



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
**Monday, January 26, 2009**

City Council Chambers  
18880 SW Martinazzi Avenue, Tualatin, Oregon

**WORK SESSION begins at 4:00 p.m.**

**REGULAR MEETING begins at 7:00 p.m.**

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**Mayor Lou Ogden**

**Councilor Ed Truax  
Councilor Chris Barhyte  
Councilor Monique Beikman**

**Councilor Joelle Davis  
Councilor Jay Harris  
Councilor Donna Maddux**

**WELCOME!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda – Item C, following Presentations, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the world wide web at [www.ci.tualatin.or.us](http://www.ci.tualatin.or.us), at the Library located at 18878 SW Martinazzi Avenue, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011 (voice) or 503.692.0574 (TDD). Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised "live" on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org).

Your City government welcomes your interest and hopes you will attend the City of Tualatin City Council meetings often.

**- SEE ATTACHED AGENDA -**

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A “legislative” public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. The Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, deny, or “continue” the public hearing.

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A “quasi-judicial” public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. The Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report to the Council.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, approve with conditions or deny the application, or “continue” the public hearing.

## TIME LIMITS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 10 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: ORS 192.660(2)(a) the employment of personnel; ORS 192.660(2)(b) the dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) non-public information or records; ORS 192.660(2)(g) matters of commerce in which the Council is in competition with other governing bodies; ORS 192.660(2)(h) current and pending litigation issues; ORS 192.660(2)(i) employee performance; ORS 192.660(2)(j) investments; or ORS 192.660(2)(m) security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



**A. CALL TO ORDER**  
Pledge of Allegiance

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. Proclamation Declaring January 27, 2009 as *Fire Service Appreciation Day*
2. 20 Year Service Award Presentation to Community Development Director Doug Rux

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

**D. CONSENT AGENDA (Item Nos. 1 – 5)**

Page #

*The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and the Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." At that time, any member of the audience may comment on any item pulled from the Consent Agenda. The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.*

1. Approval of Minutes from the Meeting of January 12, 2009.....
2. Resolution No. 4860-09 Authorizing Reimbursement of Unused Fees for PMA-08-03.....
3. Resolution No. 4861-09 Authorizing a Two-Year Intergovernmental Agreement.....  
with Washington County for Coordinated Mosquito  
Reduction and Information Coordination on West Nile Virus
4. Resolution No. 4862-09 Approving Westside Commuter Rail Project TriMet and .....  
City of Tualatin Cooperative Maintenance Agreement
5. Resolution No. 4863-09 Authorizing a Temporary Construction Easement and .....  
Permanent Easement Associated with Clean Water  
Services Lower Tualatin Pump Station Project at  
Tualatin Community Park

**E. PUBLIC HEARINGS – Legislative or Other**  
None.

**F. PUBLIC HEARINGS – Quasi-Judicial**  
None.

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**G. GENERAL BUSINESS**

1. 2008 Annual Report of the Tualatin Parks Advisory Committee .....

**H. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**I. COMMUNICATIONS FROM COUNCILORS**

**J. EXECUTIVE SESSION**

**K. ADJOURNMENT**

# CITY COUNCIL MEETING SIGN-UP SHEET

PLEASE COMPLETE TO GIVE TESTIMONY

DATE:

January 26, 2009

PLEASE LIMIT TESTIMONY TO THREE MINUTES

PLEASE PRINT CLEARLY					AGENDA ITEM(S)	PROPOSER (if applicable)	OPPONENT (if applicable)
NAME	ADDRESS	REPRESENTING (if applicable)					
Mark McCreary	11825 SW Greenbale Wilsonville, OR 97070	Metro	BRR				
Mark Korot	600 NE Grand	Metro	BRR				
<del>Mark McCreary</del>	<del>8325 SW 1st Ave</del>	<del>Metro (feedback)</del>					
<del>D.S. DeAustria</del>	<del>8187 SW Pioneer Ct Tualatin OR 97062</del>	<del>T-Park</del>					
Kathy Newcomb	17515 Cheyenne way	self	—				
TRAVIS DUNFORD	9783 SW ASEA DR	T-PARK	G-1				

WORK  
SESSION

\* Register  
item  
on agenda  
it needs  
to sign up

# PROCLAMATION

## PROCLAMATION BY THE TUALATIN CITY COUNCIL DECLARING TUESDAY, JANUARY 27, 2009 AS *FIRE SERVICE APPRECIATION DAY* IN THE CITY OF TUALATIN

**WHEREAS** the personnel of Tualatin Valley Fire & Rescue have dedicated themselves to the protection of life and property in Tualatin and the other communities they serve, often at great risk to their own safety and well-being; and

**WHEREAS** the personnel of Tualatin Valley Fire and Rescue have worked to elevate safety standards and training of firefighters and have been instrumental in increasing the public's awareness of fire safety, disaster preparedness and medical emergencies; and

**WHEREAS** Tualatin Valley fire and Rescue has supported and fostered legislative and policy development to enhance fire protection, interoperability and community safety; and

**WHEREAS** firefighting is one of the most hazardous professions and requires stewardship, strength, endurance, courage and selflessness; and

**WHEREAS** Tualatin Valley Fire and Rescue deserves the attention and gratitude of the Tualatin community.

**NOW** THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon, that:

January 27, 2009 is hereby recognized as *Fire Service Appreciation Day*, and the citizens of Tualatin are encouraged to recognize and honor our fire service members for their efforts to protect our community from fires, to perform rescues and to administer emergency medical care.

**INTRODUCED AND ADOPTED this 26<sup>th</sup> day of January, 2009.**

CITY OF TUALATIN, OREGON

By 

Mayor

ATTEST:

By 


City Recorder



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J Kirby

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Sherilyn Lombos, City Manager   
**DATE:** January 26, 2009  
**SUBJECT:** APPROVAL OF THE MINUTES FOR THE MEETING OF  
JANUARY 12, 2009

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**ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve the minutes for the City Council Meeting of January 12, 2009.

**RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

**FINANCIAL IMPLICATIONS:**

There are no financial impacts associated with this item.

**Attachments:** Minutes



# City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J. Kirby

## TUALATIN CITY COUNCIL WORK SESSION MINUTES OF JANUARY 12, 2009

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Jay Harris, Donna Maddux, and Ed Truax; Councilor-elect Joelle Davis; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Dan Boss, Operations Director; Kent Barker, Police Chief; Eric Underwood, Development Coordinator; Maureen Smith, Recording Secretary

ABSENT: None.

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

### **A. CALL TO ORDER**

Mayor Ogden called the work session to order at 6:34 p.m.

### **B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

City Manager Sherilyn Lombos reviewed with Council various upcoming meetings. A special work session is needed. After discussion of dates that all would be available, the Council agreed to February 4, 2009, 6:00 – 9:00 p.m.

Council briefly reviewed and made some changes to Council committee assignments.

### **C. CITIZEN COMMENTS**

N/A

### **D. CONSENT AGENDA**

None.

### **E. PUBLIC HEARINGS – Legislative or Other**

N/A

### **F. PUBLIC HEARINGS – Quasi-Judicial**

N/A

### **G. GENERAL BUSINESS**

N/A



**H. ITEMS REMOVED FROM CONSENT AGENDA**

N/A

**I. COMMUNICATIONS FROM COUNCILORS**

None.

**J. EXECUTIVE SESSION**

None.

**K. ADJOURNMENT**

The work session adjourned at 6:59 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, appearing to read "Maureen Smith", is written over a horizontal line.



# City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J. Kirby

## TUALATIN CITY COUNCIL MINUTES OF JANUARY 12, 2009

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Dan Boss, Operations Director; Kent Barker, Police Chief; Maureen Smith, Recording Secretary

ABSENT: None.

Mayor Ogden called the meeting to order at 7:01 p.m.

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

### **A. CALL TO ORDER**

The Tualatin Police Honor Guard presented colors and led the Pledge of Allegiance.

### **B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

#### *1. Recognition of Councilor Bob Boryska*

Mayor Ogden recognized Councilor Boryska's eight year tenure on the Tualatin City Council and his involvement from the beginning of his residency with the City.

The remaining Council members each gave a memento to Councilor Boryska and gave a brief speech.

Mayor Ogden also noted Councilor Boryska's tenure on the Washington County Coordinating Committee (WCCC) and presented him with a certificate for his years of service on the WCCC.

Councilor Boryska thanked the Mayor and Council for their praise and said it was an honor to serve on the Council.

#### *2. Swearing-in of Councilors-elect Monique Beikman, Joelle Davis, and Ed Truax*

City Manager Sherilyn Lombos swore-in Councilors-elect Beikman, Davis, and Truax. Mayor Ogden thanked all councilors for their service and dedication.

#### *3. Council President Nominations and Selection*

Mayor Ogden opened the floor for nominations for Council President, and noted he received one nomination by e-mail for current Council President Ed Truax.

Councilor Beikman nominated Councilor Chris Barhyte. Mayor Ogden closed the nominations. Council voted by ballot, and tally was taken, and Councilor Chris Barhyte was elected Councilor President. [Vote: 5 – Barhyte; 2 Truax]

4. *TriMet WES Grand Opening Presentation – Eric Underwood, Community Development*  
Development Coordinator Eric Underwood gave a brief PowerPoint presentation regarding the upcoming grand opening for the TriMet Westside Express Service (WES) Commuter Rail, sponsored by the Tualatin Chamber of Commerce. The event takes place on January 30, 2009, 11:00 a.m. at the Tualatin Commuter Rail Station. There will also be a week-long “WES Week” celebration, February 2 – 6, 2009.
5. *Tualatin Youth Advisory Council Update*  
Members of the Tualatin Youth Advisory Council (YAC) gave a brief PowerPoint presentation on their recent activities and introduced some new members. The YAC also wished Councilor Boryska well, and thanked him for his years of service on the City Council and working with the YAC

#### C. CITIZEN COMMENTS

*Linda Moholt, Tualatin Chamber of Commerce*, gave a note of support for Councilor Boryska, and his support of the community through the years, and welcomed new incoming Councilor Joelle Davis. Ms. Moholt also gave a brief update on the kick-off of this year's Crawfish Festival with a contest to pick the 2009 theme in honor of Oregon's 150<sup>th</sup> Anniversary. More information is available at [www.tualatinchamber.com](http://www.tualatinchamber.com) or a503.692.0780.

*Darren Emery, 9563 SW Iowa Drive*, thanked Council for the opportunity to speak on an issue of concern regarding road care related to the recent December snow events. Mr. Emery said snow removal by the City was poor and very disappointing. He has lived in other parts of the country and their snow removal is done on a timely basis. He suggested the City purchase two or three plows that could be attached to existing City trucks.

Mayor Ogden noted that the recent snow storms events were unlike any other in 40+ years and did not have the ability to respond to such an event, as well as most of the Portland Metropolitan area. The City Council recognizes that should another similar event occur that a level of service is needed, and will have a discussion on this issue. Mayor Ogden thanked Mr. Emery for his time.

#### D. CONSENT CALENDAR

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to adopt the Consent Agenda as read:

1. Approval of Minutes from the Meetings of November 24, 2008, December 8, 2008 and the Special Work Session of December 9, 2008
2. Resolution No. 4856-09 Establishing Regular Meetings of the City Council and Advisory Committees of the City and Repealing Resolution No. 4744-08

3. Resolution No. 4857-09 Amending the City of Tualatin Fee Schedule and Rescinding Resolution No. 4788-08
4. Resolution No. 4858-09 Authorizing an Extension of a Revocable Permit for a Temporary Construction Stage Area in the Blue Lot
5. Resolution No. 4859-09 Requesting Approval for an Industrial Master Plan in the Manufacturing Park (MP) Planning District at SW 124<sup>th</sup> Avenue/SW Tualatin Road/SW Leveton Drive (IMP-08-01)

MOTION CARRIED.

E. **PUBLIC HEARINGS** – Legislative or Other  
None.

F. **PUBLIC HEARINGS** – Quasi-Judicial  
None.

**G. GENERAL BUSINESS**

1. Ordinance No. 1274-09 Granting a Non-Exclusive Telecommunications Franchise Agreement to tw telecom LLC

MOTION by Councilor Maddux, SECONDED by Councilor Harris for a first reading by title only. MOTION by Councilor Harris, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was unanimous. MOTION by Councilor Harris, SECONDED by Councilor Beikman to adopt the ordinance. MOTION CARRIED.

**H. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

I. **EXECUTIVE SESSION**  
None.

**J. COMMUNICATIONS FROM COUNCILORS**

Councilor Maddux mentioned on January 20, 2009, Wine Styles will be holding a fundraiser for the Tigard-Tualatin Family Resource Center, and encouraged all to come out and attend.

**K. ADJOURNMENT**

MOTION by Councilor Beikman, SECONDED by Councilor Maddux to adjourn the meeting at 7:54 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary





# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J. Kirby

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Doug Rux, Community Development Department *[Signature]*  
William Harper, Associate Planner *[Signature]*

**DATE:** January 26, 2009

**SUBJECT:** RESOLUTION AUTHORIZING REIMBURSEMENT OF UNUSED FEES FOR PMA-08-03

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### ISSUE BEFORE THE CITY COUNCIL:

A request for reimbursement of the unused portion of the application fee for Plan Map Amendment PMA-08-03 (Zupancic/Koslowski Nyberg Lodge Project on SW Nyberg). With the application submittal, City staff incurred time and materials expenses associated with noticing, processing comments by staff and agencies, and processing responses by interested neighbors and the applicant. An accounting of the fee paid and the expenses incurred processing the receipt and withdrawal of the application is provided in this staff report.

### RECOMMENDATION:

Staff recommends the City Council consider the staff report and adopt the attached resolution authorizing \$883.09 reimbursement to the Zupancic Group (Attachment C).

### EXECUTIVE SUMMARY:

- This is not a legislative or quasi-judicial action, but a resolution authorizing the City to reimburse an applicant for fees paid for a Plan Map Amendment application that was withdrawn approximately one month after submittal and prior to a public hearing or any action by the City Council.

- The applicant and person requesting the reimbursement is James Zupancic of the Zupancic Group and the developer of the previously proposed Nyberg Lodge project. The PMA was a proposal to change the Planning District designation on a property from RL (Low-Density Residential) to RML (Medium Low Density Residential). The application was submitted to the Community Development Department on November 7, 2008 and withdrawn by Mr. Zupancic on December 2, 2008 (Attachment A).
- In early December, the Zupancic Group decided to revise the development concept for the property from the Nyberg Lodge residential project that would need approval of PMA for an RML designation to a private recreation club project that is allowed as a conditional use in the existing RL Planning District. The Zupancic Group is preparing a Conditional Use Permit application for the private club.
- The fee paid by the Zupancic Group for the PMA-08-03 application was \$1,795.00 (Check #5402/Receipt #739003).
- The accumulated costs of staff time and materials (document copying, postage) for PTA-08-03 are \$911.91. The balance of the application fee and expenditures is \$883.09 (Attachment B).
- A reimbursement requires authorization by the City Council per TDC 31.102.
- If the reimbursement is approved, a check drawn from account #00100004510203 can be issued for the amount determined by Council.

#### **OUTCOMES OF DECISION:**

Approval of the request will result in the following:

1. Allows the applicant to obtain reimbursement of a portion of the fees paid for the PMA-08-03.
2. Costs of City staff time and materials for processing the PMA-08-03 application and withdrawal are considered and covered.

Denial of the request will result in the following:

1. The applicant will not receive reimbursement. The PMA-08-03 application fee will be retained by the City.

#### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the City Council are:

- Approve the requested reimbursement in a greater or lesser amount.
- Deny the request for the reimbursement.
- Continue consideration of the requested reimbursement and return to the matter at a later date.

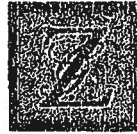
#### **FINANCIAL IMPLICATIONS:**

Approving the requested reimbursement will result in a reduction in fee revenue.

**PUBLIC INVOLVEMENT:**

No public involvement is required for the reimbursement.

**Attachments:** A. Zupancic PTA-08-03 Withdrawal Letter  
B. Time & Materials Expenses  
C. Resolution (with Exhibits)



**Zupancic  
Group**  
Real Estate Counsel and Developers

December 2, 2008

Mr. Doug Rux  
Community Development Director  
City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

Re: 21E-19C-TL900  
5916 SW Nyberg Lane, Tualatin

Dear Doug:

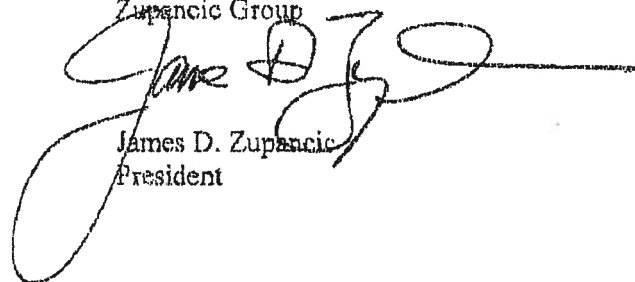
This is to confirm our recent telephone conversation. We request formal withdrawal of our land use application concerning a zone change/plan map amendment ("PMA") relating to the above-referenced property.

In lieu of a PMA, we will be proposing a use for this site that will only require a Conditional Use Permit. Please see the attached press release.

We request a refund of any unused PMA application fee or, alternatively, a credit on the CUP application fee when made. Please advise of the amount of the refund at your earliest convenience.

We look forward to meeting with you and your staff in a Pre-App meeting on the new development concept. We will coordinate that meeting with Erin Underwood.

Cordially,  
Zupancic Group



James D. Zupancic  
President



PMA-08-03

Staff Time	\$756.41
Photocopy/Mail charges	<u>\$155.50</u>
total	\$911.91
PMA-08-03 Fee	\$1,795.00
Time & Material expenses (-)	<u>\$911.91</u>
Reimbursement	\$883.09

RESOLUTION NO. 4860-09

A RESOLUTION AUTHORIZING REIMBURSEMENT OF UNUSED FEES FOR  
PMA-08-03

WHEREAS, James Zupancic of the Zupancic Group applied for a Plan Map Amendment, PMA 08-03, on November 7, 2008, then withdrew his application on December 2, 2008; and

WHEREAS, the Zupancic Group decided to revise its development concept for its property from a residential project, which would need a Plan Map Amendment, to a private recreation club that would be allowed with a Conditional Use Permit; and

WHEREAS, the fee paid by the Zupancic Group for PMA 08-03 was \$1,795; and

WHEREAS, the accumulated costs of staff time and materials for PMA 08-03 are \$911.91, leaving a balance of \$883.09; and

WHEREAS, the Zupancic Group is asking Council to reimburse the unused fees for PMA 08-03.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF TUALATIN, that:

Section 1. The Community Development shall reimburse the \$883.09 balance of unused fee for the withdrawn PMA 08-03 application to the Zupancic Group.

INTRODUCED AND ADOPTED this 26<sup>TH</sup> day of January 2009.

CITY OF TUALATIN, Oregon

By 

Mayor

APPROVED AS TO LEGAL FORM

ATTEST:

  
CITY ATTORNEY

By 

City Recorder



## STAFF REPORT CITY OF TUALATIN

Approved By ~~Tualatin City Council~~  
Date January 26, 2009  
Recording Secretary J. Kerby

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Daniel J. Boss, Operations Director *DJB*

**DATE:** January 26, 2009

**SUBJECT:** RESOLUTION AUTHORIZING A TWO-YEAR  
INTERGOVERNMENTAL AGREEMENT WITH WASHINGTON  
COUNTY FOR COORINATED MOSQUITO REDUCTION AND  
INFORMATION COORDINATION ON WEST NILE VIRUS

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### ISSUE BEFORE THE COUNCIL:

The issue before Council is for approval of a new two-year Intergovernmental Agreement with Washington County on coordination of mosquito reduction and education information coordination on West Nile Virus

### RECOMMENDATION:

- Staff respectfully recommends that Council approve the Resolution authorizing a two-year Intergovernmental Agreement with Washington County for coordinated mosquito reduction and information coordination on the West Nile Virus.

### EXECUTIVE SUMMARY:

- This will be the seventh year that the City of Tualatin has teamed with Washington County to coordinate response in the county to the threat of West Nile Virus. We have worked with the Department of Health and Human Services to monitor for West Nile and to reduce breeding areas for the types of mosquitoes that carry the disease. We have also coordinated public information programs.
- This agreement continues this work until January 1, 2011, and includes an active abatement program for all city-owned water quality facilities and sumped catch basins. Through our joint monitoring, we have determined that these basins are the number one location in the city to find the types of mosquitoes that can carry the virus. The county will provide the larvicide and the city will place it in all sumped catch basins. Approximately 800 of the city's 2,000 catch basins are

sumped. This larvicide is environmentally safe and state-approved as a method to abate mosquitos.

**FINANCIAL IMPLICATIONS:**

There will be minimal additional cost for this program. We are currently doing the monitoring and additional larvicide placement, which can occur during other routine maintenance work.

**Attachments:**

- A. Resolution
- B. Intergovernmental Agreement
- C. Intergovernmental Agreement Attachment A

RESOLUTION NO. 4861-09

RESOLUTION AUTHORIZING A TWO-YEAR INTERGOVERNMENTAL  
AGREEMENT WITH WASHINGTON COUNTY FOR COORDINATED  
MOSQUITO REDUCTION AND INFORMATION COORDINATION ON WEST  
NILE VIRUS

WHEREAS the citizens of Tualatin need effective, efficient, and coordinated services to monitor for West Nile Virus; and

WHEREAS the City of Tualatin has worked with Washington County for the past seven years to coordinate response in the county to the threat of West Nile Virus; and

WHEREAS the City of Tualatin and Washington County Department of Health and Human Services are working jointly to coordinate public information programs and monitor for West Nile and reduce breeding areas for the types of mosquitoes that carry the disease;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager be, and hereby is, authorized and instructed to execute a two-year Intergovernmental Agreement with Washington County for coordinated mosquito reduction and information coordination on the West Nile Virus.

INTRODUCED AND ADOPTED this 26th day of January, 2009.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

City Manager

ATTEST:

BY \_\_\_\_\_

City Recorder

Approved as to legal form:

  
City Attorney

Resolution No. 4861-09

## INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into, by and between Washington County, a political subdivision of the State of Oregon, and City of Tualatin.

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

- 1) The effective date is: 01/01/09, or upon final signature, whichever is later.  
  
The expiration date is: 01/01/11; unless otherwise amended.
- 2) The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
- 3) Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
- 4) To the extent applicable, the provisions of ORS 279B.220 through ORS 279B.235 and ORS 279C.500 through 279C.870 are incorporated by this reference as though fully set forth.
- 5) Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an agent or employee of any other.
- 6) No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 7) This Agreement may be terminated, with or without cause and at any time, by a party by providing \_\_\_\_\_ (30 if not otherwise marked) days written notice of intent to the other party(s).
- 8) Modifications to this Agreement are valid only if made in writing and signed by all parties.
- 9) Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.
- 10) Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

- 11) Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.
- 12) Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.
- 13) This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor.
- 14) This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

CITY OF TUALATIN

Jurisdiction



Signature

January 26, 2009

Date

Lou Ogden

Printed Name

Mayor

Title

Address: 18880 SW Martinazzi Avenue, Tualatin OR 97062

**WASHINGTON COUNTY:**

Signature

Date

Printed Name

Title

Address:

Mail Stop # \_\_\_\_\_  
Hillsboro, OR \_\_\_\_\_

# **ATTACHMENT A**

## **Statement of Work /Schedule/Payment Terms**

### **County's Responsibilities:**

1. The County shall coordinate efforts to meet the goals of the State Health Service's West Nile Virus (WNV) response plan.
2. The County shall coordinate public education related to matters of public health and human behavior related to vector-borne disease throughout Washington County.
3. The County shall work with state and local health, veterinarian, agricultural, and wildlife organizations to survey and track human, equine, and avian cases of WNV.
4. The County shall alert those subject to this Intergovernmental Agreement of confirmed WNV cases.
5. The County shall employ a Mosquito Control Coordinator to design and develop a sampling program and train City staff on mosquito sampling procedures.
6. The County shall establish a schedule for City staff to submit larval and adult mosquito samples. The County Mosquito Control Coordinator shall process and track larvae and adult mosquito samples collected by City staff.
7. The County shall provide larvicide product to the City to treat publicly owned sumped catch basins under city control.
8. Based on surveillance information collected from the City, the County will identify habitats based on risk and advise the City on appropriate control measures and control schedules.
9. The County shall maintain a database of all treated sumped catch basin and aquatic habitats based on information provided by the City.
10. The County shall maintain a database mapping complaints, surveillance findings and mosquito control work.

### **CITY RESPONSIBILITIES**

1. The City shall utilize and distribute public education materials provided by the County and Clean Water Services (CWS), in order to maintain a consistent regional communication strategy.
2. The City shall actively educate neighborhood associations, community participation organizations, and other citizen groups, and encourage private property source reduction efforts and other personal behaviors that will reduce risk of exposure.
3. The City shall report bird and mosquito complaints that it receives to the County.
4. The City shall, in cooperation with CWS, identify locations of storm water facilities and aquatic features that may produce mosquitoes and provide that information to the County to integrate with the County's complaint and surveillance information.
5. The City shall provide the county Mosquito Control Coordinator with information for the County to design, develop and conduct a regional larval and adult mosquito sampling regime that will include representative catch basins, storm water facilities, and natural wetlands within the City's existing water quality sampling area throughout the mosquito season (March through October).



# **ATTACHMENT A**

## **Statement of Work /Schedule/Payment Terms**

6. The City shall deliver larval and adult mosquito samples to the County Mosquito Control Coordinator for processing and tracking on the schedule established by the County.
7. The City shall implement mosquito control measures as recommended by the County for sites under the control of the City.
8. The City shall maintain catch basins and storm water facilities to limit the presence of standing water and decaying organic debris (particularly dead cattails and grass clippings). The City shall install habitat features as appropriate to promote amphibian, bird, and predatory insect (dragonfly) populations that feed on mosquito larva.
9. The City shall treat all publicly owned sumped catch basins with larvicide on a schedule agreed upon with the Washington County Mosquito Coordinator. The City will provide the County with monthly reports of areas treated.
10. The City will implement other mosquito control tasks based on public health risk as determined by the County. In the event the City is unable to implement mosquito control tasks in a timely manner the City will notify the County and request assistance.
11. The City will report product treatments to the Oregon Department of Agriculture following Pesticide Use Reporting System guidelines by January 31<sup>st</sup> of the year following the treatment.

Unless otherwise specified herein, the parties agree that there will be no monetary compensation paid to the other, that each shall bear their own costs and that reasonable and beneficial consideration exists to support this agreement.



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J. Kirby

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Doug Rux, Community Development Director *DR*

**DATE:** January 26, 2009

**SUBJECT:** RESOLUTION APPROVING WESTSIDE COMMUTER RAIL  
PROJECT TRIMET AND CITY OF TUALATIN COOPERATIVE  
MAINTENANCE AGREEMENT

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### ISSUE BEFORE THE COUNCIL:

Whether the City Council should adopt a resolution authorizing a cooperative maintenance intergovernmental agreement (IGA) with Tri-County Metropolitan Transportation District of Oregon (TriMet) for ongoing maintenance of the Tualatin Train Shelter Betterment.

### RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

- This action is not a public hearing.
- This is a request of the City Council to enter into an intergovernmental agreement (IGA) between the City and TriMet for maintenance of the Tualatin Train Station Betterments.
- In October of 2002, the cities of Tigard, Tualatin, Beaverton and Wilsonville ("the Cities"), and Washington County ("County") executed an Urban Services Intergovernmental Agreement for the purpose of allowing better coordination and design consistency between the Cities and County for the station areas of the Commuter Rail Project.

- The City of Tualatin and the Tualatin Development Commission ("Commission") agreed to enhance the design of the Tualatin station for purposes of satisfying City/Commission design standards.
- The City of Tualatin and Tualatin Development Commission approved an IGA on April 23, 2007 (Resolution No. 4659-07 and 540-07) to enhance the design of the train station with TriMet. This document is known as the "Betterment Agreement." As part of the negotiations of that agreement, the City acknowledged that there would be additional maintenance costs above and beyond the standard maintenance costs for the TriMet "Base" station design.
- The City of Tualatin and Tualatin Development Commission approved an amendment to the Betterment Agreement IGA with TriMet on September 10, 2007 (Resolution No. 4717-07 and 550-07) modifying the Betterment Agreement design and construction costs.
- TriMet has determined that the cost of routine operation and maintenance for the Train Shelter Betterment will exceed the cost of routine operation and maintenance applicable at other TriMet transit station shelters located along the Project.
- The City Council was initially scheduled to review the Cooperative Maintenance Agreement IGA on July 28, 2008, but the item was removed from the agenda with a request staff look at alternative methods of participating in funding station maintenance beyond the City paying TriMet \$10,000 annually with inflationary costs adjustments which was in the initial proposal.
- In the proposed Cooperative Maintenance Agreement to facilitate maintenance the parties agree to separately maintain improvements as noted in Attachment 1. In summary the City will maintain the shelter structure, lighting, brickwork (columns and flatwork), roof, windscreens, clock and painting. TriMet will perform all cleaning, graffiti removal, electrical, plumbing, handrail repair, trash, signage and maintain all Park & Ride improvements. In this proposal the City has greater control on station maintenance responsibilities and fund expenditures.
- Each party will expend funds to maintain improvements identified in Attachment 1. The City estimates it will budget \$10,000 annually for its maintenance costs. Actual budgeted funds may not be expended depending on the City's maintenance needs.
- Review of the Cooperative Maintenance Agreement will be every two years between the parties.
- The maintenance obligations will commence upon signing of the Cooperative Maintenance Agreement by the parties.
- The term of this Agreement is for fifty (50) years.
- ORS Chapter 190 provides the authority of the City and TriMet to enter into intergovernmental agreements.
- There are no criteria to apply in City Council's decision-making process.

**OUTCOMES OF DECISION:**

Approval of the request to authorize the Intergovernmental Agreement will result in the following:

1. The City will begin maintenance of the station shelter per terms of Attachment 1. The City will not be paying TriMet to conduct certain maintenance activities as contained in the draft version proposed in the summer of 2008.
2. The City's annual maintenance costs are anticipated to be budgeted at \$10,0000.
3. The City can request review of the IGA every two years for modification.
4. TriMet will begin maintenance of their portion of the station shelter and Park & Ride lot per terms of Attachment 1.

Denial of the request to authorize the Intergovernmental Agreement will result in the following:

1. Maintenance responsibilities for the station and Park & Ride will not be finalized at the time of opening WES on February 2, 2009.

**ALTERNATIVES TO RECOMMENDATION:**

Alternatives to the staff recommendation are:

1. Direct staff to further negotiate the terms of the Agreement based on Council identified issues of concern.

**FINANCIAL IMPLICATIONS:**

Funds have been budgeted in Fiscal Year 08-09 for maintenance.

**Attachments:**      A. Resolution with Attachment

RESOLUTION NO. 4862-09

RESOLUTION APPROVING WESTSIDE COMMUTER RAIL  
PROJECT TRIMET AND CITY OF TUALATIN COOPERATIVE  
MAINTENANCE AGREEMENT

BE IT RESOLVED BY THE CITY OF TUALATIN, OREGON, that:

Section 1. The City of Tualatin hereby authorizes the Mayor to sign the  
Westside Commuter Rail Project TriMet and City of Tualatin Cooperative  
Maintenance Agreement for the Train Station Betterment (Attachment 1).

INTRODUCED AND ADOPTED THIS 26<sup>th</sup> day of January 2009.

The City of Tualatin, Oregon

BY

Mayor

ATTEST:

BY

City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Braden  
CITY ATTORNEY

Resolution No. 4862-09

**WESTSIDE COMMUTER RAIL PROJECT  
TRIMET AND CITY OF TUALATIN  
COOPERATIVE MAINTENANCE AGREEMENT**

THIS COOPERATIVE MAINTENANCE AGREEMENT ("Agreement") is entered into by and between the Tri-County Metropolitan Transportation District of Oregon, an Oregon mass transit district (hereinafter referred to as "TriMet") and the City of Tualatin, an Oregon municipal corporation (hereinafter referred to as "the City").

**RECITALS**

- A. On or about October 1, 2002, the Cities of Tigard, Tualatin, Beaverton, and Wilsonville (collectively the "Cities") and Washington County ("the County") executed the Urban Services Intergovernmental Agreement for the purpose of allowing better coordination and design consistency between the Cities and the County for the station areas for the Washington County – Wilsonville to Beaverton Commuter Rail Project (the "Project"). The Urban Services Intergovernmental Agreement was amended in 2006, and thereafter, the County assigned all of its rights, obligations and interests thereunder to TriMet.
- B. The Urban Services IGA, as amended ("Urban Services IGA"), provides that station area Project improvements will be consistent with a common set of design guidelines for station areas established by the Project; that Project improvements may recognize design variations included in local design guidelines or standards; and that any incremental cost attributable to physical improvements or modifications greater than the cost set forth in the design guidelines and the Development process set forth in the Urban Services IGA, will be the financial responsibility of the permitting City.
- C. As part of the Project, TriMet constructed a transit station located within the corporate limits of the City (hereinafter referred to as "Tualatin Station"), and as identified in Exhibit 1. The Tualatin Station was designed and budgeted to be similar to other TriMet transit stations existing along the Project. However, the City requested that the train shelter located at the Tualatin Station be modified and improved in accordance with the specifications set forth in Exhibit 2 (hereinafter referred to as the "Train

Shelter Betterment”).

- D. TriMet has determined that the cost of routine operation and maintenance for the Train Shelter Betterment will exceed the cost of routine operation and maintenance applicable at other TriMet transit station shelters located along the Project. Accordingly, the Parties agree that the City will maintain the Train Shelter Betterment, and TriMet will maintain the Tualatin Park and Ride and Tualatin Platform, as outlined below and further identified on Exhibit 3.
- E. The City and TriMet have the authority to enter into intergovernmental agreements under ORS Chapter 190.
- F. TriMet has the authority to contract with City for maintenance of any mass transit system, and maintain all improvements necessary or desirable for the system under ORS Chapter 267.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

## **AGREEMENT**

### **Article I – Party Obligations**

- 1.1 In general, TriMet shall be responsible for maintenance and repair of the Tualatin Station Park & Ride, and those features of the Tualatin Station Platform that would have been provided pursuant to the design guidelines set forth in the Urban Services IGA, as specifically set forth in Exhibit 3.
- 1.2 In general, the City shall be responsible for maintenance and repair of the Train Shelter Betterment, as specifically set forth in Exhibit 3.
- 1.3 Each Party shall pay all costs and expenses associated with performance of its responsibilities as set forth in Exhibit 3.
- 1.4 In performing its obligations under this Agreement, City shall abide by any track access requirements imposed by the Portland and Western Railroad.

### **Article II – General Provisions**

- 2.1 **Term.** The term of this Agreement shall be for fifty (50) years, commencing on the date the last party executes this Agreement, unless the

Parties both agree in writing to extend it. At the request of either Party, the Parties shall re-negotiate the terms of this Agreement every two (2) years, as determined by the commencement date of this Agreement.

- 2.2 **Relationship of the Parties.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee, or contractor of one Party shall be deemed to be an employee, agent or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture, or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- 2.3 **No Third-Party Beneficiary.** Except as set forth herein, this Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or will be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
- 2.4 **Compliance with Laws.** The Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, to the extent applicable, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530, and 279C.580, which are hereby incorporated in their entirety by reference. Without limiting the generality of the foregoing, the Parties expressly agree to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.
- 2.5 **Indemnification.** Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each Party shall hold harmless, indemnify, and defend the other and its officers, employees, and agents from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent acts or omissions of the indemnitor, its officers, employees, or agents.



- 2.6 **Project Manager; Notices.** Each Party has designated a project manager as its formal representative for purposes of this Agreement. All notices required under this Agreement shall be directed to the appropriate project manager:

TriMet  
Judy Munro  
710 NE Holladay St.  
Portland, Oregon 97232  
Phone: (503) 962-2461  
Fax: (503) 962-2488  
Email: [munroj@trimet.org](mailto:munroj@trimet.org)

City of Tualatin  
Doug Rux  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062  
(503) 691-3018  
(503) 692- 0147  
[drux@ci.tualatin.or.us](mailto:drux@ci.tualatin.or.us)

The Project Managers are authorized to approve work and billings, to give notices, to execute amendments to this Agreement that do not increase the compensation, to terminate this Agreement and to carry out any other act referred to herein.

Either Party may designate a different Project Manager by giving written modification to the other party as provided in this paragraph.

- 2.7 **Early Termination of Agreement.** City and TriMet, by mutual written agreement, may terminate this Agreement at any time. Either City or TriMet may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching party has not entirely cured the breach within thirty (30) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.
- 2.8 The City and TriMet certify that sufficient funds have been appropriated to make payments required by this Agreement during the current fiscal year. Payment for work performed after June 30 of any given year is subject to funds being appropriated. If funds are not appropriated, City or TriMet may terminate this contract by notice to the other Party.
- 2.9 **Remedies.** The remedies provided under this Agreement are not exclusive. The parties are entitled to any other equitable and legal remedies that are available.
- 2.10 **Oregon Law, Dispute Resolution and Forum.** This Agreement is to be construed according to the laws of the State of Oregon. TriMet and City

shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within fourteen (14) calendar days, the Parties are free to pursue any legal remedies that may be available. Any litigation between City and TriMet arising under this Agreement or out of work performed under this Agreement will occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.

- 2.11 **Assignment.** Neither TriMet nor City may assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the other.
- 2.12 **Severability/Survivability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless will remain in full force and effect and the illegal or unenforceable provision will be stricken. All provisions concerning indemnity survive the termination of this Agreement for any cause.
- 2.13 **Interpretation of Agreement.** This Agreement will not be construed for or against any Party by reason of authorship or alleged authorship of any provision. The Section headings contained in this Agreement are for ease of reference only and may not be used in constructing or interpreting this Agreement.
- 2.14 **Entire Agreement; Modification; Waiver.** This Agreement and attached Exhibits constitute the entire Agreement between the Parties on the subject matter hereof and supersede all prior or contemporaneous written or oral understandings, representations, or communications of every kind. There are no understandings, Agreements, or representations, oral or written, not specified herein regarding this Agreement. No course of dealing between the Parties and no usage of trade will be relevant to supplement any term used in this Agreement. No waiver, consent, modification, or change of terms of this Agreement will bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. The failure of a Party to enforce any provision of this Agreement will not constitute a waiver by a Party of that or any other provision.
- 2.15 **Inspection of Records.** Each Party shall have the right to inspect, at any reasonable time, such records in the possession, custody, or control of the other Party as it deems necessary for review of the other Party's obligation

and its rights under this Agreement. The cost of such inspection shall be borne by the inspecting Party.

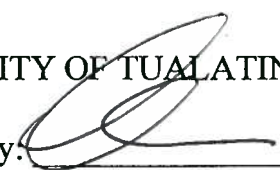
- 2.16 **Subcontracting.** Each of the Parties acknowledges that the other Party may intend to contract or subcontract its work under this Agreement, in whole or in part. Each of the Parties agrees to the other Party's contracting or subcontracting and no specific approval of any contractors or subcontractors is required. Each of the Parties shall require any contractor or subcontractor to agree, as to the portion contracted or subcontracted, to fulfill all applicable obligations of that Party as specified in this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective the date of last signature below.

TRIMET

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF TUALATIN

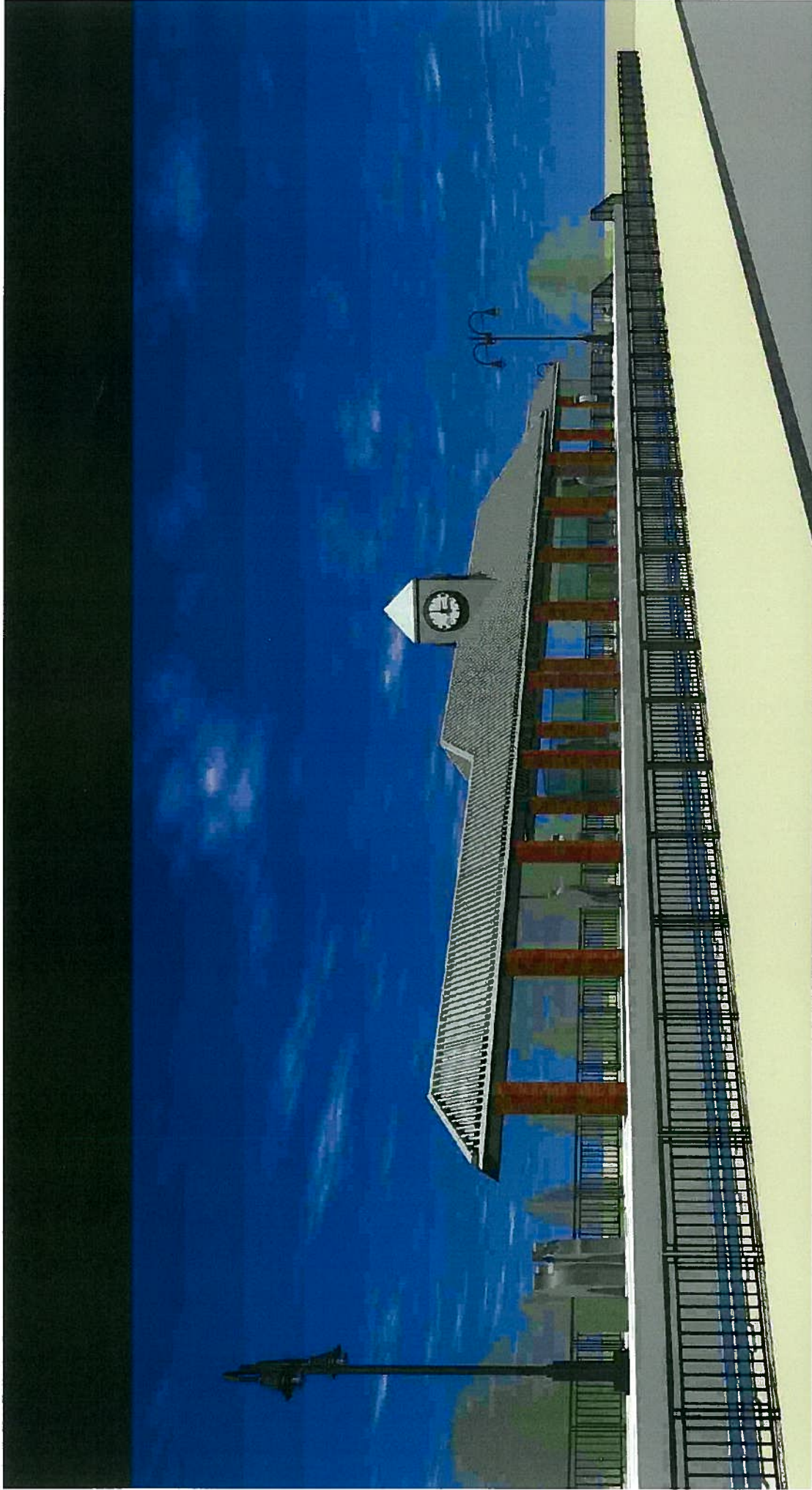
By:  \_\_\_\_\_  
Name: Lou Ogden  
Title: Mayor  
Date: January 26, 2009

Approved as to Form

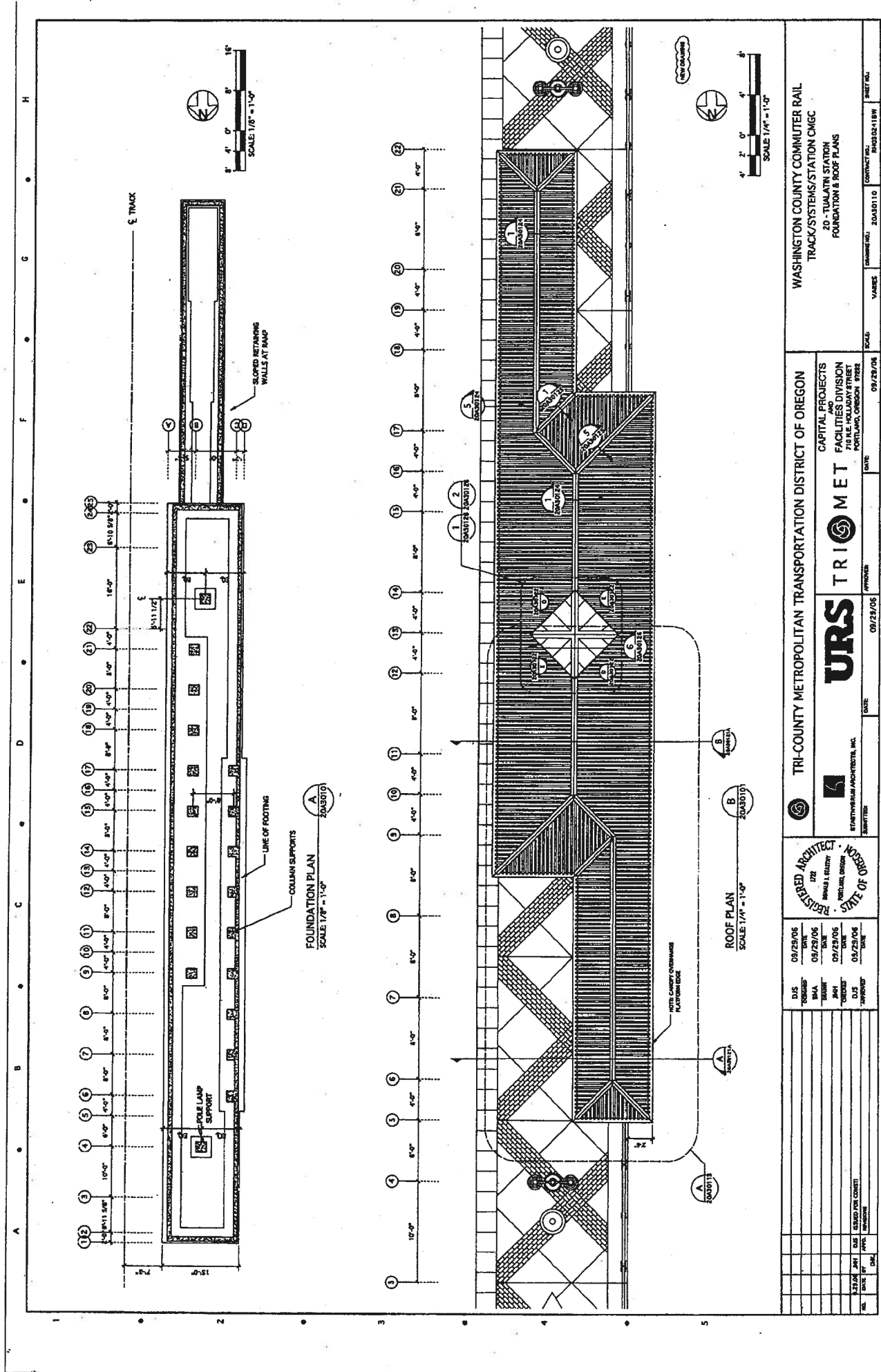
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Approved as to Form

By:  \_\_\_\_\_



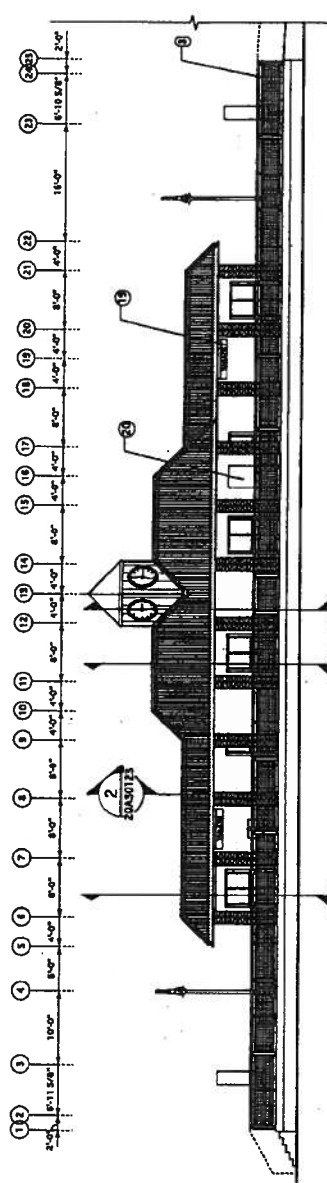
WASHINGTON COUNTY COMMUTER RAIL  
TUALATIN STATION



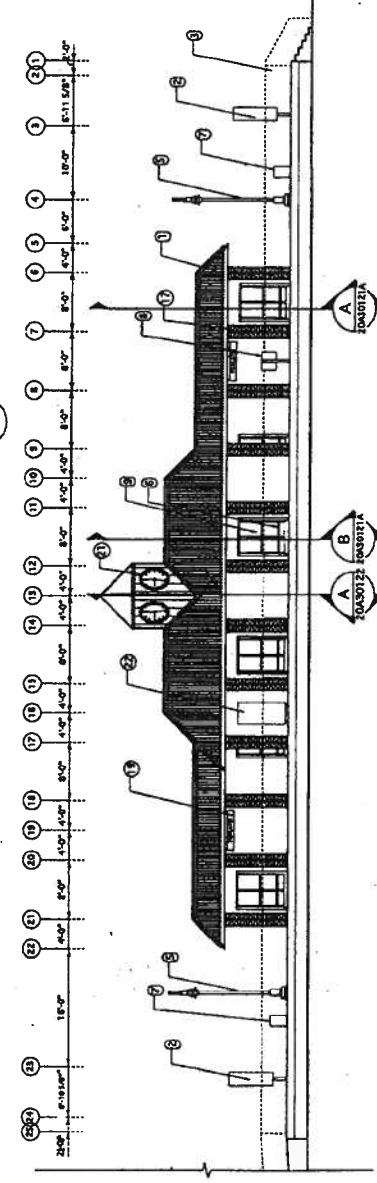




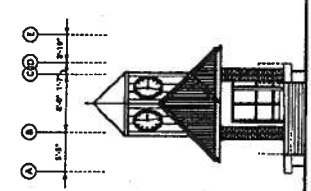
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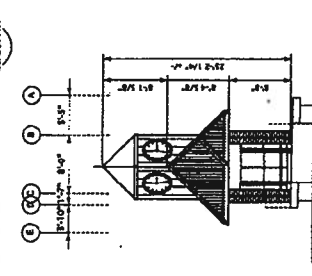
PLATFORM ELEVATION LOOKING EAST  
SCALE: 1/8" = 1'-0"



PLATFORM ELEVATION LOOKING WEST  
SCALE: 1/8" = 1'-0"

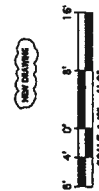


SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



NORTH ELEVATION  
SCALE: 1/8" = 1'-0"

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3	1. 50A103.03		
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WASHINGTON COUNTY COMMUTER RAIL TRACK/SYSTEMS/STATION CMGC 20 - TUALATIN STATION STATION ELEVATIONS		TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON CAPITAL PROJECTS FACILITIES DIVISION 710 N.E. HOLLADAY STREET PORTLAND, OREGON 97232		URS REGISTERED ARCHITECT 17E DONALD J. TERRY PORTLAND, OREGON 003800 OF 003800	DATE: 09/23/06 DATE: 09/23/06 DATE: 09/23/06 DATE: 09/23/06	SUBMITTER: 20A50112A CONTRACT NO.: 940326-418W SHEET NO.:
SCALE: 1/8" = 1'-0" DATE: 09/23/06		SCALE: 1/8" = 1'-0" DATE: 09/23/06		SCALE: 1/8" = 1'-0" DATE: 09/23/06		SCALE: 1/8" = 1'-0" DATE: 09/23/06

**INTERGOVERNMENTAL AGREEMENT  
FOR CONSTRUCTION OF BETTERMENTS  
BY WASHINGTON COUNTY COMMUTER RAIL PROJECT  
TUALATIN STATION**

This Intergovernmental Agreement ("Agreement") is made and entered into by and between the Tri-County Metropolitan Transportation District of Oregon, a mass transit district organized under the laws of the state of Oregon ("TriMet"), the City of Tualatin, a political subdivision of the State of Oregon ("City") and the Tualatin Development Commission, the urban renewal agency of the City of Tualatin ("Commission") a corporate body politic (jointly referred to herein as "the Parties"), as of the effective date shown below.

**RECITALS**

A. On or about October 1, 2002, the Cities of Tigard, Tualatin, Beaverton and Wilsonville (collectively, "the Cities"), and Washington County (the "County") executed an Urban Services Intergovernmental Agreement ("Urban Services IGA") for the purpose of allowing better coordination and design consistency between the Cities and the County for the station areas for the Washington County – Wilsonville to Beaverton Commuter Rail Project (the "Project").

B. The Urban Services IGA provides that station area Project improvements shall be consistent with a common set of design guidelines for station areas established by the Project; that Project improvements may recognize design variations included in local design guidelines or standards; and that any incremental cost attributable to physical improvements or modifications greater than the cost set forth in the design guidelines and the Development Process set forth in the Urban Services IGA, will be the financial responsibility of the permitting City.

C. The Urban Services IGA provides that the Commuter Rail Project Manager shall enter into a Memorandum of Understanding with each City, outlining the details for costs, construction, roles and responsibilities for station area and any off-site improvements.

D. TriMet, City and Commission wish to enter into an Intergovernmental Agreement for betterments at the commuter rail station platform and shelter ("Betterments IGA").

E. TriMet is willing to construct the Betterments for the City/Commission in accordance with the terms and conditions set forth below.

**AGREEMENT**

1. Overview of Roles:



a. **TriMet Role.** As more fully described in Section 2 below, TriMet shall have full performance and cost responsibility for design, permitting, construction, operation and maintenance of the commuter rail facilities, as identified in Exhibit 1, attached hereto and by this reference incorporated herein. This includes the commuter rail track, and commuter rail passenger platform located within the jurisdiction of the City.

b. **City Role.** The City/Commission shall share in performance and cost responsibilities for the station betterments as described in Exhibit 1.

2. **TriMet Obligations:**

a. Except as specifically set forth herein, TriMet shall be responsible for performing the design, permitting, construction, operation and maintenance for the commuter rail trackway and passenger platform located within the jurisdiction of City, and for paying all associated costs, as identified in Exhibit 1.

b. TriMet shall design and construct the Park and Ride Lot and commuter rail station, as identified in Exhibits 1 and 2. TriMet will be the applicant for permits required for the Park and Ride Lot and station platform.

c. Except as specifically set forth herein, TriMet shall design, permit and construct, at the City's/Commission's expense, any Betterments identified and requested by the City/Commission. As used in this Agreement, "Betterments" shall mean those improvements that enhance public infrastructure in the vicinity of the commuter rail alignment, unless: (1) the work is required to safeguard or protect the Project; (2) the work is required to meet current City Code; or (3) such work replaces existing infrastructure and the specified replacement work is either less costly or more cost effective than an exact in-kind replacement. In any of these three (3) cases, the work shall not be deemed a "Betterment," and the Project shall pay for such work. As of the date of this Agreement, the Betterments identified by the City/Commission consist of an alternative platform and station shelter, which are to be designed by the City/Commission and incorporated into TriMet's contract drawing set.

d. City/Commission shall allow TriMet to comment on the design work for any Betterments to be designed by the City/Commission, and shall make commercially reasonable efforts to incorporate TriMet's requests into the design of such Betterments. TriMet shall allow the City/Commission or its contractors to comment on the design work for all other Betterments and shall make commercially reasonable efforts to incorporate the City's/Commission's requests into the design of such other Betterments. TriMet shall also allow the City/Commission or its contractors to observe the construction work, and shall make commercially reasonable efforts to incorporate the City's/Commission's requests into the construction of the Betterments.

e. On or before June 1, 2007, TriMet shall request the City's/Commission's formal assent to proceed with construction of the Betterments. If the City/Commission

chooses not to proceed, TriMet shall invoice the City/Commission for any TriMet design work for the Betterments and shall construct the improvements consistent with the Washington County Commuter Rail Project 75% complete design documents, as revised to exclude the Betterments.

f. On or before May 15, 2007, TriMet shall produce a cost estimate for the Betterments for City/Commission review and shall negotiate with TriMet's contractor to construct the Betterments. TriMet shall not issue Notice to Proceed to its contractor for Betterments until City/Commission has agreed in writing to the contractor's cost proposal.

g. TriMet shall prepare construction change orders for the Betterments and shall forward them to the City/Commission and provide one (1) week for City/Commission review and comment.

h. TriMet will pay its designer for civil, structural and electrical engineering support to the City's/Commission's design consultant and for any Betterments designed by TriMet's designer, and shall pay its construction contractor for work performed on the Betterments. TriMet shall submit invoices to the City/Commission for the costs of its designer and construction contractor, and TriMet construction administration costs related to the Betterments, as such costs are incurred. Such invoices shall not be issued before Notice to Proceed is given to the designer or construction contractor assigned to the work and/or the work is underway or completed. Provided, however, that upon approval of this Agreement, TriMet shall prepare, and submit to the City/Commission for payment, an invoice for the Preliminary Engineering for the Betterments as well as Final Design costs to date.

i. Any TriMet comments on the design or construction of project elements listed as City/Commission Responsibility on Exhibit 1 shall be provided to the City/Commission within one (1) week for design matters and forty-eight (48) hours for construction matters.

j. Any additional Betterments and provisions for cost reimbursement must be approved, in writing.

### 3. City/Commission Obligations:

a. For Betterments to be designed by City/Commission, City/Commission will pay its designer to provide to TriMet 100% final construction documents. Documents shall be transmitted to TriMet in AutoCAD formatted drawing files in accordance with TriMet design standards. City/Commission shall pay all of its designer's costs associated with the Betterments.

b. Any City/Commission comments on the design or construction of the Betterments shall be provided to TriMet within one (1) week for design matters and forty-eight (48) hours for construction matters.

c. Any City/Commission comments on construction Change Orders of the Betterments shall be provided to TriMet within one (1) week.

d. The City/Commission shall pay the final actual cost incurred by TriMet in designing, permitting and constructing the Betterments, including any cost overruns and any cost increases in the Betterments resulting from Change Orders initiated as a result of changes in scope of work directed by the City/Commission. TriMet's current cost estimates for the City's share of the Betterments is approximately \$ 400,000 including design, construction, and a contingency allowance as detailed in Exhibit 1. Both parties agree that final construction costs may fluctuate by 10% and still be considered consistent with this agreement. The City/Commission shall reimburse TriMet within thirty (30) days of receipt of each invoice from TriMet.

e.

f. e. Any additional Betterments and provisions for cost reimbursement must be approved, in writing.

#### 4. General Provisions:

a. Relationship of the Parties. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be an employee, agent or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

b. Indemnification. Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the Parties shall hold harmless, indemnify and defend the other and its officers, employees and agents from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent acts or omissions of the indemnitor, its officers, employees, or agents.

c. Compliance with Laws. The Parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530, which hereby are incorporated by reference. Without limiting the generality of the foregoing, the Parties expressly agree to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other

applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

d. Project Manager. All routine correspondence and communication regarding this Agreement shall be between the project managers:

TriMet:

Steve Witter

TriMet

710 NE Holladay Street

Portland OR 97232

Telephone (503) 962-2169

Facsimile (503) 962-2284

witters@trimet.org

City:

Doug Rux

City of Tualatin

18880 SW Martinazzi Avenue

Tualatin OR 97062

Telephone (503) 691-3018

Facsimile (503) 692-3512

drux@ci.tualatin.or.us

The Project Managers are authorized to approve work and billings, to give notices, to execute amendments to this Agreement that do not increase the compensation, to terminate this Agreement and to carry out any other act referred to herein.

e. Entire Agreement; Modification; Waiver. This Agreement and attached exhibits constitute the entire Agreement between the Parties on the subject matter hereof, and supersede all prior or contemporaneous written or oral understandings, representations or communications of every kind. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No course of dealing between the Parties and no usage of trade will be relevant to supplement any term used in this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to enforce any provision of this Agreement shall not constitute a waiver by a Party of that or any other provision.

f. Interruption of Services.

i. Force Majeure. Neither Party shall be liable to the other Party for any failure of performance under this Agreement due to causes beyond its control, such as: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, or action of any other government entity claiming jurisdiction over such Party (including delay or inaction in issuing necessary construction permits, use permits, or similar authorizations), or of any instrumentality thereof of any civil or military authority; national emergencies; unavailability of materials or right-of-way; insurrections; riots; wars; or strikes, lock-outs, work stoppages or other labor difficulties (collectively, "force majeure events"); provided that in the event of force majeure, the Party whose performance is prevented or impaired shall provide notice to the other Party within ten (10) days of the occurrence of such event and shall thereafter use commercially reasonable efforts to complete or correct the affected performance without undue delay.

ii. No Liability for Special, Consequential, Exemplary or Punitive Damages. In no event shall either Party to this Agreement be liable to the other for special, consequential, exemplary or punitive damages as a result of the performance or non-performance of any obligations under, or acts or omissions related to, this Agreement.

g. No Third-Party Beneficiary. Except as set forth herein, this Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to any third parties unless such third party is expressly described as an intended beneficiary under this Agreement.

h. Effective and Termination Dates. This Agreement shall be effective on the date the last Party executes the Agreement, and shall remain in effect until the completion of all obligations created by this Agreement.

i. Early Termination of Agreement.

i. City/Commission and TriMet, by mutual written agreement, may terminate this Agreement at any time.

ii. Either City/Commission or TriMet may terminate this Agreement in the event of a breach of the Agreement by the other Party. Prior to such termination, however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within thirty (30) days of the notice, then the Party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

j. Remedies. The remedies provided under this Agreement shall not be exclusive. The Parties also shall be entitled to any other equitable and legal remedies that are available.

k. Oregon Law, Dispute Resolution and Forum.

i. This Agreement shall be construed according to the laws of the State of Oregon.

ii. TriMet and City/Commission shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within fourteen (14) calendar days, the Parties are free to pursue any legal remedies that may be available.

iii. Any litigation between City/Commission and TriMet arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.


l. Subcontracting. Each party acknowledges that the other party may intend to contract or subcontract its work under this Agreement, in whole or in part. Each party agrees to the other party's contracting or subcontracting and no specific approval of any of the other party's contractors or subcontractors is required. Each party shall require any contractor or subcontractor to agree, as to the portion contracted or subcontracted, to fulfill all applicable obligations of that party as specified in this Agreement.

m. Severability/Survivability. If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken. All provisions concerning indemnity survive the termination of this Agreement for any cause.

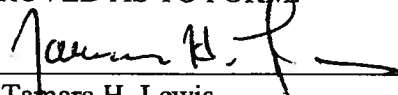
n. Interpretation of Agreement. This Agreement shall not be construed for or against either Party by reason of the authorship or alleged authorship of any provision. The Section headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this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

**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective the date first noted herein.


TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF  
OREGON

  
\_\_\_\_\_  
Neil McFarlane, Executive Director  
Date: 10-16-07

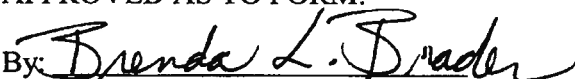
APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Tamara H. Lewis  
Deputy General Counsel

CITY OF TUALATIN

  
By: \_\_\_\_\_  
Date: 04-23-2007

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Brenda L. Brader

TUALATIN DEVELOPMENT  
COMMISSION, the urban renewal agency  
of the City of Tualatin

By: \_\_\_\_\_

Date: 04-23-2007

APPROVED AS TO FORM:

By: Brenda L. Brader

## EXHIBIT 1

### TUALATIN STATION -- PROJECT ELEMENTS

**Project Elements:** The following paragraphs describe the scope of the project elements for the Tualatin Station. Table 1 describes the task responsibilities for each of the project elements and Table 2 describes the funding responsibilities for each of the project elements.

#### Commuter Rail Facilities

- A. Commuter Rail Track, Park and Ride Facility and Platform including the Tualatin Shelter betterments.** The project includes rail trackway, an approximately 115 space park and ride facility, and a passenger platform that includes the City of Tualatin shelter betterment. This project shall be completed by the scheduled opening of the commuter rail line.

**Table 1: Task Responsibilities**

Tasks	Design	Permits	Construction	Operations & Maintenance
<b>Commuter Rail Facilities</b>				
Civil, Structural, Electrical and Mechanical design of the Commuter Rail Park and Ride and Station platform structure.	TriMet	TriMet	TriMet	TriMet
Architectural design of the Commuter Rail Station platform paving, and Shelter	City of Tualatin/Tualatin Development Commission	TriMet	TriMet	TriMet

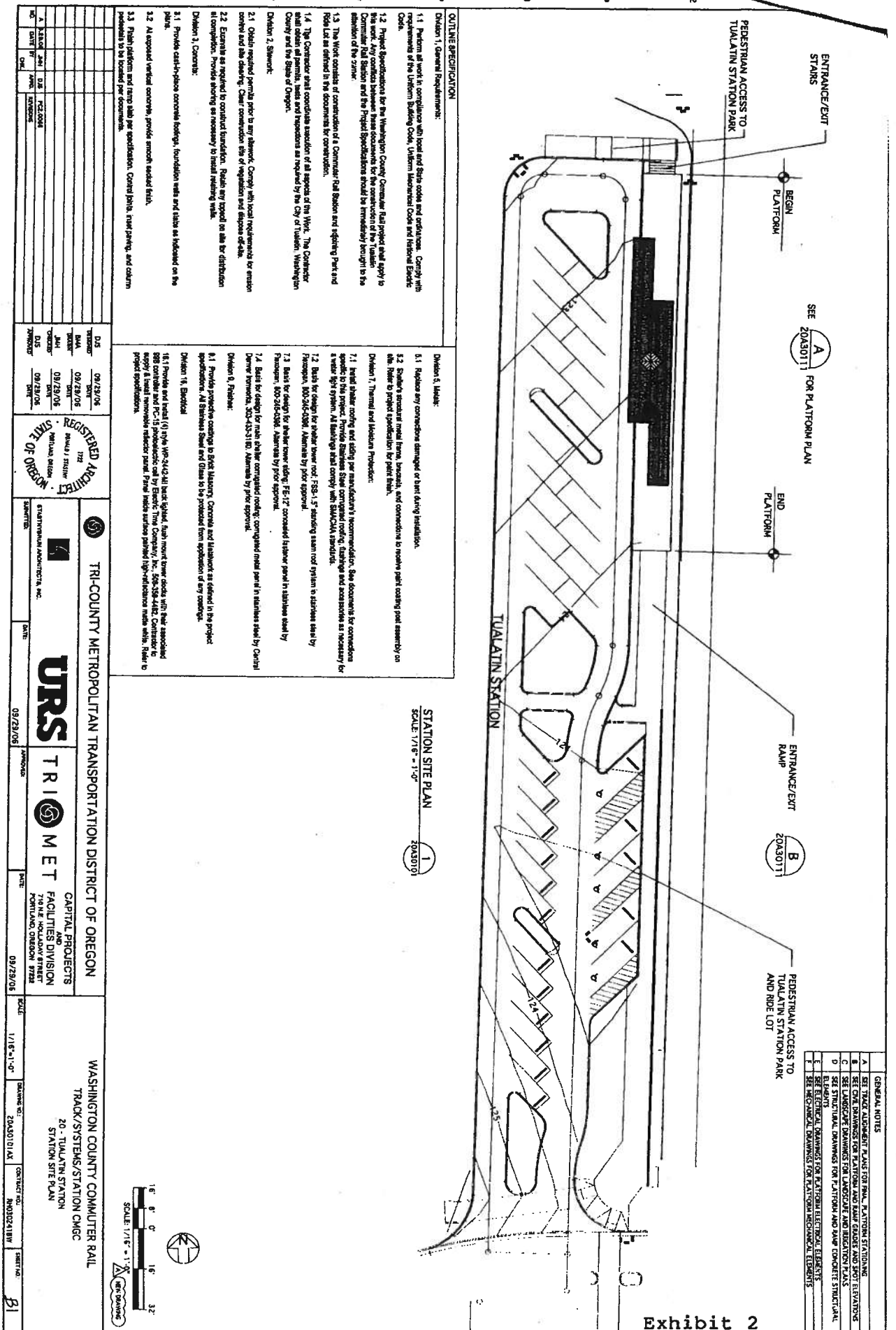
**Table 2: Cost Responsibilities**

Tasks	Design	Permits	Construction	Operations & Maintenance
<b>Commuter Rail Facilities</b>				
Civil, Structural, Electrical and Mechanical design of the Commuter Rail Park and Ride and Station platform structure.	TriMet	TriMet	TriMet	TriMet
Architectural design of the Commuter Rail Station platform paving, and Shelter	City of Tualatin/Tualatin Development Commission	TriMet	TriMet	TriMet



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**EXHIBIT 2**  
**TUALATIN STATION – PROJECT DESIGN**







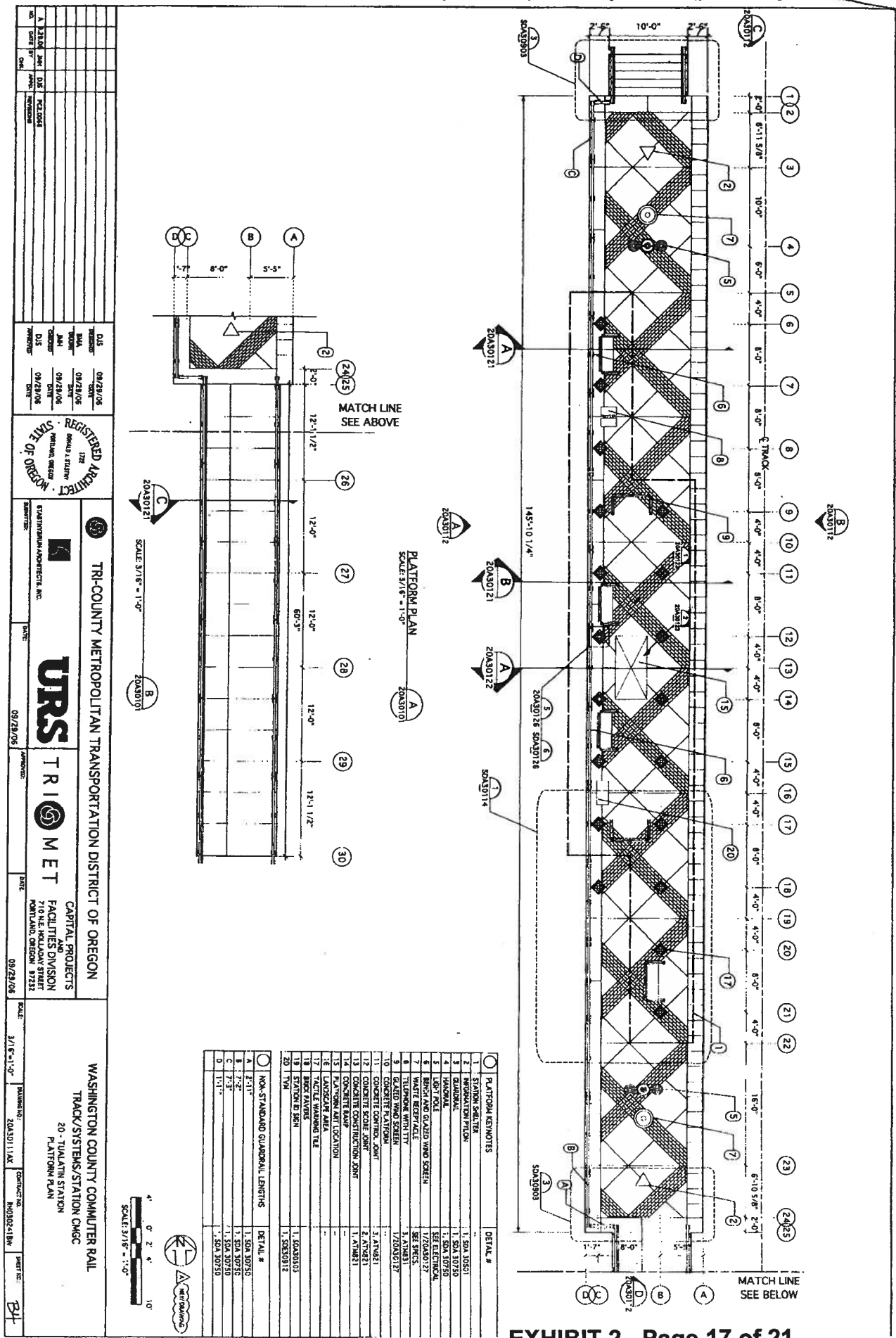


EXHIBIT 2 - Page 17 of 21

WASHINGTON COUNTY COMPUTER RAIL  
TUALATIN STATION



mod 1

**FIRST AMENDMENT TO  
INTERGOVERNMENTAL AGREEMENT  
FOR CONSTRUCTION OF BETTERMENTS  
BY WASHINGTON COUNTY COMMUTER RAIL PROJECT  
TUALATIN STATION**

This Amendment is made and entered into as of the 19<sup>th</sup> day of October, 2007, by and between the Tri-County Metropolitan Transportation District of Oregon ("TriMet"), the City of Tualatin ("City") and the Tualatin Development Commission ("Commission") (jointly referred to herein as "the Parties").

**RECITALS**

A. On or about October 10, 2007, the parties entered into an Intergovernmental Agreement for Construction of Betterments by Washington County Commuter Rail Project – Tualatin Station ("Agreement") to document each party's understandings and agreements relating to the design and construction of betterments at the Washington County Commuter Rail Project's Tualatin Station.

B. TriMet has received from its contractor an updated cost estimate for the City's share of Betterments. As a result, a modification must be made to the IGA to update the cost estimate.

NOW THEREFORE, in consideration of the above recitals and mutual promises contained herein, the parties agree as follows to these changes to the Agreement.


**Section 3 – City/Commission Obligations**

Replace Section 3.d with the following:


- d. The City/Commission shall pay the final actual costs incurred by TriMet in designing, permitting and constructing the Betterments, including any cost overruns and changes in scope of work directed by the City/Commission. TriMet's current cost estimates for the City's share of the Betterments is approximately \$491,332 including design, construction, and a contingency allowance as detailed in Exhibit 1. Both parties agree that the final construction costs may fluctuate by 10% and still be considered consistent with this agreement. The City/Commission shall reimburse TriMet within thirty (30) days of receipt of each invoice from TriMet.

WHEREFORE, the parties have agreed to the foregoing on the dates noted adjacent to their respective signatures.

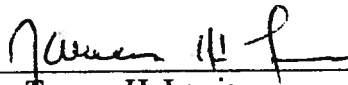
TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF  
OREGON

  
Neil McFarlane, Executive Director  
Date: 10-19-07

CITY OF TUALATIN

By:   
Date: September 10, 2007

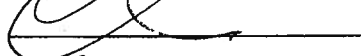
APPROVED AS TO FORM:

By:   
Tamara H. Lewis  
Deputy General Counsel


APPROVED AS TO FORM

By: 

TUALATIN DEVELOPMENT  
COMMISSION, the urban renewal agency  
of the City of Tualatin

By:   
Date: ~~September~~ 9/10/07

APPROVED AS TO FORM

By: 



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**EXHIBIT 1**  
**TUALATIN STATION BETTERMENT – UPDATED COST ESTIMATE**

Design	\$ 33,000
Construction	\$438,026
Contingency	\$ 20,306
<hr/>	
Total	\$491,332

EXHIBIT 3  
WASHINGTON COUNTY COMMUTER RAIL  
MAINTENANCE RESPONSIBILITIES  
CITY OF TUALATIN AND TRIMET

	TriMet	City
<b>I. Tualatin Station platform</b>		
A. Platform Cleaning: Concrete, Tactile Tile, Brick Paver	X	
B. Platform Concrete, Tactile Tile Repair	X	
C. Platform Brick Paver Repair		X
D. Roof Cleaning	X	
E. Roof Repair		X
F. Shelter Structure Cleaning	X	
G. Shelter Structure, Paint and Repair,		X
H. Brick Columns Cleaning/Graffiti Removal	X	
I. Brick Column Repair		X
J. Lightning Arrestor system		X
K. Shelter Light fixture repair		X
L. Shelter Light Bulb replacement	X	
M. Station Electrical System	X	
N. Tualatin Style Street Light fixture and bulbs (5)		X
N. Station Plumbing	X	
M. Windscreen structure repair and paint		X
O. Windscreen Glass Cleaning and Replacement (Replacement Reimbursed by City)	X	
P. Station Handrail Repair	X	
Q. Station Handrail Paint		X
R. Ticket Vending Equipment and Telephone	X	
S. Trash Receptacles	X	
T. Transit-Related Signs and Graphics		
U. Artwork	X	
V. Transit tracker	X	
W. Clock Repair/Maintenance		X

	TriMet	City
<b>II. Tualatin Station Park and Ride</b>		
A. Parking stalls striping and drive aisles	X	
B. Curbs and Gutter	X	
C. Storm inlets, outfalls, and pipes for Park and Ride	X	
D. Bike racks	X	
E. Landscape and Irrigation	X	
F. Sidewalks and Pedestrian crossing	X	
G. Lighting	X	
H. Transit-Related Signals, Signs and Graphics	X	
J. Water Line	X	
K. RR decorative Fence (Sub-contract to PNWRR)	X	



## STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J. Kirby

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Paul Hennon, Community Services Department *Paul Hennon*  
Carl Switzer, Parks and Recreation Coordinator *Carl R. Switzer*

**DATE:** January 26, 2009

**SUBJECT:** RESOLUTION AUTHORIZING A TEMPORARY CONSTRUCTION EASEMENT AND A PERMANENT EASEMENT FOR A SANITARY SEWER PUMP STATION AT TUALATIN COMMUNITY PARK

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### ISSUE BEFORE THE COUNCIL:

The Council will consider adoption of a resolution authorizing a Temporary Construction Easement and a Permanent Easement associated with Clean Water Services' Lower Tualatin Pump Station project at Tualatin Community Park.

### RECOMMENDATIONS:

Staff recommends that the Council adopt the attached resolution authorizing three temporary construction easements and a Permanent Sanitary Sewer and Pump Station Easement associated with Clean Water Services Lower Tualatin Pump Station project in Tualatin Community Park.

### EXECUTIVE SUMMARY:

Clean Water Services is constructing a new wastewater pump station to serve the City of Tualatin. The Lower Tualatin Pump Station is located in the north field at Tualatin Community Park. It is currently under construction and will be completed mid-2010. It does not conflict with current planned uses of the park. See Attachment A for a locator map.

The station will connect the new Cipole sanitary sewer trunkline to the Durham Advanced Wastewater Treatment Facility across the Tualatin River via two parallel 18-inch diameter force mains under the Ki-A-Kuts Bike and Pedestrian Bridge. Designed to resemble a vintage train station, the pump station and grounds will have many



RESOLUTION NO. 4863-09

RESOLUTION AUTHORIZING A TEMPORARY CONSTRUCTION EASEMENT AND A  
PERMANENT EASEMENT FOR A SANITARY SEWER PUMP STATION AT TUALATIN  
COMMUNITY PARK

WHEREAS the City of Tualatin supports the development of infrastructure to meet  
the needs of its citizens; and

WHEREAS Clean Water Services' Lower Tualatin sanitary sewer pump station will  
benefit the citizens of Tualatin; and

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN,  
OREGON, that:

Section 1. The City of Tualatin hereby authorizes the attached Easements for  
Sanitary Sewer Pump Station (Attachment B)

1. Permanent Sanitary Sewer and Pump Station Easement
2. Temporary Construction Easement #1 (North Field)
3. Temporary Construction Easement #2 (Abutting Trestle)
4. Temporary Construction Easement #3 (Park Road)

for the purpose of granting an easement to Clean Water Services and the Mayor is  
authorized to sign said documents.

INTRODUCED AND ADOPTED this 26th day of January, 2009.

CITY OF TUALATIN, OREGON

By 


Mayor

ATTEST:

By 

City Recorder

Approved as to Form:

  
City Attorney

Resolution No. 4863-09

original sent for Signature  
by Comm. Srvs.  
**COPY**

**RETURN TO:** Clean Water Services  
16060 SW 85<sup>th</sup> Avenue  
Tigard, Oregon 97224

**Project:** Lower Tualatin Pump Station  
**Project No.:** 6187  
**Tax Lot No.:** 1100 2S 1 24B, 1800 2S 1 13CC  
**Square Feet:** 101,625 sf

**EASEMENT FOR SANITARY SEWER PUMP STATION**

**GRANTOR'S NAME:** City of Tualatin

**PROPERTY ADDRESS:** 8549 SW Tualatin Road, Tualatin, Oregon 97062

GRANTOR(s), owner of the property described herein, does hereby grant, convey and warrant unto Clean Water Services, GRANTEE, the exclusive right to lay down, construct and perpetually maintain a sewer (or sewers) through, under, over, and along the property described on Exhibit A, attached hereto and by this reference incorporated herein (Easement Area) and the exclusive right to construct, maintain, operate, inspect, repair, replace and remove a sewer pump station and all necessary structures and appurtenances under and upon the Easement Area as well as the right to fence and restrict access to the Easement Area. This easement shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their heirs successors and assigns. No structure shall be erected upon the Easement Area without the written consent of GRANTEE.

GRANTEE shall not have any responsibility for pre-existing environmental contamination caused by GRANTOR or any third party of the Easement Area.

Any temporary easement granted hereby is automatically extinguished upon acceptance by GRANTEE of the completed public facilities in the adjacent permanent easement.

The consideration for this grant is **nonmonetary**.

ACCEPTED

CLEAN WATER SERVICES

By: \_\_\_\_\_  
General Manager or Designee

APPROVED AS TO FORM

\_\_\_\_\_  
District Counsel

CITY OF TUALATIN

By: \_\_\_\_\_

Name: Lou Ogden

Title: Mayor

APPROVED AS TO LEGAL FORM

**NOTARIZE DOCUMENT BELOW:**

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ )

*Brenda L. Braden*  
CITY ATTORNEY

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008 by  
\_\_\_\_\_ as \_\_\_\_\_ of the City of  
Tualatin.

\_\_\_\_\_  
Notary Public

EASEMENT FOR SANITARY SEWER PUMP STATION

COPY

EXHIBIT A

Sheet 1 of 7

**SANITARY SEWER AND PUMP STATION EASEMENT**

PROJECT: LOWER TUALATIN PUMP STATION NO. 6187

LOCATION: TAX LOT 1100 2S 1 24B, TAX LOT 1800 2S 1 13CC

PREPARED BY:  
Compass Engineering  
4105 S.E International Way, Suite 501  
Milwaukie, Oregon 97222  
(503) 653-9093

**PERMANENT SANITARY SEWER AND PUMP STATION EASEMENT:**

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST AND ALSO SITUATED IN THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 13, 14, 23 AND 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON; THENCE ALONG THE WEST LINE OF SAID SECTION 24, SOUTH 01°23'34" WEST 887.54 FEET TO THE NORTH LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE PORTLAND AND WILLAMETTE VALLEY RAILROAD OR THE SOUTHERN PACIFIC RAILROAD); THENCE ALONG SAID NORTH LINE SOUTH 89°55'04" EAST 39.34 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE ALONG THE EAST LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE OREGON ELECTRIC RAILWAY) NORTH 01°24'46" EAST 1928.92 FEET; THENCE LEAVING SAID EAST LINE SOUTH 88°35'14" EAST 40.00 FEET; THENCE PARALLEL WITH SAID EAST LINE SOUTH 01°24'46" WEST 1521.67 FEET; THENCE SOUTH 11°31'38" EAST 170.33 FEET; THENCE SOUTH 45°00'00" EAST 76.33 FEET; THENCE SOUTH 185.47 FEET TO THE NORTH LINE OF THE AFOREMENTIONED PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP; THENCE ALONG SAID NORTH LINE NORTH 89°55'04" WEST 138.04 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS 101,625 SQUARE FEET, MORE OR LESS.



TEMPORARY CONSTRUCTION EASEMENT NO. 1:

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST AND ALSO SITUATED IN THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 13, 14, 23 AND 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON; THENCE ALONG THE WEST LINE OF SAID SECTION 24, SOUTH 01°23'34" WEST 887.54 FEET TO THE NORTH LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE PORTLAND AND WILLAMETTE VALLEY RAILROAD OR THE SOUTHERN PACIFIC RAILROAD); THENCE ALONG SAID NORTH LINE SOUTH 89°55'04" EAST 39.34 FEET TO THE EAST LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE OREGON ELECTRIC RAILWAY); THENCE ALONG SAID EAST LINE NORTH 01°24'46" EAST 1928.92 FEET; THENCE LEAVING SAID EAST LINE SOUTH 88°35'14" EAST 40.00 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE ALONG THE EAST LINE OF THE ABOVE DESCRIBED PERMANENT SANITARY SEWER AND PUMP STATION EASEMENT THE FOLLOWING FOUR (4) COURSES: SOUTH 01°24'46" WEST 1521.67 FEET; SOUTH 11°31'38" EAST 170.33 FEET; SOUTH 45°00'00" EAST 76.33 FEET; SOUTH 185.47 FEET TO THE NORTH LINE OF THE AFOREMENTIONED PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP; THENCE ALONG SAID NORTH LINE SOUTH 89°55'04" EAST 100.00 FEET; THENCE LEAVING SAID NORTH LINE NORTH 185.47 FEET; THENCE WEST 27.30 FEET; THENCE NORTH 251.08 FEET; THENCE 13°30'14" WEST 239.12 FEET; THENCE NORTH 40°33'54" WEST 117.17 FEET; THENCE NORTH 01°24'46" EAST 1169.48 FEET; THENCE NORTH 88°35'14" WEST 20.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS 111,434 SQUARE FEET, MORE OR LESS.

COPY

**TEMPORARY CONSTRUCTION EASEMENT NO. 2:**

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 13, 14, 23 AND 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON; THENCE ALONG THE WEST LINE OF SAID SECTION 24, SOUTH 01°23'34" WEST 887.54 FEET TO THE NORTH LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE PORTLAND AND WILLAMETTE VALLEY RAILROAD OR THE SOUTHERN PACIFIC RAILROAD); THENCE ALONG SAID NORTH LINE SOUTH 89°55'04" EAST 329.32 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE SOUTH 89°55'04" EAST 37.00 FEET; THENCE LEAVING SAID NORTH LINE NORTH 00°04'56" EAST 14.00 FEET; THENCE NORTH 89°55'04" WEST 37.00 FEET; THENCE SOUTH 00°04'56" WEST 14.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS 518 SQUARE FEET, MORE OR LESS.

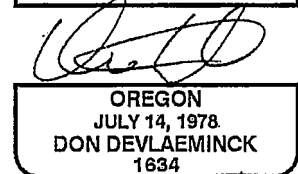
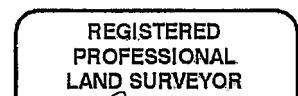
COPY

**TEMPORARY CONSTRUCTION EASEMENT NO. 3:**

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 13, 14, 23 AND 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON; THENCE ALONG THE WEST LINE OF SAID SECTION 24, SOUTH 01°23'34" WEST 947.55 FEET TO THE SOUTH LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE PORTLAND AND WILLAMETTE VALLEY RAILROAD OR THE SOUTHERN PACIFIC RAILROAD); THENCE ALONG SAID SOUTH LINE SOUTH 89°55'04" EAST 39.32 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LINE SOUTH 89°55'04" EAST 322.12 FEET; THENCE LEAVING SAID SOUTH LINE SOUTH 20.00 FEET; THENCE NORTH 89°55'04" WEST 265.95 FEET; THENCE SOUTH 41°53'41" WEST 62.06 FEET; THENCE SOUTH 00°31'28" WEST 91.35 FEET; THENCE SOUTH 02°01'59" EAST 96.39 FEET TO THE NORTH RIGHT OF WAY LINE OF S.W. TUALATIN ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE 30.23 FEET ALONG THE ARC OF A 101.60 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST THROUGH A CENTRAL ANGLE OF 17°02'57" (LONG CHORD BEARS NORTH 50°04'17" WEST 30.12 FEET) TO THE EAST LINE OF THE PORTLAND AND WESTERN RAILROAD RIGHT OF WAY, AS DEPICTED ON THE ATTACHED MAP (SAID RIGHT OF WAY HAS BEEN PREVIOUSLY DESCRIBED IN DEEDS AS THE OREGON ELECTRIC RAILWAY); THENCE ALONG SAID EAST LINE NORTH 01°24'46" EAST 234.69 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS 11,437 SQUARE FEET, MORE OR LESS.



DATE OF SIGNATURE: 7/9/08  
EXPIRES 12/31/2009

COPY

BRASS DISC AT SECTION  
CORNER COMMON TO  
SECTION 13, 14, 23 AND  
24, T.2S., R.1W., W.M.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
  
OREGON  
JULY 14, 1978  
DON DEVLAE MINCK  
1634

DATE OF SIGNATURE: 7/9/08  
EXPIRES 12/31/2009



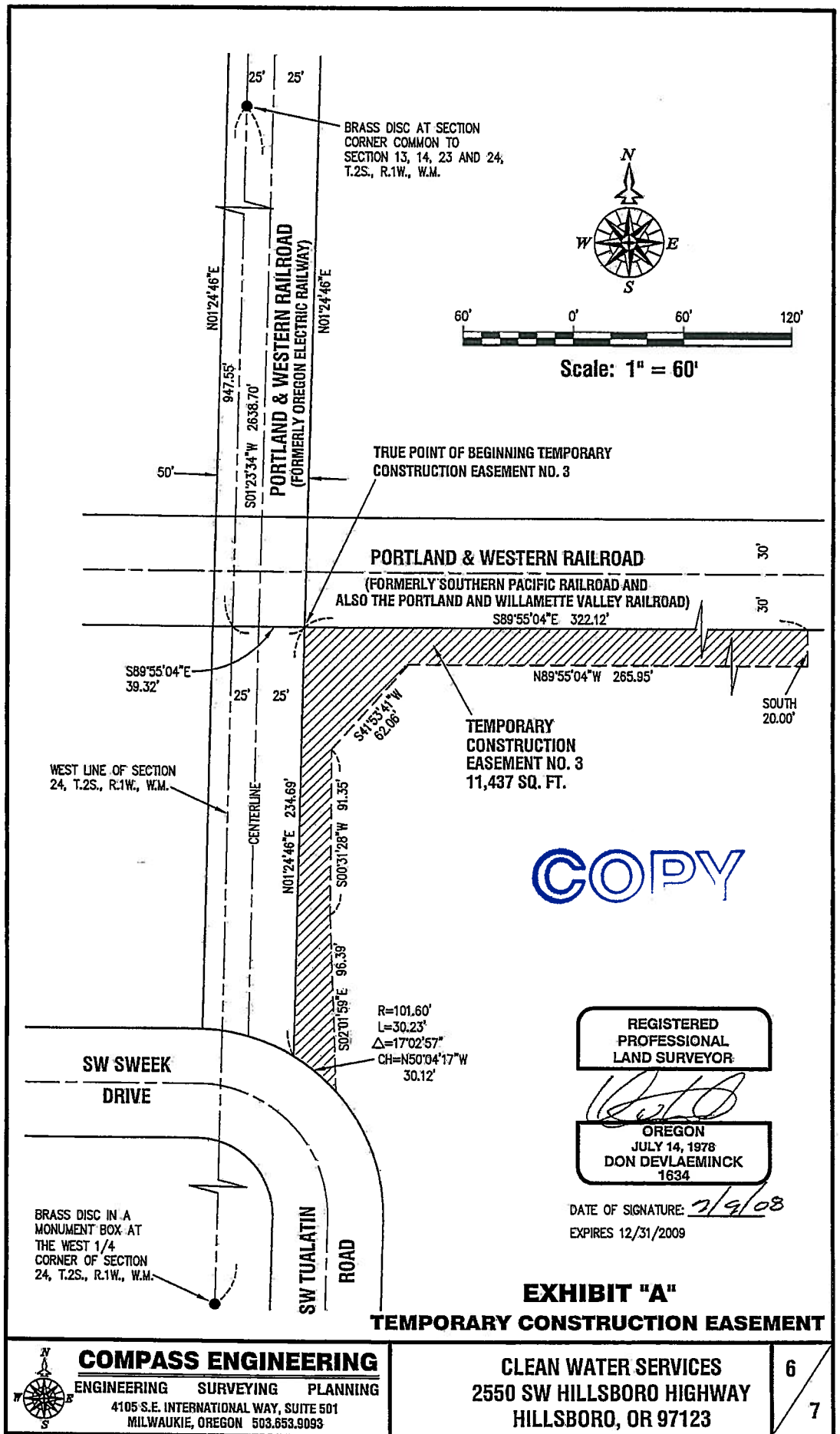
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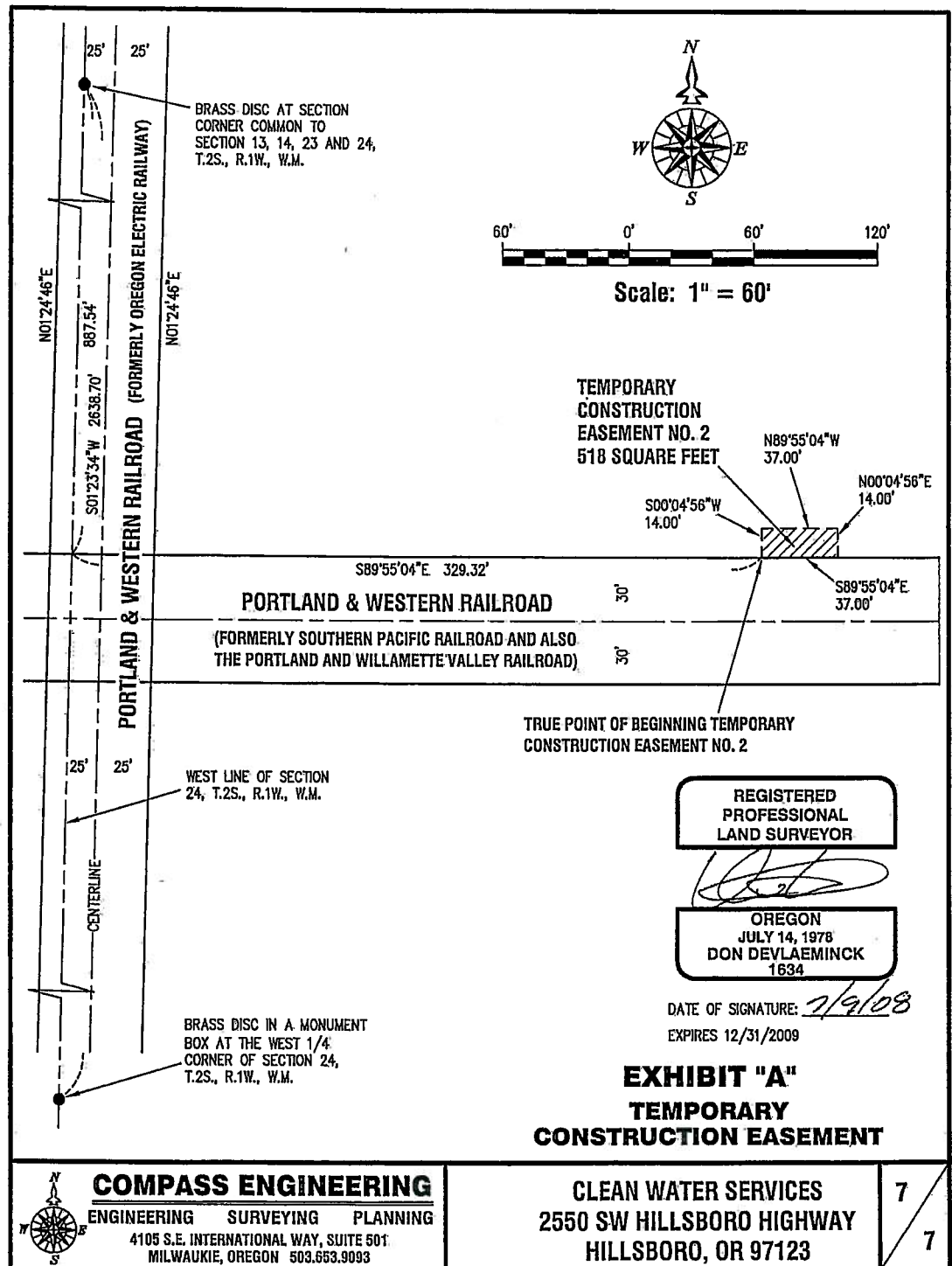
EXHIBIT "A"

SANITARY SEWER & PUMP STATION EASEMENT

 <b>COMPASS ENGINEERING</b> ENGINEERING SURVEYING PLANNING 4105 S.E. INTERNATIONAL WAY, SUITE 501 MILWAUKIE, OREGON 97131-3093	CLEAN WATER SERVICES 2550 SW HILLSBORO HIGHWAY HILLSBORO, OR 97123	5 7
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## STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council  
Date January 26, 2009  
Recording Secretary J. Kerby

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Paul Hennon, Community Services Department *Paul Hennon*  
Carl Switzer, Parks and Recreation Coordinator *Carl Switzer*

**DATE:** January 26, 2009

**SUBJECT:** 2008 ANNUAL REPORT OF THE TUALATIN PARKS ADVISORY COMMITTEE

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### ISSUE BEFORE THE COUNCIL:

The Council will receive the 2008 Annual Report of the Tualatin Parks Advisory Committee (TPARK).

### RECOMMENDATIONS:

TPARK requests that Council accept the annual report and recommends that the City pursue public financing to expand the trail system and on-street bike lanes, increase the number and quality of sports fields, construct a dog park in 2009, and update the Parks and Recreation Master Plan as soon as funding is available.

Staff recommends that Council accept the annual report.

### EXECUTIVE SUMMARY:

The TPARK was established by Ordinance 418-77, adopted November 28, 1977, and incorporated into the Tualatin Municipal Code as Chapter 11-2. The ordinance prescribes TPARK's role in advising the Council on matters relating to parks and recreation. TPARK also serves as the Tree Board for the purpose of the Tree City USA program pursuant to Resolution 2013-87, adopted July 27, 1987. In this capacity, TPARK makes recommendations to staff and council on Urban Forestry related issues.

The TPARK ordinance calls for an annual report summarizing TPARK's activities in the preceding calendar year, outlining future activities of the committee, and identifying any

other matters deemed appropriate by the committee for recommendation and advice to the Council.

TPARK recognizes that Tualatin's parks and recreation facilities and programs provide personal, social, economic, and environmental benefits to the people who live and work here. Recreation programs help improve health, reduce crime, promote ethnic and cultural harmony, build stronger families, and are a source of community pride. For youth especially, recreation opportunities are an essential source of self-esteem, positive self-image, and serve to combat childhood obesity. Recreation also provides positive lifestyle choices and alternatives to self-destructive behavior.

Current members of the TPARK include Travis Dunford (Chair), Debbie Wightman, Jill Anderson, D.J. DeAustria, and Bill Hawley. There are two vacancies at this time.

#### **FINANCIAL IMPLICATIONS:**

TPARK has no annual revenue or expenditures.

#### **DISCUSSION:**

2008 was the 31<sup>st</sup> anniversary of TPARK and it was a busy year for the Committee members. In addition to regular meetings, TPARK members also sat on ad hoc committees for Arbor Week and the Recreation Bond Measure Feasibility Study.

Following is a summary of the key issues that TPARK considered during 2008:

##### **1. Park Planning and Development**

###### *Recreation Bond Measure Feasibility Study*

For the first five months of 2008, TPARK focused on the identification and refinement of projects associated with the Recreation Bond Measure Feasibility Study. Three TPARK members served on the Recreation Bond Measure Feasibility Ad Hoc Committee.

###### *Dog Park*

TPARK spent a considerable amount of time in 2008 considering the design and safety requirements, possible locations, and issues associated with construction of a dog park. Numerous citizens testified to TPARK about the desire for such a facility in Tualatin.

###### *Heritage Center Patio Project*

TPARK reviewed the Heritage Center Phase II patio project and recommended that Council approve the design and implementation of the project. The patio project was funded and managed by the Tualatin Historical Society and resulted in the construction of a patio on the west side of the Heritage Center. The Historical Society funded the \$45,000 project through a combination of engraved



brick sales and cash and in-kind donations from citizens, local businesses, and service organizations.

*Lower Tualatin Pump Station*

TPARK reviewed the final design of the Lower Tualatin Pump Station Project and recommended that Council approve the design and implementation of the project. The project consists of a sanitary sewer pump station, picnic shelter, sports field restoration, pathway construction, and parking lot expansion. There will also be a recycled wastewater line installed for irrigation of the field.

*Herman Road off-site mitigation at Little Woodrose Nature Park*

TPARK reviewed the use of Little Woodrose Nature Park as an off-site mitigation area for the Herman Road project and determined it was a good opportunity for enhancing the park with 16,150 square feet of native plantings.

*Land Acquisition*

TPARK monitored the progress of the City's land acquisition efforts within the Tualatin River Greenway and will continue to work with staff on issues associated with land acquisition in 2009.

*Tualatin Commons Park*

TPARK reviewed the Tualatin Commons Park/Tualatin-Sherwood Road Improvement Project and recommended that the gateway feature in Tualatin Commons Park be as environmentally sustainable as possible and consider safety in all aspects of design. TPARK will continue to work with staff on issues associated with this project in 2009.

**2. Policy and Program Issues**

TPARK reviewed policy and program issues and made recommendations where appropriate. These included:

- Heritage Center annual report
- The Oregon State Parks Statewide Comprehensive Outdoor Recreation Plan (SCORP)
- Park Watch program
- Tualatin Tomorrow's parks and open space interest area
- Recreation program and activities of the Youth Advisory Council

TPARK refreshed themselves on their mission as set in Ordinance 418-77 and the Parks and Recreation Master Plan in light of Council goals.

**3. Arbor Week/Tree City USA/Heritage Tree Program**

TPARK recommended that Council establish the Arbor Week Celebration Ad Hoc Committee to organize the 2008 Arbor Week celebration. Bill Hawley and D.J. DeAustria represented TPARK on the committee. TPARK also recommended

that Council proclaim April 6-12 Arbor Week and participated in receiving the City's 21<sup>st</sup> Tree City USA award and its 11<sup>th</sup> Growth Award with Council. TPARK worked on identifying new trees that could be inducted into the Heritage Tree program and made a site visit for a potential candidate tree.

**4. Special Events**

TPARK provided input on programs and special events in 2008 including Spring Fling, the 5<sup>th</sup> Annual West Coast Giant Pumpkin Regatta and the Starry Nights and Holiday Lights event. (TPARK member DJ DeAustria raced in one of the regatta heats.)

**5. Tree Board**

TPARK reviewed the street tree removal and replacement policy and provided preliminary feedback to staff.

**6. Other**

TPARK took a tour of the new library prior to its opening.

In the year ahead the committee will work on a variety of projects.

**1. Review Capital Projects**

Capital projects on or associated with parkland will be reviewed and recommendations will be made to staff and Council. TPARK has expressed an interest in reviewing the wayfinding system for paths to facilitate better use of existing trails.

**2. Provide Input on Special Events and Recreation Programming**

TPARK will continue to participate in the development of annual events like Arbor Week, the Annual West Coast Giant Pumpkin Regatta, Starry Nights and Holiday Lights, Spring Fling, and other such events.

**3. Policy Input**

As the City's Tree Board, TPARK will continue to be involved in the City's tree code revision process and street tree program effort. TPARK will provide input on other policies and related studies as necessary.

**Recommendations to Council**

TPARK is very interested in how the capital projects that were in the Bond Measure package will be implemented in light of the measure's failure. While TPARK still strongly supports the development of a community center, they recognize that the economic climate does not favor that project at this time. However, TPARK is still interested in making sure the momentum behind constructing the other park projects is not lost.

**Specific recommendations:**

1. That the City pursue public financing for land acquisition and construction of the trail system in Tualatin.
2. That the City pursue public financing for increasing the number of on-street bike lanes.
3. That the City pursue public financing to increase the number and quality of sports fields in Tualatin.
4. That the City fund the construction of a dog park in Tualatin Community Park in 2009.
5. That the City update the 1983 Parks and Recreation Master Plan as soon as funding is available.

**C: Members of Tualatin Park Advisory Committee**