron Bunch". The signature is written in a cursive, flowing style.

Ron Bunch  
Community Development Director





# MEMORANDUM

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TO: Ron Bunch, Community Development Director

FROM: Sean Farrelly, Associate Planner

RE: Proposed Amendment to the Title 4 Employment and Industrial Areas Map

DATE: February 18, 2009

**Background:**

The City of Tigard is requesting an amendment to the Employment and Industrial Areas Map in Title 4 ("Industrial and Other Employment Areas") of Metro's Urban Growth Management Functional Plan. The City is requesting that the designation for a 39-acre area of the Washington Square Regional Center ("Area 1" on Map A) be changed from "Industrial Area" to "Employment Area." Making this change would make the Title 4 Map consistent with the mixed use zoning that has been in place on the properties since 2002.

The 39-acre area in question consists of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. The area is almost completely developed with retail and office park uses. One 1.34 acre property and another small portion of a developed property are on the Tigard Buildable Lands Inventory. The 5.77 acre property that lies to the west of the other properties is vacant, however it does not appear on the Tigard Buildable Lands Inventory, because of its wetland status.

Most of the area is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed use zoning was adopted to implement the Washington Square Regional Center Plan in 2002.

The zone description of the Mixed Use Commercial (MUC) District in the Tigard Development Code is:

*The MUC zoning district includes land around the Washington Square Mall and land immediately west of Highway 217. Primary uses permitted include office buildings, retail, and service uses. Also permitted are mixed-use developments and housing at densities of 50 units per*



*acre. Larger buildings are encouraged in this area with parking under, behind or to the sides of buildings.*

The MUC zone, permits some General Retail uses. Sales Oriented and Personal Services are permitted outright, other retail uses are limited to under 60,000 gross leasable area per building.

The zone description of the Mixed Employment Districts in Tigard Development Code is:

*The MUE-1 and 2 zoning district is designed to apply to areas where employment uses such as office, research and development and light manufacturing are concentrated. Commercial and retail support uses are allowed but are limited, and residential uses are permitted which are compatible with employment character of the area. Lincoln Center is an example of an area designated MUE-1, the high density mixed use employment district. The Nimbus area is an example of an area designated MUE-2 requiring more moderate densities.*

The MUE-2 zone restricts retail uses to under 60,000 gross leasable area per building. Light Industrial, Research and Development, Warehouse/Freight Movement, and Wholesale Sales are permitted as long as all activities associated with these uses, except employee and customer parking, are contained within buildings.

#### **Proposed Title 4 Map Amendment**

Section 3.07.430.A of the Urban Growth Management Functional Plan states that for properties designated as Industrial Areas, jurisdictions take measures-

*“to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project...”*

The City believes that applying such restrictions to this section of the Washington Square Regional Center would not be in accordance with the area’s envisioned character, which is detailed in the Washington Square Regional Center Plan (Attachment A) and not in keeping with the present zoning (adopted in 2002.) “Employment Area” is a more appropriate designation.

Once the Map is amended by designating the properties “Employment Area”, the City will be able to make the Comprehensive Plan and Development Code amendments necessary to adopt the Employment and Industrial Areas Map and its requirements. Tigard’s recently updated Comprehensive Plan contains an Economic Development Policy which signals its intent to do this. Economic Development Policy 9.1.7 states “The City shall limit the development of retail and service land



uses in Metro-designated industrial areas to preserve the potential of these lands for industrial jobs.”

**Amendment Review Criteria:**

The criteria for an amendment to the Employment and Industrial Areas Map are found in Metro Urban Growth Management Functional Plan section 3.07.450 H. It states that the Metro Council may amend the Employment and Industrial Areas Map by ordinance if the Council concludes the proposed amendment meets certain criteria.

The following is the criteria (in *italics*) from Metro Code 3.07.450.H followed by Tigard staff response.

*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;*

**Tigard Staff Response**

The proposed amendment to the Title 4 Employment and Industrial Areas Map is unlikely to reduce Tigard’s jobs capacity below the number (17,801) shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. The Washington Square Regional Center Plan was intended to ensure a mix of housing, retail, and employment. The Plan estimated that new development would provide 7,443 new jobs for the portion of the Regional Center within Tigard and the unincorporated Metzger area.

Specifically, the Plan’s Development and Redevelopment Opportunities Report allocated 1455 jobs to an area that roughly corresponds to Area 1. A mix of office, retail, and lodging jobs were specified. Industrial jobs were not included, likely because of their lower job per acre density.

Comprehensive Plan and Development Code amendments were adopted in 2002 to implement the Washington Square Regional Center Plan. The area in question was rezoned from Industrial Park (I-P) to Mixed Use Commercial (MUC) and Mixed Use Employment 2 (MUE-2). These zones, specifically created for the Center, allow a mix of denser employment and housing, as well as retail (subject to some restrictions.)

The job projections of the Washington Square Regional Plan were developed to help meet Tigard’s target growth allocations and the job capacity of Table 3.07-1 of the Urban Growth Management Functional Plan. The City believes that the proposed amendment would not reduce job capacity, but would bring the Title 4 Map into accord with zoning that has already been implemented.



*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, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;*

**Tigard Staff Response**

The Metro 2004 Regional Freight System Map facilities that are located within or border Area 1 include Highway 217 (Main Roadway Route), Scholls Ferry Road (Roadway Connector), and the Portland & Western Railway (Branch Railroad Line and Spur Track.)

The 2004 Regional Transportation Plan presumably reflected the land uses and zoning of the Washington Square Regional Center that were in place as of 2002. The Washington Square Regional Center Plan included suggested transportation upgrades, some of which appear on the on the RTP's Financially Constrained System. The Plan also called for multi-modal transportation improvements, including the recently started Westside Express Service peak-hour commuter rail.

The proposed map amendment is necessary to resolve an inconsistency between the local zone adopted through the implementation of the Washington Square Regional Center Plan and the Title 4 map. This proposed map amendment will not change the uses that are allowed on the site, thus adoption of this map amendment will not allow new 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.

*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;*

**Tigard Staff Response**

The area in question is within the boundaries of the Washington Square Regional Center, one of three designated regional centers in Washington County and one of eight in the region in Metro's 2040 Growth Concept.

After completing the Washington Square Regional Center Plan, in 2002 the City rezoned the area from industrial zoning to Mixed Use Commercial (MUC) and Mixed Use Employment-2 (MUE-2). This zoning permits a wide range of uses and was designed to reinforce and encourage the Washington Square Regional Center's development of concentrated retail, cultural, and civic services to serve its market area. Keeping the Title 4 Industrial Area designation for the area, with its restrictions on retail and professional service uses, could diminish the intended function of the



Regional Center. For this reason the City believes that the Title 4 Map should be amended to change the area's designation to Employment Area, which is more compatible with a Regional Center.

*4. Would not reduce the integrity or viability of a traded sector cluster of industries;*

**Tigard Staff Response**

The 2006 Regional Business Plan identified seven traded sector clusters: (1) high-tech, (2) metals, machinery, and transportation equipment, (3) forest products, (4) food processing, (5) creative services, (6) nursery products, and (7) sporting goods and apparel.

A review of the Tigard Business License data for Area 1 revealed that traded sector clusters are minimally represented in this area. The chart below summarized the types of businesses located in Area 1.

<b>Type of Business</b>	<b># of businesses</b>
Motor vehicle sales	2
Motor vehicle repair	1
Communications (cable provider)	1
Storage facility	1
Bakery (non retail)	1
Building Supplies	1
Other retail	3
Medical Technology Manufacturer	1
Electrical Goods Manufacturer	1
Church	1
State Government Offices	1

While the seven traded sector clusters are currently minimally represented in the area, the Mixed Use Employment-2 (MUE-2) and Mixed Use Commercial (MUC) zoning classifications would permit many of these kinds of businesses, subject to some restrictions (See Appendix B for more information on zoning.)

The area south of North Dakota Street (Area 2 on Map A) is zoned Industrial Park (I-P). According to Tigard Business License data there appears to be at least one identified traded sector company located in Area 2. The City believes that the "Industrial Area" designation is appropriate for these properties, which are outside the Washington Square Regional Center boundaries.

Traded sector clusters appear to be minimally represented in the area in question. As stated previously the proposal is unlikely to affect the freight routes that serve traded



sector clusters in the region. Staff believes the proposed amendment will 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.*

**Tigard Staff Response**

The City of Tigard as a whole has a job/household ratio of 2.03 (about 2 jobs for every household) compared to a ratio of 1.22 for Washington County as a whole (2004 data.)

While this is a healthy jobs/household ratio, the City recognizes that many employees must commute into Tigard and many residents must commute to jobs outside of the City.

One intention of the Washington Square Regional Center Plan was to improve the balance between jobs and housing in the South Washington County market. The Plan estimated 7,443 new jobs and 1,871 residential units for the portion of the Regional Center within Tigard (and a section of the unincorporated Metzger area.) The mixed use zoning allows high density housing in proximity to the major regional retail center of Washington Square Mall, and office complexes at Lincoln Center and the Nimbus area. The MUC zone has a minimum density of 50 units/acre and no maximum density, and MUE-2 has a minimum density of 25 units/acre and a maximum of 50 units/acre. While only a limited number of housing units have been built to date in the Regional Center, the capacity for housing exists. The zoning provides the Center the potential to develop into a place where people can “live, work, and play.”

*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.*

**Tigard Staff Response**

This is not applicable; the subject properties are designated Industrial Area, not Regionally Significant Industrial Area.

**Conclusion:**

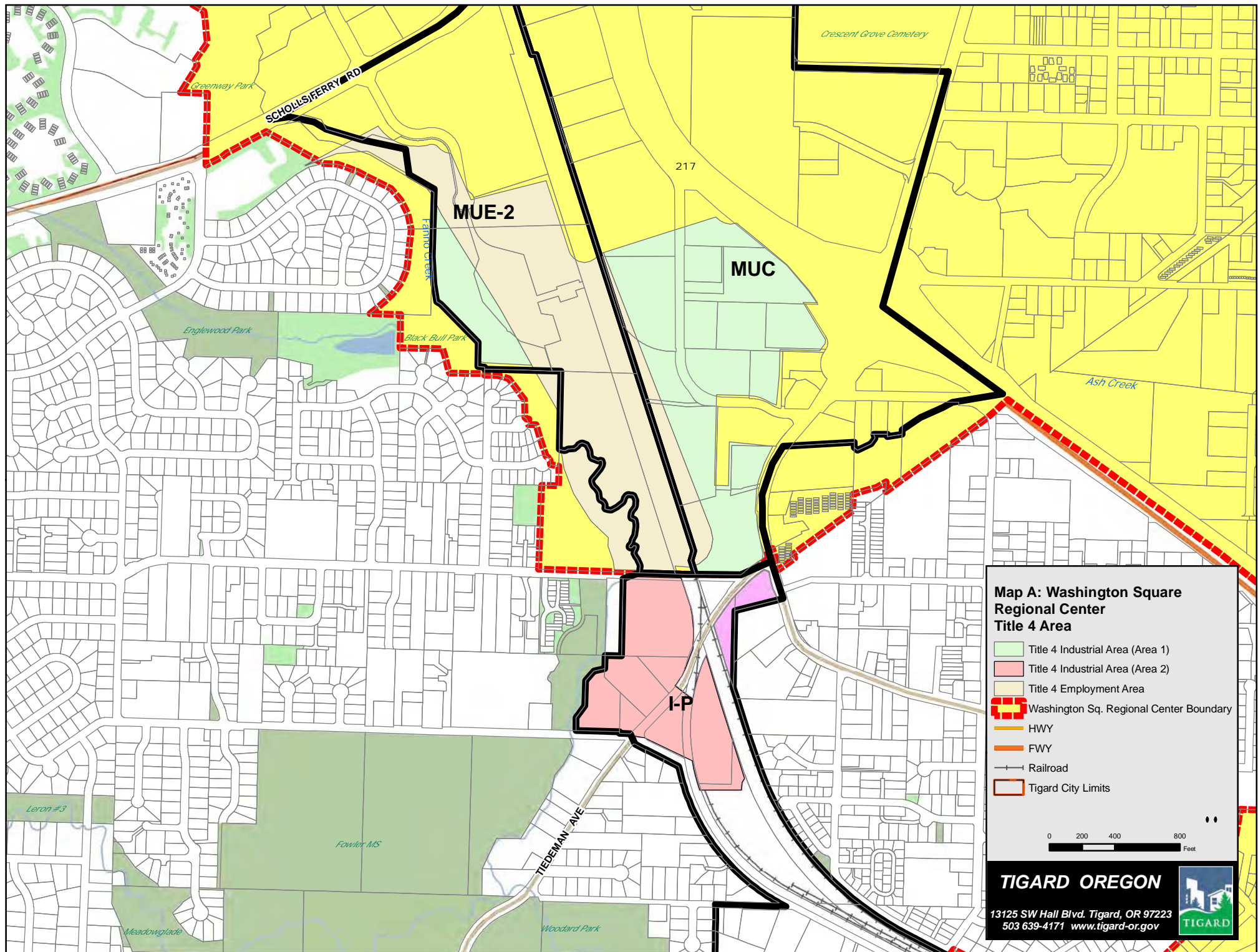
City staff believes that this proposed amendment will remove an existing inconsistency that will make the Title 4 Map more accurate. Applying the Industrial Area restrictions to this area would not be in accordance with the envisioned character detailed in the Washington Square Regional Center Plan and implemented in the zoning which has been in place for the past six years.



## Attachment 2b

Employment Area is a more appropriate designation for the 39-acre area in question (Area 1). The area directly borders a 21.4 acre designated Employment Area (Area 3 on Map A.) The designation as part of a Regional Center, its current zoning, and the existing development in Area 1 is more in line with an Employment Area than an Industrial Area.







## Attachment 3

### Staff Report for the Beavercreek concept plan area Title 4 Map change

**Prepared by:** Gerry Uba (503) 797-1737

#### BACKGROUND INFORMATION

**Petitioner:** Metro

**Proposal:** Metro intends to amend the Employment and Industrial Areas Map to authorize a mix of uses in the city of Oregon City's Beavercreek concept Plan area.

The proposed amendment would apply to the 308 gross acres of land (245 acres in 2002 and 63 acres in 2004) that the urban growth boundary (UGB) was expanded into (Ordinance No. 02-969B and Ordinance No. 04-1040B) and an additional 151 gross acres already in the UGB before these expansions. The expansion and additional areas are part of the Beavercreek Concept Plan area completed and adopted by the City of Oregon City Council on September 17, 2008.

**Location:** The 459 gross acres site consists of 57 tax lots or properties (based on Metro's 2010 Regional Land Information System).

#### Application Review Criteria

The criteria for amendments to the Employment and Industrial Areas Map is contained in Metro Urban Growth Management Functional Plan, section 3.07.450 G. It states that:

**"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."**

#### Metro Staff Analysis

As a background, Metro's 2002-2022 Urban Growth Report: Employment Land Need Analysis identified a demand for 4,285 net acres of industrial land, and Metro Council's December 2002 regional capacity decision included roughly half of the industrial land need (818 net acres of industrial land and 1,499 net acres of Regionally Significant Industrial Land). Thus, within the 2002 UGB expansion there was 1,968 net acres of industrial land need. In 2004, adjustments were made on the commercial refill rate, Cities of Wilsonville and Oregon City industrial zones, and City of Gresham's Springwater industrial land, and the result was the reduction of industrial land need to 1,180 net acres. The Metro Council expanded the UGB in 2004 by adding 1,047 gross acres of land to satisfy the need for industrial land over the next 20 years. The Council completed the fulfillment of employment capacity by adding 876 gross acres of industrial land by Ordinance No. 05-1070A in 2005.

Metro's broad expectation for urbanization of these areas was set in Title 11 of the Urban Growth Management Functional Plan. The purpose of this title is to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities, and to provide interim protection of the new areas until the city and county likely to provide governance or urban service for the area amends their land use regulations to allow urbanization become applicable to the areas. Title 11 requires city and county, in conjunction with Metro and appropriate service districts,



### **Attachment 3**

to develop and adopt a concept plan for the area. The concept planning process created an opportunity for the city to provide governance or urban service for the area and comply with the requirements of Metro's Title 11.

#### **Beavercreek Concept Plan**

Oregon City initiated the Beavercreek Concept Plan process in spring of 2006 to ensure that the 308 gross acres brought into the UGB (245 acres in 2002 and 63 acres in 2004) provide needed employment capacity, are urbanized efficiently in a way that reasonably provides public facilities and services, offers transportation and housing choices, supports economic development and protects natural resources. The total land area included in the concept plan area was 459 gross acres. Attachment 3a shows the Title 4 map of the area before the Beavercreek Concept Plan process was started.

The Concept Plan was developed by a Citizen Advisory Committee and Technical Advisory Committee that met between June 2006 and July 2007. Metro participated in the concept planning process, including membership on the Technical Advisory Committee. In addition, the city conducted study area tours, market focus group, sustainability focus group, public open houses, and community design workshop.

The concept plan provided explanation of the existing condition of the area, including the detailed natural resources, infrastructure, transportation system, buildable land, demographics, market, employment and industrial land analysis that formed the factual basis for determining trends in the area and developing future land use policies and strategies for the area. In addition, the concept plan provided land for the need identified with the various rigorous analyses conducted for the area, including the need to provide for mix of uses that will contribute to family-wage jobs and general economic welfare of the city and improve the region's economic conditions. The city's planning commission report stated that the final product "is a reflection of the needs, desires, attitudes and conditions of the community and represents the vision, direction and improvements that are necessary to accommodate the changing demographics and economics of the community."

Metro staff reviewed the proposed Beavercreek Concept Plan comprehensive plan amendment and Metro compliance findings, and sent comment to Mayor Alice Norris on March 19, 2008 (Attachment 3b), after concluding that the proposal, if adopted by the city council, would comply with the requirements of Title 11 of the Urban Growth Management Functional Plan. On September 17, 2008, the Oregon City Council adopted the Beavercreek Concept Plan as an ancillary document to the city's Comprehensive Plan with the provision that the ancillary document would become effective until February 1, 2009 or upon adoption of zoning regulations implementing the plan amendments, whichever comes first. Attachment 3c shows the Title 4 map of the area after the Beavercreek Concept Plan was adopted.

#### **Changes to Employment and Industrial land inside the Beavercreek Concept Plan Area**

Proposed changes to the employment and industrial area inside the Beavercreek Concept Plan area is regulated by Title 4 of the Urban Growth Management Functional Plan, under section 3.07.450 G, which states that the Council may amend the Employment and Industrial Areas Map "...at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."

The basis of the proposed change is two-fold: a) the community's proposal for how the area should be developed in order to achieve the local and regional goals; and b) the findings of the 2009 Urban Growth Report (Employment).



### **Attachment 3**

During the Beavercreek concept planning process, the city addressed economic opportunities and activities vital for the city and the region, and worked with consultant EcoNorthwest to inventory and analyze local and regional market conditions within and adjacent to the area. The inventory included profile of industrial, commercial and office land supply and local employment, and the potential for industrial and commercial development within the area. The consultant analysis concluded “that under the right conditions it is not unreasonable to expect 150 net acres of industrial and business park development to build out on the site over a 20-year period. Thus, the Beavercreek Concept Plan provided 53% (156 net acres) of total net acreage of the area (292 net acres) for employment and industrial land. Attachment 3d shows the proposed changes to the Title 4 map, indicating that 151 gross acres of industrial land is still available in the concept plan area. The 151 gross acres will supply approximately 121 net acres which was Metro’s expectation, as stated in a letter that Metro Council President sent to the Board of Directors for the Hamlet of Beavercreek and the City on May 14, 2007 (Attachment 3e).

Reflecting changes in employment needs and demands between the 2002 UGR (Employment) and the 2009 UGR (Employment, Metro’s 2009 assessment found there is adequate capacity inside the current UGB to accommodate the next 20 years of general employment and general industrial job growth even at the high end of the employment forecast range. This proposed change to the Title 4 Employment and Industrial Areas map will conform the map to the updated information about employment needs in the 2009 UGR (Employment). The change will also respond to the identification of a need for residential capacity in the 2009 UGR (Residential) by increasing the residential capacity of the Beavercreek planning area by 36 dwelling units above the level expected at the time the Metro Council added the areas to the UGB.

#### **ANALYSIS/INFORMATION**

##### **Known Opposition**

There is no known opposition. However, it is important to state here that a city resident, Elizabeth Grazer-Lindsey, challenged the consistency of the Beavercreek Concept Plan with Metro’s regional planning goals for the area that the Metro Council included in the UGB in 2002 and 2004, and appealed to the Oregon Land Use Board of Appeals.

##### **Legal Antecedents**

Statewide Planning Goal 2 (Land Use Planning); Metro Code section 3.07.450 (Employment and Industrial Areas Map).

##### **Anticipated Effects**

Proposed changes to the Title 4 map area in the City of Oregon City will make it possible for the area to be urbanized efficiently and contribute the livability in the city, county and the region, consistent with local



## **Attachment 3**

aspirations. The change will also increase residential capacity by shifting some unneeded employment capacity to needed residential capacity, as determined by the 2009 UGR.

### **Budget Impacts**

There is no significant budget impact. Implementation would consist of updating the Employment and Industrial Areas Map.

### **RECOMMENDED ACTION**

Metro Staff believes that the changes to the Title 4 map area will not have any impact on the supply of industrial land. Staff recommends, therefore, that the Metro Council approve this ordinance.

### **ATTACHMENTS**

**Attachment 3a** (map of the area before the Beavercreek Concept Plan was started)

**Attachment 3b** (Metro staff (Ray Valone) letter to Mayor Alice Norris and City Commissioners)






**Attachment 3c** (map of the Beavercreek Concept Plan area)

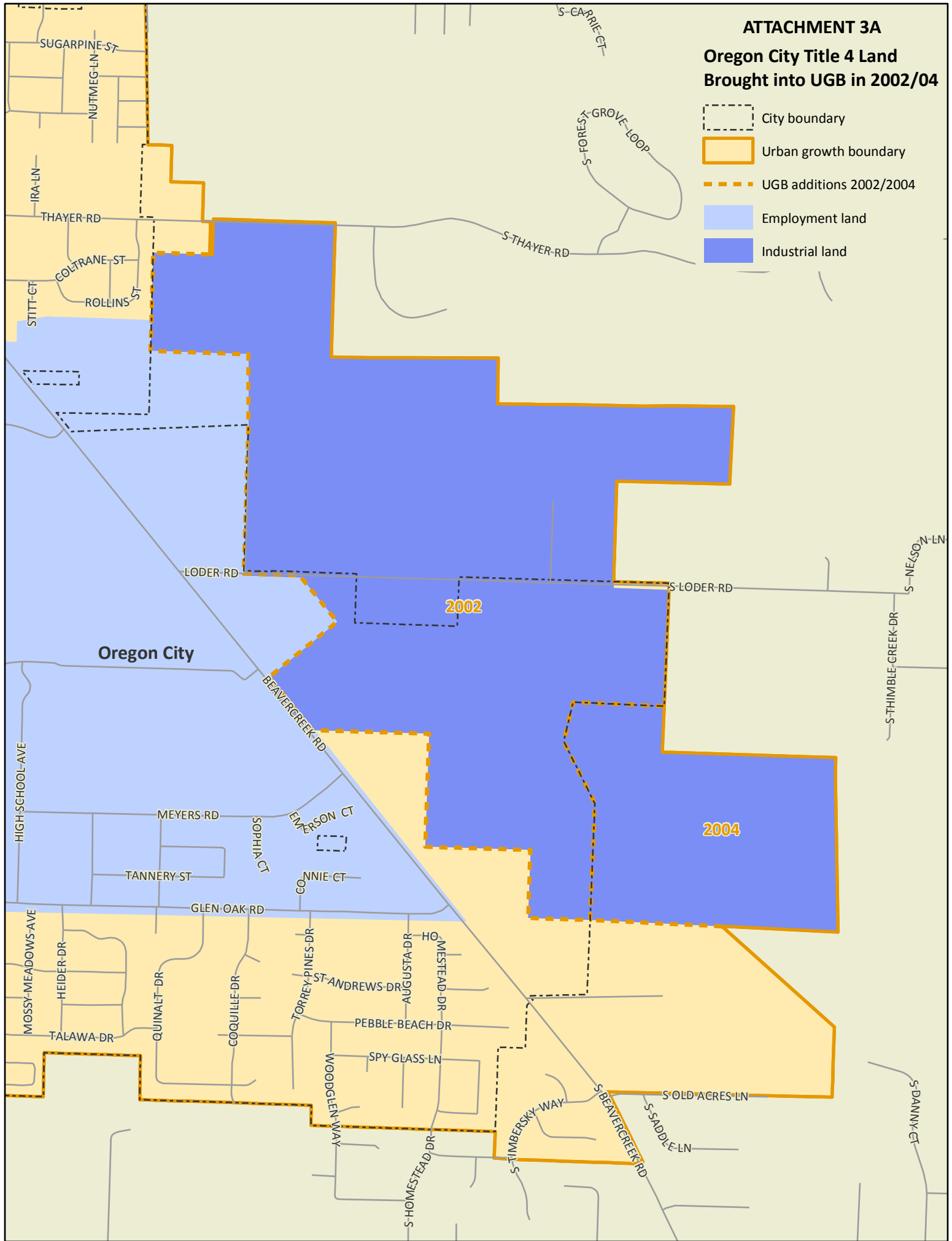
**Attachment 3d** (map of the area after the Beavercreek Concept Plan was completed)

**Attachment 3e** (Metro Council President (David Bragdon) letter to the Board of Directors for the Hamlet of Beavercreek and the City)



# **ATTACHMENT 3A** **Oregon City Title 4 Land** **Brought into UGB in 2002/04**

-  City boundary
-  Urban growth boundary
-  UGB additions 2002/2004
-  Employment land
-  Industrial land





ATTACHMENT 3B



METRO

March 19, 2008

Mayor Alice Norris and City Commissioners  
City of Oregon City  
320 Warner-Milne Road  
Oregon City, OR 97045

RE: File L 07-02, Beaver Creek Road Concept Plan

Dear Mayor Norris and Commissioners:

Thank you for the opportunity to review and comment on the proposed Beaver Creek Road Concept Plan comprehensive plan amendment that will begin the process leading to urbanization of the expansion area brought into the UGB in 2002 and 2004. Please enter this letter into the hearing record.

After review of the final recommended concept plan and Metro compliance findings, as detailed by Tony Konkol in his March 8, 2008, memo to the Commission, Metro staff concludes that the proposal, if adopted, would comply with the intent of Metro Ordinance No. 02-969B, Ordinance No. 04-1040B and the Urban Growth Management Functional Plan. As you know, the two Metro ordinances brought the Beaver Creek Road site into the UGB in December 2002 and June 2004, respectively. Title 11 of the Functional Plan requires the City to consider and adopt certain provisions to guide urbanization of new urban areas.

The adoption of the recommended concept plan by the City at this time sets the context for urbanizing the Beaver Creek Road site. The plan and accompanying language seem consistent with Metro policies and regulations. Metro reserves the right, however, to review the future implementation measures, as they come before the Commission, before determining compliance with the two ordinances and Title 11.

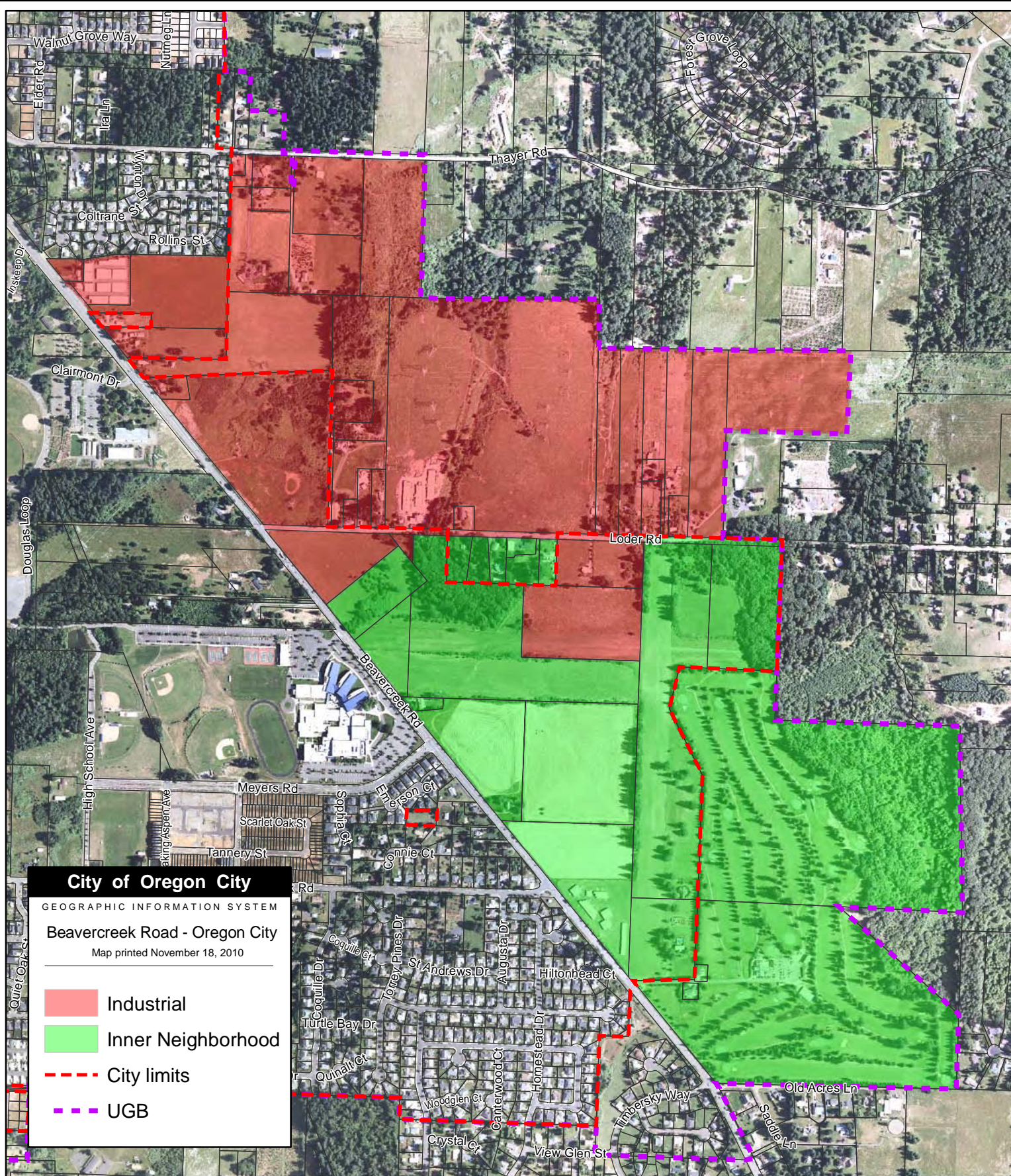
As a participant on the Beaver Creek Road Technical Advisory Committee and attendee of the public open houses during the development of the concept plan, I commend City staff and the consultant team for conducting a thorough process in working with the Citizen Advisory Committee and other stakeholders. While the 2002 and 2004 UGB area was originally designated for job use to support the City's needs, Metro realizes that modifications during local government planning are part of the refinement process. We also appreciate the flexibility shown by all parties in achieving a compromise plan that includes housing and retail services along with a substantial job base.

Sincerely,

Ray Valone  
Principal Planner

cc: Dan Drentlaw  
Tony Konkol  
Darren Nichols, DLCD  
David Bragdon, Metro Council President  
Carlotta Collette, Metro Council District #2  
Michael Jordan, Metro COO





The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.



0 500 1,000 1,500 2,000 2,500 Feet

## ATTACHMENT 3C

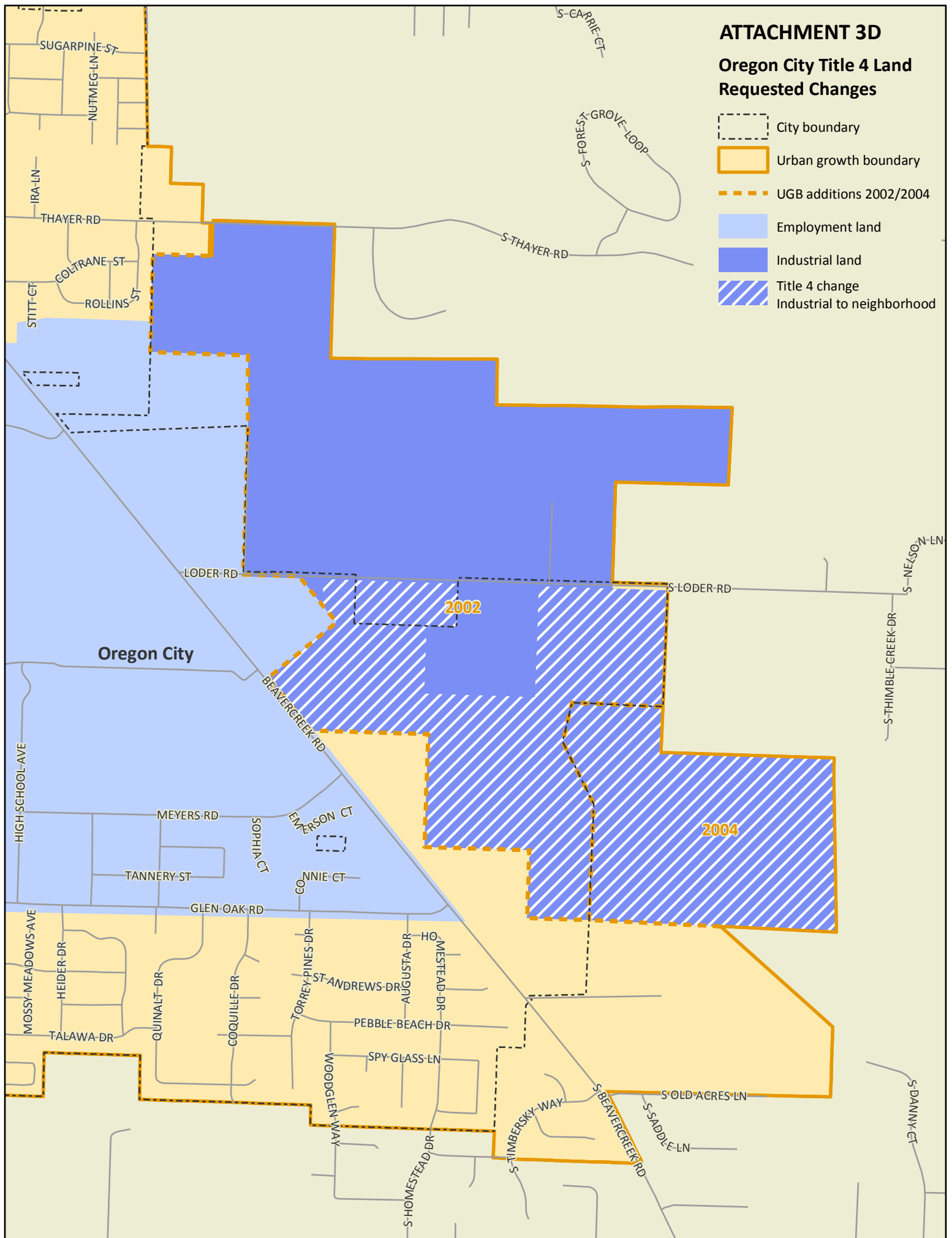
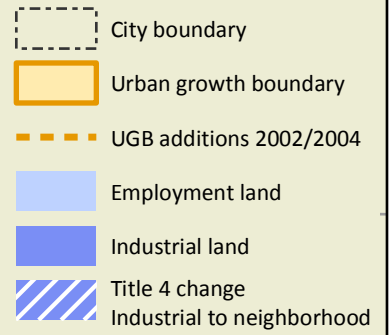
City of Oregon City  
P.O. Box 3040  
625 Center St  
Oregon City, OR 97045  
503-657-0891 phone  
503-657-6629 fax  
[www.oregocity.org](http://www.oregocity.org)



Plot date: November 18, 2010  
Plot name: Proposed 2040 Growth Concept Map - Scenario 1 - 8\_5x11PJ - 20101118.pdf  
Map name: Proposed 2040 Growth Concept Map - Scenario 1 - 8\_5x11PJ.mxd



## Oregon City Title 4 Land Requested Changes







METRO

600 NORTHEAST GRAND AVENUE  
TEL 503 797 1889

PORTLAND, OREGON 97232 2736  
FAX 503 797 1793

COUNCIL PRESIDENT DAVID BRAGDON

May 14, 2007

Bill Merchant  
Chair, Board of Directors for the Hamlet of Beavercreek

Elizabeth Graser-Lindsey  
Speaker and Corresponding Secretary, Board of Directors for the Hamlet of Beavercreek  
The Hamlet of Beavercreek  
PO BOX 587  
Beavercreek, OR 97004

Dear Mr. Merchant and Ms. Graser-Linsey:

Thank you for your recent letter outlining your concerns about the planning and future development of the 300 acres of property along Beavercreek Road that were included in the 2002 and 2004 urban growth boundary expansions. The Metro Council had targeted 120 net acres of industrial job land for the 300 acres. It is my understanding that the latest proposed plan meets this requirement.

I have forwarded a courtesy copy of your letter to the City of Oregon City, and it is my understanding that Dan Drentlaw, Director of Community Development has also responded to your letter.

Metro staff Ray Valone is serves as Metro's representative on the technical advisory committee for this project and can be reached at 503-797-1808 or valoner@metro.dst.or.us if you have further questions regarding the Metro Council's industrial land targets and the concept and comprehensive planning process.

Sincerely,

David L. Bragdon  
Metro Council President

Cc: Mayor Alice Norris, City of Oregon City  
Dan Drentlaw, Director of Community Development, City of Oregon City  
Michael Jordan, Chief Operating Officer, Metro  
Ray Valone, Principal Planner, Metro



Agenda Item Number 5.2

**Ordinance No. 10-1248**, For the Purpose of Approving a Solid Waste Facility Franchise Application Submitted by Columbia Biogas, LLC to Operate an Anaerobic Digestion Facility and Authorizing the Chief Operating Officer to Issue a Franchise.

Metro Council Meeting  
Thursday, Dec. 2, 2010  
Hillsboro Civic Center



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A SOLID WASTE	)	ORDINANCE NO. 10-1248
FACILITY FRANCHISE APPLICATION SUBMITTED BY	)	
COLUMBIA BIOGAS, LLC TO OPERATE AN ANAEROBIC	)	Introduced by Michael Jordan,
DIGESTION AND ENERGY RECOVERY FACILITY AND	)	Chief Operating Officer, with the
AUTHORIZING THE CHIEF OPERATING OFFICER TO	)	concurrence of Carlotta Collette,
ISSUE A FRANCHISE	)	Council President

WHEREAS, Metro Code Section 5.01.045(b) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a facility that processes putrescible waste other than yard debris, including energy recovery facilities; and,

WHEREAS, on October 1, 2010, Columbia Biogas, LLC submitted a Solid Waste Facility Franchise Application pursuant to Metro Code Section 5.01.060 to operate an anaerobic digestion and energy recovery facility that will process putrescible waste other than yard debris for the production of biogas; and,

WHEREAS, Metro Code Section 5.01.070 stipulates that the Chief Operating Officer shall make an investigation concerning the application and shall formulate recommendations, including a recommendation of whether the application should be granted or denied; and,

WHEREAS, the Chief Operating Officer has reviewed and investigated the application filed by Columbia Biogas, LLC, and has formulated recommendations regarding the factors set forth in Metro Code Section 5.01.070; and,

WHEREAS, the Chief Operating Officer recommends that the franchise be granted together with specific conditions as provided in Exhibit A to this Ordinance entitled "Solid Waste Facility Franchise;" and

WHEREAS, the Metro Council has received the Chief Operating Officers recommendations and has considered the factors set forth in Metro Code Section 5.10.070; and

WHEREAS, the Metro Council finds that the proposed franchise meets the criteria contained in Metro Code Section 5.01.070 and that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Solid Waste Facility Franchise Application of Columbia Biogas, LLC is approved, subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise."



2. The Chief Operating Officer is authorized to issue to Columbia Biogas, LLC, a Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

---

Carlotta Collette, Council President

Attest:

Approved as to Form:

---

Kelsey Newell, Recording Secretary

---

Daniel B. Cooper, Metro Attorney



600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736  
TEL 503-797-1835 FAX 503-813-7544



**METRO**

## SOLID WASTE FACILITY FRANCHISE

### No. F-131-10

FRANCHISEE:	FACILITY NAME AND LOCATION:
Columbia Biogas, LLC 721 NW 9 <sup>th</sup> Avenue, Suite 195 Portland, Oregon 97209 Tel. (503) 914-4630 Email: John@columbiabiogas.com	Columbia Biogas 6849 NE Columbia Blvd Portland, Oregon Tel. (503) 914-4630 Email: John@columbiabiogas.com
OPERATOR:	PROPERTY OWNER:
Columbia Biogas, LLC 721 NW 9 <sup>th</sup> Avenue, Suite 195 Portland, Oregon 97209 Tel. (503) 914-4630  Veolia Water North America-West 2323 W. Mill Plain Blvd Vancouver, Washington 98660 Tel. (360) 735-0708	Oregon Fresh Farms Real Estate, LLC 15201 SE Rivercrest Drive Vancouver, Washington 98683 Tel. (503) 703-6737

Metro grants this franchise to the Franchisee named above. The Franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this Franchise.

**ISSUED BY METRO:**

**FRANCHISEE'S  
ACKNOWLEDGEMENT OF RECEIPT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Franchisee

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date





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1.0	ISSUANCE	
1.1	<b>Franchisee</b>	Columbia Biogas, LLC 721 NW 9 <sup>th</sup> Avenue, Suite 195 Portland, Oregon 97209 Tel. (503) 914-4630 Email: John@columbiabiogas.com
1.2	<b>Contact</b>	John McKinney Tel. (503) 914-4630 Email: John@columbiabiogas.com
1.3	<b>Franchise number</b>	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-131-10.
1.4	<b>Term</b>	The term commences on December 31, 2010, and shall terminate on December 31, 2015, unless amended, modified, suspended, or revoked under the provisions of Section 12.0 of this franchise, or terminated under the provisions of Section 3.4 of this franchise.
1.5	<b>Renewal</b>	The Franchisee may apply for a franchise renewal as provided in Metro Code Section 5.01.087.
1.6	<b>Facility name and mailing address</b>	Columbia Biogas 721 NW 9 <sup>th</sup> Avenue, Suite 195 Portland, Oregon 97209
1.7	<b>Managing member</b>	Verde Renewables, LLC PO Box 189 San Anselmo, CA 94960
1.8	<b>Operator</b>	Columbia Biogas, LLC 721 NW 9 <sup>th</sup> Avenue, Suite 195 Portland, Oregon 97209 Tel. (503) 914-4630 Email: John@columbiabiogas.com  Veolia Water North America-West 2323 W. Mill Plain Blvd Vancouver, Washington 98660 Tel. (360) 735-0708 Fax. (360) 735-5983  At the Franchisee's request, the COO may amend this section to delete an operator, add an operator, or both. The COO may not unreasonably refuse the Franchisee's request to amend this section. The Franchisee remains solely responsible for compliance with this franchise





<b>1.8</b>	<b>Facility premises description</b>	Tax Lot Identification No. 1N2E-00500, City of Portland, Multnomah County, State of Oregon
<b>1.9</b>	<b>Property owner</b>	Oregon Fresh Farms Real Estate, LLC 15201 SE Rivercrest Drive Vancouver, Washington 98683 Tel. (503) 703-6737
<b>1.10</b>	<b>Permission to operate</b>	Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise.

<b>2.0</b>	<b>CONDITIONS AND DISCLAIMERS</b>	
<b>2.1</b>	<b>Guarantees</b>	This franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
<b>2.2</b>	<b>Non-exclusive franchise</b>	This franchise shall not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
<b>2.3</b>	<b>Property rights</b>	This franchise does not convey any property rights in either real or personal property.
<b>2.4</b>	<b>Amendment and modification</b>	Except as provided in Section 12.0 of this franchise, no amendment or modification shall be effective unless approved by the Metro Council.
<b>2.5</b>	<b>No recourse</b>	The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
<b>2.6</b>	<b>Indemnification</b>	The Franchisee shall indemnify Metro, the Council, the Chief Operating Officer (the "COO"), and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the Franchisee's performance of or failure to perform any of its obligations under the Franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.





<b>2.7</b>	<b>Binding nature</b>	This franchise is binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents.
<b>2.8</b>	<b>Waivers</b>	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by the COO.
<b>2.9</b>	<b>Effect of waiver</b>	Waiver of a term or condition of this franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
<b>2.10</b>	<b>Choice of law</b>	The franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
<b>2.11</b>	<b>Enforceability</b>	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall not be affected.
<b>2.12</b>	<b>Franchise not a waiver</b>	This franchise does not relieve any owner, operator, or the Franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
<b>2.13</b>	<b>Franchise not limiting</b>	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
<b>2.14</b>	<b>Definitions</b>	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

<b>3.0</b>	<b>COMPLETION OF FACILITY CONSTRUCTION</b>	
<b>3.0</b>	<b>Acceptance of solid waste: Director's certification of the completion of facility construction</b>	Franchisee may not accept any solid waste at the facility unless the Finance and Regulatory Services Director (the "Director") has certified, in writing, that facility construction is complete according to plans submitted by Franchisee and approved by the DEQ and Metro. Such certification shall be based upon the Franchisee's compliance with the provisions of this Section 3.0 of this Franchise, including the Director's inspection of the facility and the documents submitted to the Director by the Franchisee.
<b>3.1</b>	<b>Facility design</b>	The facility must be designed and constructed in accordance with the plans submitted to Metro and the DEQ. The





		Franchisee shall submit any amendments or alterations to such plans for written approval by the Director.
3.2	<b>“As constructed” documents</b>	Within 30 days of the substantial completion of construction of the facility, the Franchisee shall submit to the Director “as constructed” facility plans which note any changes from the original DEQ and Metro approved plans.
3.3	<b>Construction inspection</b>	When construction is complete or nearly complete, the Franchisee shall notify the Director so that an inspection can be made before the facility accepts any solid waste and the facility is placed into operation. The inspection shall occur after the Franchisee has provided Metro with the documents described in subsections 3.2 of this Franchise. Franchisee may commence operation within 30 days of receipt of the documents described in subsection 3.2, unless Metro finds that the construction is not complete or that the facility has been constructed in a way that is materially inconsistent with the plans approved by Metro.
3.4	<b>Early termination of franchise for failure to perform</b>	This franchise shall terminate on December 31, 2013 if the Franchisee fails to construct the facility in accordance with the provisions of this Section 3.0, and ensure that it is operational by December 31, 2013.

<b>4.0</b>	<b>AUTHORIZATIONS</b>	
4.1	<b>Purpose</b>	This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility and the waste-related activities the Franchisee is authorized to perform at the facility.
4.2	<b>General conditions on solid waste</b>	The Franchisee is authorized to accept at the facility only the solid wastes described in Section 4.0 of this franchise. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
4.3	<b>General conditions on activities</b>	The Franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 4.0 of this franchise.
4.4	<b>Acceptance and management of source-separated food waste</b>	<p>1. The Franchisee is authorized to accept source-separated food waste from commercial and industrial sources for on-site processing and anaerobic digestion. Examples of source-separated food waste that are authorized to be accepted by the Franchisee include:</p> <p>a) <u>Liquid fraction</u>: primarily grease trap waste</p>





		<p>from food establishments, and liquid waste from food and beverage processors (contains little or no packaging or contaminants).</p> <p>b) <u>Clean fraction</u>: primarily source-separated food waste from food and beverage processors including bakeries, breweries and food distributors (this material has little or no packaging).</p> <p>c) <u>Mixed fraction</u>: source-separated mixed food waste from grocery stores, restaurants, food distributors and food processors (may include food-spoiled paper, biodegradable food-service ware, wax coated cardboard and packaging such as plastic, glass and metal).</p> <p>d) <u>Containerized fraction</u>: source-separated food waste, liquid or solid, delivered palletized or in large totes primarily from food processors, grocery stores, restaurants and food distributors (may include packaging such as plastic, glass, metal and paper).</p> <p>2. The Franchisee shall receive, manage, process, store, reload and transfer all source-separated food waste in accordance with the facility building design plans, odor control plans and operating plans submitted and approved by Metro as part of the franchise application (e.g., enclosed facility operations, in-vessel containers and negative air collection system routed to biofilters).</p>
4.5	<b>Management of processing residual and byproducts</b>	<p>The Franchisee shall store, reload, and transfer all putrescible and non-putrescible waste processing residual and byproducts inside a roofed, enclosed building, or other in-vessel systems in accordance with the facility design plans and operating plan submitted and approved by the COO as part of the franchise application.</p>
4.6	<b>Byproducts from anaerobic digestion process for agricultural use</b>	<p>The Franchisee may provide its liquid, semi-solid or solid digester byproducts from the anaerobic digestion process to horticultural, agricultural, landscape and nursery operations for use as a fertilizer or agricultural amendment at agronomic application rates or to distributors that resell the byproducts for such uses subject to the following conditions:</p> <p>a) <b>Registration.</b> The Franchisee must register with and obtain a license from the Oregon Department of Agriculture Fertilizer Program as a manufacturer or distributor of fertilizers and agricultural amendments. The Franchisee shall provide Metro</p>





		<p>copies of analytical results for its digester byproducts that are required for registration purposes by the Oregon Department of Agriculture. Copies of such registration applications shall be made available to Metro upon request.</p> <p>b) Customer information. The Franchisee shall maintain at the facility records of contact information for each operation, place or distributor to which it provides digester byproducts including name, contact person, telephone number, address, and the physical location of the farm, place or facility where digester byproducts will be received and/or stored for distribution.</p> <p>c) Production and sales information. The Franchisee shall maintain at the facility records of:</p> <ol style="list-style-type: none"><li>I. Monthly quantities of digester byproducts produced by type (liquid, semi-solid or solid);</li><li>II. Monthly quantities of digester byproducts delivered to customers by type; and</li><li>III. Quantity of each type of byproduct in inventory at the facility at the end of each month.</li></ol> <p>d) The Franchisee shall retain the records required by subsection (b) and (c) for one year and shall make such records available for inspection, auditing and copying by Metro at the facility, subject to Section 13.4 of this franchise.</p>
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5.0 LIMITATIONS AND PROHIBITIONS		
5.1	<b>Purpose</b>	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
5.2	<b>Prohibited waste</b>	The Franchisee shall not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The Franchisee shall not knowingly accept or retain any material amounts of the following types of waste: putrescible waste not authorized in Section 4.0 including yard debris, non-putrescible waste, materials contaminated with or containing friable asbestos; lead acid





		batteries; liquid waste not authorized in Section 4.0; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ or the City of Portland.
5.3	<b>Prohibition on mixing</b>	The Franchisee shall not mix or commingle any source-separated recyclable materials, or source-separated food waste, brought to the facility with any solid wastes destined for disposal.
5.4	<b>No disposal of recyclable materials</b>	The Franchisee shall not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
5.5	<b>Limits not exclusive</b>	This franchise shall not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.
5.6	<b>Tonnage authorization</b>	This franchise does not limit the amount of source-separated food waste that the Franchisee may accept.

6.0	<b>OPERATING CONDITIONS</b>	
6.1	<b>Purpose and general performance goals</b>	<p>This section of the franchise describes criteria and standards for the operation of the facility. The Franchisee shall operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none"><li>a) Environment. The Franchisee shall design and operate the facility 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.</li><li>b) Health and safety. The Franchisee shall design and operate the facility to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.</li><li>c) Nuisances. The Franchisee shall design and operate the facility to preclude the creation of off-site nuisance conditions including, but not limited to, litter, dust, odors, and noise.</li></ul>





<b>6.2</b>	<b>Qualified operator</b>	<ol style="list-style-type: none"><li>1. The Franchisee shall, during all hours of operation, provide an operating staff employed by the facility or under contract with the facility, as specified in Section 1.7 of this franchise, that is qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01.</li><li>2. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.</li><li>3. A qualified operator must be an employee of the facility, or under contract as specified in Section 1.7 of this franchise, with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.</li></ol>
<b>6.3</b>	<b>Fire prevention</b>	The Franchisee 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 processing and storage areas.
<b>6.4</b>	<b>Adequate vehicle accommodation</b>	<p>The Franchisee shall:</p> <ol style="list-style-type: none"><li>a) 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.</li><li>b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.</li><li>c) Post signs to inform customers not to queue on public roadways.</li><li>d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.</li></ol>
<b>6.5</b>	<b>Managing prohibited wastes</b>	<ol style="list-style-type: none"><li>1. The Franchisee shall reject prohibited waste upon discovery and shall properly manage and dispose of prohibited waste when unknowingly received.</li><li>2. The Franchisee shall implement a load-checking</li></ol>





		<p>program to prevent the acceptance of waste that is prohibited by the franchise. This program must include at a minimum:</p> <ul style="list-style-type: none"><li>a) Load screening. As each load is tipped, a qualified operator shall visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise, in accordance with the operating plan approved by the COO.</li><li>b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall be covered and enclosed to prevent leaking and contamination.</li><li>c) Record maintenance. 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.</li></ul> <p>3. Upon discovery, the Franchisee shall remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the Franchisee unknowingly receives shall be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.</p>
<b>6.6</b>	<b>Storage and stockpiles</b>	<p>The Franchisee shall:</p> <ul style="list-style-type: none"><li>a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;</li><li>b) Maintain all storage areas in an enclosed, roofed building, in an orderly manner and keep the areas free of litter;</li><li>c) Position stockpiles within footprints and within the storage volume limits identified on the facility site plan or operating plan; and</li><li>d) Not stockpile non-putrescible recovered materials, source-separated materials or byproducts for longer than 10 days.</li></ul>
<b>6.7</b>	<b>Dust, airborne debris and litter</b>	<p>The Franchisee shall operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond</p>





		<p>property boundaries. The Franchisee shall:</p> <ul style="list-style-type: none"><li>a) 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;</li><li>b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;</li><li>c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;</li><li>d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly as a result of the facility's operation;</li><li>e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and</li><li>f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.</li></ul>
<b>6.8</b>	<b>Odor</b>	<ul style="list-style-type: none"><li>1. The Franchisee shall at all times operate the facility in a manner that prevents the generation of malodors that are detectable off-site. Detectable off-site malodors will be evaluated based on, but not limited to, the following properties: intensity, character, frequency, and duration.</li><li>2. The Franchisee shall establish and follow procedures in the operating plan for minimizing malodor at the facility and preventing off-site malodors.</li></ul>
<b>6.9</b>	<b>Vectors (e.g. birds, rodents, insects)</b>	<ul style="list-style-type: none"><li>1. The Franchisee 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</li></ul>





		<p>or indirectly, infectious diseases to humans or from one person or animal to another.</p> <p>2. If vectors are present or detected at the facility, the Franchisee shall implement vector control measures.</p>
<b>6.10</b>	<b>Noise</b>	<p>The Franchisee shall operate the facility in a manner that prevents the creation of noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
<b>6.11</b>	<b>Water contaminated by solid waste and solid waste leachate</b>	<p>The Franchisee shall operate the facility consistent with an approved City of Portland or DEQ stormwater management plan or equivalent.</p>
<b>6.12</b>	<b>Access control</b>	<p>1. The Franchisee shall control access to the facility as necessary to prevent unauthorized entry and dumping.</p> <p>2. The Franchisee shall maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.</p>
<b>6.13</b>	<b>Signage</b>	<p>The Franchisee 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> <ul style="list-style-type: none"><li>a) Name of the facility;</li><li>b) Address of the facility;</li><li>c) Emergency telephone number for the facility;</li><li>d) Operating hours during which the facility is open for the receipt of authorized waste;</li><li>e) Fees and charges;</li><li>f) Metro's name and telephone number (503) 234-3000 (Metro's Recycling Information Hotline);</li><li>g) A list of authorized and prohibited wastes;</li><li>h) Vehicle / traffic flow information or diagram;</li><li>i) Covered load requirements; and</li><li>j) Directions not to queue on public roadways.</li></ul>
<b>6.14</b>	<b>Nuisance complaints</b>	<p>1. The Franchisee 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</p>





		<p>action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>2. If the facility receives a complaint, the Franchisee shall:</p> <ul style="list-style-type: none"><li>a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require; and</li><li>b) Log all such complaints as provided by the operating plan. Each log entry shall be retained for one year and shall be available for inspection by Metro. Each log entry shall include:<ul style="list-style-type: none"><li>i. The nature of the complaint;</li><li>ii. The date the complaint was received;</li><li>iii. The name, address and telephone number of the person or persons making the complaint; and</li><li>iv. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).</li></ul></li><li>c) The Franchisee shall make records of such information available to Metro upon request. The Franchisee shall retain each complaint record for a period not less than one year.</li></ul>
<b>6.15</b>	<b>Access to franchise document</b>	<p>The Franchisee shall maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.</p>
<b>6.16</b>	<b>Good neighbor plan and agreement</b>	<ul style="list-style-type: none"><li>1. The Franchisee shall develop, implement and maintain a good neighbor plan with the surrounding community that may be impacted by the facility construction and operations.</li><li>2. As part of the good neighbor plan, the Franchisee shall make good faith efforts to establish a written agreement between the Franchisee and the Cully Association of Neighbors. The agreement shall, at a minimum, describe how the Franchisee will hear and respond to neighborhood concerns, and include a process for dispute resolution.</li><li>3. The Franchisee shall submit a copy of the good neighbor plan to Metro three months prior to commencing construction, and shall provide Metro an updated plan within 15 days of any revision to the plan.</li></ul>





		<ol style="list-style-type: none"><li>4. The franchisee shall provide a written report to Metro on the status of the good neighbor plan and its implementation, including, but not limited to, community concerns and actions taken by the Franchisee. The reports shall be submitted to Metro on January 30 each year and include updates on the facility activities with respect to the good neighbor plan during the previous year.</li><li>5. A copy of the good neighbor plan shall be kept on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.</li><li>6. The good neighbor plan shall not limit, or in any way restrict, Metro's ability to enforce the provisions of this franchise.</li></ol>
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<b>7.0 OPERATING PLAN</b>		
<b>7.1</b>	<b>Purpose</b>	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
<b>7.2</b>	<b>Plan compliance</b>	The Franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise and the conditions listed in Section 7.0. The Franchisee must submit a complete, updated operating plan to Metro within 60 days of completing process stabilization and performance testing. The Franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
<b>7.3</b>	<b>Plan maintenance</b>	The Franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
<b>7.4</b>	<b>Access to operating plan</b>	The Franchisee 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.





<b>7.5</b>	<b>Procedures for inspecting loads</b>	The operating plan shall establish: <ul style="list-style-type: none"><li>a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;</li><li>b) Procedures for identifying incoming and outgoing loads for waste classifications; and</li><li>c) A set of objective criteria for accepting and rejecting loads.</li></ul>
<b>7.6</b>	<b>Procedures for processing and storage of loads</b>	The operating plan shall establish procedures for: <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 consistent with Section 6.6 to ensure that they remain within the authorized footprints and volumes identified on the facility site plan or operating plan;</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>
<b>7.7</b>	<b>Procedures for managing prohibited wastes</b>	The operating plan shall establish procedures for managing, reloading, and transferring 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.
<b>7.8</b>	<b>Procedures for odor prevention</b>	The operating plan shall establish procedures for complying with Section 6.8 of this franchise regarding odor prevention and control. The plan must include a management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility including leaking trucks and containers arriving on-site.
<b>7.9</b>	<b>Procedures for dust prevention</b>	The operating plan shall establish procedures for complying with Section 6.7 of this franchise regarding dust control. The plan must include a management plan that will be used to monitor and manage dust of any derivation.
<b>7.10</b>	<b>Procedures for emergencies</b>	The operating plan shall establish procedures to be followed in case of fire or other emergency.





<b>7.11</b>	<b>Procedures for nuisance complaints</b>	The plan must include procedures for receiving, recording and responding to nuisance complaints consistent with Section 6.14 of this franchise.
<b>7.12</b>	<b>Closure protocol</b>	The Franchisee shall establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.060(c)(3) and as required by the DEQ.
<b>7.13</b>	<b>Financial assurance</b>	The Franchisee shall maintain financial assurance for the cost of the facility's closure and maintain such financial assurance in a form approved by the DEQ for the term of this franchise.

<b>8.0</b>	<b>FEES AND RATE SETTING</b>	
<b>8.1</b>	<b>Purpose</b>	This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
<b>8.2</b>	<b>Annual fee</b>	The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
<b>8.3</b>	<b>Rates not regulated</b>	The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.
<b>8.4</b>	<b>Metro fee and tax imposed on disposal</b>	The Franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes disposed.
<b>8.5</b>	<b>Community enhancement fee (host fee)</b>	The Franchisee is liable for payment of a community enhancement fee as provided by ORS 459.284 and Metro Code Chapter 5.06.

<b>9.0</b>	<b>RECORD KEEPING AND REPORTING</b>	
<b>9.1</b>	<b>Purpose</b>	This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
<b>9.2</b>	<b>Reporting requirements</b>	1. For all solid waste and other feedstock materials the Franchisee is authorized to receive under Section 4.0 of this franchise, the Franchisee shall keep and maintain





		<p>accurate records of the amount of such materials the Franchisee receives, recovers, recycles, reloads, and disposes.</p> <p>2. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none"><li>a) Ticket Number (should be the same as the ticket number on the weight slips);</li><li>b) Customer account numbers identifying incoming customers and outgoing destinations;</li><li>c) Description whether the load was incoming to the facility or outgoing from the facility;</li><li>d) Material Category: Code designating the following types of material (more detail is acceptable): (1) incoming source-separated food waste; (2) outgoing recyclable materials by type, including agricultural use byproducts by type (liquid, semi-solid, or solid); (3) outgoing non-putrescible waste; (4) outgoing putrescible waste;</li><li>e) 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 another location outside Metro boundaries:<ul 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 Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (e)(2) and (e)(3).</li></ul></li><li>f) Date the load was received at, transferred within, or transmitted from the facility;</li><li>g) Time the load was received at, transferred within, or transmitted from the facility;</li><li>h) Indicate whether Franchisee accepted or rejected the load;</li><li>i) Net weight of the load; and</li><li>j) The fee charged to the generator of the load.</li></ul>
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<b>9.3</b>	<b>Record transmittals</b>	Franchisee shall transmit to Metro records required under Section 9.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
<b>9.4</b>	<b>Account number listing</b>	Within five business days of Metro's request, Franchisee shall provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
<b>9.5</b>	<b>Transactions based on scale weights</b>	Except for minimum fee transactions for small, lightweight loads, the Franchisee shall record each inbound and outbound transaction electronically based on actual and accurate scale weights using the Franchisee's on-site scales.
<b>9.6</b>	<b>DEQ submittals</b>	The Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ permits or this franchise within two business days of providing such information to DEQ.
<b>9.7</b>	<b>Copies of enforcement actions provided to Metro</b>	The Franchisee shall ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
<b>9.8</b>	<b>Unusual occurrences</b>	<ol style="list-style-type: none"><li>1. The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires, leaks or explosions, and 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.</li><li>2. If a breakdown of the Franchisee's equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the Franchisee shall notify Metro within 24 hours of the discovery of the breakdown.</li><li>3. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro within 24 hours of the discovery of their occurrence.</li></ol>
<b>9.9</b>	<b>Changes in ownership</b>	<ol style="list-style-type: none"><li>1. Any change in control of Franchisee or the transfer of a controlling interest of Franchisee shall require prior written notice to Metro. "Transfer of a controlling interest of Franchisee" includes without limitation the</li></ol>





		<p>transfer of 50% or more of the ownership of Franchisee to or from a single entity. Metro may modify this franchise under Section 12.3 to require the new ownership of Franchisee to assume all the rights and obligations of this franchise.</p> <p>2. The Franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the Franchisee follows the requirements of Metro Code Section 5.01.090.</p>
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<b>10.0 INSURANCE REQUIREMENTS</b>		
<b>10.1</b>	<b>Purpose</b>	This section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.
<b>10.2</b>	<b>General liability</b>	The Franchisee 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.
<b>10.3</b>	<b>Automobile</b>	The Franchisee shall carry automobile bodily injury and property damage liability insurance.
<b>10.4</b>	<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.
<b>10.5</b>	<b>Additional insureds</b>	Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.
<b>10.6</b>	<b>Worker's Compensation Insurance</b>	The Franchisee, its subcontractors, if any, and all employers working under this franchise, is 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. The Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If the Franchisee 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.





<b>10.7</b>	<b>Notification</b>	The Franchisee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.
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<b>11.0</b>	<b>ENFORCEMENT</b>	
<b>11.1</b>	<b>Generally</b>	Enforcement of this franchise shall be as specified in Metro Code Chapter 5.01.
<b>11.2</b>	<b>Authority vested in Metro</b>	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise 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 Franchisee.
<b>11.3</b>	<b>No enforcement limitations</b>	This franchise shall not 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 franchise 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 franchise or the Franchisee's operation of the facility.
<b>11.4</b>	<b>Penalties</b>	Each violation of a franchise condition shall be punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

<b>12.0</b>	<b>AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION</b>	
<b>12.1</b>	<b>Amendment by agreement</b>	At any time during the term of the franchise, either the COO or the Franchisee may propose amendments to this franchise. If either the COO or the Franchisee proposes amendments to this franchise, both parties shall make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
<b>12.2</b>	<b>Amendment by Metro Council action</b>	Except as provided in Section 12.3, the provisions of this franchise shall remain in effect unless the Metro Council: a) Amends the Metro Code, amends the Regional





		<p>Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this Franchisee is a member; and</p> <p>b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance.</p> <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the Franchisee provides evidence that the amendment will result in significant capital cost to the Franchisee, the Metro Council will include capital cost and the ability of the Franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
<b>12.3</b>	<b>Modification, suspension or revocation by Metro for cause</b>	<p>The COO may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"><li>a) Violation of the terms or conditions of this franchise, 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 franchise;</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) Generation of malodors detectable off-site;</li><li>f) Significant change in the character of solid waste received or in the operation of the facility;</li><li>g) Any change in ownership or control;</li><li>h) A request from the local government stemming from impacts resulting from facility operations; and</li><li>i) Compliance history of the Franchisee.</li></ul>

<b>13.0</b>	<b>GENERAL OBLIGATIONS</b>	
<b>13.1</b>	<b>Compliance with law</b>	<p>The Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted</p>





		<p>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 franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.</p>
<b>13.2</b>	<b>Deliver waste to appropriate destinations</b>	<p>The Franchisee 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>
<b>13.3</b>	<b>Right of inspection and audit</b>	<p>Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO 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 Section 13.4. Subject to the confidentiality provisions in Section 13.4 of this franchise, 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 Franchisee that are directly related to the operation of the facility.</p>
<b>13.4</b>	<b>Confidential information</b>	<p>The Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee or photographs taken by Metro that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The Franchisee 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</p>





		<p>192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. The Franchisee 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. The Franchisee 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. This Section 13.0 shall not 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>
<b>13.5</b>	<b>Compliance by agents</b>	<p>The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.</p>



## STAFF REPORT

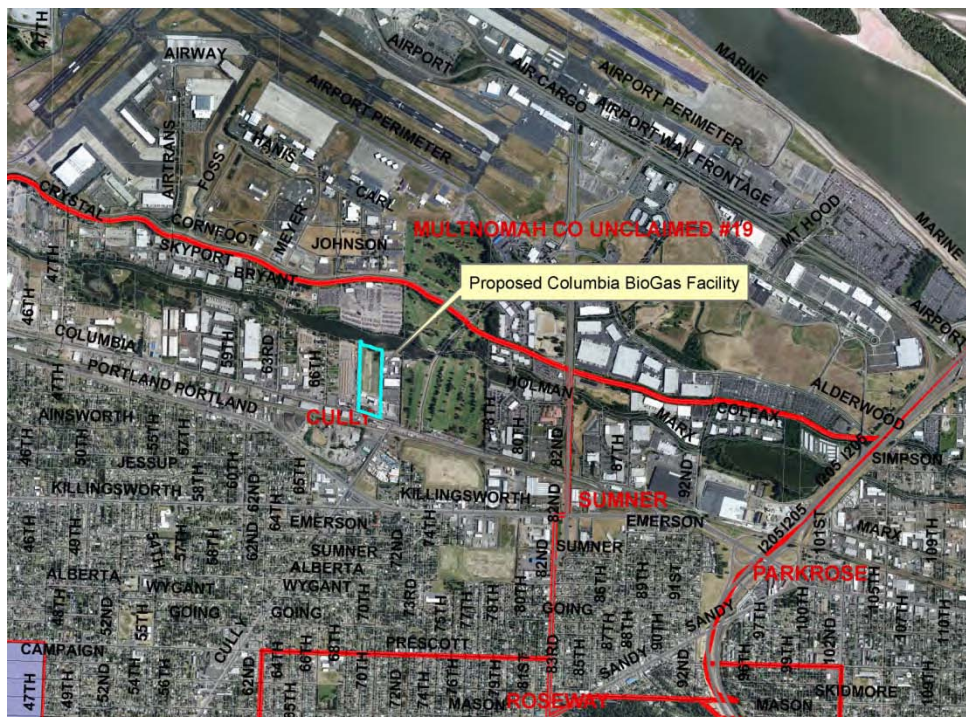
IN CONSIDERATION OF ORDINANCE NO. 10-1248, FOR THE PURPOSE OF APPROVING A SOLID WASTE FACILITY FRANCHISE APPLICATION SUBMITTED BY COLUMBIA BIOGAS, LLC TO OPERATE AN ANAEROBIC DIGESTION AND ENERGY RECOVERY FACILITY AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A FRANCHISE

Date: November 17, 2010

Prepared by: Bill Metzler 503-797-1666  
Roy Brower 503-797-1657

## BACKGROUND

On October 1, 2010, in accordance with Metro Code Section 5.01.060, Columbia Biogas, LLC (CBG) submitted an application for a solid waste facility franchise to establish an anaerobic digestion and energy recovery facility that will process food waste into biogas for energy production at 6849 NE Columbia Boulevard, in Portland, Oregon (Metro Council District 5). Anaerobic digestion is a controlled and enclosed biological process that breaks down organic matter in the absence of oxygen, and can produce biogas for energy generation.



Site location map (including neighborhood names and boundaries)

The subject property is located at 6849 NE Columbia Boulevard, south of the Columbia Slough. The 11-acre property is currently occupied by industrial buildings in the south and agricultural uses in the north. The property is zoned general industrial (IG2). A Land Use Compatibility Statement (LUCS) was provided by the City of Portland indicating the proposed use is allowed outright in this zone. According to the LUCS, the City considers the use as renewable energy production and a utility scale energy production facility which is classified as a Manufacturing and Production Use which is allowed outright in the IG2 Zone. The LUCS also states that the subject property has two overlay zones: an environmental conservation overlay zone (IG2 "c") and an aircraft landing



overlay zone (IG2 “h”). The facility design, land use and site development is regulated by the City of Portland Planning and Zoning Code.

The owner of the facility is Columbia Biogas, LLC, whose managing member is Verde Renewables, LLC. The property is owned by Oregon Fresh Farms, with a lease agreement between CBG and Oregon Fresh Farms Real Estate, LLC. The lease agreement is for 25 years with options to renew. Currently, CBG proposes to initially contract with Veolia Water North America-West, LLC to perform long-term operations and maintenance.

According to the applicant, the facility proposes to accept a total of 194,000 tons per year of both solid and liquid food wastes from commercial and industrial sources (90,000 tons per year of solid food waste and 104,000 tons per year of liquid food waste). Of the 90,000 tons per year of solid food waste, 45,000 tons will come from commercial sources (e.g. grocery stores and restaurants), 45,000 tons will come from industrial sources (e.g. food packaging plants). Staff has assumed that all 45,000 tons of the commercial food waste and about 10 percent of the 45,000 tons of industrial food waste is currently being disposed in a landfill – for a total of 49,500 tons total per year that is being landfilled (see the Budget Impact section for further information). The balance of the industrial food waste is either generated outside the Metro region or is used in other applications (e.g. animal feed) and not currently disposed in a landfill. The 104,000 tons of liquid food waste (e.g. grease trap waste and liquid waste from food and beverage processors) is assumed to be disposed in the sewer system currently and not part of the solid waste system.

The primary product will be methane-rich gas (“biogas”). The applicant plans to generate about five megawatts of electricity continuously; equivalent to meeting the power needs of around 4,000 to 5,000 homes. As a byproduct, the facility will produce fertilizer products to be used in a variety of agricultural operations. Once operating, the facility will employ about ten people.

The proposed facility will process food waste via an anaerobic digestion system. Food waste is “putrescible” waste as defined in Metro Code Section 5.01.010(gg): *“Putrescible means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.”* The facility does not propose to accept yard debris or yard debris mixed with food waste due to its low methane production value.

Anaerobic digestion of the putrescible waste is “processing” as defined in Metro Code Section 5.01.010(dd): *“Processing means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding; milling; pulverizing; or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.”*

The proposed facility is considered an energy recovery facility as defined by Metro Code Section 5.01.010(o): *“Energy recovery means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.”* However, the facility will not incinerate waste. Rather, the proposed facility will digest food wastes (a controlled method of biological decomposition) to produce biogas fuel (from methane), which the facility will use in internal combustion engines to drive electric generators that are connected to the grid.



### Solid waste policy context

The decision to franchise CBG, or any other similar facility under Metro's current revenue system, once again raises the tradeoff between Metro's waste reduction policies and the financial sustainability of the agency. Solid waste reduction has guided Metro's policy for many years. The Council goal to reduce solid waste and divert it from land disposal will impact collection of system fees, excise taxes, disposal fees, and Metro's costs for disposal, transfer and transport. This is discussed in the Budget Impact section.

Developing the region's food waste collection and processing infrastructure is also one of the key strategies called out by Metro's Solid Waste System Roadmap for leading the region toward a more sustainable future over the next decade. As a new franchised solid waste facility, CBG would contribute to this goal by expanding the region's ability to divert food waste from landfills and instead process it for productive use.

### Metro regulatory oversight of CBG and other solid waste facilities in the region

Metro is responsible for managing the regional solid waste system to ensure that it is maintained in a sustainable, economically healthy, and environmentally sound manner. In that regard, Metro is responsible for authorizing, monitoring and regulating the operations of private solid waste facilities like CBG, and to ensure that such facilities meet applicable regulatory, operational, environmental, contractual, and financial requirements.

Metro's regulatory oversight of the solid waste system consists primarily of monitoring private solid waste operations and enforcing compliance with the Metro Code, administrative procedures, performance standards, Metro-granted authorizations (i.e. licenses and franchises), and flow control instruments (i.e. non-system licenses and designated facility agreements). Metro's regulatory program would conduct periodic facility inspections of CBG. Metro inspectors ensure that the region's solid waste facilities comply with the Code and other applicable franchise standards.

Metro inspectors document their field observations, compliance findings, and other pertinent site information. In the event that violations are discovered during an inspection, the circumstances related to the discovery of the violation, nature of the violation, and any other pertinent information are documented in the Inspection Report in order to support an enforcement action if necessary. Metro may initiate enforcement actions in response to violations of the Code or Metro-granted authorizations including assessment of penalties as appropriate. In cases where violations of local, state, or federal laws are identified, the Metro staff coordinates with the appropriate regulatory agency for further investigation and follow-up.

### Applicable permits

The applicant anticipates the following permits will need to be obtained for construction or operation of the facility:

- City of Portland Building and Plumbing Permits
- City of Portland Public Works Permits
- City of Portland Industrial Discharge Permits
- DEQ Air Contaminant Discharge Permit
- DEQ National Pollutant Discharge Elimination System (NPDES) – Stormwater-1200



- DEQ NPDES-Stormwater-1200COLS
- DEQ Solid Waste Treatment Permit
- Metro Solid Waste Facility Franchise

## THE PROPOSED FACILITY SYSTEMS

The following information describes details about the CBG anaerobic digestion facility systems, and is based on the franchise application submitted to Metro. The proposed site layout for the CBG facility is included as **Attachment 1** and a proposed isometric view facility is included as **Attachment 2**. An electronic copy of the CBG solid waste facility franchise application submitted to Metro is available ([www.oregonmetro.gov/biogas](http://www.oregonmetro.gov/biogas)).

### Overview

CBG proposes to construct a biogas production facility utilizing solid and liquid source-separated food waste from grocery stores, restaurants, and industrial food and beverage processors. CBG will support the efforts of local governments to increase diversion of commercial organic waste from landfills due to the advanced preprocessing equipment which will enable the processing of food waste with packaging which composting operations typically do not accept. In addition, the facility will process difficult to manage materials such as liquid organic waste which is commonly carried by municipal sewer lines to wastewater treatment plants. The facility does not propose to accept yard debris or yard debris mixed with food waste as these feedstocks do not produce sufficient amounts of biogas.

The primary facility components will include a receiving and processing building, biofilters for odor control, processing equipment and tanks, byproduct processing equipment, biogas conditioning and holding tanks, power-generation equipment (internal combustion engines) and a gas flare.

According to the applicant, the primary product of the proposed facility will be biogas (a methane-rich gas), which is a commercial fuel with a high heat content. The facility will directly use the biogas to generate about five megawatts of electricity; equivalent to the power needs of around 4,000 to 5,000 homes. As a secondary byproduct, the facility will produce a fiber product that can be used as a fertilizer for agricultural applications at agronomic rates. This fiber is expected to have positive soil building qualities similar to peat moss. In addition, the facility will produce water as well as a concentrate containing micronutrients to be stored in a nutrient storage tank and sold as a liquid fertilizer for agricultural use.

Food waste will be delivered to the facility in different types of vehicles, depending on the type of food waste (i.e. liquid, solid or semi-solid) and generator (e.g. commercial or industrial). The facility is expected to accept food waste in containerized and leak proof vehicles such as packer trucks, compacted dropboxes, large transfer trailers, and tanker trucks. Access to the facility will be provided via NE Columbia Boulevard, which is designed to handle truck traffic, as it has a center turn lane for trucks and is currently identified as a transportation corridor (traffic and transportation issues are part of the land use designation and approval process by the City of Portland).

Once operational, the proposed facility expects to receive 50 loads of food waste per day with deliveries averaging about five trucks per hour. In addition, about eight trucks per day will haul byproduct material off-site. The facility will be open to receive waste from Monday through



Saturday from 6 a.m. to 4 p.m. On Sunday the facility will not be open to accept waste. The facility will not be open to the public. CBG will pre-screen deliveries and control the traffic throughput.

#### Facility design and technology

According to the applicant, the final design of the facility will be performed by a team comprised of local firms and leading international and national process technology experts. The team possesses experience in engineering food waste anaerobic digestion facilities; expertise in transfer stations and solid waste processing facility design; and the design of odor management systems for solid waste, composting and wastewater facilities. The team also has experience in the design and operation of wastewater treatment facilities.

Load checking, receiving and tipping will occur in an enclosed receiving building located at the southern end of the site nearest to Columbia Boulevard. Processing will begin in the enclosed receiving building and continue in the process tankage area. Food-related packaging residuals and recyclable materials generated from the processing of the feedstock will be stored inside the receiving building in storage bins provided by permitted solid waste haulers and transported to authorized disposal sites or recycling facilities. Commodities and byproducts will be sold and transported directly to end-users.

The applicant proposes to process all waste in an enclosed building and in tanks to prevent nuisance malodors from being generated or detected off-site. Biofilters will be used to treat air from the processing areas that will be under negative air pressure to minimize the risk of generating off-site malodors. The floor of the tipping and processing areas will be impervious concrete. No feedstocks or residuals will be stored outside the building or tanks.

#### Facility capacity and feedstocks

As previously stated in this report, the applicant proposes to accept a total of 194,000 tons per year of both solid and liquid food wastes from commercial and industrial sources (90,000 tons per year of solid food waste and 104,000 tons per year of liquid food waste). The applicant anticipates that the facility will receive on average 300 tons of food waste per day, six days a week, with a maximum capacity of up to 500 tons per day. Of the 90,000 tons per year of solid food waste, 45,000 tons per year will come from commercial sources (e.g. grocery stores); 45,000 tons per year from industrial sources (e.g. food packaging plants) and 104,000 tons per year will be liquid food waste. It is assumed that the commercial food waste is currently being disposed of in landfills. The actual ratio of commercial and industrial food waste accepted at the facility will likely ebb and flow as feedstock supplies are established by CBG.

#### Waste receiving

The applicant has indicated that all food waste will be delivered to the facility in enclosed trucks to minimize odors. The enclosed receiving building includes multiple bays that will be maintained under negative air pressure (air suction) to prevent escape of odors when the doors are open. All trucks will back up into a receiving bay and the overhead door will enclose the truck in the unloading area. Following offloading, departing trucks will exit the building and drive through a tire wash to prevent tracking food waste off-site.

The facility does not intend to accept any yard debris, yard debris mixed with food waste, nonfood waste (with the exception of food product packaging), hazardous waste or prohibited waste.



Feedstock will be visually inspected during receiving and handling to ensure that suppliers have complied with the feedstock criteria and that loads do not contain nonfood waste or unacceptable material. The applicant further states that any loads determined to be unacceptable will be reloaded into the hauler's truck for appropriate disposal and will remain the hauler's responsibility to properly manage or dispose of the waste. Prohibited waste found in deliveries will be removed by the hauler, immediately, at the hauler's expense in accordance with the operating plan. Non-recyclable residual waste from the processing will be disposed at a local solid waste transfer station.

#### Waste handling

Solid food waste will be dumped inside the enclosed receiving building either directly to a hopper or on the tip floor, depending on the characteristics of the material. Waste off-loaded onto the tip floor will be loaded into a hopper. Conveyors will move waste dumped in a hopper to the processing equipment at the end of the hopper. All air in this area will be captured and sent to the odor treatment system (biofilter).

The liquid food wastes will be pumped through pipes to processing equipment and to a heated storage tank. The enclosed liquid waste processing area will have separate ventilation with all air being captured and sent to the odor treatment system (biofilter).

#### Waste processing

The processing area located in the enclosed receiving building will be provided with continuous ventilation and odor control. This area will have equipment lines for size reduction and de-packaging food waste. The processing area is isolated from the receiving area to minimize odor concentrations and ventilated to the odor treatment system. Residual waste from processing will consist of food-related packaging such as non-recoverable plastics, cardboard and glass. Metal and aluminum will be removed for recycling. An additional process will remove heavy solids such as sand and ground glass.

#### Waste digestion

The facility will use a two-stage "wet digestion" process, which operates in sealed tanks on a continuous-loop basis. After processing, all food waste will be pumped through enclosed pipes to sealed tanks for further treatment via hydrolysis and fermentation. The detention time in the hydrolysis tank will vary from one to three days at temperatures between 110 degrees and 130 degrees Fahrenheit. After the hydrolysis phase, the liquid substrate is pumped to one of three fermentation tanks. In the fermentation tanks, the waste is anaerobically digested by bacteria that produce a methane-rich gas. The methane gas is then piped to gas conditioning and storage equipment. Gas produced in the tanks will be captured and sent as fuel to the electric power generator engines. Each tank will have an emergency pressure relief valve that will protect the tank from over pressurization. According to the applicant, this sealed system approach is effective in controlling odors from the biogas generation components located outside the receiving building, and is similar to designs used at wastewater treatment facilities.



### Digestate treatment

The byproduct (“digestate”) produced from the anaerobic digestion process will be pumped through enclosed pipes to the digestate treatment building which will be ventilated and air sent to the odor treatment system with biofilters. The material will be dewatered in the building using a high solids centrifuge which will produce solids commonly known as digested fiber. The digested fiber will be conveyed to a hopper in the building where it will be loaded into trucks for hauling to markets. The liquid separated from the solids by the dewatering process will be further processed by ultra filtration and reverse osmosis. Buffer and storage tanks will be used to store liquid between process and these tanks will be vented so that any air will pass through the odor treatment system.

### Odor control and treatment

According to the applicant, the facility will include a state-of-the-art odor control system which is being designed by a leading U.S. expert in odor control systems for compost, wastewater, and solid waste facilities. All food waste delivered to the facility will be received and processed within the enclosed receiving building which will be ventilated to industry standard biofilters using biological odor treatment. The odor control system will consist of in-line ventilators which draw air from multiple collection points through ductwork to exterior mounted biofilters.

Biofilters will be used to capture and remove odors from the collected air. According to the applicant, biofilters are a proven odorous air treatment technology and were selected in lieu of chemical systems, as they will effectively remove a large spectrum of odorous compounds without the addition of chemicals. The applicant may use biofilters developed and manufactured by Bay Products and Biorem that have been successfully used for odor control at modern wastewater treatment facilities in Oregon and Southern Washington. Biofilters using compost media and soil media (Bohn Biofilters) have also been effectively used at local facilities for reducing odors.

The applicant further describes biofilters as a biological treatment method that utilizes a medium that works together with naturally occurring bacteria to remove and oxidize odorous compounds present in the air-stream. A moisture layer is maintained on the medium by a combination of humidification of the air going to the biofilter and a surface irrigation system. As the air passes through the medium, odorous compounds are adsorbed into the moisture layer. Microorganisms oxidize the compounds and the byproducts are water and carbon dioxide. Sufficient residence time in the media must be provided to allow the compounds to be properly adsorbed into the moisture layer on the medium.

### Pathogen reduction

All byproducts will be processed to meet the federal and state requirements for land application as a soil amendment or fertilizer product. The applicant will adhere to the applicable requirements of the U.S. Environmental Protection Agency’s (USEPA) “Process to Further Reduce Pathogens.” The franchise application contains detailed information on pathogen reduction and testing methods to be followed by the facility.

### Biogas utilization

The biogas that is produced in the fermentation tanks will be piped to gas conditioning equipment, which will remove moisture as well as hydrogen sulfide and other sulfur compounds. According to the applicant, hydrogen sulfide in the gas can be harmful to the power generating engines and



catalyst in the air pollution control devices. CBG is proposing to install a biogas conditioning system that will reduce hydrogen sulfide concentrations in the biogas from about 3,000 parts per million (ppm) down to a maximum of 25 ppm in the biogas supplied to the power generating engines. The conditioned biogas will be stored in a low-pressure membrane dome and will provide an even gas flow to the engine generators when the gas production in the fermenters is variable.

The current design has the biogas combusted in four internal combustion engine generator sets. Each engine generator will be designed to combust about one-fourth of the biogas generated and in total will be rated to produce about five megawatts of electricity. The engines will be operated continuously (i.e. 24-hours a day, seven days per week), except during maintenance down times.

The applicant proposes to connect to the PacifiCorp Killingsworth substation grid via the existing power distribution line at the subject property. The plant's local production of power will support frequency and voltage on the PacifiCorp distribution system and provide reliable electricity to the surrounding community. According to the applicant, a flare will be constructed primarily as a safety feature and its use will be limited to when biogas cannot be combusted in the generator engines during maintenance or emergency. The flare also serves as a safety device in the event of an upset condition and is being sized by CBG to combust all of the biogas if needed in an emergency situation.

#### Digested fiber and liquid fertilizer (byproducts)

The digested fiber produced as a byproduct of the fermentation process will contain useful nutrients within the fibrous solids. These byproducts are expected to be sold and used by local nurseries, landscaping applications, nearby composting facilities, or farms as fertilizer or soil amendment upon receipt of any required DEQ or Oregon Department of Agriculture approvals. Distribution and use of these byproducts will be monitored by Metro (see Special Conditions Included in the Franchise)

The applicant further states that the water or concentrate produced will contain high concentrations of ammonia, phosphorus, and other micronutrients. This water will be stored in a nutrient storage tank and is proposed to be sold as a liquid fertilizer upon registration with the Oregon Department of Agriculture as an approved fertilizer product. According to the applicant, clean treated process water may be pumped to the City of Portland sanitary sewer system.

#### Contract operator

CBG proposes to initially contract with Veolia Water North America – West, LLC (Veolia) to perform long-term operations and maintenance (O&M) of the facility. Veolia is a national and international firm that operates and manages more than 400 water and wastewater facilities under long-term O&M agreements with some 265 municipal clients and agencies, as well as industrial and commercial clients. Locally, Veolia has 30 years of experience in the Pacific Northwest, with approximately 70 full-time employees in the Portland Metro region and surrounding area. CBG may change contractors upon modification of its Metro franchise.

#### Emergency contingencies

The applicant indicates the facility is being designed to minimize any potential for process upset caused by unexpected situations. The facility will be designed and constructed to meet all local fire safety requirements. The application states that the facility will be highly reliable because of



duplicate and oversized processing lines, as well as a generous tip floor that will allow for handling of feedstock in the event of rush periods or repair and maintenance. The facility design includes two identical lines dedicated for processing the containerized and mixed food waste fractions. In the event that one of the two parallel lines is down for repair or maintenance, a second shift will be scheduled on the remaining line to allow for the processing of any of the waste received daily. In the event of a power failure or other unforeseen event, feedstock material will be temporarily redirected to an authorized solid waste transfer station or an authorized processing facility. A backup power source may be implemented for operating odor-control equipment, if conditions warrant. According to the applicant, the potential explosive hazard of the facility is considered to be minor due to the low volumes of stored biogas and the low pressure maintained in the system.

### Technology overview

The applicant states that most biogas equipment has been standardized and is proven to be reliable at thousands of facilities throughout Europe. Germany is the leading country in Europe, with over 4,000 units in operation. In the United States, anaerobic digestion is a common technology used at municipal wastewater treatment facilities and the processing of manure at farms. The applicant has indicated that as of 2009, 125 anaerobic digesters were in operation in the United States, none of which, however, accepts the specific feedstock types targeted by CBG.

A local example of a modern wastewater treatment facility that uses anaerobic digestion, biofilters and biogas production is the Durham Advanced Wastewater Treatment Facility, located in Tigard near Cook Park and Tigard High School. The facility serves residents of Washington County, Beaverton, Durham, King City, Sherwood, Tigard, and Tualatin and small portions of southwest Portland and Lake Oswego. The plant cleans an average of 22 million gallons of wastewater per day and generates enough power from the methane gas to provide 25 percent of the facility's electricity needs.

Near Corvallis, Oregon, the Stahlbush Island Farm owns and operates an anaerobic biogas power generation plant using agricultural residue as feedstocks. The farm has about 4,500 acres of cropland, a food processing plant, and a biogas plant. The facility began operations in 2009 and turns vegetative waste from food processing into methane-rich biogas. The gas fuels a generator that can produce about 1.6 megawatts of electricity. The Stahlbush biogas facility represents a recently completed facility, although the plant uses a different style of fermentation tanks than proposed by CBG.

The CBG facility application states that it will utilize a proprietary two-stage "wet-digestion" design called Enbaferm, which was developed by Enbasys, an Austrian process engineering firm. According to the applicant, Enbasys designed one of the largest and most successful food waste anaerobic digestion facilities in Europe.

The configuration of the proposed CBG facility is unique in the United States because it combines an enclosed front-end receiving and processing facility with the anaerobic digestion components to create a complete closed-loop system for processing food waste into biogas for on-site energy production.

In addition, according to the applicant, the following European anaerobic digestion plants (top six in throughput capacity) are representative of the proposed facility:



<b>Facility Location</b>	<b>Tons per Year</b>
1. Barcelona, Spain	240,000
2. Padua, Italy	120,000
3. Werlte, Germany	110,000
4. Prince Edward Island, Canada	100,000
5. Hannover, Germany	100,000
6. Nemscak, Slovenia	87,000

The applicant states that all equipment to be installed at the facility is industry standard, with proven reliability throughout the biogas and wastewater industry. In addition, Enbasys, as process engineer and technology supplier, will guarantee minimum performance levels in the design contract. According to the applicant, a general contractor has been selected who is recognized for its experience in building several of the larger waste water treatment facilities in the Pacific Northwest. The construction of the facility is expected to last nine to 12 months in duration and planned to begin in mid-2011.

#### Potential environmental risks

The facility has applied for a Standard Air Contaminant Discharge Permit (ACDP) from the DEQ (Permit No. 26-9820-ST-01). According to the DEQ permit review report the facility will not be a major source of hazardous air pollutants and therefore only a Standard ACDP will be required to construct and operate the facility.

According to the applicant and the DEQ draft permit and review report, operation of the anaerobic digestion facility will generate emissions of criteria pollutants that must not exceed established limits. Criteria pollutants consist of particulate matter less than 10 microns, particulate matter less than 2.5 microns, nitrogen oxides, carbon monoxide, volatile organic compounds, sulfur dioxide and lead. Air emission sources at the facility include engine generators, the flare, and tanks storing organic liquids and gases. The combustion of biogas in the engine generators and the flare will produce the majority of the air emissions at the facility.

The applicant further states that the engines proposed for use in the facility are 4-stroke lean burn gas engines that are designed specifically to burn gaseous fuels. In addition to being able to combust biogas very efficiently, each engine will be equipped with additional pollution control devices to control emissions of carbon monoxide, volatile organic compounds, organic hazardous air pollutants, and nitrogen oxides.

## **PUBLIC ENGAGEMENT**

### Applicant initiated process

A public engagement process was initiated by the applicant to include meetings with the neighborhood associations and key business and special interest groups to foster communication and promote transparency. The applicant has met with several groups including the Cully Association of Neighbors, Concordia Neighborhood Association, Central Northeast Neighbors, the Columbia Corridor Association, the Columbia Slough Watershed Council, and other groups involved with the urban parks, trails and greenspace issues.



The applicant has stated that one-on-one meetings have and will continue to be held with key representatives from each group to identify concerns and stakeholders. The applicant has made presentations to appropriate sub-committees or the full membership of interested groups to explain the project in detail and provide an opportunity for the public to ask questions and provide feedback. The applicant has indicated that initial meetings with neighborhood leaders have been supportive.

CBG presented the proposed facility plans at an October 19, 2010 special meeting of the Cully/Concordia neighborhoods. The informational meeting was an opportunity for neighbors to ask questions and learn more from CBG representatives. Metro staff attended the meeting to observe the public outreach and engagement process launched by CBG. The following are staff observations about the public engagement effort:

- Approximately 100 local residents were in attendance. A 30-min. informational presentation was made by CBG and followed by an hour-long question/answer period. The discussion included questions and concerns about traffic, odors, local jobs and other potential impacts that could be related to the design and operation of the proposed facility. A total of 34 questions was heard and answered by CBG during the meeting.
- The applicant has established an advisory group to work with local residents and get their input for going forward. The first advisory committee was held on November 10, 2010. Metro has included special conditions in the proposed franchise that would require CBG to develop, implement and maintain an on-going good neighbor plan with the community.

The applicant launched an effort to engage Northeast Portland neighbors, area businesses and interest groups in discussions about the proposed facility and to address related concerns. Additional information about CBG's public engagement and community relations process is detailed in **Attachment 3** to this report.

### Oregon DEQ public hearing

The Oregon DEQ held a public hearing for the proposed facility on Thursday, November 18, 2010 to solicit comments on the specific conditions within the proposed DEQ air and DEQ solid waste permits related to the proposed CBG facility. The public hearing was held at Metro Regional Center from 6:30 p.m. to 8:00 p.m. The following is a brief summary:

Approximately 50 people attended the public hearing about the DEQ air and solid waste permits for the proposed CBG facility. Following presentations by and a question and answer session with CBG and DEQ staff, nine people offered testimony.

Three local government representatives expressed support for the facility, including Bruce Walker (City of Portland), Stan Jones (Port of Portland) and Brian Whitecap (West Multnomah County Soil and Water Conservation District). They indicated that this type of facility is critical to building local capacity to process food waste in a sustainable way.

The testimony of four citizens, including three Cully neighborhood residents, focused on concerns related to the proposed DEQ permitting standards. There were appeals to regulators to "set the bar high" with stringent standards, and frequent and timely inspections to ensure the facility be a



success, set an example of “best practices” and protect neighbors from potential nuisances, particularly off-site odors.

The testimony of two citizens focused on concerns about air emissions, respiratory protection and occupational noise exposure. These issues are regulated by DEQ air quality and solid waste permits, as well as the Occupational Safety and Health Administration.

One individual spoke in general opposition to the proposed facility, noting that there is no proven track record for the facility or operations proposed by CBG. He raised concerns about having citizens “shoulder” potential impacts, including odors, waste stream, traffic, rodents and bacteria. He also voiced concern about the proximity of the facility and its potential to adversely affect a nearby golf course.

#### Metro Council public hearings

The Metro Council will hold a public hearing to consider the franchise application submitted to Metro by CBG. The public hearing will take place at 5 p.m. Thursday, December 9 at Metro Regional Center (600 NE Grand Ave., Portland).

### **METRO CODE PROVISIONS RELATED TO FRANCHISE APPROVAL**

#### **1. Franchise Required**

Metro Code Section 5.01.045(b)(1) stipulates that a Metro Solid Waste Franchise is required for the Person owning or controlling a facility at which the activity of processing of putrescible waste other than yard debris is performed.

The proposed facility will process putrescible waste (i.e., food wastes) other than yard debris via an anaerobic digestion system. Anaerobic digestion of the putrescible waste is “processing” as defined in Metro Code Section 5.01.010(dd): *“Processing means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding; milling; pulverizing; or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.”*

Metro Code Section 5.01.045 (b)(3) stipulates that a Metro Solid Waste Franchise is required for the Person owning or controlling a facility at which the activity of operating an energy recovery facility is performed.

The proposed facility is also considered an energy recovery facility as defined by Metro Code Section 5.01.010(o): *“Energy recovery means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.”* However, the facility is not designed or permitted to incinerate waste. Rather, the proposed facility will digest food wastes (a controlled method of biological decomposition) to produce biogas, which the facility will use in internal combustion engines to drive electric generators that will be connected to the grid.



## **2. Application**

Metro Code Section 5.01.055(a) stipulates that a prospective applicant for a franchise shall participate in a pre-application conference.

On May 13, 2010, the applicant participated in a pre-application conference with Metro staff.

Metro Code Section 5.01.060(a) stipulates that applications for a Franchise shall be filed on forms or in the format provided by the Chief Operating Officer ("COO").

On October 1, 2010, Columbia Biogas, LLC submitted a solid waste facility franchise application pursuant to Metro Code Section 5.01.060(a) to operate an anaerobic digestion facility that will process source-separated food waste for the production of biogas for the generation of electricity. The application was determined by the COO to be complete on October 12, 2010.

## **3. Compliance with the Criteria Contained in Metro Code Section 5.01.070**

Metro Code Section 5.01.070(c) stipulates that the COO shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

### **A. Metro Code Section 5.01.070(c) criteria evaluation:**

#### ***i. Applicant qualifications***

The applicant is Columbia Biogas, LLC. The application is for a new solid waste facility that anaerobically digests food waste for the production of biogas. This type of solid waste processing facility is new to the region. Additionally, the applicant is not from the traditional solid waste industry and, therefore is not well known to Metro. The following background information was provided by the applicant.

The managing member of CBG is Verde Renewables, LLC. Verde Renewables, originally Verde Power, is wholly owned and operated by John McKinney, an entrepreneur with over 17 years of experience financing and managing energy related investments in both the private equity and public markets. Mr. McKinney founded Verde Power in 2001, a green-field development firm involved in the development of utility scale wind power projects. The company was renamed Verde Renewables in 2010. Mr. McKinney has managed all aspects of project development including resource assessment, land acquisition, business development, power purchase agreements, grid interconnection, regulatory/permitting and project finance. Mr. McKinney has extensive relationships in the renewable power market. In 2005, Mr. McKinney co-founded Greenrock Capital, which partnered exclusively with a leading global investment bank. Greenrock Capital originated, structured and negotiated over \$650,000,000 in partnership and project finance transactions involving renewable power developers and projects. Mr. McKinney oversaw the firm's investment strategy, origination, structuring and monitoring activities. Columbia Biogas will have other shareholders when it is fully capitalized for this project.



Dale Richwine is the project manager for Columbia Biogas. Mr. Richwine is an environmental engineer with over 38 years experience in the planning, design, start-up, operation and management of water and wastewater treatment facilities. Mr. Richwine has a broad background in the operation and management of treatment plants, including anaerobic digestion, biosolids and recycled wastewater utilization programs.

Columbia Biogas is planning to contract with Veolia Water North America to operate the proposed facility. According to the applicant, Veolia is one of the most qualified teams in the United States with regard to the operation and management of anaerobic digestion facilities. Veolia Water has a long history in providing full-service operations and maintenance (O&M) to clients in North America dating back more than 37 years. Veolia has three current contracts in Oregon for the operation and management of municipal water and wastewater facilities which they operate with a team of 70 local staff, including water treatment plants in Canby, Gresham, Wilsonville, and three wastewater treatment plants in Vancouver, Washington.

Based on the information provided by the applicant, CBG appears sufficiently qualified to establish and operate the proposed facility.

***ii. Compliance with the Regional Solid Waste Management Plan (RSWMP)***

The 2008-2018 Regional Solid Waste Management Plan (RSWMP or Plan) adopted by the Metro Council and approved by the Oregon DEQ provides the Portland metropolitan area with program and policy direction related to:

- Reducing the amount and toxicity of waste generated and disposed,
- Ensuring the disposal system serves the region's best interests, and
- Advancing sustainable practices throughout the region.

The Plan provides a framework for how Metro, local governments and the private sector can work together to achieve the environmental benefits that accrue from waste reduction efforts, while ensuring that our region's discards are managed in a manner that protects human health and the environment. It identifies a number of policies to be used to guide regional decision-making related to the three key areas listed above. These policies provide guideposts for how the region should focus its efforts and direction for how the region should manage the network of facilities that handle recyclables and waste.

In evaluating the CBG application for consistency with the RSWMP, key policies to consider that are addressed in this section are:

- 1.0 System performance
- 2.0 Preferred practices
- 5.0 Source separation
- 7.0 New facilities

***1.0 System performance***

A number of the elements of this policy (environmentally sound, technologically feasible, and acceptable to the public) are addressed elsewhere in this report. The other key components are whether CBG contributes to a system that is both regionally balanced and cost-effective.



From the perspective of regional balance, Metro staff believes that the most effective, and likely, system for recovering the region's food waste will be one that includes a number of processors and technologies each serving portions of the region, rather than one mega-facility. Today, those facilities are effectively limited to the Allied Waste operation in Benton County and the Cedar Grove sites in the Puget Sound area, with an expectation that the Nature's Needs facility in North Plains will come fully online in late 2011. In this context, the proposed CBG facility would make a significant contribution to achieving regional balance in the food waste recovery system through its location, which would likely serve generators in the northeast and central quadrant of the region.

In terms of supporting the cost-competitiveness of the region's solid waste system, the facility's projected tip fee of \$50-\$60 per ton is within a range of other planned and operating food waste processing facilities (note that compostable solid waste is currently accepted at the Metro Central Transfer Station for \$41.70 per ton. This tip fee is linked to the contract for managing food waste and is only in effect through 2011 and never considered a long-term sustainable tip fee).

## *2.0 Preferred practices*

The region's solid waste management practices are guided by the hierarchy of reduce, reuse, recycle or compost, energy recovery, and landfilling. Given current capacity for food waste processing, staff expects that CBG will source food waste that would otherwise be disposed in one or more of the landfills that serve the region. Accordingly, CBG then contributes to the desired regional practice of directing waste up the hierarchy to both energy recovery and, if it successfully markets its solid and liquid end products, a close approximation of composting.

## *5.0 Source separation*

The RSWMP identifies source separation of recoverable materials as the region's preferred approach to removing materials from the waste stream. CBG's feedstock requirements are consistent with this preference, as it will be using source-separated solid and liquid food waste. It will accept packaged food waste, which contrasts to the practices of composting facilities that currently accept material generated in the Metro region. This is not an operational problem if CBG's de-packaging processes are effective, but will require CBG, Metro and local governments to coordinate on food waste preparation messages provided to businesses in the region.

## *7.0 New facilities*

The regional policy regarding new solid waste facilities is that they be considered if they significantly support and are consistent with the RSWMP. The Plan identifies key sectors and material streams on which the region should focus its recovery efforts based on the quantity of those materials available and the feasibility of recovering them. One of those key streams and sectors is organics generated by the commercial sector, and a priority strategy is to increase opportunities available to businesses to divert organics from the waste stream. The addition of a facility such as CBG is thus fully supportive and consistent with the RSWMP policy on new facilities.

### ***iii. Meeting the Requirements of Metro Code Section 5.01.060***

- 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 COO.*



The applicant seeks a franchise and, in accordance with Metro Code provisions, has filed a completed application accompanied by payment of the application fee of \$500. Accordingly, staff finds that the application was properly filed.

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

The application included a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted. The information required in Metro Code Section 5.01.060(a) and (b) was included in the franchise application and accordingly, staff finds that the application was properly filed.

- c) In addition to the information required on the forms or in the format provided by the COO, applications for a License or a Franchise shall include the following information to the COO:*

- 1) Proof that the applicant can obtain the types of insurance specified by the COO during the term of the Franchise or License;*

The application included a letter from the president of CBG affirming that prior to construction, CBG will provide Metro with proof of the types of insurance as specified by the COO. Further, the proposed franchise contains conditions requiring that the applicant will obtain and maintain the required insurance.

- 2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;*

The application included duplicate copies of all applications for necessary DEQ permits.

- 3) A duplicate copy of any Closure plan require 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;*

The DEQ requires CBG to develop a “worst-case” Final Closure Plan to be submitted within 90 days of issuance of the DEQ permit. A duplicate copy will be submitted to Metro at that time. However, in the interim, a Closure document describing closure protocol was included in the application.

- 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 COO 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.*

The DEQ will require that CBG submit to DEQ evidence of financial assurance for the costs of Closure within 180 days of issuance of the DEQ permit. A duplicate copy of the DEQ required financial assurance documents will be submitted to Metro.

- 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;*

The application included the signed consent of the property owner on the form provided by the COO.

- 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*

The application included proof that the applicant has received proper land use approval in the form of a DEQ Land Use Compatibility Statement (LUCS) that was signed by the City of Portland on August 6, 2010. The LUCS states that the proposed activity is allowed outright in the underlying industrial zone.

- 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.*

The applicant anticipates obtaining the permits listed below in Section iv. Compliance with Other Regulatory Requirements.

The information requirements described in Metro Code Section 5.01.060(c) were included in the franchise application and accordingly, staff finds that the application was properly filed.

- 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.*

As part of the franchise application, Metro Code 5.01.060(d) requires the applicant to provide an analysis of the same factors described in Metro Code Section 5.01.070(f)(1-5). In its application,



CBG provided a narrative of how the proposal responds to these five factors. A summary of the applicant's response, and the staff analysis is provided below in Section 3B of this document.

***iv. Compliance with Other Regulatory Requirements***

The applicant intends to obtain all required permits for the construction and operation of the facility. The applicant states that the following permits are anticipated:

- City of Portland Building and Plumbing Permits
- City of Portland Public Works Permits
- City of Portland Industrial Discharge Permits
- DEQ Air Contaminant Discharge Permit
- DEQ National Pollutant Discharge Elimination System (NPDES) – Stormwater-1200
- DEQ NPDES - Stormwater-1200COLS
- DEQ Solid Waste Treatment Permit

The facility will be new and does not have any prior operating or compliance record. However, the franchise application includes detailed information on the proposed facility contract operator, Veolia Water. According to the applicant, Veolia Water is an established national firm with 30 years experience in the Pacific Northwest. Veolia Water operates more than 400 water and wastewater treatment facilities under long-term operation and maintenance agreements with clients.

More locally, in Canby, Veolia was awarded a 10-year contract to manage the Canby Utility Water Treatment plant and a seven year contract to manage the Gresham wastewater treatment system (including a co-generation plant). In Wilsonville, Veolia operates and maintains the surface water treatment facility, and three wastewater treatment facilities for the City of Vancouver in Washington. The DEQ has indicated that there are no outstanding compliance issues with the facilities in Oregon that are operated by Veolia. Staff has no reason to believe that the applicant will not comply with all applicable regulatory requirements.

**B. Metro Code Section 5.01.070(f) states:**

*In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, the following factors:*

- (1) Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;*

**Summary of applicant response**

To determine consistency with the RSWMP, the applicant must show that the proposed facility will be consistent with applicable regional policies and programs described in the RSWMP. The applicant included a detailed discussion of how the proposed facility will be consistent with the RSWMP. More importantly, the applicant submitted a statement that was signed on May 17, 2010 by Matt Korot, the Metro Resource Conservation & Recycling Program Director, and is the Solid Waste Management Authority for plan implementation. The statement indicates that the proposed facility is consistent with the RSWMP.



The following determination was made by Metro that the proposed CBG facility is consistent with the RSWMP: *“The proposed solid waste disposal site is compatible with the RSWMP and there is a need for a facility that provides an end-market for commercial-sector generated food waste that would otherwise be landfilled.”* This determination was prompted by a DEQ requirement that the applicant obtain such proof as part of the DEQ solid waste facility permit application process.

### Findings

This issue was examined above in Section 3A(ii) of this document entitled, Compliance with the Regional Solid Waste Management Plan (RSWMP). As previously discussed, staff concludes that the solid waste management activities to be granted under this franchise are in compliance and consistent with the RSWMP.

*(2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;*

### Summary of applicant response

The application states that the two primary cost components of a customer’s garbage bill are collection and disposal. The tipping fees charged for disposal at CBG (\$50-\$60 per ton) will be attractive to commercial haulers and will encourage flow to the facility. The tipping fee will be lower than the fee for disposing of garbage at the transfer stations or other disposal facilities and comparable to fees charged by other food waste composting operations to encourage recycling.

Further, the application states that, unlike composting facilities located far away from population centers and urban areas due to the amount of land that is needed for the operations and to mitigate odor issues, CBG will be located close to the areas where the food waste is generated and collected. This allows waste haulers to spend the majority of their time collecting waste rather than driving to the facility. The applicant asserts that saving thirty minutes on the collection route is a \$42 savings that can theoretically be passed back to customers.

### Findings

The Code directs the Council to consider the effect of the franchise on the economic cost of disposal and recycling services in the region. Although the applicants do not explicitly state that operation of the facility will reduce these costs, their arguments appear to support that proposition. However, staff finds that while costs may be reduced for a small segment of generators – users of CBG – these savings will be more than offset by increases in the balance of the disposal system.

The applicants state that two factors will make CBG attractive to haulers: (1) its tip fee will be less than the tip fee for disposal; (2) it will be located closer to the source of food waste than alternative food waste processors, thereby allowing haulers to save time on transport from the collection route to the facility. The applicant argues that haulers who are able to realize these savings will voluntarily use the facility and the resulting savings can be passed on to the customer, thereby lowering the cost of disposal and recycling services.

This argument is reasonable from the viewpoint of the haulers and generators that use CBG. However, the Code requires the Council to consider the effect on a far larger group: “the citizens of the Metro region.” Below, staff provides an analysis of the CBG operation from this system-wide



perspective. The reader should bear in mind that this analysis is limited to *economic* costs per the Code criterion. A broader analysis based on the environmental benefits and costs might arrive at a different conclusion.

Disposal. The applicant's estimated tip fee (between 50 and 60 dollars per ton) is comparable with the cost of disposal (Metro's current cost is \$56.45 per ton) because of federal subsidies for construction and revenue anticipated from power sales. CBG would be able to charge a lower tip fee because it expects that materials delivered to CBG will be exempt from Metro's Regional System Fee and Excise Tax (currently \$27.66 combined). The generators of the waste diverted from disposal to CBG would realize an aggregate savings of approximately \$1.29 million per year on disposal (46,500 tons X \$27.66/ton; see "Budget Impact" elsewhere in this staff report for the economic assumptions).

However, the applicant's diversion of waste from disposal is not without cost consequences to the disposal system. As is shown in the Budget Impact section of this staff report, the Regional System Fee would rise by 78¢ and the Metro Excise Tax by 43¢, or \$1.21 per ton combined. This increase would be paid on all waste that continues to be disposed at both public and private facilities. Based on the 1,109,000 tons that would continue to be disposed (source: Metro's most recent tonnage forecast), all non-users of CBG combined would pay an additional \$1.34 million in disposal costs. Users of Metro transfer stations would pay even more. From the same Budget Impact section, Metro's tip fee would have to rise by \$1.97 to cover increased station operating costs, transportation and disposal. Based on the 501,000 tons that would continue to flow through the Metro transfer stations (same source as above) Metro's customers combined would pay an additional \$987,000 in disposal costs. The sum of these two impacts - \$2.33 million - clearly outweighs the \$1.29 million saved by users of CBG.

Collection. The applicant argues that, due to its location close to the urban source of food waste, haulers can save one-half hour on transport from the collection route to the facility. This translates to an additional \$390,000 to \$780,000 savings to users of CBG - not enough to overcome the system-wide increases in disposal costs. (The math: one-half hour per trip at the applicant's estimate of \$84 operating cost per hour for collection vehicles *times* 30 to 60 trips per day [applicant's estimate] *times* 310 days per year [closed Sundays and three holidays] = \$390,000 to \$780,000.)

Furthermore, the applicants do not address the fact that the economics of collection are in fact dominated by the density of pickups along the route and the amount per pickup. Staff is skeptical that a dedicated food waste route with lower density and perhaps less weight per pickup can be cost-competitive with a garbage route, unless the hauler is collecting primarily for large generators and leaving small generators in the disposal system. The density and pickup factors alone could negate the off-route savings described above.

Conclusion and limitations of this analysis. Based on the factors provided by the applicant, staff finds that the operation of CBG might provide cost savings for its users, but these savings will be more than offset by cost increases in the balance of the disposal system. Accordingly, the cost of disposal and recycling services for the citizens of the Metro region is likely to rise as a result of CBG.

However, as noted above, this analysis is based on economic costs alone. An analysis of the total environmental benefits and costs might well lead to a different conclusion. Also, this analysis is based on information provided in the CBG application, but the reader should note that these impacts would be the same for any comparable facility or waste reduction program.



*(3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;*

*(4) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;*

#### Summary of applicant response

In addressing factors (3) and (4) together, the applicant contends that the CBG facility is designed to be constructed and operated to prevent unreasonable adverse affects on human health and the environment. The applicant states that several plans have been developed specifically to minimize adverse affects on nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood. They are described in greater detail in Attachment K-Additional Factors for Council Consideration in the CBG franchise application, and include the following:

- Monitoring and Testing Program.
- Safety and Compliance Training and Inspection.
- Spill Prevention and Emergency Spill Response.
- Nuisance Control Procedures.
- Pathogen Control Procedures.
- Odor Minimization Management Plan.
- Complaint Procedures.
- Operational Contingency Plan.

#### Findings

The proposed facility is sited on industrial-zoned property bordered by NE Columbia Boulevard to the south and Columbia Slough to the north. The surrounding properties are zoned industrial and include businesses such as an auto body shop, bus yard, machine shops auto parts store, equipment and parts recycling, and the south end of the Colwood Golf Course.

To the south of the facility and across Columbia Boulevard is the Porter-Yett gravel excavation company. To the south-east is the now closed Killingsworth Fast Disposal (KFD) landfill that is owned by the City of Portland; and the methane collection and flare system are operated by Metro. The KFD landfill is also named the Thomas Cully Park (City of Portland Parks & Recreation 2008 Master Plan). The nearest residential area is located within one-half mile of the subject property, south of Columbia Boulevard, in the Cully neighborhood.

Based on the application submitted, and in addition to the above referenced plans, there are several important elements that help to safeguard human health, safety, the environment, minimize adverse affects on nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood. These include, but are not limited to the following factors:



1. The applicant will obtain all required permits that are intended to provide safeguards for human health, safety, and the environment. These include: City of Portland Industrial Discharge Permits, DEQ Air Contaminant Discharge Permit, DEQ National Pollutant Discharge Elimination System (NPDES) – Stormwater-1200, DEQ NPDES - Stormwater-1200COLS, and DEQ Solid Waste Treatment Permit, and a Metro Franchise.
2. A Land Use Compatibility Statement (LUCS) was issued by the City of Portland on August 6, 2010. The LUCS states that the subject property is zoned general industrial and the use is allowed outright (no conditional use permit or hearing process required by the city).
3. The facility will accept and process only source-separated liquid and solid food wastes from commercial and industrial sources that are approved in advance by CBG. The facility will not accept mixed municipal solid waste (“garbage”). The facility will not accept yard debris or yard debris mixed with food waste from residential collection routes.
4. The operations will only be conducted inside enclosed buildings or inside tanks. Food waste will not be stored or processed outside.
5. The facility will utilize a state-of-the-art odor control system to capture air from the enclosed receiving and processing areas and collect exhaust from process equipment and tanks. The captured air will be diverted to biofilters for treatment.
6. The proposed franchise includes conditions that require the facility to operate in compliance with all applicable permits and regulations, including adherence to the design and operating plans submitted to the DEQ and Metro. The proposed franchise includes detailed conditions concerning waste acceptance and handling activities, including the requirement that the facility be operated in a manner that prevents the generation of odors that are detectable off-site.
7. Metro repeatedly inspects and monitors franchised solid waste facilities to ascertain compliance with the Metro Code and the facility franchise agreement. Metro conducts frequent inspections of new facilities to assure compliance with the franchise conditions.
8. In the event that franchise violations are discovered at the facility, Metro can initiate enforcement actions that are based on the severity and frequency of the violation(s). Upon a finding of violation of the Metro Code or the franchise, Metro typically will issue a Notice of Violation (NOV) to the Franchisee that may include monetary penalties and an opportunity for the facility to cure or abate the violation. In the event that Metro’s COO finds that there is a serious danger to the public health or safety as a result of the actions or inactions of the franchisee, the COO may immediately suspend the franchise and may take whatever steps may be necessary to abate the danger.
9. The proposed franchise includes special conditions to address specific concerns that are related to the unique nature of this facility. They are discussed below.

#### Special Conditions Included in the Franchise

In addition to standard provisions in solid waste facility franchises that address the full range of operating requirements, recordkeeping and enforcement provisions (including franchise modification suspension and revocation), staff recommend that the proposed franchise contain



the following additional special conditions. These conditions help to address some of the concerns about the unique characteristics of the proposed facility and help minimize potential adverse affects on nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.

**Completion of Facility Construction in Accordance with Approved Design and Early Franchise Termination for Non-Performance (Section 3.0 of the franchise).** The proposed franchise includes special conditions that address any potential uncertainties with the proposed design and construction of the facility. Section 3.0 of the franchise includes several provisions that stipulate that the franchisee may not accept any solid waste at the facility until Metro has certified that facility construction is complete according to plans submitted by the applicant and approved by the DEQ and Metro. In addition, Section 3.4 includes a provision that would terminate the franchise in the event that the Franchise fails to construct the facility and ensure that it is operational by December 31, 2013 (the applicant has stated that in order to retain eligibility for certain federal tax credits, the facility must be operational by this date).

**Acceptance and Management of Source-Separated Food Waste (Section 4.4 of the franchise).** The provisions in this section stipulate the types of source-separated food wastes that the franchisee may accept for processing at the facility, consistent with the application. This will ensure that only source-separated food waste will be delivered and processed at the facility- and not raw garbage. In addition, this section stipulates that the franchisee must receive, manage, process, store, reload and transfer all source-separated food waste in accordance with the facility building design plans, odor control plans and operating plans submitted and approved by Metro as part of the franchise application. These plans include an enclosed facility operation, in-vessel containers and negative air collection system routed to biofilters and several other features detailed earlier in this report.

**Byproducts for Agricultural Use (Section 4.6 of the franchise).** The purpose of this section is to ensure that the byproducts(“digester residuals”) from the anaerobic digestion process that are reloaded for agricultural uses or to distributors are managed in accordance with accepted agricultural practices at agronomic application rates and are not improperly land disposed. This section stipulates that the Franchisee obtain the required licenses from the Oregon Department of Agriculture for the byproducts. In addition, the Franchisee must maintain records of customer and production information that will be made available for Metro inspection.

**Good Neighbor Plan and Agreement (Section 6.16 of the franchise).** The provisions in this section require the franchisee to develop and implement a good neighbor plan with the surrounding community. As part of the good neighbor plan, the Franchisee must also make good faith efforts to establish a written agreement with the Cully Association of Neighbors that describes, at a minimum, how CBG will hear and respond to neighborhood concerns. The agreement should also include a process for dispute resolution with the City of Portland Office of Neighborhood Involvement. The Franchisee is required to provide a report to Metro on the plan implementation activities and progress on a regular basis. Metro will retain its legal authority to enforce the franchise conditions and Metro Code requirements independent of the good neighbor plan and agreement.

**Community Enhancement Fees or Host Fees (Section 8.5 of the franchise).** The provisions in this section requires that the Franchisee be liable for payment of a community enhancement fee as



provided by ORS 459.284 and Metro Code Chapter 5.06. The community enhancement fees will be used for the purpose of community rehabilitation, mitigation and enhancement.

The RSWMP Regional Policy 11.0 - Host Community Enhancement stipulates: *"Any community hosting a solid waste "disposal site" as defined by ORS 459.280 shall be entitled to a Metro-collected fee to be used for the purpose of community enhancement."*

Under the definition of ORS 459.280, the proposed facility qualifies as a disposal site because it will be an energy recovery facility. Therefore, the host community is entitled to a Metro-collected community enhancement fee. Metro has implemented its authority under ORS 450.284 and 459.290 by enacting Metro Code 5.06.010, which provides, in relevant part:

*(a) It is the policy of the district to apportion an enhancement fee of \$.50 per ton on solid waste delivered to each site within the district and dedicate and use the monies obtained for enhancement of the area and around the site from which the fees have been collected.*

In order to implement and administer the community enhancement fee for the CBG facility, staff will propose related amendments to Metro Code Chapter 5.06 that will establish this specific community enhancement program and its administration. Metro will work closely with the local neighborhood association, the Franchisee and the City of Portland Office of Neighborhood Involvement to establish an administrative framework for an enhancement fund.

Other solid waste disposal sites that collect host community enhancement fees that are administered through a community enhancement grant program include: Metro Central Transfer Station, Metro South Transfer Station, Forest Grove Transfer Station, and the St. Johns Landfill. Accordingly, there are four enhancement grant target areas, each with a committee composed of local residents who help promote, solicit, select and evaluate projects.

- Metro Central Enhancement Committee (North and Northwest Portland)
- North Portland Enhancement Committee (North Portland)
- Metro South Enhancement Committee (Oregon City)
- Forest Grove Enhancement Committee (Forest Grove)

Metro's grant program acknowledges that people in our neighborhoods are the best source of ideas about important investments within the community. Local residents with a vested interest in their area are given the authority to make decisions about public investments.

### Potential risk

It should be noted, however, that the granting of a franchise to the proposed facility is not without some potential for risk. Although anaerobic digestion and biogas production are currently used in agricultural and wastewater treatment applications, this type of solid waste facility will be new to the region. According to the applicant, however, European countries have extensive experience and success with anaerobic digestion of food waste and biogas energy production, as does the East Bay Municipal Utility District facility in Oakland, California.

In the event that there are failures in the facility design or operational procedures, there could be an escape of fugitive odors from the facility. Depending on the magnitude of such an event, this could result in odors that might be detectable in surrounding locations that shift with the



predominant wind direction. For example, the prevailing wind direction at the subject site is from the east during the November to March months, from south to north during the month of April, and from the north-northwest during the months of September and October.

In balancing the potential risks and safeguards associated with the proposed facility franchise, the COO concludes that: 1) granting a franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents; and 2) granting a franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.

*(5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.*

Since the applicant is new to the region, there is no operating or compliance history with Metro, the City of Portland, or the DEQ. However, the applicant has submitted applications for all required local and state permits. Further, the franchise application includes detailed information on the proposed facility contract operator, Veolia Water. Veolia Water is an established national firm with 30 years experience in the Pacific Northwest. Veolia Water operates more than 400 water and wastewater treatment facilities under long-term operation and maintenance agreements with clients. Veolia Water, being a well established and respected company, provides staff with sufficient confidence to demonstrate the strong likelihood that the operation of the proposed facility would be conducted in compliance with all requirements and standards of the Metro Code, the administrative rules and performance standards, and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.

## **OTHER FACTORS FOR COUNCIL CONSIDERATION**

The Council must weigh several factors before determining whether to grant or deny the franchise. Staff has provided analysis of the Code requirements and the COO has made a recommendation to approve the application. The Council may consider the information put forward by staff and the applicant and decide, as the Council deems appropriate, whether to grant or deny the franchise. The following additional factor is offered for Council consideration.

### Previous solid waste sites located in the Cully neighborhood area

The proposed CBG facility will be located in an industrial area of the Cully neighborhood. The Cully neighborhood area is currently impacted by several other existing industrial uses, truck traffic on Columbia Boulevard, and noise from Portland International Airport. The neighborhood area also contains two closed landfill disposal sites and previously hosted a now defunct solid waste composting facility. Refer to **Attachment 4** for the location of each site listed below in context with Cully neighborhood and the proposed CBG facility. The following is a brief summary of each site.

**Riedel Municipal Solid Waste Compost Facility.** The now defunct Riedel Municipal Solid Waste (MSW) Composting Facility was located at 5437 NE Columbia Boulevard. The facility was conceived and developed over a long period of time to serve as one element of Metro's



integrated solid waste management system. The Riedel composting facility was closed in 1992 after less than a year of operating. The facility was ordered to stop accepting wastes by the DEQ due to persistent odor complaints from nearby residents and businesses. Due to financial problems, the Riedel facility was purchased by Credit Suisse, the bank which had provided financial backing for the project. The facility never reopened, and Metro's service agreement with Riedel was terminated. References to the facility were removed from the Regional Solid Waste Management Plan in 1994 (Ordinance No. 94-1915A).

The proposed CBG facility design and processing operations are significantly different from the Riedel MSW facility. The following is a summary of the key differences.

- Feedstocks
  - Riedel accepted loads of unprocessed raw garbage (MSW) from household and businesses. The waste was not pre-sorted or source-separated and contained putrescible waste with non-compostable material and contaminants.
  - CBG will accept only source-separated food waste from commercial and industrial sources. No household or commercial garbage will be accepted at the facility.
- Building
  - Riedel did not operate in an enclosed facility. The composting process occurred in an open-sided roofed structure.
  - CBG operations will be conducted in a completely enclosed roofed building and in enclosed tanks – no open air operations or outdoor storage will occur.
- Odor controls
  - Riedel did not use a reliable odor control system. Odors were generated in the receiving/tipping area, bag breaking area, MSW conveyors, and during the handling of MSW. Odors were also generated at the aerated composting beds. Odorous air was eventually released to the ambient air through open sides of the buildings, creating significant malodors in local neighborhoods.
  - CBG will use a state-of-the-art negative air capture and biofiltration system to remove odors. The odorous air collection system will consist of dedicated systems with ducts drawing air from receiving and processing areas within the building as well as tanks and the digestate treatment building. The air will be collected and treated in biofilters.
- Processing
  - Riedel was a MSW processing and composting facility that used an open air sorting area, conveyors and a “Dano drum” to breakdown the garbage and remove non-compostable contaminants. The composting process relied on air, temperature, and moisture to drive the biological process.
  - The proposed CBG facility is not a composting operation. CBG will use enclosed areas to sort and process the food waste. An anaerobic digestion system that is enclosed in tanks will produce biogas for energy production.



End  
products

- Riedel did not ultimately produce a marketable compost product due to excessive contamination levels associated with MSW and poor compost process controls.
- CBG will to generate electricity as its primary product. Secondary products will be sold and used in nursery and agricultural applications.

**Killingsworth Fast Disposal (KFD) landfill.** The old KFD landfill comprises approximately 25 acres in the Cully neighborhood in northeast Portland at NE 75<sup>th</sup> avenue and NE Killingsworth, southeast of the proposed CBG site. The site started as a sand and gravel mine. Once the rock was depleted, the site became a special waste landfill that accepted construction, industrial and non-putrescible waste. The landfill ceased operations in 1991. The DEQ designated KFD as an Orphan Cleanup Project in July 1999, and used funds from the Solid Waste Orphan Site Account to design and install a new methane gas control system, and implement upgrades to the landfill cover, site drainage, and site security. Additional gas extraction wells were also installed by the DEQ. Since then it has been maintained and monitored by DEQ, Metro, Portland Parks and Portland Bureau of Environmental Services. The site continues to produce methane, which is collected on-site and burned in a small facility next to the site's main entry off of NE Killingsworth. Portland Parks and Recreation acquired the site in 2002 with the intention of developing it as Thomas Cully Park, and Metro began maintaining and monitoring it under contract with the City. A master plan for the park was developed by Portland Parks & Recreation in 2008. (Excerpts from Metro Report – **Our Landfill Legacy**, March 2004, and **Thomas Cully Park Master Plan**, Portland Parks & Recreation-December 2008)

**Waybo Pit.** The Waybo Pit is located at 7800 NE Killingsworth Street. The site accepted and landfilled construction and demolition waste and operated from 1965 through 1971. The records are unclear about the exact size and operational period of this site. The site was originally permitted by Multnomah County Planning Commission under a land use permit in December 1964. The site was closed, and the DEQ never issued a landfill permit due to unfavorable natural conditions that precluded use of the site for landfilling. (Excerpts from Metro Report – **Our Landfill Legacy**, March 2004)

## **ANALYSIS / INFORMATION**

### **1. Known Opposition**

At this time, there is no known opposition to the proposed facility. However, it can be expected that there may be some individuals concerned with aspects of the proposed facility.

### **2. Legal Antecedents**

Metro Code Chapters 5.01 and 5.06, the Regional Solid Waste Management Plan, and ORS 459.284 and 459.290.

### **3. Anticipated Effects**

Adoption of Ordinance No. 10-1248 would authorize the COO to issue a Solid Waste Facility Franchise to CBG for a term of five years.



#### 4. Budget Impacts

The franchise as proposed would affect three Metro funds: the Solid Waste Fund, the General Fund and the Rehabilitation & Enhancement Fund. The effects on each are described in turn.

The analysis is based on Metro's current solid waste revenue system. The impacts are based on information provided in the CBG application, but the reader should note that these impacts would be the same for any comparable facility or waste reduction program.

##### **Assumptions for the Analysis**

According to the application, CBG will use various feedstocks totaling 194,000 tons per year from several different sources. The budget analysis requires information on *which* of these feedstocks will be diverted from Metro's solid waste revenue system, *how much* will be diverted, *when* it will be diverted, and *from where*.

Which feedstocks. This analysis is based staff's assumption that all of the commercially-generated feedstock identified in the application and 10 percent of the industrially-generated feedstock are currently disposed as mixed putrescible waste and incur full Metro fees and taxes. Approval of this franchise would exempt these tons from Metro fees and taxes. The balance of the industrial feedstock is either generated outside the region or is used in other applications and not currently disposed. None of the semi-solid and liquid waste is assumed to be currently handled in the solid waste disposal system.

How much. This analysis is based on a net diversion of 46,500 tons per year from the solid waste revenue system. This figure is comprised of the direct diversion of 49,500 tons that is currently disposed as mixed putrescible waste, less 3,000 tons of residual that CBG will return to the disposal system per year.

The derivation of these figures is shown in the table below. The direct diversion of 49,500 tons consists of all 45,000 tons of the commercially-generated feedstock identified in the application and 10 percent of the 45,000 tons of industrially-generated feedstock. The total is starred [\*] in the table below.

The 3,000 tons of residual is estimated from information provided in the CBG franchise application. According to the application [page 5], 20 percent of the incoming commercial feedstock and 2.2 percent of the industrial feedstock will be incompatible with the digestion technology. All told, this accounts for 10,000 tons of process rejects per year. The rejects consist mainly of packing and transportation materials – wood pallets, cardboard cartons, glass and metal containers, and plastics. According to the CBG Operations Plan, these rejects will be set aside for recycling or disposal [pages 5-2 and 7-1].

Staff assumed that all 1,000 tons per year of the industrial process rejects will ultimately be disposed. Staff further assumed that 2,000 tons of the commercial process rejects will be disposed and the balance (7,000 tons) recycled. The disposal rate from the commercial feedstock (2,000 tons is 4.4 percent of 45,000 tons per year) is double the applicant's industrial reject rate and consistent with Metro's experience with source-separated food waste contamination at Metro Central.



Feedstock by Generator, Process Rejects and Disposal  
(tons per year)

Feedstock by Generator Type	Inbound Feedstock	Process Rejects		Disposition of Rejects	
		Percent	Tons	Recycled	Disposed
Commercial	45,000	20%	9,000	7,000	2,000
Industrial (in-system)†	4,500	2.2%	100	0	100
Subtotal, in SW system*	49,500	---	9,100	7,000	2,100
Industrial (out-of-system)†	40,500	2.2%	900	0	900
Industrial (liquids)	104,000	0%	0	0	0
Subtotal, out of SW system	144,500	---	900	0	900
<b>Grand Total</b>	<b>194,000</b>	<b>---</b>	<b>10,000</b>	<b>7,000</b>	<b>3,000</b>

These figures are based on the application, page 5; and staff's assumptions set forth in the text.

\* This material is currently disposed as putrescible waste (see "Which Feedstocks" above).

† The 10/90 in-system/out-of-system split is explained in "Which Feedstocks" above.

When. This analysis is based on the assumption that the facility begins accepting waste on April 1, 2012. For simplicity of exposition, the results are shown for a ramp-up to the full targeted throughput within three months. Metro would experience the same budgetary impacts if ramp-up is in fact slower, but they would be realized over a longer time period.

From where. Two scenarios bracket the budgetary effects. The highest impact occurs if all of the solid waste feedstock is diverted from putrescible waste currently delivered to Metro Central. The lowest impact *on Metro* occurs if all of the feedstock is diverted from private facilities. Accordingly, the results of both scenarios are presented in this section. It is important to keep in mind that there are also economic effects on private facilities under both scenarios; however they are not analyzed as part of this *budgetary impact* assessment.

### The Solid Waste Fund

Low impact scenario: no diversion from Metro transfer stations. Under this scenario the operation of CBG would increase only one expenditure from the solid waste fund: the price that Metro pays to Waste Management for disposal at Columbia Ridge Landfill under its contractual declining block rate. Diversion of 46,500 tons would reduce the dollar amount of the disposal budget but at a higher cost per ton. The Metro tip fee would have to rise by 54 cents to recover this cost. To put this number in context, the current tip fee is \$85.85.

On the revenue side, the exemption of 46,500 tons from the Regional System Fee translates to a potential revenue loss of approximately \$790,000. Historically in similar circumstances Metro has raised the system fee to cover the effect of tonnage lost to the recovery exemption. In this case, that impact would be an increase of 78 cents per ton. This 78 cents would be charged on all solid waste that continues to be disposed, including the waste delivered to Metro transfer stations and privately-owned landfills. To put this number in context, the current Regional System Fee is \$16.72.



In summary, the total effect would likely be a rate increase rather than a budget impact. Under the low impact scenario, the increase would amount to \$1.32 (\$0.54 + \$0.78) on the Metro tip fee and 78 cents per ton at private facilities.

High impact scenario: all diversion from Metro Central. Under this scenario, the operation of CBG would increase the operations cost of Metro Central and reduce transaction fee revenue, *in addition to* the effects on the system fee described for the low impact scenario. Although the budgeted costs for station operations, transport and disposal would drop, the rate per ton would rise and require an increase of \$1.97 to the Metro tip fee to recover the costs. The loss of transactions would reduce transaction fee revenue and require an increase of 33 cents to the automated scale transaction fee.

As was the case for the low scenario, the total effect would likely be a rate increase rather than a budget impact. The increase would be the \$0.78 for the system fee described under the low impact scenario, plus \$1.97 for station operation for a total of \$2.75 increase to the Metro tip fee. In addition, the automated transaction fee would rise by \$0.33.

To put these figures in context, if CBG were to become operational now, the current Metro tip fee of \$85.85 would rise \$2.75 to \$88.60.

## The General Fund

The impact on the General Fund is the same for both scenarios, and is entirely on the revenue side. As with the Regional System Fee, approval of this franchise would remove 46,500 tons from the revenue base. However, unlike the Regional System Fee, the excise tax rate is driven entirely by previous-calendar year tonnage. Therefore, it takes over two years for the reduction of the tonnage base to work its way into the rate calculation. Until that happens, approval of this franchise would reduce General Fund revenue by about \$130,000 during the last quarter of FY 2011-12, \$513,000 in the first full year of operation and \$173,000 in the second full year of operation. By the third year the rate will have increased by \$0.43 per ton to absorb the revenue impact. The details are show in the table below.

Rate and Revenue Effects on the General Fund

Fiscal Year	Excise Tax Rates ( <i>per ton</i> )			Annual Tax Revenue ( <i>\$millions</i> )		
	Base Case	With CBG	Difference	Base Case	With CBG	Difference
2011-12	\$11.10	\$11.10	-	\$12.870	\$12.740	(\$130,000)*
2012-13	11.03	11.03	-	13.020	12.507	(513,000)
2013-14	10.87	11.21	32¢	13.060	12.887	(173,000)
2014-15	10.87	11.33	43¢	13.290	13.290	-

\* Reflects three months of operation in FY 2011-12.

## The Rehabilitation & Enhancement Fund

Revenue for the Rehabilitation and Enhancement of host communities derives from a state-authorized and Metro-implemented surcharge on all wastes accepted at the facility for a fee. This analysis is based on the current “host fee” set by Metro at 50 cents per ton and the total CBG feedstock, estimated by the applicant at 194,000 tons per year. The latter figure is comprised of 90,000 tons of solid waste plus 104,000 tons of liquids and semi-solids per year



by weight. The effects in this section will change if the host fee changes or the wastes that are subject to the host fee change in the future.

Under both the low and high impact scenarios, the Cully neighborhood (where CBG is located) would receive host fee revenue of \$83,000 per year net of \$14,000 in Metro administrative costs (based on 0.15 FTE and \$500 in materials per year). Under the low impact scenario, all of this would be new money to the R&E Fund, being derived from tonnage now delivered to facilities and applications that do not impose a host fee. Under the high impact scenario, \$23,250 would be diverted from the Metro Central R&E Account (46,500 tons diverted from Central at 50¢ per ton). That is, under the high scenario about 75 percent of the Cully host fee revenue would be new money and the balance diverted from the Metro Central Enhancement District. Details are shown in the table below.

#### Budget Impact on the Rehabilitation & Enhancement Fund

By Account	Diversion Scenario	
	Low Impact (No tons from Metro)	High Impact (All tons from Central)
<b>Cully Account (CBG)</b>		
New revenue	\$ 97,000	\$ 97,000
New costs	14,000	14,000
Net ( <i>\$ distribution available</i> )	83,000	83,000
<b>Metro Central Account</b>		
Revenue change	0	(23,250)
Cost change	0	0
Net ( <i>change in \$ distribution</i> )	0	(23,250)
<b>Net impact on R&amp;E Fund</b>	<b>\$ 83,000</b>	<b>\$ 59,750</b>

#### Summary

Analysis is provided for two scenarios: a low-impact budget scenario in which none of the waste is diverted from Metro transfer stations; and a high-impact scenario in which all of the waste is diverted from Metro Central. These scenarios bracket the budget impacts. Again, the reader should note that these impacts would be the same for any comparable facility or waste reduction program.

- **Solid Waste Fund.** The diversion of tonnage from disposal to recovery would reduce the dollar amount that Metro budgets for disposal operations, but the per-ton cost would rise on the waste that continues to be disposed. Historically, Metro has covered such changes by raising solid waste rates. Under the low impact scenario the Metro tip fee would rise by \$1.32, excluding excise tax changes. Under the high impact scenario the increase would be \$2.75, also excluding tax effects.
- **General Fund.** Approval of this franchise will not affect General Fund costs, but the excise tax rate will have to rise 43¢ to recover the revenue lost to the diversion of tonnage. It will take three years for the rate to adjust fully under the current rate mechanism in Metro Code. There will be a \$816,000 loss of revenue to the General Fund during the three-year adjustment period.



- Rehabilitation & Enhancement Fund. The Rehabilitation & Enhancement Fund could receive as much as \$83,000 in new revenue per year, net of administrative costs. These dollars would be available for grants to qualified Cully neighborhood (where CBG is located) applicants. Under the low impact scenario, all of this is new money. Under the high impact scenario approximately \$23,000 of this is shifted from funds currently going to the Metro Central Enhancement Community.

## **RECOMMENDED ACTION**

### Chief Operating Officer Recommendation

The Metro Code requires the COO to formulate recommendations to the Metro Council “regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of [Metro Code] section 5.01.060, and whether or not the applicant has complied or can comply with all other regulatory requirements.”

In addition, the Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The previous analysis in this report has addressed all of the issues that the COO is required to analyze, as well as all five of the criteria the Council is required to consider.

The COO finds:

- The applicant is qualified to operate the proposed facility.
- The proposed franchise complies with the Regional Solid Waste Management Plan.
- The proposed franchise meets the applicable requirements of Metro Code section 5.01.060.
- The applicant has complied or can comply with all other regulatory requirements.

Generally, the type of facility represented by CBG will help the Metro region meet several goals established by the Council. Diversion of food waste from landfills lessens our dependence on disposal capacity by reducing the amount of waste disposed. Local processing capacity helps minimize truck delivery miles by reducing long trips to landfills to dispose of solid waste. Directing food waste into better and higher uses such as energy production, composting and agriculture, represents a more sustainable use of resources. Energy production from processing food waste is also consistent with the state’s and region’s economic development emphasis on green jobs and green energy.

Moreover, developing the region’s food waste collection and processing infrastructure is one of the key strategies called out by Metro’s Solid Waste System Roadmap for leading the region toward more sustainable future over the next decade. As a new franchised solid waste facility, CBG would contribute to this goal by expanding the region’s ability to divert food waste from landfills and instead process it for productive use.



This applicant has produced a very high quality application, instituted a very inclusive public outreach effort with local neighborhood groups, business groups and other potentially interested parties. CBG has been very responsive to requests for information and answering questions. It has demonstrated a willingness to meet all necessary regulatory requirements and special conditions imposed by Metro in a responsive way.

This facility is unique in the United States because of its enclosed configuration as a processing facility (anaerobic digestion), and biogas energy recovery facility devoted to food and organic waste. There are inherent risks (e.g. business, financial, and neighborhood impacts) associated with such a venture. However, the applicant appears to be adequately capitalized, has assembled a highly competent team of national and international experts, and has demonstrated a willingness to engage and listen to the public and regulators during the process.

Therefore, based on Metro's investigation and balancing of various factors covered in this staff report, the COO recommends approval of Ordinance No. 10-1248.

#### **LIST OF ATTACHMENTS TO STAFF REPORT**

Attachment 1 - Proposed Site Layout Plan

Attachment 2 – Proposed Facility Isometric View

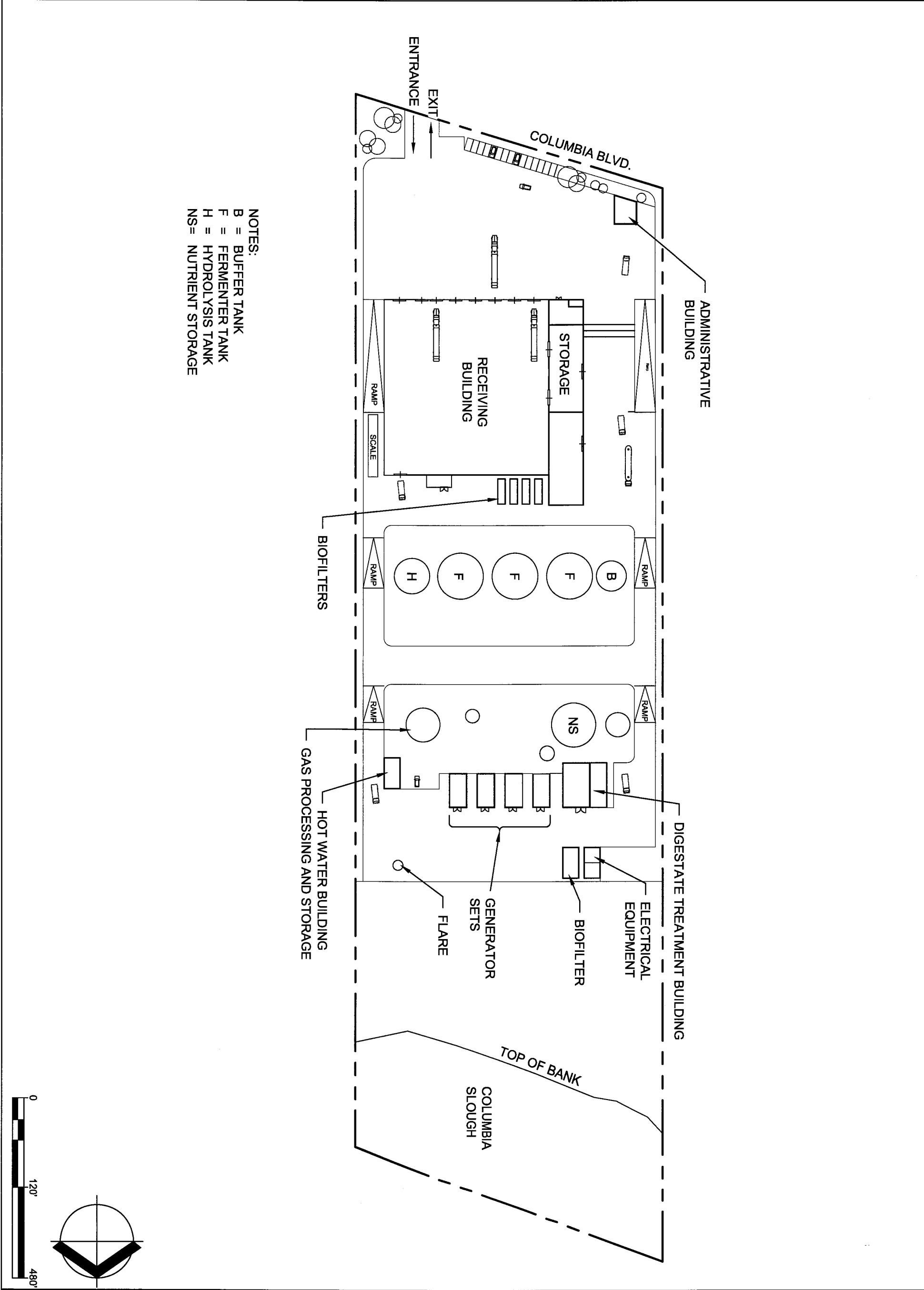
Attachment 3 – Columbia Biogas Community Relations Summary

Attachment 4 – Previous Solid Waste Sites in Cully Area

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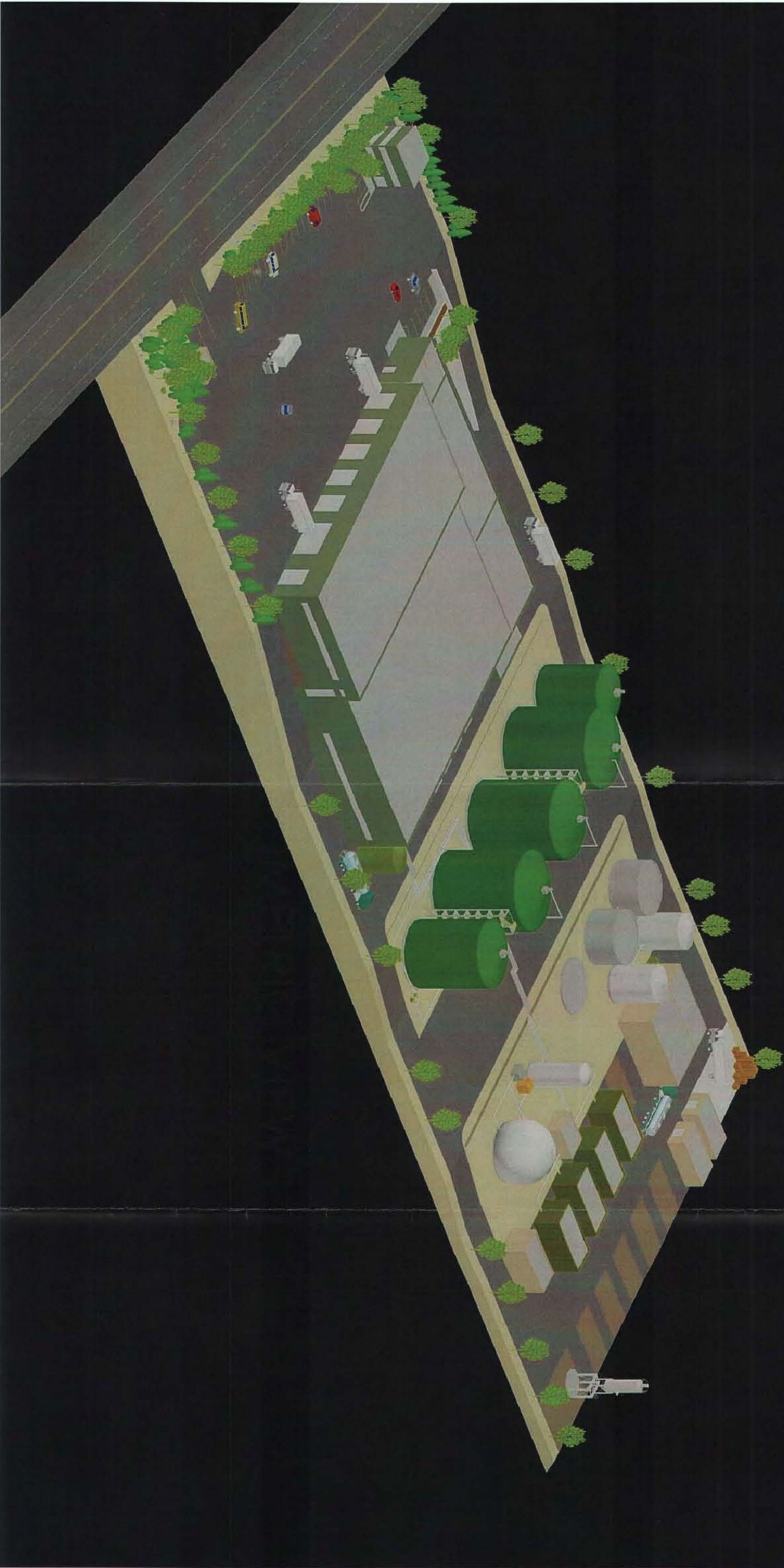
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NOTES:  
B = BUFFER TANK  
F = FERMENTER TANK  
H = HYDROLYSIS TANK  
NS= NUTRIENT STORAGE





# PROPOSED FACILITY - SOUTHEAST ISOMETRIC VIEW

COLUMBIA BIOGAS

SOURCE: ENBASYS BIOTECH ENERGY, GMBH

FIGURE 2-2  
September 3, 2010



**Columbia Biogas  
Public Engagement Process Report  
November 15, 2010**

The purpose of this report is to respond to Metro's request for information about the public engagement process thus far in connection with the submittal of the Columbia Biogas franchise application.

**Community Relations**

An active community relations effort has been in progress for several months. The goal is to engage in two-way communications with the public to foster understanding of the project, understand areas of interest and concern, and increase citizen input into design and operation decisions. Specific community relations activities include:

- General meetings with key individuals and community organizations in the area of the facility site
- Special focus meetings to concentrate on specific areas of interest and concern
- Presentations and tours to answer questions about the project for special interest groups and neighborhood associations
- Informational website
- Neighborhood Advisory Committee to provide a forum for ongoing communication and developing a good neighbor plan

General Meetings

- Columbia Corridor Association  
Corky Collier, Executive Director
- Cully Association of Neighbors  
Rich Gunderson, Parks and Open Spaces Committee  
Bob Grainger, Treasurer Cully Board  
Erwin Bergman, Livability/Airport Committee  
Nick Bouwes, Member
- Concordia Neighborhood Association  
Anne Rothert, Chair Concordia Board
- Central Northeast Neighbors  
Alison Stoll, Executive Director
- Columbia Slough Watershed Council  
Jan Van Dyke, Executive Director
- Native American Youth and Family Center  
Rey Espana, Director of Employment, Housing and Community Development
- Verde  
Alan Hipolito, Executive Director
- Hacienda Community Development Corporation  
Nathan Teske, Community Economic Development Direct



- Portland Sustainability Institute  
Steve Gutmann, Finance Innovation Director
- Recycling Advocates  
Jonny Leuthold, Co-President
- Association of Oregon Recyclers  
Rick Winterhalter, Chair

### Special Focus Meetings

#### *Focus Area: Noise and Odor*

- Erwin Bergman and Nick Bouwes, Cully Association of Neighbors; Enbasys  
Neighborhood residents met with Enbasys, the process engineering firm designing the facility to discuss design features to control noise and odor.

#### *Focus Area: Jobs*

- Rey Espana, Native American Youth and Family Center; Nathan Teske, Hacienda Community Development Corporation, Work Systems, John Gardner and staff  
Met to discuss opportunities to extend jobs to minorities, women, and local residents.

#### *Focus Area: Jobs*

- Rey Espana, Native American Youth and Family Center; Alan Hipolito, Verde; Owen Boe, Veolia; Jeff Wall, Slayden Construction  
Met with Slayden Construction, the proposed general contractor for the project and Veolia, the proposed facility operator to discuss employment needs and identify opportunities to extend jobs to minorities, women and local residents.

### Presentations

- Cully Association of Neighbors (CAN) Board Meeting, October 5<sup>th</sup>, 2010  
Two hour meeting to present information about the project to the Board of the Cully Association of Neighbors and answer questions. Veolia, the proposed contracted operator of the facility, was also present to answer questions.  
*Promotion:* Attendees invited by Kathy Fuerstenau, Chair of CAN.  
*Attendance:* Kathy Fuerstenau, Chair; Dustin Michelletti, Vice Chair, Bob Grainger, Treasurer; Evans Martin, Outreach Coordinator; Laura Young, Member at Large; Michael Crupper, Member at Large.  
*Opportunities for Comment:* Question and answer period.
- Cully Association of Neighbors (CAN) General Membership Meeting, October 12<sup>th</sup>, 2010  
Guest speaker on agenda of regularly scheduled general membership meeting. Twenty minute presentation including a question and answer period.  
*Promotion:* CAN website.  
*Attendance:* 35 to 45 residents of the Cully neighborhood including CAN Board members.  
*Opportunities for Comment:* Question and answer period.
- Cully and Concordia Neighborhoods Meeting, October 19<sup>th</sup>, 2010  
Special meeting for the neighborhoods organized, promoted and facilitated by the Columbia Biogas project team. Two hour meeting to present information about the project to the public including a question and answer period. Presentations given by John McKinney, owner of Columbia Biogas and technical experts on the project team focused on design and mitigation



efforts for areas of concern including odor, noise, and traffic. Also present were the project manager, Dale Richwine and Owen Boe, Veolia, the proposed contracted operator of the facility.

*Promotion:* Over 9,000 postcards mailed to every resident and business of the Cully and Concordia neighborhoods. Notice of the meeting was also posted on Cully, Concordia and Sumner neighborhood association websites and blogs.

*Attendance:* Approximately 100 people including Metro and DEQ staff.

*Opportunities for Comment:* Question and answer period. Comment cards were also available for people to write down questions or comments for follow-up by Columbia Biogas team members.

- Columbia Slough Watershed Council General Meeting, October 25<sup>th</sup>, 2010  
Guest speaker on agenda of regularly scheduled general meeting. Thirty minute presentation including a question and answer period.  
*Promotion:* Columbia Slough Watershed Council website.  
*Attendance:* 20 to 25 members of the Board of Directors and visitors.  
*Opportunities for Comment:* Question and answer period.
- Tour of Site for Proposed Columbia Biogas Facility, November 4<sup>th</sup>, 2010  
Conducted a tour of 6849 N.E. Columbia Blvd., the location of the proposed facility. Explained the lay out of the facility on the site and answered questions.  
*Promotion:* Chair of Cully Association of Neighbors and Executive Director of Columbia Slough Watershed Council informed membership of tour.  
*Attendance:* 10 people including Cully residents, members of the Columbia Slough Watershed Council and a representative of Verde.  
*Opportunity for Comment:* Open discussion during the tour with questions and answers.
- Tour of Durham Advanced Waste Water Treatment Facility, December 6<sup>th</sup>, 2010  
Planned tour of facility with odor control technology similar to that planned for Columbia Biogas.  
*Promotion:* Announced at Neighborhood Advisory Committee meeting. Chair of Cully Association of Neighbors to inform general membership.  
*Attendance:* To Be Determined.  
*Opportunity for Comment:* Plan for open discussion during the tour with questions and answers.

#### Website

The purpose of the website is to provide information about the project and allow for public comment. The website address is [www.columbiabiogas.com](http://www.columbiabiogas.com). It contains information about the facility, the products produced, services provided, the project team, and provides answers to frequently asked questions. It also provides a means for the public to ask questions or post comments. Queries submitted via the website are answered in a timely manner.

#### Neighborhood Advisory Committee

Formed a Neighborhood Advisory Committee to foster ongoing communication between the neighborhood and Columbia Biogas. The first task of the Committee will be to develop a Good Neighbor Plan. The Committee will meet on a regular basis and serve as a forum to discuss areas of interest and concern. The first meeting of the Committee was held on Wednesday, November 10<sup>th</sup> and a total of eleven people were in attendance as well as several members of the Columbia Biogas team. Attendees represented the following organizations: Cully Association of Neighbors, Concordia Neighborhood Association, Central Northeast Neighbors, Columbia



Slough Watershed Council, Verde, Hacienda Community Development Corporation, Native American Youth and Family Center, and the City of Portland Bureau of Environmental Services. The next meeting is scheduled for Monday, November 29<sup>th</sup>.

### **Governmental Relations**

A series of meetings have been held with elected officials and local government staff to provide information about the project, discuss how the facility will integrate into the solid waste management system and other regulatory and environmental programs, and identify areas of interest and concern.

Special effort was made to meet with local government solid waste staff as well as Metro solid waste staff. The purpose of these meetings was to discuss how the facility would integrate into the existing regulatory system in different jurisdictions and understand the status of planning efforts for food waste collection and recovery. The goal is to develop understanding in order to work in partnership with regional and local governments throughout the metropolitan area.

### Elected Officials

- Oregon State Representative  
Tina Kotek
- Oregon State Senator  
Chip Shields
- Oregon State Representative  
Jules Bailey
- Mayor of the City of Portland  
Sam Adams
- Metro Councilors  
David Bragdon (former Council President)  
Rex Burkholder  
Kathryn Harrington  
Rod Park  
Carlotta Collette  
Robert Liberty  
Carl Hosticka

### Regional Government Staff – Solid Waste

- Metro, Resource Conservation and Recycling  
Matt Korot, Resource Conservation and Recycling Program Director  
Jennifer Erickson, Senior Planner
- Metro, Solid Waste Compliance and Cleanup  
Roy Brower, Regulatory Affairs Manager  
Bill Metzler, Senior Planner  
Warren Johnson, Compliance Supervisor

### Local Government Staff - Solid Waste

- City of Portland, Bureau of Planning and Sustainability  
Bruce Walker, Solid Waste and Recycling Program Manager and other staff
- City of Gresham, Department of Environmental Services  
Dan Blue, Recycling and Solid Waste Program Manager and other staff
- City of Beaverton, Recycling and Garbage  
Scott Keller, Program Manager and other staff
- Clackamas County, Office of Sustainability



- Rick Winterhalter, Senior Sustainability Analyst and other staff
- Washington County, Solid Waste and Recycling  
Theresa Koppang, Solid Waste Supervisor
- City of Vancouver, Washington, Public Works Solid Waste Services  
Rich McConaghy, Environmental Resource Manager and other staff
- Clark County, Washington, Department of Public Works  
Anita Largent, Solid Waste Manager and other staff

#### Local Government Staff - Other Agencies

- City of Portland, Bureau of Planning and Sustainability  
Debbie Bischoff, Senior Planner
- City of Portland, Bureau of Environmental Services  
Nancy Hendrickson, Columbia Slough Watershed Manager  
Susan Barthel, Program Coordinator
- Multnomah County Drainage District No. 1  
Dave Hendricks, Deputy Director

#### Other Governmental Agencies

- Port of Portland  
Stan Jones, Aviation Environmental Compliance Manager and other staff

#### **Public Relations**

To date, public relations efforts have included responding to interview requests from media sources.

#### Media

- Sustainable Business Oregon, October 21, 2010  
<http://www.sustainablebusinessoregon.com/articles/2010/10/columbia-biogas-plans-waste-to-power-pla.html>
- Daily Oregon Business Magazine email, October 21, 2010  
<http://www.oregonbusiness.com/high-five/10-high-five/4296-biogas-facility-planned-in-portland>
- Daily Journal of Commerce, October 21, 2010  
<http://djcoregon.com/news/2010/10/21/north-portland-facility-would-turn-food-into-power/>
- Oregonian, October 30, 2010  
[http://www.oregonlive.com/portland/index.ssf/2010/10/food-compost\\_plant\\_in\\_northeas.html](http://www.oregonlive.com/portland/index.ssf/2010/10/food-compost_plant_in_northeas.html)
- The Hollywood Star News, *Cully waste processor claims low impact*, November 2010







Agenda Item Number 6.1

**Resolution No. 10-4216**, For the Purpose of Creating and  
Appointing Members of the East Metro Connections Plan  
Steering Committee.

Metro Council Meeting  
Thursday, Dec. 2, 2010  
Hillsboro Civic Center



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CREATING AND	)	RESOLUTION NO. 10-4216
APPOINTING MEMBERS OF THE EAST	)	
METRO CONNECTIONS PLAN STEERING	)	Introduced by Councilor Rod Park
COMMITTEE		

WHEREAS, the Metro Council has made a commitment to Making the Greatest Place through its work with local leaders and residents throughout the region to create prosperous and sustainable communities for present and future generations; and

WHEREAS, the adopted long-range blueprint for the future, the 2040 Growth Concept, reflects that commitment and guides the region's land use and transportation development in alignment with it; and

WHEREAS, the Metropolitan Policy Advisory Committee and Metro Council adopted the following Six Desired Outcomes to guide implementation efforts in the region:

- Vibrant communities - People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
- Economic prosperity - Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- Safe and reliable transportation - People have safe and reliable transportation choices that enhance their quality of life.
- Leadership on climate change - The region is a leader in minimizing contributions to global warming.
- Clean air and water - Current and future generations enjoy clean air, clean water, and healthy ecosystems.
- Equity - The benefits and burdens of growth and change are distributed equitably; and

WHEREAS, the Regional Transportation Plan (RTP) is a central tool for implementing the 2040 Growth Concept and emphasizes outcomes, system completeness and measurable performance in order to realize adopted land use plans, and hold the region accountable for making progress toward regional and State goals to reduce vehicle miles traveled and greenhouse gas emissions; and

WHEREAS, the Metro Council accepted the Regional High Capacity Transit System Plan by Resolution No. 09-4052 (For the Purpose of Accepting the Regional High Capacity Transit System Tiers and Corridors, System Expansion Policy Framework and Policy Amendments) on July 9, 2009, for addition to the 2035 Regional Transportation Plan; and

WHEREAS, the work East Metro Corridor Refinement Plan was adopted by Metro Council Resolution No. 10-4119 ("For the Purpose of Updating the Work Program for Corridor Refinement Planning through 2020 and Proceeding with the Next Two Corridor Refinement Plans in the 2010-2013 Regional Transportation Plan cycle") as the next regional priorities for Corridor Refinement Plans on February 25, 2010; and

WHEREAS, the 2035 Regional Transportation Plan and its components were adopted as the state and federally-recognized metropolitan transportation plan by Ordinance No. 10-1241B ("For the Purpose



of Amending the 2035 Regional Transportation Plan (Federal Component) and the 2004 Regional Transportation Plan to Comply with Federal and State Law; To Add the Regional Transportation Systems Management and Operations Action Plan, the Regional Freight Plan and the High Capacity Transit System Plan; To Amend the Regional Transportation Functional Plan and Add it to the Metro Code; To Amend the Regional Framework Plan; and To Amend the Urban Growth Management Functional Plan”); and

WHEREAS, the establishment of a Steering Committee will contribute valuable guidance toward completion and adoption of the East Metro Connections Plan, which will constitute a community investment strategy for the plan area; and

WHEREAS, Steering Committee membership should be representative of major policy, program, geographic and demographic interests in the project area including economic development and job creation in and near the plan area; and

WHEREAS, the Metro Councilor from District 1 will serve as the Steering Committee Chair; and

WHEREAS, it is expected that the Steering Committee will be needed for approximately 18 months; now therefore

BE IT RESOLVED that the Metro Council, in order to fulfill adopted land use goals through development of a transportation system that enhances said land uses,:

1. Hereby establishes the East Metro Connections Plan Steering Committee to fulfill the charge set forth in Exhibit A.
2. Hereby appoints the persons listed in Exhibit B, attached and incorporated into this resolution, to be members of the East Metro Connections Plan Steering Committee.
3. Directs the East Metro Connections Plan Steering Committee to meet at project milestones, with administrative and technical support from Metro staff, and to submit recommendations to the Council at project milestones.
4. Appoints Steering Committee members for a one-year term, which shall be automatically renewed for an additional term unless explicitly terminated, but not to exceed three years.

ADOPTED by the Metro Council this \_\_\_\_ day of December, 2010.

---

Carlotta Collette, Council President

Approved as to Form:

---

Daniel B. Cooper, Metro Attorney



## **EXHIBIT A TO RESOLUTION NO. 10-4216**

### **East Metro Connections Plan Steering Committee Charge**

The East Metro Connections Plan will support local land use and community development aspirations, consistent with the Regional 2040 Growth Concept, through strategic coordination of transportation, land use and community development investments. The East Metro Connections Plan Steering Committee is charged with working toward the successful creation and implementation of the East Metro Connections Plan. They are specifically tasked with the following responsibilities.

- Participate in project chartering and follow decision-making protocols established therein.
- Provide information to and from constituents regarding the process and substance of the East Metro Connections Plan.
- Receive input from, and provide guidance to, the project's Technical Advisory Committee at project milestones, including:
  - goals and objectives
  - problem statement based and desired outcomes for the plan area
  - candidate scenarios for testing
  - methodology for assessing the effectiveness of test scenarios in meeting the plan goals and objectives
  - findings of the analysis
  - proposed project priorities, land use, community investment and other corollary actions and an implementation strategy.
- Recommend a community investment strategy (including phasing and funding) for the plan area to the communities in the plan area, the Joint Policy Advisory Committee on Transportation, the Metropolitan Policy Advisory Committee, and the Metro Council. The community investment strategy will include project priorities, associated land use and community development actions, phasing and funding plans.
- Facilitate local actions and commitments needed to implement the plan.

The Steering Committee will be convened by Metro and will meet approximately three to four times annually at project milestones.



**EXHIBIT B TO RESOLUTION NO. 10-4216**

**Members of the East Metro Connections Plan Steering Committee**

Membership to be finalized prior to Council action.



## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 10-4216, FOR THE PURPOSE OF FOR THE PURPOSE OF CREATING AND APPOINTING MEMBERS OF THE EAST METRO CONNECTIONS PLAN STEERING COMMITTEE

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Date: November 22, 2010

Prepared by: Bridget Wieghart

## BACKGROUND

The East Metro Connections Plan is the first mobility corridor refinement plan to come out of the 2035 Regional Transportation Plan that will incorporate the goals and approach of Metro's mobility corridor strategy designed to better integrate land use, community and economic development, environmental and transportation goals at the corridor refinement plan stage. The East Metro Connections Plan will address the region's priority to improve mobility and access while ensuring that transportation investments support land use aspirations, promote economic development and help support job retention and expansion. Project partners include the cities of Fairview, Gresham, Troutdale and Wood Village, Multnomah County, ODOT and Metro. Additional participating entities include the city of Damascus, Clackamas County, the Port of Portland and TriMet. This 18-month effort will be guided by a Steering Committee made up of representatives of the jurisdictions and key community stakeholders.

The individuals identified in Exhibit B represent groups with an ongoing role in the integration and coordination of services, resources and policies in this particular geographic area. They plan for, or have a stake in, significant issues that are inter-connected in the sense that actions by one party affect the others. The East Metro Connections Plan effort recognizes the mutual benefit from sharing information, views and aligning resources to produce an integrated implementation plan for transportation and land use investment.

These individuals and/or the groups they represent were identified through a collaborative process with project partners, including the jurisdictions listed above. Consideration was given to all segments of the community and membership is meant to ensure a broad representation and diversity of views. To ensure that the East Metro Connections Plan integrates land use, community and economic development, environmental and transportation goals, members represent the following interests:

- |                                |                          |
|--------------------------------|--------------------------|
| ▪ Plan area jurisdictions      | ▪ Neighborhoods          |
| ▪ Influence area jurisdictions | ▪ Freight                |
| ▪ Transit                      | ▪ Bicycle and pedestrian |
| ▪ Private business             | ▪ Social equity          |
| ▪ Economic development         | ▪ Environment            |
| ▪ Community development        |                          |

## ANALYSIS/INFORMATION

1. **Known Opposition** No known opposition exists.
2. **Legal Antecedents** The creation and appointment of members to the East Metro Connections Plan Steering Committee is consistent with Metro Code 2.19.030 (Membership of the Advisory Committees) and 2.19.040 (Advisory Committee Purpose and Authority Resolution), as well as



Resolution No. 10-4119 that established the East Metro Connections Plan as a priority mobility corridor refinement plan in the 2010-2013 Regional Transportation Plan cycle.

3. **Anticipated Effects** The East Metro Connection Plan Steering Committee will contribute valuable guidance toward completion and adoption of the East Metro Connections Plan. The Steering Committee will meet throughout the project's life at key milestones and may offer recommendations to Metro Council.
4. **Budget Impacts** Costs associated with convening and supporting the East Metro Connections Plan Steering Committee are accounted for in the project's scope of work and budget.

#### **RECOMMENDED ACTION**

Metro staff recommends the adoption of Resolution No. 10-4216.



Materials following this page were distributed at the meeting.

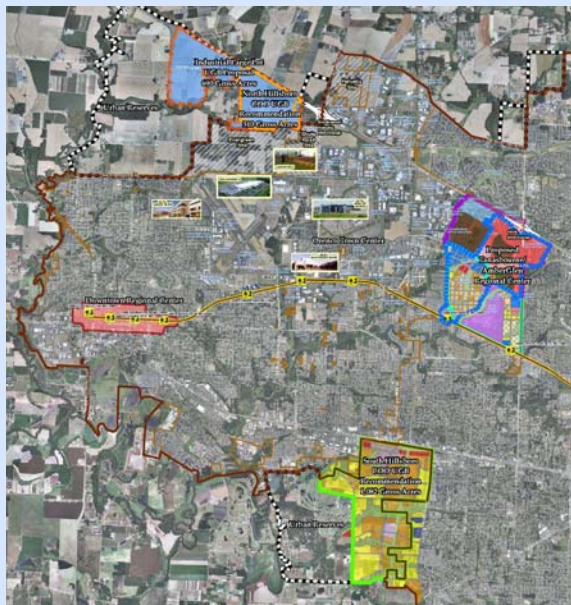


# City of Hillsboro Virtual Tour



Prepared for the Metro Council Meeting  
December 2<sup>nd</sup>, 2010

## Economic Development and Growth









## Wells Fargo Bank Building



## Oregon Main Street Program





## Walkability Audit



## Civic Center





## Hillsboro Tuesday Marketplace



## The Venetian Theatre & Bistro



Town Theatre





## Sequoia Gallery and Studios



## Glenn & Viola Walters Cultural Arts Center





# Health & Education Campus Master Plan



## Pacific University Health Professions Campus Phase I





Pacific University Health  
Professions Campus  
Phase II

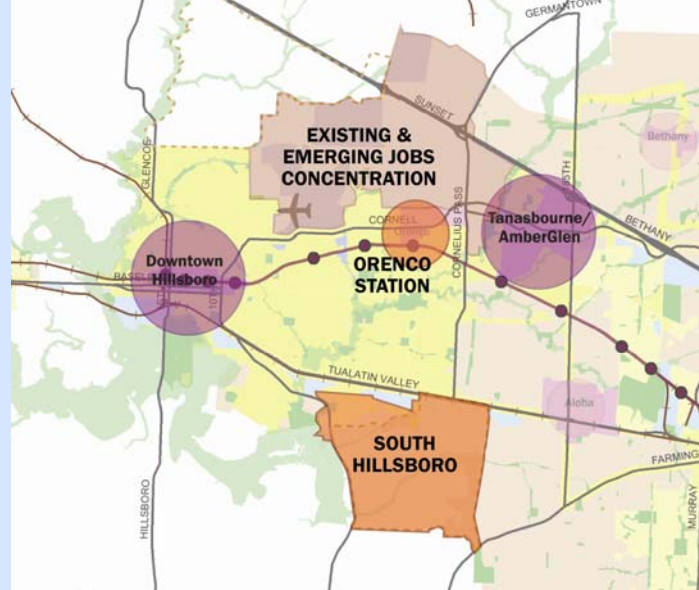


Intermodal Transit Facility

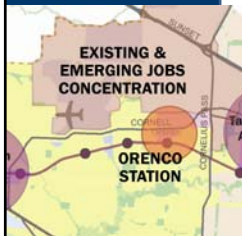




## Hillsboro's Centers *Complete Communities*



## Orenco Station





## Industrial Employment



## South Hillsboro





## Tanasbourne/AmberGlen Regional-Scale Center

### THE ASPIRATION

Approximately 30,000 people will live in this 687-acre urban district, and 23,000 people will work here.



## Tanasbourne/AmberGlen

### STATE OF THE CENTER

Tanasbourne has evolved into a regional-scale, housing, retail and employment center close to regional employers and transportation facilities.





## Tanasbourne/AmberGlen



## Tanasbourne/AmberGlen

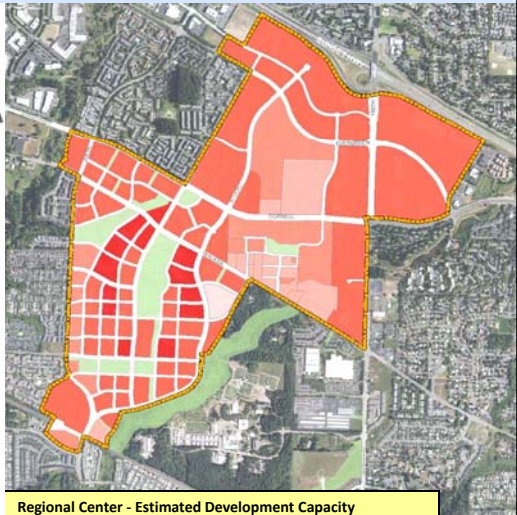
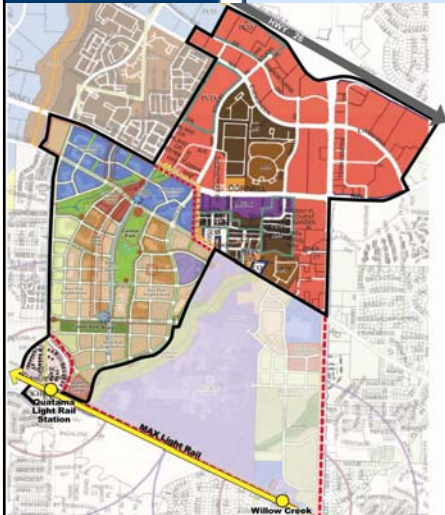




Tanasbourne/AmberGlen



Tanasbourne/AmberGlen

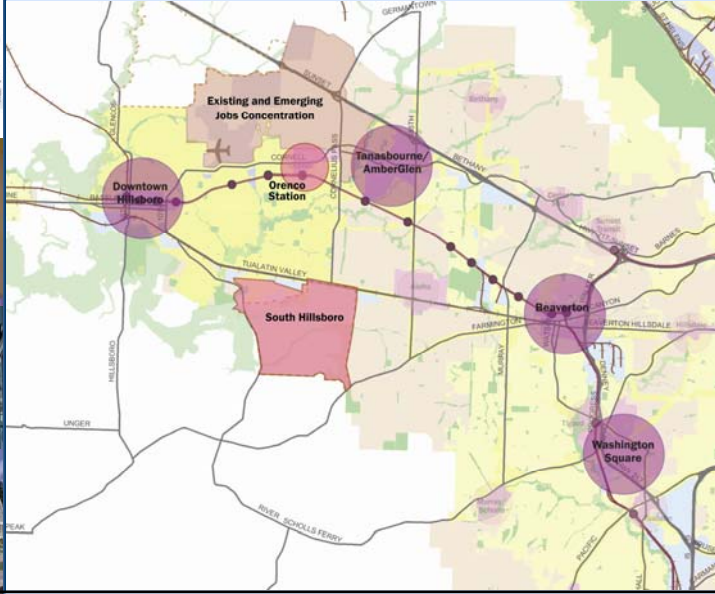


Regional Center - Estimated Development Capacity

Area (acres)	Area (net acres)	People	People/ net acre	Dwelling Units (DU)	Resident s (2.25/DU)	DU/ net acre	Jobs	Jobs/ net acre
687	537	53,176	99	13,438	30,235	25	22,941	43



## Hillsboro's Centers *Complete Communities*







## Virtual Tour of Hillsboro

### METRO Council

December 2, 2010

- 
- The background of the lower half of the page is a grayscale photograph of a 'WELCOME TO HILLSBORO' sign. The sign is rectangular with a light-colored background and dark lettering. It is set against a backdrop of trees and foliage. Overlaid on the sign is a numbered list of six items.
1. Downtown Hillsboro
  2. Orenco Station
  3. Hillsboro Industrial Aerial
  4. South Hillsboro
  5. City of Beaverton Letter Regarding Tanasbourne Regional Center Proposal
  6. Tanasbourne / AmberGlen



# Downtown Hillsboro

## Development Opportunities

### An Emerging Vibrant Business and Entertainment District

**Downtown Hillsboro** is the next great place in the Portland Metro Area. Full of historic character and charm, Downtown is poised to continue its transformation as one of Oregon's great downtowns. Downtown Hillsboro has experienced a renaissance of late. With the Venetian Theater, Walters Cultural Arts Center, and Sequoia Gallery, Downtown Hillsboro has emerged as a arts and entertainment center. During the summer, people flock to our downtown for our Tuesday Marketplace and our Saturday Farmers Market; live theater occurs in the beautiful Civic Center Plaza and H.A.R.T. Theater; and musical acts perform at lunchtime during our Brown Bag Concert Series.

Hillsboro is a classic American main street with "good bones" and historic buildings. Downtown was recently designated "Transforming Downtown" status by the Oregon Main Street Program, which assists downtown business in preserving and enhancing Main Street. Earlier this year, the City adopted a Downtown Urban Renewal Plan, providing financial means to accomplish key projects. Also, the City provides a Storefront Improvement Grant to assist property owners in funding storefront renovations to improve the look and character of downtown buildings.

Metro has designated Downtown Hillsboro as a Regional Center, with its quaint surrounding neighborhoods, employment centers, health and educational facilities, and MAX light rail access.

### What's Happening Downtown?

- Venetian Theater Renovation
- Walters Cultural Arts Center
- Hillsboro Civic Center and Plaza
- Tuesday Marketplace
- Farmers Market
- Sequoia Gallery and Artists' Co-op

### Downtown Advantages

- Historic Character
- Urban Renewal
- Main Street Program
- Storefront Improvement Grant
- MAX Light Rail
- Health & Education District
- Large Nearby Employment Base





# Downtown Hillsboro

## Development Opportunities

The **City of Hillsboro** has issued a **Request for Qualifications (RFQ)** for the redevelopment of key downtown sites.

- **Wells Fargo Building** —The City seeks an innovative, active use for this approximately 5,000 SF c. 1960 structure.
- **4th Avenue and Main Street**—This 48,414 SF site includes the former Wells Fargo Bank building and is adjacent to the Hillsboro Central MAX Light Rail Station. This site is jointly owned by Metro and the City of Hillsboro.
- **2nd Avenue and Washington Street**—This 26,228 SF site, across from the Hillsboro Civic Center, is currently a surface parking lot owned by the City of Hillsboro.

To respond to the RFQ, or for more information, please go to [www.ci.hillsboro.or.us/EcDevRFQ.htm](http://www.ci.hillsboro.or.us/EcDevRFQ.htm) or call **(503) 681-6181**.

There will be a pre-submittal meeting/site tour on Monday, September 20, at 2 pm at the Hillsboro Civic Center, 150 E Main Street, in the Auditorium. Interested parties are encouraged to attend.

**2nd and Washington St.**



**4th Ave. and Main St.**



### Submissions Due:

**Friday October 8, 2010, by 5:00 pm**

**5th Floor**

**Hillsboro Civic Center**

**150 E Main Street**

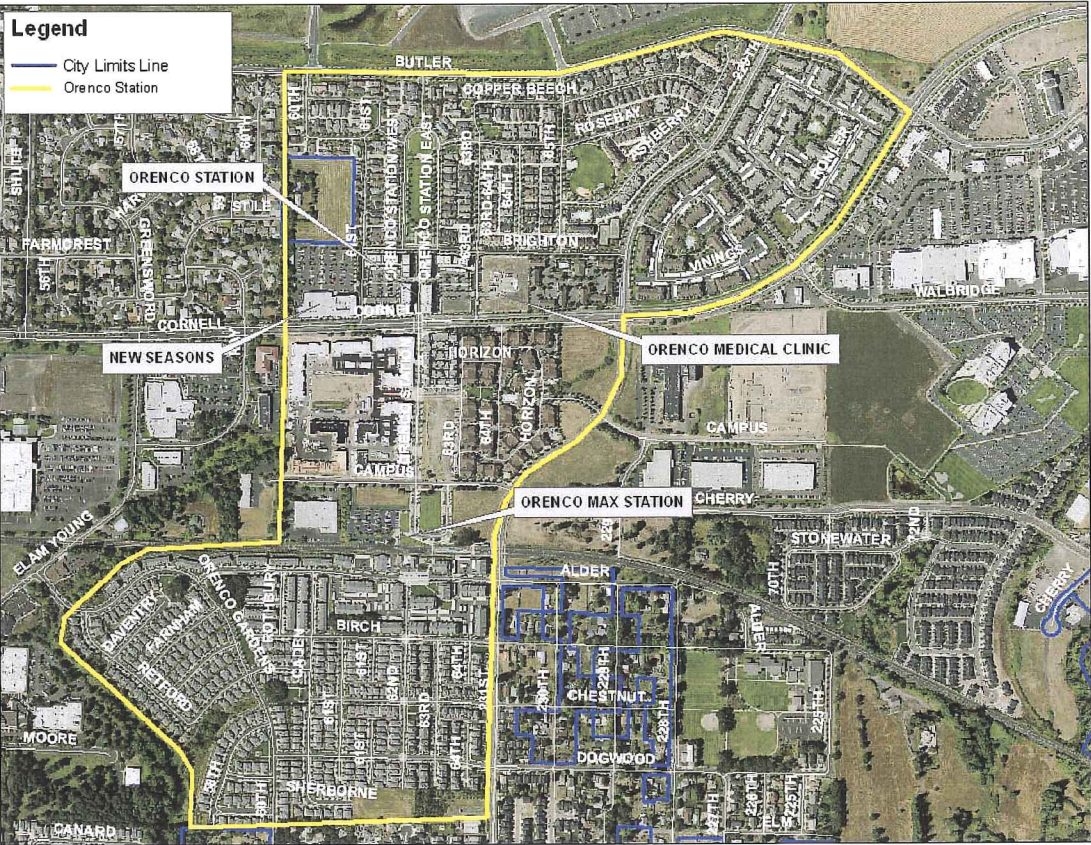
**Hillsboro, OR 97123**





# Orenco Station

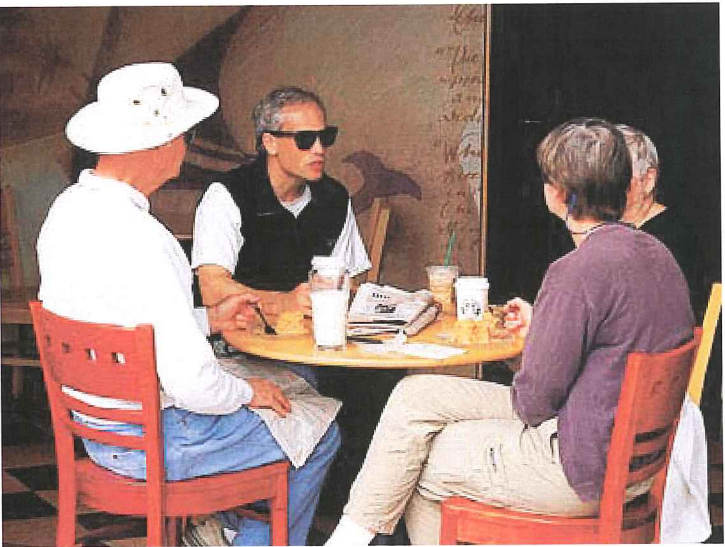
*An award winning transit-oriented community in Hillsboro*



Orenco Station is a transit-oriented Town Center designed as a pedestrian friendly, high density community built in conjunction with the Westside Light Rail. Mixed-use development allows residents the opportunity to live close to where they shop, eat and play. Residential options include apartments, single family dwellings, condominiums and town homes. The signature “live-work” units on Orenco Station Parkway are designed and constructed to allow commercial occupancy of the lowest floor, in the space of the double-car garage which is accessed from the alley.

Orenco Station is located near high-tech employers, such as Intel. Many Orenco Station residents are Intel employees. Intel’s Ronler Acres campus is the site of the new D1X fab plant announced on October 19, 2010.

The Town Center features multi-purpose streets linking residential areas with neighborhood activity, commercial centers and the light rail station. Wide sidewalks with planter strips and street trees promote pedestrian safety and create a relaxing and open environment for nearby residents. Community open space is provided with many small open plaza areas and two large parks, one of which is located at the end of Orenco Station Parkway inviting guests with a gazebo at the entrance.



## Orenco Station Town Center

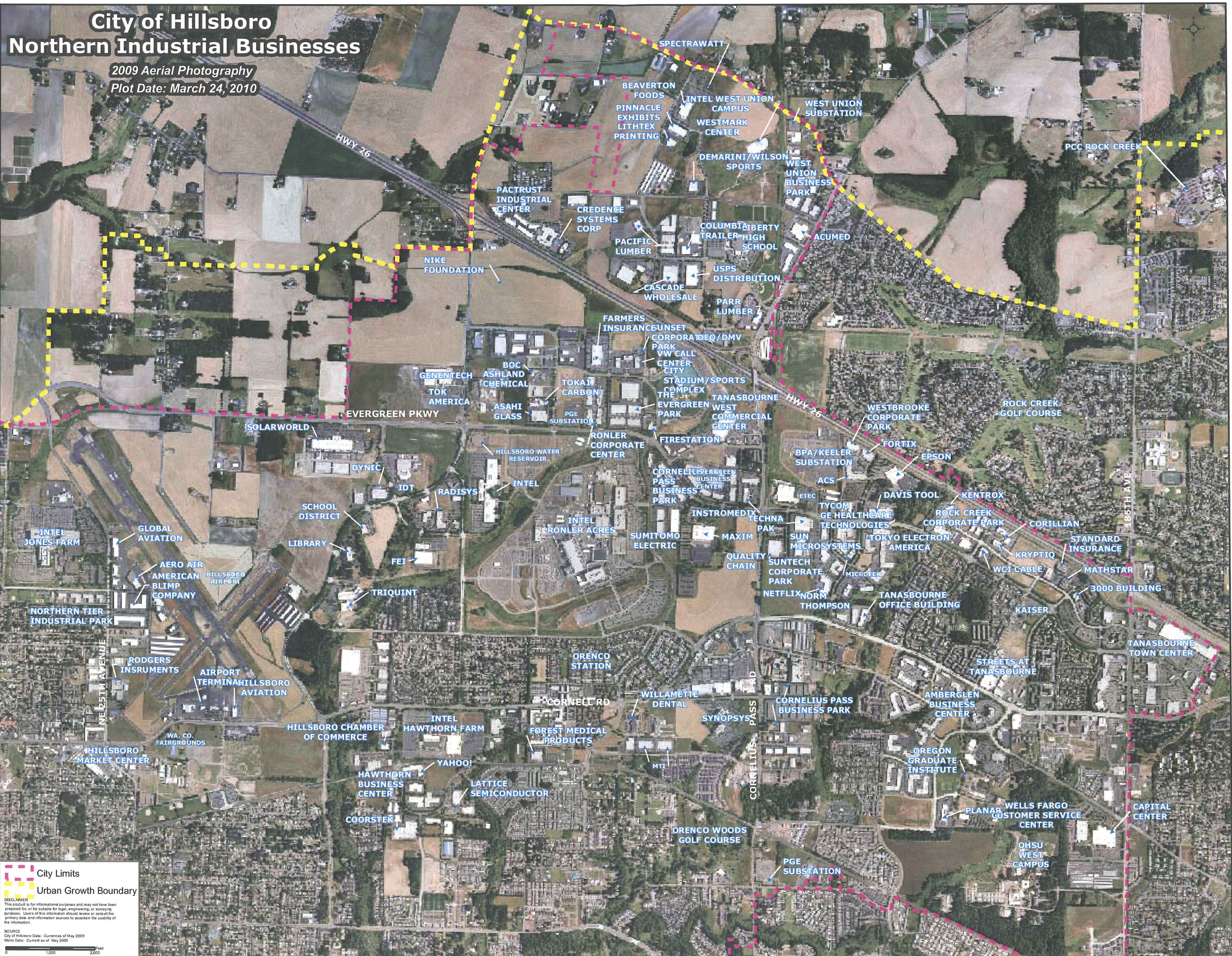
Dwelling Units	1,834
Jobs	180
Acres	200+





## Northern Industrial Businesses

**Plot Date: March 24, 2010**



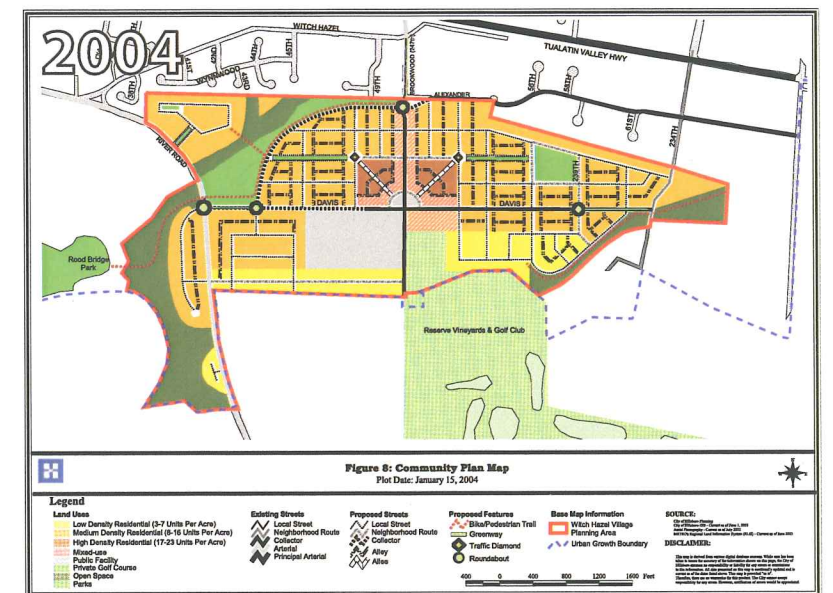
City Limits  
Urban Growth Boundary

**DISCLAIMER**  
This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

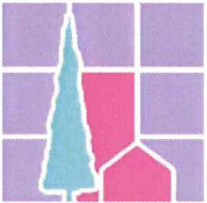
**SOURCE**  
City of Hillsboro Data; Current as of May 2009

Metro Data: Current as of May 2009







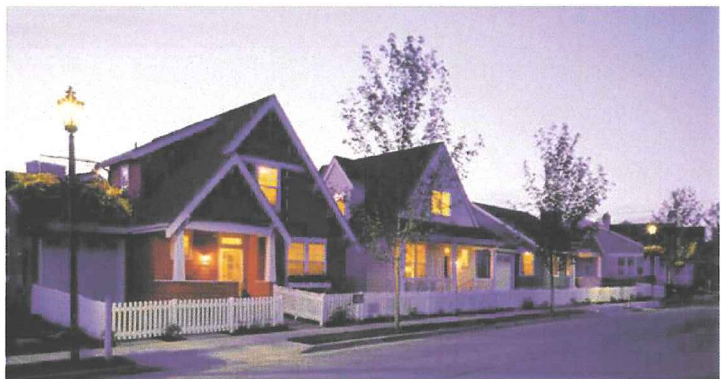
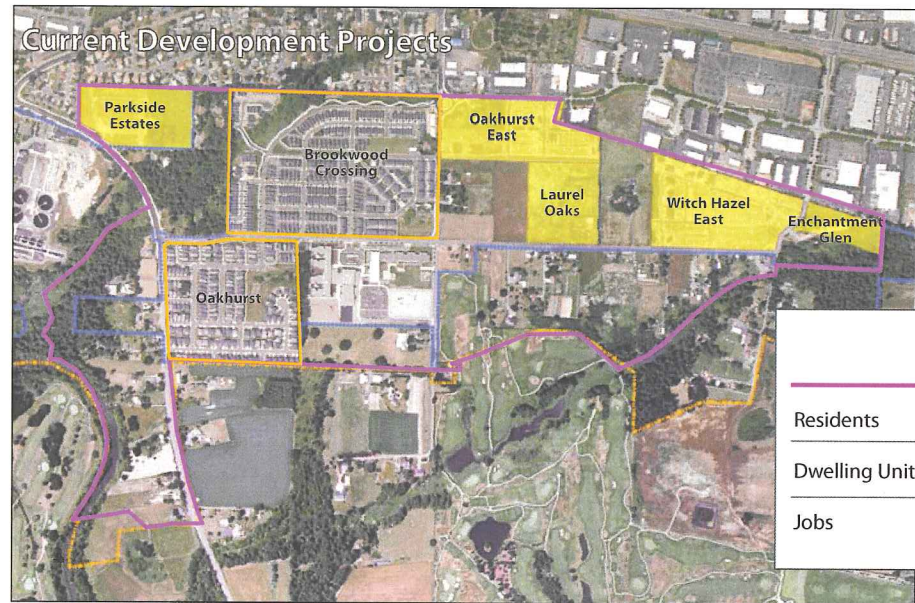


Phase I: **Witch Hazel Village**

1999/2002 UGB Expansion

Witch Hazel Village was the first phase of the new South Hillsboro community in Hillsboro, Oregon. It was born out of a vision to create the quintessential Metro 2040 new urbanist neighborhood.

The design of Witch Hazel Village reflects refinements of previous planning efforts that date back to 1997 when Metro initially identified the area for future Urban Growth Boundary (UGB) expansion. By implementing the core principles of Great Communities from Metro’s Region 2040 Growth Concept, Witch Hazel Village realizes the best qualities of a healthy, safe and pleasant living environment. Like the beginnings of Orenco Station, it is growing into a unique signature community that reinforces Hillsboro’s place in the region as a leader in defining and achieving quality development.



DESIGN PRINCIPLES:

- Community oriented housing mix serving every stage of life and a range of incomes
- Neighborhood center with a mix of residential, retail/employment and civic uses
- Appropriately sited housing transition to rural lands and natural areas outside the UGB
- Land use patterns conducive to water conservation and sustainable surface water management
- Preserved and expanded natural areas and open spaces (66 acres)
- Integrated hierarchy of arterials, collectors and local streets
- Bike and pedestrian connections within site and connected to existing street system

1997

Metro designates 1,450 acres of Urban Reserves

1998

City signs MOU with County to plan and serve area; concept planning efforts begin

1999

LUBA remands Urban Reserve decision back to Metro; decision void

1999

Metro expands UGB by 350 acres; amended to 308 acres

FEB 2002

UGB expansion confirmed by Court of Appeals; planning efforts resume

FEB 2004

Witch Hazel Village Community Plan adopted

JUNE 2004

Development begins for Brookwood Crossing (392 units) & Oakhurst (184 units) PUDs

2007

Entitlement of Parkside Estates, Witch Hazel East, Oakhurst East & Laurel Oaks PUDs

2008

Entitlement of Enchantment Glen PUD; development continues on other phases of plan

JUNE 2008

Planning Commission & City Council endorsement of South Hillsboro Community Plan

2009

TGM grant awarded for T. V. Highway





**COPY**  
**CITY of BEAVERTON**

4755 S.W. Griffith Drive, P.O. Box 4755; Beaverton, OR 97076 TEL: (503) 526-2481 Fax (503) 526-2571

*emailed to mayor  
9/14/10  
2 copies to Planning  
9/21*

DENNY DOYLE  
MAYOR

September 17, 2010

RECEIVED

SEP 21 2010

Mayor Jerry Willey  
City of Hillsboro  
150 East Main Street  
Hillsboro, OR 97124

RE: Tanasbourne Center Proposal

Dear Jerry:

My staff and I have reviewed the City of Hillsboro's proposal to Metro to have the Tanasbourne area become designated as a Regional Center. Of most interest was the economic memorandum prepared by Bill Reid of Johnson-Reid comparing the Tanasbourne area and the Beaverton Regional Center.

As you and I have discussed at length, the revitalization and redevelopment of the Beaverton Regional Center is one of my top priorities. Upon learning of Hillsboro's Regional Center request, I asked staff to prepare an analysis of the Johnson-Reid report to understand the potential impacts to the Beaverton Regional Center. To assist the City, ECONorthwest (EcoNW) was retained to complete a "peer review" of the Johnson-Reid report.

Based on the analysis provided by EcoNW, I am reasonably assured that creating a new regional center immediately adjacent to the City of Beaverton will likely not lead to an adverse impact to the City. Therefore, the City of Beaverton will not object to the redesignation of the Tanasbourne Town Center to a regional center.

Sincerely,

Denny Doyle  
Mayor



# TANASBOURNE | AMBERGLEN

FOCUS | Housing, Shopping and Employment

18-hour



Magnolia Park



Rock Creek Trail



Quatama MAX Station

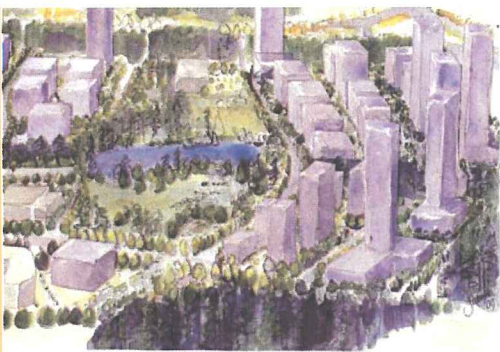


Bugatti's



Streets of Tanasbourne

Approximately 30,000 people will live in this regional center, and 23,000 people will work here



## STATE OF THE CENTER:

Tanasbourne has evolved into a regional-scale, housing, retail and employment center close to regional employers and transportation facilities

### State of the Centers Report

Metro, 2009

	Tanasbourne Town Center	Regional Center Average
Net Area	469	419
People/net acre	24	28
Dwelling Units/net acre	8	3
ULI businesses	97*	84

\*April 2010 Update, City of Hillsboro

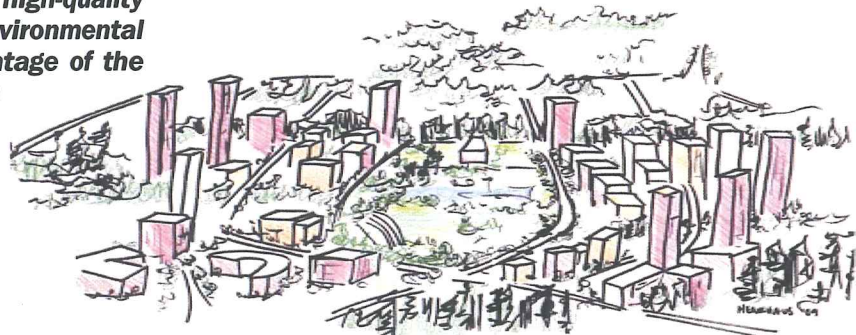
### Estimated Development Capacity

City of Hillsboro, 2010

	Proposed Tanasbourne/AmberGlen Regional Center
Net Area	537
People/net acre	99
Dwelling Units/net acre	25
ULI businesses	not estimated

## THE ASPIRATION:

Create a vibrant, regional activity center enlivened with high-quality pedestrian and environmental amenities, taking advantage of the region's light rail system



Tanasbourne/AmberGlen is an ideal location for more intensive mixed-use development close to major employers, Tanasbourne retail centers, and regional transportation facilities including the Westside Light Rail line and Highway 26.

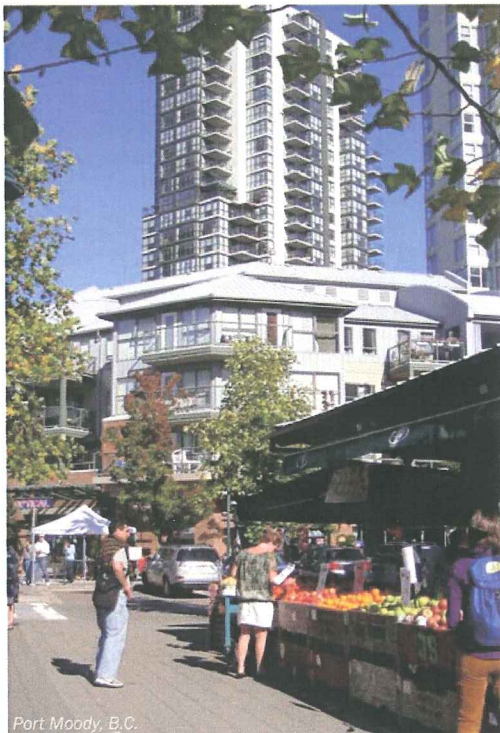
### GUIDING PRINCIPLES

- Urban/Green.** Mixed-use development sites are organized around a signature central park, natural corridors, habitat areas and developed open spaces. This urban green framework provides recreation amenities, enhances ecological functions, and fosters a strong connection to nature in the heart of an urban neighborhood.
- Connectivity.** Existing streets are incorporated into an urban grid to support walking, bicycling, and transit use while accommodating vehicles. In the envisioned urban mixed-use environment, a high proportion of trips people make are naturally by foot because home, work, shopping, recreation and transit can be conveniently made by bike or on foot.
- Third Places.** Places where people naturally gather are provided in parks, plazas and along streets at sidewalk-oriented, neighborhood-serving businesses.
- Market Flexibility.** A phased implementation approach supports and leverages existing development until the time that redevelopment becomes economically viable.
- Regional Landmark.** High-density residential and mixed-use development organized around a dramatic central park with access to shopping, transit and nature creates a landmark identity for a regional-scale district.
- Model Development.** The district will be a showcase for transforming suburban development, and for creating a compelling alternative for people seeking an urban lifestyle based on sustainable development practices.
- Economic Vitality.** Planned proximities to urban amenity businesses, open space and employment ensure that the price premiums required for high-density urban development forms are achievable.
- Create Catalyst at Outset.** Implementation targets strategic public investments to leverage widespread and sustained private investment with the Community Activity Center and Central Park serving as initial development catalysts.

### Urban Amenity Businesses

Tanasbourne/AmberGlen, 2010

Bakery	1
Bar	0
Bike Shop	0
Book Store	2
Brew Pub	0
Child Care	1
Cinema	1
Clothing Store	30
Coffee Shop	7
Deli	1
Dry Cleaner	3
Fast Food Restaurant	9
Fitness Gym	1
Full Service Restaurant	31
Garden Store	0
Grocery Store	4
Ltd Service Restaurant	10
Music Store	1
Wine Bar/Sales	1



Port Moody, B.C.



Vancouver, B.C.

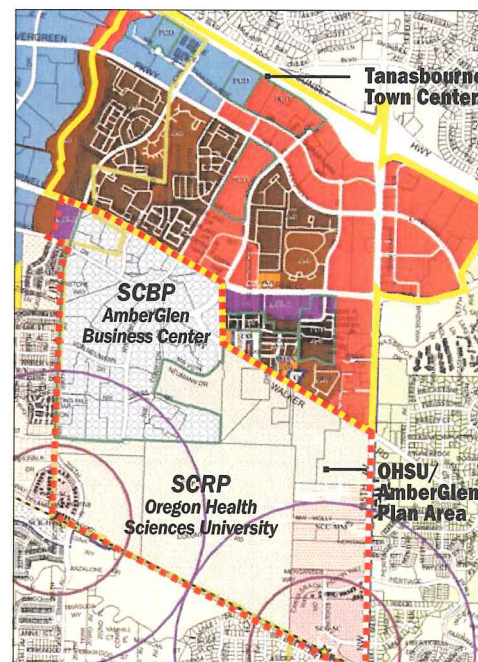


# TANASBOURNE | AMBERGLEN

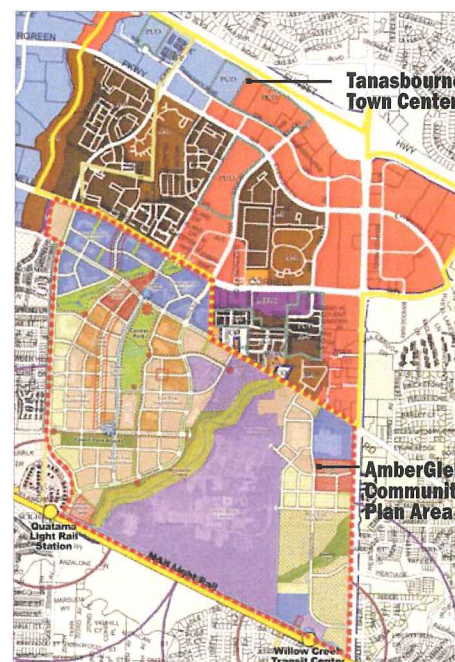
## Area Planning Timeline



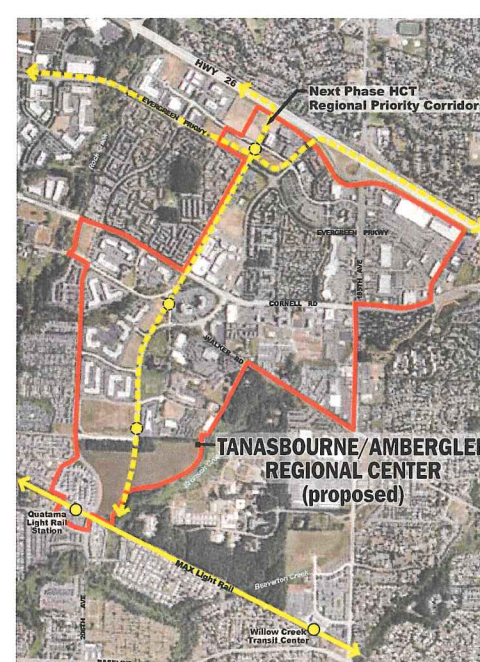
Tanasbourne/AmberGlen Planning Areas  
Aerial Photo, 2005



Tanasbourne Town Center Zones, adopted 2004  
Station Community Campus Area Zones (OHSU/AmberGlen area), adopted 1996



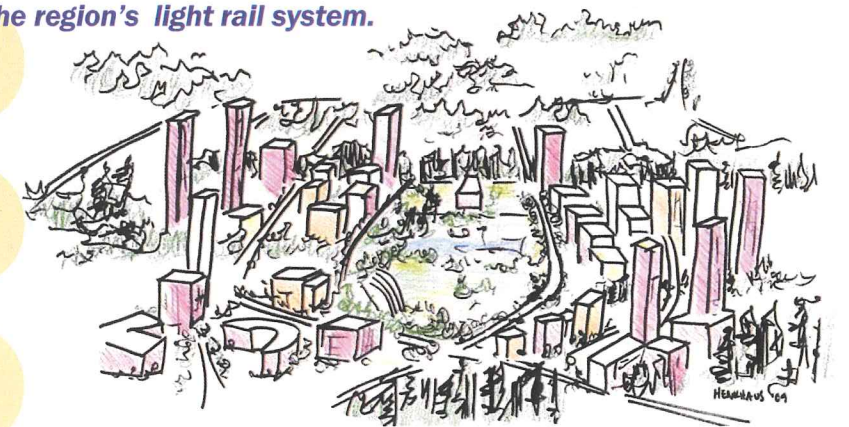
AmberGlen Community Plan Land Use Policy  
Amendments, 2010



Proposed redesignation and reconfiguration of the  
Tanasbourne Town Center as the Tanasbourne/  
AmberGlen Regional Center, 2010

### VISION

Create a vibrant, regional activity center enlivened with high-quality pedestrian and environmental amenities, taking advantage of the region's light rail system.



### NEXT STEPS

2010 Tanasbourne | AmberGlen Regional-Center Designation

2010 Establish stakeholder Memorandums of Understanding

2010/11 Adopt zoning, design and sustainability standards & incentives

2010/11 Establish public funding mechanisms and potential urban renewal district

2011/12 Initiate Multijurisdictional Interchange Refinement Plan

2011/12 Develop activity center catalyst project

2011/12 Tanasbourne Plan Area Update

### Early 1980's

**Standard Insurance creates "Tanasbourne"**

Standard Insurance begins development of 850 acres, the initial phase of the masterplan for "Tanasbourne." It was to become one of the region's largest, horizontal mixed-use developments.

1991

**BIRCHER Real Estate Group AmberGlen Business Center breaks ground**

Bircher Development & Investments and State Farm Insurance, in a development agreement with Amberjack, break ground on the AmberGlen Business Center. The master plan identifies a multi-tenant, 26 building, 1.25 million square-foot research and development facility on 217 acres adjacent to OHSU.

1996

**City adopts Station Community Plans and Campus Zones for OHSU/AmberGlen**

Zoning supports existing "campus" uses and is intended to foster transit-oriented, pedestrian-sensitive, and auto-accommodating development. AmberGlen Business Center is designation: Station Community Business Park (SCBP). Oregon Health Sciences University designation: Station Community Research Park (SCRCP).

1998

**City initiates Parks & Open Space Investments**

Rock Creek Trail construction begins the City's ongoing investment in parks and open spaces. With additional funds from Metro, 1.5 miles of paved nature trail connects residential, commercial and industrial neighborhoods.

1999 / 2004

**City adopts Tanasbourne Town Center & Zones**

City of Hillsboro adopts Tanasbourne Town Center Plan (1999) and designates Mixed Use Commercial zones (2004) to direct new mixed-use growth in support of Metro 2040 Growth Concept goals and allocations for housing and jobs.

2006

**City initiates AmberGlen Concept Planning Process**

The City of Hillsboro initiated the OHSU/AmberGlen Concept Plan in 2006 to achieve higher levels of density close to major employers; provide high quality amenities & a pedestrian oriented, urban environment; support regional transportation infrastructure; and to transform all of Tanasbourne to a major regional activity center. The concept planning process was a collaborative effort between property owners, Tanasbourne area stakeholders and City, County, Metro and State officials. Although the concept plan was broadly endorsed by City Council and Planning Commission, it was not adopted.

2010

**City adopts Resolution endorsing Tanasbourne/AmberGlen Regional Center**

In February 2010, the City of Hillsboro adopted a resolution endorsing Metro 2040 redesignation and reconfiguration of the Tanasbourne Town Center as the Tanasbourne/AmberGlen Regional Center. Development capacity for the 687-acre area is estimated at over 30,000 residents and 23,000 jobs.

2010

**City adopts AmberGlen Community Plan as an amendment to the Comprehensive Plan and Map**

Adoption of the AmberGlen Community Plan in January 2010 established the policy framework required to amend land use regulations for higher intensities and densities, and to implement the vision established by the Concept Plan. The Community Plan provides a comprehensive guide for land use decisions necessary for transforming the area into a vibrant regional center close to major employers, the dynamic Tanasbourne Town Center, and regional transportation including Highway 26 and the Westside Light Rail. The complete, urban community is envisioned to be a regional landmark and a model of urban sustainability.

2009

**Metro adopts Regional High-Capacity Transit System Plan**

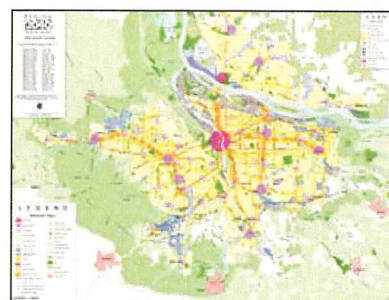
On July 9, 2009 the Metro Council adopted the High Capacity Transit System Plan. The Plan identifies 16 potential high capacity transit corridors in four regional priority tiers, framework for future system expansion prioritization and proposed amendments to the Regional Transportation Plan. The 30-year Plan will guide investments in light rail, commuter rail, bus rapid transit and rapid streetcar in the Portland metropolitan region.



Potential Metro 2040 Regional Center designation for Tanasbourne/AmberGlen



Potential extension of a High Capacity Transit Line along NW 194th Avenue with service to Tanasbourne/AmberGlen



1995

**Metro adopts 2040 Growth Concept**

The Metro 2040 Growth Concept was adopted in the Region 2040 planning and public involvement process in December 1995. The Growth Concept defines the form of regional growth and development for the Portland metropolitan region. The concept is intended to provide long-term management of the region.

1998

**MAX Westside Light Rail Opens**

Planning for a light rail system on Portland's west side began in 1979. In 1989, the local jurisdictions asked to add an extension to the Westside project to extend the line to Hillsboro due to rapid development. The Westside MAX line connecting Hillsboro to Portland opened in September, 1998.





## **EXHIBIT B TO RESOLUTION NO. 10-4216**

### **Members of the East Metro Connections Plan Steering Committee**

Councilor Park/Councilor Craddick  
Metro

Mayor Weatherby  
City of Fairview

Mayor Bemis  
City of Gresham

Mayor Kight  
City of Troutdale

Mayor Fuller  
City of Wood Village

Commissioner McKeel  
Multnomah County

To be finalized  
Oregon Department of Transportation

Steve Entenman  
East Metro Economic Alliance  
Harper Houf Peterson Righellis

Mark Garber  
East Metro Economic Alliance  
Community Newspapers

Carol Rulla  
Gresham Coalition of Neighborhoods

Greg Olson  
Multnomah County Bicycle and Pedestrian  
Citizen Advisory Committee

Councilor Helm  
City of Damascus

Commission Chair Peterson or designee  
Clackamas County

Alan Lehto  
TriMet

Susie Lahsene  
Port of Portland

Hector Osuna  
El Programa Hispano

Dwight Unti  
Tokola Properties

Matt Hoffmann  
Fred Meyer  
Plan area freight

Jane Van Dyke or designee  
Columbia Slough Watershed