### BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN	) RESOLUTION NO. 12-4364
APPLICATION FOR EASEMENTS FROM	)
TRIMET FOR THE CONSTRUCTION OF THE	) Introduced by Martha J. Bennett with the
PORTLAND-MILWAUKIE LIGHT RAIL	) consent of Metro Council President Tom
PROJECT	) Hughes

WHEREAS, in May 1995 regional voters approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (the "1995 Open Spaces Bond Measure") with a stated goal of acquiring land in 14 regional natural areas and six regional trails and greenway areas ("Target Areas"), including the OMSI to Springwater Corridor Target Area;

WHEREAS, Metro purchased real property in the OMSI to Springwater Corridor Target Area with proceeds from the 1995 Open Spaces Bond Measure, including an approximate 4.19-acre parcel (the "Property") immediately east of McLoughlin Boulevard that supports a 175-foot bike-pedestrian bridge that crosses the Union Pacific rail lines and the future Portland-Milwaukie Light Rail lines below;

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

WHEREAS, the Tri-County Metropolitan Transportation District of Oregon ("TriMet") is commencing construction of the Portland-Milwaukie Light Rail project (the "Project"), and has submitted an application under the Easement Policy for two permanent easements and one temporary easement (the "Application") to allow for construction of the Project under the bridge on the Property that spans the rail line corridor below;

WHEREAS, the easements requested consist of a 9,099 square-foot (approximately 0.21 acres) permanent easement to accommodate light rail tracks and a retaining wall, a 3,846 square-foot permanent easement (approximately 0.09 acres) for wall footings, soil nails to anchor the footings, and future maintenance, and a 41,735 square-foot (approximately 0.96 acres) temporary easement lasting approximately 24 months to stage construction of a new connection from the future light rail station at Tacoma Street to the Springwater Corridor Trail;

WHEREAS, as required by the Easement Policy, the negative impacts of the Project and the granting of the easements will be mitigated through a connection built by TriMet to a new light rail station, and TriMet has offered to pay Metro the fair market value of the easements, as determined by an independent appraisal; and

WHEREAS, the Metro Council finds, after consideration of the policies set forth in the Easement Policy, that alternatives to the Project and the granting of the easements to TriMet are not feasible, and that the impact of the Project on the Springwater Corridor Trail will be minimized to the extent possible, and that therefore the easements can be granted to TriMet in conformance with Metro's Easement Policy; now therefore

BE IT RESOLVED that the Metro Council approves TriMet's application for easements, in the form approved by the Metro Attorney.

ADOPTED by the Metro Council this 1th day of August 2012

Tom Hughes, Council Pres

Approved as to Form:

Alison Kean Campbell, Metro Attorney

### STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4364 FOR THE PURPOSE OF APPROVING AN APPLICATION FOR EASEMENTS FROM TRIMET FOR THE CONSTRUCTION OF THE PORTLAND-MILWAUKIE LIGHT RAIL PROJECT

Date: August 16, 2012 Prepared by: Kathleen Brennan-Hunter

(503) 797-1948

## **BACKGROUND**

Tri-County Metropolitan Transportation District of Oregon ("TriMet") requests authorization from the Metro Council to approve TriMet's Application for Easements for TriMet's construction of the Portland-Milwaukie Light Rail project (the "Project"). The Project crosses under the eastern portion of a Metro-owned property that contains the Springwater Corridor trail (the "Property") where the trail crosses a bridge that spans the rail line corridor below. TriMet's request is for the purchase of two permanent easements and one temporary construction easement from Metro to allow construction of the Project.

On November 6, 1997, the Metro Council adopted Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department" (the "Easement Policy"), which provides for formal staff review under specified criteria of all proposed easements, right of ways and leases for non-park uses, through properties purchased with funds from the 1995 Metro Open Spaces, Parks and Streams bond measure, with final review and approval by the Metro Council.

Metro purchased the Property in December 2001 from Union Pacific Rail Road. The Property is part of the Springwater Corridor trail immediately east of McLoughlin Boulevard, where a 175-foot bike-pedestrian bridge crosses Union Pacific rail lines below. Metro purchased the Property with proceeds from the 1995 Open Spaces Bond Measure. The City of Portland manages the Property for Metro pursuant to an Intergovernmental Agreement dated October 27, 2009.

The light rail line being constructed by TriMet will run under the bike-pedestrian bridge without significantly impacting the trail or bridge. The Project requires a 9,099 square-foot (approx. 0.21 acres) permanent easement to accommodate the light rail tracks and a retaining wall. A second 3,846 square-foot permanent easement (approx. 0.09 acres) is requested for wall footings, soil nails to anchor the footings, and future maintenance. Also, a 41,735 square-foot (approx. 0.96 acres) temporary easement of approximately 24 months is needed to facilitate construction of a new connection from the future light rail station at Tacoma Street to the Springwater Corridor trail. TriMet has submitted an easement request application under the Easement Policy for the above mentioned easements as set forth in <a href="https://example.com/Attachment 1">Attachment 1</a>, attached hereto, and incorporated herein ("Application").

TriMet's application was deemed complete and was analyzed by Metro staff according to guidelines set forth in Resolution No. 97-2539B. The Project will not significantly impact the Property and its continued use for the Springwater Corridor trail. In fact, the Project will have a positive impact because TriMet will construct a trail connection on the Property from the Springwater Corridor to the nearby light rail station, thereby increasing access to active transportation and recreation in our regional transportation system.

TriMet has offered to pay Metro the fair market value of the easements, as determined by an independent appraisal, and as required by the Easement Policy. The proposed compensation for all three easements is \$ 119,912, which includes compensation for staff time, as is required by the Easement Policy.

### ANALYSIS/INFORMATION

### 1. Known Opposition

None.

## 2. Legal Antecedents

Metro Code Section 2.04.026(a) (2) requires that the Chief Operating Office obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro.

Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department."

## 3. Anticipated Effects

The granting of the easements will allow for the construction of the Light Rail Project through the Metro Property with no significant impact to the Property or the Springwater Corridor trail. Pursuant to the project plans, TriMet will also construct on the Metro Property a trail connection from the Springwater Corridor trail to the future Light Rail station at Tacoma Street.

## 4. Budget Impacts

Metro will be paid the fair market value of the easements, as required under Metro policy and described above. These funds will be returned to the 1995 Opens Spaces Bond Measure acquisition fund for future natural area and/or trail acquisitions.

### RECOMMENDED ACTION

Staff recommends the Application be approved and that the Metro Council adopt Resolution No. 12-4364.



Applicant: Name: TVIMET	Contact person: Tenny Lyman
Address 710 NE Holladay City. State. Zip	Title  Phone  SD3.962.2346
City, State, Zip Portland, UR 97232	Phone 503.962.2346
Phone 503.962.2346	Fax
Applicant shall fully and completely explain, describe an right-of-way / lease, for non-park uses in accord with Me additional materials if necessary, as set forth below.	etro Council Resolution No. 97-2539B, attaching
Type of Request:	Right-of-Way
Describe the purpose of your request:	
The purpose of this request is to obtain easements	required to facilitate construction of the Portland-
Milwaukie Light Rail Transit Project.	
Describe proposed terms of your requested easement/le	ease /right of way:
The project requires one permanent easement (parcel 1	) for light rail tracks and a retaining wall and one
permanent easement for wall footings, soil nails, and ma	sintenance (parcel 2). One temporary (one year) easement
is also required to facilitate construction of a new conne	ction to the springwater corridor trail.



Identify location of proposal on a bas	se map of not less th	nan 1"=500' sł	nowing topographic	al lines at 10' inte	ervals
and include significant natural and m	nan-made features o	of the area:			
See attached.					
			·	•	
Describe the size of easement reque	ested in both dimens	sion and total a	area required:		
See attached legal description.			-		
Describe all components of your pro	posed use (grading,	fill and remov	/al, sub-surface ele	ments, structures	<b>)</b> ,
etc.):					
The proposed use will include all civ	vil construction requir	ed to construct	light rail tracks, reta	aining walls and	
other appurtenances. These may in	nclude stormwater fac	cilities, landscap	oing, lighting, and a r	multi-use path	
connection to the springwater trail.	. See attached constru	uction plans.		e e	
The light rail tracks will be at the sa	me elevation as the fr	eight railroad t	racks in this location	– underneath the	
springwater trail.			:		. · ·
Describe the existing conditions of the	ne site.				
At this location, the springwater tra	il is on an elevated sti	ructure which o	rosses over existing	freight railroad	
tracks. The area around the spring	water trail is covered	with vegetation	n.		: .

Milaticmeylcon/idential/14 Open Spaces/27EASEMT.COM/DD Easement Templates/Easement Application.080703.003.doc



Describe the proposed modifications to the site that would be required to accommodate your request (e.g., tree
removal, soil disturbance, stream crossing, etc.):
Modifications to the site include all civil construction required to construct the light rail tracks, retaning wall and
appurtenances. Civil construction may include stormwater facilities, landscaping, landscape removal, lighting, and
multi-use path connection to the springwater trail. See attached construction plans.
Describe your proposed project schedule and phasing:
July 2012 thru December 2014
Explain your need for ongoing access. What is your proposal for accommodating this need?
TriMet will require on-going access to operate light rail trains over parcel 1. Trimet will also require on-going
access to inspect and maintain the retaining wall. This will be accommodated through the permanent
easements – parcels 1 and 2 on the attached legal description.

Milatomeylooniideniiahi 4 Open Spacesi27EASEMT.COMWO Easement TemplatesiEasement Application.080703.003.doi OS/OMM/IEM 9/9/2004



Describe your ongoing maintenance re		•			
All maintenance will be performed by and people to inspect and maintain the		•			<u>es, equipme</u> r
			, and appartune	<u> </u>	
		:	•		
Describe other reasonable alternative re	outes that avoid	the park or r	atural area prope	rty but are beli	eved to not
be feasible:					
Refer to the locally preferred alternation	ve analysis in the	nroject's EEIS	•		
Refer to the locally preferred afternation	ve arraiysis iii tile	project's reis.		l .	
			,		. •
			i .		
What is the public benefit of this lease,	easement or rig	ht-of-way?		·	
					-
Public benefits include improved conne	ections to the spr	ingwater trail	and better access t	o alternative m	odes of
transportation including light rail.					
······································			<u> </u>		
<u> </u>	<del> </del>	<u> </u>			
· · · · · · · · · · · · · · · · · · ·					

M:\attorney\confidentiant4 Open Spaces\27EASEMT.COM\00 EasementTemplates\Easement Application.080703.003.d OS/OMA/JEM 9/9/2004



Include any other relevant info	ormation describing a	and quantifying your proposal:
See attached construction pl	lans and legal descript	ion.
associated with processing, recompliance with the request h	eviewing, analyzing, nereunder and any e	lication, Applicant hereby agrees to pay all Metro costs negotiating, drafting, approving, conveying and assuring asement, right-of-way or lease approved or denied hereby, ir 9B, unless waived by the Metro Council via resolution
APPLICANT		METRO Received and Accepted
ву:	man	By: Fritz Paulur
Date: 7.9.17		Date:

Contact For Questions:

METRO Sustainability Center Attn: Dan Moeller 600 NE Grand Avenue Portland, Oregon 97232-2736 Telephone:

Fa[:

E-Mail:

dan.moeller@oregonmetro.gov

Milatiomey/confidential): 4 Open Spaces/27EASEMT.COM/00 Eqsement.Temphstvs/Easement Application,080703,003.d OS/OMA/JEM 9/9/2004

I HERt:m: CERTIFY THAT TILE HOHEGOING IS A COMPU.""E MID EXACT COPY OF THE ORIGINAL ILLEHEOF.

## BEFORE THE METRO COUNCIL

REBSCOA V. Shirmaku METRO COUNCIL ARCHIVIST

FOR THE PURPOSE OF APPROVING GENERAL ) RESOLUTION NO. 97-2539B POLICIES RELATED TO THE REVIEW OF ) EASEMENTS, RIGHT OF WAYS, AND LEASES ) FOR NON-PARK USES THROUGH PROPERTIES) MANAGED BY THE REGIONAL PARKS AND ) Introduced by GREENSPACES DEPARTMENT. ) Mike Burton, Executive Officer

WHEREAS, Metro currently owns and manages more than 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities; and

WHEREAS, additional lands are being acquired through the Open Space, Parks, and Streams Bond Measure, approved by voters in May of 1995; and

WHEREAS, the primary management objectives for these properties are to provide opportunities for natural resource dependent recreation, protection of fish, wildlife, and native plant habitat and maintenance and/or enhancement of water quality; and

WHEREAS, Metro will be approached with proposals to utilize regional parks, open spaces, natural areas, and recreational facilities property for utility, transportation, and other non-park purposes; and

WHEREAS, Metro seeks to insure that these uses have no negative impact upon the primary management objectives of Metro Regional Parks and Greenspaces properties; and

WHEREAS, it would be in Metro's best interest to provide for the orderly evaluation and consideration of proposals to utilize portions of Metro Regional Parks and Greenspaces properties for utility, transportation and other non-park uses; NOW THEREFORE,

BE IT RESOLVED, that the Metro Council hereby adopts the policy attached as Exhibit "A" for any and all requests related to formal proposals for the use of Metro Regional Parks and Greenspaces properties for the purposes noted therein.

ADOPTED by the Metro Council this (p" day of Mourtee, 1997

Jon Kyistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

## Exhibit "A"

## METRO POLICY RELATED TO THE REVIEW OF EASEMENTS, RIGHT OF WAYS, AND LEASES FOR NON-PARK USES

Metro owns and manages, either on its own or in partnership with other government and private entities, several thousand acres of regional parks, open spaces, natural areas and recreational facilities. These facilities are maintained to promote and preserve natural resources and recreational opportunities for the public consistent with the Greenspaces Master Plan adopted by the Metro Council in 1992, the Open Spaces Bond Measure approved by the voters in 1995 and other restrictions limiting the uses of specific properties in existence at the time of its acquistion by the public. Nothing in this policy shall be construed to allow these facilities to be used in any manner which detracts from this primary purpose. This policy is written from the perspective of Metro as the property owner, however, in those cases in which Metro co-owns a property with other entities, all decisions concerning the use of the property in question will be fully coordinated with the other owners. In addition, all new development and all proposed work within Water Quality Resource Areas or other environmentally sensitive work will be conducted in accordance with Metro or local government policies, to include where appropriate, application for permits and completion of environmental reviews. In event that local government policies are less restrictive than the Metro Model ordinances, Metro will apply the more restrictive Metro policies.

Regarding requests for easements, right of ways, and leases for non-park uses in Metro owned or managed regional parks, natural areas or recreational facilities, it is Metro's policy to:

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park, uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.
- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.
- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.
- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.
- 6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.
- 7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.
- 8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.
- 9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.
- 10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.
- 11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.
- 12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.
- 13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:
- a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

- b) Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.
- c) Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.
- d) If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.
- e) Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.
- f) Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.
- g.) Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state or local jurisdiction requirements.

## Exhibit "A"

File 3608 Metro

Parcels 1, 2, 3 1 1E 25BB 8000

Portland-Milwaukie LRT Project Jack Carlson, Otak, Inc., 12/15/2010 Amended:

## Parcel 1-Permanent Easement

A tract of land in the northwest one-quarter of Section 25, Township 1 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, to wit:

That portion of the former Portland Traction Company railroad right of way described as Exhibit A, Tract 5 in that Quitclaim Deed to Metro, recorded on December 21, 2001 as Fee No. 2001-108239, Clackamas County Deed Records, lying on the easterly (right) side of the following described line:

Beginning at a point which bears North, a distance of 732.28 feet and East, a distance of 1,190.23 feet from the westerly southwest corner of the George Wills D.L.C. No. 58; thence N.07°09'13"W., a distance of 438.86 feet to the terminus of this line.

The tract of land to which this description applies contains 9,099 square feet, more or less.

Bearings are based on the Oregon Coordinate System of 1983, north zone.

## Parcel 2-Permanent Easement

A strip of land in the northwest one-quarter of Section 25, Township 1 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, to wit:

That portion of the former Portland Traction Company railroad right of way described as Exhibit A, Tract 5 in that Quitclaim Deed to Metro, recorded on December 21, 2001 as Fee No. 2001-108239, Clackamas County Deed Records, contained within a 25.00 foot wide strip of land, the easterly line of said strip being described as follows:

Beginning at a point which bears North, a distance of 732.28 feet and East, a distance of 1,190.23 feet from the westerly southwest corner of the George Wills D.L.C. No. 58; thence N.07°09'13"W., a distance of 438.86 feet to the terminus of this line.

The tract of land to which this description applies contains 3,846 square feet, more or less.

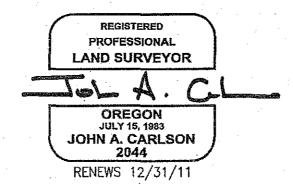
Bearings are based on the Oregon Coordinate System of 1983, north zone.

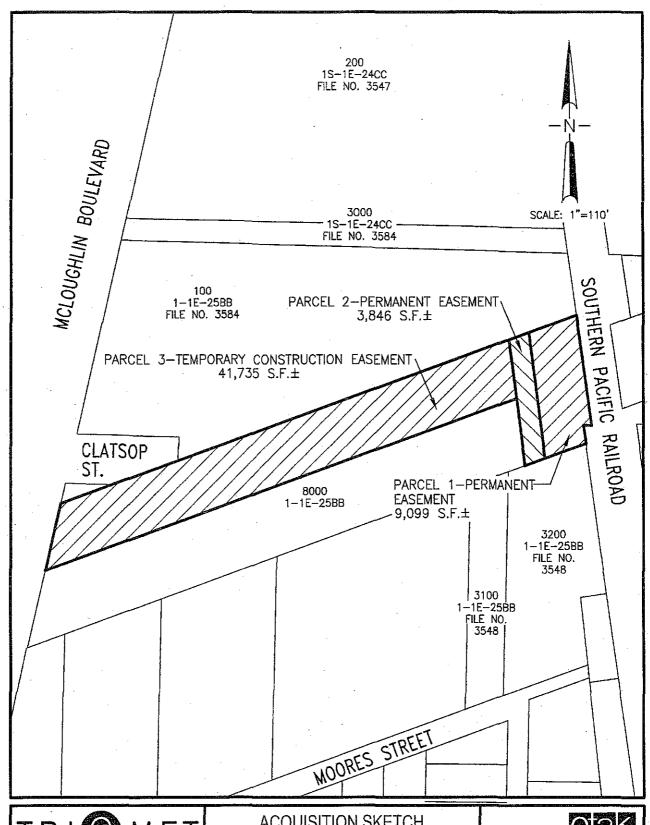
## Parcel 3-Temporary Construction Easement

A strip of land, 70.00 feet wide, in the northwest one-quarter of Section 25, Township 1 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, to wit:

The northerly 70 feet of that portion of the former Portland Traction Company railroad right of way described as Exhibit A, Tract 5 in that Quitclaim Deed to Metro, recorded on December 21, 2001 as Fee No. 2001-108239, Clackamas County Deed Records, lying easterly of McLoughlin Boulevard and westerly of Parcel 2 as described above.

The tract of land to which this description applies contains 41,735 square feet, more or less.







710 N.E. HOLLADAY STREET PORTLAND, OREGON 97232

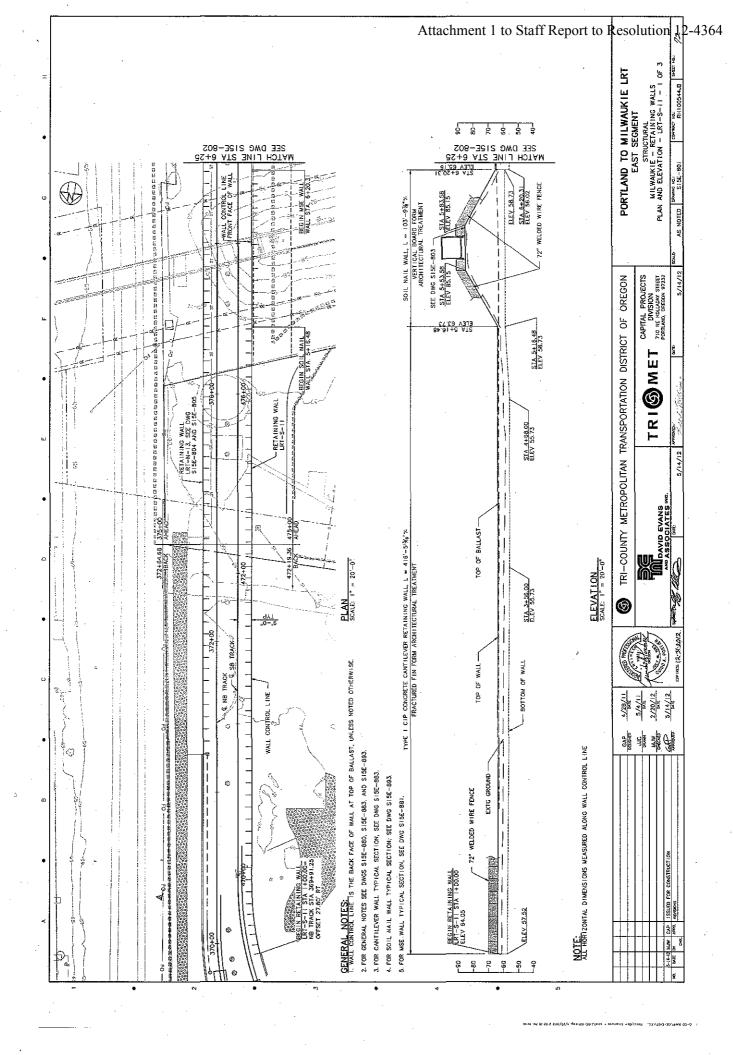
# ACQUISITION SKETCH PORTLAND TO MILWAUKIE LRT

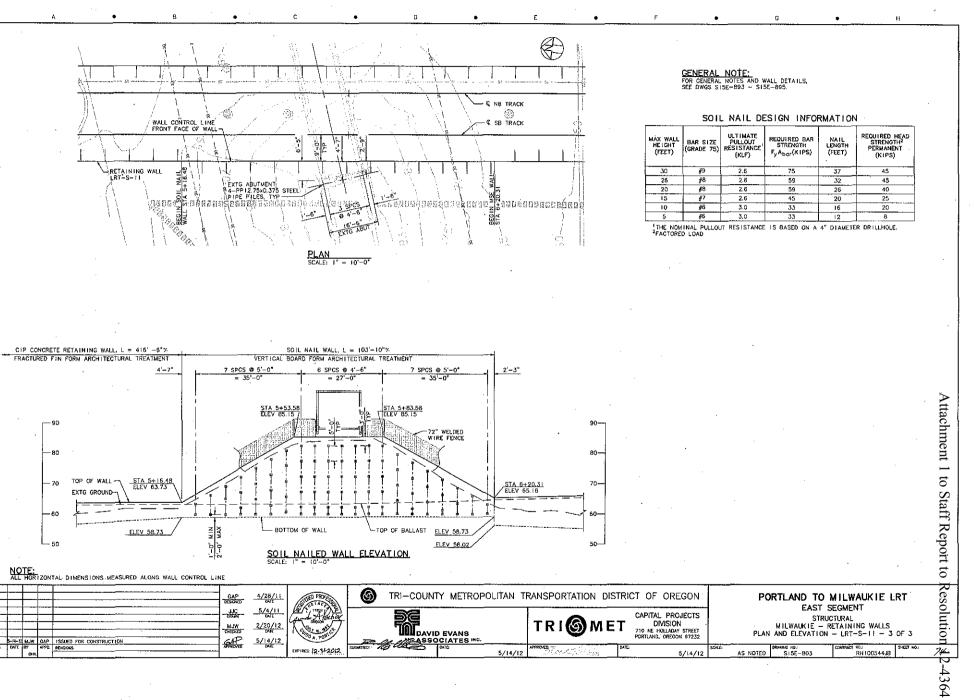
FILE NO. 3608

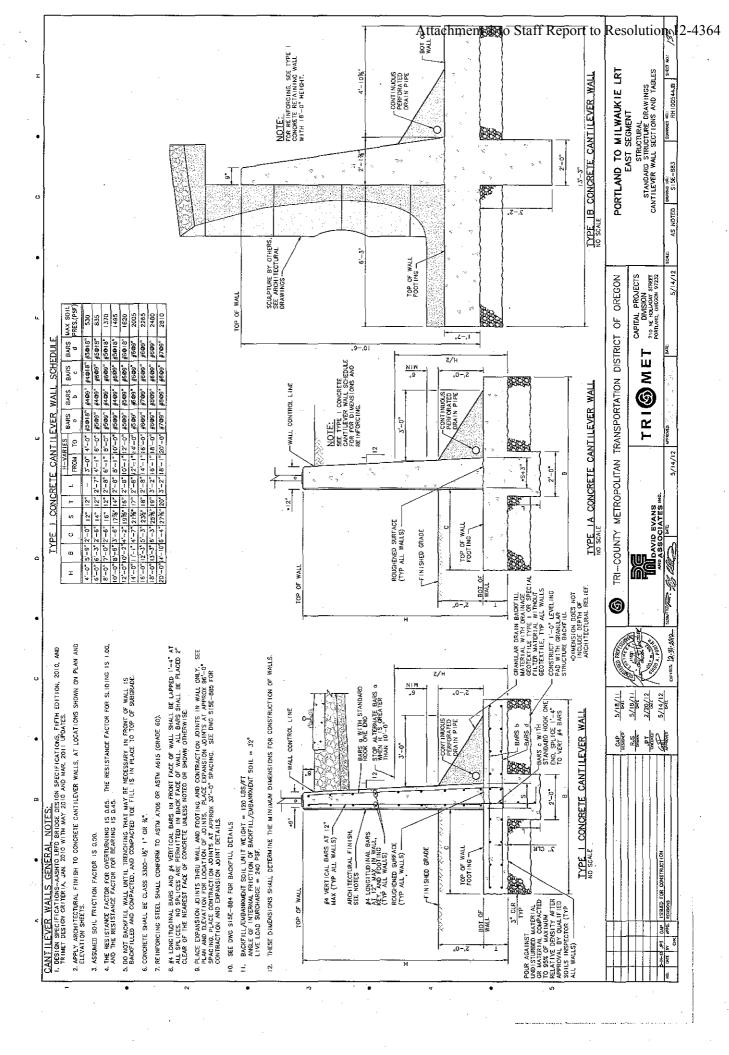
DATE REVISION NO. DRAWN BY CHECKED BY 12/14/2010 000 J. CARLSON G. PAUL

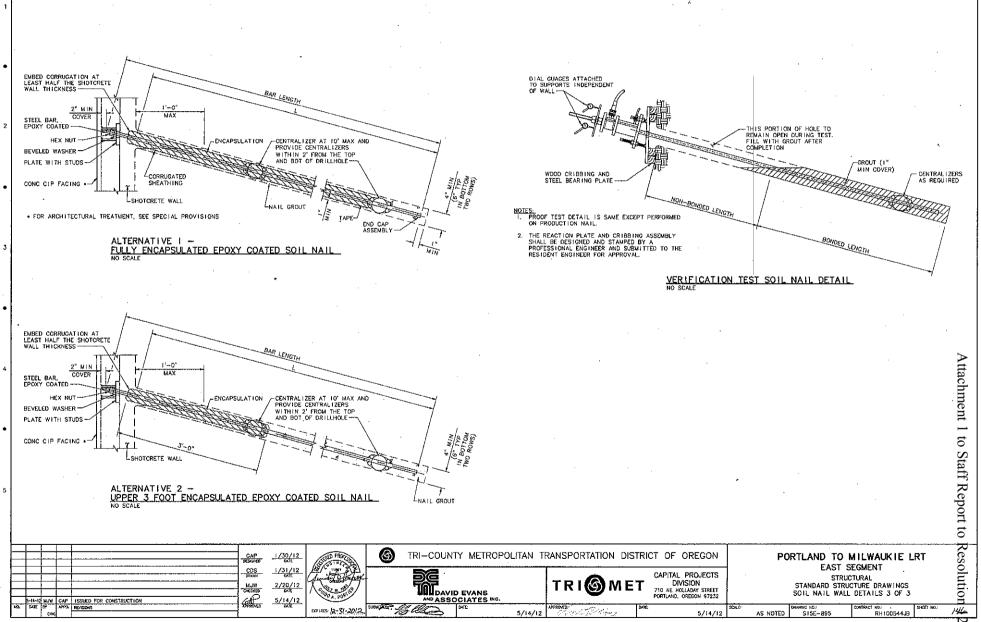


17355 S.W. BOONES FERRY ROAD LAKE OSWEGO, OREGON 97035 (503)635-3618 FAX (503)635-5395

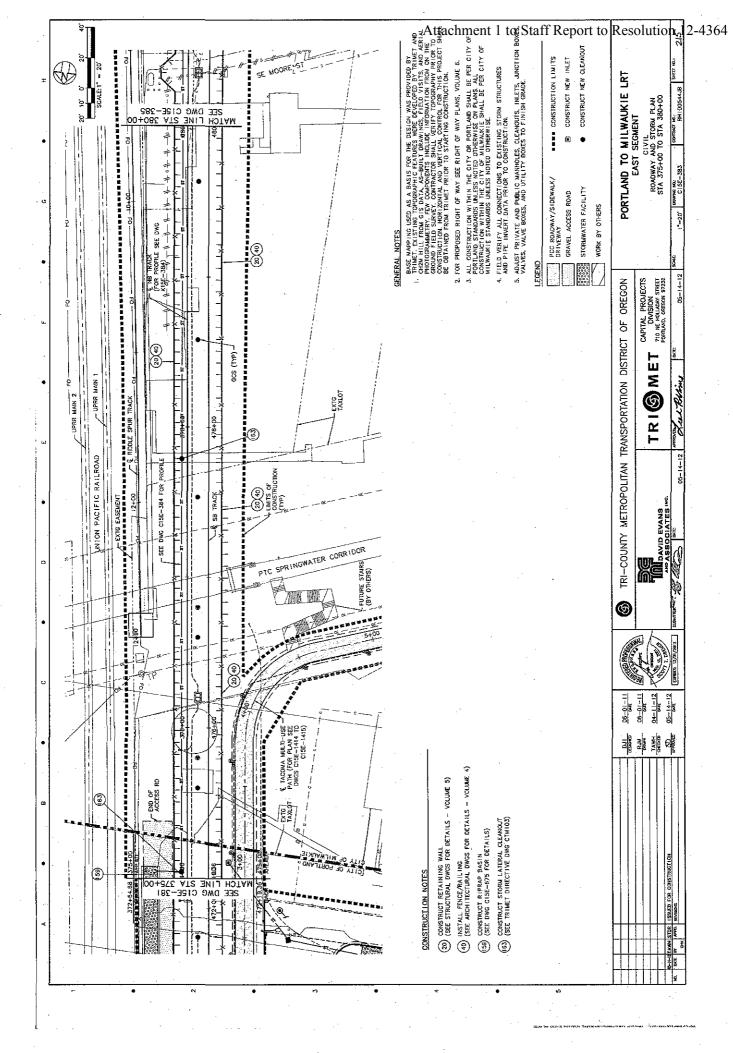


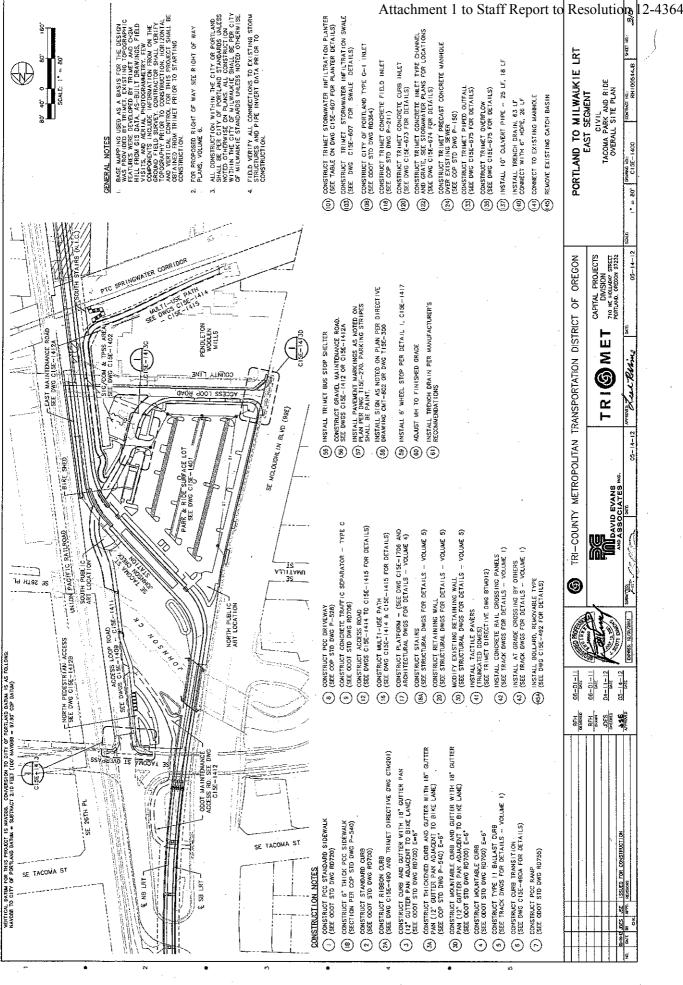


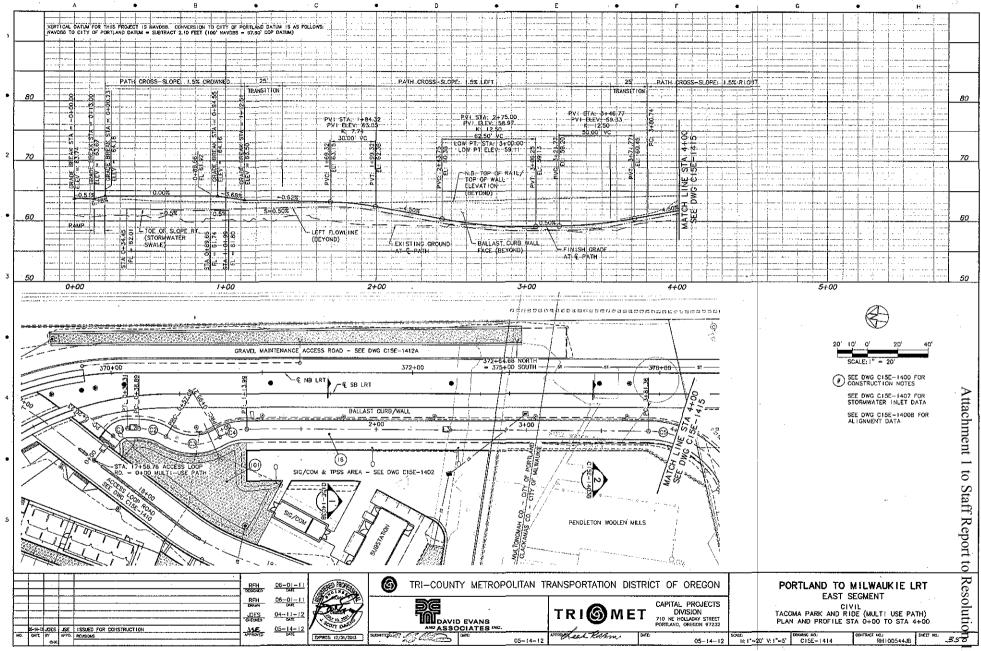


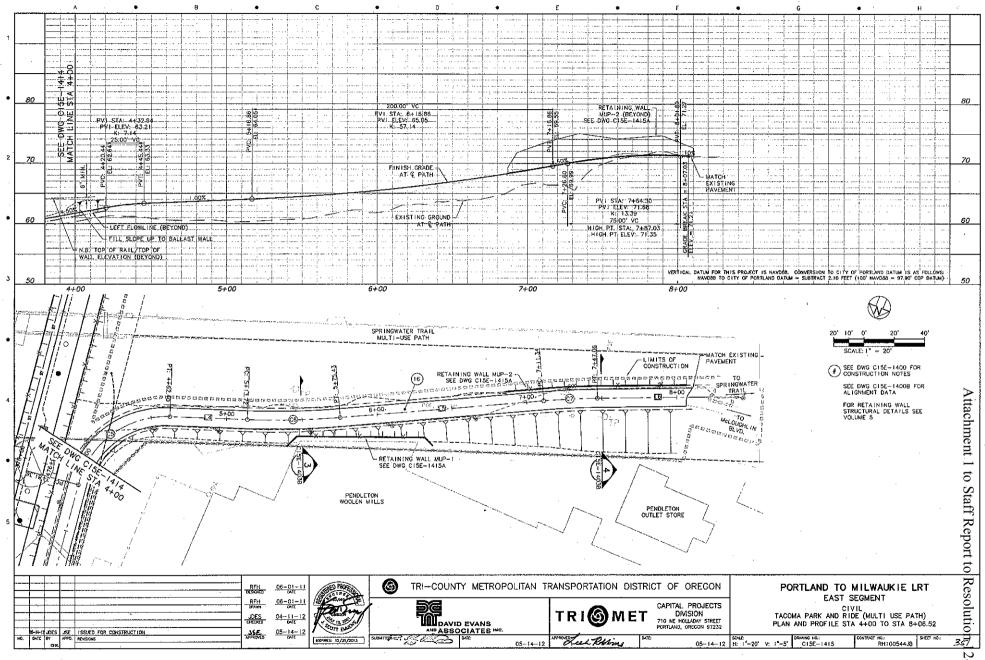


±2-4364









型2-4364