

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 03-3375
INTERGOVERNMENTAL AGREEMENT WITH)	
THE CITY OF PORTLAND TO CONSTRUCT A)	Introduced by Councilor Brian Newman
SEWER LINE WITHIN A PORTION OF THE)	
WILLAMETTE SHORE LINE RIGHT-OF-WAY)	
)	

WHEREAS, In June 1988, Metro, TriMet, the Oregon Department of Transportation (ODOT), Portland, Lake Oswego, Multnomah County and Clackamas County (the Consortium) entered into an Intergovernmental Agreement to purchase the Jefferson Street Rail Line (also known as the Willamette Shore Line) for the purpose of preserving it for a future rail transit use (the Purchase IGA); and

WHEREAS, Paragraph 5 of the Purchase IGA names Portland as holder of the Title to the Right-of-way on behalf of the other members of the Consortium; and

WHEREAS, In November 1994, the parties to the Consortium entered into an Intergovernmental Agreement for the management of the Willamette Shore Line Right-of-way (Management IGA); and

WHEREAS, Paragraph 1 of the Management IGA formally established the Consortium of Local Governments to manage the right-of-way in the interim period until a transit project is developed in the right-of-way.

WHEREAS, The City of Portland, Bureau of Environmental Services wants to construct and maintain the Southwest Parallel Interceptor Sewer (the Project) in the portion of the Right-of-Way generally between Heron Pointe Condominiums and SW Lowell Street, as shown on the map attached as Exhibit 1; now therefore

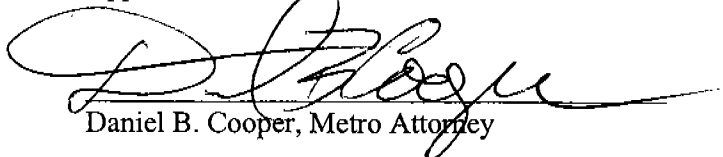
BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Office to execute an Intergovernmental Agreement to authorize the City of Portland, as holder of the title to the Right-of-Way, in its capacity as a representative and for the benefit of the Consortium, to grant an easement as for the construction and maintenance of the Project subject to the terms and conditions sort forth in "Exhibit A".

ADOPTED by the Metro Council this 16th day of October 2003



 David Bragdon, Council President

Approved as to Form:


 Daniel B. Cooper, Metro Attorney



**INTERGOVERNMENTAL AGREEMENT FOR THE
SOUTHWEST PARALLEL INTERCEPTOR PROJECT
SEGMENT 2 - HERON POINTE TO SW BANCROFT/SW LOWELL**

This Intergovernmental Agreement is made and entered into as of the ____ day of _____, 2002 by and between the members of the Willamette Shore Line Consortium (the "Consortium") comprised of the City of Portland, Oregon ("Portland"); METRO ("Metro"); the City of Lake Oswego, Oregon ("Lake Oswego"); Multnomah County, Oregon ("Multnomah"); Clackamas County, Oregon ("Clackamas"); the Tri-County Metropolitan Transportation District of Oregon ("Tri-Met") and the Oregon Department of Transportation ("ODOT"); and the City of Portland, by and through its Bureau of Environmental Services ("BES").

RECITALS

A. WHEREAS, in June 1988, Portland, Metro, Lake Oswego, Multnomah and Clackamas entered into an Intergovernmental Agreement for the Purchase of the Jefferson Street Rail Line for the purpose of preserving the Jefferson Street Rail Line, also known as the Willamette Shore Trolley Line (the "Right-of-Way") for public rail mass transit use (the "Purchase IGA"); and

B. WHEREAS, Paragraph 5 of said Purchase IGA names Portland, in its capacity as a representative of the parties to said Purchase IGA, as holder of title to the Right-of-Way; and

C. WHEREAS, in November 1994, the parties to the Consortium entered into an Intergovernmental Agreement for the Management of the Willamette Shore Line Right-of-Way (the "Management IGA"); and

D. WHEREAS, Paragraph 1 of said Management IGA formally established the Consortium for the overall management of the Jefferson Street Rail Line; and

E. WHEREAS, BES desires to construct and maintain its Southwest Parallel Interceptor Sewer (the "Project") in the portion of the Right-of-Way described as Segment 2 (Heron Pointe Condominiums to a point between SW Bancroft and SW Lowell Street), more particularly shown on the map annexed hereto as Exhibit 1 and incorporated by this reference herein.

NOW THEREFORE, the Consortium hereby authorizes Portland, as holder of title to the Right-of-Way, in its capacity as a representative and for the benefit of the Consortium, to grant easements for the construction and maintenance of the Project, subject to the terms and conditions set forth below:

AGREEMENT

1. TRACK REPLACEMENT

BES and Tri-Met have entered into an Intergovernmental Agreement (dated February 2, 2001, City of Portland Ordinance No. 33353) to have track replacement plans prepared. The plans have been incorporated into the construction contract for the Project. The construction contractors for the track replacement have been pre-qualified in consultation with Tri-Met. BES shall provide day-to-day inspections of the track replacement work to be performed by its contractor pursuant to this paragraph. Tri-Met shall provide periodic inspections of the track replacement work at regular intervals (e.g., 25%, 50%, 75% and 100% completion points), as Tri-Met deems necessary and appropriate, at no cost to the Consortium. Tri-Met shall have final approval over all track replacement work to be performed pursuant to this paragraph.

The replacement track will be upgraded from 75-pound to 90-pound rail, at an estimated cost of approximately \$43,800. Payment for the track replacement shall be made in accordance with the terms of Paragraph 11 below.

2. TROLLEY OPERATION

Trolley operations will be interrupted for an eight-month period between October 1, 2001 and May 31, 2002. The Trolley Operator will be able to continue to operate within the Right-of-Way in the area south of Heron Point Condominiums during the construction period. The Trolley Operator will be unable to operate in the north portion of the Right-of-Way and will be unable to access the northern terminus at River Place. BES shall not be required to compensate the Trolley Operator for the above-referenced eight-month interruption in service caused by BES's Project.

3. BURIED TRESTLE REMOVAL

BES agrees to construct the Project in compliance with the technical plans and specifications developed with Tri-Met regarding the buried trestles identified during the design review process as shown on the attached Exhibit 2.

4. UNDERDRAIN SYSTEM

It is understood and agreed that the Consortium authorizes underdrain improvements, as identified in the track replacement plans and as directed by Tri-Met. The bid price is \$32,700. Payment for the underdrain improvements shall be made in accordance with the terms of Paragraph 11 below.

5. CATHODIC PROTECTION

BES has determined that the Willamette Shore Trolley's current use of the Right-of-Way does not create conditions that require cathodic protection resulting from the

installation of the pipe for this Project. BES agrees to re-evaluate the need for cathodic protection when future transit improvements are designed, upon request by the Consortium. If BES determines that cathodic protection is necessary, BES will add a cathodic protection system at its own expense. If BES determines that no cathodic protection is necessary and thereafter suffers a loss as a result of having failed to provide for such protection, BES agrees that it shall bear sole responsibility for such loss, and that it shall not seek contribution or indemnity from the Consortium for such loss.

6. FUTURE IMPROVEMENTS TO THE RIGHT-OF-WAY

BES has designed the Project to preserve as many options as possible to allow for the future use of the Right-of-Way for mass transit. The parties will cooperate to ensure that the Right-of-Way may be used for mass transit, and that the integrity of the BES facility is preserved. To that end, the Consortium will provide to the BES Director for review and comment the plans and technical specifications of any proposed rail facilities at the deliverable points established by the project (for example, the conceptual, detail and final stages of design). The Consortium will consider any BES comments and concerns regarding the plans and will work with BES to resolve design issues to ensure that the sewer line is not compromised.

The parties recognize, however that the Consortium is authorizing BES to construct the sewer line in the Right-of-Way contingent upon BES assuming responsibility for future additional costs, if required for future use of the Right of Way for mass transit. BES shall pay, at its sole cost and expense, for all necessary improvements and protections related to its sewer line within the Right-of-Way, including but not limited to modification of access ways (manholes) if such improvements are deemed necessary for the future use of the Right-of-Way for mass transit.

The parties further recognize that neither BES's placement of its sewer line within the Right-of-Way, nor BES's agreement to pay for improvements and protections related to its sewer line within the Right-of-Way, nor any provision of this paragraph or this Agreement, shall prohibit the Consortium from utilizing the Right-of-Way for purposes other than or in addition to mass transit, or shall limit the uses to which the Consortium is entitled to put the Right-of-Way. However, BES is only agreeing to pay for modifications required because of use for mass transit purposes.

7. FUTURE UTILITIES

It is understood and agreed that the Consortium may locate or agree to the location of utility facilities that are unrelated to mass transit within the easement area. The parties recognize that neither BES's placement of its sewer line within the Right-of-Way, nor any provision of this paragraph or this Agreement, shall limit the types of utilities or facilities that the Consortium is entitled to place within the Right-of-Way.

The Consortium will provide to the Director of BES, for purposes of review and comment, the plans and technical specifications of any proposed utilities and facilities within the easement areas at the deliverable points established by the project (for example, the conceptual, detail and final stages of design). The Consortium (or subsequent Rail Transit Operator) shall consider the BES comments and will negotiate a mutually agreeable solution associated with protection of and access to operate and maintain the sewer facilities within the easement areas. BES is not responsible for the cost of any necessary improvements and protections related to its sewer line within the Right-of-Way because of such utilities.

8. HAZARDOUS MATERIALS

BES has performed environmental investigations along the proposed sewer alignment. BES's contractor will be responsible for managing and disposing appropriately of hazardous materials, as that term is defined under Oregon law, that are required to be removed as part of the BES construction activities. BES will pay for removal and disposal costs for such hazardous materials. BES's environmental investigations indicate that there may be groundwater contamination in or under the easement area. BES shall not be responsible for groundwater contamination, except to the extent any such contamination is caused directly by BES's activities.

9. DURATION OF TEMPORARY EASEMENT

It is understood and agreed that the temporary construction sewer easement granted pursuant to this Agreement includes interruption of rail operation only for the period October 1, 2001 through May 31, 2002. In consideration for the grant of this temporary construction easement, BES shall pay the Consortium the total sum of \$61,607.00, as set forth in paragraph 11 below.

In the event that construction of the Project causes an interruption of Trolley operations beyond May 31, 2002, then commencing on June 1, 2002, BES shall compensate the Consortium at the rate of \$253.18 per day, until such time as the Project no longer interferes with the Trolley Operator's ability to operate the Trolley, and the Consortium shall extend the term of the temporary construction easement granted pursuant to this Agreement for such time period.

10. ACCESS FOR RESTORATION, CLEAN-UP, WARRANTY, INSPECTION AND MAINTENANCE

It is understood and agreed the temporary construction easement areas may be entered on an as needed basis for restoration, cleanup, and warranty work between June 1, 2002, and August 1, 2005. The permanent sewer easement also allows access for inspection, maintenance and repair of the sewer facilities. BES shall perform all routine restoration, clean-up, warranty, inspection and maintenance work at such times and in such manner as to ensure that such work shall not disrupt operation of the Trolley or subsequent rail transit line (collectively, "Rail Service"). Entry times shall be

coordinated with and approved by the City of Lake Oswego through the City Engineer or his designee, or the subsequent Rail Transit Operator.

If access to either the temporary construction easement areas or the permanent sewer easement is required for other than routine restoration, clean-up, warranty, inspection and maintenance work and such access would disrupt operation of the Rail Service, BES will if time permits (1) consult with the City of Lake Oswego City Engineer and the Trolley Operator or subsequent Rail Transit Operator and negotiate a mutually agreeable solution, and (2) negotiate with the Consortium to agree as to whether compensation is appropriate in the circumstances and, if so, as to the appropriate amount of compensation to be paid to the Consortium on account of such disruption in Rail Service, prior to taking any action that would interfere with the Rail Service. In the case of an emergency, BES will consult with the City of Lake Oswego City Engineer and the Trolley Operator or subsequent Rail Transit Operator, and the Consortium, as soon as is reasonably feasible

11. COMPENSATION

In consideration of the easements granted pursuant to this Agreement, BES shall compensate the Consortium as follows:

a. Permanent Easement	:	\$314,611	
b. Temporary Construction Easement	:	\$ 61,607	
c. Temporary Easement / Clean-up & Warranty Period	:	\$ 30,030	
TOTAL		:	\$406,248

The Consortium agrees that it shall reimburse BES \$100,000 for track upgrade, underdrain system improvements and trestle repairs.

If, after the conclusion of construction of the Project, BES activities in either the temporary construction easement areas or the permanent sewer easement disrupt operation of Rail Service, then any compensation for such interruption will be determined as provided in Paragraph 10 above.

12. GENERAL PROVISIONS

a. Integration

This document and the temporary construction easement and permanent sewer easement granted pursuant to this Agreement constitute the entire agreement between the parties and supersede all prior or contemporaneous written or oral understandings, representations or communications of every kind. No course of dealing between the parties and no usage of trade will be relevant to supplement any term used in this Agreement.

b. Term of Agreement

This Agreement is effective as of July 11, 2001, and shall remain in effect until the completion of all obligations created by this Agreement.

c. Termination and Amendment

This Agreement may be terminated or amended by mutual written agreement of all parties.

d. Waiver and Amendment

No waiver of any portion of this Agreement and no amendment, modification or alteration of this Agreement shall be effective unless in writing and signed by the authorized representative of all parties. Acceptance or acquiescence in a course of performance rendered under this Agreement will not be relevant to determine the meaning of this Agreement and no waiver by a party of any right under this Agreement will prejudice the waiving party's exercise of the right in the future.

e. Interpretation of Agreement

This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision. The paragraph headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.

f. Severability/Survivability

If any of the provisions contained in this Agreement are held by a court of law or arbitrator to be illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning indemnity survive the termination of this Agreement for any cause.

g. Laws and Regulations

The Parties agree to abide by all applicable laws and regulations in carrying out this Agreement.

h. Indemnification

To the extent permitted by the Oregon Constitution and within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the Parties shall indemnify and defend the others and their officers, employees, agents, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from its actions under this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on

account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, contractors or representatives.

i. Dispute Resolution

BES and the Consortium shall negotiate in good faith to resolve any dispute arising out of this Agreement or the easements granted pursuant hereto. If BES and the Consortium are not able to resolve a dispute within 30 days after such dispute has arisen, they shall submit the matter to mediation, and BES and the Consortium shall each pay their own costs and share equally in mediation fees and costs. In the event the dispute is not resolved in mediation, BES and the Consortium shall submit the matter to binding arbitration. The decision of the arbitrator shall be final, binding and conclusive upon BES and the Consortium and subject to appeal only as otherwise provided in Oregon law. BES and the Consortium shall each pay their own costs, but will share equally in fees and costs of the arbitration and/or arbitrator service. BES and the Consortium shall continue in the performance of their respective obligations notwithstanding the dispute. This dispute resolution procedure may be modified by mutual agreement of the Parties.

j. Notice

Routine correspondence and communication regarding the Project shall be given as follows:

The Consortium:
Manager, Real Property Acquisition
Tri-Met
710 Holladay Street
Portland, OR 97232

BES:
Chief Engineer
1120 SW 4th Avenue
Room 1000
Portland, OR 97204

With a copy to:
Right-of-Way Agent
City of Portland
1120 SW 4th Avenue
Room 800
Portland, OR 97203

Either party may designate a different representative for notice purposes by giving written notification to the other party as provided in this paragraph.

k. Choice of Law; Venue

This Agreement, and all rights, obligations and disputes arising out of this Agreement, shall be governed by Oregon law. All litigation arising out of this Agreement shall be decided by the state courts in Oregon. Venue for all mediation, arbitration, and litigation shall be in Multnomah County, Oregon.

l. No Third-Party Beneficiary

Except as set forth herein, this Agreement is between the Parties and creates no third-party beneficiaries.

m. Counterparts

This agreement may be signed in counterparts.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

CITY OF PORTLAND, OREGON

Approved as to Form:

By: _____
Title: _____

Chief Deputy City Attorney for the
City of Portland

CITY OF LAKE OSWEGO, OREGON

Approved as to Form:

By: _____
Title: _____

City Attorney

MULTNOMAH COUNTY, OREGON

Approved as to Form:

By: _____
Title: _____

County Counsel, Multnomah County

CLACKAMAS COUNTY, OREGON

Approved as to Form:

By: _____
Title: _____

County Counsel, Clackamas County

METRO

Approved as to Form:

By: _____
Title: _____

Metro General Counsel

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF
OREGON

Approved as to Form:

By: _____
Title: _____

Deputy General Counsel, Tri-Met

OREGON DEPARTMENT OF
TRANSPORTATION

Approved as to Form:

By: _____
Title: _____

CITY OF PORTLAND BUREAU OF
ENVIRONMENTAL SERVICES

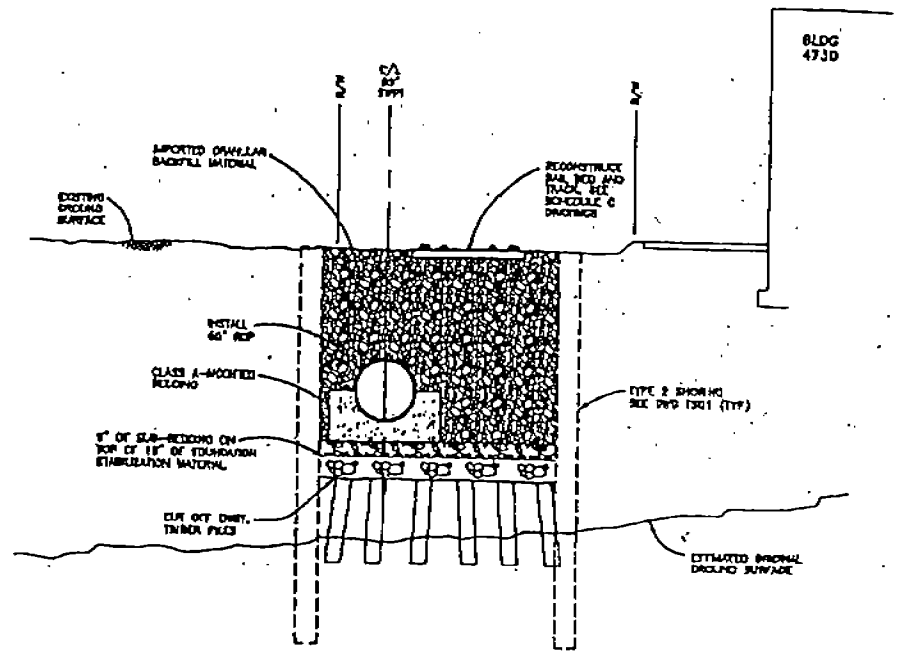
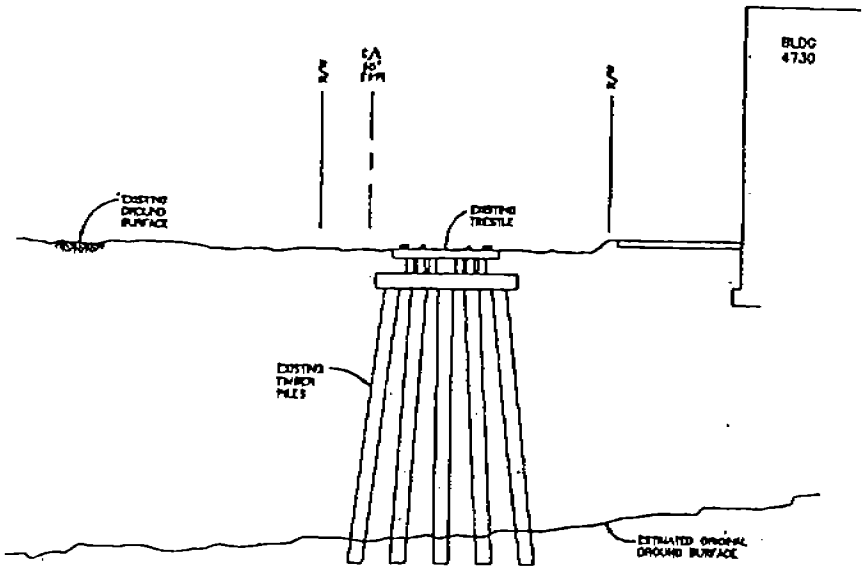
Approved as to Form:

By: _____
Title: _____

City Attorney

5910\TROLLEYIGA2

K:\LEGAL\LEGAL\TAMARA\WILLAMETTE SHORE TROLLEY\BES IGA - 6-6-02 THL CLEAN.DOC



EXISTING TRESTLE
STA 74+78
NO SCALE

TRESTLE REMOVAL PLAN
STA 74+78
NO SCALE

NO.	REV.	DATE	BY	CHKD.	DESCRIPTION

CITY OF PORTLAND
ENVIRONMENTAL SERVICES



Tetra Tech/K

**SOUTHWEST PARALLEL
INTERCEPTOR
RAILROAD TRESTLE SECTIONS**

EXHIBIT 2

Willamette Shore IGA - SWPI -

SEWER EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the Willamette Shore Line Consortium (the "Consortium") (comprised of the City of Portland, Oregon ("Portland"); METRO ("Metro"); the City of Lake Oswego, Oregon ("Oswego"); Multnomah County, Oregon ("Multnomah"); Clackamas County, Oregon ("Clackamas") the Tri-County Metropolitan Transportation District of Oregon ("Tri-Met"); and the State of Oregon, acting through its Department of Transportation ("ODOT"), in consideration of the sum of Four Hundred Six Thousand Two Hundred Forty Eight (\$406,248) and no/100 Dollars, and other good and valuable consideration, to it paid by the City of Portland, Oregon, by and through it's Bureau of Environmental Services (BES), does hereby grant unto said BES the right to lay down, construct, operate, and perpetually maintain a sewer or sewers, manholes, and inlets through, under, over and along the following real property within the right-of-way known as the Jefferson Street Rail Line a/k/a Willamette Shore Trolley Line (the "Property"):

R/W #5910-27P

A variable width strip of land shown as "permanent easement" on Exhibit A and B attached hereto and by this reference made a part hereof

TOGETHER WITH a temporary construction easement for the original construction of the Southwest Parallel Interceptor Project, shown as follows:

R/W #5910-27T

A variable width strip of land lying adjacent to, parallel with and on either side of the above permanent easement, shown as "construction easement" on Exhibit A and B attached hereto and by this reference made a part hereof.

IT IS UNDERSTOOD and agreed that these easements are granted subject to the Intergovernmental Agreement (IGA) attached hereto and by this reference made a part hereof.

IT IS UNDERSTOOD and agreed that the temporary construction easements shall terminate as outlined in the attached IGA. Any warranty work necessitated by the original construction contract shall terminate as outlined in the attached IGA.

1S1E10 and 15

After Recording Return to :

106/800/Heidi M. Ware

Tax Statement shall be sent to:

No Change

IN WITNESS WHEREOF, the Consortium, pursuant to the lawful authority given to the undersigned by the Consortium has caused these presents to be signed by the City of Portland as holder of title to the Property this _____ day of _____, 2002.

CITY OF PORTLAND, AS HOLDER OF TITLE TO THE
JEFFERSON STREET RAIL LINE IN ITS CAPACITY AS
REPRESENTATIVE AND FOR THE BENEFIT OF THE
WILLAMETTE SHORE LINE CONSORTIUM

By: _____
Brant Williams, Director
City of Portland, Office of Transportation

STATE OF OREGON

County of Multnomah

This instrument was acknowledged before me on _____, 2002, by Brant Williams, Director, City of Portland, Office of Transportation as holder of title to the Jefferson Street Rail Line in it's capacity as representative of and for the benefit of the Willamette Shore Line Consortium.

Notary Public for Oregon
My Commission expires _____

Approved as to form:

City Attorney

Approved:

Director, Bureau of Environmental Services

S:\5910\TROLLEYSEWERE

R/W #5910-27P (Permanent Easement)

A variable width strip of land located in Sections 10 and 15, Township 1 South, Range 1 East, WM, in the City of Portland, Multnomah County, Oregon, more particularly described as follows:

All that part of those parcels located within the Willamette Shore Trolley right-of-way as now located, described as Parcels 10-8, 10-9, 10-10/11-1 and 11-2 (Third and Fourth Tracts), 11-4, 11-5, 11-6, 11-8, 11-10, 11-11, and 11-12, in Book 2150 at Page 1582, recorded October 27, 1988, Deed Records of said County, lying east of a line that is 9.00 feet easterly of and parallel with the westerly line of said Parcels; and, lying east of a line that is 11.00 feet easterly of and parallel with the westerly line of Parcel 11-3 as described in said Book and Page; and, lying westerly of the easterly line of Parcel 11-30 as described in said Book and Page; and lying westerly of the easterly line of Parcel 11-7 as described in said Book and Page; and lying 9.00 feet westerly of the most easterly line of Parcels 11-22 and 11-23 as described in said Book and Page; all lying north of a line that lies 48.00 feet southerly of the northerly line of that property described in Book 2106 at Page 505, recorded March 14, 1962, Deed Records of said County, extended easterly, and south of the north right-of-way line of SW Bancroft Street; together with a 27 foot wide strip of land lying within said Parcels 10-8, 10-9, 10-10/11-1 and 11-2 (Third Tract), the south line of which lies 75.00 feet southerly of the north line of said property described in Book 2106 at Page 505 extended easterly.

And, a 25-foot wide strip of land between the north right-of-way line of SW Bancroft Street and the south line of SW Lowell Street. The west line of said strip begins at a point that bears S 87°06'52" E a distance of 244.23 feet along the south line of the Elizabeth Caruthers Donation Land Claim from a brass cap monument at the intersection of the east line of SW Macadam Avenue and the south line of SW Lowell Street, said brass cap being on the south line of the Elizabeth Caruthers Donation Land Claim, and bears S 05°12'40" W a distance of 193.17 feet to said north right-of-way line of SW Bancroft Street.

The side lines of said strips shall be lengthened or shortened as necessary to meet at angle points and property lines.

R/W #5910-27T (Construction Easement)

Variable width strips of land located in Sections 10 and 15, Township 1 South, Range 1 East, WM, in the City of Portland, Multnomah County, Oregon, more particularly described as follows:

A variable width strip of land located in Sections 10 and 15, Township 1 South, Range 1 East, WM, in the City of Portland, Multnomah County, Oregon, more particularly described as follows:



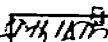

All those parcels located within the Willamette Shore Trolley right-of-way as now located, described as Parcels 10-8, 10-9, 10-10/11-1 and 11-2 (Third and Fourth Tracts), 11-3, 11-4, 11-5, 11-6, 11-8, 11-9, 11-10, 11-11, 11-22, 11-23, 11-12, 11-13, 11-4, and 11-15 in Book 2150 at Page 1582, recorded October 27, 1988, Deed Records of said County, excepting therefrom those portions described as R/W #5910-27P above.

EXHIBIT A

10-8, 9, 10/11-1, 11-2 (THIRD TRACT)

11-3 & 11-30

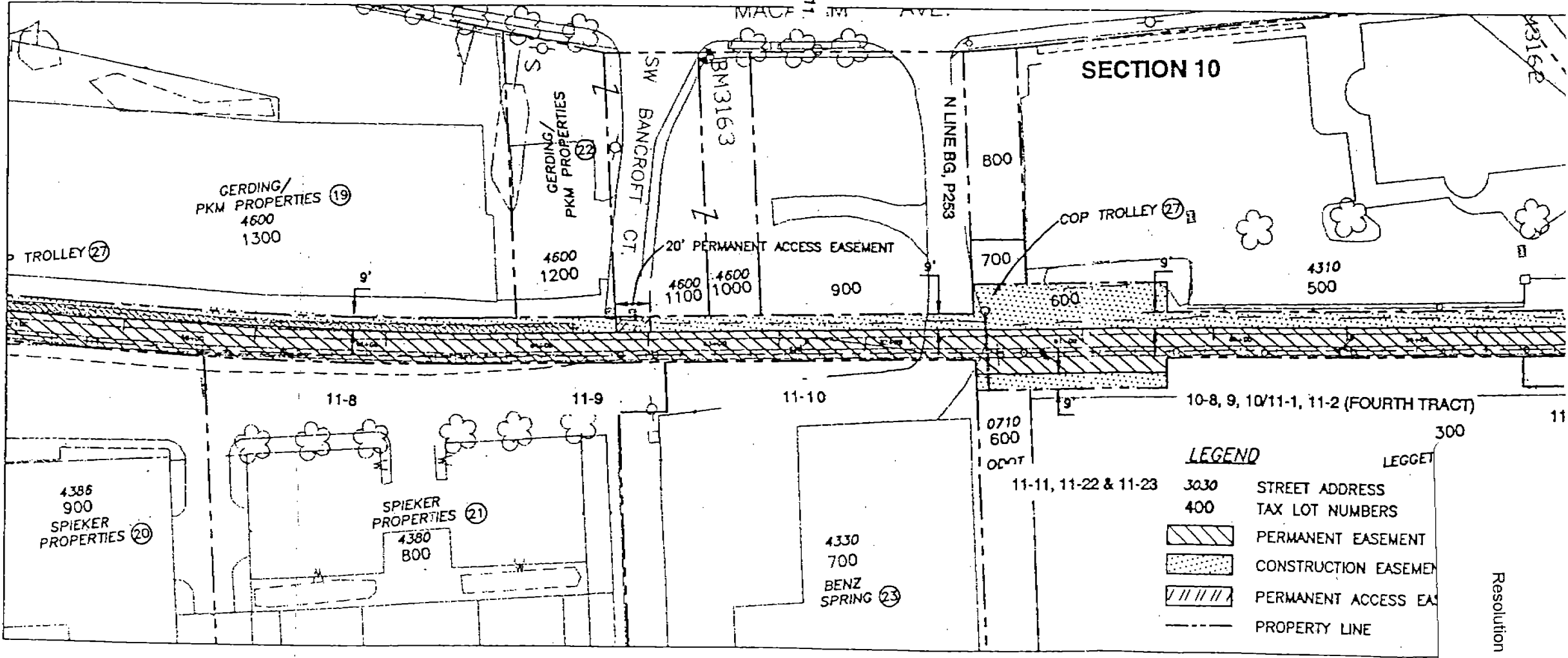
LEGEND

- 3030 STREET ADDRESS
- 400 TAX LOT NUMBERS
-  PERMANENT EASEMENT
-  CONSTRUCTION EASEMENT
-  PERMANENT ACCESS EASEMENT
-  PROPERTY LINE



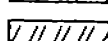
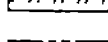
4850
500
BRENNKE (14)

4850
400


S LINE DIETL B30, P211



LEGEND

- 3030 STREET ADDRESS
- 400 TAX LOT NUMBERS
-  PERMANENT EASEMENT
-  CONSTRUCTION EASEMENT
-  PERMANENT ACCESS EASEMENT
-  PROPERTY LINE

Tetra Tech/KCM, Inc.
 7080 SW Fir Loop
 Portland, Oregon 97223

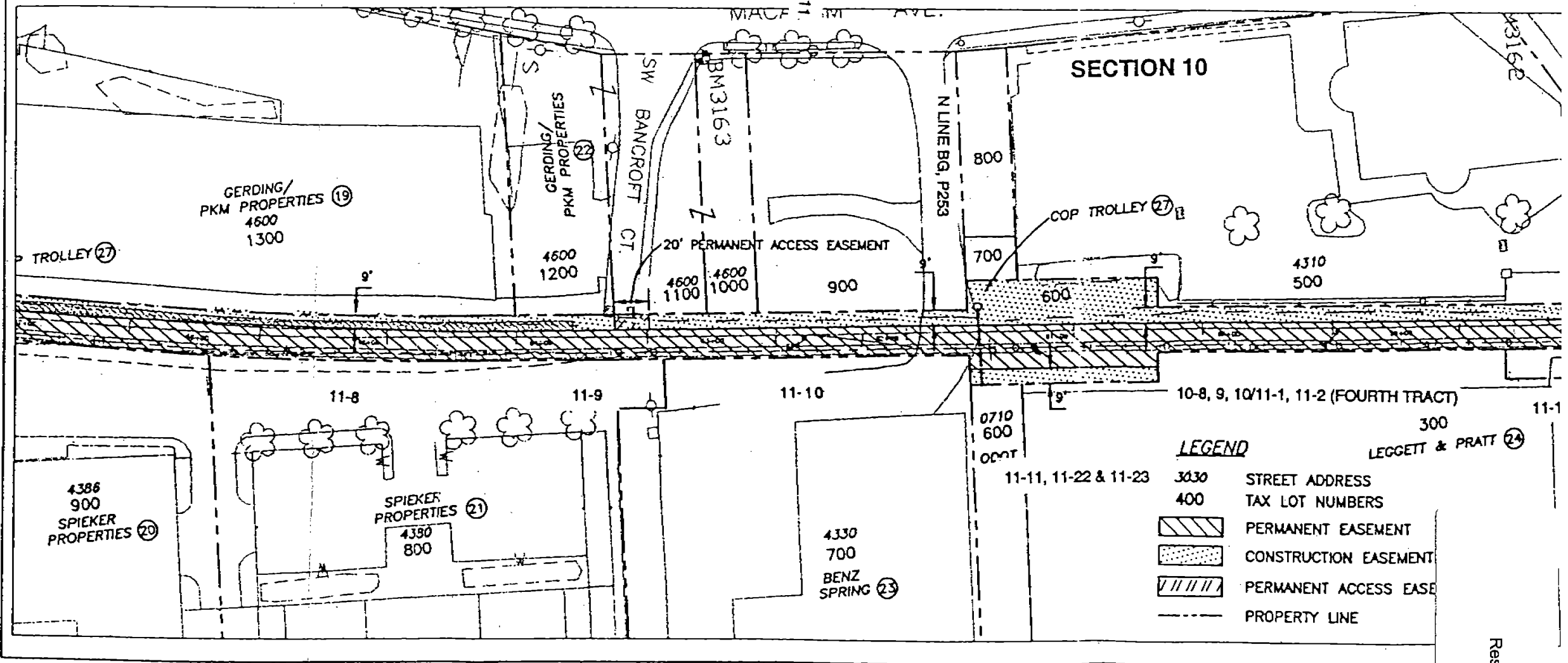


SECTIONS 10 AND 15, T1S, R1E, WM, CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

SV
 SOUTHWES

EXHIBIT A
 Resolution No. 03-3375

TAX LOT NUMBERS
 PERMANENT EASEMENT
 CONSTRUCTION EASEMENT
 PERMANENT ACCESS EASEMENT
 PROPERTY LINE



Tetra Tech/KCM, Inc.
 7080 SW Fir Loop
 Portland, Oregon 97223
 503-684-9097 Fax 503-598-0583



SECTIONS 10 AND 15, T1S, R1E, WM, CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

LEGEND
 3030 STREET ADDRESS
 400 TAX LOT NUMBERS
 PERMANENT EASEMENT
 CONSTRUCTION EASEMENT
 PERMANENT ACCESS EASEMENT
 PROPERTY LINE

SW
 SOUTHWEST
 INTERCEPT

EXHIBIT A
 Resolution No. 03-3375

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3375 FOR THE PURPOSE OF AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND TO CONSTRUCT A SEWER LINE WITHIN A PORTION OF THE WILLAMETTE SHORE LINE RIGHT-OF-WAY

Date: October 6, 2003

Prepared by: Sharon Kelly

BACKGROUND

The City of Portland, through the Bureau of Environmental Services (BES), is in the process of constructing the Southwest Parallel Interceptor Sewer Project. BES wishes to use a portion of the Willamette Shore Line Right-of-Way for their Sewer Project. The area that is the subject of this easement is the section, generally between SW Bancroft Street (near the Spaghetti Factory) to the Heron Point Condominiums.

The Willamette Shore Line right-of-way was purchased from the Southern Pacific Railroad in 1988 by a consortium of local jurisdictions and agencies (ODOT, Tri-Met, Metro, Portland, Lake Oswego, Clackamas County and Multnomah County). The right-of-way was purchased to prevent abandonment of the line and to preserve it for future passenger rail service. The title to the right-of-way is held by the City of Portland on behalf of the Consortium. Since 1990 the City of Lake Oswego has leased the right-of-way from Portland for the purpose of operating a trolley service on the line. Lake Oswego has contracted with a private non-profit operator (the Oregon Electric Railway Historical Society) to run the trolley service (Willamette Shore Trolley). Continuing the trolley operation provides an important reminder to the community that the rail line exists and preserves use rights in the portion that is owned for easement purposes.

The corridor is nearly seven miles long with a southern terminus in Lake Oswego and a northern terminus in Portland at RiverPlace. 4.6 miles of the right-of-way is owned through fee title, and the remainder is through a railroad easement. For the portion of the right-of-way that is owned through an easement, the easement is for rail purposes. Interest has been expressed in combining a bicycle/pedestrian path with the rail project in the corridor.

The IGA would authorize Portland (PDOT) on behalf of the Consortium to execute an easement for BES's use of a portion of the right-of-way for the sewer line. The process of negotiating the IGA has taken a long time. The IGA as proposed does several things such as: requires BES to replace track removed for the construction; requires BES to remove an old buried trestle; make drainage improvements in the area of the construction; ensure that the sewer line would not limit future rail improvements in the corridor; take care of any hazardous materials issues if any are identified during construction; and compensate the Consortium for the lost value to the right-of-way in the amount of \$406,000.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to approval of this Intergovernmental Agreement (IGA).

2. Legal Antecedents:

December 1986 – Intergovernmental Agreement for an option to purchase and one year lease of the Jefferson Street Rail Line from Southern Pacific Transportation Company.

November 1987 – Intergovernmental Operations Agreement that Authorized Portland to enter into agreement with Oregon Electric Historical Society for 7/87 to 12/87.

July 1988 - Intergovernmental Agreement for the Purchase of the Jefferson Street Rail Line.

June 1990 – Lease Agreement for the Jefferson Street Branch Rail Line Corridor (between Portland and Lake Oswego).

Summer 1994 – Intergovernmental Agreement for the Management of the Willamette Shore Line Right-of-Way.

3. **Anticipated Effects:** If this resolution is approved by the Metro Council and the other governing bodies of the Consortium Member local jurisdictions, the IGA will be executed, BES will have authorization to build the Sewer Line within the Willamette Shore Line Right-of-Way.
4. **Budget Impacts:** There would be no Metro Budget impacts. BES will pay the Consortium approximately \$406,000 for the easement (minus \$100,000 for improvements within the Right-of-way). Lake Oswego will receive this money on behalf of the Consortium and will use the money for operations and maintenance costs associated with maintenance of the right-of-way and operating the Trolley service. A portion of this revenue may be used to cover part of the local match for the upcoming study of rail transit and pedestrian and bicycle trail improvements in the right-of way.

RECOMMENDED ACTION

Approval of Resolution No. 03-3375