

AGENDA

Thursday, November 30, 2017 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2017-137

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

II. PREVIOUSLY APPROVED LAND USE ISSUES *(No public testimony on this item)*

1. Board Order No. _____ for the Previously Approved Exception to a Statewide Planning Goal and Conditional Use Application (Nate Boderman, County Counsel) *Previously Approved at the October 18, 2017 Land Use Hearing*
2. Approval of Four Previously Approved Historic Landmark Designations (Nate Boderman, County Counsel) *Previously Approved at the Oct. 18, 2017 Land Use Hearing*
 1. Board Order No. _____ Z0361-17-PDR – Oatfield House
 2. Board Order No. _____ Z0605-09-HL – Charles Livesay House
 3. Board Order No. _____ Z0266-17-Z - W.A. Shaw Building
 4. Board Order No. _____ Z0320-15-HL – The Frank A. Heitkamper House

III. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Second Reading of Ordinance No. 12-2017 Amending Title 11.03, Transportation System Development Charge of the Clackamas County Code and Declaring an Emergency (Diedre Landon, Department of Transportation & Development) *1st reading was 11-8-17*
2. Resolution No. _____ to Adopt the Transportation System Development Charges Methodology Report, Establish a new TSDC Capital Project List and Establish an Updated TSDC Rate Schedule (Diedre Landon, Department of Transportation & Development)
3. Resolution No. _____ Regarding Approval to Allow Rose Villa, Inc. to Issue Revenue Bonds in an Amount not to Exceed a Designated Amount (Chris Storey, County Counsel, Marc Gonzales, Finance)

4. Resolution No. _____ Regarding Approval to allow Willamette View, Inc. to Issue Revenue Bonds in an Amount not to Exceed a Designated Amount (Chris Storey, County Counsel, Marc Gonzales, Finance)

IV. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of Amendment to an Intergovernmental Agreement No. 7916 with the State of Oregon, Department of Consumer and Business Services, Senior Health Insurance Benefits Assistance (SHIBA) – *Social Services*

B. Department of Transportation & Development

1. Board Order No. _____ Adopting the Vacation of a Portion of Bellevue Avenue
2. Approval of an Amendment to the Traffic Safety Commissioner Bylaws, Section 2.2 Term Limits

C. Technology Services

1. Approval of ORMAP Intergovernmental Agreement Contract No.3686-17 with the Oregon Department of Revenue for Digital GIS Tax Lot Conversion

V. DEVELOPMENT AGENCY

1. Approval of a First Amendment to the Disposition Agreement with Trammel Crow Portland Development, Inc.
2. Resolution No. _____ Declaring the Public Necessity and Purpose for Acquisition of Right-of-Ways, Easements, and Fee Property for the Clackamas Regional Center Mobility Improvement Project and Authorizing Negotiations and Eminent Domain Actions

VI. COUNTY ADMINISTRATOR UPDATE

VII. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. www.clackamas.us/bcc/business.html



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
 Clackamas County

Members of the Board:

A Board Order Related to a Previously Approved Exception to a Statewide
Planning Goal and Conditional Use Application

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
 Assistants

Purpose/Outcomes	Adopt a board order related to a previously approved land use action
Dollar Amount and Fiscal Impact	None identified
Funding Source	N/A
Duration	Indefinitely
Previous Board Action	Board of County Commissioners (“Board” or “BCC”) held a public hearing on October 18, 2017, at which time the BCC took testimony and at which time the BCC voted 3-1 to approve the application, and directed staff to draft the board order and the findings of fact, both of which are included with this report.
Strategic Plan Alignment	Build public trust through good government
Contact Person	Nate Boderman, 503-655-8364
Contract No.	None

BACKGROUND:

The applicant, Pacific NW Solar, proposed a Reasons Exception to Statewide Planning Goal 3 (Agriculture) and a Conditional Use permit for the construction and operation of photovoltaic solar power generation facility on 70-80 acres of land that is zoned Exclusive Farm Use (EFU). The facility is expected to produce as much as ten (10) megawatts of electric power.

The subject parcel is comprised predominantly of low-value farmland, but contains “arable” soils. Pursuant to the County’s Zoning and Development Ordinance (ZDO) Section 401 (EFU), photovoltaic solar power generation facilities are allowed as a Conditional Use on low-value farmland, subject to OAR 660-033-0130(38), which stipulates that if such a facility is to be sited on more than 20 acres of “arable” farmland, it must obtain a Goal Exception (pursuant to ORS 197.732 and OAR 660, Division 4).

A public hearing was held on September 11, 2017 before the Planning Commission for consideration of these applications. The Planning Commission voted unanimously (7-0) to recommended approval of the proposal.

On October 18, 2017, a public hearing was held before the Board of County Commissioners, at which time testimony and evidence were presented. At the conclusion of the public hearing, a decision was made by the Board, by the vote of 3-1, to approve the applications, subject to the conditions of approval set forth in the staff report.

The Board then directed staff to draft an order and findings consistent with its decision. A copy of the Board Order implementing the oral decision, and findings and conclusions to be adopted by the Board has been attached.

Subsequent to the Board's oral vote, the Oregon Land Use Board of Appeals (LUBA) issued a decision in a case out of Jackson County that involved similar issues. LUBA's decision calls into question the basis for the decision being made by this Board. Staff understands that LUBA's decision will be, or already has been, appealed to the Oregon Court of Appeals. Regardless, the applicant would like the Board to proceed with the approval, understands that the decision may be subject to further challenge, and has agreed to assume primary responsibility for arguing the merits of any issue before LUBA that may be implicated by the Jackson County case.

OPTIONS AND RECOMMENDATION:

The Board may do the following:

1. Affirm its prior oral vote and approve the attached Board Order and the findings and conclusions which are attached thereto.
2. Reopen the public hearing to consider whether approval of the applicant's requests is still appropriate.
3. Decline to adopt the attached Board Order and wait for resolution of the pending appeal in the Jackson County case.

Under the circumstances, Staff recommends the Board approve the attached Board Order and the findings and conclusions which are attached thereto.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Comprehensive
Plan Amendment and Conditional
Use Permit from Pacific Northwest
Solar LLC, on Property Described
as T2S R5E Section 20, Tax Lots
01900 & 01901 and T2S R5E
Section 19, Tax Lot 03300



ORDER NO.
Page 1 of 2

File Nos.: Z0287-17-CP and Z0288-17-C

WHEREAS, this matter coming regularly before the Board of County Commissioners, and it appearing that Pacific Northwest Solar, LLC made an application for a conditional use permit for the construction and operation of photovoltaic solar power generation facility on approximately 70-80 acres of the property described as T2S R5E Section 20, Tax Lots 01900 & 01901 and T2S R5E Section 19, Tax Lot 03300, located on the west side of Highway 26 and adjacent to the urban growth boundary of Sandy, at the northwest corner of the intersection of SE Firwood and SE Trubel Roads.

WHEREAS, it further appearing that OAR 660-033-0130(38)(g) stipulates that in order to locate such a facility on this site, which is identified as "arable" farmland, as described in OAR 660-033-0130(38)(a), it is necessary to take an exception to Statewide Planning Goal 3 (Agriculture), under the procedure described in the Oregon Administrative Rules (OAR) 660, Division 4, and the applicant has proposed to do so under the "reasons" exception criteria.

WHEREAS, it further appearing that after appropriate notice a public hearing was held before the Planning Commission on September 11, 2017, at which testimony and evidence was presented, and that, at this hearing, the Commission, by the vote of 7-0, recommended approval of this request; and

WHEREAS, it further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on October 18, 2017, at which testimony and evidence were presented, and that, at that hearing, a decision was made by the Board, by the vote of 3-1 to approve the application, subject to the conditions of approval that are in Order Exhibit B, which are attached to this order and incorporated herein by reference.

Based on the evidence and testimony presented this Board makes the following findings and conclusions:

1. The applicant requests approval of a "reasons" exception to Statewide Planning Goal 3 (Agriculture) and approval of a conditional use permit to allow for an approximately 70-80 acre photovoltaic solar power generation facility, as illustrated in Order Exhibit A (Site Plan).

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Comprehensive
Plan Amendment and Conditional
Use Permit from Pacific Northwest
Solar LLC, on Property Described
as T2S R5E Section 20, Tax Lots
01900 & 01901 and T2S R5E
Section 19, Tax Lot 03300



ORDER NO.
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File Nos.: Z0287-17-CP and Z0288-17-C

2. This Board adopts as its findings and conclusions the *Findings of Fact for Z0287-17-CP & Z0288-17-C* document attached hereto and incorporated herein as Order Exhibit B, which finds the application to be in compliance with the applicable criteria.

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. The requested "reasons" exception to Statewide Planning Goal 3 and the requested conditional use permit are hereby APPROVED, as illustrated in Order Exhibit A, and subject to the conditions of approval identified in Order Exhibit B, which are attached to this order and incorporated herein by reference.
2. Chapter 4 of the Clackamas County Comprehensive Plan is hereby amended to reflect the approval of the "reasons" exception to Statewide Planning Goal 3, as shown in Exhibit C hereto.

DATED this 30th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

**FINDINGS OF FACT FOR Z0287-17-CP & Z00288-17-C:
PACIFIC NORTHWEST SOLAR, LLC
GOAL 3 EXCEPTION AND CONDITIONAL USE PERMIT**

SECTION 1- GENERAL INFORMATION

Planning File No: Z0287-17-CP, Z0288-17-C

Adoption Date: November 30, 2017

Applicant: Ryan Meyer, Pacific Northwest Solar, LLC, 9450 SW Gemini Dr. #33304,
Beaverton, OR 97008

Owner: John Knapp, PO Box 1360, Sandy, OR 97055

Proposal: A proposed Reasons Exception to Statewide Planning Goal 3 (Agriculture) and a Conditional Use permit for the construction and operation of photovoltaic solar power generation facility on 70-80 acres of land that is zoned Exclusive Farm Use (EFU). The facility is expected to produce as much as ten (10) megawatts of electric power.

The subject parcel is comprised predominantly of low-value farmland, but contains "arable" soils. Pursuant to the County's Zoning and Development Ordinance (ZDO) Section 401 (EFU), photovoltaic solar power generation facilities are allowed as a Conditional Use on low-value farmland, subject to OAR 660-033-0130(38), which stipulates that if such a facility is to be sited on more than 20 acres of "arable" farmland, it must obtain a Goal Exception (pursuant to ORS 197.732 and OAR 660, Division 4).

Property Location: Just west of Hwy 26 on the northwest corner of SE Trubel Rd and SE Firwood Rd.

Legal Description: T2S, R5E, Section 20, Tax Lot(s) 01900, 01901, W.M. and T2S, R5E, Section 19, Tax Lot(s) 03300, W.M

Site Address: N/A

Comprehensive Plan Designation: Agriculture (AG)

Zone: Exclusive Farm Use (EFU)

Total Area Involved: 122.2 acres

Background Information:

1. Site Description: The subject site includes a one legal lot of record, which is comprised of three taxlots that total 122.20 acres. The total site is generally rectangular in shape, except the eastern boundary follows the path of Highway 26 and SE Firwood Road. The eastern boundary of these parcels has approximately 1,600 linear feet of frontage on Highway 26, including one access driveway, and approximately 1,000 linear feet of frontage on SE Firwood Road. The southern boundary of the property includes approximately 2,500 linear feet of frontage on SE Trubel Road.

The smallest of the three taxlots (t.l. 1901) is 3.37 acres and contains a single-family dwelling and will not contain any portion of the proposed photovoltaic solar power generation facility. Access to the entire site from Highway 26 traverses this taxlot. The remaining 118.83 acres of the site are partially utilized for Christmas tree production.

The site is relatively flat, gently sloping generally from east to west (away from Highway 26). The entire property contains approximately 70 feet of elevation change overall. No known resources or natural hazard areas have been identified on the property.

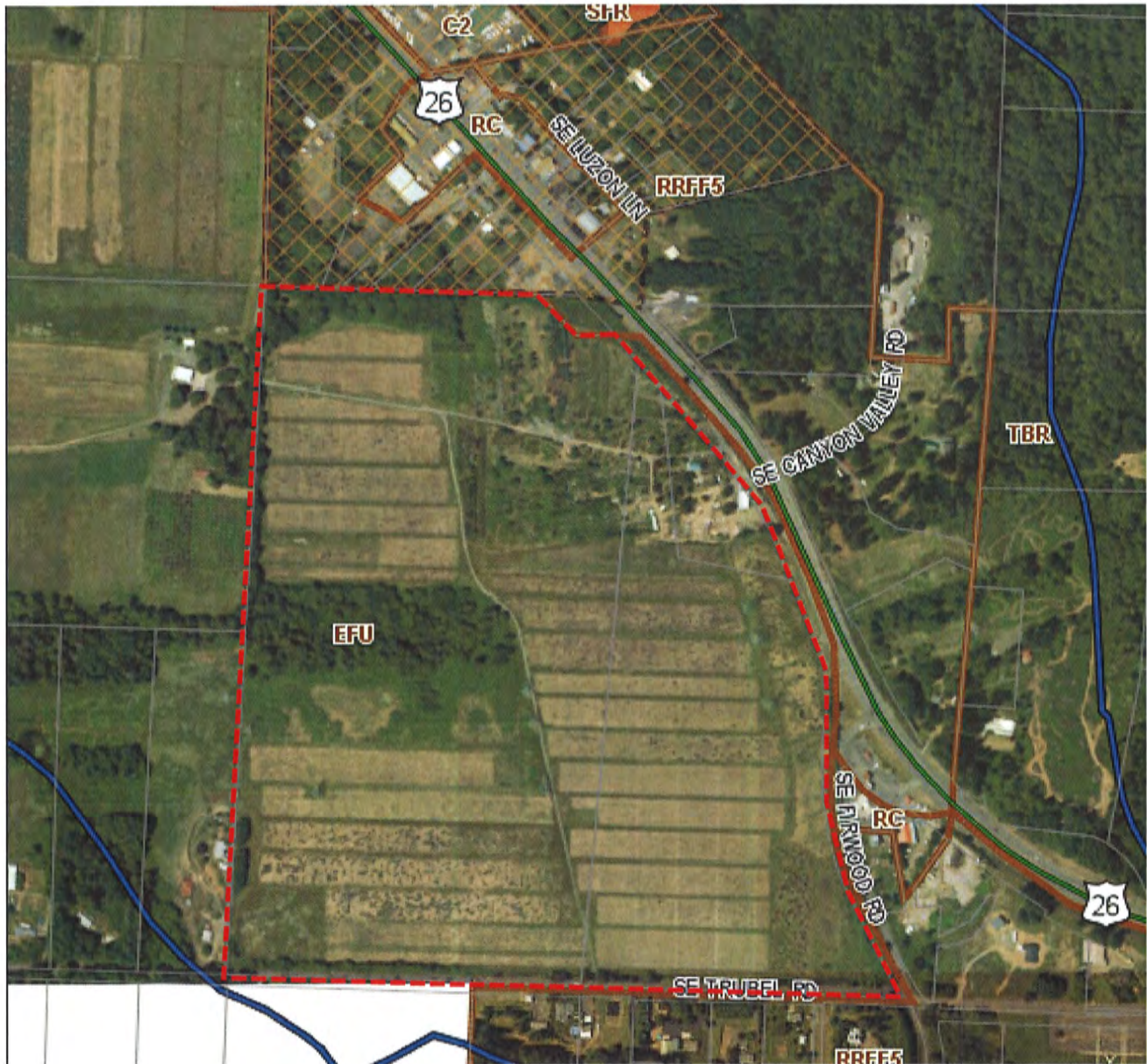
There is an approximately 500-foot wide Bonneville Power Administration (BPA) powerline easement that traverses from west to east through the properties. While the county's Zoning & Development Ordinance (ZDO) does not regulate powerline easements, the BPA does not allow for structures to be built within their easements. The applicants will work directly with the BPA to ensure any development meets any relevant requirements related to that easement.

2. Surrounding Conditions: The site is bordered on the east by Highway 26 and SE Firwood Rd and to the south by SE Trubel Rd. To the west and northwest are moderately large (10 to 40 acres) parcels that are zoned Exclusive Farm Use (EFU), including four parcels containing approximately 114 acres of additional farmland owned by the owner of the subject properties. Based on recent aerial photography, parcels in this area appear to at least partially in agricultural production although several homes also exist in these areas.

To the south and east (across Highway 26) are rural residential areas –zoned RRRFF-5 – which are heavily parcelized and developed with a number of single-family dwellings. Properties across Highway 26 are also fairly steep and heavily treed.

Immediately north of the site is the southern edge of the City of Sandy's Urban Growth Boundary (UGB) and Urban Reserve Area (URA). The city of Sandy recently completed the analysis and process necessary to assess and expand their UGB; some of this recently-expanded area is located adjacent to the subject site. That area is not yet developed with

urban uses but is planned for future urban commercial and industrial development. A portion of this land is currently zoned rural commercial and developed with commercial uses.



3. Historic Use of Property/ Prior Land Use Approvals

The County has no records of prior land use approvals for the subject property. Based on aerial photography and statements from the applicant and property owners, approximately 60% -70% of the property is in agricultural production with Christmas trees and has been in used to produce berries in the past. However, according to the property owner and applicant, the soils on the property and the lack of irrigation have significantly limited the productivity of agricultural crops on the property: *We purchased the farm in 1990 from a berry grower*

(strawberries and raspberries) who was losing the property because he could not pay his mortgage. I continued to grow raspberries on this farm through the rest of the 1990's and in spite of cover-cropping, fumigating and following all the recommendations of the extension service, This farm always produced significantly less tonnage per acre than the rest of my neighboring farm ground. As the costs increased and production continued to lag, berries were no longer a viable crop. In 1999 we began to grow Christmas trees and nursery stock on this ground and have had a difficult time with root diseases and seedling survival. I have been troubled in what crop I could grow on this property that is actually economically viable.

4. **Soils:** The subject tract is considered low-value farmland, with the predominantly Class 3 soils, as noted below. However, because the property has been cultivated it is considered “arable land”, per the definition in OAR 660-033-0130(38).

Soil Type *	Rating *	Soil Class*	Location on Site	Approximate Acres of Site**	Percent of total site**
15B – Cazadero silty clay loam	High - value	2	Northwestern portion of property	12.1	10.8%
15C – Cazadero silty clay loam	Low-value	3	Middle portion of the property, traversing from west to north, small area in northwest corner	31.4	28.0%
9B – Bull Run silt loam	Low-value	3	Central and southeastern portions of the property	64.3	57.4%
9D – Bull Run silt loam	Low-value	6	Small areas in southwest and southeast corners of property	4.3	3.8%

*The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture

**Per application (does not contain data from the taxlot with the dwelling)

5. **Proposed Development of Site:** The proposed project will involve the construction and operation of a photovoltaic solar power generation facility that is expected to produce as much as ten (10) megawatts alternating current (MWac) of renewable electric power. The Project will be interconnected with the Portland General Electric Company’s distribution system via connection to existing power lines located adjacent to the Project. The Project infrastructure will include solar arrays on steel racking, consisting of photovoltaic modules oriented toward the south (generally) and placed upon a single-axis tracking system, inverters (to allow for transmission to the utility grid), connections to the existing power lines, as well as necessary access and safety features (including access roads, perimeter roads, and fencing).

The Project infrastructure would consist of approximately 37,000 PV modules mounted on six-foot (6’) high steel racking support structure, set in rows. The foundation for the steel racking structure is anticipated to be driven piles (steel or concrete encased steel).

It is anticipated that the Project will be under construction in late 2017 to early 2018 with construction being completed in mid-2018. The Project will be operated for a minimum of 35 years. When the Project has reached its operational end, the site will be returned to its preconstruction state.

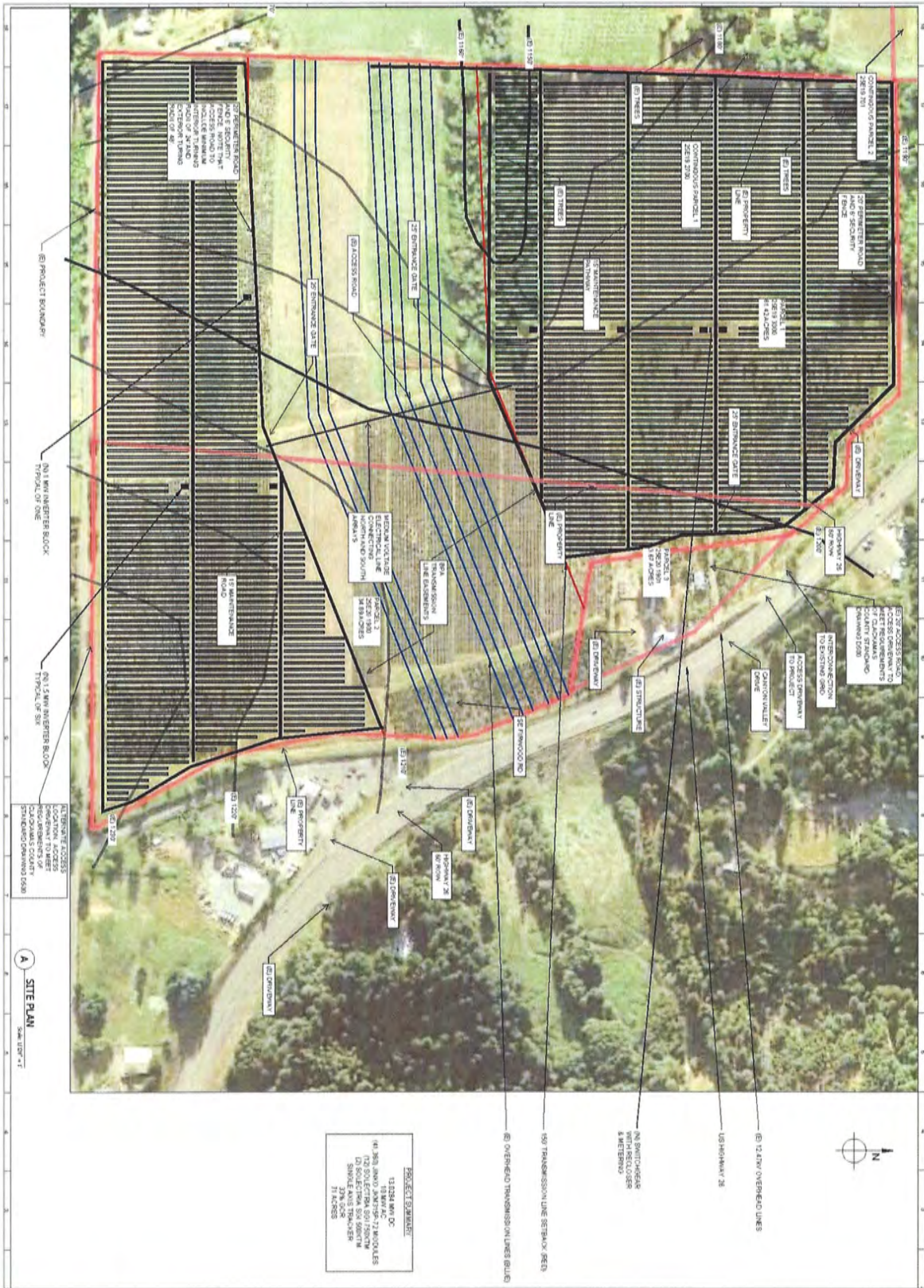
The proposed site plan is illustrated on the next page. The applicant has proposed to retain the current access directly off Highway 26, if possible, but has proposed an alternative access off SE Trubel Road if the existing access cannot be used. Based on the applicant's narrative and site plan, the portions of the property located within the BPA easement will remain in agricultural production, while the portions outside that easement will contain the solar facility.

6. Service Providers:

- a. Sewer: None
- b. Water: None
- c. Surface Water: The subject property is not located in a public surface water district. Surface water is regulated pursuant to Section 1008 of the ZDO and administered by the DTD Engineering Division.
- d. Fire Protection: Sandy Fire District #72

7. Responses Requested:

- a. City of Sandy
- b. Firwood Neighbors CPO
- c. DTD, Traffic Engineering
- d. Oregon Department of Agriculture
- e. Sandy Fire District
- f. Dept. of Land Conservation and Development (DLCD)
- g. Portland General Electric, Development Review
- h. Property Owners within 750'



Order Exhibit B
 Z0287-17-CP & Z0288-17-C (Firwood Solar – Goal Exception/Conditional Use)

SECTION 2 – CONCLUSION AND CONDITIONS OF APPROVAL

The Board finds that this application satisfies all the applicable state, regional and county criteria for an exception to Statewide Planning Goal 3 and for a conditional use permit, as proposed by the applicant and reflected in the narrative, supplemental narrative and plan(s) submitted on May 16, 2017, August 16, 2017 and August 31, 2017.

The Board approves the exception to Statewide Planning Goal 3 and a conditional use permit, as proposed by the applicant and recommended by the Planning Commission and staff, subject to the stated conditions of approval.

Conditions of Approval:

Approval of this application is subject to the following conditions of approval:

I. General Conditions:

- 1) Approval of this land use permit is based on the submitted written narrative, supplemental narrative and plan(s) submitted on May 16, 2017, August 16, 2017, and August 31, 2017. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- 2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Deana Mulder, at (503) 742-4710 or at deanam@co.clackamas.or.us.
- 3) **Prior to the issuance of building permits**, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Development Agency. Wendi Coryell can be contacted at 503-742-4657, or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees.
- 4) The conditional use approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all

other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:

- a) A building permit for a new primary structure that was part of the conditional use approval; or
 - b) A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Planning and Zoning Conditions: Martha Fritzie, (503) 742-4529, mfritzie@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.
- 2) **Prior to the issuance of a building permit or the initiation of any construction activities** the property owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
- 3) **Prior to the issuance of a building permit or the initiation of any construction activities** the applicant shall submit a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked.
- 4) **Prior to the issuance of a building permit or the initiation of any construction activities** the applicant shall submit a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil compaction or other appropriate practices.

- 5) **Prior to the issuance of a building permit or the initiation of any construction activities** the applicant shall submit a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement.
- 6) All development on the site shall comply with standards in Section 704 (River and Stream Conservation Area).
- 7) At the end of the life of facility all non-utility owned equipment, conduits, structures, and foundations will be removed to a depth of at least three feet below grade.

IV Engineering Division Conditions: Robert Hixson, (503) 742-4608, roberth@clackamas.us

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with Clackamas County Roadway Standards. Frontage improvements in, or adjacent to State of Oregon right-of-way, shall be in compliance with Oregon Department of Transportation standards.
- 2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.
- 3) The applicant shall obtain an access and utility easement between Highway 26 and the solar facility lease area. The easement shall be a minimum of 20 feet in width, shall provide a minimum 20-foot wide clear zone, and shall also be of adequate width to allow for the construction and maintenance of improvements without trespassing onto private property.
- 4) The applicant shall design and construct minimum 20-foot wide access roads, including the perimeter road, and the 15-foot wide maintenance roads approximately as shown on the submitted preliminary site plan. The 15-foot wide roads shall be centered in minimum 20-foot wide clear zones. Turn and curve radii shall comply with local Fire District requirements which require a minimum 28-foot inside radius and a minimum 48-foot outside radius for a 20-foot wide road. All onsite roads used for access shall comply with ZDO subsection 1015.03 C and Roadway Standards Drawing R100 in regards to structural section and the required surfacing with screened gravel or better.
- 5) Centerline radii for intersections of the 20-foot wide perimeter road with 15-foot wide maintenance roads shall be a minimum of 50 feet.
- 6) The applicant shall provide a copy of the storm water management plan details to DTD Engineering. The storm water management plan shall comply with the requirements found in Zoning and Development Ordinance Section 1008 and Roadway Standards chapter four.
- 7) The applicant shall provide adequate on site circulation areas for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

- 8) Parking spaces shall meet *ZDO* section 1015 dimensional requirements.
- 9) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245 along the Firwood Road and Trubel Road frontages. The clear zone shall extend a minimum of 15 feet from the edges of the Firwood Road and Trubel Road pavement.
- 10) **Prior to the issuance of a building permit or the initiation of any construction activities associated with the project**, the applicant shall submit to Clackamas County Engineering Office:
 - a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - b) A set of site improvement construction plans, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 1. The permit will be for driveway, drainage, parking and maneuvering areas, and other site improvements.
 2. The fee for the Development Permit will be calculated in accordance with the current fee structure existing at the time of the Development Permit application.
 3. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.
 - c) Written approval from ODOT, in the form of a permit, for access to Highway 26 and for all work in Highway 26 right-of-way.

SECTION 3- ANALYSIS AND FINDINGS

Section 3.1. Applicable Standards and Criteria. Under Oregon's land use statutes and goals, this application must be found to comply with a multitude of standards and criteria, identified in this section.Page 11

Section 3.2. Goal Exception. This application is requesting a "Reasons" exception to Statewide Planning Goal 3 (Agriculture).

- (A) Why a Goal Exception is Needed.....Page 12
 (B) Evaluation of "Reasons" Exception Criteria.....Page 13
 (C) Summary of Findings for the "Reasons" Exception.....Page 28

Section 3.3. Other Applicable Statutes and Rules for Siting a Solar Facility in EFU. This application is subject to compliance with the Statewide Planning Goals, County Comprehensive Plan (CP) policies and Oregon Administrative Rules (OARs) related specifically to siting a photovoltaic solar facility on EFU land.

(A) Compliance with OAR 660-033-0130(38)Page 29
 (B) Compliance with Statewide Planning Goals and Other Applicable State Statutes.....Page 35
 (C) Compliance with General County Comprehensive Plan Policies.....Page 39

Section 3.4. Conditional Use Application. The conditional use application is subject to the criteria in Section 1203 of the Clackamas County Zoning and Development Ordinance.

(A) Compliance with Criteria in Section 1203.....Page 41
 (B) Compliance with Other Applicable ZDO SectionsPage 46

SECTION 3.1. APPLICABLE STANDARDS AND CRITERIA

This application involves amendments to an acknowledged county Comprehensive Plan provisions and land use regulations, as well as a “Reasons” exception to Statewide Planning Goal 3 and a conditional use permit for the construction of a photovoltaic solar generation facility. Under Oregon’s land use statutes and goals, this application must be found to comply with a multitude of standards and criteria, including the following:

State Statues (ORSs) and Administrative Rules (OARs)

- OAR Chapter 660, Division 4- Interpretation of Goal 2 Exception Process:
 - OAR 660-004-000 Purpose
 - OAR 660-004-005 Definitions
 - OAR 660-004-0010 Application of the Goal 2 Exception Process to Certain Goals
 - OAR 660-004-0015 Inclusion as Part of the Plan
 - OAR 660-004-0018 Planning and Zoning Exception Areas
 - OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements
 - OAR 660-0040-0022 Reasons Necessary to Justify and Exception Under Goal 2, Part II(c)

- OAR Chapter 660, Division 33 – Agricultural Land
 - OAR 660-033-0130(38)

- ORS 197.732 - Goal Exception standards
- ORS 197.763 – Notice procedures for quasi-judicial hearings

Statewide Planning Goals 1 through 19

- OAR Chapter 660, Division 12 – Transportation Planning
 - OAR 660-012-0060 Plan and Land Use Regulation Amendments

County Comprehensive Plan Provisions

The following Clackamas County Comprehensive Plan provisions are implicated by this application:

- Chapter 2. Citizen Involvement
 - Citizen involvement policies
- Chapter 3. Natural Resources and Energy

Agriculture policies
Energy policies
Chapter 4. Land Use
Agriculture policies
Chapter 5. Transportation System Plan
Chapter 11. The Planning Process

County Zoning & Development Ordinance (ZDO) Provisions
ZDO Section(s) 401, 1005, 1006, 1007, 1008, 1010, 1015, and 1203

**SECTION 3.2 – “REASONS” EXCEPTION TO STATEWIDE PLANNING GOAL 3:
AGRICULTURE**

(A) Why a Goal Exception is Needed

The subject property is designated as natural resource land (Agriculture) on the Comprehensive Plan Map and zoned Exclusive Farm Use (EFU). Section 401 of the County Zoning & Development Ordinance (ZDO) controls land uses in the underlying EFU zoning district. Table 401-1, lists the uses which are allowed in the EFU zone. Under Table 401-1, page 401-9 “Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38)”, is listed as allowed under a conditional use permit.

As noted, the subject parcel is considered “low-value farmland”, because it contains predominantly low-value farmland soils. OAR 660-033-0130(38) defines “arable land” to mean *land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils* and further defines “arable soils” as *soils that are suitable for cultivation as determined by the governing body or is designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10)*. Based on these definitions and the fact that the subject parcels have been and continue to be “predominantly cultivated”, the subject is considered “arable land”, for the purposes of siting a photovoltaic solar generation facility.

OAR 660-033-0130(38)(g), stipulates that if such a facility is to be sited on more than 20 acres of “arable” farmland, it must obtain a Goal Exception: *For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.*

As noted, the proposal would site the solar array over 70-80 acres of land on a parcel which is considered “arable” farmland. As such, an Exception to Statewide Planning Goal 3 is required for this project to be considered.

The analysis and findings related to the Goal Exception sought by the proposed project is

presented below. An evaluation of the remainder of the criteria that a proposed photovoltaic solar energy facility must meet, as found in OAR 660-033-0130(38) is discussed in Section 3.3 of this report.

(B) Evaluation of “Reasons” Exception

Goal exceptions are authorized under statewide planning statutes, goals and administrative rules in order to provide flexibility for situations in which a departure from the strict application of the goals is justified based on site-specific and project specific conditions. Approval of a goal exception does not establish precedent for allowing future goal exceptions. Goal 2 defines the term "exception" as follows: *"Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:*

"(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

"(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

"(c) Complies with standards for an exception."

There are three types of exceptions: (1) "developed" exceptions are justified where the property is physically developed to the point where resource use is no longer practicable; (2) "committed" exceptions are justified where the nature of nearby physical development makes resource use impracticable; and (3) "reasons" exceptions are justified where there is a need for development at the site in question and where the applicant establishes that reasons justify why the policy embodied in the applicable goals should not apply, the site compares favorably with other possible locations for the proposed development, and the proposed use is compatible with other adjacent uses or can be made compatible through measures designed to reduce impacts.

Application of ORS 197.732 and OAR Chapter 660 Exception Criteria

The application requests "Reasons" exceptions to Goal 3. The general criteria for reasons exceptions are set forth in the state statutes at ORS 197.732 and LCDC's administrative rules at OAR 660-004-0020. The rules then provide additional "reasons" that can justify an exception at OAR 660-004-0022, including criteria that must be applied to more specific types of uses.

ORS 197.732 - Goal Exceptions. ORS 197.732 sets for the following criteria for a goal exception based on a “reasons” argument, as follows:

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

These four standards outline the four-step process an applicant must engage in to demonstrate the proposal (1) is “needed”, (2) cannot reasonably be located on an “alternative” site, (3) will have minimal adverse “consequences”, and (4) is “compatible” with neighboring uses.

The rules under which to assess the above criteria are presented in OAR 660-004-0000 through 0040 in more detail. The requirements established by ORS 197.732 for goal exceptions, as well as the identical requirements of Goal 2, Part II and OAR 660 Divisions 4 are addressed below of these findings.

OAR 660-004-0000 through 0010. Purpose, Definitions, and Application of Goal 2 Exceptions Process to Certain Goals

These sections contain the background information and definitions for the goal exception and are information in nature.

OAR 660-004-0015. Inclusion as Part of the Plan

(1) A local government approving a proposed exception shall adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. The reasons and facts shall be supported by substantial evidence that the standard has been met.

(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons that demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

Both these criterion are informational in nature and depending on the outcome of the decision, each will be adhered to as is necessary in the findings and recommendations provided in this report, and as referenced in the land use application narrative.

660-004-0018: Planning and Zoning for Exception Areas. Subsection 660-004-0018(4): “Reasons” Exceptions, applies to this application.

- a. 660-004-0018(4)(a): *When a local government takes an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.*

If adopted, allowed uses and development subject to this goal exception would be limited to only those uses approved and as noted in any conditions of approval.

This criterion can be satisfied.

- b. 660-004-0018(4)(b): *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a “Reasons” exception, a new “Reasons” exception is required.*

This site has not previously been approved as a “Reasons” exception.

This criterion is not applicable.

- c. 660-004-0018(4)(c): *When a local government includes land within an unincorporated community for which an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.*

The subject property is not located in an unincorporated community.

This criterion is not applicable.

660-004-0020: Goal 2, Part II(c), Exception Requirements

- (1) *If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.*

If adopted, the allowed uses and development subject to this goal exception would be limited to only those uses approved and as noted in any conditions of approval.

This criterion can be satisfied.

- (2) *The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:*
- a. *“Reasons justify why the state policy embodied in the applicable goals should not apply.” The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land.*

As noted by the applicant, this project is seeking a “Reasons”- based exception and OAR 660-004-0022 identifies specific reasons that are acceptable for granting an exception and assessing the proposal against this criteria. The applicant states that OAR 660-004-0022(1)(a), OAR 660-004-002(1)(a)(B) and OAR 660-004-0022(3)(c) are all applicable to the requested exception and has provided findings related to those three citations. Each of the identified rules separately below to assess whether the “reason” or “need” for this project is sufficiently demonstrated and supported by evidence in order to find that the project meets the criteria in OAR 660-004-0020(2)(a).

OAR 660-004-0022: Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)
An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s)... The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule...

This rule provides direction for assessing the “need”, or appropriate reasons to satisfy the first portion of the Reason’s Exception criteria. Given the applicants proposal, the following is applicable to the subject property.

- (a) *There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either*
- (A) *A resource upon which the proposed use of activity is depended ...; or*
 - (B) *The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

The applicant has provided several arguments to address this demonstrated need under subsection (a) and (a)(B).

1. Demonstrated need for the facility: The applicant asserts and the Board concurs that the project advances statewide policy goals and county policy goals to enhance renewable energy capacity and due to the features of the use is dependent on the availability of solar exposure and proximity to feasible interconnection locations to the existing electrical distribution system. Specifically, the project addresses State Goal 13’s requirement to utilize renewable resources, including solar “*whenever possible*” and the requirement in the Clackamas County Comprehensive Plan Chapter 3 Energy Sources and Conservation to “Conserve energy and promote energy efficiency through source development.” In addition, the proposed project supports these Goals in the following ways:
 - The proposed project will produce renewable solar energy locally in Clackamas County and that energy will be consumed in Clackamas County. This will reduce the amount of energy transferred to Clackamas over high transmission lines from long distances. Whenever energy travels in electrical lines, some of the energy is lost and wasted. It is more energy efficient to create energy where it is used.
 - Reasons exception can be sustained for arable farmland due, in large part, to the locational necessity of certain features, including transmission lines and State and Federal statutes, which are reflected in Statewide Planning Goal 13’s direction to utilize renewable resources “*whenever possible,*” the need for a project is established by a power purchase agreement (PPA). PGE will not enter into a PPA unless its system has a need for the energy or federal/state policy have identified a need to enter into a PPA. The project obtained a PPA from PGE as a Qualifying Facility under PURPA, which is a federal law that is implemented in Oregon by

the Oregon Public Utility Commission (PUC). The PUC has directed PGE to enter into PPAs with Qualifying Facilities at the pre-established avoided costs that are approved by the PUC. The established approved rates are calculated by PGE to be their avoided cost of obtaining traditional carbon based power. Therefore, the energy generated by the project represents a direct offset of traditional energy generation for renewable energy generation without any increased costs to the public, thus “*minimizing the depletion of non-renewable sources of energy.*”

The 2016 State of Oregon recognized the benefits and the need for additional renewable power in Oregon in Senate Bill 1547 which set the Renewable Portfolio Standard for large utilities in Oregon at 50 percent of all power demanded by each utility. This project will assist with addressing the State Renewable Portfolio Standard. The power created by the facility will be used to offset carbon based power that PGE would have had to purchase to serve its electricity demand in Oregon.

- The availability and desired use of solar generation under this Goal is further informed by state and federal policies that both encourage effective utility scale projects in the state and remove barriers and impose requirements that shape the siting characteristics of these projects, as noted by the following:
 - The 2015-2017 State of Oregon Energy Plan, states that “*energy conservation is the foundation of Oregon’s energy policy and traditionally its first “fuel” of choice to meet energy demand*” and that “*second to conservation and efficiency is the development of clean energy resources*”.
 - Perhaps the most specific compelling argument that Goal 13 intends for planning agencies to utilize utility scale solar “*wherever possible*” and that there is a need for additional “*clean energy resources*” in Oregon is found in Oregon’s Renewable Portfolio Standard and the Oregon Clean Electricity and Coal Transition Act (ORS 469A), which requires large electric utility providers to meet increasing targets of renewable energy to retail electric customers and to remove coal-fueled energy generation for Oregon’s energy rates by 2030.
2. Demonstrated need for scale and location of facility: With respect to (a)(B) “*special features of qualities that necessitate its location on or near the proposed exception site*”:
- Solar project sites must have specific qualities in order to be viable for a utility scale solar energy project. Solar projects require a potential site to have minimal elevation change, high exposure to sun light, and close proximity to an existing electric distribution or transmission line that will not require expensive upgrades to interconnect the proposed Project.

- The proposed Project is required to interconnect to the Sandy substation that is located approximately two (2) miles northwest of the subject property per the interconnection agreement with PGE. Two (2) miles is the maximum distance from the substation that this Project could be located and still be financially viable. The existing electric distribution lines that connect to the Sandy substation that are large enough to interconnect the Project run north and south on Highway 26. The Project must be located within approximately 2 miles from the substation and close to the existing large distribution electric lines for the Project to be economically viable due to interconnection costs.
 - The scale of the facility (10 megawatts) is based on the existing capacity of the Sandy substation which is capable of interconnecting the Project at the 10MWac size without major upgrades to the substation equipment. The existing size of the substation is based on the local electricity demand that the Sandy Substation serves. Much if not all of the electricity produced by the project will be consumed locally in the City of Sandy and surrounding areas.
 - The Power Purchase Agreement (PPA) with PGE to provide wholesale power to PGE for re-sale to the public is based on the 10MWac project size that is based on the existing capacity of the Sandy substation.
 - In order for the project to serve the demand on the Sandy substation as described above, the project must be located within the distribution network connected to the Sandy substation. A project located on the distribution network of a different substation would be servicing the demand on that distribution network, not the Sandy network. Electricity will flow to the closest demand source to where the energy is interconnected to the grid. Therefore, the energy injected into the Sandy distribution grid will service the demand on that grid through the Sandy substation. Additionally, energy interconnected to the transmission network will not provide the energy conservation benefits that the Project provides and wouldn't necessarily serve the Sandy area demand. A project connection outside the Sandy distribution system is not an alternative to the Firwood Solar Project. It would be a different project entirely because it would be serving a different demand and a different purpose.
3. Need for minimum of 70 acres. Per the National Renewable Energy Laboratory (NREL), single axis tracking projects require an average of 8.7 acres to 10 acres per MWac. This equates to an average of 87 to 100 acres for a 10MWac project. The applicant notes that the proposed project is able to improve on the NREL study averages, with a total size of approximately 70-80 acres, partly due to the regular shape and north-south orientation of the subject property and further states that other less uniform properties would require more acreage to achieve 10MWac.

The Board finds the analyses and findings outlined by the applicant and noted above are sufficient to demonstrate need for the project, based on “*one or more of the requirements*”

of Goals 3 to 19” and that the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site

To supplement these findings of demonstrated need, however the applicant further addressed the criteria specific to rural industrial uses. There appears to be nothing in the rules that precludes one from using the types of arguments that are listed under rural industrial to supplement the above-mentioned arguments to justify the “reason” or “need” for the project in this specific location.

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:

- (a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;*
- (b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or*
- (c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.*

The findings related to (c) above can be broken down into the following five arguments.

1. Significant comparative advantage. The same justifications discussed above are relevant to address the comparative advantage due to a location near, specifically an energy facility – the Sandy substation. In short, as the need for more renewable energy sources increases in the state, facilities like those proposed need to be constructed to accommodate both increased demand from population growth and to support the statutory requirement imposed on large electric utilities to provide an increasing percentage of retail electricity from renewable sources.

Financial feasibility and need for the project to pay for all the interconnection costs necessitate the solar energy generation facility be in proximity to the substation. The applicant has identified two miles as the maximum distance a project can be from the substation and remain feasible. The Board has no reason to doubt that assertion for an industry expert and has seen no evidence to the contrary.

2. Benefit the county economy. The proposed project would contribute to the local economy by creating jobs, creating demand for local goods and services, and providing tax revenue to the County. The jobs created by the project would occur

primarily during construction. At its peak, the Project would support approximately 100 construction jobs. During the operational phase of the Project, local labor would also be required for the ongoing maintenance of the facility. The construction and operations of the facility would also create demand for equipment and services from the local community that the property currently does not require. Specifically, the National Renewable Energy Laboratory (NREL) Jobs and Economic Development Model estimates that the Project would spend approximately \$53,000 a year on local labor and approximately \$35,000 a year on materials and equipment during the operational phase of the Project.

The Project would also provide significant tax revenue to the County. The property is currently under an agricultural exception for property taxes which reduces the property taxes to a negligible amount on an annual basis. The Project would cause the agricultural exception to be removed for the project area and lead to an increase in the property taxes collected from the property. While the project area currently has an approximate tax liability of \$1,000 dollars annually, the Project would be assessed at \$7,000/MWac for a total of \$70,000 annually in property taxes. Since, the Project would not add additional impacts to County resources, the property taxes paid would be nearly entirely additive to the County budget.

3. Minimal loss of productive resource land. As noted earlier, this property contains mostly low-value farmland soils. Portions of the proposed site are currently being used for limited agricultural production, but this land is below average producing land. The property owner testified that despite trying multiple different crops on this land, the land has proven to be financially not viable for agriculture. Approximately 22 acres of land that the solar facility will use are not in active production. Further, the land could be put back into productive state at the end of the life of this project. So while this project would result in the temporary loss of some active farmland, this land had limited production ability and the proposal represents only a temporary change on use on the land, which will be returned to its existing state at the end of the life of the project.
4. Lost resource productivity and values. Similar to the previous argument, the land on the subject sites has limited value for agricultural production and any loss of production would be temporary as the site will be returned to its current state at the end of the life of the project.
5. Specific transportation and resource advantages. In this instance, the Board finds it appropriate to argue that the specific transportation advantage can relate the transport of the energy. Specifically, this project would produce renewable energy locally in Clackamas County and that energy will be consumed in Clackamas County. This will reduce the amount of energy transferred to Clackamas County over high transmission lines from long distances, which will, in turn be more efficient because energy is lost the farther it travels in electrical lines.

In summary, OAR 660-004-0022 does not require compliance with all three of the reasons listed in this section; rather it is a list of acceptable reasons. This application does meet the standard to justify the need under both the rural industrial reasons identified in subsection (3)(c), as well as the reasons identified under subsection (1)(a)(B), as the project specificity addresses Goal 13 and energy needs and priorities addressed in the 2015-2017 State of Oregon Energy Plan and has demonstrated why there is a need to site this facility on or near the location of the subject property.

The Board finds that the applicant has demonstrated through substantial evidence that this criterion is met.

- b. *“Areas that do not require a new exception cannot reasonably accommodate the use.”*
This portion of the rule requires consideration of possible alternative locations for the use that would not require a new exception; in other words, existing exception areas or other locations inside an existing UGB. Regarding the scope of the alternatives analysis; OAR 660-004-0030(2)(b)(C) provides that *“Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.”*

Based on the requirement of this rule the applicant prepared an alternatives analysis. In the analysis found in the applicant’s narrative and attachments, the Board has ascertained that the following are the minimum requirements for an alternative site to locate the 10 megawatt photovoltaic solar generating facility, including:

- Maximum of two (2) miles from the Sandy substation. Financial feasibility and need for the project to pay for all the interconnection costs necessitate the solar energy generation facility be in proximity to a substation and that each substation represents its own market; a project connection outside the Sandy distribution system is not an alternative to the Firwood solar project. It would be a different project entirely because it would be serving a different demand and a different purpose.
- Minimum of 70-80 acres
- Relatively free to physical constraints, flooding hazards
- Maximum slope of 5%.

To meet the standard in OAR 660-004-0020 (2)(b), the exception must meet the following requirements:

- (A) *The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified.*

The applicant provided maps and descriptions of the study area (2 miles around the Sandy substation and all sites identified within that area that contained at least 80 acres. **This criterion is met.**

(B) *To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:*

(i) *Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*

The applicant provided an analysis of all the sites of large enough size within the identified study area and concluded that the study area does not contain any tract of non-resource land, non-high value land outside of urban areas or non-arable agricultural land that satisfies the locational factors necessary to feasibly site a facility comparable to the Solar facility. Thus, there are no tracts within the alternatives analysis study area that can reasonably accommodate the Solar Project without a goal exception.

The Board concurs with that finding based on the following:

1. The applicant correctly asserts that outside urban areas, there are two scenarios in which a solar facility of comparable size and generation capacity to the project can be sited without a goal exception: (i) on non-arable agricultural land; and (ii) on non-resource land.
2. Only eight (8) sites were identified as large enough to accommodate the proposed project within the study area and based on the zoning and high-value and arable soils, each of those sites would require a similar Exception to either Statewide Planning Goal 3 (Agriculture) or Goal 4 (Forest). In addition, a number of the sites identified have other constraints that would limit feasibility like slopes or no access to a distribution electrical line.
3. Further, “public utility facilities” are allowed with a Conditional Use permit, on non-resource lands in the county if zoned Rural Commercial (RC), Rural Industrial (RI), Farm Forest (FF-10), or Rural Residential (RRFF-5). Given the fact that most rural residential lands were initially zoned as such because of their parcelization and actual residential usage of the properties, the Board finds it is “*fair to generalize*” that rural residential areas typically are too heavily parcelized to accommodate the proposed uses and that given the generally higher cost of residential land, to assemble enough land to create a minimum 70-80 acre parcel, would be cost prohibitive. The same would hold true for the sites within the study area that are zoned RC or RI. Generally speaking, the county has very little land zoned RC or RI, and parcels with

either of those zoning designations are typically much smaller than required acreage and are not in such an abundance that they could be assembled to develop. Within the identified study area, there is one parcel zoned rural industrial, which is approximately 27 acres and partially developed, and several small (less than 4-acre) rural commercial properties, which are also developed.

In their August 25, 2017 letter, the Department of Land Conservation (DLCD) identified a potential alternative site that is 73.49 acres and zoned FF-10, located on the southwest corner of Highway 26 and Kelso Rd. As noted in OAR 660-004-0020(2)(b)(C), if an alternative site is identified by another party in the goal exception process an applicant it required to proceed an evaluation of that specific site. The identified site is not be a reasonable alternative for several reasons:

1. This site is located more than two miles from the substation and is therefore outside the area where a project of this size and type would be financially viable.
2. The applicant has reached out to the property owner several times and has received no indication the owner is interested.
3. The site is almost entirely in agricultural production and timber, so although a goal exception would not be required to site a solar facility on this site, it is very likely that the actual impacts to agriculture and timber production would likely be much higher than on the subject site.

Therefore, based on the evidence provided by the applicant and analysis as discussed in the application and above, the Board finds that indeed the proposed project cannot be reasonably accommodated on non-resource land that would not require an exception, nor are there any tracts or resource lands within the study area on which the project could be sited without having to obtain a Goal Exception.

This criterion is satisfied.

- (ii) *Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?*

The applicant provided no evidence or discussion directly related to his assertion that there are no sites already committed to non-resource uses that could accommodate the proposed solar project. However, the Board finds it is easy to address this criteria and concur with his finding.

1. Because of the specific nature of the Goal Exception requirements under OAR 660-033-0130(38), whether or not an alternative site on resource land is

already committed to non-resource uses is fairly irrelevant. The trigger requiring the goal exception is simply soil capability and size. It is reasonable to conclude that because committed lands would require the same goal exception cannot be assumed to any more “reasonably accommodate” the use than the subject property; and

2. There are no unincorporated communities within or near the study area identified for this project. The closest unincorporated communities are over 6 miles (as the crow flies) from the subject and the Sandy substation. This distance puts them well outside the 2-mile maximum identified for a financially-feasible project.

This criterion is satisfied.

- (iii) *Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*

None of the sites identified by the applicant were inside an urban growth boundary. Immediately adjacent to the project site is the southernmost boundary of the City of Sandy’s UGB. The City of Sandy recently completed an assessment of supply and demand within their UGB and determined there was a need to expand the boundary, which means that all the land within the UGB has been determined as needed for future urban development in the city.

Indeed it can easily be argued that a large power generation facility is not an appropriate or desired use within an urban growth boundary and is not an urban use at all. These facilities are land intensive and do not support urban goals and policies related to desired housing and employment density and efficient use of land; and they do not need access to urban services like sewer and water.

And perhaps most importantly, generally speaking, a city’s UGB is sized based on expected population and employment growth at expected urban densities. Eliminating the ability of a large parcel of land to accommodate population or jobs growth at those urban densities, and replacing it with a solar facility use that may provide one job for that 70-80 acres, could create a significant impact on a city, including possibly necessitating an expansion of the UGB to find another location to accommodate the expected urban levels of growth.

Given these factors, the Board finds that lands within an urban growth boundary (UGB), and specifically the neighboring UGB of Sandy, are not a reasonable alternative for the proposed use.

This criterion is satisfied.

- (iv) *Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*

No additional public facility or service is proposed.

This criterion is not applicable.

- c. *“The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.”*

The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts.

Based on the evidence, the analysis under this rule need only be a “*broad review*” of similar types of areas. There is not a requirement of needing an alternative sites analysis for the long-term environmental, economic, social and energy consequences for a use at the proposed site unless an alternative site is specifically described with facts to support the assertion that it has fewer adverse impacts through the review process.

Two factors specific to the subject property make it a somewhat simple analysis to address this criterion:

1. The subject property contains no structures that would need to be removed, approximately 50-60 acres would be removed from Christmas tree production for the solar facility (22 of the acres to be used are currently not in production). However, as noted by the applicant and the property owner, the poor soils and lack of irrigation on the subject site make it a below-average producer. Despite this issue, the property owner will continue to try to cultivate the portions of the property not developed with the solar facility and his adjoining acreage currently in Christmas tree production and utilize the income from the solar facility to work to make these lands more productive and lessen the net impact even further; and

2. The size, orientation and topography of the subject property has enabled the applicants to efficiently design the site to utilize a lower-than-average number of acres that is typical for a single-axis tracking solar facility, thus creating the lowest possible impact.

Environmental Consequences: The subject property contains no wetlands, streams or other environmentally-sensitive areas. Developing this site with a solar facility would certainly have fewer environmental impacts than developing the sites identified in the alternatives analysis that are in agricultural production and/or contain higher-value farmland and contain environmentally-sensitive areas.

Further, the applicant states that these types of projects have very limited impact to land and there are no impacts that are not reversible. The technology deployed can be removed from the site at the end of its lifecycle very easily with the use of hand tools and light equipment. There will be no impact to wetlands, cultural/archaeological considerations, critical habitat or endangered species, and the 1200C permit from the Department of Environmental Quality will regulate the offsite stormwater discharges. Photovoltaic sites also require very limited amounts of water. Each panel will require about a gallon of water per year cleaning purposes. This equates to a lower water requirement than very low density residential development. The Project therefore will not impact the water table.

By design, photovoltaic solar generation facilities create minimal impacts and do not permanently impact the land. The construction of the proposed project involves driving posts supporting the solar panel arrays, with minimal soil compaction or topsoil removal. Upon decommissioning, the property will be returned to substantially the same condition and will be again suitable for and capable of supporting agricultural activity. In other words, in general, this type of facility has minimal environment consequences but siting the proposed project on the subject property, which is able to design the site more efficiently than other properties with different shape and orientation ensures those impacts and consequences are the same or lower than other properties, that would likely require more acreage to site a 10-megawatt facility.

Economic and Social Consequences: To address economic and social consequences, the applicant argues that the project

- *requires no specific services and will not adversely impact the transportation system. While the Project does not impose a significant demand on public services, it will nevertheless support the tax base to provide such services. The Project will significantly add to the local property tax base (estimated at \$70,000 per year or based on the proposed 10 MWac project size); and*
- *proposes leaving existing landscaping/vegetation in place to mitigate visual impacts from SE Trubel Road and from SE Firwood Road. The maximum height of the solar panels is roughly 6-7 feet, which would allow for the landscaping to completely obscure the Project from public view and remove the concern of visual impact.*

The Board agrees that the project would have a positive economic effect because of temporary jobs created and longer-term increases in taxes generated. It is reasonable to assume that any other site on which the facility would be developed would have a similar economic impact, but there is no reason or evidence to believe another site would be have a better economic consequences that the subject.

With respect to social consequences, the Board also concurs with the applicant. The homes that are in the vicinity of the project will benefit from the visual screening to ensure impacts are minimized. Again, there is no reason or evidence to believe another site would be have a better social consequences that the subject, rather other sites are likely to have more development, agricultural activities and homes than are found around the subject.

Energy Consequences: To address energy consequences, the applicant states that the proposed project *will reduce the County's and the state dependence on high-cost nonrenewable, inefficient and out-of-state sources of energy. The Project will benefit the public health and safety of the people of Clackamas County and is aligned with many local and statewide goals. Solar photovoltaic projects are known for its clean, non-pollutant technology.*

Although it could be argued that a solar facility in any location would have the same energy consequences, the threshold for this criterion is that the development on the subject not generate “significantly more adverse impacts”. Having a similar impact meets the intent of this criteria.

Conclusion: The Board finds that when the analysis is focused on the question asked in the rule, it is reasonable to conclude that the proposed use would not generate significantly more adverse ESEE impacts than would typically result from the same proposal being located in another area requiring a goal exception.

This criterion is satisfied.

- d. *“The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.” The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

The applicant provides a description of neighboring uses and the area surround the subject property, which consists of farmland to the west and northwest and rural residences to the south and east, across Highway 26, and limited commercial uses to the north along Highway 26. This criteria does not require the use not have any impacts; it

requires that any impacts from the development must be able to be mitigated in order to make the development compatible with neighboring uses.

Regarding this criterion, the applicant contends *the proposed photovoltaic solar power generation facility is a passive use that does not impact surrounding uses of any kind. They do not emit smells or sounds that are audible beyond the project fence. Once construction is complete, traffic to the Project site is minimal. The Project will leave existing landscaping outside the perimeter security fence in place along SE Trubel Road and along SE Firwood Road in order to provide a visual screen from the project site. This will mitigate any concerns about viewing the project after construction.*

The Board agrees with the applicant's assertions. There is no evidence to suggest that a freestanding solar array will substantially limit or impair surrounding forest or farm operations or nearby residences. No additional measures would be necessary to reduce adverse impacts.

This criterion is satisfied.

3. *If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.*

The exception does not involve more than one area for which the reasons and circumstances are the same.

This criterion is not applicable.

4. *For the expansion of an unincorporated community described under OAR 660-022-0010, including an urban unincorporated community pursuant to OAR 660-022-0040(2), the reasons exception requirements necessary to address standards 2 through 4 of Goal 2, Part II(c), as described in subsections (2)(b), (c), and (d) or this rule, are modified to also include 660-004-0020(4)(a) through (b).*

This "Reasons" Exception is not within an unincorporated or urban unincorporated community.

This criterion is not applicable.

(C) Summary of Findings for the "Reasons" Exception

The Board finds that the applicable criteria for a "Reasons" exception to Goal 3 have been satisfied by the applicant and the evidence in the record, including evidence found both in the original application materials, submitted on May 16, 2017, and in the supplemental findings, submitted on August 16, 2017 and August 31, 2017.

SECTION 3.3. OTHER APPLICABLE STATUTES AND RULES FOR SITING A SOLAR FACILITY IN EFU

(A) Oregon Administrative Rule 660, Division 33:

Oregon Administrative Rule, 660 Division 33 (Agriculture) contains provisions specific to photovoltaic solar power generation facilities, arrived at in this case through conditional use criteria in the EFU Zone Table 401-1, Utility and Solid Waste Disposal Facility Uses. Division 33 applies to a multitude of fact circumstances and as such is lengthy. The Board sees no benefit responding to inapplicable portions of Division 33 and has instead culled through the language and addresses only provisions relevant to this proposal.

OAR 660-033-0130(38): *A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:*

(e) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84."

The proposal meets the definition of "photovoltaic solar power generation facility." The proposed facility will be located approximately 70-80 acres of the 122-acre site and is expected to produce as much as ten (10) megawatts alternating current (MWac) of renewable electric power. The facility will be interconnected with the Portland General Electric Company's distribution system via connection to existing power lines located adjacent to the site. The facility infrastructure will include solar arrays on steel racking, consisting of photovoltaic modules oriented toward the south (generally) and placed upon a single-axis tracking system, inverters (to allow for transmission to the utility grid), connections to the existing power lines, as well as necessary access and safety features (including access roads, perimeter roads, and fencing.

- (g) *“For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.*

Over 90% of the subject parcel is composed of over acres of low-value Class 3 and Class 6 soils, per the NRCS, which means that the property are considered “low-value farmland”. However, the property is currently and has in the past been used for agricultural operations and it is therefore considered “arable” land, per the definition found in OAR 660-033-0130(38)(a).

As noted previously, the proposed project will encompass more than 20 acres of arable farmland, and therefore is required to take an exception to Statewide Planning Goal 3. As discussed in detail in Section 3.2 (above) and in the applicant’s original and supplemental narratives, it has been demonstrated that this proposal meets all the applicable criteria for the Reason’s Exception to Goal 3.

The governing body or its designate must find that:

- (A) *“The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:*

- (i) Non arable soils are not available on the subject tract;*
- (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or*
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;”*

The use of the term “or” in this criterion means that only one of (i), (ii), or (iii) need to be met to justify locating the project on arable or high-value farmland soils. The applicant has addressed all three, but the Board finds that criteria (ii) and (iii) are the only provisions relevant in this case.

As noted by the applicant, the only soils on the property that might be considered non-arable are the four (4) acres of Class 6 soils found in the southwest and southeast corners of the tract. That amount of land is not sufficient to locate the proposed facility, but those four acres will be completely utilized for the project.

The applicant notes that, *per the NCRS all of the soils on the subject tract are high-value or arable except for approximately 4 acres of class 6 soil located in the Southwest and Southeast corners of the tract. Both of the class 6 areas are included in the Project area. Additionally, the project avoids most of the high value soils and maintains a maximum disturbance to high value soil areas of less than 12 acres.*

There are not enough non-arable soils on the tract to locate the project and avoid all of the high value and arable soils.

The Board that it is apparent that the applicant is maximizing the area available for the solar facility in order to make it viable. The facility simply cannot locate within the BPA easement area, even though it has lower-value soils.

In addition, as noted by the applicant, the subject property is currently used for agricultural purposes, but only to a limited extent. The project avoids the active agricultural areas to the extent possible. Also, the revenue that the land owner receives from lease of the land for this project will provide capital for equipment upgrades and investment into the other land that remains in production by the owner. This will allow for continued agricultural production and potentially an increase in production from those lands.

The project will utilize that land but will need to locate on the high-value farmland soils as well. As discussed in detail in Sections 3.2, the proposed project, in order to maximize efficiencies and the existing capacity of the Sandy substation, needs to be at or near a 10 megawatt facility. The applicant further notes that *per the National Renewable Energy Laboratory (NREL), single axis tracking projects require an average of 8.7 to 10 acres ore MWac....The subject project is able to improve on the NREL study averages, with a total size of approximately 70 acres, partly due to the rectangular shape and north-south orientation of the subject property.*

In other words, the proposed facility reflects a more efficient use of the land than average facilities of the same type, but even using this efficiency, it cannot possibly locate only on the seven non high-value farmland soils on the subject property, and maintain the needed efficiencies of the 10 MWac size. The Board concurs with the applicants findings regarding this criterion.

This criterion is met.

(B) *“No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4.”*

While the applicant claims that the project will be located on fewer than 12 acres of high-value farmland soils, The Board finds that based on the mapped soil locations and the proposed site plan, identified above, that all of the high-value farmland soils on the site would be used for the facility. There are 12.1 acres of high-value farmland soils on the subject property. Therefore an exception is required.

As discussed in detail in Section 3.2 (above) and in the applicant’s original and supplemental narratives, it has been demonstrated that this proposal meets all the applicable criteria for the Reason’s Exception to Goal 3.

This criterion is met.

- (C) *“A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:*
- (i) *If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.*
 - (ii) *When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.”*

The applicant provided a map and recent aerial photo that visually demonstrates there are no solar facilities constructed within the required study area. Through a search of recent land use applications for solar facilities, County Planning staff confirmed that there are no constructed or approved solar facilities within one mile of the proposed project. **No further study is necessary under this criterion.**

- (D) *“The requirements of OAR 660-033-0130(38) (f)(A), (B), (C), and (D) are satisfied.”*

OAR 660-033-0130(38)(f) requires the following:

- (A) *“The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;”*

The proposed photovoltaic solar power generation facility will locate on virtually the entire property that is unencumbered by the BPA easement and the dwelling. While there will be some impact to the exciting agriculture operations on the site by physically reducing the area that is cultivated, the remaining area left in agriculture will be in one large block, within the sizable BPA easement area. Further, the

property owners have stated that the income from the solar facility will allow them to invest in what land is still in production on this site and on adjoin site he owns to try to find ways to make the land more productive.

Furthermore, as noted by the applicant, *the Project is passive in nature. As is discussed in detail in the application, the project doesn't emit smells, airborne emissions, or significant noises. Additionally farming operations will be able to continue up to the Project perimeter fence without any impact to the project.*

The proposed facility will not interfere with existing agriculture endeavors that remain on site. **This criterion is met.**

- (B) *"The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;"*

The Applicant notes that the project will help to reduce soil erosion by complying with the Oregon Department of Environmental Quality 1200C permit during construction and by maintaining a base of standing vegetation through the site during the operational phase of the Project. Further, the applicant included an Erosion and Sedimentation Control Plan, which indicates that unnecessary soil erosion will be avoided or remedied. **This criterion is met.**

- (C) *"Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;"*

The Applicant notes that *construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. Light utility vehicles and other track-mounted equipment will be deployed for the construction of this Project. The majority of the installation of equipment is done manually with hand tools and construction laborers that are on foot. There is actually very limited ground disturbance for the acreage of the Project and further, our lease requires that we reclaim the site at the end of its lifecycle.* The applicant did not provide a plan related to soil compaction, but indicated a willingness to do so. The Board finds that this criterion can be satisfied with the addition of a condition of approval to include and comply with the findings of a Plan that includes measures to

avoid unnecessary soil compaction or to remedy it in a timely manner through de-compaction.

This criterion can be met.

- (D) *“Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;”*

The Applicant submitted a weed control plan, which contains measures they plan to take to prevent the unabated introduction or spread of noxious weeds and other undesirable weed species. The Board finds that in order to satisfy this criterion, the weed control plan will need to provide more specific measures and a long-term maintenance agreement. However, this criterion can be satisfied with the addition of a condition of approval to include and comply with a more detailed weed control plan and long-term maintenance agreement.

This criterion can be met.

- (i) *“The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).”*

The Board has included this condition the recommended Conditions of Approval. **This criterion can be met as conditioned.**

- (j) *“Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.”*

The applicant states that *the project will be removed from the site within six months of the end of the project life and the site will be returned to its pre-project state.* The applicant has identified the project life as a *minimum of 35 years.* As a condition of approval, Pacific Northwest Solar, LLC would be responsible for retiring the facility. Given the salvage value at the end of the useful life, a bond or other security for retiring the components is not likely necessary.

This criterion can be met as conditioned.

(B) Statewide Planning Goals and Guidelines

- a. Goal 1: Citizen Involvement. *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notice. This application has been processed consistent with the requirements in Section 1300 including notice to individual property owners within 750 feet of the subject property, notice in the local newspaper, and notice to affected agencies, dual interest parties and to the Firwood Neighbors CPO. Public hearings will be held before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input. The Department of Land Conservation and Development (DLCD) was notified of this proposal; this agency provided a response which identified several concerns regarding the applicant's proposal.

This application is consistent with Goal 1.

- b. Goal 2: Land Use Planning. *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments: Firwood Neighbors CPO, Sandy Fire District, City of Sandy, Oregon Department of Agriculture, Portland General Electric, Division of State Lands (DSL), and the Department of Land Conservation and Development (DLCD).

The subject property is not located within the Urban Growth Management Area (UGMA) of any city. Therefore, this application will not affect the Comprehensive Plan of any city.

Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision. Based on the analysis and findings in this report, the Board concludes that proposal is consistent with the County Comprehensive Plan.

This proposal does require an exception under Goal 2. As discussed in Section 3.2, this proposal meets all the relevant criteria for the goal exception and therefore the proposal in compliance with this goal.

This application is consistent with Goal 2.

- c. Goal 3: Agricultural Lands. *To preserve and maintain agricultural lands.*

The subject property is considered Agricultural land as defined in the Statewide Planning Goals or County Comprehensive Plan. The proposed use is consistent with Goal 3 because it will not permanently convert agricultural lands to non-agricultural lands but will be a long-term lease without permanent damage to the soils on the site. The proposal exceeds the threshold allowed under OAR 660-033-0130(38); however and therefore an exception has been sought. As discussed previously, the current proposal meets the required criteria for the goal exception.

- d. Goal 4: Forest Lands. *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The subject property is not considered Forest land as defined in the Statewide Planning Goals or County Comprehensive Plan.

Goal 4 is not applicable.

- e. Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. *To conserve open space and protect natural and scenic resources.*

Goal 5 resources include open space areas, scenic and historic resources and other natural features. Chapter 3 (Natural Resources and Energy) and Chapter 9 (Open Space, Parks and Historic Sites) of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

There are no Goal 5 resources identified in the Comprehensive Plan located on the subject property.

Goal 5 is not applicable.

- f. Goal 6: Air, Water and Land Resources Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

The County Comprehensive Plan and ZDO include adopted implementing regulations to protect the air, water and land resources. The County also has implementing regulations to accommodate all waste and process discharges in order to protect watersheds, airsheds and land resources. These regulations will be applied to any future development proposals on the property and to ensure the protection of the affected air, water and land resources. No changes are proposed to these regulations.

Goal 6 is not applicable.

- g. Goal 7: Areas Subject to Natural Disasters and Hazards: *To protect life and property from natural disasters.*

The subject property is not located within any designated floodplain area or other areas

known to be subject to natural disasters and hazards. The County has implementing regulations to ensure the protection of areas subject to natural disasters. No changes are proposed to these regulations.

Goal 7 is not applicable.

- h. Goal 8: Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.*

This proposal does not involve any designated recreational or open space lands, affect access to any significant recreational uses in the area, or involve the siting of a destination resort. This proposal will have no impact on the recreational needs of the County or State.

Goal 8 is not applicable.

- i. Goal 9: Economy of the State: *"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens."*

This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan policies.

OAR 660-009 (Industrial and Commercial Development) implements Goal 9. Pursuant to OAR 660-009-0010(1) the requirements and standards in OAR 660-009 are only applicable to areas within urban growth boundaries. Therefore OAR 660-009 is not applicable.

Goal 9 is not applicable.

- j. Goal 10; Housing: *"To provide for the housing needs of citizens of the state."*

This proposal does not include any housing; therefore Goal 10 is not applicable.

Goal 10 is not applicable.

- k. Goal 11; Public Facilities and Services: *"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

This proposal will not require the extension of any new public facilities to support rural industrial uses; therefore Goal 11 is not applicable.

Goal 11 is not applicable.

- k. Goal 12: Transportation: *To provide and encourage a safe, convenient and economic transportation system.*”

Goal 12 is implemented by Oregon Administrative Rules Chapter 660, Division 12, the Transportation Planning Rule (TPR). Regulations described in the TPR are largely directed at the development of a jurisdiction’s Transportation System Plan (TSP) as a whole or at a land use regulation and land use changes that affect the transportation system.

OAR 660-012-0060 outlines the TPR requirements that are applicable in consideration of a proposed change in Comprehensive Plan and relates specifically to a determination about whether a proposal would significantly affect an existing or planned transportation facility.

The applicant states, and the Board concurs that the proposed project will not affect the transportation facilities because it will not result in any significant effect on the county’s transportation facilities. The proposed project consists of an unmanned power generation facility which is expected to generate an estimated four trips per year to the site for maintenance and inspections.

Goal 12 is satisfied.

- l. Goal 13: Energy Conservation: *To conserve energy.*

The proposed amendments do not include any changes to the county’s Comprehensive Plan policies or implementing regulations regarding energy conservation and compliance with Goal 13. However, being a facility that will produce renewable solar energy locally in Clackamas County and that energy will be consumed in Clackamas County, it will reduce the amount of energy transferred to Clackamas over high transmission lines from long distances. It will also create renewable energy that will be wholesaled to Portland General Electric for use by the general public and the energy generated by the project represents a direct offset of traditional energy generation for renewable energy generation without any increased costs to the public. The attributes of the proposal serve to further the requirements under Goal 13 to utilize renewable resources “whenever possible” and to “seek to minimize the depletion of non-renewable sources of energy,” as is discussed in detail in Section 3.2 of this report.

This application is consistent with Goal 13.

- l. Goal 14: Urbanization: *To provide for an orderly and efficient transition from rural to urban land uses.*

The subject property is located just outside of Sandy’s urban growth boundary (UGB). This proposal does not involve a change in the location of the UGB, a conversion of rural land to urban land, or urbanizable land to urban land.

Goal 14 is not applicable.

- m. Goal 15: Willamette River Greenway: *To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The subject property is not located within the Willamette River Greenway.

Goal 15 is not applicable.

- n. Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).

Goals 16, 17, 18 and 19 are not applicable in Clackamas County.

The Board finds that this application is consistent with all applicable Statewide Planning Goals.

(C) County Comprehensive Plan Policies

The Board finds that the proposal is consistent with the relevant portions of the Comprehensive Plan, as summarized below.

- a. Chapter 11 (The Planning Process): This section of the Comprehensive Plan (Plan) contains a section titled *City, Special District and Agency Coordination*. The Oregon Department of Transportation, the Oregon Department of Land Conservation and Development, several special service districts and all cities within the county are on a standing list to receive notice of all proposed amendments. This level of notification furthers the goals and policies of this section of the Plan.

Chapter 11 of the Plan also contains a section entitled *Amendments and Implementation*. This section contains procedural standards for Plan amendments, requires the Plan and the ZDO to be consistent with Statewide Planning Goals and Guidelines and Metro's Urban Growth Management Functional Plan, and requires the ZDO to be consistent with the Plan. Policy 3.0 establishes the procedural standards. The process followed for Z0287-17-CP and Z0288-17-Z is in compliance with these standards. Specifically, notice was mailed to potentially affected Community Planning Organizations and Hamlets at least 35 days before the scheduled public hearing, and the Department of Land Conservation and Development and ODOT were provided with an opportunity to review and comment on the proposed amendments. Advertised public hearings are scheduled before the Planning Commission and the Board of County Commissioners to consider the proposed amendments.

- b. Chapter 3 (Natural Resources and Energy): Policy 1 from "Agriculture, Energy Sources and Conservation" encourages alternative energy source development. Preservation of natural resources, including water resources, habitat conservation, wildlife and distinctive resource areas are found in multiple policies in this Chapter. Development of renewable energy sources such as photovoltaic solar as proposed through this application satisfies

many Plan policies. In addition,

- Agriculture, Goal 2 states, “*Maintain the agricultural economic base in Clackamas County and the State of Oregon.*” As noted, the project will not cause a negative impact to the agricultural economic base due to the proposed project site being used only for limited agricultural economic production. Agricultural production will remain on a portion of the property and the owner intends to utilize some on the income from the solar facility to maximize the productivity of the remaining areas.
 - Agriculture, Goal 4 states, “*Maintain and improve the quality of air, water, and land resources.*” The Project will support this goal by maintaining water quality through maintaining the existing ground cover on the project site during the operational period of the project and it will assist with improving air quality by producing clean renewable energy for use by the local population in place of traditional carbon based energy sources.
 - Energy Sources and Conservation, Goal 1 states, “*Conserve energy and promote energy efficiency through source development, recycling, land use and circulation patterning, site planning, building design and public education.*” The project will promote this goal by using currently under-utilized land to create renewable solar energy for use by the local population.
- c. Chapter 4 (Land Use): The subject property is designated Agriculture on the Comprehensive Plan map. The Agriculture Land Use Section in Chapter 4 of the Comprehensive Plan implements the Agriculture Plan Designation.
- As discussed throughout this report, this solar power generation facility is not expected to conflict with existing or future EFU related uses on the subject property or surrounding lands.
 - Agriculture, Goal 2 states, “*Protect agricultural land from conflicting uses, high taxation and the cost of public facilities unnecessary for agriculture.*” The Project is not a conflicting use with neighboring agricultural uses due to the passive nature of the facility. Additionally, the project will not require the construction of additional public facilities that could put future pressure on agricultural land uses
- d. Chapter 5 (Transportation): Policy 20 appears to apply in this case: “*....anticipated off-site impacts caused by new development....*” Information provided by applicant and comments submitted from the Traffic Engineering Department indicate only minor additional traffic will be generated by the proposed use.

This proposal is consistent with all applicable Comprehensive Plan goals and policies.

SECTION 3.4. CONDITIONAL USE PERMIT

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 401, 1005, 1006, 1007, 1008, 1010, 1015, 1203, ORS 215.296 and OAR 660-033-0130 (38); and the Comprehensive Plan. The Board has reviewed these Sections of the ZDO and Comprehensive Plan in conjunction with this proposal and make the following findings and conclusions:

(A) Compliance with ZDO Section 1203 (Conditional Use)

1. Subsection 1203.04 of the Zoning and Development Ordinance lists the information that must be included in a complete application for a conditional use permit.

This application includes a completed land use application form, site plan, application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use and vicinity map. A Preliminary Statement of Feasibility relative to surface water management was submitted, dated May 15, 2017. All the submittal requirements under Subsection 1203.04 are included in the application. The application was submitted on May 16, 2017 and supplemental information was added to the application on August 16 and August 31, 2017.

The submittal requirements of Subsection 1203.04 are met.

2. Subsection 1203.03 of the Zoning and Development Ordinance (ZDO) lists six criteria that must be satisfied in order to approve this Conditional Use.

A. Subsection 1203.03(A): *The use is listed as a conditional use in the zoning district in which the subject property is located.*

1. The subject property is zoned EFU (Exclusive Farm Use). Section 401 of the ZDO controls land uses in the underlying EFU zoning district. Table 401-1, lists the conditional uses which are allowed. Under Table 401-1, page 401-9 “Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38)” and to ZDO Section 401.05(A)(1).

This proposal is for a photovoltaic solar power generation facility. The proposed use qualifies as a listed conditional use under Section 401, Table 401-1. All applicable criteria under OAR 660-033-0130(38), including the Exception to Goal 3 are analyzed in previous sections of this decision (Section 3.2 and Section 3.3). The Board has found this proposal to be consistent with all applicable criteria cited in those sections.

2. This proposal includes a request for a Conditional Use permit for a photovoltaic solar power generation facility on approximately 70-80 acres. The solar facility will consist of approximately 37,000 photovoltaic modules mounted on six-foot high steel

racking support structures set in rows. The entire site will be secured with a six-foot fence, with a single, gated access for vehicles. Once constructed, the facility will be unmanned except for occasional maintenance visits.

B. Subsection 401.05(A)(1) (see also OAR 660-33-0130-(5)(a)(b)) – Approval Criteria for Specific Uses:

“Uses may be approved only where such uses:

- a. *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- b. *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.”*

The applicant states that once the construction phase of the project is completed, the proposed Project is considered passive. The project will not emit smells, sounds, or other emissions. Additionally, the Project will not be effected by any farm or forest practices adjacent or nearby to the site, and therefore will not cause a change any farm or forest practices. Therefore, the proposed Project will not impact farm or forest uses outside the boundary of the Project.

Further, as noted by the applicants, the land under the approximately 80-acre project can be converted back to suitable farm land after the lifespan of the facility and will not permanently be taken out of resource use. Construction and maintenance activities would not result in unnecessary soil compaction that reduces the productivity of the soil for crop production after the lifespan of the facility. All traffic during the construction phase will be coordinated with the county road department and adjacent landowners as needed to minimize adverse impact to the local traffic. Traffic for ongoing operations (maintenance or inspection activities) is expected to be minimal, with an estimated four trips per year to the site.

The Board finds that although the applicant would be using nearly 80 acres of land identified as farmland for the proposed project, these acres would not be taken permanently out of farm use, but only for the life of this solar facility. Given the passive nature of the proposed use, it will not increase the costs or change any farming or forest activities that may exist on adjacent properties.

This criterion can be met.

- B. Section 1203.03(B):** *The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. Size and shape: The subject property is approximately 122.2 acres and roughly rectangular in shape. The submitted site plans and findings demonstrate that the property is of sufficient size to accommodate the proposed facility. As noted by the applicant, the size and shape and north-south orientation of the site are a key factor in being able to create an efficient layout and maximize energy produced on a per-acre basis. The primary reason a large portion of the site is not utilized is that it is within the 500- foot wide Bonneville Power Administration (BPA) powerline easement.
2. Topography: The subject property is relative flat, with a slight slope from the southeast. Based on need to maximize sun exposure for the photovoltaic facility this orientation is favorable.
3. Location/Use: The site is just south of Sandy, along the west side of Highway 26 and immediately northwest of the intersection to SE Firwood Rd and SE Trubel Rd. This location has been identified as within the necessary proximity to the Sandy Substation and is adjacent to an existing distribution electrical line that can interconnect the project with “acceptable upgrade fees”. The site is currently in limited agricultural production, with Christmas trees.
4. Improvements: A single family dwelling exists on the property, located on a 3.37 acre taxlot that is triangular in shape and abuts Highway 26. The solar facility is not proposed to locate on this portion of the property.
5. Natural Features: There are no known natural features, including mapped floodplain or floodway areas, landslide hazard areas, regulated streams or wetlands on the subject property.

Summary: The Board finds that the shape, use, topographical and location characteristics of the property are suitable to accommodate the proposed use.

This criterion is met.

- C. **Section 1203.03(C)**: *The proposed use is consistent with Subsection 1007.09, and safety of the transportation system is adequate to serve the proposed use.*

1. Subsection 1007.09: Transportation Facilities Concurrency
 - a. Subsection 1007.09(A): *“The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.”*

Once the facility is complete, only occasional vehicle trips (less than one per month) are expected in association with the use, for purpose of maintenance and inspection. There is no evidence in the record to suggest existing transportation infrastructure is unable to serve the use.

- b. Subsection 1007.09(B): *“Shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.”*

This proposal involves a Conditional Use permit, therefore this subsection applies.

- c. Subsection 1007.09(C): *“Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner.”*

The applicant states and the Board concurs that the proposed project will not affect the transportation facilities because it will not result in any significant impact on the county’s transportation facilities. Further, at 1007.09C(3), unmanned facilities such as cell towers are specifically exempt from this provision. The proposed development will be an unmanned facility. Based on ZDO subsection 1007.09 C3, the use qualifies for an exemption regarding transportation facilities concurrency. The principal safety concern relates to sight distances at the proposed alternate location of the driveway on SE Trubel Road. Based on Engineering staff’s site visit, sight distance measurements and the concurrency exemption, this proposal is able to comply with the requirements of ZDO subsection 1203.03 C, with the conditions of approval identified in Section 2 of this document.

2 Safety:

- a. Subsection 1007.04(D): *“Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*
- i. *No planting, signing, or fencing shall be permitted which restricts motorists’ vision; and*
 - ii. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.”*

The county’s Traffic Engineering Staff have noted the following:

- The submitted materials appear to propose a 20-foot wide driveway from Highway 26 connecting to a 20-foot wide access road. These widths are in accordance with County standards and Engineering staff has no objection to the proposed 20-foot widths.
- The applicant will be required to maintain adequate intersection sight distances for a site driveway approach intersection with Trubel Road, if a Trubel Road access is proposed and approved to access the site. Minimum required sight distances shall be provided and maintained and shall be in

accordance with Roadway Standards section 240. A minimum of 555 feet of intersection sight distance shall be provided and maintained both easterly and westerly.

- Some vegetation along the Trubel Road frontage will most likely require removal or trimming and maintenance to allow for the required intersection sight distances.
- The applicant will be required to comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards subsection 245 along the Firwood Road and Trubel Road frontages. Based on Roadway Standards Table 2-11, the minimum clear zone, measured from the edges of pavement, is 15 feet.

This criterion can be met with conditions of approval.

D. **Section 1203.03(D):** *“The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.”*

1. As has been discussed extensively, the proposed photovoltaic solar power generation facility is a passive use that does not impact surrounding uses of any kind. It does not emit smells or sounds that are audible beyond the project fence and generates very little traffic, once constructed.

The applicant has proposed to retain existing vegetation outside the perimeter security fence along SE Trubel Road and SE Firwood Road along the southern and eastern property lines in order to provide a visual screen from the project site.

The Board finds there is no evidence to suggest that a freestanding solar array will substantially limit or impair surrounding forest or farm operations or nearby residences.

This criterion is met.

E. **Section 1203.03(E):** *“The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use.”*

The Board has reviewed this proposal relative to the Comprehensive Plan and finds goals and policies from the following Sections apply: Chapter 3, Natural Resources and Energy; Chapter 4, Agriculture; Chapter 5 Transportation; and Chapter 11, The Planning Process. The applicant discusses Plan policies in submitted materials and concluded that the project is consistent with the Agricultural goals and policies as stated in Chapters 3 and 4 of the Clackamas County Comprehensive Plan and that the project supports the

Chapter 3 goals related to Water Resources, Energy Sources and Conservation, and Noise and Air Quality.

The Board summarized relevant Plan goals and policies in Section 3.3 of this report and found that this proposal is consistent with all applicable goals and policies of the County's Comprehensive Plan.

This criterion can be met.

- F. **Section 1203.03(F):** *The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000.*

(B) Compliance with Other Applicable ZDO Sections

Sections: 1006, 1007, 1008, 1010, 1015, and 1021 were reviewed.

1. Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities
Concurrency: Section 1006 of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.
 - a. Subsection 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area.

(A) Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well.

The facility as proposed will not require water service. **This criterion is not applicable.**
 - b. Subsection 1006.07 - Subsurface Sewage Disposal Standards.

(A) All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Septic & Onsite Wastewater System Programs prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County Septic & Onsite Wastewater System Programs.

The proposed use does not require subsurface sewage disposal. **This criterion is not applicable.**
 - c. Subsection 1006.08 - Surface Water Management Standards:
(A) "All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings,

foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:

1. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*
 2. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*
- (B) *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*
- (C) *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*
1. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*
 2. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the Clackamas County Engineering Division.*
 3. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Engineering signed off on the Statement of Feasibility on May 15, 2017, indicating “adequate surface water treatment and conveyance is available to serve the development tor can be made available through improvements completed by the developer or the system owner.” **This criterion is met.**

4. Section 1007, Roads and Connectivity:

a. Subsection 1007.03 – General Provisions:

- A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the*

Clackamas County Roadway Standards, the Comprehensive Plan shall control.

- B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

Frontage improvements on the Highway 26 frontage will need to comply with ODOT requirements. For this proposal, ODOT would typically require a paved driveway approach located where minimum sight distance requirements per ODOT standards are met. These details are typically addressed by ODOT staff when applicants contact the ODOT and submit approach permit applications.

An alternate access to Trubel Road is illustrated on the site plan. While the submitted materials on page 4 describe access for the project being provided by Trubel Road, a telephone conversation with the applicant's representative clarified that the principal access will be via an existing access to Highway 26 even though the submitted materials on page 15 state that the project will not access a state highway. The applicant shall obtain a permit from the ODOT for access to Highway 26.

Based on a site visit, a driveway approach does not exist at the illustrated Trubel Road location and the identified location would not comply with sight distance requirements due to the vertical curve of Trubel Road to the east. However, the site has more than 2000 feet of frontage on Trubel Road and it is likely feasible for the applicant to propose another location along Trubel Road for access that would comply with County sight distance requirements.

Adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas shall be provided in accordance with ZDO section 1015 and applicable Roadway Standards requirements. The submitted materials appear to propose a 20-foot wide driveway from Highway 26 connecting to a 20-foot wide access road. These widths are in accordance with County standards and Engineering staff has no objection to the proposed 20-foot widths. The inside radii for turns associated with the driveway and onsite perimeter road shall be a minimum of 28 feet and the outside radii shall be a minimum of 48 feet, in order to accommodate fire apparatus. Other onsite access is illustrated to be provided by 15-foot wide pathways and roads. These 15-foot wide roads shall be centered within minimum 20-foot wide clear zones. Centerline radii connecting the perimeter road to these 15-foot wide maintenance roads shall be a minimum of 50 feet. These 15-foot wide maintenance roads will provide access for vehicles and shall be constructed in accordance with Roadway Standards Drawing R100.

This criterion can be met with conditions.

5. Section 1008, Storm Drainage: This section outlines the requirements for Storm Drainage and Erosion Control. The standards of Section 1008 are applicable to this proposal.

Engineering signed off on the Statement of Feasibility on May 15, 2017 that it is feasible that the proposal can comply with the standards.

The standards of Section 1008 can be met.

6. Section 1010 Standards, Signs: This section outlines the requirements for the size, height, number, location, type, structure, design, lighting and maintenance of signs.

The applicant has no plans for permanent signage at this time. If they want to use permanent signage in the future the signs will be required to go through proper permitting. A condition of approval is warranted requiring any new signs to be reviewed pursuant to Section 1010.

The standards of Section 1010 can be met.

7. Section 1015, Parking and Loading: This section outlines the requirements for providing adequate and safe parking and loading areas for development.

- a. Section 1015.04 Automobile Parking Area Standards

Vehicle parking spaces shall meet minimum ZDO Section 1015 dimensional requirements. Table 1015-1 lists the minimum a number of parking spaces by use category. Not surprisingly the proposed use of un-manned photovoltaic facility is not included in the Table. Proposed vehicle trips associated with the use is less than one per month, by maintenance personnel. Submitted application materials show one vehicle parking space to be provided. The Board is able to find this is adequate, and the intent of Section 1015 is met as proposed.

This criterion is satisfied.

8. Section 1021, Standards, Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments: This section outlines the standards for refuse and recycling for commercial developments.

The proposed development is an un-occupied facility. Once construction is complete there will be no need for refuse/recycling facility on site. **This criterion does not apply.**

9. Section 401, Exclusive Farm Use (EFU): This section outlines allowed uses, dimensional standards and other regulations specific to property with and EFU zoning designation.

The proposed use on the subject property is not listed as a Prohibited Use in Section 401 of the ZDO. The proposed “Photovoltaic solar power generation facilities.....” is a listed conditional use in the underlying EFU zoning district, subject to OAR 660-033-0130(38) and Section 401.05(A)(1). Based on the analysis and findings throughout this report, it has been determined that the proposal satisfies those criteria.

The yard depth for the EFU zone are listed under Subsection 401.07. The proposed development will need to meet these minimum yard depths, as follows:

- 30 feet from the front property line which includes the property lines along SE Trubel Rd., SE Firwood Rd., and Highway 26.
- 30 feet from the rear property line.
- 10 feet from the side property lines.

This criterion can be met.

Chapter 4: LAND USE

AGRICULTURE

Agriculture areas are those of predominantly Class I through IV soils as identified by the United States Natural Resources Conservation Service or as identified in more detailed data; and other lands that are suitable for farm use due to soil fertility, suitability for grazing, climatic conditions, existing or future potential for irrigation, land use patterns, or accepted farming practices or are necessary to permit farming practices to be undertaken on adjacent or nearby lands.

GOALS

- Preserve agricultural use of agricultural land.
- Protect agricultural land from conflicting uses, high taxation and the cost of public facilities unnecessary for agriculture.
- Maintain the agricultural economic base of the County and increase the County's share of the agricultural market.
- Increase agricultural income and employment by creating conditions that further the growth and expansion of agriculture and attract agriculturally related industries.
- Maintain and improve the quality of air, water, and land resources.
- Conserve scenic and open space.
- Protect wildlife habitats.

4.OO. Agriculture Policies

4.OO.1. The following areas shall be designated Agriculture:

- 4.OO.1.1. Areas with predominantly Class I through IV agricultural soil as defined by the United States Natural Resources Conservation Service or identified as agricultural soil by more detailed data;
- 4.OO.1.2. Areas generally in parcels of 20 acres or larger;
- 4.OO.1.3. Areas primarily in agricultural use;
- 4.OO.1.4. Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses;
- 4.OO.1.5. Other areas in soil classes different from NRCS I through IV when the land is suitable for farm use as defined in Oregon Revised Statutes 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farm practices.

4.OO.2. Agriculturally related industries shall be encouraged.

Clackamas County Comprehensive Plan

- 4.OO.3. Land uses that conflict with agricultural uses shall not be allowed.
- 4.OO.4. New sewer facilities shall not be allowed in Agricultural areas.
- 4.OO.5. Roads shall be developed in a manner and to a level compatible with maintaining Agricultural areas.
- 4.OO.6. Education and dissemination of information on agricultural crops, methods, and technology; special tax assessment programs; and new land-use techniques should be encouraged.
- 4.OO.7. Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.
- 4.OO.8. The Exclusive Farm Use (EFU) zoning district implements the goals and policies of the Agriculture plan designation and should be applied in Agriculture areas.
- 4.OO.9. Forest zoning districts which require a minimum lot size of 80 acres or larger may be applied in Agriculture areas provided the primary uses are forest and forest-related and that permitted uses will not conflict with agricultural uses.
- 4.OO.10. Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Agriculture designation to any designation other than Forest.
- 4.OO.11. The County has adopted the following Exceptions to Statewide Planning Goal 3 (Agricultural Lands) to allow for specified, non-transportation land uses:
 - 4.OO.11.1 An Exception pursuant to OAR 660, Divisions 4 and 33 to allow for the siting of a photovoltaic solar energy generation facility on approximately 70 acres of land on the north side of SE Duus Rd on taxlot 105 of tax assessors map T3S 4E, Section 17. For findings of fact and statement of reasons, see Board Order 2017-100.
 - 4.OO.11.2 An Exception pursuant to OAR 660, Divisions 4 and 33 to allow for the siting of a photovoltaic solar energy generation facility on approximately 70-80 acres of land at the northwest corner of SE Trubel and SE Firwood Roads on taxlots 1900 & 1901 of tax assessors map T2S 5E, Section 20 and on taxlot 3300 of tax assessors map T2S 5E, Section 19. For findings of fact and statement of reasons, see Board Order 2017-_____.



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
 Clackamas County

Members of the Board:

Board Order Approving Four Previously Approved Historic Landmark
Designations Land Use Requests

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
 Assistants

Purpose/Outcomes	Adopt board orders to approve previously approved land use actions
Dollar Amount and Fiscal Impact	None identified
Funding Source	N/A
Duration	Indefinitely
Previous Board Action	Board of County Commissioners (Board) held a public hearing on October 18, 2017, at which time the BCC voted 5-0 to approve each of the four land use requests, and directed staff to draft the board orders and the findings of facts, all of which are included with this report.
Strategic Plan Alignment	Build public trust through good government
Contact Person	Nate Boderman, 503-655-8364
Contract No.	None

BACKGROUND:

On October 18, 2017, the Board conducted four separate land use hearings to consider various requests related to historic landmark designations in Clackamas County. The four applications are summarized as follows:

Z0361-17-PDR

The owner of the property, Dimitri Matveev, submitted an application to demolish a Historic Landmark – Oatfield House, 21E12AA Tax Lot 7700. The Clackamas County Hearings Officer approved the demolition on August 6, 2017. The building has deteriorated to the state that it has been declared a “dangerous” building by the Clackamas County Building Division. Applicant now requests that the Historic Landmark zoning overlay be removed and that the required changes be made to the relevant zoning maps.

Z0605-09-HL

The owner of the property, Brad Ellsworth, submitted an application to demolish a Historic Landmark- Charles Livesay House, 22E28CA, Tax Lot 400. Extensive foundation repair resulted in major structural damage. The Historic Review Board (“HRB”) examined the structure and

concurred that the historic integrity of the building has been completely compromised. The HRB recommended removal of the Historic Landmark zoning overlay and that the required changes be made to the relevant zoning maps.

Z0266-17-Z

The owners of the property, the Brush and Palette Art Association, submitted an application to designate the W.A. Shaw building, 22E18CD Tax Lot 900, as a Historic Landmark. The building was constructed in 1910. Its features include the narrow rectangular volumes, arranged at right angles and covered with gable roofs. The building was constructed to house the real estate company who was selling subdivision lots in Oak Grove and Jennings Lodge in the early 1900s. It later became the Jennings Lodge Community Club. In 1986, the building was sold to the Brush and Palette Art Association. It is a visual landmark in the area. It received 60 points from the Historic Review Board during its evaluation. A minimum of 40 points is required for designation. The Historic Review Board recommends that the W.A. Shaw building be designated a Historic Landmark and that the required changes be made to the relevant zoning maps.

Z0320-15-HL

The owner of the property, Darrel Schweitzer, requests that the Historic Overlay Zone be reduced to only cover Parcel 2 of Partition Plat No. 2017-053. The Frank A Heitkamper House, 21E02DA Tax Lot 5000, was designated a Historic Landmark on November 28, 1987. In 2015, the applicant submitted an application to partition the property, and to reduce the landmark designation so that only the remaining portion of the property containing the Frank A Heitkamper House would be covered by the overlay zone. The Historic Review Board recommends that the Board reduce the Historic Overlay Zone and that the required changes be made to the relevant zoning maps.

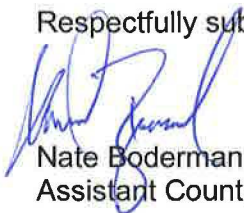
The Board conducted separate public hearings on each of these matters on October 18, 2017. The Board voted to approve each separate application by a vote of 5-0.

A copy of the relevant Board Orders, with findings and conclusions to be adopted by the Board, have been provided with this report. Note that these items have been grouped together for convenience. Although the Board conducted the hearings of all four of these items together and unanimously voted to approve each item, the Board may, if it chooses, vote for each of these items separately by indicating its intent to do so.

RECOMMENDATION:

Staff recommends the Board approve the attached Board Orders on the consent agenda.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Removing the
Historic Landmark Designation
From the Oatfield House,
Described as T2S-R1E-Section
12AA, Tax Lot 7700



ORDER NO.

File No.: Z0361-17-PDR

WHEREAS, Dimitri Matveev applied to remove the Historic Landmark designation from the Oatfield House; and

WHEREAS, on August 6, 2017, the Hearings Officer approved the demolition of the Oatfield House; and

WHEREAS, on October 18, 2017, this matter came before the Board of County Commissioners for public hearing and a preliminary decision was made.

Based upon the evidence and testimony presented this Board makes the following findings and conclusions:

1. The application meets the applicable approval criteria for removal of the Historic Landmark designation.
2. The Board adopts the relevant findings and conclusions contained in the Decision of the Hearings Officer, dated August 6, 2017 and in the staff materials presented at the October 18, 2017 hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Oatfield House, as described in the attached materials, be removed as a Clackamas County, Historic Landmark; and

IT IS FURTHER ORDERED that the required changes be made in the relevant zoning maps.

DATED this 30th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Removing the
Historic Landmark Designation
From the Charles Livesay House
Described as T2S-R2E-Section
28CA, Tax Lot 400



ORDER NO.

File No.: Z0605-09-HL

WHEREAS, Brad Ellsworth applied to remove the Historic Landmark designation from the Charles Livesay House; and

WHEREAS, on November 12, 2009, the Historic Review Board recommended the designation of the Charles Livesay House as a Historic Landmark be removed; and

WHEREAS, on October 18, 2017, this matter came before the Board of County Commissioners for public hearing and a preliminary decision was made.

Based upon the evidence and testimony presented this Board makes the following findings and conclusions:

1. The application meets the applicable approval criteria for removal of the Historic Landmark designation.
2. The Board adopts the relevant findings and conclusions contained in the Decision of the Historic Review Board, dated November 12, 2009 and in the staff materials presented at the October 18, 2017 hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Charles Livesay House, as described in the attached materials, be removed as a Clackamas County, Historic Landmark; and

IT IS FURTHER ORDERED that the required changes be made in the relevant zoning maps.

DATED this 30th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Designating the
W.A. Shaw Building, Described
As 22E18CD Tax Lot 900, a
Clackamas County Historic Landmark



ORDER NO.

File No.: Z0266-17-Z

WHEREAS, this matter coming at this time and it appearing to the Board of County Commissioners that the W.A. Shaw Building does meet the criteria of Subsection 707 of the Zoning and Development Ordinance for designation as a Historic Landmark; and

WHEREAS, it further appearing to the Board that the Historic Review Board at its public hearing on July 25, 2017 has recommended designating the W.A. Shaw Building as a Historic Landmark; and

WHEREAS, it further appearing to the Board that a hearing was held before this Board on October 18, 2017, at which time the opportunity to present testimony and evidence was allowed; and

WHEREAS, it further appearing to the Board that a decision was made by this Board on October 18, 2017.

Based upon the evidence and testimony presented this Board makes the following findings and conclusions:

1. The application meets the applicable approval criteria.
2. The Board adopts the relevant findings and conclusions contained in the Decision of the Historic Review Board, dated July 25, 2017 and in the staff materials presented at the October 18, 2017 hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED that the W.A. Shaw Building is designated a Clackamas County Historic Landmark; and

IT IS FURTHER ORDERED that the required changes be made in the relevant zoning maps.

DATED this 30th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Reducing the
Landmark Overlay Zone to Only
Encompass Parcel 2 of Partition
Plat No. 2017-053, Described
As T2S-R1E-Section 02DA, Tax
Lot 5000



ORDER NO.

File No.: Z0320-15-HL

WHEREAS, Darrel Schweitzer applied to reduce the Historic Landmark designation to only encompass Parcel 2 of Partition Plat No. 2017-053; and

WHEREAS, on September 24, 2015, the Historic Review Board recommended the Historic Landmark Overlay Zone be reduced to only encompass Parcel 2 of Partition Plat No. 2017-053; and

WHEREAS, on October 18, 2017, this matter came before the Board of County Commissioners for public hearing and a preliminary decision was made.

Based upon the evidence and testimony presented this Board makes the following findings and conclusions:

1. The application meets the applicable approval criteria for reducing the Historic Landmark Overlay Zone designation.
2. The Board adopts the relevant findings and conclusions contained in the Decision of the Historic Review Board, dated September 15, 2015 and in the staff materials presented at the October 18, 2017 hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Historic Landmark Overlay Zone be reduced to only encompass Parcel 2 of Partition Plat No. 2017-053; and

IT IS FURTHER ORDERED that the required changes be made in the relevant zoning maps.

DATED this 30th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

**Second Reading of Ordinance No. 12-2017 amending Title 11.03,
Transportation System Development Charge of the Clackamas County Code
and Declaring an Emergency**

Purpose / Outcomes	This is the second reading of Ordinance 12-2017 amending Title 11.03 of the County Code. These amendments fall into three categories: <ol style="list-style-type: none"> 1) Adoption of a revised methodology report, updated project list and a new rate schedule via resolution; 2) Termination of the Happy Valley Joint TSDC District, and 3) Clarifications to better define current program operations.
Dollar Amount and Fiscal Impact	<ul style="list-style-type: none"> • Countywide TSDC rates will be aligned with the cost of construction and will be spread equitably among projects forecast for the anticipated growth within the county. • The City of Happy Valley and Clackamas County will no longer participate in a shared TSDC capital projects fund.
Funding Source	<ul style="list-style-type: none"> • Clackamas Countywide TSDC Funds (Fund 223) • Happy Valley Clackamas County Joint TSDC Funds (Fund 227)
Duration	<ul style="list-style-type: none"> • Termination of the Joint TSDC district will be effective December 31, 2017. • New TSDC ordinance, rates and methodology will take effect on development applications beginning January 1, 2018.
Previous Board Action	The Board has reviewed and discussed this project at nine policy sessions over the past two years. 03/15/16: TSDC methodology update process and work group approach 05/24/16: TSDC project selection criteria 03/14/17: TSDC methodology project update and public outreach discussion 06/27/17: TSDC project list 07/18/17: TSDC rate structure and measuring traffic impact 08/01/17: TSDC rate structure and draft IGA to terminate Joint TSDC District 08/17/17: Approve IGA setting terms of separation for the Joint TSDC District 11/07/17: TSDC methodology update process discussion review 11/08/17: First reading of Ordinance 12-2017 amending County Code, Section 11.03
Strategic Plan Alignment	<p>This supports the mission of the Department of Transportation & Development <i>to provide transportation maintenance and construction, land use planning, permitting services ... to residents, property owners, businesses and the traveling public so they and future generations can experience and invest in a safe, well-designed and livable community.</i></p> <p>This supports the County goals of <i>growing a vibrant economy, building strong infrastructure and building trust through good government.</i></p>
Contact Person	Diedre Landon, DTD Administrative Services Manager @ 503-742-4411

EXECUTIVE SUMMARY

Local governments rely on System Development Charges (SDCs) to collect money for capital improvements on a variety of infrastructure systems, such as roads, water, sewer, storm drains and schools. Transportation System Development Charges (TSDCs) are one-time fees assessed to new or expanded developments to help cover the cost of adding to the capacity of transportation facilities for motorists, bicyclists and pedestrians to accommodate new trips added by the development. TSDC fees are based on the number of vehicle trips a particular land use generates, and are paid by the developer when a building permit is issued.

Clackamas County currently has two TSDC districts – one with the City of Happy Valley for areas in and around Happy Valley, and one for the remainder of the county. The joint district with Happy Valley will be dissolved effective December 31, 2017, and beginning January 1, 2018, each jurisdiction will manage its own district with its own rates (Attachment B).

In early 2016, the County and Happy Valley began updating our 10-year-old TSDC methodology in order to:

- Update the list of capital projects eligible to receive TSDC revenue;
- Update the TSDC rates charged to different kinds of development, and
- Streamline and simplify the TSDC program for our customers.

Over the past year and a half, staff has been meeting to develop the new methodology with representatives from the commercial and residential development community, the Home Builders Association and engineering firms that represent the site development community. During this process, we met with the Board of County Commissioners seven times and brought work group recommendations back to the Board on four occasions.

ORDINANCE AMENDMENTS

In order to adopt the new plan, we need to amend our existing TSDC ordinance and amend our code to reflect our separation with the City of Happy Valley. Prior to the public notice period for the methodology update, as required by state law, we drafted ordinance amendments (Attachments A, B & C) to reflect the necessary changes so that we could gather public feedback on the ordinance changes. The amendments were reviewed and approved by County Counsel.

The draft ordinance amendments, and the methodology report with the project list and rate schedule have been available on our web page for 60 days and we have been seeking public comment on these documents. Notice to interested parties was published in the Daily Journal of Commerce and online, distributed through social media, via email and distributed to participants of a recent Development Forum.

The proposed ordinance amendments fall into three categories:

- 1) Adoption of a revised methodology report, updated project list and new rate schedule to account for changes in the cost of acquiring and constructing transportation facilities in Clackamas County;
- 2) Amendments to reflect the termination of the Happy Valley Joint TSDC District, and
- 3) Clarifications and other minor changes to better define current program operations.

TSDC METHODOLOGY UPDATES

Changes were necessary to adopt the new TSDC methodology, project list and rate structure.

- We chose to adopt the plan, project list and rate schedule as a resolution with separate exhibits to allow for future updates of the project list or rate structure without a full ordinance amendment. We also added language to outline the process for updating the list between methodology updates.

- Under the new plan, we have consolidated similar land uses to streamline the rate structure and simplify the fee structure. This required modifications to code language that allows a developer to submit a traffic study when a unique land use is proposed that does not fall within an existing category. We needed to define the criteria for trip rates/trip study requirements under the consolidated rate model.
- Our previous TSDC methodology used vehicle trips to estimate the impact new development would have on the transportation system. Under the new plan, the work group chose to transition to people trips to reflect the addition of multi-modal project elements.

TERMINATION OF THE HAPPY VALLEY JOINT TSDC DISTRICT

Changes were necessary to reflect the separation of the Happy Valley Joint TSDC district.

- Our existing code references the Happy Valley Joint TSDC District. We removed any references to the joint district to reflect the separation on December 31, 2017.

CLARIFICATIONS

During the legal review of our ordinance, we compared our current language with state law and best practices and identified some clarifications and other minor modifications to incorporate into the proposed changes.

- Annual inflation adjustment. We had been using three factors to try to better represent the cost of a transportation project. However, since some of the information is unavailable as agencies discontinue indices, we are transitioning to one well-known and reliable index for our annual adjustments.
- Expanded application of mixed-use area discounts to allow for a reduction between parcels under different ownership that reduce trips on the adjacent roadway. Previously, two parcels had to be under the same ownership to qualify for the discount.
- Process for determining credit eligibility and the reimbursement rate for qualified public improvements. While our current ordinance restricts credits to only a percentage of the oversize improvement value, state law and best practices provide for a less restrictive application. The proposed language provides developers with a credit that matches the value of the oversize improvement. The changes will increase the amount of credit developers receive for constructing oversize public improvements on behalf of the County.
- In light of the larger credit voucher values, we are proposing a geographic restriction on voucher transfers in unincorporated areas. With a single district in the unincorporated area, this will help align the use of the credits for oversize improvements with the direct impact area of the development using the credits.
- Credit vouchers expire after 10 years. Under the current code, we restrict the transfer of vouchers between years 7 and 10. We are removing these ownership restrictions from the code language.

ATTACHMENTS

Attachment A: Ordinance 12-2017 - 11.03 Transportation System Development Charges

Attachment B*: Redline - Ordinance 11.03 Transportation System Development Charges

**The original document was published online for 60-days for public review and input.*

Attachment C: County Counsel Modifications to Ordinance 12-2017 since First Reading

Attachment D: Portland Metro Home Builders Association Testimony

RECOMMENDATION

Staff recommends the Board of County Commissioners perform the second reading of ordinance 12-2017 by title only, approving the modifications for implementation on January 1, 2018.

Respectfully submitted,

Diedre Landon
Administrative Services Manager, Snr.

ORDINANCE NO. 12-2017

An Ordinance amending Title 11.03, Transportation System Development Charges of the Clackamas County Code and Declaring an Emergency

WHEREAS, the Board of Commissioners finds that Title 11.03, Transportation System Development Charges (TSDC), of the Clackamas County Code should be updated to adopt a revised methodology report, an updated project list and adjustments to the calculation rates to account for changes in the cost of acquiring and constructing transportation facilities within Clackamas County;

WHEREAS, during the 2017 TSDC program update the County has reviewed TSDC program successes, and identified issues and needed reforms;

WHEREAS, the Board of Commissioners finds Title 11.03 should be updated to address clarity of administrative processes, consistency with state law, definitions and terminology;

WHEREAS, amendments to Title 11.03 are needed to reflect the termination of the Happy Valley Joint TSDC District; and due to the December 31, 2017, termination of the Happy Valley Joint TSDC District, the Board of Commissioners finds it necessary to declare an emergency allowing for the effective date of January 1, 2018, to provide for a seamless transition to the new TSDC program; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Title 11.03 of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

Section 2: Emergency Clause

The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective January 1, 2018.

ADOPTED this _____ day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Clackamas County – Section 11 Development Regulation

CLEAN VERSION: CHANGES ACCEPTED
Revised 11.13.2017

11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE	2
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TSDC METHODOLOGY UPDATES

Changes were necessary to adopt the new TSDC methodology, project list and rate structure.

TERMINATION OF THE HAPPY VALLEY JOINT TSDC DISTRICT

Changes were necessary to reflect the separation of the Happy Valley Joint TSDC district.

CLARIFICATIONS

During the legal review of our ordinance, we compared our current language with state law and best practices and identified some clarifications and other minor modifications to incorporate into the proposed changes.

Clackamas County – Section 11

Development Regulation

Chapter 11.03

11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

11.03.010 Purpose & Applicability

- A. New Development within Unincorporated Clackamas County contributes to the need for increased capacity on transportation facilities and related improvements, and therefore should contribute to the funding for such facilities. The TSDC will fund a portion of the needed auto, bicycle and pedestrian system capacity for New Development.
- B. ORS 223.297 through 223.314 grant the County the authority to impose a TSDC to equitably spread the costs of essential capacity increasing capital improvements to New Development. The County may enact one or more charges in areas that are smaller than the entire unincorporated County.
- C. The TSDC is incurred upon the issuance of a permit to develop property at a specific use or density. The TSDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it relates a development's fee to receipt of services based upon the nature of that development.
- D. The TSDC is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section.
- E. The TSDC shall be established and may be revised by resolution of the Board. The resolution shall set the amount of the charges (Rate Schedule), the Methodology for calculating the charges, and the list of TSDC Capital Improvement Projects intended to be funded by Improvement Fees (referred to as the TSDC Capital Project List).
- F. The TSDC constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 – 223.314, and is intended as a financing mechanism for the increased transportation system capacity associated with New Development, and does not represent a means to fund maintenance of existing roads.

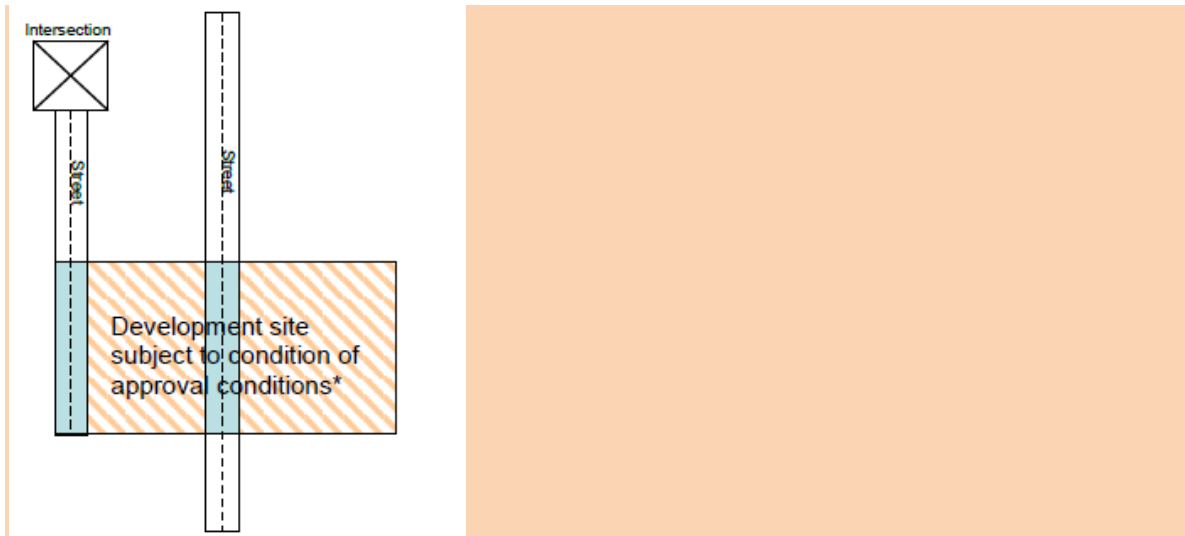
11.03.020 Definitions

All terms not defined below shall be defined by the permitting jurisdiction in the Clackamas County Zoning and Development Ordinance.

- A. ACCESSORY DWELLING UNIT means a unit complying with Clackamas County ZDO 839. Accessory Dwelling Units will be charged the adopted rate for the Institute of Transportation Engineers (ITE) classification of “220 - Apartment.”

- B. **AFFILIATE** is any entity that directly controls, is controlled by or under common control with the applicant. As used herein, the term “control” or “controlled by” means the power to direct the management of such entity through voting rights, ownership or contractual obligations.
- C. **ARTERIAL** means that term as defined and used in Chapter 5 - Transportation System Plan of the County Comprehensive Plan.
- D. **AVERAGE WEEKDAY TRIPS** means the average 24-hour total of all vehicle trips counted to and from a study site from Monday through Friday. Average Weekday Trips are calculated by using the Institute of Transportation Engineers (ITE) Manual or as otherwise provided by this Chapter.
- E. **ASSIGNMENT** refers to the transfer of a credit voucher or portion of a credit voucher that is transferred to another party.
- F. **BOARD** means the Board of County Commissioners of Clackamas County, Oregon.
- G. **BUILDING OFFICIAL** means that person, or his or her designee, certified by the State and designated as such to administer the State Building Codes for the County.
- H. **BUILDING PERMIT** means that permit issued by the Building Official pursuant to the most recently published versions of the State of Oregon Structural Specialty Code, and the Oregon Residential Specialty Code. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the Building Official, relating to the placement of manufactured homes.
- I. **BUS TRANSIT CORRIDOR** includes current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).
- J. **COLLECTOR** means that term as defined and used in Chapter 5 – Transportation System Plan of the County Comprehensive Plan.
- K. **COMPREHENSIVE PLAN** means the County generalized, coordinated land use map and policy statement that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation facilities, recreational and natural resources and air and water quality management programs.
- L. **CONSTRUCTION COST INDEX** means that index published by the Engineering News Record (ENR) Northwest (Seattle, Washington) titled “Construction Cost Index.”
- M. **CONTIGUOUS** means that a property and an improvement or portion thereof share a common boundary line. A determination of contiguous includes all property subject to the development approval. The boundary lines and area of an improvement shall be determined by the Right-Of-Way and easement areas for the improvement. In addition, multiple properties under common ownership separated by features such as a common area, non-motorized vehicle or pedestrian way, creek, wetland, park, or similar areas; up to a distance of not more than 100 feet between the properties at the boundary with the improvement, are deemed to include the feature in their combined boundary line. Any portion of an

improvement that is located beyond the frontage of a property, as determined by the extension of boundary lines perpendicular to the frontage of the property, is not deemed to be contiguous to that property. An intersection improvement shall be deemed contiguous to all property with frontage on the intersection, or that touches the intersection at a point.



All intersection and street improvements are conditions of development approval. Shaded portion of streets are considered Contiguous to the development site; remainder of streets and intersection are non-contiguous.

* “Contiguous” is defined based on frontage of site prior to subdivision or partition.

- N. COUNTY means Clackamas County, Oregon.
- O. DEVELOPMENT AGREEMENT means the tool the County may use to secure the developer’s compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the Station Area and/or Mixed-Use reduction provisions.
- P. DEVELOPMENT PERMIT means a grading, excavation, engineering, building, land use or similar permit issued by the County that approves New Development as defined by this ordinance.
- Q. DEPARTMENT means the Clackamas County Department of Transportation and Development.
- R. DEPARTMENT DIRECTOR means the Director of the Clackamas County Department of Transportation and Development, or his or her designee.
- S. FLOOR AREA RATIO (FAR) means the ratio of the total amount of enclosed Gross Floor Area within a structure to the amount of buildable acreage. For purposes of calculation, both floor area and net site area shall be converted to square feet. (For example, a single-story building constructed on one-quarter of the net developable site would have a floor area ratio of 0.25. If a second story were added, the floor area ratio would increase to 0.50, etc.)
- T. GROSS FLOOR AREA for the purposes of this ordinance will mirror the definition in the most recent ITE Trip Generation Manual.

- U. GUEST HOME means a unit complying with Clackamas County ZDO 833.
- V. HEARINGS OFFICER is defined as the Hearings Officer for the Department, or other official as appointed by the Board.
- W. IMPROVEMENT FEE means a fee for costs associated with capital improvements to be constructed.
- X. INTERNAL CAPTURE RATE is defined as a percent reduction of trip generation for component land uses to account for trips made internally on site. A reduction of trip generation rates can potentially decrease traffic impact and help reduce external congestion. The Internal Capture Rate is the percent reduction of trip generation estimates for land uses to account for trips made internally on a Mixed-Use Development site.
- Y. ITE TRIP GENERATION MANUAL means the most recently published edition of the manual entitled Trip Generation, published by the Institute of Transportation Engineers. A copy of the ITE Trip Generation Manual shall be kept on file with the Department
- Z. LIGHT RAIL TRANSIT STATION AREA is defined as the passenger station platform along a fixed-route light rail alignment.
- AA. LEGAL COUNSEL means the Office of County Counsel for Clackamas County, Oregon.
- BB. LONG TERM FINANCING means debt instruments issued by the County or a component unit to finance a capital improvement in accordance with applicable state law.
- CC.METHODOLOGY means the narrative, formulas and charts that serve as the framework for determining the TSDC.
- DD. MIXED-USE DEVELOPMENT is generally planned as a single real-estate land development project with a structure, or structures, containing two or more different and interacting land uses. These areas are characteristically higher density, compact walkable areas. Mixing of uses typically includes residential (townhomes, apartments, or detached homes on small lots), retail (mostly specialty and convenience), restaurants, hotels, office buildings, movie theatres, and any other compatible and complimentary uses. For further definition of project requirements to qualify for a Mixed-Use Development reduction, reference Table 2 – Mixed-Use Development TSDC Reduction Requirements, in Section 11.03.030(G).
- EE.MULTI-MODAL means vehicular, transit, bicycle, pedestrian and wheel chair transportation.
- FF. NEW DEVELOPMENT means site improvements that increase overall trip generation.
- GG. QUALIFIED PUBLIC IMPROVEMENT means a capital improvement that is required as a condition of development approval, identified in the TSDC Capital Project List adopted by resolution and is:
- a. Not located on or Contiguous to the New Development site, or
 - b. Located on or Contiguous to the New Development site, and as demonstrated in the traffic study for the New Development is required to be built larger or with greater

capacity (over-capacity) than is necessary for the New Development to mitigate for transportation system impacts attributable to the New Development.

HH. RATE SCHEDULE means the TSDC rate associated with New Development types, as adopted by resolution.

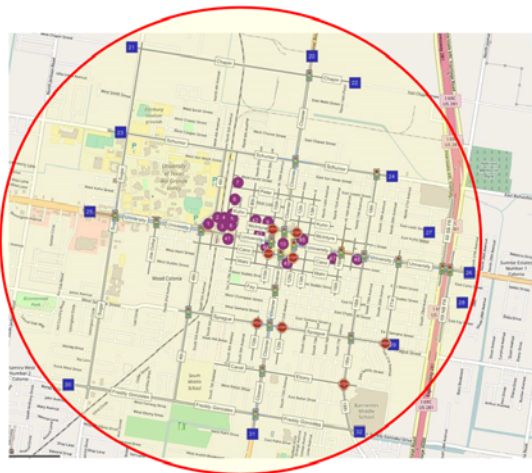
II. RIGHT-OF-WAY means that portion of land that is dedicated for public use. Public uses may include but are not limited to pedestrian facilities (e.g., sidewalks, plazas), utility placement, signage, etc.

JJ. STATION AREA includes parcels with some portion of the development site located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a Light Rail Station Platform or a Bus Transit Corridor, both of which facilitate travel to multiple geographic routes, typically resulting in reduced impact to the transportation system by encouraging Multi-Modal transportation and reducing the impact on the surrounding transportation system. For further definition of project requirements to qualify for a Station Area reduction, reference Table 1 – Station Area Development TSDC Reduction Requirements, in Section 11.03.030(F).

KK. TRANSPORTATION SYSTEM DEVELOPMENT CHARGE (TSDC) means the fee to be paid pursuant to Section 11.03.030 of this Chapter.

LL. TSDC CAPITAL PROJECT LIST means a list of capital projects adopted by the Board identifying the estimated cost, timing, and portion of project costs to be funded by the TSDC.

MM. ZONE OF INFLUENCE shall be identified by drawing a border around the outermost intersections/facilities studied in the Traffic Impact Analysis to develop a boundary. If the improvements that generated the original credits are within the Zone of Influence boundary of the development receiving the credit, the credits may be reassigned because the two developments have similar impacts and traffic patterns.



11.03.030 Application

- A. A TSDC may be imposed upon all New Development within unincorporated Clackamas County for which a Development Permit is required.
- B. The applicant for a Development Permit shall, at the time of application, provide the Department with all of the necessary and applicable information, such as the description of use, number of dwelling units or square footage of structures, information about occupancy and size of any existing use on the site, necessary to calculate the TSDC. The Department shall notify the applicant of the right to appeal the decision on the calculation of the charge pursuant to Section 11.03.080.
- C. The amount of the TSDC shall be determined as identified in the Methodology and Rate Schedule adopted pursuant to Section 11.03.010(E), and amended pursuant to Section 11.03.030(D), and Section 11.03.090 or adjusted pursuant to Section 11.03.030(F) or 11.03.030(G).
- D. If the County has not assigned a TSDC category for the identified land use listed in the adopted Rate Schedule, the Department shall at its option either:
1. Identify the land use category that is most similar to the use in question and apply that rate.
 2. Consider trip generation data, gathered in a credible manner, preferably by a registered traffic engineer, for the same or similar use. Such a study shall be prepared at the applicant's expense and must be submitted at least two weeks prior to expected issuance of a Development Permit. The Department Director has the right to accept, accept in part, modify, or reject the calculations offered under this option.
 3. The following guidelines apply to data collection under Section 11.03.030(D)(2) for land uses not in the ITE Trip Generation Manual.
 - a. The applicant shall submit a list of similar uses with similar characteristics in Oregon, Washington, California, or preferably in the Portland region. Uses must have been open for business for at least a year.
 - b. The Department will determine the number of sites and locations, and if applicable for consolidated land use categories, the types of uses for which the applicant will be required to submit traffic counts.
 - c. The applicant shall supply the Department with the following information for each site:
 - i. Monthly adjustment factors to adjust trip generation to the fourth highest business (earnings) month.
 - ii. Standard days and hours of operations.
 - iii. Counts from sites on a weekday (mid-week – two day minimum) from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. Actual counting time and days may vary depending on uses and standard days of operation and shall be approved by the Department. Data collection shall be compliant with the ITE Trip Generation Manual.

- iv. Quantification of pass by, pedestrian, bicycle and transit trips when applicable.
 - v. A vicinity map for each site.
- d. The applicant shall adjust this data as follows:
- i. Adjust a.m. and p.m. trips to Average Weekday Trips based on the proportion of similar uses in the current edition of the ITE Trip Generation Manual.
 - ii. Adjust daily number to Average Weekday Trips if weekend data are collected.
 - iii. Adjust Average Weekday Trips to the fourth highest month based on monthly adjustment factors supplied by the applicant.
 - iv. Adjust pass by, pedestrian, bicycle, and transit trips for potential trip reduction.
- e. The Department shall review the applicant’s data collection and adjustments, and the Department Director shall issue a final ruling to the applicant regarding which data and adjustments will be used for calculating the TSDC. A fee will be charged for the review of formal alternate trip generation data. The fee will be set by resolution.
- E. Any developer requiring the execution of a formal Development Agreement to clarify TSDC assessments, reductions for Station Area Development (Table 1), or reductions for Mixed-Use Development (Table 2) will be required to pay a deposit (as set by Resolution) prior to staff drafting the agreement.
- F. Station Area developments reduce vehicle trips on the adjacent roadway. Projects meeting the development density requirements that fall within a Station Area are eligible to receive a reduction that correlates to the reduced impact of the eligible development. An approved Station Area Development is eligible for a reduction on TSDC assessments as outlined in Table 1 (below) when some portion of the development site is located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a light rail station platform or a Bus Transit Corridor route alignment. This reduction may be combined with any applicable Mixed-Use Development reduction (Table 2).

Table 1 – STATION AREA DEVELOPMENT TSDC REDUCTION REQUIREMENTS			
REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTION)	TRANSIT ACCESS REQUIREMENT (WITHIN 0.25 MILE RADIUS)	DEVELOPMENT DENSITY REQUIREMENT(S)
Level 1	5% Vehicle Trip Reduction	Bus Transit Corridor ²	Minimum residential density of 24 units per acre
			Minimum FAR of 2.0 per acre for non-residential development

Level 2	10% Vehicle Trip Reduction	Bus Transit Corridor ²	Minimum res. density of 24 dwellings per acre AND minimum FAR of 2.0 per acre for non-res. development
Level 3	5% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum residential density of 12 dwellings per acre ⁴
			Minimum FAR of 1.0 per acre for non-res. development
Level 4	10% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum Res. Density of 24 dwellings per gross acre
Level 5	15% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum Res. Density of 24 dwellings per acre AND at least 15% of the total gross res. & non-res. floor area devoted to commercial/retail uses
			Minimum FAR of 2.0 per acre for non-res. development
Level 6	20% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum res. density of 24 dwellings per acre AND minimum FAR of 2.0 per acre for non-res. development
<p>¹ Some portion of the development site must be located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a Light Rail Station Platform or a Bus Transit Corridor route alignment to qualify for TSDC reduction.</p> <p>² Bus Transit Corridors include current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).</p> <p>³ Light Rail Transit Station Area is defined as the passenger station platform along a fixed route alignment.</p> <p>⁴ The stated residential density for this TSDC reduction level has been interpolated based on ITE Trip Generation Manual results.</p> <p>Source: ITE, Trip Generation Handbook, 2nd Edition, Appendix B, with noted exception.</p>			

G. Mixed-Use developments generate internal trip capture, thus reducing external trip generation rates on surrounding roads. In such event, the Department, for purposes of establishing the TSDC for a Mixed-Use Development, shall apply a Mixed-Use Development TSDC reduction to the eligible structure, or structures, which correlate to the internal trip capture of the proposed development as detailed in Table 2 (below). This reduction may be combined with any applicable Station Area Development reduction (Table 1).

Table 2 - MIXED-USE DEVELOPMENT TSDC REDUCTION REQUIREMENTS		
REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTION)	DEVELOPMENT DENSITY REQUIREMENT(S)
Level 1	7% Vehicle Trip Reduction	Mixed-Use Development with at least two different land use types (e.g., retail and office) within the same tax lot or master-planned area
Level 2	10% Vehicle Trip Reduction	Mixed-Use Development with a minimum residential density of 12 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 3	14% Vehicle Trip Reduction	Mixed-Use Development with a minimum res. density of 24 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 4	16% Vehicle Trip Reduction	Mixed-Use Development with a minimum residential density of 32 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 5	18% Vehicle Trip Reduction	Mixed-Use Development with a minimum residential density of 40 dwellings per gross acre AND minimum of 0.5 FAR per gross acre for non-residential development

Source: derived using EPA Mixed-Use Trip Generation Model v4.0.

H. If the proposed development includes more than one parcel of land and/or more than one structure, the Mixed-Use Development and/or Station Area reductions shall be authorized as part of a development approval outlining the final build-out of the master plan development area. The applicable reduction shall be memorialized in a Development Agreement (the tool the County will use to secure the developer's compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the Station Area and/or Mixed-Use reduction provisions) and recorded as a right-to-lien against each parcel included within the approved development area, allowing for renewal on active development projects.

- I. If a development avails itself of the Mixed-Use Development and/or Station Area reductions and does not construct the development within the term of the Development Agreement, the County will capture any unwarranted reduction provided by the Department at the time of permitting any built structures based on the original conceptual plan that the final built development does not warrant, by:
1. The Developer paying the TSDC reductions that were attributed to a built structure within the Mixed-Use Development and/or Station Area; or
 2. The County collecting the TSDC reductions that were attributed to a built structure within the Mixed-Use Development and/or Station Area by filing a lien against the benefitting parcels.
- J. Notwithstanding any other provision, the rates adopted pursuant to 11.03.030(C) shall, annually, be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in the Construction Cost Index.

The Construction Cost Index shall be used by County staff to adjust the TSDC Rate Schedule each fiscal year, unless it is otherwise adjusted by the Board based on adoption of an updated Methodology or TSDC Capital Project List.

11.03.040 Collection

- A. The TSDC is due and payable at the time of issuance of the Development Permit. The Development Permit shall not be issued, except as provided in Section 11.03.040(C)(3) or 11.03.040(D) of this Section, until payment is made. The TSDC rate in effect at the time that a complete Development Permit or Building Permit, whichever submittal is received last by the County will be applied to that permit.
- B. That TSDC rate is effective for 180-days from the date the land use approval is given or the Development Permit is submitted to the Building Department, whichever comes last. At the expiration of the 180-day period, if the permit is not yet issued, any adjustments adopted pursuant to this Ordinance can be applied to the permit.
- C. Notwithstanding Section 11.03.030(A), the following are exempt from the TSDC:
1. Guest Homes will not be charged a TSDC assessment because these units share a kitchen and laundry facility with the primary dwelling on the parcel, and as such are not used for boarding, lodging, or rental.
 2. Alteration permits for tenant improvements, new construction or remodeling where:
 - a. no additional dwelling unit(s) or structure(s) are created; or
 - b. a change of use, building addition, or other modification which does not result in an increase in Average Weekday Trips as determined in the manner set forth in a Methodology adopted pursuant to Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.
 3. Relocation of any structure originally located on property that the County acquires in-fee as

a part of a capital transportation project that results in a building encroachment over public Right-Of-Way or easements, when the remaining remnant will not be redevelopable, such that the structure is relocated to another parcel within the same system development charge district. Except to the extent such relocation creates additional dwelling units and/or additional Average Weekday Trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.

4. Replacement of any structure located on excess property that the County acquires in-fee as a part of a capital transportation project that can be marketed, or available for occupancy, except to the extent such remodeling or replacement creates additional dwelling units and/or additional Average Weekday Trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable, provided:
 - a. The agency has been provided a reasonable period of time to meet public notification requirements for sale or other disposition (i.e., public auction); and
 - b. Upon completion of the project, after access has been restored and/or recorded whichever is the later, such that the property has legal ingress/egress for development or occupancy purposes.

- D. Payment of the TSDC by a person who is also eligible for a credit voucher for construction of an increased capacity facility may be delayed until a date certain to be set by the Department at the time of development or Building Permit issuance.

Payment may only be delayed for the same development which is associated with the construction of the capital improvement for which credit is given, and the permittee shall provide the Department with security to secure payment of the Charge. The security shall be in an amount determined by the Department, and must be in a form outlined in Section 11.03.040(D)(1), (2) or (3) below, or an alternative method approved by Legal Counsel.

A permittee eligible for delay of payment of the TSDC pursuant to this section shall secure payment of the assessment, prior to issuance of the development or Building Permit, by any of the following:

1. Placing cash in the amount of the assessment in an escrow account accessible by the County. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or revenue in the escrow account shall be withdrawn to cover the balance. Once the balance is reconciled any remaining revenue in the escrow account shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.
2. Issuing a letter of credit in the amount of the assessment which is accessible by the County. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or the County shall send a demand to draw down on the letter of credit to cover the balance. Once the balance is reconciled any remaining balance on the letter of credit shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.

3. Applying for delay of payment of the TSDC pursuant to ordinance Section 11.03.040(D). Once the credit voucher is issued, the permittee can apply all (or a portion of) the credit voucher toward the principal and interest balance on the account, or continue making installment payments in accordance with the payment plan throughout the duration of the loan. If the installment plan is continued, the applicant would pay an administrative fee at a rate adopted by resolution and interest would begin accruing on the principal balance as of the date of credit voucher issuance.

E. When a TSDC is due and payable, the parcel owner may apply to the County for payment in twenty (20) semiannual installments, secured by a lien on the property upon which the development is to occur, to include interest on the unpaid balance.

- 1. A parcel owner may request installment payments for up to \$500,000 in TSDC assessments; any remaining balance must be paid in full prior to issuance of the Development Permit.
- 2. The County shall prepare the agreement for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The application fee for this option shall be set by resolution.

3. The applicable interest rate shall be determined as follows:

Principal	Interest Rate
\$0-24,999	Current US Federal prime rate plus 3.0 percentage points
\$25,000-\$500,000	Current US Federal prime rate plus 2.0 percentage points

4. An applicant requesting installment payments shall have the burden of demonstrating the authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien. The Department Director may order the imposition of the lien as recommended by the Department.

5. Upon the order of the Department Director, the Department shall cause the lien to be recorded on the lien docket kept by the County Clerk. From that time the County shall have a lien upon the described parcel for the amount of the TSDC, together with interest on the unpaid balance at the rate established by the Department Director. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. Upon satisfaction of the obligation the Department Director shall request the County Clerk to release the lien.

F. With the passage of Article XI, Section 11 B of the Oregon Constitution, progressive payment shall be taken for all unpaid debt. The Department Director will be notified immediately by the Department of any account thirty (30) days or more past due. The Department Director shall then send a letter to the defaulting party demanding payment no later than thirty (30) days following the date of the demand letter. The demand letter shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a “time is of the essence” clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional

judgment of the Department Director depending upon the type of debt and amount owed but in no event shall time for payment exceed the next payment due date or any other requirements imposed by debt instruments executed by the County in favor of any third party or other agreements that may have been executed by the County.

1. If payment has not been made following the first notice, the County shall send a second notice detailing the prior defaults and notices thereof indicating that further action, including legal action, will be taken.
2. Unless payment is received in the time period designated in the second notice, the County may proceed with any action in law or equity to enforce its rights and collect the debt, and that upon such failure the entire amount outstanding shall immediately become due and payable.

11.03.050 Credit

An applicant for a Development Permit, shall be entitled to a credit against the TSDC for payment of a fee-in-lieu of construction or for the construction of a Qualified Public Improvement. Calculation of any TSDC credit value will be based on this Ordinance and the Methodology in place as of the date the County receives a complete TSDC credit application. The applicant shall have the burden of demonstrating in its application for credit that a particular improvement qualifies for credit.

A. The County shall provide credit for the documented, reasonable cost of construction (whether paid via fee-in-lieu of or a constructed improvement) of all or part of a Qualified Public Improvement listed in TSDC Capital Project List, adopted pursuant to 11.03.010(E), based on the following criteria:

1. Transportation improvements located neither on nor contiguous to the property that is the subject of development approval shall be considered for credit at 100% of the cost of the qualified improvements.
2. Transportation improvements located on or contiguous to the property that is the subject of development approval, and required to be built larger, or with greater capacity than is necessary for the particular development project shall be considered for credit. Credit for these improvements may be granted only for the cost of that portion of the improvement that exceeds the capacity needed to serve the particular development project or property.
3. Developers are constructing Qualified Public Improvements in lieu of the County capital projects group. In accordance with County Code Section 7.03.099(B), utility relocations to accommodate these road designs should be performed at no cost to the developer.
4. No more than 13.5 percent of the total qualifying construction cost shall be creditable for survey, engineering, and inspection.
5. No credits shall be granted for Oregon Department of Transportation (ODOT) facilities unless clearly identified as a Qualified Public Improvement listed in the TSDC Capital Project List.

6. Road Right-Of-Way dedicated pursuant to the applicable development conditions shall be considered for credit as follows:

- a. Road Right-Of-Way located neither on nor contiguous to the property that is the subject of development approval shall receive credit for the dedication.
- b. Road Right-Of-Way located on or contiguous to the property that is the subject of development approval, and required to be built larger, or with greater capacity than is necessary for the particular development project shall be considered for credit to the extent necessary to construct the facility in excess of the capacity needed to serve the particular development project or property.
- c. Credit for right of way shall be allowed based on:
 - i. Reasonable market value of land purchased by the applicant from a third party and necessary to complete the improvement; or
 - ii. A certified market appraisal, paid for by the applicant, that establishes the land value when the property was donated for the needed right of way; or
 - iii. A per square foot value using the then current real market value for the real property shown in the records of the County Tax Assessor.

- B. All requests for credit vouchers must be in writing and filed with the Department not more than ninety days after acceptance of the improvement. Improvement acceptance shall be in accordance with the practices, procedures and standards of the Department.
- C. The amount of any credit shall be determined by the Department and based upon the actual cost incurred by the applicant to construct the improvement, as supported by contract documents, and other appropriate information, provided by the applicant for the credit. In the request, the applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements of this section.
- D. The applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Department's opinion, the improvement(s) meets the requirements of this section and the Department concurs with the proposed value of the improvement(s), a credit shall be granted for the eligible amount.
- E. The value of the credits under this Section shall be determined by the Department based on the actual cost of construction and Right- Of- Way, as applicable, as verified by receipts and other credible evidence submitted by the applicant. Upon a finding by the Department that the contract amounts, including payments for Right-Of-Way, exceed prevailing market rates for a similar project, the credit shall be based upon market rates.
- F. The Department shall respond to the applicant's request in writing within 45 days of receipt of a complete request. The Department shall provide a written explanation of the decision on the credit request.
- G. Upon approval, the Department shall provide the applicant with a credit voucher signed by the Department Director, on a form provided by the Department. The credit voucher shall state a dollar amount that may be applied against any TSDC imposed against the subject property. In

no event shall a subject property be entitled to redeem credit vouchers in excess of the TSDC imposed on the subject property, except as provided for in Section 11.03.050(J).

- H. A credit shall have no cash or monetary value and a remaining balance on a voucher shall not be a basis for any refund. A credit shall only apply against the TSDC and its only value is to be used to reduce the TSDC otherwise due, subject to all conditions, limitations, and requirements of this chapter.
- I. When issued by the Department, a credit shall be the personal property of the applicant. Applicant may transfer all or part of any earned credit to one or more Affiliates of the applicant. Credits shall remain the personal property of the applicant, unless transferred by the applicant or its authorized agent as transferor. Any person claiming the right to redeem a credit shall have the burden of demonstrating ownership of the credit.
- J. Prior to permit issuance, upon written application to the Department, a credit shall be applied to the TSDC on a permit for development on a lot or parcel within the confines of the property originally eligible for the credit. In the case of multi-phase development, excess credit generated in one phase may be applied to reduce the TSDC in subsequent phases of the original development project.
- K. Credits may be reassigned from the applicant to another individual or entity for use on another property if all the following conditions are met.
 1. A request for Assignment of a credit voucher must be made in writing with a notarized letter to the Department signed by the person who owns the credit. The request for Assignment of a credit voucher shall contain all the information necessary to establish that such an Assignment is allowable under this subsection. The burden of proof that an Assignment is allowable is on the applicant. The Department shall respond in writing to the applicant's request for Assignment within 30 days of receipt of the request.
 2. Credits may be Assigned if the Department determines that either:
 - a. The lot or parcel that is to receive the credit is adjacent to and served by the transportation improvements that generated the credits, or
 - b. The transportation improvements that generated the original credits are located within the Zone of Influence of the Department traffic impact analysis for the development receiving the credit.
 3. When a credit voucher or portion of a credit voucher is Assigned, a notarized Assignment of Transportation SDC Credits notice shall be sent from the Department to both parties clarifying the Assignment. The amount Assigned shall be deducted from the transferor's credit voucher balance and Assigned to the transferee.
 - a. The Assignment shall reference the original credit voucher number, which is associated with the property to which the initial credit was issued.
 - b. The Assignment shall have the same expiration date as the initial credit voucher.

c. The credit shall be applied to the TSDC on a permit for development on a lot or parcel within the confines of the property eligible for Assignment as described in subsection 11.03.050(I) of this section.

4. An Assigned credit voucher shall follow all rules regarding redemption of credits.

5. The Department may charge a fee, as set by resolution, for administering the Assignment of credits.

L. Any credit must be redeemed not later than the issuance of the Development Permit. The applicant is responsible for presentation of any credit prior to issuance of the Development Permit. Except as provided in Section 11.03.060, under no circumstances shall any credit redemption be considered after issuance of a Development Permit.

M. Credit vouchers shall expire on the date ten years after the acceptance of the applicable improvement. No extension of this deadline shall be granted.

N. The Department Director can delegate signature authority for credit vouchers to a designee.

11.03.060 Refunds

A. Refunds may be given by the County upon finding that there was a clerical error in the calculation of the TSDC. Refunds shall not be allowed for failure to claim credit, as provided for in Section 11.03.050, at the time of Development Permit issuance. The refund must be requested within six (6) months of the date the assessment was paid; failure to avail oneself of this grace period forfeits any future right to receive a refund and the value of the TSDC paid will remain with the parcel for future development.

B. A fee (set by Resolution) will be charged on any refund of an assessment paid on development that did not commence. The fee may be paid in cash or the applicant can opt to reduce the amount of the refund to cover the cost of the fee.

11.03.070 Dedicated Funds, Project Lists

A. All monies derived from the TSDC shall be placed in the County TSDC Fund. TSDC revenue shall be used to fund those projects identified in the TSDC Capital Project List adopted pursuant to Section 11.03.010(E), and costs related to compliance with the provisions of this ordinance, as provided by ORS 223.307.

B. The TSDC shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

C. The TSDC shall not be expended for costs of the operation or routine maintenance of capital improvements.

D. The TSDC Capital Project List adopted pursuant to Section 11.03.010(E) may be amended from time to time by Board Resolution. If the Rate Schedule will be increased by a proposed modification of the TSDC Capital Project List to include capacity increasing capital

improvement cost(s):

1. The County shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.305(6).
2. If the County receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the County shall hold a public hearing.
3. Notwithstanding ORS 294.160, a public hearing is not required if the County does not receive a written request for a hearing.
4. The decision of the County to increase the Rate Schedule by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.

11.03.080 Appeal

- A. A person challenging the expenditure of TSDC revenues may appeal the expenditure to the Board by filing a written request with the Department Director. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

After providing notice to the appellant, the Board shall determine whether the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314. If the Board determines that there has been an improper expenditure of TSDC revenues, the Board shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

- B. Appeals of any other decision required or permitted to be made by the Department under this ordinance must be filed with the Hearings Officer by filing a written request and paying the appeals fee with the Department within fourteen (14) days of the Department's decision, or payment of the assessment, whichever comes first. The individual acting as the Hearings Officer will be appointed by the Board.

a. After providing notice to the appellant, the Hearings Officer shall determine whether the Department's decision is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions.

b. The fee for formally appealing a decision to the Hearings Officer will be set by resolution.

- C. The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100. The person who has appealed a decision shall be notified of this right to review of the decision.

- D. A legal action challenging the Methodology adopted by the Board pursuant to Section 11.03.010(E) shall not be filed later than 60 days after adoption. A person shall contest the Methodology used for calculating a TSDC only as provided in ORS 34.010 to ORS 34.100.

11.03.090 Annual Review

Prior to January 1 of each year the County shall provide an annual accounting for the activity occurring in the dedicated funds created by 11.03.070 for the previous fiscal year. The accounting shall show by fund the total amount of system development charges collected, the amount spent on each project that was funded in whole or in part in that fiscal year, and the amount attributed to the costs of complying with the provisions of ORS 223.297 to 223.314.

Clackamas County – Section 11 Development Regulation

REDLINE VERSION: TRACKED CHANGES
Revised 11.13.2017

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TSDC METHODOLOGY UPDATES

Changes were necessary to adopt the new TSDC methodology, project list and rate structure.

TERMINATION OF THE HAPPY VALLEY JOINT TSDC DISTRICT

Changes were necessary to reflect the separation of the Happy Valley Joint TSDC district.

CLARIFICATIONS

During the legal review of our ordinance, we compared our current language with state law and best practices and identified some clarifications and other minor modifications to incorporate into the proposed changes.

Clackamas County – Section 11

Development Regulation

Chapter 11.03

11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

11.03.010 Purpose & Applicability

- A. New ddevelopment within Unincorporated Clackamas County ~~(Countywide Area) and within the Happy Valley/Clackamas County Joint Area will use existing, excess traffic capacity and~~ contributes to the need for increased capacity on arterial transportation, boulevard, and collector roads facilities and related improvements, and therefore should contribute to the funding for such facilities. ~~These Transportation System Development Charges will reimburse the County, or City, for a portion of the cost of excess capacity and~~ The TSDC will fund a portion of the needed increased capacity for arterial, boulevard, and collector roads associated with such development. ~~The County may develop and enact system development charges jointly with cities, as demonstrated in the Happy Valley/Clackamas County Joint Area~~ auto, bicycle and pedestrian system capacity for New Development.
- B. ORS 223.297 through 223.314 grant the County ~~and the City~~ the authority to impose a ~~Transportation System Development Charge~~ TSDC to equitably spread the costs of essential capacity increasing capital improvements to ~~a~~ New dDevelopment. ~~Future developments will contribute their fair share to the cost of existing, excess capacity facilities and improvements and additions to transportation facilities required to accommodate the capacity needs created by growth. In its discretion, the Board of Commissioners may choose to impose a charge on classes of development types that is less than the maximum allowed by law in the Countywide Area, or in conjunction with the City Council in the Happy Valley Joint Area.~~ The County may enact one or more charges in areas that are smaller than the entire unincorporated County, ~~such as the Happy Valley/Clackamas County Joint Area~~.
- C. The ~~Transportation System Development Charge~~ TSDC is incurred upon the issuance of a permit to develop property at a specific use or; density, and/or intensity. ~~The incurred charge is less than the actual cost of providing public facilities commensurate with the needs of the chosen use, density, and/or intensity. Decisions regarding uses, densities, and/or intensities cause direct and proportional changes in the amount of the incurred charge.~~ The ~~Transportation System Development Charge~~ TSDC is separate from assessments, ~~or~~ other fees provided by law or imposed as a condition of development. It is a fee for service because it relates a development's fee to receipt of services based upon the nature of that development.
- D. The ~~Transportation System Development Charges imposed by this chapter are~~ TSDC is not ~~intended to be~~ a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section.

E. The TSDC shall be established and may be revised by resolution of the Board. The resolution shall set the amount of the charges (Rate Schedule), the Methodology for calculating the charges, and the list of TSDC Capital Improvement Projects intended to be funded by Improvement Fees (referred to as the TSDC Capital Project List).

~~E.—The funding provided by this Chapter TSDC constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 – 223.314, and is intended as to assure the construction of increased capacity in arterial, boulevard, and collector roads as shown in the Countywide Area and the Happy Valley Joint Area methodology, respectively.~~

~~F. This Chapter is intended to reimburse Clackamas County, and Clackamas County/City of Happy Valley partnership in the Happy Valley/Clackamas County Joint Area, for the costs of existing, excess capacity and to provide a financing mechanism for the needed increased transportation system capacity in arterial, boulevard, and collector roads associated with New dDevelopment, and does not represent a means to fund not for maintenance of existing roads.~~

~~G. Clackamas County hereby adopts the methodology report entitled “Countywide Transportation System Development Charges Methodology Update Report” (dated November 30, 2006), and Clackamas County and the City of Happy Valley each hereby adopt the methodology report entitled “Happy Valley/Clackamas County Joint Capital Improvement Plan Area, Transportation System Development Charges Methodology Report” (dated November 30, 2006) and the agencies incorporate by reference the assumptions, conclusions, project lists, charges and findings in the reports which refer to the determination of costs of excess capacity, and anticipated costs of capital improvements required to accommodate growth, and the rates for the Transportation System Development Charges to finance these capital improvements in each geographic area. The charges adopted by the Countywide Methodology report do not apply in the geographic area covered by the Happy Valley/Clackamas County Joint Area, and the charges adopted by the Happy Valley Joint Area Methodology report to not apply in the unincorporated geographic area outside the joint district boundaries.~~

11.03.020 Definitions

All terms not defined below shall be defined by the permitting jurisdiction in the Clackamas County Zoning and Development Ordinance ~~or City Development Code, respectively.~~

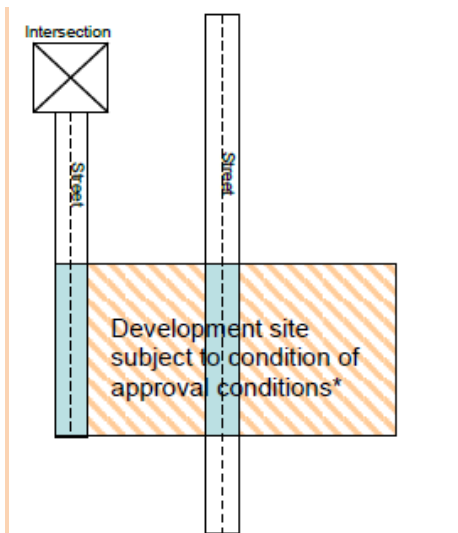
A. ACCESSORY DWELLING UNIT means a unit complying with Clackamas County ZDO ~~301.08(G)839 or City of Happy Valley Planning Code 16.44.050~~ respectively. Accessory Dwelling Units will be charged the adopted rate for the Institute of Transportation Engineers (ITE) classification of “220 - Apartment.”

B. AFFILIATE is any entity that directly controls, is controlled by or under common control with the applicant. As used herein, the term “control” or “controlled by” means the power to direct the management of such entity through voting rights, ownership or contractual obligations.

- C. ARTERIAL means that term as defined and used in ~~the Chapter 5 - Transportation Element~~ System Plan of the County Comprehensive Plan.
- D. AVERAGE WEEKDAY TRIPS means the average 24-hour total of all vehicle trips counted to and from a study site from Monday through Friday. ~~Average weekday trips~~ Average Weekday Trips are calculated by using the Institute of Transportation Engineers (ITE) Manual or as otherwise provided by this Chapter.
- ~~E. ASSIGNMENT refers to the transfer of a credit voucher or portion of a credit voucher that is transferred to another party.~~
- ~~E.F.~~ BOARD means the Board of County Commissioners of Clackamas County, Oregon.
- ~~F. BOULEVARD means that term as defined and used in the Transportation Element of the County Comprehensive Plan.~~
- G. BUILDING OFFICIAL means that person, or his or her designee, certified by the State and designated as such to administer the State Building Codes for the County ~~or City~~.
- H. BUILDING PERMIT means that permit issued by the ~~County or City~~ Building Official pursuant to the most recently published versions of the State of Oregon Structural Specialty Code ~~Section 105~~, and the Oregon Residential Specialty Code ~~Section R-105~~. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the ~~County or City~~ Building Official, relating to the placement of manufactured homes.
- I. BUS TRANSIT CORRIDOR includes current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).
- ~~J. CAPACITY means the maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour. (i.e., capacity is frequently increased by methods such as the addition of travel lanes, right turn or left turn refuges, improved width, hazard elimination, alignment or other geometric characteristics of the roadway, signalization or signalization improvements such as synchronization.)~~
- ~~K. CAPITAL IMPROVEMENT PLAN means a plan and list of capital projects adopted by the Board of County Commissioners and/or City Council identifying the estimated cost and timing for projects needed in a twenty year timeframe.~~
- ~~L. CITY means the City of Happy Valley, Oregon.~~
- ~~M. CITY COUNCIL means the elected City Council of the City of Happy Valley, Oregon.~~
- ~~N.J.~~ COLLECTOR means that term as defined and used in ~~the Chapter 5 - Transportation~~ System Plan ~~Element~~ of the County Comprehensive Plan.
- ~~O.K.~~ COMPREHENSIVE PLAN means the County ~~and/or City~~ generalized, coordinated land use map and policy statement that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation facilities, ~~and~~ recreational and natural resources and air and water quality management programs.

P.L. CONSTRUCTION COST INDEX means that index published by the Engineering News Record (ENR) Northwest (Seattle, Washington) titled “Construction Cost Index.”

M. CONTIGUOUS means that a property and an improvement or portion thereof share a common boundary line. A determination of contiguous includes all property subject to the development approval. The boundary lines and area of an improvement shall be determined by the Right-Of-Way and easement areas for the improvement. In addition, multiple properties under common ownership separated by features such as a common area, non-motorized vehicle or pedestrian way, creek, wetland, park, or similar areas; up to a distance of not more than 100 feet between the properties at the boundary with the improvement, are deemed to include the feature in their combined boundary line. Any portion of an improvement that is located beyond the frontage of a property, as determined by the extension of boundary lines perpendicular to the frontage of the property, is not deemed to be contiguous to that property. An intersection improvement shall be deemed contiguous to all property with frontage on the intersection, or that touches the intersection at a point.



All intersection and street improvements are conditions of development approval. Shaded portion of streets are considered Contiguous to the development site; remainder of streets and intersection are non-contiguous.

* “Contiguous” is defined based on frontage of site prior to subdivision or partition.

~~Q.~~ COUNTY means Clackamas County, Oregon.

R.N.

S.O. DEVELOPMENT AGREEMENT means the tool the ~~CITY or COUNTY~~ County will may use to secure the developer’s compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the ~~s~~Station ~~a~~Area and/or ~~m~~Mixed-~~u~~Use reduction provisions.

T.P. DEVELOPMENT PERMIT means a grading, excavation, engineering, building, land use or similar permit issued by the County ~~or City~~ that approves ~~NEW DEVELOPMENT~~ New Development as defined by this ordinance.

U.Q. DEPARTMENT means the Clackamas County Department of Transportation and

~~Development or the City of Happy Valley Economic and Community Development Department.~~

~~V.R.~~ DEPARTMENT DIRECTOR means the Director of the Clackamas County Department of Transportation and Development, or his or her designee or the City Manager of Happy Valley.

~~W. FINANCE DIRECTOR is that person assigned by the Board of County Commissioners the responsibility of managing the Finance Department for Clackamas County, or his or her designee.~~

S. FLOOR AREA RATIO (FAR) means the ratio of the total amount of enclosed ~~gross floor area~~ Gross Floor Area within a structure to the amount of buildable acreage. For purposes of calculation, both floor area and net site area shall be converted to square feet. (For example, a single-story building constructed on one-quarter of the net developable site would have a floor area ratio of 0.25. If a second story were added, the floor area ratio would increase to 0.50, etc.)

X.T. GROSS FLOOR AREA for the purposes of this ordinance will mirror the definition in the most recent ~~ITE manual~~ ITE Trip Generation Manual.

~~Y.U.~~ GUEST HOME means a unit complying with Clackamas County ZDO 833. ~~GUEST HOMES will not be charged a Transportation System Development Charge Assessment because these units share a kitchen and laundry facility with the primary dwelling on the parcel, and as such are not used for boarding, lodging, or rental.~~

~~V. HEARINGS OFFICER is defined as the Hearings Officer for the Department, or other official as appointed by the Board.~~

Z.W. IMPROVEMENT FEE means a fee for costs associated with capital improvements to be constructed.

~~AA. INCREASED CAPACITY FACILITIES include capital improvements to an arterial, collector, or boulevard shown in the project lists in the Reports adopted by Section 11.03.010(G) which increase the level of performance or service provided by existing facilities, or provide new facilities. Such improvements include, but are not limited to, signalization, channelization, widening, drainage facilities, pedestrian improvements, street extensions, railroad crossing protective devices, bridges and bikeways adjacent to the roadway.~~

BB.X. INTERNAL CAPTURE RATE is defined as a percent reduction of trip generation for component land uses to account for trips made internally on site. A reduction of trip generation rates can potentially decrease traffic impact and help reduce external congestion. The ~~INTERNAL CAPTURE RATE~~ Internal Capture Rate is the percent reduction of trip generation estimates for land uses to account for trips made internally on a ~~MIXED-USE DEVELOPMENT~~ Mixed-Use Development site.

CC.Y. ITE TRIP GENERATION MANUAL means the most recently published edition of the manual entitled Trip Generation, published by the Institute of Transportation Engineers. A copy of the ITE Trip Generation Manual shall be kept on file with the ~~County~~ Department

~~of Transportation and Development. All land uses referenced in this ordinance are those defined in the most recently published edition of the ITE Manual.~~

~~DD.Z.~~ DD.Z. LIGHT RAIL TRANSIT STATION AREA is defined as the passenger station platform along a fixed-route light rail alignment.

~~EE. LOCAL STREET means that term as defined and used in the Transportation Element of the County Comprehensive Plan.~~

~~AA. LEGAL COUNSEL means the Office of County Counsel for Clackamas County, Oregon.~~

~~FF.BB.~~ FF.BB. LONG TERM FINANCING means debt instruments issued by the County or a component unit to finance a capital improvement in accordance with applicable state law ~~Bonds issued by the County to finance a capital improvement in accordance with ORS 223.205 — 223.295.~~

~~CC. METHODOLOGY means the narrative, formulas and charts that serve as the framework for determining the TSDC.~~

~~GG.DD.~~ GG.DD. MIXED-USE DEVELOPMENT is generally planned as a single real-estate land development project with a structure, or structures, containing two or more different and interacting land uses. These areas are characteristically higher density, compact walkable areas. Mixing of uses typically includes residential (townhomes, apartments, or detached homes on small lots), retail (mostly specialty and convenience), restaurants, hotels, office buildings, movie theatres, and any other compatible and complimentary uses. For further definition of project requirements to qualify for a Mixed-Use Development reduction, reference Table 2 – Mixed-Use Development TSDC Reduction Requirements, in Section 11.03.030(G).

~~EE. MULTI-MODAL means vehicular, transit, bicycle, pedestrian and wheel chair transportation.~~

~~HH.FF.~~ HH.FF. NEW DEVELOPMENT means site improvements that increase overall trip generation.

~~GG. QUALIFIED PUBLIC IMPROVEMENT means an increased capacity facility larger than a LOCAL a capital improvement that is required as a condition of development approval, identified in a project list included in a Methodology Report adopted by Section 11.03.010(G) and is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related. a capital improvement that is required as a condition of development approval, identified in the TSDC Capital Project List adopted by resolution and is:~~

- a. Not located on or Contiguous to the New Development site, or
- b. Located on or Contiguous to the New Development site, and as demonstrated in the traffic study for the New Development is required to be built larger or with greater capacity (over-capacity) than is necessary for the New Development to mitigate for transportation system impacts attributable to the New Development.

HH. RATE SCHEDULE means the TSDC rate associated with New Development types, as adopted by resolution.

~~II. REIMBURSEMENT FEE means a fee for costs associated with capital improvements already constructed or under construction when the fee is established, for which the local government determines that capacity exists.~~

JJ.II. RIGHT-OF-WAY means that portion of land that is dedicated for public use. Public uses may include but are not limited to pedestrian facilities (e.g., sidewalks, plazas), utility placement, signage, etc.

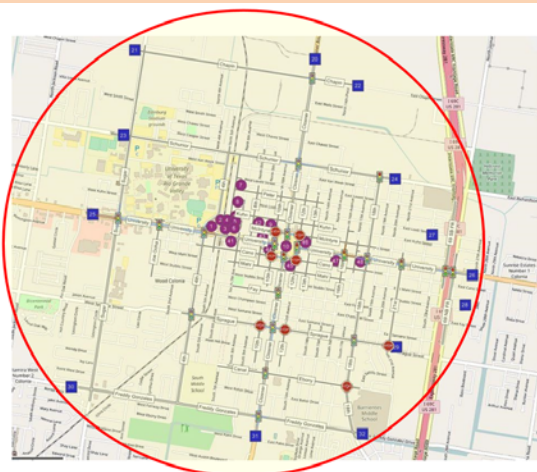
JJ. STATION AREA includes parcels with some portion of the development site located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a Light Rail Station Platform or a ~~BUS TRANSIT CORRIDOR~~Bus Transit Corridor, both of which facilitate travel to multiple geographic routes, typically resulting in reduced impact to the transportation system by encouraging ~~multi-modal~~Multi-Modal transportation and reducing the impact on the surrounding transportation system. For further definition of project requirements to qualify for a Station Area reduction, rReference Table 1 – Station Area Development TSDC Reduction Requirements, in Section 11.03.030(F);.

~~KK. for further definition of project requirements to qualify for a station area reduction.~~

~~LL.KK.~~ TRANSPORTATION SYSTEM DEVELOPMENT CHARGE (TSDC) means the fee to be paid pursuant to Section 11.03.030 of this Chapter.

LL. TSDC CAPITAL PROJECT LIST means a list of capital projects adopted by the Board identifying the estimated cost, timing, and portion of project costs to be funded by the TSDC.

MM. ZONE OF INFLUENCE shall be identified by drawing a border around the outermost intersections/facilities studied in the Traffic Impact Analysis to develop a boundary. If the improvements that generated the original credits are within the Zone of Influence boundary of the development receiving the credit, the credits may be reassigned because the two developments have similar impacts and traffic patterns.



11.03.030 Application

- A. A ~~Transportation System Development Charge~~TSDC ~~may be~~ ~~is~~ imposed upon all New Development ~~new development~~ within unincorporated Clackamas County ~~and the Happy Valley/Clackamas County Joint Area~~ for which a ~~development~~Development Permit ~~or building permit~~ is required. ~~Where an intergovernmental agreement imposes a city's System Development Charge for transportation facilities on new development within unincorporated Clackamas County, the County shall not impose its own Transportation System Development Charge.~~
- B. The applicant for a ~~development~~Development Permit ~~building permit~~ shall, at the time of application, provide the Department with all of the necessary and applicable information, such as the description of use, number of dwelling units or square footage of structures, information about occupancy and size of any existing use on the site, necessary to calculate the ~~Transportation System Development Charge~~TSDC. The Department shall notify the applicant of the right to appeal the decision on the calculation of the charge pursuant to Section 11.03.080.
- C. The amount of the ~~Transportation System Development Charge~~TSDC shall be determined as identified in the ~~Methodology~~Methodology and Rate Schedule Reports adopted pursuant to Section 11.03.010(~~GE~~), and amended pursuant to Section 11.03.030(~~GD~~), and Section 11.03.090 or adjusted pursuant to Section ~~11.03.030(D)~~11.03.030(F) -or 11.03.030(~~EG~~).
- D. If the County ~~or City~~ has not assigned a ~~Transportation System Development Charge~~TSDC category rate for the identified land use listed in the ~~adopted Rate Schedule~~ITE Manual, ~~or if data is "Not Available" in the ITE Manual~~, the Department shall at its option either:
1. ~~Identify the land use category that has a trip generation rate~~ is most similar to the use in question and apply that rate.
 1. _____
 2. Consider trip generation data, gathered in a credible manner, preferably by a registered traffic engineer, for the same or similar use. Such a study shall be prepared at the applicant's expense and must be submitted at least two weeks prior to expected issuance of a ~~development or building permit~~Development Permit. The Department Director~~or the Director's designee~~ has the right to accept, accept in part, modify, or reject the calculations offered under this option.
 3. The following guidelines apply to data collection under ~~option 2~~Section 11.03.030(D)(2) for land uses not in the ~~ITE Manual~~ITE Trip Generation Manual.
 - a. The applicant shall submit a list of similar uses with similar characteristics in Oregon, Washington, California, or preferably in the Portland region. Uses must have been open for business for at least a year.
 - b. The ~~DEPARTMENT~~Department will determine the number of sites and locations, and if applicable for consolidated land use categories, the types of uses for which the applicant will be required to submit traffic counts.

- c. The applicant shall supply the ~~DEPARTMENT~~Department with the following information for each site:
- i. Monthly adjustment factors to adjust trip generation to the fourth highest business (earnings) month.
 - ii. Standard days and hours of operations.
 - iii. Counts from sites on a weekday (mid-week – two day minimum) from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. Actual counting time and days may vary depending on uses and standard days of operation and shall be approved by the Department. Data collection shall be compliant with the ITE Trip Generation Manual.
 - iv. Quantification of pass by, pedestrian, bicycle and transit trips when applicable.
 - v. A vicinity map for each site.
- d. The applicant shall adjust this data as follows:
- i. Adjust a.m. and p.m. trips to ~~average weekday trips~~Average Weekday Trips based on the proportion of similar uses in the current edition of the ~~ITE Manual~~ITE Trip Generation Manual.
 - ii. Adjust daily number to ~~average weekday trips~~Average Weekday Trips if weekend data are collected.
 - iii. Adjust ~~average weekday trips~~Average Weekday Trips to the fourth highest month based on monthly adjustment factors supplied by the applicant.
 - iv. Adjust pass by, pedestrian, bicycle, and transit trips for potential trip reduction.
- ~~e.~~—The Department shall review the applicant’s data collection and adjustments, and the Department Director ~~or the Director’s designee~~ shall issue a final ruling to the applicant regarding which data and adjustments will be used for calculating the Transportation System Development Charges TSDC. ~~.-~~
- ~~f.e.~~ A fee will be charged for the review of formal alternate trip generation data. The fee will be set by ~~Resolution~~resolution.
- E. Any developer requiring the execution of a formal ~~DEVELOPMENT AGREEMENT~~Development Agreement to clarify ~~Transportation System Development Charge TSDC~~ assessments, reductions for Station Area Development (Table 1), or reductions for Mixed-Use Development (Table 2) will be required to pay a deposit (as set by Resolution) prior to staff drafting the agreement.
- F. Station ~~Area area~~-developments reduce vehicle trips on the adjacent roadway. Projects meeting the development density requirements that fall within a Station Area ~~station-area~~ are eligible to receive a reduction that correlates to the reduced impact of the eligible development. An approved Station Area Development is eligible for a reduction on TSDC assessments as outlined

in Table 1 (below) when some portion of the development site is located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a light rail station platform or a ~~bus transit corridor~~ **Bus Transit Corridor** route alignment. This reduction may be combined with any applicable Mixed-Use Development reduction (Table 2).

Table 1 – STATION AREA DEVELOPMENT TSDC REDUCTION REQUIREMENTS			
REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTION)	TRANSIT ACCESS REQUIREMENT (WITHIN 0.25 MILE RADIUS)	DEVELOPMENT DENSITY REQUIREMENT(S)
Level 1	5% Vehicle Trip Reduction	Bus Transit Corridor ²	Minimum residential density of 24 units per acre
			Minimum FAR of 2.0 per acre for non-residential development
Level 2	10% Vehicle Trip Reduction	Bus Transit Corridor ²	Minimum res. density of 24 dwellings per acre AND minimum FAR of 2.0 per acre for non-res. development
Level 3	5% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum residential density of 12 dwellings per acre ⁴
			Minimum FAR of 1.0 per acre for non-res. development
Level 4	10% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum Res. Density of 24 dwellings per gross acre
Level 5	15% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum Res. Density of 24 dwellings per acre AND at least 15% of the total gross res. & non-res. floor area devoted to commercial/retail uses
			Minimum FAR of 2.0 per acre for non-res. development
Level 6	20% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum res. density of 24 dwellings per acre AND minimum FAR of 2.0 per acre for non-res. development

¹ Some portion of the development site must be located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a Light Rail Station Platform or a Bus Transit Corridor route alignment to qualify for TSDC reduction.

² Bus Transit Corridors include current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).

³ Light Rail Transit Station ~~Area~~ is defined as the passenger station platform along a fixed route alignment.

⁴ The stated residential density for this TSDC reduction level has been interpolated based on ~~ITE Trip Generation Handbook~~ITE Trip Generation ~~results~~ Manual results.

Source: ITE, Trip Generation Handbook, 2nd Edition, Appendix B, with noted exception.

- G. Mixed-~~use~~Use developments generate internal trip capture, thus reducing external trip generation rates on surrounding roads. In such event, the Department, for purposes of establishing the ~~TSDC Transportation System Development Charge~~ for a Mixed-Use Development, shall apply a Mixed-Use Development TSDC reduction to the eligible structure, or structures, which correlate to the internal trip capture of the proposed development as detailed in Table 2 (below). This reduction may be combined with any applicable Station Area Development reduction (Table 1).

REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTION)	DEVELOPMENT DENSITY REQUIREMENT(S)
Level 1	7% Vehicle Trip Reduction	Mixed- use-Use development-Development with at least two different land use types (e.g., retail and office) within the same tax lot or master-planned area
Level 2	10% Vehicle Trip Reduction	Mixed- use-Use development-Development with a minimum residential density of 12 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 3	14% Vehicle Trip Reduction	Mixed- Use dDevelopment with a minimum res. density of 24 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 4	16% Vehicle Trip Reduction	Mixed- use-Use dDevelopment with a minimum residential density of 32 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 5	18% Vehicle Trip Reduction	Mixed- use-Use dDevelopment with a minimum residential density of 40 dwellings per gross acre AND minimum of 0.5 FAR per gross acre for non-residential development

Source: derived using EPA Mixed-Use Trip Generation Model v4.0.

H. If the proposed development includes more than one parcel of land and/or more than one structure, the Mixed-Use Development and/or Station Area reductions shall be authorized as part of a development approval outlining the final build-out of the master plan development area. The applicable reduction shall be memorialized in a ~~DEVELOPMENT-AGREEMENT~~ Development Agreement (the tool the ~~CITY or COUNTY~~ County will use to secure the developer's compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the Station Area station-area and/or ~~mMixed-u~~ Use reduction provisions) and recorded as a right-to-lien against each parcel included within the approved development area, allowing for renewal on active development projects.

- I. If a development avails itself of the Mixed-Use Development ~~and/or Station Area~~ reductions and does not construct the development within the term of the ~~development agreement~~ Development Agreement, the County ~~and/or City~~ will capture any unwarranted reduction provided by the Department at the time of permitting any built structures based on the original conceptual plan that the final built development does not warrant, by:
1. The Developer ~~paying will have an opportunity to pay~~ the TSDC reductions that were attributed to a built structure within the Mixed-Use Development ~~and/or Station Area~~; or
 2. The County ~~and/or City can~~ collecting the TSDC reductions that were attributed to a built structure within the Mixed-Use Development ~~and/or Station Area~~ by filing a lien against the benefitting parcels.
- J. Notwithstanding any other provision, the rates adopted pursuant to 11.03.030(C) shall, annually, be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on ~~(1) the change in the average market value of undeveloped land, except resource properties, in Clackamas County according to the records of the County Tax Assessor; (2) the change in construction costs according to the Engineering-News-Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and (3) the Washington State Department of Transportation (WSDOT) Construction Cost Index; and shall be determined as follows: Construction Cost Index.~~

~~The Transportation System Development Charge Construction Cost Index Adjustment Factor shall be used by County staff to adjust the Transportation System Development Charge TSDC Rate Schedule rates each calendar-fiscal year, unless it is otherwise adjusted by the Board and City Council based on adoption of an updated methodology Methodology or TSDC Capital Project List capital improvement plan, or through an Annual Review as described in 11.03.090. However, if (1) the Transportation System Development Charge Adjustment Factor results in a negative value, no adjustment to the rates will be made that calendar year; or (2) the adjustment factor results in a factor less than 1.0% (0.99% - 0), no adjustment to the rates will be made that calendar year. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 6 of Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 10-2012, 10/25/12.]~~

11.03.040 Collection

- A. The ~~Transportation System Development Charge TSDC~~ is due and payable at the time of issuance of the ~~DEVELOPMENT PERMIT~~ Development Permit. The ~~DEVELOPMENT PERMIT~~ Development Permit shall not be issued, except as provided in ~~Subsection 11.03.040(C)-(3) or 11.03.040(D)~~ of this Section, until payment is made. The ~~Transportation System Development Charge (TSDC) TSDC~~ rate in effect at the time that a complete ~~DEVELOPMENT PERMIT~~ Development Permit or ~~BUILDING PERMIT~~ Building Permit, whichever submittal is received last by the County ~~or City~~ will be applied to that permit.
- B. That TSDC rate is effective for 180-days from the date the land use approval is given or the ~~development permit~~ Development Permit is submitted to the Building Department, whichever comes last. At the expiration of the 180-day period, if the permit is not yet issued, any

~~adjustments adopted pursuant to this Ordinance can be applied to the permit~~
~~any annual rate adjustments applied under Section 11.03.030(H) can be applied to the permit.~~

C. Notwithstanding Section 11.03.030(A), the following are exempt from the ~~Transportation System Development Charge~~ TSDC:

1. Guest Homes will not be charged a TSDC assessment because these units share a kitchen and laundry facility with the primary dwelling on the parcel, and as such are not used for boarding, lodging, or rental.

~~1. Replacement of any existing single family structure (which include manufactured homes not in a manufactured home park, townhomes and condominiums) for residential purposes only, except to the extent such remodeling or replacement creates additional dwelling units.~~

~~2. Replacement of any existing multi family (which include duplexes, triplexes and multi-tenant apartments), except to the extent such remodeling or replacement creates additional dwelling units.~~

2. Alteration permits for tenant improvements, new construction or remodeling where:

a. no additional dwelling unit(s) or structure(s) are created; or

b. a change of use, building addition, or other modification which does not result in an increase in Average Weekday Trips as determined in the manner set forth in a Methodology adopted pursuant to Section 11.03.010(E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.

~~3. Replacement of existing office, business and commercial, industrial or institutional structures (which include manufactured home parks), except to the extent that a change of use, building addition, or other modification generates additional, average weekday trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(G), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.~~

~~4.~~ 3. Relocation of any structure originally located on property that the County ~~or the City~~ acquires in-fee as a part of a capital transportation project that results in a building encroachment over public ~~Right-of-Way~~ or easements, when the remaining remnant will not be redevelopable, such that the structure is relocated to another parcel within the same system development charge district. Except to the extent such relocation creates additional dwelling units and/or additional ~~average weekday trips~~ Average Weekday Trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(~~G~~ E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.

~~5.~~ 4. Replacement of any structure located on excess property that the County ~~or the City~~ acquires in-fee as a part of a capital transportation project that can be marketed, or available for occupancy, except to the extent such remodeling or replacement creates additional dwelling units and/or additional ~~average weekday trips~~ Average Weekday Trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(~~G~~ E), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable, provided:

- a. The agency has been provided a reasonable period of time to meet public notification requirements for sale or other disposition (i.e., public auction); and
- b. Upon completion of the project, after access has been restored and/or recorded whichever is the later, such that the property has legal ingress/egress for development or occupancy purposes.

D. Payment of the ~~Transportation System Development Charge~~TSDC by a person who is also eligible for a credit voucher for construction of an increased capacity facility may be delayed until a date certain to be set by the Department at the time of development or ~~building-permit~~Building Permit issuance.

Payment may only be delayed for the same development which is associated with the construction of the capital improvement for which credit is given, and the permittee shall provide the Department with security to secure payment of the Charge. The security shall be in an amount determined by the Department, and must be in a form outlined in Subsection 11.03.040(D)(1), ~~or~~ (2) or (3) below, or an alternative method approved by County Legal Counsel.

A permittee eligible for delay of payment of the ~~Transportation System Development Charge~~TSDC pursuant to this section shall secure payment of the assessment, prior to issuance of the development or ~~building-permit~~Building Permit, by any of the following~~either~~:

1. Placing cash in the amount of the assessment in an escrow account accessible by the County-~~or City, respectively~~. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or revenue in the escrow account shall be withdrawn to cover the balance. Once the balance is reconciled any remaining revenue in the escrow account shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.
2. Issuing a letter of credit in the amount of the assessment which is accessible by the County. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or the County shall send a demand to draw down on the letter of credit to cover the balance. Once the balance is reconciled any remaining balance on the letter of credit shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.
3. The permittee can applying for delay of payment of the ~~TSDC~~Transportation System Development Charge pursuant to ordinance Section 11.03.040(D). Once the credit voucher is issued, the permittee can apply all (or a portion of) the credit voucher toward the principal and interest balance on the account, or continue making installment payments in accordance with the payment plan throughout the duration of the loan. If the installment plan is continued, the applicant would pay an administrative fee at a rate adopted by resolution and interest would begin accruing on the principal balance as of the date of credit voucher issuance.

E. When a ~~Transportation System Development Charge~~TSDC is due and payable, the ~~permittee~~parcel owner may apply to the County for payment in twenty (20) semiannual installments, secured by a lien on the property upon which the development is to occur, to include interest on

the unpaid balance, ~~if that payment option is required to be made available to the permittee by ORS 223.207.~~

1. ~~A parcel owner may request installment payments for up to \$500,000 in TSDC assessments; any remaining balance must be paid in full prior to issuance of the Development Permit.~~

~~1.2.~~ The County shall ~~provide forms~~ prepare the agreement for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The application fee for this option shall be ~~\$500~~ set by resolution.

~~2.3.~~ The applicable interest rate shall be determined as follows:

Principal	Interest Rate
\$0-24,999	Current <u>US Federal</u> prime lending rate plus 3.0
\$25,000-\$500,000	Current <u>US Federal</u> prime lending rate plus 2.0

~~3.4.~~ An applicant requesting installment payments shall have the burden of demonstrating the authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien. The Department Director, ~~or Director's Designee~~, may order the imposition of the lien as recommended by the Department.

~~4.5.~~ Upon the order of the Department Director, ~~or Director's Designee's~~, ~~order~~ the Department shall cause the lien to be recorded on the lien docket kept by the County Clerk. From that time the County shall have a lien upon the described parcel for the amount of the ~~Transportation System Development Charge TSDC~~, together with interest on the unpaid balance at the rate established by the Department Director, ~~or Director's Designee's~~. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. Upon satisfaction of the obligation the Department Director, ~~or Director's Designee~~ shall request the County Clerk to release the lien.

F. With the passage of Article XI, Section 11 B of the Oregon Constitution, progressive payment shall be taken for all unpaid debt. The Department Director, ~~or Director's Designee~~, will be notified immediately by the Department of any account thirty (30) days or more past due. The Department Director, ~~or Director's Designee~~, shall then send a letter to the defaulting party demanding payment no later than thirty (30) days following the date of the demand letter. The demand letter shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a "time is of the essence" clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional judgment of the Department Director, ~~or Director's Designee~~, depending upon the type of debt and amount owed but in no event shall time for payment exceed the next payment due date or any other requirements imposed by debt instruments executed by the County in favor of any third party or other agreements that may have been executed by the County.

1. If payment has not been made following the first notice, the ~~Department Director, or~~

~~Director's Designee, shall County shall~~ send a second notice, ~~with a copy to the Finance Director,~~ detailing the prior defaults and notices thereof indicating that further action, including legal action, will be taken.

~~2. If, following the second notice, time for payment has expired, then the Finance Director shall include the defaulting person or entity on a list entitled "Collection/Foreclosure" and consult with appropriate staff and legal counsel regarding the most efficient and cost effective method for collection of the debt. Unless payment is received in the time period designated in the second notice, the County may proceed with any action in law or equity to enforce its rights and collect the debt, and that upon such failure the entire amount outstanding shall immediately become due and payable.~~

~~3.2.~~

~~4. The Finance Director shall determine if the matter will be referred to legal counsel, a debt collection agency or other method for collection. If referred to legal counsel, a demand letter to the debtor shall be sent declaring a default, accelerating the entire balance and requiring full payment within a reasonable period of time not to exceed thirty (30) days. If no satisfactory response is forthcoming, the Finance Director may extend the time limits for legal action in cases of extraordinary hardship; such determination shall be at the sole discretion of the Finance Director and not subject to review by the Board.~~

~~5. Upon referral and direction by the Finance Director, counsel may proceed with foreclosure of the assessment lien or take other legal action authorized by law which is deemed most appropriate under the circumstances.~~

~~6. If the Finance Director determines that it is most effective to use the services of a collection agency, the Finance Director may solicit proposals and make a recommendation to the Board regarding selection of a firm consistent with the Clackamas County Local Contract Review Board Rules and ORS Chapter 279. The Finance Director shall be authorized to negotiate a contract regarding the amount of compensation, length of term and methods of collection, subject to final review and approval by the Board. However, the contract shall specifically provide that the collection agency shall fully comply with the Fair Debt Collection Practices Act, 15 U.S.C. 1601, et seq., and shall provide for full indemnification and protection of the County from any and all claims for unfair or unlawful debt collection practices.~~

11.03.050 Credit

An applicant for a Development Permit, shall be entitled to a credit against the TSDC for payment of a fee-in-lieu of construction or for the construction of a Qualified Public Improvement.

Calculation of any TSDC credit value will be based on this Ordinance and the Methodology in place as of the date the County receives a complete TSDC credit application. The applicant shall have the burden of demonstrating in its application for credit that a particular improvement qualifies for credit.

A. The County shall provide credit for the documented, reasonable cost of construction (whether

paid via fee-in-lieu of or a constructed improvement) of all or part of a Qualified Public Improvement listed in TSDC Capital Project List, adopted pursuant to 11.03.010(E), based on the following criteria:

1. Transportation improvements located neither on nor contiguous to the property that is the subject of development approval shall be considered for credit at 100% of the cost of the qualified improvements.
2. Transportation improvements located on or contiguous to the property that is the subject of development approval, and required to be built larger, or with greater capacity than is necessary for the particular development project shall be considered for credit. Credit for these improvements may be granted only for the cost of that portion of the improvement that exceeds the capacity needed to serve the particular development project or property.
3. Developers are constructing Qualified Public Improvements in lieu of the County capital projects group. In accordance with County Code Section 7.03.099(B), utility relocations to accommodate these road designs should be performed at no cost to the developer.
4. No more than 13.5 percent of the total qualifying construction cost shall be creditable for survey, engineering, and inspection.
5. No credits shall be granted for Oregon Department of Transportation (ODOT) facilities unless clearly identified as a Qualified Public Improvement listed in the TSDC Capital Project List.
6. Road Right-Of-Way dedicated pursuant to the applicable development conditions shall be considered for credit as follows:
 - a. Road Right-Of-Way located neither on nor contiguous to the property that is the subject of development approval shall receive credit for the dedication.
 - b. Road Right-Of-Way located on or contiguous to the property that is the subject of development approval, and required to be built larger, or with greater capacity than is necessary for the particular development project shall be considered for credit to the extent necessary to construct the facility in excess of the capacity needed to serve the particular development project or property.
 - c. Credit for right of way shall be allowed based on:
 - i. Reasonable market value of land purchased by the applicant from a third party and necessary to complete the improvement; or
 - ii. A certified market appraisal, paid for by the applicant, that establishes the land value when the property was donated for the needed right of way; or
 - iii. A per square foot value using the then current real market value for the real property shown in the records of the County Tax Assessor.

B. All requests for credit vouchers must be in writing and filed with the Department not more than ninety days after acceptance of the improvement. Improvement acceptance shall be in accordance with the practices, procedures and standards of the Department.

- C. The amount of any credit shall be determined by the Department and based upon the actual cost incurred by the applicant to construct the improvement, as supported by contract documents, and other appropriate information, provided by the applicant for the credit. In the request, the applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements of this section.
- A-D. The applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Department's opinion, the improvement(s) meets the requirements of this section and the Department concurs with the proposed value of the improvement(s), a credit shall be granted for the eligible amount.
- E. The value of the credits under this Section shall be determined by the Department based on the actual cost of construction and Right- Of- Way, as applicable, as verified by receipts and other credible evidence submitted by the applicant. Upon a finding by the Department that the contract amounts, including payments for Right-Of-Way, exceed prevailing market rates for a similar project, the credit shall be based upon market rates.
- F. The Department shall respond to the applicant's request in writing within 45 days of receipt of a complete request. The Department shall provide a written explanation of the decision on the credit request.
- G. Upon approval, the Department shall provide the applicant with a credit voucher signed by the Department Director, on a form provided by the Department. The credit voucher shall state a dollar amount that may be applied against any TSDC imposed against the subject property. In no event shall a subject property be entitled to redeem credit vouchers in excess of the TSDC imposed on the subject property, except as provided for in Section 11.03.050(J).
- H. A credit shall have no cash or monetary value and a remaining balance on a voucher shall not be a basis for any refund. A credit shall only apply against the TSDC and its only value is to be used to reduce the TSDC otherwise due, subject to all conditions, limitations, and requirements of this chapter.
- I. When issued by the Department, a credit shall be the personal property of the applicant. Applicant may transfer all or part of any earned credit to one or more Affiliates of the applicant. Credits shall remain the personal property of the applicant, unless transferred by the applicant or its authorized agent as transferor. Any person claiming the right to redeem a credit shall have the burden of demonstrating ownership of the credit.
- J. Prior to permit issuance, upon written application to the Department, a credit shall be applied to the TSDC on a permit for development on a lot or parcel within the confines of the property originally eligible for the credit. In the case of multi-phase development, excess credit generated in one phase may be applied to reduce the TSDC in subsequent phases of the original development project.
- K. Credits may be reassigned from the applicant to another individual or entity for use on another property if all the following conditions are met.
1. A request for Assignment of a credit voucher must be made in writing with a notarized letter to the Department signed by the person who owns the credit. The request for

Assignment of a credit voucher shall contain all the information necessary to establish that such an Assignment is allowable under this subsection. The burden of proof that an Assignment is allowable is on the applicant. The Department shall respond in writing to the applicant's request for Assignment within 30 days of receipt of the request.

2. Credits may be Assigned if the Department determines that either:

- a. The lot or parcel that is to receive the credit is adjacent to and served by the transportation improvements that generated the credits, or
- b. The transportation improvements that generated the original credits are located within the Zone of Influence of the Department traffic impact analysis for the development receiving the credit.

3. When a credit voucher or portion of a credit voucher is Assigned, a notarized Assignment of Transportation SDC Credits notice shall be sent from the Department to both parties clarifying the Assignment. The amount Assigned shall be deducted from the transferor's credit voucher balance and Assigned to the transferee.

- a. The Assignment shall reference the original credit voucher number, which is associated with the property to which the initial credit was issued.
- b. The Assignment shall have the same expiration date as the initial credit voucher.
- c. The credit shall be applied to the TSDC on a permit for development on a lot or parcel within the confines of the property eligible for Assignment as described in subsection 11.03.050(I) of this section.

4. An Assigned credit voucher shall follow all rules regarding redemption of credits.

5. The Department may charge a fee, as set by resolution, for administering the Assignment of credits.

L. Any credit must be redeemed not later than the issuance of the Development Permit. The applicant is responsible for presentation of any credit prior to issuance of the Development Permit. Except as provided in Section 11.03.060, under no circumstances shall any credit redemption be considered after issuance of a Development Permit.

M. Credit vouchers shall expire on the date ten years after the acceptance of the applicable improvement. No extension of this deadline shall be granted.

~~B-N.~~ The Department Director can delegate signature authority for credit vouchers to a designee.

~~A. The person responsible for providing a qualified public improvement shall be entitled to receive a credit voucher that may be used to satisfy a Transportation System Development Charge obligation within the same geographic collection area for which the credit is given (i.e., Countywide Area or Happy Valley/Clackamas County Joint Area). An application for credit must be received no later than 90 days after the date the improvement has been accepted by the responsible government.~~

~~C. The credit amount shall not exceed the portion of the actual cost of the project that is eligible~~

for SDC funding as shown in the methodology reports adopted by 11.03.010.

- ~~D. The “actual cost” of the project or improvement means the cost of materials, land and construction including design and engineering, permits, use of equipment, and labor directly related to capacity increasing capital improvements above the local street level.~~
- ~~E. Credit will be given for the value of real property donated for right of way needed as a part of the increased capacity facility. The land value shall be calculated~~
- ~~F. either at a per square foot value using the then current real market value for the real property shown in the records of the County Tax Assessor, or through a certified market appraisal, paid for by the applicant, that establishes the land value when the property was donated for the needed right of way.~~
- ~~G. Any credit voucher provided for in this Chapter is transferable to any person.~~
- ~~H. Credits shall apply against only the applicable Transportation System Development Charges. No credit issued after January 11, 2002, may be redeemed for cash. A credit issued prior to that date may be redeemed in the manner available when the credit was issued. The Department Director, or Director’s Designee, shall implement a system to insure the authenticity of the credit documents submitted to the Department to satisfy an assessment.~~
- ~~I. A credit voucher may only be transferred to another party within the first seven years after the date it is issued by the Department, except as outlined in Subsection 1 below, and the transfer must be executed within that same time period.~~
- ~~J. A credit voucher may be applied against an applicable Transportation System Development Charge, pursuant to the above sections, on a project owned by the final holder of the voucher from year seven (7) to year ten (10).~~
- ~~K. Between year seven (7) and year ten (10) credit voucher transfers are restricted to inclusion in land sale agreements.~~
- ~~L. The first six (6) credit voucher transfers per credit voucher holder each fiscal year will be free of charge; subsequent transfers will be charged a fee, as set by Resolution. The fee may be paid in cash, or the owner of the credit voucher can opt to reduce the outstanding voucher to cover the cost of the transfer fee.~~
- ~~M. The Department Director can delegate signature authority for credit vouchers to a designee.~~

11.03.060 Refunds

- ~~A.~~ Refunds may be given by the County upon finding that there was a clerical error in the calculation of the ~~Transportation System Development Charge~~ TSDC. Refunds shall not be allowed for failure to claim credit, as provided for in Section
- ~~B.A.~~ 11.03.050, at the time of ~~development or building~~ Development Permit ~~permit~~ issuance. The refund must be requested within six (6) months of the date the assessment was paid; failure to avail oneself of this grace period forfeits any future right ~~to receive a refund or interest in the assessment paid~~ and the ~~credit value of the TSDC paid~~ will remain with the parcel for future development.

~~C.B.~~ A fee (set by Resolution) will be charged on any refund of an assessment paid on development that did not commence. The fee may be paid in cash or the applicant can opt to reduce the amount of the refund to cover the cost of the fee.

11.03.070 Dedicated Funds, Project Lists

~~A.~~ There are created two dedicated funds entitled the County Transportation System Development Charge Fund, and the Happy Valley/Clackamas County Joint SDC Fund, herein “funds,” one fund for each of the TSDC charges imposed by this chapter. All monies derived from the Transportation System Development Charges TSDC shall be placed in the County TSDC Fund respective fund. Transportation System Development Charge TSDC revenue shall be used to fund those projects identified in the Methodology Reports TSDC Capital Project List adopted by pursuant to Section 11.03.010(GE), increased capacity facilities, and costs related to the administration compliance with the provisions of this ordinance, of the TSDC program as provided by ORS 223.307.

~~B.~~ The TSDC shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

~~C.~~ The TSDC shall not be expended for costs of the operation or routine maintenance of capital improvements.

~~B.~~ The Project Lists adopted by Section 11.03.010(G) shall be amended from time to time by County staff administrative action. The updated project list shall serve as an amendment to the TSDC Methodology Reports. This change will move completed projects from the list of credit-eligible projects, and will not trigger a revision to the TSDC rates until a point in time when a new TSDC methodology is adopted.

~~C.D.~~ The TSDC Capital Project List Project Lists adopted pursuant to by Section 11.03.010(GE) may be amended from time to time by Board Resolution. If a system development charge the Rate Schedule will be increased by a proposed modification of the TSDC Capital Project List of a project list to include capacity increasing capital improvement cost(s):

1. The County shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.305(6).
2. If the County receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the County shall hold a public hearing.
3. Notwithstanding ORS 294.160, a public hearing is not required if the County does not receive a written request for a hearing.
4. The decision of the County to increase the system development Rate Schedule charge by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.

11.03.080 Appeal

~~A. An applicant may appeal a decision of the Department to the County Hearings Officer by filing a written request and paying the appeals fee with the County within fourteen (14) days of the Department's decision, or payment of the assessment, whichever comes first. The individual acting as the Hearings Officer will be appointed by the Board of County Commissioners.~~

A. A person challenging the expenditure of TSDC revenues may appeal the expenditure to the Board by filing a written request with the Department Director. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

After providing notice to the appellant, the Board shall determine whether the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314. If the Board determines that there has been an improper expenditure of TSDC revenues, the Board shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

B. Appeals of any other decision required or permitted to be made by the Department under this ordinance must be filed with the Hearings Officer by filing a written request and paying the appeals fee with the Department within fourteen (14) days of the Department's decision, or payment of the assessment, whichever comes first. The individual acting as the Hearings Officer will be appointed by the Board.

a. After providing notice to the appellant, the Hearings Officer shall determine whether the Department's decision is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions.

~~a.b.~~ The fee for formally appealing a decision to the Hearings Officer will be set by resolution.

~~B-C.~~ The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100. The person who has appealed a decision shall be notified of this right to review of the decision.

D. A legal action challenging the Methodology adopted by the Board pursuant to Section 11.03.010(E) shall not be filed later than 60 days after adoption. A person shall contest the Methodology used for calculating a TSDC only as provided in ORS 34.010 to ORS 34.100.

11.03.090 Annual Review

~~The County shall prepare an annual review to determine that sufficient funds will be available to help fund the needed increased capacity facilities, to ensure that the adopted Transportation System Development Charge rate keeps pace with inflation, and to ensure that such facilities will not be over funded by the Transportation System Development Charge receipts.~~

~~In the event, upon annual review, it is determined an adjustment to the Transportation System~~

~~Development Charge is necessary in order to ensure sufficient funding for the construction of increased capacity facilities or to ensure such facilities are not over-funded by the Transportation System Development Charge, the Board and/or Council shall propose and adopt appropriately adjusted Transportation System Development Charge rates.~~

Prior to January 1 of each year the County shall provide an annual accounting for the activity occurring in the dedicated funds created by 11.03.070 for the previous fiscal year. The accounting shall show by fund the total amount of system development charges collected, the amount spent on each project that was funded in whole or in part in that fiscal year, and the amount attributed to the costs of complying with the provisions of ORS 223.297 to 223.314.

Section 11.03 – Transportation System Development Charge

MODIFICATIONS MADE AFTER 1ST READING – COUNTY COUNSEL RECOMMENDATIONS

Purpose:

1. 11.03.010(A) & (F) was modified to reflect “transportation facilities/transportation system” rather than specific design components. This incorporates a broader, catch-all definition of where SDCs can be applied rather than defining Arterial and Collector roads and Multi-Modal facilities. The actual projects eligible will be defined by the project list which will be adopted by resolution.

Definitions:

2. 11.03.020(F) was modified to define the Board as the “Board of County Commissioners”.
3. 11.03.020(G) was modified to reflect gender neutral Building Official.
4. 11.03.020(O) was modified so that Development Agreement is permissive, such that it reads “...the tool the County may use to secure the...”
5. 11.03.020(BB) was modified to read, “debt instruments issued by the County or a component unit to finance a capital improvement in accordance with applicable state law.” The broader definition will improve flexibility.
6. 11.03.020(EE) was modified to include the period missing at the end of the definition of “Multi-Modal”.
7. 11.03.020(HH) was modified so that the definition of “Rate Schedule” includes the word “rate”, i.e. “...means the TSDC rate associated with...”

General notes:

8. Fixed all references to the ITE to reflect “ITE Trip Generation Manual” for consistency
9. 11.03.030(D)(2)(e) was using “Resolution” as a defined term when it is not. This was fixed.
10. 11.03.030(J) was modified to add a reference to staff, “The Construction Cost Index shall be used by County staff to adjust the TSDC Rate Schedule each fiscal year...”
11. 11.03.040(B) was modified to remove a cross-reference to 11.03.030(H), and was revised to read “...any adjustments adopted pursuant to this Ordinance can be applied to the permit.”
12. 11.03.040(E)(1) was revised to remove the reference to ORS 223.207 because any TSDC installment plan, Bancroft or otherwise, would carry the same interest rate that is set forth in (E)(3).
13. 11.03.040(E)(3) was modified to reference the US Federal Prime Rate.
14. 11.03.040(F)(1) was modified to reduce the specificity of the process.
15. 11.03.040(F)(2) was modified and sections (3)-(5) were removed to reduce the proceduralism of this code section. This section now states that unless payment is received in the time period designated in the second notice, the County may proceed with any action in law or equity to enforce its rights and collect the debt, and that upon such failure the entire amount outstanding shall immediately become due and payable.
16. 11.03.060(A) was modified to read, “The refund must be requested within six (6) months of the date the assessment was paid; failure to avail oneself of this grace period forfeits any future right to receive a refund and the value of the TSDC paid will remain with the parcel for future development”.



Home Builders Association
of Metropolitan Portland

November 7, 2017

The Honorable Jim Bernard, Chair
Clackamas County Commission
2051 Kaen Road
Oregon City, OR 97045

Re: Clackamas County Transportation System Development Charges

Chair Bernard and Commission Members:

The HBA of Metropolitan Portland appreciates the opportunity to provide testimony regarding the Clackamas County Transportation System Development Charge (TSDC) Methodology Report.

The HBA has enjoyed a long-standing partnership with Clackamas County and recognizes that the success of any community development plan is to properly identify infrastructure needs and develop appropriate funding strategies to achieve our shared goals.

Historically, the HBA has supported SDCs as a means to pay for necessary infrastructure upgrades to accommodate increased demand on public facilities. The methodology and proposal before the Commission is no exception. The HBA understands that Clackamas County faces challenges with respect to its transportation infrastructure and the need for prudent investments. Especially during a time of rapid population growth and the cost of housing on the rise, we believe that the county and staff held housing affordability as a high priority throughout the process. The HBA would like to submit our endorsement of the proposed update before the commission today on behalf of our membership.

We would also like to take this opportunity to commend the county staff for their high level of outreach and communication to our organization and all others involved in the update process. This approach could easily act as a benchmark for other jurisdictions in the future.

We look forward to continuing our strong partnership with Clackamas County to support its community development goals and appreciate the Commission's consideration of the.

Respectfully,

James Adkins
Government and Political Relations Coordinator



M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Resolution to Adopt the Transportation System Development Charges Methodology Report, Establish a new TSDC Capital Project List and Establish an updated TSDC Rate Schedule

Purpose / Outcomes	Amendments to the TSDC Ordinance require adoption of the September 2017 Transportation System Development Charges Methodology Report, TSDC Capital Project List and TSDC Rate Schedule by resolution.
Dollar Amount and Fiscal Impact	<ul style="list-style-type: none"> Countywide TSDC rates will be aligned with the cost of construction and will be spread equitably among projects forecast as part of anticipated growth within the county. The City of Happy Valley and Clackamas County will no longer participate in a shared TSDC capital projects fund.
Funding Source	<ul style="list-style-type: none"> Clackamas Countywide TSDC Funds (Fund 223) Happy Valley Clackamas County Joint TSDC Funds (Fund 227)
Duration	Termination of the Joint TSDC district will be effective December 31, 2017. New TSDC ordinance, rates and methodology will take effect on development applications in Clackamas County beginning January 1, 2018.
Previous Board Action	<p>There have been seven Board Policy Sessions on this topic in the last two years:</p> <ul style="list-style-type: none"> 03/15/16: TSDC methodology update process and work group approach 05/24/16: TSDC project selection criteria 03/14/17: TSDC methodology project update and public outreach 06/27/17: TSDC project list 07/18/17: TSDC rate structure and measuring traffic impact 08/01/17: TSDC rate structure and draft IGA to terminate Joint District 08/17/17: Approve IGA setting terms of separation for the Joint District 11/07/17: TSDC methodology update process discussion review 11/08/17: First reading of Ordinance 12-2017 amending County Code, Section 11.03
Strategic Plan Alignment	<p>This supports the mission of the Department of Transportation & Development <i>to provide transportation maintenance and construction, land use planning, permitting services ... to residents, property owners, businesses and the traveling public so they and future generations can experience and invest in a safe, well-designed and livable community.</i></p> <p>This supports the County goals of <i>growing a vibrant economy, building strong infrastructure and building trust through good government.</i></p>
Contact Person	Diedre Landon, DTD Administrative Services Manager @ 503-742-4411

EXECUTIVE SUMMARY

Local governments rely on System Development Charges (SDCs) to collect money for capital improvements on a variety of infrastructure systems, such as roads, water, sewer, storm drains and schools. Transportation System Development Charges (TSDCs) are one-time fees assessed to new or expanded developments to help cover the cost of adding to the capacity of transportation facilities for motorists, bicyclists and pedestrians to accommodate new trips added by the development. TSDC fees are based on the number of vehicle trips a particular land use generates, and are paid by the developer when a building permit is issued.

Clackamas County currently has two TSDC districts, one for areas in and around the City of Happy Valley and one for the remainder of the County. The joint district with Happy Valley will be dissolved effective December 31, 2017, and beginning January 1, 2018, each jurisdiction will manage its own district with its own rates.

In early 2016, the County and Happy Valley began updating our 10-year-old TSDC methodology in order to:

- Update the list of capital projects eligible to receive TSDC revenue;
- Update the TSDC rates charged to different kinds of development, and
- Streamline and simplify the TSDC program for our customers.

Over the past year and a half, staff has been meeting with a work group of commercial and residential developers, the Home Builders Association and engineering firms that represent the site development community to help us develop the new methodology (Attachment A, September 2017 Transportation System Development Charge Methodology Report).

During this process, we met with the Board of County Commissioners seven times and brought work group recommendations back to the Board on four occasions (Attachment B). The resolution and draft report were reviewed and approved by County Counsel.

STEP 1: IDENTIFY ELIGIBLE PROJECTS

The list of capital projects eligible to receive TSDC revenue sets the foundation for calculating the rates for different kinds of development.

The work group chose the following criteria for selecting projects from the Transportation System Plan (TSP) and other locally adopted plans that will become eligible for TSDC funding.

- Increase traffic connections to daily needs and services.
- Reduce congestion at intersections.
- Located in or near a current or future employment area.
- Improve safety on roads.
- Provide the greatest benefit to the entire community by keeping projects on roads with significant amounts of traffic, such as arterials and collectors.

This criteria was reviewed with the Board at policy sessions on May 24, 2016 and June 27, 2017. The Board concurred with the criteria and instructed staff to develop the methodology and TSDC rates using the assumptions and identified projects presented (Attachment A, Appendix A – TSDC Capital Project List).

STEP 2: SELECT TRAFFIC IMPACT MEASURE

Rates differ by land use based on the number of trips a new or expanded development is estimated to add to the transportation system. For example, the TSDC fee for a single-family home is lower than the fee for a large grocery store because it generates fewer trips.

We needed to identify whether to continue to measure the total impact a development has on traffic throughout a day or change to a method that measures the amount of traffic a development is estimated to add during the afternoon commute.

While a slight majority of our survey respondents preferred calculating traffic impact based on the afternoon commute traffic, there was no clear preference in the virtual open house or work group meetings. In addition, the impact of transitioning to an afternoon commute measure is difficult to gauge with other changes made during this update. Therefore, staff recommended that we continue using average daily trips to measure traffic impact.

This topic was reviewed at a Board policy session on July 18, 2017, and the Board concurred with the staff recommendation.

STEP 3: DEFINE THE RATE STRUCTURE

Currently, Clackamas County has a long list of rates, one for each specific type of land use. We now had the option to continue to use the long list – and adopt rates for 88 land uses -- or reduce the complexity by consolidating similar uses and reducing the number of rates to 50.

The public and our work group generally supported consolidating similar uses and going with a shorter list, and staff agreed. This will make it easier for developers and the public to identify the correct rate, and will reduce the likelihood that commercial tenant improvements in an existing structure trigger a TSDC fee.

The rate structure was reviewed at Board policy sessions on July 18 and August 1, 2017, and the Board concurred with the recommendation to consolidate the rates for similar uses (Attachment A, Appendix B – TSDC Rate Schedule).

PUBLIC INPUT

In accordance with state law, we published notice of our methodology update 90 days prior to the public hearing November 8, 2017. Notice was published in the Daily Journal of Commerce, online, through social media and emails. The draft report, rates, project list and draft ordinance amendments have been available on our web page for 60 days and we have been seeking public comment on these documents (Attachment C).

ATTACHMENTS

Attachment A*: Resolution to adopt the Transportation System Development Charges Methodology Report, Establish a new TSDC Capital Project List and Establish and Updated TSDC Rate Schedule

**This documents has been published online for 60-days for public review and input.*

Attachment B: Process Overview: Transportation System Development Charge Plan Update

Attachment C: Portland Metro Home Builders Association Testimony

RECOMMENDATION

Staff recommends the Board of County Commissioners approve the attached resolution adopting the Transportation System Development Charges Methodology Report, establishing a new TSDC Capital Project List and establishing an updated rate schedule with an effective date of January 1, 2018.

Respectfully submitted,

Diedre Landon
Administrative Services Manager, Snr.

A Resolution to Adopt the Transportation System
Development Charges Methodology Report,
Establish a New TSDC Capital Project List and
Establish an Updated TSDC Rate Schedule

Resolution No.

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WHEREAS, on January 28, 1993, the Board of County Commissioners established a Transportation System Development Charge (TSDC) program in Clackamas County (County Code, Title 11.03), recognizing that development should contribute its fair share to the cost of improvements and additions to transportation facilities necessary to accommodate the capacity needs created by growth; and

WHEREAS, TSDC revenue is allocated to projects annually through the County's budgeting process; and

WHEREAS, The County prepared a September 2017 Transportation System Development Charge Methodology Report, attached to this Resolution as Exhibit A and incorporated herein by this reference, as the guiding document for formulating a transportation system development charge as authorized by state law; and

WHEREAS, Oregon's System Development Act (Oregon Revised Statutes 223.297 - 223.314) requires that system development charges be based on a methodology that demonstrates consideration of capital improvement costs identified in an adopted list of projects that are needed to increase capacity to serve the demands of future users (Exhibit A, Appendix A – TSDC Capital Project List); and

WHEREAS, under the existing TSDC rate schedule, there are several land use types that create complexity; and

WHEREAS, under the proposed TSDC fee schedule, categories have been combined or eliminated for simplicity; and

WHEREAS, using the TSDC Capital Project List, the methodology calculates the TSDC Rate Schedule (Exhibit A, Appendix B – TSDC Rate Schedule); and

WHEREAS, pursuant to ORS 223.304, the methodology was available for public inspection for more than 60 days prior to the first public hearing on the matter, and written notice of the proposed transportation SDC methodology was sent to people who requested such notice 90 days prior to the first public hearing; and

A Resolution to adopt the Transportation System
Development Charges Methodology Report;
Establish a new TSDC Capital Project List; and
Establish an updated TSDC Rate Schedule

Resolution No.

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WHEREAS, the Board of County Commissioners scheduled, noticed and held a public hearing on the new transportation SDC rate and supporting documentation and accepted public testimony on the proposed new transportation SDC rates during a public hearing at its regular meeting on November 8, 2017; and

WHEREAS, an effective date of January 1, 2018 allows for a smooth transition to the updated program due to the termination of the Happy Valley Joint TSDC District.

NOW, THEREFORE, the Clackamas County Board of Commissioners do hereby resolve:

1. To adopt the Transportation System Development Charge Update, dated September 2017 attached to this Resolution as Exhibit A, establishing an updated Capital Project List for TSDCs and an updated rate schedule for TSDCs, effective January 1, 2018.

Dated this 30th day of November, 2017

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

Methodology Report

Transportation System Development Charges

Prepared For
Clackamas County



September 7, 2017



In Association with DKS Associates and Randy Young

Executive Summary

Background

Oregon Revised Statutes 223.297-223.314 authorize local governments to charge System Development Charge (SDCs) for transportation and other capital improvements. Local governments rely on System Development Charges (SDCs) to collect money for capital improvements on a variety of infrastructure systems, such as roads, water, sewer, storm drains and schools.

Transportation System Development Charges (TSDCs) are one-time fees assessed to new or expanded developments to help cover the cost of adding to the capacity of transportation facilities (for motorists, bicyclists and pedestrians) to accommodate new trips added by the development. The TSDC fees are based on the number of vehicle trips a particular land use generates, and are paid by the developer when a building permit is issued.

Clackamas County (the County) embarked on an effort to update its transportation system development charges (TSDCs) in 2016, in conjunction with the City of Happy Valley (the City). The City and County have a Joint Area TSDC, adopted through an intergovernmental agreement (IGA) in 2007.

The purpose of the Transportation SDC Update Project (the Project) was to review the current methodology in the context of current industry practices, statutory requirements and infrastructure funding needs. In addition to the methodology review, a major component of the Project was to update the transportation system development charge capital project lists to reflect recently completed Transportation System Plans (TSP), and to review service area boundaries.

Over the course of the Project, the City and County agreed to terminate the existing Joint Area TSDC Program, and instead pursue development of TSDCs and TSDC Capital Project Lists specific to each entity. This report presents the methodology, project list, and updated TSDCs for the County.

Stakeholder Involvement and Outreach

A Work Group made up of stakeholders and technical staff was convened to provide input during the TSDC methodology update. Members represented a wide range of interests and included residential and commercial real estate developers, residential and commercial builders, engineering firms and business associations. County and City staff participated in Work Group meetings to provide technical expertise and information.

Online Open Houses

County and City staff invited the public to participate in online open houses through emails, press releases, website announcements, newsletter articles, and social media outreach. The online open houses included background information about the TSDC update, a geographic interactive map of potential projects and survey questions. The public was invited to learn about the TSDC update and provide their input on the project list, the rates and the traffic impact being measured. In total, about 230 people visited the online open houses, and 45 people submitted completed comment forms.

Feedback collected through work group meetings and the online open houses helped formulate the Project recommendations.

Summary of Methodology

The transportation SDC is based on a system-wide cost per trip, where the costs associated with meeting future growth needs are divided by the projected system-wide growth in trips. The updated TSDC methodology is structured as an improvement fee only, as provided under Oregon law. As such, the cost per trip is calculated by dividing the growth-related capacity costs from the TSDC Capital Project List by the 471,812 additional daily trips (from the regional traffic model).

In addition to the fee structure, local governments have flexibility in selecting among other methodological approaches, in order to meet local policy objectives. Components considered during the Project include the growth share bases, measuring the traffic impact, adjustments to traffic impact and the land use categories used to develop the rate table.

TSDC Capital Project List

Unlike the current methodology, which only considers the added trips by vehicles on the County system; the updated TSDC methodology considers the added trips by all modes of travel (auto, pedestrian, and bicycle). Rather than focusing on building large capacity projects, the new project list also incorporates solutions that provide more efficient travel on existing roads.

The TSDC Capital Project List was developed from two sources:

- Transportation System Plan (TSP); and
- Clackamas Regional Center (CRC) Project List

Combined, these two project lists included over 438 projects with a total cost in excess of \$2.82 billion. The work group selected criteria that focuses on growth created by new development for identifying projects from these two plans to remain on the list and become eligible for TSDC funding.

- Increase traffic connections to daily needs and services.
- Reduce congestion at intersections.
- Located in or near a current or future employment area.
- Improve safety on roads.
- Provide the greatest benefit to the entire community by keeping projects on roads with significant amounts of traffic, such as arterials and collectors.
- Projects planned for construction in the next 10-years.

The resulting prioritization produced a TSDC Capital Project List containing 76 projects with total project costs of \$476 million. Of the total project costs, \$210 million is attributable to growth, and therefore eligible for SDC Funding.

The process used to develop the TSDC Capital Project List is detailed in Section 2-1.

The full project list can be found in Appendix A (Table A-1).

Proposed TSDC Schedule

TSDC rates differ by land use based on the number of trips a new or expanded development is estimated to add to the transportation system. For example, the TSDC fee for a single-family home is lower than the fee for a large grocery store because it generates fewer trips.

Currently, Clackamas County has a long list of rates, one for each specific type of land use. The new plan focuses on streamlining and simplifying the program for our customers by considering a short consolidated rate list in place of our current long rate list.

The proposed rates consolidate similar uses and reduce the number of rates making it easier for developers and the public to identify the correct rate and reducing the likelihood that commercial tenant improvements in an existing structure will trigger a TSDC fee.

The process used to develop the TSDC Rate Schedule is detailed in Section 3-1.

The updated TSDC rate schedule is shown in Appendix B.

Report Contents

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Provides a summary of the SDC methodology and major project findings.

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Data Rounding

The data presented in tables of this report are exported from computer spreadsheets. In some tables, there will be very small variations from the results that would be obtained using a calculator. These variations are not material, and result from the fact that the spreadsheet was allowed to calculate figures to more decimal places than the tables shown in this report.

SECTION 1

Introduction

Background

Oregon Revised Statutes 223.297-223.314 authorize local governments to assess System Development Charge (SDCs) for transportation and other capital improvements. In addition to specifying the infrastructure systems for which SDCs may be assessed, the SDC legislation provides guidelines on the calculation and modification of SDCs, accounting requirements to track SDC revenues, and the adoption of administrative review procedures.

Clackamas County (the County) last updated in transportation system development charges (TSDCs) in 2007, in conjunction with the City of Happy Valley (the City).

Project Objectives

The purpose of the Transportation SDC Update Project (the Project) was to review the current methodology in the context of current industry practices and statutory requirements and infrastructure funding needs. In addition to the methodology review, a major component of the Project was to update the TSDC capital project list to reflect projects and priorities from the updated Transportation System Plan (TSP) adopted in 2013.

Specific Project objectives included:

- Development of TSDCs that balance the need to fund transportation improvements while taking into account the impact on overall development costs.
- Identify ways to simplify the TSDC rate structure, making it easier for developers and community members to estimate fees.
- Involve key stakeholders in the process to give feedback on project list selection criteria and the updated methodology and ordinance.
- Review the current service area boundaries.

With respect to the latter issue of service area boundaries, as part of the Project, the City and County agreed to terminate the existing Joint Area TSDC Program, and instead pursue development of TSDCs and capital project lists specific to each entity. A new IGA was authorized in August 2017 that outlined the terms of separation for the program. The City and County worked collaboratively on the review and development of the new TSDC methodologies and ordinances that will serve as the framework for the individual TSDC programs going forward. This report presents the methodology, project list, and updated TSDCs for the County. While the general framework is consistent between the two entities, the individual TSDC programs also reflect policies and objectives specific to each.

Stakeholder Involvement

A Working Group made up of stakeholders and technical staff was convened to provide input to help shape the TSDC methodology update and rates. The group met eight times between December 2015 and August 2017. Members reviewed and provided input on the following topics:

- TSDC project list and selection criteria
- Method used to calculate growth share of projects
- TSDC rate calculation and schedule
- Ordinance for administration of TSDCs, including a review of the language governing

Members represented a wide range of interests and included residential and commercial real estate developers, residential and commercial builders, engineering and planning firms, and business associations. County and City staff participated in Working Group meetings to provide technical expertise and information. Stakeholder members included representatives from the following groups:

- Home Builders Association
- Gramor Development
- Perkins Coie
- AKS Engineering
- Doug Bean & Associates
- Holt Homes
- North Clackamas Chamber of Commerce

Online Open Houses

The public was invited to learn about the TSDC update and provide their comments on specific elements of the methodology and project list. Comments were primarily gathered through two online open houses for the County and the City between April 18 and May 19, 2017. The online open houses included background information about the TSDC update, a geographic interactive map of potential projects, and survey questions. Participants were asked specific questions about the criteria used to select projects for the TSDC project list; approaches to simplifying the rates used to calculate TSDC fees; and options for calculating traffic impacts of new developments.

County and City staff invited the public to participate in the online open houses through more than 1,600 direct emails to interested parties, press releases, website announcements, newsletter articles and social media (Facebook and Twitter) outreach.

In total, about 230 people visited the online open houses, and 45 people submitted completed comment forms. This feedback helped formulate the Project recommendations.



SECTION 2

TSDC Capital Project List Development

Introduction

The first step in updating the countywide TSDC was to identify the list of capital projects eligible to receive TSDC revenue, because that sets the foundation for calculating the rates for different kinds of development.

The TSDC Capital Project List was developed from two sources: the Transportation System Plan (TSP) and the Clackamas Regional Center (CRC) Project List. Combined, the two project lists included over 438 projects with a total cost in excess of \$2.82 billion.

Project Prioritization

TSDC funds can only be used to build projects that accommodate additional traffic generated by new development. The current County TSP built on the foundation of existing county assets with a fiscally responsible approach that protects and improves the existing transportation system and implements a cost-effective system to meet future needs. Rather than focusing on building large capacity projects to improve our existing network, the plan incorporates solutions that provide more efficient travel on existing roads. As a result, there was a need to identify the capacity increasing projects that were eligible for TSDC funding.

The work group chose the following criteria that focuses on growth created by new development for selecting projects from the Transportation System Plan (TSP) and other locally adopted plans that will remain on the list and become eligible for TSDC funding.

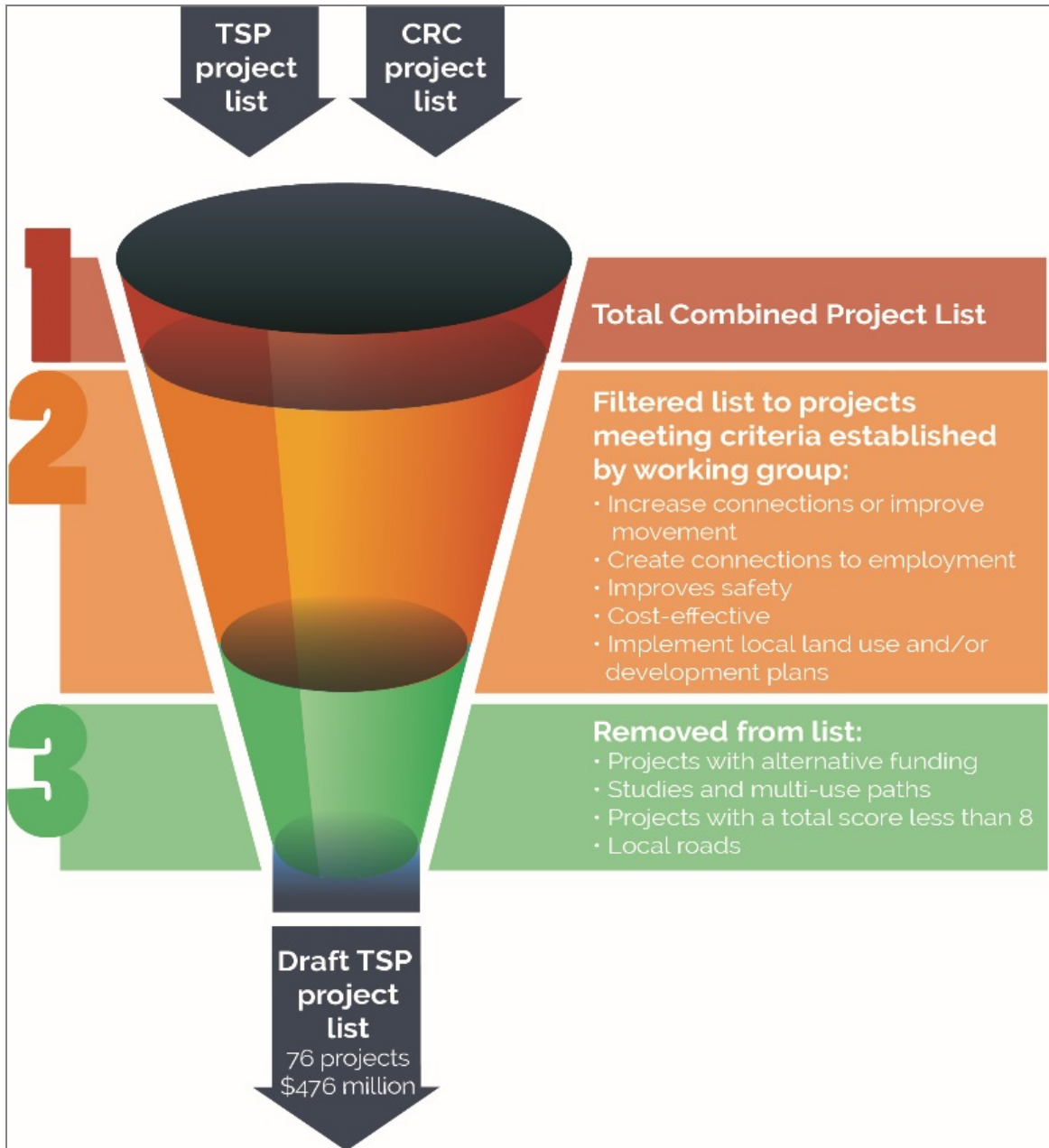
- Increase traffic connections to daily needs and services.
- Reduce congestion at intersections.
- Located in or near a current or future employment area.
- Improve safety on roads.
- Provide the greatest benefit to the entire community; on roads with significant amounts of traffic, such as arterials and collectors.

Only those projects on the CRC Project list with capacity enhancing elements were kept; however, in order to minimize potential increases to the final TSDC rates, the work group needed to reduce the number of projects from the 20-year TSP that would become eligible for TSDC funding. During development of the TSP each project was scored for their achievement of six goals on a scale of (-1) to 2. Using the original scoring, which was vetted during the public outreach for the TSP, work group members chose to keep TSP projects scoring higher than 0 on the following goals for the TSDC Capital Project list:

- Goal 2: Local Businesses and Jobs
- Goal 3: Livable and Local
- Goal 4: Safety and Health

In addition to the above prioritization, the following were removed from the TSDC Capital Project List:

- Projects with alternative funding
- Studies and multi-use paths
- Projects with less than a total score of 8 (The combined score from all six TSP goals)
- Local Roads



The result of these prioritization efforts is a TSDC Capital Project List containing 76 projects with total project costs of \$476 million. Of the total project costs, \$210 million of the total estimated construction cost is eligible for TSDC Funding.

Project Cost Estimation

The project costs identified in the TSDC Capital Project List are based on the cost estimates developed as part of the TSP or CRC studies. Appendix C –County Transportation System Plan Update Cost Estimate Assumptions documents the assumptions made in preparing cost estimates for the projects on the Master List for the Clackamas County Transportation System Plan (TSP) Update.

All TSP and CRC project costs have been updated to reflect estimated inflation since the original project costs were developed. The total estimated cost of the prioritized list is \$476 million, as shown in Table 2-1 below.

TSDC Capital Project List

The prioritization outlined above produced a TSDC Capital Project List containing 76 projects with total project costs of \$476 million. Of the total project costs, \$210 million is attributable to growth, and therefore eligible for SDC Funding. The full project list can be found in Appendix A (Table A-1).

A summary of the TSDC improvement project costs by project type is provided in Table 2-1.

Table 2-1
Summary of TSDC Capital Project List Costs

Location	Mode			Total	TSDC-Eligible
	Auto	Ped	Bike		
Urban	\$32,453,596	\$132,363,431	\$61,892,355	\$226,709,382	\$105,388,058
Rural	248,502,038	1,060,062	-	249,562,100	104,920,618
Total	\$280,955,634	\$133,423,493	\$61,892,355	\$476,271,482	\$210,308,676
<i>Percent</i>	59%	28%	13%	100%	44%

The full project list can be found in Appendix A (Table A-1).

SECTION 3

TSDC Methodology

Introduction

The transportation SDC is based on a system-wide cost per trip, where the costs associated with meeting future growth needs are divided by the projected system-wide growth in trips. The TSDC for a particular development is then determined by multiplying the cost per trip by the number of trips associated with the development. These calculations are outlined below.

System-Wide Cost per Trip

The updated TSDC methodology is structured as an improvement fee, as provided under Oregon law. An improvement fee is designed to recover costs of *planned future* capital improvements needed to add system capacity for future users. As such, the cost per trip is calculated by dividing the growth-related capacity costs from the TSDC Capital Project List by the future growth in trips.

Growth in Trips

To evaluate the roadway capacity needs and the amount of vehicle trips that are generated by growth, the Metro regional travel demand model was utilized. Table 3-1 shows the projected growth in the number of average daily trip ends, broken down by trip ends that have both an origin and destination within the County’s SDC collection area (internal-internal), and trip ends that have one end outside of the County’s SDC collection area (internal-external & external-internal). The total projected number of average daily trip ends is 471,812.

Table 3-1
*Model Vehicle Trip Ends Growth (Average Daily)*¹

	Internal-Internal	Internal-External & External-Internal	Total
Growth Trip Ends	110,530	361,282	471,812
¹ Based on Metro Regional Travel Model; Daily trips 8.5% of PM Peak Hour trips			

Growth Share of Project Costs

A key component of the TSDC methodology is determining growth's share of future facility improvement costs from the TSDC Project List. According to statutory requirements:

Improvement fees must be based on a methodology that demonstrates consideration of the projected cost of capital improvements needed to increase system capacity to meet the needs of future users [ORS 223.304]. Furthermore:

"An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to the need for increased capacity to provide service for future users." [ORS 223.307(2)]

Table 3-1 presented the system-wide capacity requirements of growth; however, for purposes of determining potential SDC-eligibility, individual projects from the TSDC Capital Project List are analyzed to determine the portion of costs needed for future growth capacity versus costs associated with raising the level of service for existing development.

Two general methods are used for project cost allocations:

1. **"Standards –Based" Approach (used for new facilities and expansion of existing facilities for capacity needs only)** – Existing development paid for existing facilities; new development will pay for its share of system capacity thru funding the next increment of expansion, less costs associated with correcting any existing deficiency. Deficiencies are evaluated based on current performance relative to the appropriate planning/design standard for the particular improvement. For roadways and intersections, the standard is a "volume-capacity ratio (v/c ratio)"¹. For multimodal improvements, the standard is miles per capita of bikeways and pedestrian ways.
2. **"Capacity Utilization" Approach (used for upgrades to existing facilities to improve level of performance)** – Improvements to existing facilities to address safety, modernization, and other performance considerations provide capacity for growth and enhanced performance for existing development, so the costs are allocated in proportion to the utilization of the facilities (as measured by growth's share of future trips specific to a facility).

Application of the growth share approaches is discussed in more detail below.

New Roadway and Intersection Facilities; Existing Facility Expansion (Capacity Only)

New roadways and expansions driven by future development capacity requirements are allocated 100% to growth, since the capacity is needed entirely for new development.

Similarly, new facilities at intersections (e.g., turn lanes and signals) that are not needed to meet existing mobility standards, but are needed once the growth trips are added to the intersection, are assumed to be 100% funded by growth, since there is no existing deficiency.

Data was compiled from recently completed studies (e.g., the TSP and CRC studies) to determine if facilities were operating with a volume/capacity ratio less than the required standard.

¹ Volume-to-capacity ratio is defined as the ratio between the PM peak hour motor vehicle trips divided by the hourly capacity of the facility to serve those trips.

Upgrades to Roadways and Intersections (Improved Level of Performance)

For upgrade of existing facilities (i.e., realignments, modernization of rural roads, and other improvements), trip volume data by roadway link (from the regional travel demand model) were used to quantify growth’s utilization of future roadway and intersection capacity.

Growth capacity utilization is estimated based on the growth in trips over the planning period, as a percentage of total future trips for individual roadway links.

New Multimodal Facilities

Unlike roadway and intersection projects, trip data for bike and pedestrian improvements is not available. Therefore, growth capacity needs for bike and pedestrian facilities are evaluated based on the planned level of service (LOS). The planned LOS is defined as the quantity of future facilities per capita served.

The following equation shows the calculation of the planned LOS:

$$\frac{\text{Existing}Q + \text{Planned}Q}{\text{FuturePopulationServed}} = \text{PlannedLOS}$$

Where:

Q = quantity (miles of bike or pedestrian facilities), and
Future Population Served = 183,678 (unincorporated Clackamas County only²)

The existing and future miles of bike and pedestrian facilities are shown in Table 3-2.

Table 3-2
Existing and Future Bike and Pedestrian Facilities (miles)

	Existing	New (TSDC Capital Project List)	New (Other Funding Sources)	Future (Total)
Bicycle Lanes	96.1	21.2	12.3	129.6
Bicycle Shoulders	45.9	90.1	0.0	135.9
Pedestrian Facility	114.5	39.5	14.7	168.7

Population data for the estimated base year (2015) and future year (2025) are presented in Table 3-3. Growth during the planning period is estimated to be 17,441.

Table 3-3
Population Growth (Unincorporated Clackamas County)

	Base Year (2015)	Future Year (2025)	Population Growth
Population	166,237	183,678	17,441
Source: 2015 population based on Metro 2040 Household Forecast; 2025 estimated based on 2040 forecast (adjusted for 10-year period)			

² For purposes of the active mode LOS analysis, a 10-year planning period was assumed per County staff, reflecting the TSDC Capital Project List prioritization period.

Table 3-4 presents the existing and planned LOS for bike and pedestrian facilities, based on the existing and planned future facilities presented in Table 3-2 divided by the estimated existing and projected population presented in Table 3-3. (For purposes of this analysis, population figures are divided by 1,000 in order to show the planned LOS per 1,000 population in Table 3-4.)

Table 3-4
Existing and Planned LOS (miles per 1,000 population)

	Existing LOS	Planned LOS
Bike Lanes	0.58	0.71
Bike Shoulders	0.28	0.74
Pedestrian Facility	0.69	0.92

The capacity requirements, or number of miles, needed for the existing population and for the growth population are estimated by multiplying the planned (future) LOS for each facility type (from Table 3-4) by the estimated population (in 1,000's) of each group (from Table 3-3).

These calculations are shown in Table 3-5; each column is then described following the table.

Table 3-5
Existing and Growth Capacity Needs for Bike and Pedestrian Facilities (Miles)

	Existing Population Need (1)	Existing Inventory + Other Sources (2)	Existing Need from TSDC Project Improvements (3)	Growth Need from TSDC Project Improvements (4)
Bike Lanes	117.3	108.4	8.9	12.3
Bike Shoulders	123.0	45.9	77.1	12.9
Pedestrian Facility	152.7	129.3	23.4	16.0

(1) Existing Population Need

The need for the existing population is equal to the planned LOS multiplied by the estimated base year population in 1,000's (166,237).

(2) Existing Inventory + Other Sources

Existing users' needs are assumed to be met first by the existing inventory of facilities, plus facilities funded through other (non TSDC) sources; Table 3-5 (column 2) shows the sum of existing facility and new miles (from other funding sources) from Table 3-2.

(3) Existing Need from TSDC Project Improvements

The difference between columns 1 and column 2 is the portion of existing development's need that will be met by the TSDC Capital Project List improvements.

(4) Growth Need from TSDC Project Improvements

The total capacity need required by growth is equal to the planned LOS (from Table 3-4) multiplied by the projected increase in population over the planning period in 1,000's (17,441).

Table 3-6 shows the distribution of existing and growth allocation for the total planned improvements by project type. For growth, the allocated improvements are assumed to equal the total growth need (from Table 3-5).

Table 3-6
Existing and Growth Share of TSDC Project List Improvements

	Total Planned Improvements (TSDC Project List)	Existing Share	Existing %	Growth Share	Growth %
Bike Lanes	21.2	8.9	42%	12.3	58%
Bike Shoulders	90.1	77.1	86%	12.9	14%
Pedestrian	39.5	23.4	59%	16.0	41%

As shown in Table 3-6, the growth share ranges from 14% for bike shoulders to 58% for additional bike lanes.

Compliance Charge

Local governments are entitled to include in the TSDCs, a charge to recover costs associated with complying with the SDC statutes. Compliance costs include costs related to developing and administering the SDC methodology, project list (including but not limited to TSP and other studies), and credit system; as well as annual accounting costs.

The compliance charge per trip is estimated to be 3% of the base TSDC cost. Table 3-7 shows the calculation of the compliance charge per trip, which is about \$13.50.

Table 3-7
Compliance Costs

Category	Annual \$
County Administration	\$80,000
SDC Methodology (1)	\$66,000
TSP (2)	\$66,000
Total Compliance Costs per Year	\$212,000
Estimated Annual Growth Trips	15,727
Compliance Cost per Trip	\$13.48
(1) Annual costs reflect amortization of total cost over 5 years	
(2) Growth share of TSP costs amortized over 10 years	

System-wide Unit Cost

The total growth costs reflect the calculated growth share of individual projects from the TSDC Capital Project List; detailed information on the SDC project costs and growth share by mode is provided in Table A-1 of Appendix A. The growth share percentages reflect the approaches described above for each project type and mode.

As shown in Table 3-8, the total growth-related improvement costs are estimated to be \$210.3 million. Dividing the total TSDC-eligible costs by the projected growth in Average Daily Trips (from Table 3-1), the system-wide average cost per trip end is \$446.

Adding the compliance charge calculated in Table 3-7, brings the total cost per trip to \$459, as shown in Table 3-8.

Table 3-8
System-Wide Cost per Trip

Item	Amount
Total TSDC Eligible Costs (1)	\$210,308,676
Growth Trip Ends (2)	471,812
SDC per Trip End	\$446
Cost per Trip End with Compliance Charge (3%)	\$459
(1) From Project List (Appendix A)	
(2) Unincorporated Clackamas County (from Table 3-1; based on regional traffic model)	

TSDC Assessment

The transportation SDC for an individual development is based on the cost per trip and the number of trips attributable to that particular development, where the number of trips is computed as follows:

$$\text{Number of Development Trips} =$$

$$\text{Traffic Impact Measure} \times \text{Adjustment Factor(s)} \times \text{Development Units}$$

Calculating the final TSDC assessment requires the review of multiple components: the traffic impact measure, identifying appropriate traffic impact adjustments, establishing the land use categories and consideration of any discounts available under the program. Each of these components are discussed in more detail below.

The proposed TSDC Rate Schedule is shown in Appendix B in Table B-1.

Traffic Impact Measure

TSDCs are one-time fees assessed to new or expanded developments to help cover the cost of adding capacity to transportation facilities (for motorists, bicyclists and pedestrians) to accommodate new trips generated by the development. TSDC fees are based on the number of trips a particular land use generates, and are paid by the developer when a building permit is issued.

The updated and current methodology uses “Average Daily Trips” as the basis for the TSDC assessment. Under this approach, TSDCs reflect the total traffic added by the development throughout an average weekday. TSDCs based on average daily trips recognize the overall system capacity use of the different types of land uses.

Traffic Impact Adjustments

The current methodology adjustments for trip length have been eliminated, as available data to reasonably estimate average trip length for a given land use type in comparison to other uses is extremely limited. Trip length is attributable to location within an area and the availability of other similar uses in the area, not simply the type of use.

The updated methodology includes pass-by and diverted linked trip adjustments only.

The updated methodology adjustments are discussed in more detail below.

Pass-by Trips

Pass-by trips refer to trips that occur when a motorist is already on the roadway, such as a traveler stopping by a fast-food restaurant on the way home from work. In this case, the motorist making a stop while “passing by” is counted as a trip generated by the restaurant, but it does not represent a new (or primary) trip on the roadway.

Pass-by trip adjustments in the updated methodology are based on published data by land use from the Institute of Transportation Engineers (ITE).

Diverted Link Trips

Diverted Link trips are another type of non-primary trip. In this case, the motorist will divert from a primary route to access a nearby use (e.g., a vehicle may turn off a major roadway onto an intersecting street to access a land use), and then return to the original route to complete the trip.

As with the pass-by trip adjustments, the diverted link trip adjustments included in the updated methodology are based on reported ITE data.

Land Use Categories

The current methodology includes 94 separate rate categories based on development (or land use type). The updated methodology is based on consolidated land use categories (e.g., different types of schools in a single education category, different types of industrial in another, etc.).

Table B-1 (in Appendix B) includes the updated TSDC rates and traffic impact assumptions for the new categories, but also indicates which land use codes from the ITE Trip Generation Manual have been consolidated into the general categories. The new methodology reduces the number of specific rates and would eliminate the need to capture fees on a change of use if the proposed use falls within the same use category.

In determining the traffic impact assumptions for consolidated land use categories, data from the ITE Trip Generation Manual (9th edition) was evaluated.

In some cases, a straight average of the individual trip rates for land uses that comprise the new category was the basis for the assumptions shown in Table B-1.

Trip rates based on less than three traffic studies were eliminated from the averages.

When average daily trips were not available for a particular category, the traffic impact was estimated from the P.M. Peak trip rates, based on a system-wide average P.M. Peak percent of average weekday trips of 8.5%.

For land uses that are not explicitly identified in Table B-1, County staff will make a determination of the appropriate TSDC rate, based on the specific use.

The updated TSDC ordinance will also specify parameters for individual traffic studies.

TSDC Discounts

The County currently provides a system of TSDC discounts for qualifying developments. Specifically, discounts apply as follows:

- Mixed-use development can receive reductions of 7-18%, depending on floor area ratio (FAR) and residential/retail/commercial mixtures on the site.
- Transit oriented development can receive reductions of 5-20% depending on floor area ratio (FAR), proximity to transit, and type of transit system. This discount applies only to permanent transit routes/lines, such as SAM, CAT, SMART, or TriMet.

No changes to the current discounts are proposed under the new methodology.

Annual Inflationary Adjustments

The fees included in the Proposed TSDC Rate Schedule will be adjusted annually based on an inflationary index as specified in the County TSDC ordinance. The County intends to use the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index as the basis for adjusting the TSDCs.

Appendix A – TSDC Capital Project List

Table A-1
Clackamas County TSDC Project List 2017

PROJECT DETAILS						SDC ELIGIBLE	
#	Location	Project	Segment/Location	Description	Total Project Cost	Total % Eligible	Total \$ Eligible
1004	Urban	122nd Ave	Sunnyside Rd to Timber Valley Dr	Add bikeways and turn lanes at major intersections	\$3,010,000	62.04%	\$1,867,496
1006	Urban	142nd Ave	Sunnyside Rd to OR 212	Add bikeways and pedways	\$14,060,000	51.53%	\$7,245,291
2017	Rural	362nd Ave	Skogan Rd to OR 211 (excludes state facilities)	Add paved shoulders	\$5,980,000	29.40%	\$1,758,120
AI S1	Urban	82nd Avenue	82nd Ave/Hinkley (excludes state facilities)	Install traffic separator on 82nd Avenue to convert accesses at SE Hinckley at Columbia Bank/Union 76 on east side of 82nd Avenue to right-in/right-out. Create new circulation to route traffic to signal at SE Lindy.	\$4,182	24.00%	\$1,009
AI S2	Urban	82nd Avenue	82nd Ave MP 8.50 (excludes state facilities)	In the vicinity of MP 8.50 put in enhanced pedestrian crossing to connect east side pedestrian ramp with walkway to neighborhood to west.	\$82,000	9.00%	\$7,786
AI S4	Urban	82nd Avenue	82nd Ave North entrance to Clackamas Town Center (excludes state facilities)	North entrance to Clackamas Town Center on 82nd make right in, right out only and remove signal. Perform traffic analysis as needed to evaluate traffic diversion to adjacent roadways and intersections.	\$69,700	24.00%	\$16,503
AI S5	Urban	82nd Avenue	Sunnyside to 82nd Ave (excludes state facilities)	Install double left, westbound Sunnyside to southbound 82nd Ave (east to south). Add median island for pedestrian crossing. Standardize NB right-turn lane 82nd to Sunnyside, including bike lane.	\$734,891	79.00%	\$583,169
AI S7	Urban	82nd Avenue	Sunnyside Rd to Sunnyside Dr	Install traffic separator from Sunnyside Rd to Sunnyside Dr (MP 9.15), advance street names.	\$17,712	24.00%	\$4,185
AI S8	Urban	82nd Avenue	82nd Ave Monterey to Harmony/Sunnyside (excludes state facilities)	Traffic separator Monterey to Harmony/Sunnyside.	\$98,400	24.00%	\$23,299
1008	Urban	82nd Dr	OR 212 to Lawnfield Rd	Fill in bikeways and pedways gaps	\$680,000	40.60%	\$276,106

Table A-1 (Continued)
 Clackamas County TSDC Project List 2017

PROJECT DETAILS						SDC ELIGIBLE	
#	Location	Project	Segment/Location	Description	Total Project Cost	Total % Eligible	Total \$ Eligible
1009	Urban	85th Ave	Causey Ave to Monterey Ave	Add sidewalks and bikeways. Perform Pedestrian Safety Audit to verify lighting, crosswalk striping and signing at Causey Ave.	\$30,000	47.77%	\$14,332
1010	Urban	92nd Ave	Johnson Creek Blvd to Emmert View Ct	Fill gaps in pedways	\$480,000	40.60%	\$194,898
AI S12	Urban	97th Avenue	Sunnybrook Blvd to Mather Rd	Investigate improved striping including outside fog lines, and rumble striping. Verify lighting, drainage, surface friction. From Sunnybrook Blvd to Mather Rd	\$49,200	35.00%	\$17,193
1049	Rural	Amisigger Rd / Kelso Rd	OR 224 to Kelso / Richey Rd (excludes state facilities)	Add paved shoulders; turn lanes at Amisigger/OR 212 and Kelso/Richey; smooth curves.	\$13,010,000	57.05%	\$7,422,839
2029	Rural	Arndt Rd Extension	Barlow to OR 99E (excludes state facilities)	Construct new 2 or 3 lane roadway	\$17,040,000	100.00%	\$17,040,000
2030	Rural	Barlow Rd	Knights Bridge Rd to OR 99E	Add paved shoulders	\$5,400,000	19.97%	\$1,078,492
1097	Rural	Beavercreek Rd	Henrici Rd to Yeoman Rd/Steiner Rd	Add paved shoulders and turn lanes at major intersections	\$11,630,000	16.25%	\$1,890,216
AI S9	Urban	Bob Schumacher Road	Bob Schumacher Road	Investigate improved striping, including centerline rumble stripe.	\$49,200	30.00%	\$14,765
1081	Rural	Borland Rd	Tualatin city limits to Stafford Rd	Add paved shoulders in accordance with the Active Transportation Plan and turn lanes at major intersections	\$5,680,000	30.59%	\$1,737,528
1082	Rural	Borland Rd	Stafford Rd to West Linn city limits	Add paved shoulders	\$10,290,000	43.23%	\$4,448,713
1013	Urban	Boyer Dr / 85th Ave / Spencer	OR 213 to I-205 bike path (excludes state facilities)	Add bikeways	\$40,000	57.96%	\$23,183
1099	Rural	Canby-Marquam Highway	Canby-Marquam Hwy / Lone Elder Rd intersection	Reconstruct intersection; install northbound left-turn lane and southbound right-turn lane	\$3,850,000	30.77%	\$1,184,615
1014	Urban	Causey Ave	Fuller Rd to I-205 (excludes state facilities)	Add bikeways and shared facility markings in accordance with the Active Transportation Plan.	\$50,000	57.96%	\$28,979
AI S6	Urban	Causey Avenue	Causey Ave/85th Ave	Pedestrian Safety Audit - verify lighting, crosswalk striping, signing, at Causey Ave/85th Ave	\$30,750	9.00%	\$2,920
1101	Rural	Clarkes Four Corners Intersecti	Beavercreek Rd / Unger Rd	Reconstruct intersection	\$4,490,000	17.14%	\$769,714

Table A-1 (Continued)
 Clackamas County TSDC Project List 2017

PROJECT DETAILS						SDC ELIGIBLE	
#	Location	Project	Segment/Location	Description	Total Project Cost	Total % Eligible	Total \$ Eligible
2001	Urban	Clatsop St / Luther Rd	72nd Ave to Fuller Rd	Add turn lanes and signals at OR 213 intersection; add bikeways, pedways and traffic calming	\$8,118,000	47.93%	\$3,891,198
1062	Urban	Concord Rd	River Rd to Oatfield Rd	Fill gaps in pedway	\$7,410,800	40.60%	\$3,009,065
1063	Urban	Courtney Ave	OR 99E to Oatfield Rd (excludes state facilities)	Fill gaps in pedestrian facilities and bikeways	\$1,860,000	48.86%	\$908,737
1064	Urban	Courtney Ave	River Rd to OR 99E (McLoughlin Blvd) (excludes state facilities)	Construct pedestrian facilities / complete gaps on the south side; add bikeways	\$5,010,000	42.88%	\$2,148,400
2034	Rural	Dryland Rd	Macksburg Rd S to Macksburg Rd N	Realign to form one intersection at Dryland Rd	\$3,400,000	26.25%	\$892,500
1055	Rural	Eagle Creek Rd	Currin Rd to Duus Rd	Remove horizontal curve, relocate intersection, add paved shoulders and turn lanes at major intersection; investigate speed zone south of Currin Rd	\$10,500,000	53.43%	\$5,610,294
2018	Rural	Eagle Creek Rd	OR 211 to Duus Rd (excludes state facilities)	Add paved shoulders	\$14,780,500	21.67%	\$3,202,442
2002	Urban	Evelyn St	OR 224 to Jennifer St (excludes state facilities)	Add bikeways and pedways	\$1,681,000	40.84%	\$686,599
2019	Rural	Firwood Rd	Wildcat Mountain Dr to US 26	Add paved shoulders and turn lanes at major intersections.	\$16,840,000	17.50%	\$2,947,000
1019	Urban	Flavel Dr	Alberta Ave to County boundary	Add bikeways in accordance with the Active Transportation plan	\$2,410,000	57.96%	\$1,396,796
1085	Urban	French Prairie Bridge	Willamette River near I-5 (excludes state facilities)	Construct a bridge in accordance with the Active Transportation Plan	\$9,790,000	20.78%	\$2,034,242
1020	Urban	Fuller Rd	Otty St to Johnson Creek Blvd	Add pedestrian facilities, turn lanes, on-street parking, central median and landscaping.	\$7,580,000	67.88%	\$5,145,111
1022	Urban	Harmony Rd	OR 213 to OR 224	Construct bikeways and pedways	\$9,760,000	48.40%	\$4,724,074
2035	Rural	Hattan Rd	Fischers Mill Rd to Gronlund Rd	Add paved shoulders and turn lanes at major intersections	\$15,426,300	45.50%	\$7,018,339
1108	Rural	Henrici Rd	Beavercreek Rd to Ferguson Rd	Add paved shoulders and turn lanes at major intersections. Remove horizontal and vertical curves	\$4,900,000	46.15%	\$2,261,538
2036	Rural	Henrici Rd	OR 213 to Beavercreek Rd (excludes state facilities)	Add paved shoulders and turn lanes at major intersections	\$5,196,800	44.67%	\$2,321,284

Table A-1 (Continued)
 Clackamas County TSDC Project List 2017

PROJECT DETAILS						SDC ELIGIBLE	
#	Location	Project	Segment/Location	Description	Total Project Cost	Total % Eligible	Total \$ Eligible
2037	Rural	Henrici Rd	Ferguson Rd to Redland Rd	Add paved shoulders and turn lanes at major intersections. Remove horizontal and vertical curves	\$17,870,000	43.79%	\$7,824,507
1066	Urban	Hull Ave	Willmot St to Tims View Ave	Fill gaps in pedestrian facilities	\$4,130,000	40.60%	\$1,676,936
3013	Urban	I-205 Ped / Bike Overpass	Between Causey Ave and Sunnyside Rd	Construct a bike / ped crossing over I-205 to connect transit services, businesses and residents	\$4,900,000	20.78%	\$1,018,160
2005	Urban	Jennifer St	82nd Dr to 135th Ave (excludes state facilities)	Add pedways	\$16,082,300	40.60%	\$6,530,022
2021	Urban	Jennings Ave	Oatfield Rd to Webster Rd	Widen to 2-lane urban minor arterial standard with bikeway and pedway infill	\$13,659,827	66.19%	\$9,041,080
1030	Urban	Johnson Creek Blvd	Johnson Creek Blvd / OR 213 intersection (excludes state facilities)	Extend westbound left-turn lane and rebuild median; install dual northbound and southbound left-turn lanes	\$890,000	100.00%	\$890,000
AI MV3	Urban	Johnson Creek Boulevard	92nd/Johnson Creek Blvd	Turn lane improvements at 92nd/Johnson Creek Boulevard	\$467,400	14.00%	\$66,545
2022	Urban	Lake Oswego to Milwaukie Bridge	Between Sellwood and Oregon City	Construct bike/pedestrian crossing over the Willamette River in accordance with the Active Transportation Plan	\$10,130,000	20.78%	\$2,104,890
2006	Urban	Lake Rd	Milwaukie City limits east to OR 224 (excludes state facilities)	Fill gaps in pedways	\$5,670,000	40.60%	\$2,302,234
2007	Urban	Linwood Ave	Linwood Ave / Monroe St intersection	Add curbs/sidewalks, improve horizontal alignments	\$7,605,500	31.54%	\$2,398,729
1112	Rural	Lone Elder Rd Bridge	~5,800 feet east of Barlow Rd	Replace bridge (nearing the end of its useful life) and include paved shoulders	\$450,000	15.00%	\$67,500
1115	Rural	Molalla Ave Flooding	Just south of city of Molalla	Construct bridge to resolve flooding issues	\$720,000	44.86%	\$322,971
2010	Urban	Monroe St / 72nd Ave / Thomps	Linwood Ave to Fuller Rd	Add pedestrian facilities	\$3,970,000	40.60%	\$1,611,970
AI MV2	Urban	Monterey Ave	Monterey Ave	North-south roadway between project AI MV1 and Monterey Ave	\$4,258,545	100.00%	\$4,258,545
2039	Rural	Mulino Rd (13th St segment)	Canby city limits to OR 213 (excludes state facilities)	Add paved shoulders and turn lanes at major intersections	\$24,890,000		\$13,498,038
1069	Urban	Oak Grove Blvd	Oatfield Rd to River Rd	Fill gaps in pedways and bikeways	\$2,590,000	44.32%	\$1,147,763

Table A-1 (Continued)
 Clackamas County TSDC Project List 2017

PROJECT DETAILS						SDC ELIGIBLE	
#	Location	Project	Segment/Location	Description	Total Project Cost	Total % Eligible	Total \$ Eligible
1071	Urban	Oatfield Rd	Oatfield Rd / Park Rd intersection	Install traffic signal and add turn lanes	\$1,060,000	32.56%	\$345,116
1072	Urban	Oatfield Rd	Oatfield Rd / McNary Rd intersection	Add southbound and eastbound left-turn lanes	\$570,000	20.16%	\$114,912
1041	Urban	Otty Rd	Fuller Rd to 92nd Ave	Improve consistent with Fuller Road Station Plan; improve curb radius; add turn lanes, on-street parking, central median, landscaping, bikeways and pedestrian facilities. Install pedestrian crossing between Fuller Rd and I-205 and near 91st Ave.	\$1,216,000	50.39%	\$612,765
1073	Urban	Park Ave	River Rd to OR 99E (McLoughlin Blvd)	Add pedestrian facilities	\$1,750,000	40.60%	\$710,566
2042	Rural	Redland Rd	Redland Rd / Fischers Mill Rd / Henrici Rd intersection	Install eastbound left-turn, eastbound right-turn and westbound right-turn lanes at Henrici Rd	\$860,000	39.78%	\$342,141
1058	Rural	Richey Rd	Kelso Rd to OR 212 (excludes state facilities)	Add paved shoulders and left turn lane at Richey Rd and OR 212	\$4,200,000	49.52%	\$2,079,756
1074	Urban	River Rd	Lark St to Courtney Ave	Add pedways	\$4,880,000	40.60%	\$1,981,465
1075	Urban	River Rd	Oak Grove Blvd to Risley Ave	Fill gaps in bikeways and pedways	\$5,710,000	42.14%	\$2,406,226
2023	Urban	Roots Rd	Webster Rd to McKinley Rd	Add pedways	\$4,838,000	40.60%	\$1,964,411
1086	Rural	Rosemont Rd	Stafford Rd to West Linn	Add paved shoulders and turn lanes at major intersections	\$8,790,000	29.28%	\$2,573,402
1125	Rural	Springwater Rd	Hattan Rd to Bakers Ferry Rd	Add paved shoulders and turn lanes at major intersections	\$6,330,000	33.54%	\$2,123,279
1088	Rural	Stafford Rd	Rosemont Rd to I-205 (excludes state facilities)	Add paved shoulders and turn lanes at major intersections	\$8,600,000	35.62%	\$3,062,991
2028	Rural	Stafford Rd / 65th Ave	I-205 to Boeckman Rd / Advance Rd (excludes state facilities)	Add paved shoulders and turn lanes at major intersections	\$22,078,500	46.18%	\$10,196,598
AI MV1	Urban	Stevens Road	Stevens Rd to High Creek Rd	East-west roadway connecting Stevens Road to High Creek Road. Include sidewalk and bike lanes	\$9,414,874	77.00%	\$7,288,420

Table A-1 (Continued)
Clackamas County TSDC Project List 2017

PROJECT DETAILS						SDC ELIGIBLE	
#	Location	Project	Segment/Location	Description	Total Project Cost	Total % Eligible	Total \$ Eligible
2015	Urban	Sunnyside Rd	OR 213 to 97th Ave	Modified boulevard treatment including lane redesign, medians, beautification, curb extensions, reconstructed sidewalks, landscaping, south side bikeways. Consider flashing yellow arrow for left-turns at signalized intersections.	\$5,330,000	19.92%	\$1,061,986
1077	Urban	Thiessen Rd	Thiessen Rd / Aldercrest Rd intersection	Add turn lanes on Thiessen Rd; consider converting to two-way stop controlled	\$570,000	20.42%	\$116,366
2024	Urban	Thiessen Rd	Oatfield Rd to Webster Rd	Add bikeways and pedways	\$24,425,800	50.85%	\$12,419,625
2025	Urban	Webster Rd	OR 224 to Gladstone (excludes state facilities)	Fill gaps in bikeways and pedways	\$19,485,300	46.47%	\$9,053,989
1059	Rural	Welches Rd	US 26 to Birdie Ln (excludes state facilities)	Add paved shoulders; add pedestrian facilities in Welches rural center; evaluate pedestrian crossing near Stage Stop Rd; add multi-use path	\$6,360,000	19.59%	\$1,245,800
Total Project Count		76			\$476,271,481	44.16%	\$210,308,676

Appendix B – TSDC Rate Schedule

Table B-1
TSDC Rate Schedule

Clackamas County TSDC Rates 2017							
Land Use Category	Units	ITE Codes Included	Traffic Impact^{1,2}	Adjustments		Adjusted Traffic Impact	Updated TSDC per Unit³
				% Diverted Link Trips	Pass-by %		
Transit Parking	Parking Space	90, 93	4.50	-	-	4.50	\$2,068
Industrial/ Manufacturing/Warehouse	1,000 Gross Square Feet	110, 120, 130,140, 150, 151, 170	4.21	-	-	4.21	\$1,936
Single-Family Detached Housing	Dwelling Unit	210	9.52	-	-	9.52	\$4,374
Apartment	Dwelling Unit	220	6.65	-	-	6.65	\$3,056
Residential Condo/Townhouse	Dwelling Unit	230	5.81	-	-	5.81	\$2,670
Mobile Home in Park	Space	240	4.99	-	-	4.99	\$2,293
Assisted Living	Beds	254, 620	2.70	-	-	2.70	\$1,241
Senior Housing	Dwelling Unit	251, 253, 255	3.06	-	-	3.06	\$1,404
Hotel/Motel	Room	310, 320	8.17	-	-	8.17	\$3,754
Parks	Acre	411, 412	2.09	-	-	2.09	\$958
Campground/RV Park	Site	416	2.30	-	-	2.30	\$1,055
Marina	Berths	420	2.96	-	-	2.96	\$1,360
Golf Course	Holes	430	35.74	-	-	35.74	\$16,422

Table B-1 (Continued)

TSDC Rate Schedule

Land Use Category	Units	ITE Codes Included	Traffic Impact ^{1,2}	Adjustments		Adjusted Traffic Impact	Updated TSDC per Unit ³
				% Diverted Link Trips	Pass-by %		
Golf Driving Range	Tee/ Drive Position	432	10.63	-	-	10.63	\$4,882
Recreation Community Center	1,000 Gross Square Feet	435, 495	33.82	-	-	33.82	\$15,540
Bowling Alley	Bowling Lanes	437	12.84	-	-	12.84	\$5,897
Movie Theater	Movie Screens	443, 444, 445	115.94	-	-	115.94	\$53,272
Casino/Video Lottery Establishment	1,000 Gross Square Feet	473	114.16	-	-	114.16	\$52,452
Soccer Complex	Field	488	71.33	-	-	71.33	\$32,775
Racquet/Tennis Club	Court	491	38.70	-	-	38.70	\$17,782
Health/Fitness Club	1,000 Gross Square Feet	492	30.01	-	-	30.01	\$13,787
Military Base	Employees	501	1.78	-	-	1.78	\$818
Education	Student	520, 522, 530, 536, 540, 550	1.51	-	-	1.51	\$695
Church	1,000 Gross Square Feet	560	9.11	-	-	9.11	\$4,186
Day Care	Student	565	4.38	56	-	1.93	\$886
Library	1,000 Gross Square Feet	590	56.24	-	-	56.24	\$25,841

Table B-1 (Continued)

TSDC Rate Schedule

Land Use Category	Units	ITE Codes Included	Traffic Impact ^{1,2}	Adjustments		Adjusted Traffic Impact	Updated TSDC per Unit ³
				% Diverted Link Trips	Pass-by %		
Hospital	Beds	610	12.94	-	-	12.94	\$5,946
Medical-Dental	1,000 Gross Square Feet	720, 630	36.13	-	-	36.13	\$16,601
Office	1,000 Gross Square Feet	710, 714, 715, 730, 750, 760, 770	10.44	-	-	10.44	\$4,796
State Motor Vehicles Department	1,000 Gross Square Feet	731	166.02	-	-	166.02	\$76,283
Post Office	1,000 Gross Square Feet	732	108.19	-	17	89.80	\$41,260
Building & Hardware	1,000 Gross Square Feet	812, 816	48.23	-	37	30.72	\$14,115
Free-Standing Discount Store	1,000 Gross Square Feet	813, 815	54.00	35	22	23.38	\$10,743
Nursery	1,000 Gross Square Feet	817, 818	68.10	-	34	44.95	\$20,652
Factory Outlet Center	1,000 Gross Square Feet	823	26.59	-	34	17.55	\$8,064
Automobile Sales	1,000 Gross Square Feet	841	32.30	-	34	21.32	\$9,795
Automobile Parts Sales	1,000 Gross Square Feet	843	61.91	-	43	35.29	\$16,214
Tire Stores	1,000 Gross Square Feet	848, 849	22.62	-	28	16.28	\$7,482
Supermarket	1,000 Gross Square Feet	850, 854	102.24	38	36	26.58	\$12,214

Convenience Market	1,000 Gross Square Feet	851, 852	612.39	11	51	232.71	\$106,924
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Table B-1 (Continued)

TSDC Rate Schedule

Land Use Category	Units	ITE Codes Included	Traffic Impact ^{1,2}	Adjustments		Adjusted Traffic Impact	Updated TSDC per Unit ³
				% Diverted Link Trips	Pass-by %		
Shopping/Retail	1,000 Gross Square Feet Leasable Area	820, 826, 862, 863, 867	43.63	13	34	23.21	\$10,665
Pharmacy	1,000 Gross Square Feet	880, 881	93.49	14	51	33.27	\$15,288
Furniture Store	1,000 Gross Square Feet	890	5.06	-	53	2.38	\$1,093
Bank	1,000 Gross Square Feet	911, 912	148.15	26	35	57.78	\$26,548
Restaurants	1,000 Gross Square Feet	925, 931, 932	108.55	27	44	32.75	\$15,048
Fast Food	1,000 Gross Square Feet	933, 934	496.12	23	50	133.95	\$61,548
Coffee/Donut Shop	1,000 Gross Square Feet	936, 937	818.58	-	89	90.04	\$41,373
Quick Lubrication Veh. Shop	Service Positions	941	44.12	-	42	25.59	\$11,757
Automobile Care Center	1,000 Gross Square Feet	942	26.44	-	42	15.33	\$7,045
Service Stations	Fueling Positions	853, 944, 945, 946	161.39	32	51	27.11	\$12,456

¹ Based on Average Weekday Trips

² Italicized daily trip rate calculated as PM Peak Hour multiplied by system avg. daily to PM peak ratio (8.5)

³ Includes compliance cost

Appendix C – County TSP Cost Estimate Assumptions



Cost Estimate Assumptions

Date: January 7, 2013 Project #: 11732

To: Project Management Team

From: Susan L. Wright, P.E.; Marc A. Butorac, P.E., P.T.O.E.; Kelly M. Laustsen; and Erin M. Ferguson, P.E.; Kittelson & Associates, Inc; Gary Alfson, Otak

Project: Clackamas County Transportation System Plan Update

Subject: Cost Estimate Assumptions

The following list documents the assumptions made in preparing cost estimates for the projects on the Master List for the Clackamas County Transportation System Plan (TSP) Update.

- The unit costs for each roadway classification was computed per lineal foot based on the classification provided in the Functional Classification and Urban or Rural columns in the KAI master spreadsheet and the attached table (Roadway Cost Estimates.xlsx) prepared by Otak.
- The total project costs have been estimated based on the length and roadway classification data provided in the KAI spreadsheet.
- Roadway costs were computed assuming reconstruction of the existing roadway when upgrading to full standards.
- Intersection improvement costs have been estimated using 500 feet per leg of the side street using the Rural Arterial classification section. This length was doubled for state highway intersections.
- Added turn lane costs have been estimated using 500 feet of a left turn lane of Rural Arterial classification, widening only one side of the existing roadway for right turn lanes and both sides for left turn lanes. This length was doubled for state highway intersections.
- For projects that included "turn lanes at major intersections," it was assumed the project will include left turns at all side streets of arterial and collector classifications. The intersections at the beginning and end of the segment were included.
- Driveways and private drives have not been included.

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- Projects listed as bikeways have been estimated using the “Bike lane widening, urban” classification, unless otherwise noted. The cost for this item also includes the construction of landscape strips and sidewalks.
 - Projects listed as pedways have been estimated using the “Sidewalk widening, urban” classification, unless otherwise noted.
 - Projects that listed the percentage of bikeway and pedways already completed have a percentage assigned to the overall length of improvements as follows:
 - 1-25% complete: improve 87.5% of project length
 - 26-50% complete: improve 62.5% of project length
 - 51-75% complete: improve 37.5% of project length
 - Not specified : improve 100% of project length.
 - Safety audit costs have been input at \$30,000 per mile in urban areas, \$15,000 per miles in rural areas.
 - Road closure costs have been input at \$30,000 each.
 - The costs for vertical realignment have not been included.
 - The cost for horizontal realignment has not been included beyond the length of the roadway improvements or the 500 foot long leg of intersection improvements.
 - The costs for right-of-way have not been included.
 - Water quality or detention facilities are not included.
 - Wetland impacts or sensitive area mitigation not included.
 - The estimated project costs have been taken from the “cost estimate from existing plans” or have not been provided when there is a lack of adequate information to estimate the project.
 - Estimates do not include traffic signal retrofit work, irrigation, culvert crossings, retaining walls, or sound walls. These could add significant costs to the project.
 - Bridge locations and lengths were estimated from Google Earth images when no other resource was available.
 - The undercrossing projects have been estimated using the bridge unit cost.

- Costs for public or franchise utilities are not included (water, sanitary sewer, power, natural gas, cable, telephone).
- Striping assumes thermoplastic materials.
- Signing frequency set at 200' o.c. in urban areas, 400' o.c. in rural areas.
- Earthwork based on 1.25' excavation/embankment across entire ROW. No rock excavation. Assumes 12" stripping (haul-off)
- Pavement section is assumed and may vary based on geotechnical recommendations and traffic volumes.

Clackamas County | 2016-17 Process Overview Transportation System Development Charge Plan Update

In early 2016, the County began updating our 10-year-old Transportation System Development Charge (TSDC) plan in order to:

- Update the list of capital projects eligible to receive TSDC revenue;
- Update the TSDC rates charged to different kinds of development, and
- Streamline and simplify the TSDC program for our customers.

Over the past year and a half, staff has been meeting with a work group of commercial and residential developers, the Home Builders Association and engineering firms that represent the site development community to help us develop the new plan, project list and rate schedule.

During the update process, we met with the Board of County Commissioners seven times and brought the work group recommendations back to the Board on four occasions. We published notice of our methodology update in the Daily Journal of Commerce, online, through social media and emails. We also held a virtual open house for a month prior to finalizing our plan.

On November 8, 2017, the Board will hold a public hearing for adoption of the updated TSDC methodology. There will be two readings of the ordinance amendments, the first at the public hearing November 8 and the second at a Board Business Meeting on November 30, 2017.

STEP 1	BCC DISCUSSION DATE	DISCUSSION
Identify Eligible Projects	May 24, 2016 June 27, 2017	<p>The list of capital projects eligible to receive TSDC revenue sets the foundation for calculating the rates for different kinds of development.</p> <p>The work group chose criteria for selecting projects from the Transportation System Plan (TSP) and other locally adopted plans that will become eligible for TSDC funding.</p>
<p>OPTIONS:</p> <ol style="list-style-type: none"> 1) Continue the update process with the TSDC work group criteria; or 2) Modify the criteria before moving forward with the calculation of the growth share and draft rate schedule. 	<p>DECISION:</p> <p>Develop the project list using the following criteria:</p> <ul style="list-style-type: none"> • Increases traffic connections to daily needs and services • Reduces congestion at intersections • Located in or near a current or future employment area • Improves safety on roads • Provides the greatest benefit to the entire community by keeping projects on roads with significant amounts of traffic, such as arterials and collectors 	



STEP 2	BCC DISCUSSION DATE	DISCUSSION
Select Traffic Impact Measure	July 28, 2017	Rates differ by land use based on the number of trips a new or expanded development is estimated to add to the transportation system. The TSDC fee for a single-family home is lower than the fee for a large grocery store because it generates fewer trips.
OPTIONS: <ol style="list-style-type: none"> 1) Continue measuring the total impact a development has on traffic throughout a day (Average Daily Traffic [ADT]); or 2) Change to measuring the amount of traffic a development is estimated to add during the afternoon commute (PM Peak). 		DECISION: Continue to use Average Daily Traffic (ADT).

STEP 3	BCC DISCUSSION DATE	DISCUSSION
Define The Rate Structure	July 28, 2017 August 1, 2017	Currently, Clackamas County has a long list of rates, one for each specific type of land use. However, consolidating similar uses and going with a shorter list will make it easier for developers and the public to identify the correct rate, and will reduce the likelihood that commercial tenant improvements in an existing structure trigger a TSDC fee.
OPTIONS: <ol style="list-style-type: none"> 1) Continue to use the long list and adopt rates for 88 land uses; or 2) Reduce the complexity by consolidating similar uses and reducing the number of rates to 50. OPTIONS: <ol style="list-style-type: none"> 1) Continue having one rate per detached single-family home dwelling unit, regardless of the size of the home; or 2) Consider a rate that fluctuates based on the size of the home. 		DECISION: Consolidate rates for similar land uses.
OPTIONS: <ol style="list-style-type: none"> 1) Continue having one rate per detached single-family home dwelling unit, regardless of the size of the home; or 2) Consider a rate that fluctuates based on the size of the home. 		DECISION: Continue with a single rate per dwelling unit for this update, but watch other jurisdictions and consider a proportional rate with the next TSDC update.



Home Builders Association
of Metropolitan Portland

November 7, 2017

The Honorable Jim Bernard, Chair
Clackamas County Commission
2051 Kaen Road
Oregon City, OR 97045

Re: Clackamas County Transportation System Development Charges

Chair Bernard and Commission Members:

The HBA of Metropolitan Portland appreciates the opportunity to provide testimony regarding the Clackamas County Transportation System Development Charge (TSDC) Methodology Report.

The HBA has enjoyed a long-standing partnership with Clackamas County and recognizes that the success of any community development plan is to properly identify infrastructure needs and develop appropriate funding strategies to achieve our shared goals.

Historically, the HBA has supported SDCs as a means to pay for necessary infrastructure upgrades to accommodate increased demand on public facilities. The methodology and proposal before the Commission is no exception. The HBA understands that Clackamas County faces challenges with respect to its transportation infrastructure and the need for prudent investments. Especially during a time of rapid population growth and the cost of housing on the rise, we believe that the county and staff held housing affordability as a high priority throughout the process. The HBA would like to submit our endorsement of the proposed update before the commission today on behalf of our membership.

We would also like to take this opportunity to commend the county staff for their high level of outreach and communication to our organization and all others involved in the update process. This approach could easily act as a benchmark for other jurisdictions in the future.

We look forward to continuing our strong partnership with Clackamas County to support its community development goals and appreciate the Commission's consideration of the.

Respectfully,

A handwritten signature in black ink, appearing to read "James Adkins".

James Adkins
Government and Political Relations Coordinator



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
 Clackamas County

Members of the Board:

Public Hearing and Order Regarding Approval to Allow Rose Villa, Inc. to
Issue Revenue Bonds in an Amount Not to Exceed \$30,000,000

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
 Assistants

Purpose/Outcomes	Public Hearing & Order allowing Rose Villa to issue bonds
Dollar Amount and Fiscal Impact	None. The County in no way will be obligated to pay, support, guarantee or otherwise be responsible for the debt.
Funding Source	Not Applicable
Duration	One time approval is the only involvement
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding borrowing requests from third parties as required by law
Contact Person	Chris Storey, Assistant County Counsel 503-742-4623 Marc Gonzales, Finance Director 503-742-5405
Contract No.	Not Applicable

BACKGROUND:

Rose Villa, Inc., an Oregon nonprofit corporation ("*Rose Villa*" or "*Borrower*") desires to issue debt to support expansion and improvements of their current facility located in unincorporated Clackamas County. This is allowed under existing tax law if certain procedures are followed. First, Borrower must partner with a Public Finance Authority to issue the debt, which has been arranged by Rose Villa. That entity is located in Wisconsin, and therefore there are references to Wisconsin law in the attached draft order. Second, the Internal Revenue Code of 1986's Section 147(f) requires elected officials having jurisdiction over where Rose Villa operates -- in this case, the Board of County Commissioners -- must approve the issuance of the debt. This is done after appropriate notice is published at least 14 days in advance and a public hearing is held on the subject. An affidavit of appropriate notice, and draft order allowing issuance of the requested bonds, are attached hereto.

The hearing and granting approval to allow the issuance of the bonds to go forward is the entire extent of the County's involvement in the proposed debt issuance. The amount borrowed will not be a debt of the County, no taxes will be paid in support of the debt, and no guarantee or assurance or any credit-enhancing activity is being offered. If the Board votes to allow the

issuance of the debt, it will be the sole responsibility of Rose Villa. If the Board votes against allowing the issuance, Rose Villa will not be able to issue the debt as currently contemplated.

Rose Villa has provided background for inclusion in this report and will attend the hearing to provide public testimony as well. The project consists of (i) capital construction, development, remodeling, expansion, renovation, and acquisition and installation of equipment, for the Borrower's continuing care retirement facilities located at 13505 SE River Road, Portland, Oregon 97222, within the boundaries of Clackamas County; and (ii) paying capitalized interest and certain costs of issuance of the Bonds, including funding one or more debt service reserve funds, if necessary.

The request letter specifies that the funds will be targeted at the next phase of Rose Villa's campus master plan, which includes construction of additional independent resident homes. The prior phase was brought forward to the Board's attention in 2014, at which time Rose Villa received approval to borrow \$60,000,000 for facility improvements. Those improvements have been successfully completed and led to an increase in demand that is giving rise to this request.

RECOMMENDATION:

Staff recommends the Board hold a public hearing on the subject, weigh the evidence presented thereby, and make a determination on whether or not to allow Borrow to issue the debt as planned. If the Board makes that determination, it would adopt the draft order attached hereto to effectuate the same.

Respectfully submitted,



Chris Storey
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving the Issuance of Senior Living Revenue Bonds (Rose Villa Project), Series 2017 in a Maximum Aggregate Issue Price Not to Exceed \$30,000,000 Issued by the Public Finance Authority



ORDER NO.
Page 1 of 3

WHEREAS, it appearing before the Board of County Commissioners of Clackamas County, Oregon (the "Board") that the Public Finance Authority (the "Authority"), a commission organized under and pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, as amended, has received a request from Rose Villa, Inc., a nonprofit corporation duly organized and validly existing under the laws of the State of Oregon (the "Borrower"), to issue senior living revenue bonds, pursuant to Section 66.0304 of the Wisconsin Statutes, as amended, in one or more series, in a maximum aggregate issue price not to exceed \$30,000,000 (collectively, the "Bonds"); and

WHEREAS, the proceeds of the Bonds are expected to be used to finance costs of the following projects (collectively, the "Projects"): (i) capital construction, development, remodeling, expansion, renovation, and acquisition and installation of equipment, for the Borrower's continuing care retirement facilities located at 13505 SE River Road, Portland, Oregon 97222, within the boundaries of Clackamas County, Oregon (the "County"); and (ii) paying capitalized interest and certain costs of issuance of the Bonds, including funding one or more debt service reserve funds, if necessary; and

WHEREAS, the Internal Revenue Code of 1986 (the "Code") authorizes the issuance of revenue bonds for a "qualified 501(c)(3) entity," such as the Borrower; and

WHEREAS, Section 147(f) of the Code requires that qualified 501(c)(3) bonds be approved by the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Projects are located, and the Board of the County are the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Projects being financed with the proceeds of the Bonds are located; and

WHEREAS, pursuant to Section 66.0304(11)(a) of the Wisconsin Statutes, prior to their issuance, bonds issued by the Authority must be approved by the governing body or highest ranking executive or administrator of the political jurisdiction within whose boundaries the Projects are located; and

WHEREAS, on the date of this Order, the Board conducted a public hearing, adequate notice of this hearing having been published pursuant to Section 147(f) of the Code, to provide a reasonable opportunity for members of the public to express their

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving the
Issuance of Senior Living Revenue
Bonds (Rose Villa Project), Series
2017 in a Maximum Aggregate
Issue Price Not to Exceed
\$30,000,000 Issued by the Public
Finance Authority



ORDER NO.
Page 2 of 3

views regarding the issuance of the Bonds and the uses and purposes of the proceeds of the Bonds; and

WHEREAS, the principal of and interest on the Bonds will not constitute a debt of the County, nor shall the Bonds be payable from a tax of any nature levied upon any property within the County, nor within any other political subdivision of the State of Oregon. The Bonds will be special limited obligations of the Authority payable only from revenues and resources provided or arranged by the Borrower pledged to the payment of the Bonds and any credit enhancement arranged for the Borrower, and

WHEREAS, the Borrower has requested that the Board approve the financing of the Projects and the issuance of the Bonds in order to satisfy the requirements of Section 4 of the Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated as of September 28, 2010 (the "Joint Exercise Agreement"), and Section 66.0304(11)(a) of the Wisconsin Statutes; and

WHEREAS, the Board finds that it would be in the best interest of the County to approve the issuance of the Bonds pursuant to the requirements of Section 147(f) of the Code, and the Board being fully advised;

NOW, THEREFORE, IT IS HEREBY ORDERED:

- (1) As the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Projects are located, and having concluded that a public hearing was validly held to provide a reasonable opportunity for members of the public to express their views regarding the issuance of the Bonds and the uses and purposes of the proceeds of the Bonds, the Board approves of the issuance of the Bonds by the Authority for the purpose of financing the Projects, in a maximum aggregate issue price not to exceed \$30,000,000
- (2) It is the purpose and intent of the Board that this Order constitute approval of the issuance of the Bonds by the Board, which is the governmental unit having jurisdiction over the area in which the Projects are located, in accordance with Section 66.0304(11)(a) of the Wisconsin Statutes and Section 4 of the Joint Exercise Agreement.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving the
Issuance of Senior Living Revenue
Bonds (Rose Villa Project), Series
2017 in a Maximum Aggregate
Issue Price Not to Exceed
\$30,000,000 Issued by the Public
Finance Authority



ORDER NO.
Page 3 of 3

(3) This Order is effective immediately upon passage.

DATED this 30th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

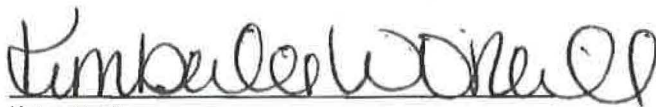
State of Oregon,) ss
County of Multnomah)

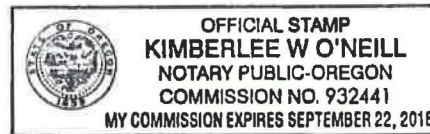
Justin Eubanks being duly sworn, deposes that he/she is principal clerk of Oregonian Media Group; that The Oregonian is a public newspaper published in the city of Portland, with general circulation in Oregon, and this notice is an accurate and true copy of this notice as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following date(s):

The Oregonian 11/15/2017


Principal Clerk of the Publisher

Sworn to and subscribed before me this 15th day of November 2017


Notary Public



NOTICE OF PUBLIC HEARING

Thursday, November 30, 2017, 10:00 a.m.
Board of County Commissioners Hearing Room
2051 Kaen Road, Oregon City, Oregon 97045

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Board of County Commissioners of Clackamas County, Oregon (the "Board") on Thursday, November 30, 2017, at 10:00 a.m. at the Public Services Building, Board of County Commissioners Hearing Room, 2051 Kaen Road, Oregon City, Oregon 97045. The purpose of the hearing is to hear public comment on a request by Rose Villa, Inc. (the "Borrower"), a nonprofit corporation organized and existing under the laws of the State of Oregon and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"), to the Public Finance Authority (the "Authority"), to issue its senior living revenue bonds, in one or more series pursuant to a plan of finance, in a maximum aggregate issue price not to exceed \$30,000,000 (collectively, the "Bonds").

The Bonds are expected to be issued pursuant to Section 66.0304 of the Wisconsin Statutes, as amended, and the proceeds from the sale of the Bonds will be loaned to the Borrower and are expected to be used for the purpose of financing all or a portion of the following projects (collectively, the "Projects"): capital construction, development, remodeling, expansion and renovation, and acquisition and installation of equipment, at the Borrower's continuing care retirement facilities located within the boundaries of Clackamas County, Oregon (the "County") at 13505 SE River Road, Portland, Oregon 97222.

The Borrower is the owner, manager and operator of the Projects.

The principal of and interest on the Bonds will not constitute a debt of the County, nor shall the Bonds be payable from a tax of any nature levied upon any property within the County, nor within any other political subdivision of the State of Oregon. The Authority has no taxing power. The Bonds will be limited obligations of the Authority, payable only from revenues and resources provided or arranged by the Borrower pledged to the payment of the Bonds and any credit enhancement arranged for by the Borrower.

Section 147(f) of the Code requires that qualified 501(c)(3) bonds, such as the Bonds, must be approved by the applicable elected representatives of the governmental unit having jurisdiction over the area in which the assets being financed by the Bonds are located. The Board as the applicable elected representatives of the County will consider an Order approving of the issuance of the Bonds by the Authority to finance the Projects.

The public hearing will provide a reasonable opportunity for members of the public to express their views, orally or in writing, regarding the issuance of the Bonds and the uses and purposes of the proceeds of the Bonds. The hearing will be conducted in a manner that provides a reasonable opportunity for persons with differing views to be heard on the question of the issuance of the Bonds. Written comments may be delivered at the public hearing or mailed to the County at the address indicated above.

This notice is published pursuant to the public approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended and the regulations and rulings issued thereunder.

CLACKAMAS COUNTY, OREGON

Published: November 15, 2017



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

Stephen L. Madkour
County Counsel

November 30, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
Assistants

Public Hearing and Order Regarding Approval to Allow Willamette View, Inc.
to Issue Revenue Bonds in an Amount Not to Exceed \$95,000,000

Purpose/Outcomes	Public Hearing & Order allowing Willamette View to issue bonds
Dollar Amount and Fiscal Impact	None. The County in no way will be obligated to pay, support, guarantee or otherwise be responsible for the debt.
Funding Source	Not Applicable
Duration	One time approval is the only involvement
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding borrowing requests from third parties as required by law
Contact Person	Chris Storey, Assistant County Counsel 503-742-4623 Marc Gonzales, Finance Director 503-742-5405
Contract No.	Not Applicable

BACKGROUND:

Willamette View, Inc., an Oregon nonprofit corporation (“*Willamette View*” or “*Borrower*”) desires to issue debt to support expansion and improvements of their current facility located in unincorporated Clackamas County. This is allowed under existing tax law if certain procedures are followed. First, Borrower must partner with a Public Finance Authority to issue the debt. Clackamas County has empaneled and empowered the Hospital Facility Authority of Clackamas County, which met on the matter on November 28, 2017. Second, the Internal Revenue Code of 1986’s Section 147(f) requires elected officials having jurisdiction over where Willamette View operates -- in this case, the Board of County Commissioners -- must approve the issuance of the debt. This is done after appropriate notice is published at least 14 days in advance and a public hearing is held on the subject. A draft order allowing issuance of the requested bonds is attached hereto for the Board’s consideration.

The hearing and granting approval to allow the issuance of the bonds to go forward is the entire extent of the County’s involvement in the proposed debt issuance. The amount borrowed will not be a debt of the County, no taxes will be paid in support of the debt, and no guarantee or assurance or any credit-enhancing activity is being offered. If the Board votes to allow the issuance of the debt, it will be the sole responsibility of Willamette View. If the Board votes against allowing the issuance, Willamette View will not be able to issue the debt as currently contemplated.

Willamette View has provided background for inclusion in this report and will attend the hearing to provide public testimony as well. The project consists of (1) finance or reimburse all or a portion of the costs of the construction, acquisition, development, improvement, renovation and equipping of an expansion project and other capital projects with respect to the Borrower's continuing care retirement community located in unincorporated Clackamas County, Oregon; (2) refinance all or a portion of the State of Oregon, Oregon Facilities Authority Revenue Refunding Bonds (Willamette View Project) 2010 Series A and the State of Oregon, Oregon Facilities Authority Revenue Refunding Bonds (Willamette View Project) 2010 Series B; (3) fund a debt service reserve fund for the 2017 Bonds; and (4) pay funded interest and certain costs of issuance for the 2017 Bonds (collectively, the "Project").

The Hospital Facility Authority of Clackamas County is meeting on this issue at the time of this staff report, and additional information will be provided when available to complete the draft board order. For inquiries regarding the Authority, please contact Marc Gonzales as noted above.

RECOMMENDATION:

Staff recommends the Board hold a public hearing on the subject, weigh the evidence presented thereby, and make a determination on whether or not to allow Borrow to issue the debt as planned. If the Board makes that determination, it would adopt the draft order attached hereto to effectuate the same.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of the Board of County
Commissioners, Clackamas County,
Oregon, Concerning Senior Living
Revenue Bonds (Willamette View
Project), Series 2017A and 2017B, Issued
by the Hospital Facility Authority of
Clackamas County, Oregon

Order No. _____
Page 1 of 2

WHEREAS, the Hospital Facility Authority of Clackamas County, Oregon (the "Authority") has received a request from Willamette View, Inc., a not-for-profit corporation organized and existing under the laws of the State of Oregon (the "Borrower"), to issue its Senior Living Revenue Bonds (Willamette View Project), Series 2017A and Senior Living Revenue Bonds (Willamette View Project), Series 2017B (collectively, the "2017 Bonds") in an amount not to exceed \$95,000,000 for the purpose of providing funds to (1) finance or reimburse all or a portion of the costs of capital construction, development, remodeling and renovation, and acquisition and installation of equipment, at continuing care retirement facilities owned and operated by the Borrower and located within the boundaries of Clackamas County, Oregon at 12705 S.E. River Road, Portland, Oregon 97222, 13021 S.E. River Road, Portland, Oregon 97222, 13169 S.E. River Road, Portland, Oregon 97222, 13145 SE River Road, Portland, Oregon 97222; (2) refinance all or a portion of the State of Oregon, Oregon Facilities Authority Revenue Refunding Bonds (Willamette View Project) 2010 Series A and the State of Oregon, Oregon Facilities Authority Revenue Refunding Bonds (Willamette View Project) 2010 Series B the proceeds of which financed and refinanced continuing care retirement facilities owned and operated by the Borrower and located at 13021 S.E. River Road, 12705 S.E. River Road, 13169 S.E. River Road, 13145 S.E. River Road, 1532 through 1650 S.E. River Ridge Drive, 1819 S.E. Silver Spring Road, 1821 S.E. Silver Spring Road, 13000 S.E. River Road and 13100 S.E. River Road, all in Portland, Oregon; (3) fund a debt service reserve fund for the 2017 Bonds; and (4) pay funded interest and certain costs of issuance for the 2017 Bonds (collectively, the "Project").

WHEREAS, on November 28, 2017 the Authority adopted a Bond Resolution authorizing the issuance, sale and delivery of the 2017 Bonds.

WHEREAS, among other things, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that "qualified 501(c)(3) bonds" be approved by the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Project is located.

WHEREAS, the Board of County Commissioners ("Board") of Clackamas County, Oregon (the "County"), as the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Project is located, has been requested to approve, for purposes of Section 147(f) of the Code, the issuance of the 2017 Bonds by the Authority following a public hearing. The Board, having provided notice as contemplated by Section 147(f) of the Code, has conducted a public hearing regarding the issuance of the 2017 Bonds and has invited oral and written comments from the public;

In the Matter of the Board of County
Commissioners, Clackamas County,
Oregon, Concerning Senior Living
Revenue Bonds (Willamette View
Project), Series 2017A and 2017B, Issued
by the Hospital Facility Authority of
Clackamas County, Oregon

Order No. _____
Page 2 of 2

NOW, THEREFORE, IT IS HEREBY ORDERED
BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Section 1. Public Hearing. As the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Project is located, and having held the public hearing following notice as described above which provided a reasonable opportunity for members of the public to express their views regarding the issuance of the 2017 Bonds and the uses and purposes of the proceeds of the Bonds, the Board of County Commissioners approves of the issuance of the 2017 Bonds in a maximum aggregate issue price not to exceed \$95,000,000 by the Authority as required by Section 147(f) of the Code.

Section 2. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption by the Board of County Commissioners.

DATED this 30th day of November, 2017.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

November 30, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Amendment to an Intergovernmental Agreement with
the State of Oregon, Department of Consumer and Business Services,
Senior Health Insurance Benefits Assistance (SHIBA)

Purpose/Outcomes	To provide grant funds for the Medicare Improvements for Patients and Providers Act (MIPPA) program to provide education for Medicare beneficiaries about public benefits.
Dollar Amount and Fiscal Impact	This amendment adds \$6,500 for a new revenue total of \$19,500.
Funding Source	The Oregon Department of Human Services' State Unit on Aging (SUA) received a Medicare Improvements for Patients and Providers Act (MIPPA) grant from the Administration for Community Living (ACL). This grant will support the continued partnership between the SUA, the Senior Health Insurance Benefits Assistance (SHIBA) program and Multnomah County Aging and Disability Services (MCADS) to expand and enhance outreach and application assistance for low income individuals who are potentially eligible for the Low Income Subsidy (LIS) or the Medicare Savings Program (MSP). No match requirements. No County General Funds are involved.
Safety Impact	None
Duration	September 30, 2015 through September 29, 2018
Previous Board Action	The original agreement was approved by the Board of County Commissioners on December 15, 2016, agenda item 121916-A11.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with H3S's strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	7916

BACKGROUND:

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests approval of an amendment to the Intergovernmental Grant Agreement (IGA) from the State of Oregon, Department of Consumer and Business Services, Senior Health Insurance Benefits Assistance (SHIBA). This IGA provides funding to educate Medicare beneficiaries about public benefits, and enroll those who are eligible in limited-income subsidy for Part D and Medicare Savings Programs.

SHIBA is designed to educate senior and other Medicare recipients of their rights, resources and needs relating to Medicare and other health insurance. These services are invaluable to our seniors and citizens with disabilities and provide a much needed resource for our most vulnerable populations.

The Senior Medicare Patrol (SMP) grant funds help the Volunteer Connection SHIBA program improve and expand State efforts to provide Medicare/Medicaid beneficiaries education of healthcare fraud, errors and abuse. Outreach efforts focus on high populations in rural, Hispanic and tribal communities.

This amendment was received from the State on November 15, 2017 and it extends the end date of the original Intergovernmental Agreement from September 29, 2017 to September 29, 2018. The amendment adds \$6,500 for a new agreement total of \$19,500. County Counsel reviewed and approved the amendment on November 20, 2017. There are no match requirements and no County General Funds are involved.

RECOMMENDATION:

Staff recommends the approval of this amendment, and that Richard Swift, H3S Director, be authorized to sign all documents necessary on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing and Human Services Department

**AMENDMENT #1 to
INTERGOVERNMENTAL AGREEMENT # 45G000205**

1. This agreement is between the State of Oregon Acting by and through its Department of Consumer and Business Services, Oregon Health Insurance Marketplace, Senior Health Insurance Benefit Assistance Program (“Agency”), and Clackamas County acting by and through its Health, Housing & Human Services Department, Social Services Division (“Local Government”).
2. The Contract is hereby amended as follows (new language is indicated by bold underlining font, and deleted language is indicated by strikethrough font).

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement shall be effective retroactively to September 30, 2015, and terminates on **September 29, 2018** ~~September 29, 2017~~, unless terminated earlier in accordance with Section 16. This Agreement may be extended if the grant period is extended or for additional grant years.

SECTION 6: COMPENSATION AND PAYMENT TERMS

- 6.1 A) Agency agrees to pay Local Government a not-to-exceed amount of \$6,500.00 for performance of the work set forth in Exhibit A for the period of September 30, 2015 through September 29, 2016. Funding for future years is dependent on Agency receiving grant awards from the Administration for Community Living (ACL).
- B) Agency agrees to pay Local Government a not-to-exceed amount of \$6,500.00 for performance of the work set forth in Exhibit A for the period of September 30, 2016 through September 29, 2017. Funding for future years is dependent on Agency receiving grant awards from the Administration for Community Living (ACL).
- C) Agency agrees to pay Local Government a not-to-exceed amount of \$6,500.00 for performance of the work set forth in Exhibit A for the period of September 30, 2017 through September 29, 2018. Funding for future years is dependent on Agency receiving grant awards from the Administration for Community Living (ACL).**

3. Except as expressly amended above, all other terms and conditions of original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Signatures on next page



M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 30, 2017

Board of Commissioners
Clackamas County

Members of the Board:

A Board Order Adopting the Vacation of a Portion of Bellevue Avenue

Purpose/Outcomes	Vacates a portion of Bellevue Avenue, a Non-maintained Local Access Road
Dollar Amount and Fiscal Impact	Application and processing fee received.
Funding Source	N/A
Duration	Upon execution; permanent vacation.
Previous Board Contact	N/A
Strategic Plan Alignment	Grow a Vibrant Economy
Contact Person	Doug Cutshall, Engineering Technician
Contract No.	503-742-4669

The subject portion of Bellevue Avenue, became a part of the Local Access Road system June 20, 1891, by the First Addition to Barlow's, Plat No. 84, Clackamas County Plat Records. Since Bellevue Avenues creation, two separate vacations have removed all but an isolated piece of the right-of-way. The petitioners plan to partition their adjoining properties once the remaining portion of Bellevue Avenue has been vacated. Vacating this portion of Bellevue Avenue will not deprive public access to adjoining properties.

The portion of Bellevue Avenue to be vacated is 50 feet wide and, undetermined length. This right-of-way serves no public need and is not a benefit to the traveling public.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to vacate forms that have been acknowledged by the proper authority.

Clackamas County Department of Transportation Maintenance, Engineering, Planning, Traffic Divisions, and all local utility companies, have been contacted and do not have any objections to this vacation provided all utility rights are reserved. County Counsel has reviewed and approved this vacation.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order approving the vacation of portion of Bellevue Avenue.

Sincerely,

Mike Bezner, PE
Assistant Director of Transportation

In the matter of the Vacation of
A portion of Bellevue Avenue a
Local Access Road, situated
In Section 5, T. 4 S., R.1 E., WM
Clackamas County, Oregon

Order No.
Page 1 of 1

This matter coming before the Board of County Commissioners at this time and appearing to the Board that in accordance with ORS 368.341 and pursuant to ORS 368.351, a petition has been filed with the determined fee and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, and a written report finding this vacation to be in the public interest from the County Road Official, M. Barbara Cartmill, Director, have been submitted in the matter of the vacation of a portion of Bellevue Avenue, a Non-maintained Local Access Road, described as follows:

All that portion of Bellevue Avenue, situated in the southwest $\frac{1}{4}$ of Section 5, T.4 S., R.1 E., WM, Clackamas County, Oregon, as more particularly described and shown on attached Exhibits "A" and "B".

Whereas the Board having read said petition and report from the County Road Official and having determined the vacation of the above described portion of roadway to be in the public interest; and,

Whereas Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies, have been contacted and do not have any objections to this vacation provided that utility rights are reserved; now therefore,

IT IS HEREBY ORDERED that the attached described portion of Bellevue Avenue, a Non-maintained Local Access Road, containing, 1,200 square feet, more or less, be vacated; and,

IT IS FURTHER ORDERED that rights for all existing utilities within the vacated portion of Bellevue Avenue, be reserved. Nothing contained herein shall cause or require the removal or abandonment of any storm or sanitary sewer, water main, gas line, conduit of any kind, wires, or poles which are now installed in said right-of-way and used or intended to be used for any public service or utility. In addition, the rights are reserved to maintain, repair, construct or reconstruct, install, renew, and enlarge all utilities that are now used for any public service or utility; and,

IT IS FURTHER ORDERED, that this Order and attached exhibits be recorded in the Deed Records for Clackamas County and that a copy be filed with the County Surveyor, County Assessor, and Finance Office/Fixed Assets.

ADOPTED this _____ day of _____, 2017
BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Exhibit "A"

Schroeder Avenue
Plat of River Villa Acres
Date: December 28, 2016

County Road No. 2390
Map No. 21E02DB
Page 1 of 1

VACATION OF A PORTION OF SCHROEDER AVENUE

A portion of Schroeder Avenue, County Road No. 2390, as shown on attached Exhibit "B", which by this reference is made a part hereof, situated in the southeast quarter of Section 2, Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and River Villa Acres, Plat No. 432, Clackamas County Plat Records, said portion of road right-of-way being more particularly described as follows:

All of Schroeder Avenue, County Road No. 2390, lying 1 foot north of and between the westerly extension of the south line of Lot 9, Block 1, of said plat and the easterly extension of the south line of Lot 1, Block 2, of said plat. Said portion of Schroeder Avenue being 50 feet wide and 300 feet long more or less.

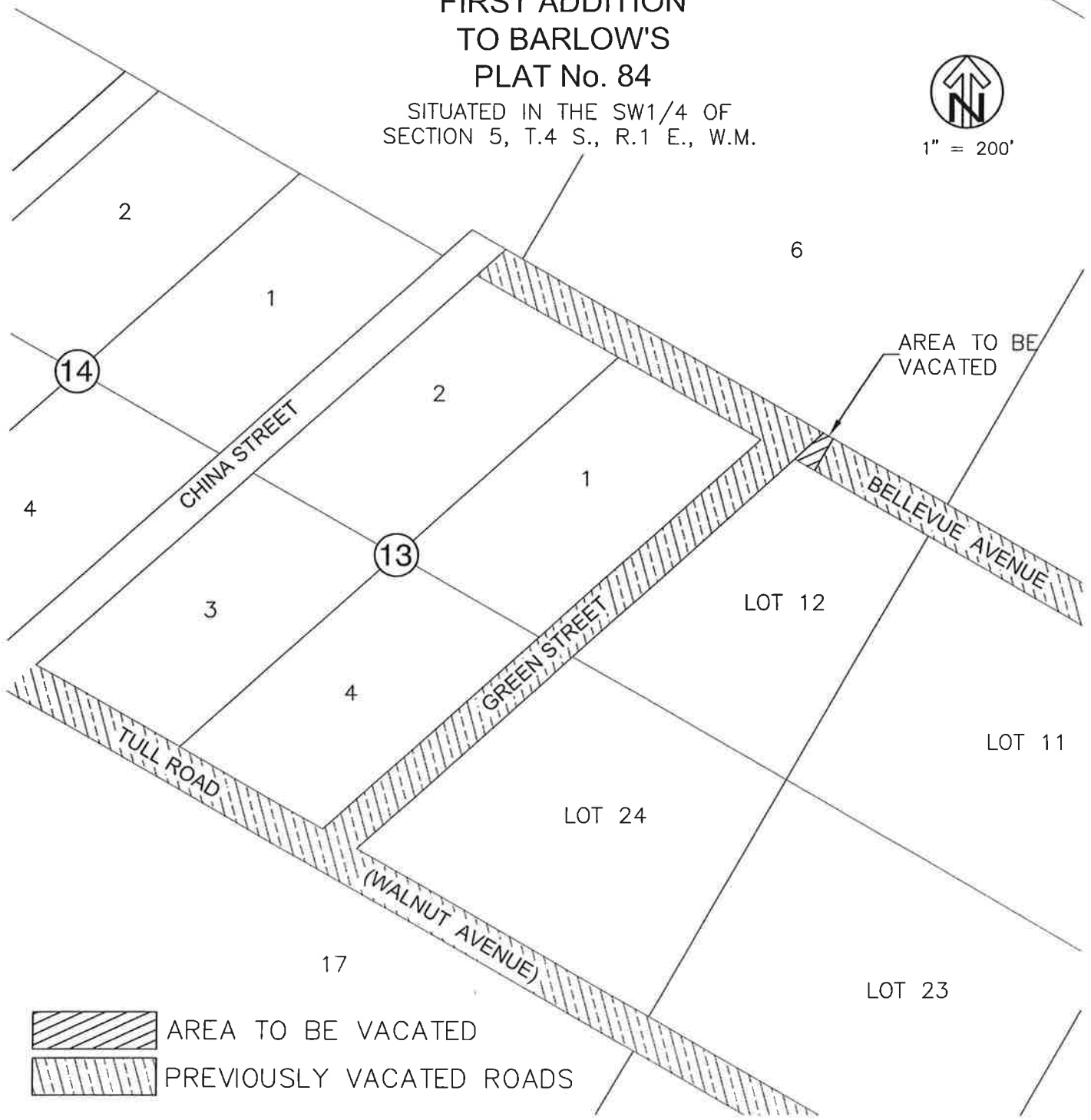
Containing 15,000 square feet, more or less.

FIRST ADDITION
TO BARLOW'S
PLAT No. 84

SITUATED IN THE SW1/4 OF
SECTION 5, T.4 S., R.1 E., W.M.



1" = 200'



DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: D. CUTSHALL

DATE: 11/16/2017

SHEET

1 OF 1

EXHIBIT "B"

MEMORANDUM

TO: Board of Commissioners

FROM: M. Barbara Cartmill, Director D.T.D.

DATE: November 23, 2017

SUBJ: **ROAD OFFICIAL'S REPORT FOR THE VACATION OF BELLEVUE AVENUE**

LOCATION: Bellevue Avenue, A Non-Maintained Local Access Road, is situated in the SW1/4 of Section 5, T.4 S., R.1 E., W.M. near the City of Canby

FACTS AND FINDINGS: The subject portion of Bellevue Avenue, became a part of the Local Access Road system June 20, 1891, by the First Addition to Barlow's, Plat No. 84, Clackamas County Plat Records. Since Bellevue Avenue's creation, two separate vacations have removed all but an isolated piece of the right-of-way. The petitioners plan to partition their adjoining properties once the remaining portion of Bellevue Avenue has been vacated. Vacating this portion of Bellevue Avenue will not deprive public access to adjoining properties.

The portion of Bellevue Avenue to be vacated is a 50 foot wide, undetermined length, isolated right-of-way that serves no public need and is not a benefit to the traveling public. Vacating this portion of Bellevue Avenue will not affect area traffic flow.

The Petition to Vacate under ORS 368.341 has been filed with the determined fee and, acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting public property proposed to be vacated, pursuant to ORS 368.351. All abutting property owners in this instance have signed the Consent to Vacate forms that have been acknowledged by the proper authority.

Clackamas County Departments of Transportation Maintenance, Engineering, Planning, Traffic, along with all local utility companies have been contacted and do not have any objections to this vacation.

After considering traffic impacts, fiscal impacts, and social impacts, it appears to be in the public interest to vacate the area petitioned.

It is my assessment to support the subject vacation.

Pursuant to ORS 368.351 and County policy, the Board may make its determination in the matter of this vacation without a public hearing. This is allowed when there is acknowledged signatures of owners of 100 percent of private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, this Road Official's Report is submitted, and there is no controversy related to the proposed vacation.



M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an amendment to the Traffic Safety Commission bylaws section 2.2 Term.

Purpose/Outcomes	Amending 2.2 section of the Traffic Safety Commission (TSC) to allow a three month term for high school students.
Dollar Amount and Fiscal Impact	None
Funding Source	N/A
Duration	N/A
Previous Board Contact	12/02/2015 adopted bylaws
Strategic Plan Alignment	Build public trust through good government
Contact Person	Christian Snuffin 503-742-4716

The members of the Traffic Safety Commission recently reviewed the Bylaws for the Commission and agreed that the Bylaws needed to be amended to reflect the structure under which the Commission wishes to operate in the future. The proposed change includes amending the 2.2 Term section to reflect the duration of high school students.

“The term length for high school student members shall be a minimum of three (3) months up to a maximum of one year, with reappointment possible.”

The members of the Traffic Safety Commission all voted in favor of the proposed change on the November 20, 2017 meeting.

RECOMMENDATION: Staff respectfully recommends the Board accept the proposed changes to the Bylaws for the Clackamas County Traffic Safety Commission as presented.

Respectfully submitted,

Mike Bezner, PE
Assistant Director of Transportation

**PROMULGATED BY-LAWS
CLACKAMAS COUNTY TRAFFIC SAFETY COMMISSION**

SECTION 1: NAME, PURPOSE AND HISTORY

The name of this organization shall be the Clackamas County Traffic Safety Commission (the "Commission"). Clackamas County Traffic Safety Commission is a County designated citizen commission whose purpose is to advise the Clackamas County Transportation Engineering Division on matters related to transportation safety for all modes of transportation utilizing the roadway system. This commission was formed in 1980.

SECTION 2: MEMBERSHIP

2.1 Number of Members: The Clackamas County Traffic Safety Commission shall consist of a minimum of ten (10) and up to twelve (12) private citizen members and up to three (3) high school student members, all of whom are residents of Clackamas County. The private citizen members shall be appointed by the Board of County Commissioners and shall be as representative as possible of the geographic, demographic and diverse characteristics of the County. The Board of County Commissioners, in such numbers and as it deems necessary, shall appoint the high school student members. The student member(s) shall for all purposes be treated as regular voting members of the Commission.

2.2. Term: Members selected to serve on the Traffic Safety Commission shall have a four (4) year term, with reappointment possible following completion of an application through the process established by Clackamas County Board of County Commissioners for all Advisory Boards and Commissions. The term length for high school student members shall be a minimum of three (3) months up to a maximum of one year, with reappointment possible.

2.3 Vacancies: Vacancies shall be filled through the process established by Clackamas County Board of County Commissioners for all Advisory Boards and Commissions. Applicants will be invited to a regularly scheduled Traffic Safety Commission meeting to be interviewed. Attending members shall vote to recommend appointment of applicants. The staff liaison shall forward the Commission's recommendation to the Board of County Commissioners for formal appointment. New members will be notified of their appointment by Public and Government Affairs.

2.4 Absences: Three or more consecutive unexcused absences from regularly scheduled Clackamas County Traffic Safety Commission meetings will be grounds for removal of any Commission member. Three consecutive unexcused absences shall be noted as a lack of desire to continue membership in the Commission unless these absences can be adequately justified to the satisfaction of the Chair of the Clackamas County Traffic Safety Commission, who will be the primary arbiter in these cases.

Before any member is considered for release for any reason, they will be afforded the opportunity to appear before the Clackamas County Traffic Safety Commission and present their appeal for retention. The Clackamas County Traffic Safety Commission, as a whole, will make the final decision for retention of a member. Irregular attendance, failure to accept adequate functional membership responsibility, or disruptive attitude toward specified goals of the Clackamas County Traffic Safety Commission may also be considered as a basis for release from membership on the Clackamas County Traffic Safety Commission.

Any member, at their discretion, may propose the release from membership of any other member for cause. The entire basis for consideration of such release shall be considered by the Clackamas County Traffic Safety Commission as a whole and if approved by a majority of the

quorum present, shall be acted on as described above.

Any member who anticipates in advance an absence from a regularly scheduled Clackamas County Traffic Safety Commission meeting should report that possibility to the staff liaison of the Clackamas County Traffic Safety Commission.

SECTION 3: ORGANIZATION

3.1 Chair and Vice-Chair: At the first regular meeting of each calendar year the Clackamas County Traffic Safety Commission shall elect a chair and vice-chair for the ensuing year. The current chair shall announce the matter of the upcoming election during the last meeting of the calendar year. Nominations for the offices may be made at that time. Nominations may also be made at the elective meeting. If no person receives a majority vote for election on the first ballot, the two receiving the highest number of votes will be considered on a second ballot. The newly elected chair shall take office immediately upon election and conduct the balance of the meeting from that point forward.

The Chair shall preside over all meetings of the Commission and have the responsibility of the performance of such duties as prescribed in these Bylaws. The Chair will act as a point-of-contact between County officials and the Commission.

The Vice-Chair shall aid the Chair and perform the duties of the Chair in his/her absence.

3.2 Staff Support: The County Engineering Division will provide a staff secretary or a commission member shall be appointed as secretary by the chair to serve during their term of office. The secretary shall have the following responsibilities:

- Take minutes of all meetings and record them in permanent electronic form
- Prepare an agenda for each scheduled meeting.
- Provide electronic notification of meetings.
- Maintain custody of all contracts, legal documents, resumes, copies of incoming and outgoing correspondence and all other documents and papers filed with the Clackamas County Traffic Safety Commission.
- Maintain membership records.
- Prepare documents and reports needed by the Clackamas County Traffic Safety Commission.
- Assist with the preparation of an annual report to the Board of County Commissioners of program goals, activities and accomplishments.

SECTION 4: MEETINGS

4.1 Meeting Times: The Clackamas County Traffic Safety Commission will normally meet the first Wednesday of each calendar month during the year, at a time and place designated by the chair of the Clackamas County Traffic Safety Commission. If this date should conflict with a recognized holiday, the chair shall make an alternate date decision during the preceding meeting. The secretary shall assure that appropriate notice is provided to all interested persons and agencies. The Clackamas County Traffic Safety Commission shall meet not less than six (6) times per year and under no circumstances will meetings be held less frequently than quarterly.

4.2 Quorum: A quorum of the membership shall consist of a majority of the membership. Members must be present to form a quorum and conduct official business. A simple majority of the Commission members present shall provide the deciding vote on any subject brought before

the Commission. The chair or presiding officer shall vote only in the case of a tie vote.

4.3 Meeting Conduct: The rules contained in the most current edition of *Robert's Rules of Order Newly Revised* shall govern the Commission in all matters in which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order the Commission may adopt. The chair of the Clackamas County Traffic Safety Commission shall establish the agenda with the assistance of the vice-chair and secretary. The Commission shall attempt to complete all agenda business at each meeting. If the time for conducting required business exceeds a reasonable hour, the chair, or any member, may propose a carry-over of remaining business to a special meeting date to be designated, or to the next regularly scheduled meeting.

4.4 Bylaw Changes: Any member on any appropriate subject may propose bylaw modifications. Such proposals will be submitted in writing to the chair of the Clackamas County Traffic Safety Commission. The submitted proposals shall be read during the meeting at which they are first presented. Discussion of the proposals will be limited to clarification of intent and verbiage at that meeting. The staff liaison shall ensure that the proposal, as modified by the limited discussion in the meeting, be forwarded to each Clackamas County Traffic Safety Commission member and the Public and Government Affairs Department of the County along with a copy of the recorded minutes of the meeting. The proposed bylaw modifications shall be voted on at the next official meeting of the Clackamas County Traffic Safety Commission. If a majority of the quorum present approves the proposal, and no objection is received from the Board of County Commissioners, the proposed changes shall be incorporated into the Bylaws and will be effective immediately.

4.5 Meeting Minutes: Minutes of each meeting shall record the presence and absence of each member. They shall also document the business conducted at the meeting and a summary of the discussions and recorded decisions including proposed motions, seconds to the motion and discussions, dissensions and abstentions.

Completed minutes shall be electronically conveyed to members prior to the next meeting.

4.6 Open Meeting Policy: All monthly meetings of the Clackamas County Traffic Safety Commission shall be open to the public. All Commission meetings shall be publicized in advance of the meeting date and shall be conducted in accordance with the State of Oregon's Public Meeting laws.

4.7 County Department Participation: The Clackamas County Traffic Safety Commission will be aided in the conduct of its functions by designated County staff, or their representatives. These designated representatives will be ex-officio members of the Clackamas County Traffic Safety Commission and will be nonvoting. They will be designated by the DTD Assistant Director or their designee.

The chair of the Clackamas County Traffic Safety Commission may request additional appointees to be designated representatives if such need appears desirable. These representatives will provide the Traffic Safety Commission with consulting services and assistance in their respective technical areas.

4.8 Non-County Governmental Participation: Other governmental agencies serving Clackamas County will be solicited by the Clackamas County Traffic Safety Commission to participate as ex-officio nonvoting members of the Clackamas County Traffic Safety

Commission if their input can assist the Commission.

SECTION 5: DUTIES AND RESPONSIBILITIES

5.1 Overview: The primary duties and responsibilities of the Clackamas County Traffic Safety Commission shall be directed towards efforts to reduce injury and fatal crashes in Clackamas County. The Commission will use adopted plans such as the Clackamas County Transportation Safety Action Plan and Clackamas County Transportation System Plan as a basis for developing policies, programs and tasks for reducing injuries and fatalities due to crashes on the transportation system. All resources available to the Clackamas County Traffic Safety Commission will be directed toward this endeavor.

A “5E” approach including Education, Emergency Medical Services, Enforcement, Engineering and Evaluation shall be used to achieve safety goals. Collaboration with Clackamas County and its political subdivisions, their officials, civic leaders and organizations, private groups and individual citizens is important to this effort. Each agency, group and individual can provide specialized input and assistance to this effort. The Commission shall coordinate with the Clackamas Safe Communities Program, which focusses on the reduction of injuries and fatalities in Clackamas County, as well as existing community traffic safety organizations and other county, state and federal safety offices. The Commission shall encourage all political subdivisions in Clackamas County to implement traffic safety initiatives.

5.2 Safety Focus Areas: As needed, the Clackamas County Traffic Safety Commission will work toward organizing effective committees that involve representative countywide membership in the following functional areas:

- Alcohol/drugs and other impairments related to traffic safety
- Codes and laws
- Driver education
- Emergency Medical Services
- Roadway design, construction and maintenance
- Identification and surveillance of crash locations
- Pedestrian/bicycle safety
- Safe routes to school
- Traffic control devices
- Traffic records
- Safety culture

The voting members of the commission shall select members for all committees as deemed necessary. Other areas of interest may be added at the discretion of the Traffic Safety Commission. Members of these functional committees who are not Clackamas County Traffic Safety Commission members will be designated ex-officio Clackamas County Traffic Safety Commission members.

The Clackamas County Traffic Safety Commission will examine each of the foregoing functional areas and goals set forth in the Clackamas County Transportation Safety Action Plan and/or similar safety-focused reports and establish an annual program and goals for immediate and long-range priorities. This program will serve as the direction for the Commission and accomplishments will be measured against these written programs and goals. If functional area committees appear to be short of goal attainment, efforts will be made to correct the situation by appropriate means.

5.3 Safety Partner Collaboration: The Clackamas County Traffic Safety Commission, through its chair and staff liaison, shall maintain contact with various County committees and agencies on highway traffic safety matters. This will be accomplished through formal and informal reports and meetings. The secretary will maintain these reports and reports of meetings, and pertinent portions will be extracted for inclusion in periodic and annual reports as required by various directives.

The Clackamas County Traffic Safety Commission shall coordinate with each Clackamas County safety organization, community, municipality and other recognized political, neighborhood or area subdivision within the County. Other political entities such as State, Federal and Metro will be targeted for inclusion and coordination in any on-going traffic safety programs conducted or supervised by the Clackamas County Traffic Safety Commission.

The Clackamas County Traffic Safety Commission, through its chair, will serve as an advisory body to the Clackamas County Traffic Engineer for the purpose of developing local actions necessary to implement traffic safety projects.

SECTION 6: POLICIES

The Clackamas County Traffic Safety Commission shall adopt and follow the general operating policies recommended by the Board of County Commissioners. Primary among these policies and key guidelines to the Clackamas County Traffic Safety Commission are the following:

1. Operate as a non-profit, nonpolitical organization, devoted exclusively to accident prevention in traffic related instances.
2. Operate in the general public interest serving the County as a whole. It shall serve no special interest.
3. Will not endorse any commercial products or enterprise.

SECTION 7: AUTHORITY TO BIND

The Clackamas County Traffic Safety Commission, its members individually or collectively cannot commit Clackamas County, its officers or agents to financial obligation unless approved beforehand in writing for the express amount and purpose. Such approval must have the funding account and citation number approved. The Clackamas County Traffic Safety Commission may receive funds from sources unaffiliated with Clackamas County at various times. If this occurs, these funds may be used at the discretion of the Clackamas County Traffic Safety Commission, when approved in official meetings. These funds will not be commingled with county funds and must be accounted for. The County will be permitted to conduct an audit of such funds at any time.

SECTION 8: PRIOR BYLAWS

The amended bylaws shall supersede all previous bylaws and become the governing rules for the Commission.

ADOPTED this _____ day of _____, 2017

Clackamas County Traffic Safety Commission



Dave Cummings
Chief Information Officer

Technology Services

November 30, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of ORMAP Intergovernmental Agreement Contract # 3686-17
with the Oregon Department of Revenue for
Digital GIS Tax Lot Conversion

Purpose/Outcomes	This IGA will provide funding to continue the conversion of paper survey documents and Assessment maps to a digital GIS database as required under ORS 306.135.
Dollar Amount and Fiscal Impact	This semi-annual IGA Contract is \$42,000 for this funding period. Amount varies with each ORMAP grant request due to funding availability. The County matches \$35,000 annually, typically 35% of the amount the State provides.
Funding Source	State of Oregon, Department of Revenue
Duration	Terminates December 31, 2018
Previous Board Action/Review	The County has participated in this program since 1999 with the BCC approval of IGA Contracts with the Dept. of Revenue twice a year in varying amounts.
Strategic Plan Alignment	1. Creation of a publicly available internet based data and document portal including all legally available data 2. Building public trust through good government
Contact Person	Eric Bohard, Tech. Services Mgr. – Technology Services 503-723-4814

BACKGROUND:

This program, legislated in 1999 as ORS 306.135, provides for the funding from the State Department of Revenue for GIS digital tax lot capture and the creation of digital Assessor's tax lot maps. The ORMAP program collects \$1.00 for each recorded land related document from all Oregon Counties. These funds go into a pool administered by the Oregon State Department of Revenue. Funds are distributed to Counties based on competitive grant applications twice a year. This contract represents our Fall 2017 award of our grant request for continuing work on the capture of tax lot lines and annotation from survey documents and converting that information to a digital GIS database as spelled out by Oregon Department of Revenue standards.

The product created by funds from this IGA contract benefits the County, the State, and most importantly, the public. Having an accurate ownership GIS layer allows uses of the data to make more informed decisions and provides a more accurate base map for other GIS map data.

This project is a collaborative effort between the Clackamas County's Assessor's Office and the GIS Division of the Technology Services Department. Also assisting in this effort is the County's Surveyor. County Counsel has reviewed these on-going ORMAP contracts and has approved as to form.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approves Intergovernmental Agreement Contract # 3686-17 with the State of Oregon Department of Revenue for the continued conversion of paper survey documents and Assessment maps to a digital GIS database.

Respectfully submitted,

David Cummings
Chief Information Officer

**DEPARTMENT OF REVENUE
ORMAP INTERGOVERNMENTAL AGREEMENT
CONTRACT #3686-17**

This Agreement is entered into by and between the State of Oregon, acting by and through the Department of Revenue (“Department”) and Clackamas County (“County”).

WHEREAS, under ORS 306.135 the Department is charged with developing a base map system to facilitate and improve the administration of the ad valorem property tax system;

WHEREAS, pursuant to ORS 190.110, the Department may cooperate, by agreement or otherwise, with a unit of local government in performing the duties imposed upon it by ORS 306.135.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Department and the County agree to the following:

I. EFFECTIVE DATE OF AGREEMENT; AWARD; PROJECT COMPLETION

- A. Effective Date of Agreement. This Agreement shall become effective on the date this Agreement has been signed by every party and all required approvals have been obtained.
- B. Award. The Department shall provide funds in the amount of **\$42,000.00** (the “Award”) to the County to fund all or part of the activities set forth in Exhibit A (“Proposal”) which is attached hereto and by this reference made a part hereof. The part of the activities set forth in the Proposal which is funded by the Award shall be called the “Project”. All of the activities set forth in the Proposal, whether funded by the Department or by other sources, shall be referred to as the “Total Project”. (If there are no other funders beside the Department for the activities described in the Proposal, the Total Project is the same as the Project.) The Department shall not be obligated to provide to the County, and the County shall not use the Award other than for costs for the Project.
- C. Project Completion. County agrees to complete the Total Project in accordance with the terms and specifications of the Proposal by **December 31, 2018** (“Project Completion Date”). Final billing for the Project shall be submitted to the Department on or before *January 31, 2019*.

II. DISBURSEMENTS.

- A. Disbursement of Funds by the Department. Subject to Section IV, upon receipt of the County’s request for disbursement, the Department shall disburse the

Award to the County on a cost reimbursement basis. The Department may, in its sole discretion, impose a minimum or maximum dollar amount for each disbursement request or limit the frequency of disbursement requests.

- B. Overpayment. In the event that the aggregate amount of the Department's disbursements hereunder exceeds the costs of the County for the Project, the County agrees to refund to the Department the amount paid in excess of such costs within thirty (30) days of final billing by the County or the Project Completion Date, whichever is earlier.
- C. Disallowed Costs. The County agrees that payment(s) under this Agreement shall be subject to offset or reduction for amounts previously paid hereunder which are found by the Department not to constitute allowable costs under this Agreement. If such disallowed amount exceeds the payment(s); the County shall immediately upon demand pay the Department the amount of such excess.
- D. Cost Savings. Any cost savings realized on the Total Project shall be prorated between the funding sources based on the percentage of their respective cash contributions as set forth in the Proposal. In no event shall the Department pay for more than its pro rata share of the County's actual out-of-pocket cost of the Total Project.
- E. No Duplicate Payment. The County shall not be compensated for, or receive any other duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party.

III. REPRESENTATIONS AND WARRANTIES

County represents and warrants to the Department that (1) it has the power and authority to enter into and perform this Agreement, (2) this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms, (3) the Total Project shall be performed in a good and workmanlike manner and in accordance with the highest professional standards, (4) those persons performing work on the Total Project shall, at all times during the term of this Agreement, be qualified, professionally competent and duly licensed to perform work on the Total Project, and (5) Exhibit A presents a good faith estimate of the costs of the Total Project and the Project and accurately states the amount of other funds, whether in cash or through binding commitment(s), available for payment of the costs of the Total Project.

IV. CONDITIONS TO DISBURSEMENT

- A. Conditions Precedent to Disbursement. The Department shall not be obligated to disburse any funds hereunder for Project costs unless (1) there exists no event of default or default which with notice or lapse of time or both will become an event of default hereunder, and (2) the Department has received from the County (i) a request for disbursement signed by a duly authorized representative of the County (which shall, among other things, state that the County has or will have sufficient funds to complete the Total Project by the Project Completion Date), (ii) an itemized invoice and (iii) such other documentation as the Department may require, all in form and substance satisfactory to the Department; further, the Department shall only be obligated to disburse Award funds to the extent that the portion of the Award represented by the aggregate amount of all disbursements made through the date of the disbursement request (including the amount of the disbursement request) does not exceed the percentage of the Project completed through the date of the disbursement request, as determined by the Department.
- B. Conditions Precedent to Final Disbursement. The Department shall not be obligated to make final disbursement hereunder until a final payment request and such documentation as may be required by the Department, all in form and substance satisfactory to the Department, shall be submitted by the County to the Department. Final payment will be made to the County within forty-five (45) days of approval by the Department.

V. COVENANTS

- A. Assignment. If the County hires a contractor(s) to do all or part of the Project, the County shall remain liable for compliance with the terms and conditions of this Agreement and shall not in any way be relieved of any of its obligations under this Agreement. The County shall be responsible for all cost overruns.
- B. Payments. To the extent required by state and federal law, the County agrees to:
1. Make payment promptly as due to all contractors, subcontractors, vendors and other persons supplying labor and/or materials for the Project; and
 2. All employers, including County, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). County shall require and ensure that each of its subcontractors complies with these requirements.

- C. Liabilities. County shall perform its obligations under this Agreement as an independent contractor. Each party shall be responsible exclusively with respect to its employees, for providing for employment-related benefits and deductions that are required by law, including but not limited to federal and state income tax deductions, workers' compensation coverage, and contributions to the Public Employees Retirement System.

Each party shall be responsible, to the extent required by law (including the Oregon Tort Claims Act, ORS 30.260-30.300), only for the acts, omissions or negligence of its own officers, employees or agents.

- D. Compliance with Applicable Law. The County shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement. The Department's performance under this Agreement is conditioned upon the County's compliance with the provisions of ORS 279B.220, 279B.235, 279B.230 and 279B.270, as amended from time to time, which are incorporated by reference herein. The parties shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(ee)), recycled PETE products (as defined in ORS 279A.010(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(gg))
- E. Records Maintenance. The County shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles and the Oregon Local Budget Law, ORS 294.305 to 294.565.. In addition, the County shall maintain any other records pertinent to this Agreement in such a manner as to clearly document the County's performance. The County's accounting procedures shall provide for an accurate and timely recording of receipt of funds by source, of expenditures made from such funds, and of unexpended balances. Controls shall be established which are adequate to ensure that all expenditures reimbursed under this Agreement are for allowable purposes and that documentation is readily available to verify that such charges are accurate.
- F. Access. The County acknowledges and agrees that the Department and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of the County that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts. The County shall retain and keep accessible all such fiscal records, books, documents, papers, plans and writings for a minimum of five (5) years, or such longer period as may be required by applicable law, following final payment under this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

- G. Project Ownership. The Department acknowledges and agrees that the Project is the exclusive property of the County. The County acknowledges and agrees that the Department is not responsible or liable in any manner for the completion or maintenance of the Project or Total Project.

VI. TERMINATION; REMEDIES

- A. Termination for Convenience. Either party may terminate this Agreement at any time upon thirty (30) days prior written notice to the other party; provided, however, that the County shall, within thirty (30) days of such termination, reimburse the Department for all funds disbursed by the Department hereunder to the extent that the amount of funds disbursed exceeds the amount of the Award multiplied by the percentage of the Project completed to the satisfaction of the Department; provided further that until the County has fully reimbursed the Department for such funds, the County shall comply with the terms of this Agreement.

- B. Termination Because of Non-Appropriation or Project Ineligibility.

1. The Department, at any time upon prior written notice to the County, may terminate this Agreement if the Department fails to receive funding or appropriations, limitations, or other expenditure authority at levels sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to pay for the allowable costs of the Project to be funded hereunder or any state law, regulation or guideline is modified, changed or interpreted in such a way that the Total Project, or any portion of the Total Project, is no longer eligible for Award funds.
2. In the event insufficient funds are appropriated by the County for its share of the costs of the Total Project and the County has no other lawfully available funds, then the County may terminate this Agreement at the end of its current fiscal year, with no further liability to the Department. The County shall deliver to the Department written notice of such termination within thirty (30) days of its determination of such shortfall.

- C. Termination for Default. The Department may, at any time upon thirty (30) days prior written notice to the County, terminate this Agreement if:

1. The design and implementation of the Total Project is not pursued with due diligence; or
2. The cadastral portions of the Total Project do not conform to the Department of Revenue Oregon Cadastral Map System; or

3. The County fails to receive funding for portions of the Total Project from outside sources as described in its Proposal; or
 4. The County, without the prior written approval of the Department, uses the funds provided by the Department hereunder in a way other than the Project described in the Proposal.
 5. The County violates any other provision of this Agreement.
- D. Rights and Remedies. The County shall, within thirty (30) days of its receipt of the notice described in Section VI.C above, reimburse the Department for all funds disbursed hereunder to the extent that the funds disbursed exceed the amount of the Award multiplied by the percentage of the Project completed to the satisfaction of the Department as of the date of County's receipt of the notice described in Section VI.C above. Further, the Department shall have any and all rights and remedies available at law or in equity.

VII. GENERAL PROVISIONS

- A. Force Majeure. Neither the Department nor the County shall be held responsible for delay or failure to perform when such delay or failure is due to fire, flood, epidemic, strike, public carrier, act of God, act of a public enemy or a public authority or a cause which cannot be reasonably foreseen or provided against.
- B. Persons Not to Benefit. No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the State of Oregon, or official, agent, or employee of the State of Oregon, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the State of Oregon shall derive any unfair knowledge or financial benefit from this Agreement that is not offered to others in a competitive process.
- C. No Third Party Beneficiaries. The Department and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- D. Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Department and County and their respective successors and assigns; provided however that the County may not

assign this Agreement or any interest therein without the prior written consent of the Department, which consent may be withheld for any reason.

- E. Severability. The Department and the County agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid.
- F. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to the Department or the County at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- G. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.
- H. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the Department and/or other agency or department of the State of Oregon and the County that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. COUNTY, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.
- I. Merger Clause; Amendment; Waiver. THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE DEPARTMENT AND THE COUNTY ON THE SUBJECT MATTER HEREOF. NO MODIFICATION OR

CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH THE DEPARTMENT AND THE COUNTY, AND NO CONSENT OR WAIVER SHALL BE EFFECTIVE UNLESS IN WRITING AND SIGNED BY THE PARTY AGAINST WHOM SUCH CONSENT OR WAIVER IS BEING ENFORCED. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. THE DELAY OR FAILURE OF THE DEPARTMENT TO ENFORCE ANY PROVISION OF THIS AGREEMENT SHALL NOT CONSTITUTE A WAIVER BY THE DEPARTMENT OF THAT PROVISION OR ANY OTHER PROVISION. THE COUNTY, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS.

DEPARTMENT:

State of Oregon, acting by and through its
Department of Revenue
Authorized Agency Signature

By: _____
Joshua Hardage, Contracts & Procurement Manager

Date: _____

COUNTY:

Clackamas County

By: _____
Title:

Date: _____
Telephone: _____
Fax No: _____

EXHIBIT A

AWARD LETTER
COUNTY GRANT PROPOSAL

ORMAP Grant Application

Section I. County and Grant Information			
A. County: Clackamas		B. Funding Cycle: Fall 2017	
C. Project will help meet ORMAP Goal(s): 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/>		D. Fund Request: \$42,000	
Section II. Summary of Project			Department Assessment
A. Brief Overview of the Request			<input type="checkbox"/> Pass <input type="checkbox"/> Fail
<p>This project is a continuation of Clackamas County's ORMAP tax lot re-mapping project. The funds requested for this period will be used to digitally capture, rectify, annotate, and prepare tax lots for map production using COGO techniques. With full funding, 1,500 rural and urban tax lots will be completed to ORMAP standards for this project period.</p>			
Scope and Deliverables			
Check	Deliverables	Brief description of the deliverables	
<input checked="" type="checkbox"/>	Tax Lot Conversion	Conversion of paper plats and surveys using COGO or digitizing techniques for rural tax lots to a GIS layer.	
<input type="checkbox"/>	Tax Map Conversion		
<input type="checkbox"/>	Control Points		
<input type="checkbox"/>	Development		
<input type="checkbox"/>	Other Assistance		
<input type="checkbox"/>	Other Deliverable		
<input type="checkbox"/>	Hardware/Software		
B. Projected Project Completion Date (projects should not exceed one year)			
December 31, 2018			
C. Total Costs of Project (add lines as necessary)			
Deliverable	Number of Items	Cost per Item	Total Cost
Tax Lot Conversion (COGO/ Annotate)	1500	\$28	\$42,000
County contribution (Detailed below)			\$45,000
Total for project			\$87,000
D. Partnerships and Contributions (add lines as necessary)			
Partner	Contribution		
Clackamas County Surveyor	\$5,000 – Control points		
Clackamas County Assessor's Office	\$15,000 - New plat maintenance, plat, and deed research, quality control, cartographic QC.		
Clackamas County GIS	\$25,000 –QC/ prep for map production/rectify to control/project management/problem tax lot conversion		
A. Assessor's Signature & Date:	<i>See file copy</i>		
F. Fiscal Coordinator – Name & Contact Number:	Eric Bohard 503-723-4814		

G. Project Coordinator – Name & Title:	Eric Bohard, Technical Services Division Manager
E-mail address:	ericboh@clackamas.us
Phone Number:	503-723-4814
Mailing Address:	Clackamas County Technical Services 121 Library Court Oregon City, OR 97045

Section III. Detail Project Information –Answer all questions

A. Overview

1. Describe what the project is trying to accomplish.

Clackamas County is continuing to undergo a tax lot enhancement project to increase the relative precision of our current tax lot GIS data layer. Though Clackamas County has a complete digital GIS tax lot layer, some of the previous GIS mapping efforts are simply cartoon representations of ownership tax lots and have a wide level of accuracy confidence. Hence, the focus of this project is to complete re-mapping tax lots in the County to meet the accuracy levels described in ORMAP technical specifications.

2. What part(s) of the county does this project cover (Township, Range, and Sections, if applicable)?

The project will cover newly created urban and existing rural and resource tax lots in selected parts of the County where acceptable survey ground control exists. As new subdivisions are recorded within timeframe of this project, typically in the urban growth boundary (i.e. urban level tax lots), those tax lots are added to the GIS database. New urban tax lots are added first then rural tax lots.

3. What is the status/outcome of all previously funded ORMAP projects? (Please include funding cycles and a “status map” of your county.)

Prior to the fall 2006 ORMAP contract, all efforts were to re-map urban tax lots. Since then, beginning with the spring 2007 contract, the efforts have shifted to rural tax lots. As new urban or rural tax lots are created, they are immediately brought into the digital GIS database to ORMAP standards through our normal tax lot maintenance process and are not part of any ORMAP funding request. Due to annexations, a surge of new urban tax lots has been created. A breakdown of our status of the funded projects is as follows:

Urban/UGB Tax Lots: (\$270,500 approved funding - previous contracts since the inception of ORMAP not including the contracts below)

Total Urban Tax Lots:	112,426
Tax Lots Completed (COGO, rectified, and annotated)	112,426 (100%)

Rural Tax Lots: (\$510,215 approved funding, contracts 1801, 1849, 1922, 2295, 2351, 2421, 2467, 2507, 2876, 2966, 2995, 3036, 3064, 3107, 3150, 3374, 3436-15, 3536-16, 3574-16, and 3625-17)

Total Rural Tax Lots:	45,551
Tax Lots Completed:	38,370 (84%)

Resource Tax Lots: (no funding specifically requested)

Total Resource Tax Lots:	901
Tax Lot Completed:	471 (52%)

4. Describe, in detail, your technical approach to the project (such as, mapping methodology).

We will use COGO tools to re-map those areas that have suitable data. Trying to re-map every rural tax lot using COGO tools is not practical since actual surveys and plats are widely scattered in the rural area. In those areas where COGO tax lot capture is practical, high quality surveyed ground control will be acquired. The process and criteria used to COGO capture rural plats is modeled on the urban tax lot capture design we developed. These captured platted areas will act as “anchors” or a foundation as areas with known accuracy. Next, deeds, surveys, orthophotography, and existing tax lot maps are used to “fill in” the areas in-between the anchors. As we build the rural tax lots between the anchors, ground control will be acquired more sparsely to insure the non-platted

rural tax lots are within ORMAP accuracy standards. COGO methods will be used whenever practical. The use of ESRI's Parcel Fabric also will be used whenever possible.

5. Describe the project deliverables.

This project will deliver 1500 additional re-mapped tax lots, fully annotated, using our technical approach, and rectified to control meeting ORMAP rural tax lot standards. As new subdivisions are created, typically in the urban areas, those tax lots are mapped to ORMAP urban standards under our maintenance process.

6. Who will be doing the work (county staff, contractor, or DOR staff)? Please define their roles.

County staff will be used to complete 100% of this project. They will capture, annotate, and QC tax lots to ORMAP standards.

7. How will the county cartographer integrate the deliverables into the County's maintenance plan?

This project develops the base digital GIS base layer for tax lots. Once created, the County Cartographer will use various tools developed for tax lot maintenance to update any changes that might occur for the tax lots re-mapped in this project. The projects deliverables will be part of the overall countywide GIS tax lot layer. The deliverables from this project will be used to create the tax maps, directed exclusively by the County Cartographer.

8. Provide a project timeline with milestones or completion dates.

To date, all urban tax lots are completed. As urban tax lots are created during this project period, those are completed under daily maintenance. This project deals only with rural tax lots, of which 81% are completed. Based on current resources and anticipated ORMAP funding, we estimate completion of Goal 4 in December 2019. Thus far, we have remapped to ORMAP specifications 95.2% of the total. To date, 151,267 tax lots have been captured and annotated in our GIS, leaving approximately 7,611 tax lots comprising of rural and resource level tax lots to complete. Of that number, 4,825 are in progress and near completion.

Milestones are defined as the completion of each of these tasks within each phase.

- Plats are gathered from source County offices
- Capture plats and surveys with the most appropriate method (COGO or digitizing)
- Plats and surveys are quality controlled
- Work with the County Surveyor to acquire ground control
- Tie plats and surveys to ground control
- Annotation
- Final quality control

9. Does this project have any partnerships? If yes, please identify them.

Yes. The deliverables from this project are used by many agencies as a base to map infrastructure and other details. Typical agencies outside the County who have entered into partnership agreements include cities, water districts, utilities providers, school districts, community planning organizations, and a variety of state and federal agencies. Additionally, Clackamas County has developed boundary agreements with all our County neighbors. We have agreements covering 100% of the area that bounds our county.

10. Describe any innovations utilized by this project.

We use the tools developed by the ORMAP tools group and have participated in that group from its inception either to be part of the application development team or as a test group. We are also using the latest tools developed by ESRI to stay current with ArcGIS releases. Finally, the deliverables from this project are allowing the Assessor's Cartographers to retire the old mylar tax maps and completely replace them with a digital product. Recently, we started utilizing ESRI's Parcel Fabric schema.

11. Detail Costs (who is paying for what).

Approximately 48% of this project is funded by ORMAP. The remaining will come from County resources. The County's Survey Office is providing ground control at county expense. The County Assessor's Office provides labor to input new plats for the maintenance portion of the over-all ORMAP project plus QC. Direct staff time

on the ORMAP project will comprise the bulk of expenses for this project and will be evenly split between the County and ORMAP.

B. Quality Control

1. Who will be responsible for quality control (QC)?

All Quality Control is the responsibility of Clackamas County's Departments of Assessment and Taxation and Technology Services, GIS Division.

2. Will county cartography staff review the deliverables?

Yes. The cartography staff in the Assessor's Office performs the final QC. They insure all components are present and correct for map production to DOR and Clackamas County standards.

3. Will there be a review by Department of Revenue's cartography staff?

A&T cartographers arrange that. DOR Cartography staff has come to the county to review our technique and process and are always welcome to see what we are doing with tax lot capture.

4. Describe QC procedures.

The quality control process is very extensive. A quality control checklist was developed for those entering COGO information and for those checking it. Ground control is evaluated as to its level of survey accuracy for the plat rectification process. If customary ground control is not available, rectified orthophotos are used. Plats controlled in this manner will be revisited when better ground control is obtained. Plats are never rubber sheeted. The County Surveyor resolves any errors that occur when rectifying to ground control (i.e. gaps and overlaps). In summary, all quality control efforts will meet or exceed ORMAP Technical Specifications.

C. Project Detail

1. Is this project an "edge matching project"? If so, how much of the county boundary will be completed?

No. 100%, of edge matching has been completed with surrounding counties with prior projects and we have agreements with all our neighbors.

2. Is this project part of an ongoing or multi-phased remapping project?

Yes, this project is a continuation of our on-going re-mapping project as outlined in our Business Plan.

3. What percentage of the county tax lots and tax maps meet the ORMAP technical specifications?

	Total Countywide	Meet Tech Specs	Percent Complete
Tax Lots	158,878	151,267	95.2
Tax Maps	3,374	2,021	59.9

4. Upon completion of this project will your county meet goal 6 (100% of tax maps meeting technical specification)?

No, our anticipated completion date is December 2019, perhaps sooner.

5. Is this project part of a multi-county effort? If so, please explain.

No

6. Will the project cost be affected if it is not fully funding this cycle?

Yes. It will delay our overall completion time.

D. Data Availability

1. Does the county have a data sharing agreement with the State?

Yes

2. Identify any data restrictions or licensing issues.

All data produced under the ORMAP program is freely available through a Data Sharing Agreement to other government agencies. Clackamas County has entered into an IGA with the State for data sharing. All publication of this data, particularly via the Internet, must comply with all Clackamas County policies and disclaimers as adopted by County Administration or the Board of County Commissioners. All data is governed by a data licensing agreement.

E. Background Information

Any other information that you feel may help support the project.

F. Other Issues - Please identify.

We are entering areas of the County that have insufficient survey ground control to map tax lots to rural ORMAP standards. Acquiring this control will be time consuming and expensive. This may affect the progress towards our completion timeframe.

Submit completed forms to:

Mail	Contact Information
ORMAP Project Coordinator Oregon Department of Revenue Property Tax Division 955 Center St. NE Salem OR 97301-2555	Tel: 503-586-8128 Fax: 503-945-8737 or.map@state.or.us

G. Racial and Ethnic Impact Statement

RACIAL AND ETHNIC IMPACT STATEMENT

This form is used for informational purposes only and must be included with the grant application.

Chapter 600 of the 2013 Oregon Laws require applicants to include with each grant application a racial and ethnic impact statement. The statement provides information as to the disproportionate or unique impact the proposed policies or programs may have on minority persons¹ in the State of Oregon if the grant is awarded to a corporation or other legal entity other than natural persons.

- 1. The proposed grant project policies or programs could have a disproportionate or unique positive impact on the following minority persons:

Indicate all that apply:

- Women
- Persons with Disabilities
- African-Americans
- Hispanics
- Asians or Pacific Islanders
- American Indians
- Alaskan Natives

- 2. The proposed grant project policies or programs could have a disproportionate or unique negative impact on the following minority persons:

Indicate all that apply:

- Women
- Persons with Disabilities
- African-Americans
- Hispanics
- Asians or Pacific Islanders
- American Indians
- Alaskan Natives

- 3. The proposed grant project policies or programs will have no disproportionate or unique impact on minority persons.

If you checked numbers 1 or 2 above, on a separate sheet of paper, provide the rationale for the existence of policies or programs having a disproportionate or unique impact on minority persons in this state. Further provide evidence of consultation with representative(s) of the affected minority persons.

I HEREBY CERTIFY on this 18 day of September, 2017, the information contained on this form and any attachment is complete and accurate to the best of my knowledge.

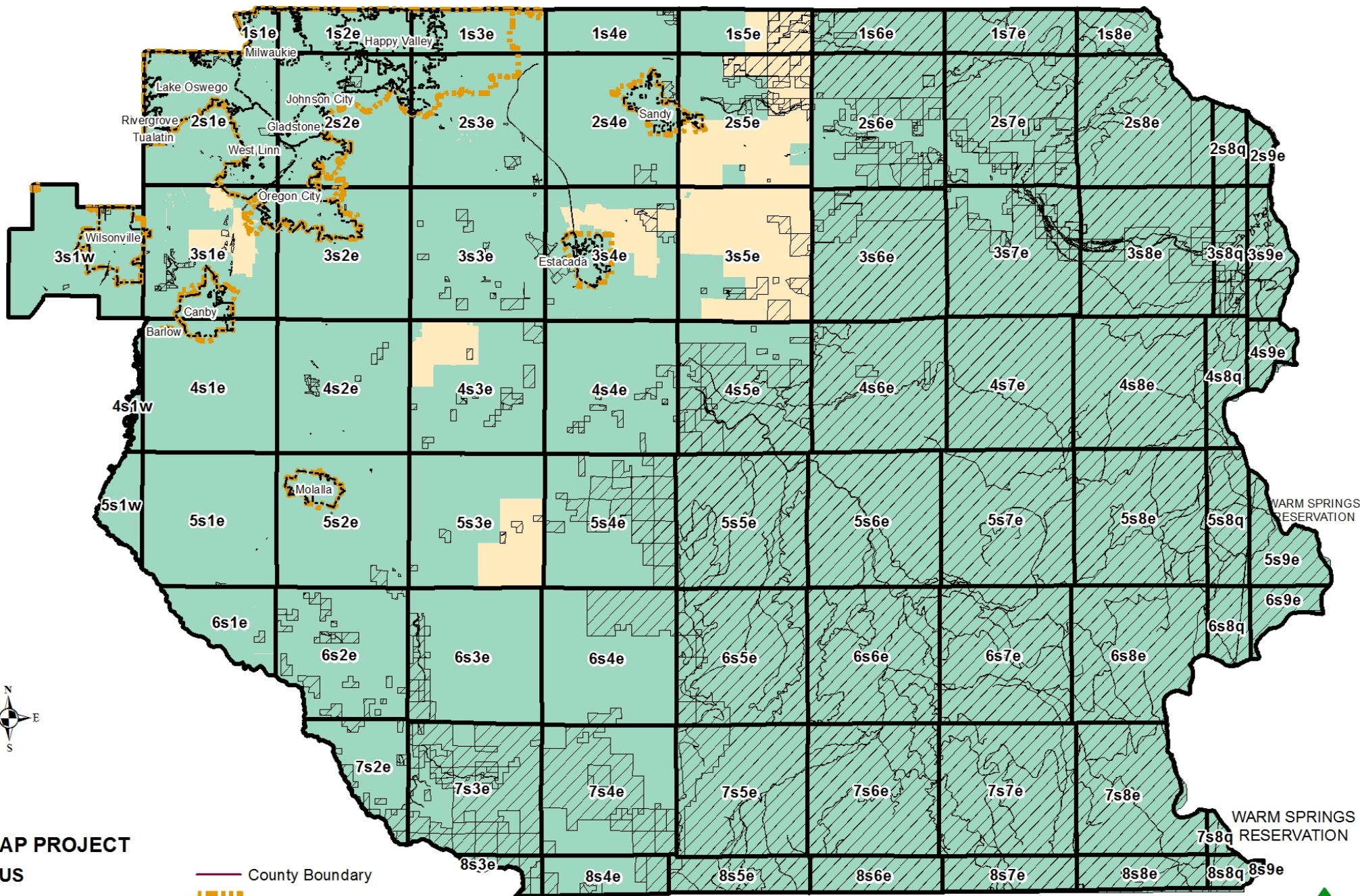
Signature: _____

Printed Name: Eric Bohard Title: Technical Services Manager

¹“Minority persons” are defined in SB 463 (2013 Regular Session) as women, persons with disabilities (as defined in ORS 174.107), African-Americans, Hispanics, Asians or Pacific Islanders, American Indians and Alaskan Natives.

ATTACHMENT 1

ORMAP PROJECT STATUS SEPTEMBER 2017



ORMAP PROJECT STATUS

- Completed or In Progress
- Not Started
- County Boundary
- Metro Urban Growth Boundary
- USFS, BLM, and ODF Resource Lands



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

November 30, 2017

Development Agency Board
Clackamas County

Members of the Board:

**Approval of a First Amendment to the Disposition Agreement
with Trammel Crow Portland Development, Inc.**

Purpose/ Outcomes	Authorization for the Chair to execute a First Amendment to a Disposition Agreement to convey real property from the Clackamas County Development Agency to Trammel Crow Portland Development, Inc.
Dollar Amount and Fiscal Impact	The agreement stipulates sale of the property for \$3,724,380.
Funding Source	Not Applicable. No funding considered as a part of this property transaction
Safety Impact	Not Applicable
Duration	This amendment modifies the second due diligence extension period as allowed in the agreement to 100 days.
Previous Action	Executive Session
Contact Person	David Queener, Program Supervisor – Development Agency 503-742-4322 or davidque@co.clackamas.or.us
Contract No.	Not Applicable

BACKGROUND:

The Development Agency owns approximately 16.79 acres situated at the southwestern intersection of SE Capps Road and 120th Avenue. The property is currently zoned General Industrial.

Trammel Crow Portland Development, Inc. is under a Disposition Agreement with the Agency to acquire the property for redevelopment purposes. The Agreement currently specifies a due diligence period of 180 days with the option of two 30-day extensions. Due to some unforeseen issues, which requires additional investigation by Trammel Crow, they have requested additional time beyond what is currently allowed in the agreement for due diligence. This request was presented to the Board for consideration

in Executive Session. The Board directed staff to proceed with negotiations to modify the due diligence term subject to terms agreeable by the Board.

The First Amendment to the Disposition Agreement, which the Board is being asked to approve today, is the result of preceding negotiations and is contingent on subsequent terms. The Amendment will modify the second due diligence extension period from 30 days to 100 days. All other terms outlined in the Agreement remain unchanged.

County Counsel has reviewed and approved this Agreement.

RECOMMENDATION:

Staff respectfully recommends that the Board, as the governing body of the Clackamas County Development Agency, move by consent to:

- Approve the First Amendment to the Disposition Agreement with Trammel Crow Portland Development, Inc.
- Record the First Amendment to the Disposition Agreement in the Deed Records of Clackamas County at no cost to the Development Agency.

Respectfully submitted,

David Queener
Program Supervisor, Development Agency

FIRST AMENDMENT TO DISPOSITION AGREEMENT

THIS FIRST AMENDMENT TO DISPOSITION AGREEMENT (“Amendment”) is entered into effective as of _____, 2017, between **CLACKAMAS COUNTY DEVELOPMENT AGENCY**, the Urban Renewal Agency of Clackamas County, a corporate body politic (“**Agency**”), and **TRAMMELL CROW PORTLAND DEVELOPMENT, INC.**, a Delaware corporation (“**Developer**”).

RECITALS

A. Agency and Developer are parties to that certain Disposition Agreement dated effective as of June 29, 2017 (the “**Disposition Agreement**”), concerning approximately 16.80 acres of land located west of SE 120th Avenue and south of Capps Road, Clackamas County, Oregon, as more particularly described in the Disposition Agreement (the “**Property**”).

B. The parties desire to modify the Disposition Agreement on the terms and conditions set forth herein. All capitalized terms used in this Amendment and not otherwise defined herein shall have their meanings as set forth in the Disposition Agreement.

AGREEMENT

1. **Due Diligence Period.** The Initial Due Diligence Period ends at 5:00 p.m. on Tuesday, December 26, 2017, subject to extension as provided herein. Developer’s right to extend the Initial Due Diligence Period pursuant to the last paragraph of Section 2.4 of the Disposition Agreement is hereby modified such that the second such right shall be a period for a period of one hundred (100) days. Accordingly, if exercised by Developer in accordance with Section 2.4 of the Disposition Agreement, the first extension of the Due Diligence Period will end at 5:00 p.m. on Thursday, January 25, 2018, and the second extension of the Due Diligence Period will end at 5:00 p.m. on Monday, May 7, 2018.

2. **Counterpart; Email.** This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. Facsimile or email transmission of any signed original of this Amendment, and retransmission of any signed facsimile or email transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm transmitted signatures by signing an original document.

3. **Confirmation.** The Disposition Agreement is hereby amended and modified in accordance with the terms of this Amendment. Except as expressly modified by this Amendment, the Disposition Agreement and all its terms and provisions are hereby acknowledged, approved, ratified and confirmed and shall be and remain in full force and effect.

[Signatures on next page.]

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first written above.

AGENCY:

CLACKAMAS COUNTY DEVELOPMENT AGENCY,
a corporate body politic

By: _____
Name: _____
Its: _____

DEVELOPER:

**TRAMMELL CROW PORTLAND
DEVELOPMENT, INC.,**
a Delaware corporation

By: _____
Steve Wells, President



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

November 30, 2017

Board of County Commissioners
Development Agency Board

Members of the Board:

**Approval of a Resolution Declaring the Public Necessity and Purpose
for Acquisition of Rights of Way, Easements, and Fee Property
for the Clackamas Regional Center Mobility Improvement Project and
Authorizing Negotiations and Eminent Domain Actions**

Purpose/Outcomes	Under ORS 35.235 and the federal Uniform Act, a local governmental agency is required to declare by resolution or ordinance the necessity and the purpose for which the project is required by enacting a Resolution of Public Necessity and Purpose prior to initiating acquisition of the easements or other property rights from abutters to the project.
Dollar Amount and Fiscal Impact	The estimated cost for right of way is included within the \$25.7 million total approved project budget.
Funding Source	Clackamas County Development Agency: Clackamas Town Center Urban Renewal District
Safety Impact	This project will address the majority of safety and capacity issues associated with the study area and will provide a long-term investment in the Clackamas Regional Center Area. The project includes multi-modal improvements that improve the safety and operations of motor vehicle, transit, freight, and pedestrian and bicycle facilities.
Duration	The Resolution remains active throughout the project's duration and terminates upon completion of the project or when all litigation associated with the project is concluded.
Previous Board Action	The Board approved proceeding with final design and construction of the recommended improvements at a Policy Session on April 11, 2017
Contact Person	David Queener, Development Agency @ 503-742-4322 Sharan Hams-LaDuca, DTD Sr. Right of Way Agent @ 503-742-4675

BACKGROUND:

The Development Agency has approved funding for the CRC Mobility Improvement Project, which will construct multi-modal improvements along portions of SE Harmony Road, SE Sunnybrook Boulevard, SE Sunnyside Road, and SE 82nd Avenue in the vicinity of the Clackamas Town Center with the intent and purpose of improving safety, circulation, and economic development.

The project has been planned and located in a manner which is most compatible with the greatest public good and which causes the least private injury.

In order to construct the improvements as designed, additional rights of way, easements, and fee property will be required.

The Board has authority under ORS Chapter 35 to acquire rights of way, easements, and fee property by purchase or condemnation proceedings.

The resolution directs the Development Agency to negotiate in good faith and accordance with all applicable laws, rules, and regulations governing such acquisitions, in an attempt to reach agreement as to the amount of Just Compensation owed each affected property owner. The resolution authorizes staff to utilize the expertise of authorized real estate appraisers and other such experts to assist in the acquisition process. The resolution further requires the Manager of the Development Agency to notify the Board if the exercise of the power of eminent domain becomes necessary. Only after this process is completed does it authorize the Office of County Counsel to file a condemnation action.

Staff respectfully requests that the Board approve a Resolution of Necessity and Purpose for the CRC Mobility Improvement Project for the acquisition of necessary rights of way, easements, and fee property to provide for construction of the project.

The Resolution has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the Resolution authorizing the acquisition of necessary rights of way, easements, and fee property by negotiation if possible, or condemnation, if necessary.

Respectfully Submitted,

David Queener
Program Supervisor, Development Agency

Attachment

In the Matter of the Clackamas Regional Center
Mobility Improvement Project Declaring the
Necessity and Purpose for Acquisition of
Rights of Way, Easements, and Fee
Property and Authorizing Negotiations
and Eminent Domain Actions

Order No. _____
Page 1 of 2

This matter comes before the Board of County Commissioners, acting as the governing body of the Clackamas County Development Agency (the "Board") at its regularly scheduled meeting on November 30, 2017 and,

It appearing that the Board previously approved funding for the Clackamas Regional Center Mobility Improvement Project ("Project"), which will provide for the intersection and roadway improvements on sections of Harmony Road, Sunnyside Road, 82nd Avenue and Sunnybrook Boulevard, including sidewalks, landscaping, traffic signal improvements, lighting, bike lanes, and storm drainage facilities; that the Project is consistent with the powers and purposes of County government; and that the Project is necessary for the continued growth, safety and welfare of the community; and,

It further appearing to the Board that the Project has been developed from the approved engineering design plans and reviewed by County Staff; and

It further appearing to the Board that the Project has been planned and located in a manner which is most compatible with the greatest public good and causes the least private injury; and,

It further appearing to the Board that rights of way, easements, and fee property within the boundaries described in Exhibits "A-1 through A-6" are a necessary part of the Project; and,

It further appearing to the Board that the acquisition of the necessary rights of way, easements, and fee property are described as follows: the centerline is described in Exhibits "A-1 through A-6"; the width of right-of-way will be in accordance with the Clackamas County Comprehensive Plan and Transportation System Plan; ancillary easements including sign, slope, sidewalk, utility, wetland mitigation, storm water treatment, storm water detention, traffic and safety facility, and temporary construction purposes; together with such incidental additional right-of-way at intersections and due to topography, as may be reasonably necessary to accommodate project design; and any uneconomic remnants, as determined by appraisal; all being in the public interest in order to commence and complete the Project in a timely manner; and,

It further appearing that the Board has authority under ORS Chapter 35 to acquire rights of way, easements, and fee property by purchase or eminent domain proceedings.

In the Matter of the Clackamas Regional Center
Mobility Improvement Project Declaring the
Necessity and Purpose for Acquisition of
Rights of Way, Easements, and Fee
Property and Authorizing Negotiations
and Eminent Domain Actions

Order No. _____
Page 2 of 2

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board declares it necessary and in the public interest that the Development Agency, in connection with this Project, immediately begin the acquisition process, in accordance with all applicable laws, rules, and regulations governing such acquisition, for the necessary rights of way, easements, and fee property, either through negotiation and agreement, purchase, or, if necessary, by commencement of eminent domain proceedings.

IT IS FURTHER ORDERED THAT:

1) The Clackamas County Development Agency be authorized to, in good faith, attempt to negotiate agreements of just compensation with owners of affected property identified as necessary within the boundaries of Exhibits "A-1 through A-6". In so doing, the department is authorized to retain real estate appraisers, negotiators, and other such experts deemed necessary to fairly determine the amount of just compensation owed; and,

2) It is the intention of the Board that the necessary required rights of way, easements, and fee property be obtained through good faith negotiation. The Board acknowledges that the exercise of the power of eminent domain may be necessary. The Manager shall inform the Board when the Manager deems eminent domain necessary. Thereafter, the Office of County Counsel is authorized to file complaints in condemnation and take such other steps as it determines necessary for the immediate possession of required rights of way, easements, and fee property and the successful litigation of the condemnation action, including the retention of real estate appraisers, experts and other consultants deemed necessary to the successful conclusion of that litigation.

Dated this _____ day of _____, 2017.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS
Acting as the Governing Body of the Clackamas County Development Agency

Chair

Recording Secretary

EXHIBIT "A-1"

S.E. 82ND AVENUE

October 13, 2017

EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF S.E. 82ND AVENUE
(OR 213)(CASCADE HIGHWAY NORTH NO. 68)

A roadway located in the Southeast One-Quarter of Section 32 and the Southwest One-Quarter of Section 33, Township 1 South, Range 2 East, and the Northwest One-Quarter of Section 4 and the Northeast One-Quarter of Section 5, Township 2 South, Range 2 East of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

Beginning at Existing S.E. 82nd Avenue Centerline Station "L" 426+00.00, said station being located on the One-Quarter Section Line common to the Southeast One-Quarter of Section 32 and the Southwest One-Quarter of Section 33, Township 1 South, Range 2 East of the Willamette Meridian, said station also being located $S01^{\circ}49'17''W$, as measured along said One-Quarter Section Line, 1505.06 feet from a 3-1/4 inch bronze disk in a monument well at the One-Quarter Section Corner common to said Sections 32 and 33 per U.S.B.T. Entry 2002-038, Clackamas County Survey Records;

Thence $S01^{\circ}49'17''W$, along the existing centerline of S.E. 82nd Avenue and said One-Quarter Section Line, 954.64 feet to Existing S.E. 82nd Avenue Centerline Station "L" 435+54.64 Back equals "L" 435+53.90 Ahead and a point of change from tangent to spiral;

Thence leaving said One-Quarter Section Line, on a spiral curve left (the long chord of which bears $S01^{\circ}09'17''W$, 399.98 feet) 400.00 feet to Existing S.E. 82nd Avenue Centerline Station "L" 439+53.90 and a point of change from spiral curve to the beginning of a 5729.58 foot radius circular curve left, having a central angle of $11^{\circ}55'00''$, the radius point of which bears $N89^{\circ}49'17''E$;

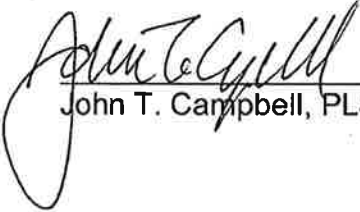
Thence along the arc of said curve to the left (the long chord of which bears $S6^{\circ}08'13''E$, 1189.52 feet) 1191.67 feet to Existing S.E. 82nd Avenue Centerline Station "L" 451+45.57 and a point of change from circular curve to spiral curve;

Thence on a spiral curve left (the long chord of which bears $S13^{\circ}25'43''E$, 399.98 feet) 400.00 feet to Existing S.E. 82nd Avenue Centerline Station "L" 455+45.57 and a point of change from spiral to tangent;

Thence $S14^{\circ}05'43''E$, 354.43 feet to Existing S.E. 82nd Avenue Centerline Station "L" 459+00.00 and the terminus of this centerline, from which a 4 inch aluminum disk in monument well at the One-Quarter Section Corner common to Sections 4 and 5, Township 2 South, Range 2 East of the Willamette Meridian per U.S.B.T. Entry 2002-047, Clackamas County Survey Records, bears $S27^{\circ}32'09''W$, 599.60 feet.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast One-Quarter of said Section 32 was held to be S01°49'17"W, as measured between the above-described One-Quarter Section Corner common to said Sections 32 and 33 per said U.S.B.T. Entry 2002-038 and the Section Corner common to said Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East per U.S.B.T. Entry 2001-011, Clackamas County Survey Records.

Prepared by:
Harper Houf Peterson Righellis Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202



John T. Campbell, PLS Date 10-13-17


EXPIRES: 12-31-17

EXHIBIT "A-2"

S.E. HARMONY ROAD

October 13, 2017

EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF S.E. HARMONY ROAD
(COUNTY ROAD NO. 115)

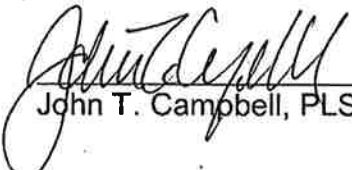
A roadway located in the Southeast One-Quarter of Section 32 and the Southwest One-Quarter of Section 33, Township 1 South, Range 2 East, and the Northwest One-Quarter of Section 4 and the Northeast One-Quarter of Section 5, Township 2 South, Range 2 East of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

Beginning at Existing S.E. Harmony Road Centerline Station 138+60.77, said station being located S89°43'22"E, as measured along the south line of the Southeast One-Quarter of Section 32, Township 1 South, Range 2 East of the Willamette Meridian, 558.50 feet and N00°16'38"E, 19.97 feet from a 3-1/4 bronze disk at the Quarter Section Corner common to said Section 32 and Section 5, Township 2 South, Range 2 East of the Willamette Meridian, per U.S.B.T. Entry 2001-040, Clackamas County Survey Records;

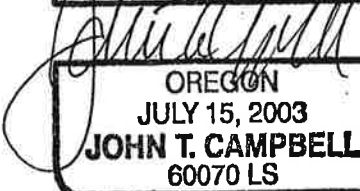
Thence N89°57'06"E, 2097.35 feet to Existing S.E. Harmony Road Centerline Station 159+58.12, at the intersection with the existing centerline of S.E. 82nd Avenue (OR 213)(Cascade Highway North No. 68), and the terminus of this centerline, from which a 3-1/4 inch bronze disk in monument well at the Section Corner common to Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East, per U.S.B.T. Entry 2001-011, Clackamas County Survey Records, bears S02°19'16"W, 31.91 feet.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The south line of the Southeast One-Quarter of said Section 32 was held to be S89°43'22"E, as measured between the above-described One-Quarter Section Corner common to said Sections 32 and 5 per said U.S.B.T. Entry 2001-040 and the above-described Section Corner common to said Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East per said U.S.B.T. Entry 2001-011.

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John T. Campbell, PLS 10-13-17
Date

REGISTERED
PROFESSIONAL
LAND SURVEYOR


OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60070 LS

EXPIRES: 12-31-17

EXHIBIT "A-3"

S.E. SUNNYSIDE ROAD (S.E. 82ND AVE TO I-205)

October 13, 2017

EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF S.E. SUNNYSIDE ROAD (COUNTY ROAD NO. 96)

A roadway located in the Southwest and Southeast One-Quarters of Section 33, Township 1 South, Range 2 East, of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

Beginning at Existing S.E. Sunnyside Road Centerline Station 0+00.00, said station being located on the One-Quarter Section Line common to the Southeast One-Quarter of Section 32 and the Southwest One-Quarter of Section 33, Township 1 South, Range 2 East of the Willamette Meridian, and being located on the existing centerline of S.E. 82nd Avenue (OR 213)(Cascade Highway North No. 68), said station also being located $N01^{\circ}49'17''E$, as measured along said One-Quarter Section Line, 217.24 feet from a 3-1/4 inch bronze disk in monument well at the Section Corner common to Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East, per U.S.B.T. Entry 2001-011, Clackamas County Survey Records;

Thence leaving said centerline of S.E. 82nd Avenue $N89^{\circ}04'17''E$, 519.40 feet to Existing S.E. Sunnyside Road Centerline Station 5+19.40;

Thence $N88^{\circ}37'39''E$, 2126.45 feet to Existing S.E. Sunnyside Road Centerline Station 26+45.85;


Thence $N88^{\circ}02'07''E$, 201.26 feet to Existing S.E. Sunnyside Road Centerline Station 28+47.11 and the terminus of this centerline, from which a 2-1/4 inch bronze disk at the One-Quarter Section Corner common to said Section 33 in Township 1 South, Range 2 East and Section 4 in Township 2 South, Range 2 East per U.S.B.T. Entry 2002-106, Clackamas County Survey Records bears $S34^{\circ}07'24''W$, 364.85 feet.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The south line of the Southwest One-Quarter of said Section 33 was held to be $S89^{\circ}35'48''E$, as measured between the above-described One-Quarter Section Corner common to said Section 33 in Township 1 South, Range 2 East and Section 4 in Township 2 South, Range 2 East per said U.S.B.T. Entry 2002-106 and the above-described Section Corner common to said Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East per U.S.B.T. Entry 2001-011.

Prepared by:
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205 SE Spokane Street, Suite 200
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 10-13-17
John T. Campbell, PLS Date

REGISTERED
PROFESSIONAL
LAND SURVEYOR


OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60070 LS

EXPIRES: 12-31-17

EXHIBIT "A-4"

S.E. SUNNYSIDE ROAD (EAST OF I-205)

October 13, 2017

EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF S.E. SUNNYSIDE ROAD (SN2005-164)(COUNTY ROAD NO. 96)

A roadway located in the Southeast One-Quarter of Section 33, Township 1 South, Range 2 East, of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

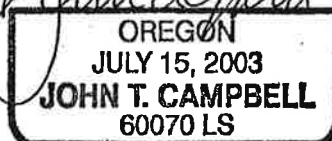
Beginning at a 3 inch brass disk in monument well, set per Oregon State Highway Drawing No. 9B-18-14, at Existing S.E. Sunnyside Road Centerline Station 331+90.66 (10+116.512 meters) as shown on Post-Construction Record of Survey recorded as SN2005-164, Clackamas County Survey Records;

Thence N87°16'33"E, 1309.34 feet to Existing S.E. Sunnyside Road Centerline Station 345+00.00 and the terminus of this centerline, from which a 2-1/4 inch bronze disk at the One-Quarter Section Corner common to said Section 33 in Township 1 South, Range 2 East and Section 4 in Township 2 South, Range 2 East per U.S.B.T. Entry 2002-106, Clackamas County Survey Records bears S81°10'28"W, 2640.36 feet.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The south line of the Southwest One-Quarter of said Section 33 was held to be S89°35'48"E, as measured between the above-described One-Quarter Section Corner common to said Section 33 in Township 1 South, Range 2 East and Section 4 in Township 2 South, Range 2 East per said U.S.B.T. Entry 2002-106 and the Section Corner common to said Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East per U.S.B.T. Entry 2001-011, Clackamas County Survey Records.

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 10-13-17
John T. Campbell, PLS Date



EXPIRES: 12-31-17

EXHIBIT "A-5"

S.E. SUNNYSIDE ROAD (I-205 CORRIDOR)

October 13, 2017

EXISTING CENTERLINE DESCRIPTION FOR A PORTION OF S.E. SUNNYSIDE ROAD ("SS" ODOT 9B-2-2)(COUNTY ROAD NO. 96)

A roadway located in the Southeast One-Quarter of Section 33, Township 1 South, Range 2 East, of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

Beginning at a 3 inch brass disk in monument well, set per Oregon State Highway Drawing No. 9B-18-14, at Existing S.E. Sunnyside Road Centerline Station "SS" 6+92.23, said monument also being shown as Station 10+116.512 meters (331+90.66 feet) on Post-Construction Record of Survey recorded as SN2005-164, Clackamas County Survey Records;

Thence S87°51'44"W, 1207.77 feet to Existing S.E. Sunnyside Road Centerline Station "SS" 19+00.00 and the terminus of this centerline, from which a 2-1/4 inch bronze disk at the One-Quarter Section Corner common to said Section 33 in Township 1 South, Range 2 East and Section 4 in Township 2 South, Range 2 East per U.S.B.T. Entry 2002-106, Clackamas County Survey Records bears S17°34'15"W, 312.39 feet.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The south line of the Southwest One-Quarter of said Section 33 was held to be S89°35'48"E, as measured between the above-described One-Quarter Section Corner common to said Section 33 in Township 1 South, Range 2 East and Section 4 in Township 2 South, Range 2 East per said U.S.B.T. Entry 2002-106 and the Section Corner common to said Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East per U.S.B.T. Entry 2001-011, Clackamas County Survey Records.

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 10-13-17
John T. Campbell, PLS Date



EXHIBIT "A-6"

S.E. SUNNYSIDE ROAD (REALIGNED)

October 13, 2017

EXISTING CENTERLINE DESCRIPTION FOR REALIGNED – S.E. SUNNYSIDE ROAD

A roadway located in the Southeast One-Quarter of Section 32 and the Southwest One-Quarter of Section 33, Township 1 South, Range 2 East, and the Northwest One-Quarter of Section 4, Township 2 South, Range 2 East of the Willamette Meridian in Clackamas County, Oregon, the centerline of which is more particularly described as follows:

Beginning at Existing Realigned S.E. Sunnyside Road Centerline Station 105+38.94, said station being located on the existing centerline of S.E. 82nd Avenue (OR 213)(Cascade Highway North No. 68), said station also being located $N02^{\circ}31'48''E$, 25.50 feet from a 3-1/4 inch bronze disk in monument well at the Section Corner common to Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East, per U.S.B.T. Entry 2001-011, Clackamas County Survey Records;

Thence leaving said centerline of S.E. 82nd Avenue $N80^{\circ}02'02''E$, 144.82 feet to Existing Realigned S.E. Sunnyside Road Centerline Station 106+83.76 and the beginning of a 350.00 foot radius curve to the left, having a central angle of $26^{\circ}30'00''$;

Thence northeasterly along the arc of said curve to the left (the long chord of which bears $N66^{\circ}47'02''E$, 160.44 feet) 161.88 feet to Existing Realigned S.E. Sunnyside Road Centerline Station 108+45.64;

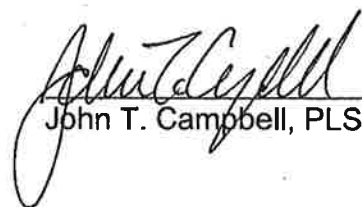
Thence $N53^{\circ}32'02''E$, 157.19 feet to Existing Realigned S.E. Sunnyside Road Centerline Station 110+02.83 and the beginning of a 350.00 foot radius curve to the right, having a central angle of $4^{\circ}58'33''$;

Thence northeasterly along the arc of said curve to the right (the long chord of which bears $N56^{\circ}01'18''E$, 30.39 feet) 30.40 feet to Existing Realigned S.E. Sunnyside Road Centerline Station 110+33.23, at the intersection with the existing centerline of S.E. Sunnyside Road (County Road No. 96), and the terminus of this centerline, from which a 3-1/4 inch bronze disk in a monument well at the One-Quarter Section Corner common to said Sections 32 and 33 per U.S.B.T. Entry 2002-038, Clackamas County Survey Records bears $N08^{\circ}25'18''W$, 2448.92 feet.


This legal description, along with the Basis of Bearings thereof, is based on the Oregon Coordinate Reference System (OCRS) Portland Zone. The east line of the Southeast One-Quarter of said Section 32 was held to be $S01^{\circ}49'17''W$, as measured between the above-described One-Quarter Section Corner common to said Sections 32 and 33 per

said U.S.B.T. Entry 2002-038 and the above-described Section Corner common to said Sections 32 and 33 in Township 1 South, Range 2 East and Sections 4 and 5 in Township 2 South, Range 2 East per said U.S.B.T. Entry 2001-011.

Prepared by:
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 10-13-17
John T. Campbell, PLS Date

REGISTERED
PROFESSIONAL
LAND SURVEYOR


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EXPIRES: 12-31-17