



# CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

## AGENDA

### CITY COUNCIL – REGULAR MEETING

Troutdale City Hall - Council Chambers  
219 E. Historic Columbia River Hwy. (Lower Level, Rear Entrance)  
Troutdale, OR 97060-2078

**Tuesday, July 12, 2016 – 7:00PM**

#### Mayor

Doug Daoust

#### City Council

David Ripma

Corey Brooks

Larry Morgan

Glenn White

Rich Allen

John Wilson

#### City Manager

Craig Ward

1. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**
2. **CONSENT AGENDA:**
  - 2.1 **MINUTES:** January 19, 2016 Work Session, January 26, 2016 Work Session, January 26, 2016 Regular Meeting, and June 14, 2016 Regular Meeting.
  - 2.2 **RESOLUTION:** A resolution accepting a perpetual nonexclusive utility easement along NW Graham Road from the Port of Portland.
  - 2.3 **RESOLUTION:** A resolution authorizing a City Official to negotiate and execute an agreement concluding the employment of the City Manager.
  - 2.4 **RESOLUTION:** A resolution continuing Workers' Compensation coverage of volunteers to the City of Troutdale for fiscal year 2016-2017.
  - 2.5 **RESOLUTION:** A resolution recognizing the completion of public improvements associated with the Discovery Block subdivision and accepting them into the City's fixed asset system.
  - 2.6 **MOTION:** A motion accepting the Mayor's nominations for appointment to fill vacancies on the Citizens Advisory Committee.
  - 2.7 **RESOLUTION:** A resolution authorizing the City Manager to execute an Intergovernmental Agreement with the State of Oregon, Port of Portland, Multnomah County, Multnomah County Drainage District, Sandy Drainage Improvement Company, and the City of Fairview for the design, permitting, right-of-way acquisition, construction, operation and maintenance of segments of the "40-Mile Loop" trail between Blue Lake Park and NE Harlow Road.
3. **PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items. *Remarks shall be limited to 5 minutes for each speaker unless a different time is allowed by the Mayor. The Mayor and Council should avoid immediate and protracted response to citizen comments.*
4. **REPORT:** West Columbia Gorge Chamber of Commerce Annual Report.  

*Tamie Arnold, Board President &*  
*Bob McDonald, Acting Executive Director*

Visit us on the Web:  
[www.troutdaleoregon.gov](http://www.troutdaleoregon.gov)

 Printed on Recycled Paper

City Hall: 219 E. Hist. Columbia River Hwy., Troutdale, Oregon 97060-2078  
(503) 665-5175 • Fax (503) 667-6403 • TTD/TEX Telephone Only (503) 666-7470

- 5. **REPORT:** Annual Multnomah County Sheriff's Office report.  
*Monte Reiser, Chief of Police (MCSO Commander)*
  
- 6. **REPORT:** A report from the Parks Advisory Committee regarding Imagination Station.  
*Tim Seery, Parks & Facilities Superintendent*
  
- 7. **REPORT:** A report from the Parks Advisory Committee regarding off leash dog park public involvement plan.  
*Tim Seery, Parks & Facilities Superintendent*
  
- 8. **REPORT:** A report on the Water Pollution Control Facility permit for Class V Stormwater Underground Injection Control System - DEQ.  
*Amy Pepper, Civil Engineer*
  
- 9. **STAFF COMMUNICATIONS**
  
  
- 10. **COUNCIL COMMUNICATIONS**
  
  
- 11. **ADJOURNMENT**

  
\_\_\_\_\_  
**Doug Daoust, Mayor**  
Dated: 7/6/2016

City Council Regular Meetings will be replayed on Comcast Cable Channel 30 and Frontier Communications Channel 38 on the weekend following the meeting - Saturday at 2:30pm and Sunday at 9:00pm.

Further information and copies of agenda packets are available at: Troutdale City Hall, 219 E. Historic Columbia River Hwy. Monday through Friday, 8:00 a.m. - 5:00 p.m.; on our Web Page [www.troutdaleoregon.gov](http://www.troutdaleoregon.gov) or call Sarah Skroch, City Recorder at 503-674-7258.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to: Sarah Skroch, City Recorder 503-674-7258.

**DRAFT**

**Agenda Item #2.1**  
7/12/16 Council Meeting

**MINUTES**  
**Troutdale City Council Work Session**  
**Troutdale City Hall – Council Chambers**  
**219 E. Historic Columbia River Hwy.**  
**Troutdale, OR 97060-2078**

**Tuesday, January 19, 2016 – 6:30pm**

**1. Roll Call**

Mayor Daoust called the meeting to order at 6:30pm.

**PRESENT:** Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Morgan, Councilor White, Councilor Allen, and Councilor Wilson.

**ABSENT:** None.

**STAFF:** Craig Ward, City Manager; Sarah Skroch, Deputy City Recorder; Erich Mueller, Finance Director; and Steve Gaschler, Public Works Director.

**GUESTS:** See attached.

**2. Presentation & Discussion: Utility Fee Rate**

Steve Gaschler stated I want to talk to you about the books and circle back on the information I gave you last month and answer any questions or discuss on some of the information in there. After we take care of that piece of business, I'd like to invite Libby & Clark, whom you are all familiar with, to discuss the gas tax issue and share their experience with you on utility rates at other jurisdictions that they have worked with over the years. They have quite a bit of experience with this issue. I think they have some good knowledge and insight that you will appreciate hearing. And third, we need to talk again about the sewer rate cap issue. Finally, I hope to have a good understanding of the direction that Council is seeking and we will go out and make that happen.

Councilor White stated I'm just a little curious why we are doing it this way, because we just had the January budget meeting. Are we going to re-present this at an upcoming budget meeting or is this just for Council decision only?

Steve Gaschler replied there is no decision tonight; this is just a discussion session. Hopefully, we get some feedback and mainly, you are talking about the rate cap issue, is that correct?

Councilor Morgan stated and the packet we received also. These slides were shown at the budget meeting, but weren't discussed.

Steve Gaschler stated I think that really regarded with the next agenda item, but the rate cap issue kind of bridges those two, so there is a bit of cross there. We thought we'd start with mine and we may settle it then, or we may have to talk about it again as part of that issue.

Councilor White asked is it going to budget or not?

Steve Gaschler replied I think at some point it will be a budget discussion.

Mayor Daoust stated yes, the budget transfer will, but the basis for the budget transfer is probably why we are talking about this, so the Council gets that information, right?

Steve Gaschler replied yes, that's my hope.

Councilor Anderson stated the elephant in the room is the stormwater rate cap, but we don't need to rehash last year. Glenn, what has to happen here is we'll give direction tonight, but ultimately it's a policy decision, so what we do with the rate cap is up to us. And like any policy decision, we'll take public input and listen to it, and then whatever we decide via resolution will go back to the Budget Committee in April. We might choose to keep the transfer coming out of the General Fund, who knows, but whatever we choose, and correct me if I'm wrong, it is a Council decision because it is policy based.

Councilor White stated I thought the Budget Committee resolved—they found the money so that it didn't come out of the General Fund, but others things were cut.

Councilor Anderson stated we are talking about this for the next budget cycle. For this current fiscal year we are in is going to end in June and then we've got a budget meeting coming up.

Councilor White asked will those savings transfer to the next year, as well? We're not spending that money.

Craig Ward stated we did pull the money out. The General Fund is paying that \$200,000. We balanced the General Fund and made some other cuts, but that left a subsidy to the Stormwater Fund directly out of the General Fund. We explained in the midyear Budget Committee that our General Fund is deeper in the red than we had hoped, and there is still a \$200,000 subsidy going into the Stormwater Fund. You balance the budget that way and you can do that again if you choose to, but it doesn't change the fact that the General Fund is still subsidizing the stormwater rates.

Councilor Anderson stated and that's the policy question, do we want to continue or no?

Mayor Daoust asked or do we want to raise the cap?

Councilor Anderson stated right, that's the question. Would anybody object to putting the stormwater rate cap first?

Mayor Daoust replied well, it is first, that's what we are talking about.

Councilor Anderson stated no, according to Steve he wanted to accomplish a few things.

Steve Gaschler stated we can go in any order you like. In my mind, I was going to step through it but that's entirely at this Council's discretion. I'm prepared to talk about all three.

Mayor Daoust stated in the Staff report all I'm looking at is the rate cap.

Steve Gaschler stated I set the table a month ago about the overall need and what we need to do about rates in a long-term, overall view. At that time, I said, "I'm going to give you a lot of information. I'm not going to go through the entire binder tonight and bore you, a lot of that information is just reference information." Hopefully, you've had time to look at it, and we'll continue to have that discussion. I don't expect we'll get through all of that tonight. I don't know if you've gotten through it all. It's a lot of information, and I apologize for that, but I think it is good reference material to have as we go through this process and conversation. So, if the Council would like, we can work through the rate cap first.

Councilor Wilson stated I think in here, the brief part of this it stated, "At our 17<sup>th</sup> Council work session, the discussion was presented to the Council along with a binder of reference materials that at this meeting Brian Sheets testified that the timing for increasing rates was not good. After considering Mr. Sheets"—and I take this is your writing here, right?

Steve Gaschler answered yes.

Councilor Wilson continued, "After considering Brian's testimony and follow up conversations with Barney & Worth, I agree with Brian that the timing isn't right." So what they wanted was resources to outreach. I guess after reading this, I don't see that you are going to ask us for increases. You're going to present the information. We tried an outreach another time to the ratepayers for the stormwater runoff which didn't prove to be successful. From reading this, I don't see us making any decisions for this next fiscal year.

Mayor Daoust asked what do you want to cover tonight? What did you plan to cover?

Steve Gaschler replied, as far as the overall long-term rate situation and what Councilor Wilson read to you is currently my position today as staff. I really do not want to push that issue on the Council at this time based on some information that Brian presented. And in talking to Libby & Clark about their experience going through this, there is some groundwork we need to lay before we go there. It's a lot like what we did with the gas tax issue. We didn't run it out there and start talking about that first; we spent a certain amount of time talking about where our streets are, what we want to do with them, and educating the public and getting their feedback through the focus groups, finding out where they were, what they knew and didn't know, and basing what we did on that. And, we won the elections, so I'd say it was a success. You made the statement that our last public outreach wasn't a success. In my opinion, that was really the only public outreach we did, in addition to some letters that I'll talk about, and I think that was a success also based on some information I'll share with you tonight. You might be hearing something different, but we made the offer and we didn't get much feedback.

Councilor Anderson stated just to encapsulate what you're saying, you don't want to deal with the stormwater rate cap tonight to make a decision, you would like our blessing to go forward with Barney & Worth to emulate what we did with the gas tax to educate the affected businesses, how to talk about rate increases, for instance, to get to it in that way?

Steve Gaschler replied I was thinking more of a bigger picture of all the rates. We still need to have this discussion on which way Council wants to go, are we going to do the stormwater rate cap now and start removing that, or are we going to make the decision to let the General Funds still backfill that until we decide to do something?

Councilor Anderson asked, and you need direction on that tonight?

Steve Gaschler answered yes, I'd like some feel; maybe we don't make that decision. I'm not saying you have to make that decision tonight, but we are coming up on the budget process and the hearing, and I don't want to put you in the position I put you in last year and having it come up at the last hour. We're trying to get in here early on this and have a discussion. I'm not trying to figure out what you want to do. You know this community a lot better than I do. I work here, I understand the process and what needs to happen, and I want to convey that information to you, the decision makers, and let you make the right call.

Mayor Daoust stated we will talk about the stormwater rate cap tonight, but you don't necessarily want to talk about all the other rates.

Steve Gaschler replied I want to talk about them if you want to talk about them. I dumped a lot of information on you last month, and I thought it was a good time to come back and ask if you had any questions, comments, or suggestions, or if you want more information. I just want to see if there are any loose ends we need to tighten to close on that information.

Councilor Morgan stated Steve, I have a couple questions that you could get back to me about later, if needed. The real question I have is what is the actual cost to treat this water besides breaking even? I think the goal is to not have this be a subsidy or discrepancy in the actual treatment, cost, and delivery of that service.

Steve Gaschler asked which service are you talking about?

Councilor Morgan replied maybe all of them. I heard subsidy, inequality and discrepancy on all of them.

Steve Gaschler clarified that is just on the rate cap.

Councilor Morgan stated mentioning that in the overall discussion will be great so everyone is on the same page and have the same information. We ask businesses to invest in bioswales and other infrastructure aspects as a goal to mitigate water treatment or solve water treatment or take care of that portion of that service, and there is a perception that somehow, we are not, or we haven't, or it is not consistent with the upfront capital cost of doing business. What is the goal of

the bioswales? Are they a State or County mandate or a Municipal Code or Business Development Code requirement? And are they doing the job? Based on our conversations, I think they serve a purpose, but maybe that's not the purview of the entire Council.

Councilor Wilson added since the companies are required to put the bioswales in, there must have been a certain percentage of stormwater runoff that they felt the bioswales could handle. If there was a goal percentage for those bioswales to handle, how are we going to account for that and the rates we charge these larger places?

Steve Gaschler stated I can answer that.

Councilor Morgan interjected, and I think you could, I want to make sure we all have the same information. I think there is a lot of concern from community members, the public, and even businesses that we asked them to put in these infrastructure costs and it's not meeting their goals, or our goals, our expectations, and therefore, a rate increase is expected. Would there be any repercussions, such as litigation or law suits, based on what they expected the infrastructure to take care of and they're not meeting those requirements? We are going to charge them more even though we made them pay a lot of money up front to theoretically mitigate this problem. And then lastly, is our appeal process for challenging impervious service or have you a best practice consistent with the region; the region being Gresham, Fairview, or Wood Village or any other city? And the difference between the rate increase on the cap versus the current standard? It might cost you \$1,500 or \$10,000 to have a survey and it's going to be a \$20 difference. I don't think this is going to recoup those costs for a surveyor to come out and look at the impervious service. So, just questions.

Mayor Daoust stated so I can manage this meeting efficiently, I need to know from the Council if we need to have any discussion on the notebook that was handed out. It's something we've read through already. Do we have any questions about the fees or rates?

Councilor Anderson stated I would really like to center the discussion on the stormwater rate cap and hear from Libby & Clark. There is a lot of good information that we shared at the Budget Committee meeting last year. I think they need to hear from Tanney, Brian and from us about our concerns. No doubt, there's a problem, but solving it is a different issue. If you are going to ask us to employ Libby & Clark to helping us here, which I believe you are, then they should probably get the benefit of our feedback from last year and then currently.

Mayor Daoust stated I see us definitely talking about the public outreach part of it and we need to talk about that.

Councilor Anderson stated right, but they haven't heard our feelings; I know Glenn, Rich, Tanney and Brian. There was a lot of good feedback at last April's budget meeting.

Mayor Daoust stated let's talk about the rate cap and get that clarified and then we'll move into discussion of the public outreach and feelings we have about all the rates. And then, we'll probably talk about the budget transfer a bit on this first agenda item. So, we are going to continue with the rate cap discussion.

Councilor Wilson stated I want to talk about our outreach that we had on the stormwater runoff rate increase. In the first plan, you were going to reach out to the top businesses that were going to be affected by the rate, but you said you were too busy to get to everybody. So, we didn't do a good job on that. We are saying the exhibits in the packet are outreach; just tell them, "These are your new rates and if you have any questions let us know." You are showing the formula used for the rate, but you didn't talk about why we were raising the rates.

Steve Gaschler stated the ratepayers did not see that table that was included in the exhibits.

Councilor Wilson stated I meant the letter.

Steve Gaschler confirmed all they got was the letter. You were all there, you know what happened at the budget meeting, the decision was made to double the rate cap and at the time, Bill explained that still leaves us short and the decision was made to infill that with General Fund money, so that was where that was left. We notified the 227 accounts that were under that cap. There were 127 that now fell out of the so-called rate cap that were between the 25 and 50, and they were all different. We sent them a letter, you've got the copy that explained the decision, what happened and their area and new rate we calculated. And if they had any questions, concerns, or comment to please get ahold of us. We received two responses out of the 127. One was how did you guys come up with this impervious area? And, we told them that we worked with our GIS system. We can look at an aerial photo to see the building structure, sidewalk, driveway, parking lot, loading docks; whatever the issue was and make a fairly accurate estimate. It's not 100 percent perfect, but if somebody thinks we're wrong, we're more than willing to sit down with them and even physically go out and measure if they want us to. He just wanted to know how we came up with it. The other inquiry was from a commercial landowner that has several tenants, who said, "I was covering it, but now that it's more than \$25, I was eating it, but now that it's gone up" I think it is \$46 or \$47, "I'd like to split this among my tenants, can you help me with that?" We said, "Absolutely we'll help you figure that out." We worked with him and got that resolved. Those were the only two responses. The ones that were under the cap still, the 99 that said okay, now you were over the cap at 25, we bumped the cap up to 50, and informed them that they were still under cap. We explained it to them and said we are looking at maybe doing away with it eventually. That discussion is on the table to be continued. We got not one inquiry. For those I did talk to, he spent a fair amount of time arranging appointments and trying to see them, but even getting in the door was difficult. I talked with three of them. I never succeeded in meeting with one since every time I would set an appointment, they would cancel it. It was FedEx and two truck stops, who said, "Seriously, I don't know why you are here this is small potatoes to us. We don't care and we actually think you should be charging everyone the same and get on with it." That's what I was told.

Councilor Anderson stated maybe \$50, but we we're talking about \$4,000.

Steve Gaschler confirmed he started at the \$4,000 amount. The manager lived in Troutdale. He had just been promoted and said, "I have 100 employees that will tell you the same thing that live here in Troutdale. They don't think that they should be subsidizing with a higher rate on them to keep that cap in place." I explained it to him and he picked up on it instantly, but he was shocked

as to why I was even in there. That kind of met with this coming back in, and so I said, "That's all the farther it got, gentleman; that's all I can share with you." In my experience, I thought we were going to get the most pushback from that group because that's the smaller mom and pop type, local business where it's tough to make ends meet, but I received those two responses. I think we've gotten through the toughest piece. There are some big numbers, so I'm not going to say they won't come back or that there will not be any issues, because there probably will be, but I think we can deal with them. There's 99 left; it's 50, so where we take it from there and how much money is used from the General Fund and for how long is up to the Council to decide. I'm just want to give you the information you need to make that decision and I'd be more than happy to go back and get more information, if requested.

Councilor Allen stated the City provides a range of services, such as water, sewer, police and fire protection that the community wants us to provide. And at that time, I considered businesses also provide services, such as places to purchase food, gas, etc. At the time, I was worried about economic conditions and that struggling businesses wouldn't make it if we increased the rate, which would then result in vacancies, again. We just filled the storefronts and didn't want to empty them out again. I wasn't so concerned about the profitable businesses, or those without much impervious service; just the ones that might struggle if we increased the rates. I'm not sure what percentage of all the remaining 99 you got to; you didn't talk to all of them, right?

Steve Gaschler replied no.

Councilor Allen asked did you have some kind of shotgun pattern?

Steve Gaschler stated I figured I might as well start from the top and work my way down to see what kind of resistance I got. I shot for the top four and talked to the top three, however, since then, a new one, the Port of Portland, was added that wasn't on my original sheet, but included the airport. Airport runways and taxiways are exempt, so they would be paying on their parking areas and actual structures, just like any other business. Streets and roads are exempt and that's in our stormwater ordinance.

Councilor Allen stated I'm trying to keep the services provided, whether they be government and private business services, within the city because they make life more enjoyable. We also talked about the bioswales and it seemed that some businesses I visited don't actually hook up to our system. We are saying we are subsidizing them and yet, what do I say to them when they don't use our service and we're not really subsidizing them.

Steve Gaschler replied the code currently states if anybody does not discharge to our system, they can apply for that credit, but they have to apply. As I told Council, we will go back and look at that information to see if we can identify those accounts. There are roughly 20 plus accounts that would qualify for some type of deduction because they are discharging to those UICs, underground injection control points and most all of them would qualify; it's either 70 percent or none. Some of the newer ones that put those in are up around Safeway and Albertsons and qualify for that and, when we get through this, we are more than willing to make that part of the calculation and let them know the cap has been removed. However, you have installed these systems and you developed, so you are eligible for this credit and we are going to apply it at 70 percent. But, it

was only 20 or 30 accounts, and I think there are only 12 remaining; a lot are pretty small accounts. That's that issue. The bioswale issue is a water quality issue. There are still discharging to us. Our code now says that over the years, water quality has become an issue with DEQ. Stormwater systems were originally put in to control flooding, but then they realized all that garbage was being flushed down to the creeks, streams, and rivers, and polluting them, so DEQ said, "You have to have a permit to discharge to us." Part of that permit is cleaning up the water, and part of that is changing to development codes. When somebody develops, they have to put in these water quality swales. The water discharges into them first, that cleans it up and then it comes into our system. FedEx is a good example of that. They don't discharge to us. Currently, everything off that site goes onto that street in front of them. In that street is 3,000 feet of 48-inch and 60-inch reinforced concrete pipe, and all the manholes, inlets and catch basins are part of our system. They built it, just like everyone else does. Their water goes in that system, but we maintain it, we clean it, and when it fails, we're responsible for replacement and repairs. So, when you say we don't do anything for them, absolutely we do. In addition to that, they are at the bottom end of the system, so everything that happens up here, eventually ends up down there. That's what Travis, Amy, and those guys spend a lot of time doing. If that apartment building goes in, we are going to look at where that water goes off, where it's going to go and what it's going to do to the guys down below. If we don't do that, we're going to create a big problem down there for people. It's all a big system that works together. I look at it a lot like a school system. We all agree we need a school system and we need to educate our kids. Do we pay for how many kids go? No, we all pay based on property tax. If I don't have any kids, I don't get to opt out and not contribute. The storm system is a bit the same. There is no perfect way, but the industry norm and standard is impervious square footage. It's been to court, it's been tested and it's proven to be the gold standard.

Councilor Allen asked, so you're saying there are no properties in our jurisdiction that don't discharge to us?

Steve Gaschler stated I will say, not that I'm aware of; I could go out and maybe find somebody.

Councilor Allen replied I thought the purpose of some of the improvements we made was to get that quality ground water, rather than transport it to a stream.

Steve Gaschler replied yes, that's the intent, but the ground can only take so much water after you have a 25-year storm event. The ground is saturated and not taking any more water, so now where does that water go? We have to look at that, are we going to let that flood everyone else down the stream?

Councilor Allen stated some people may directly hook up to our system and we get it all and others may have systems that take a portion of it.

Steve Gaschler responded yes, but that's the 20 or 30 that have gone to those UICs. If you haven't put it into a UIC system, then you're coming into our system. There are no systems that we're aware of that are retaining that water. All their doing is treating it and it's coming to us and then we have to deal with it. It's just like everybody's house. When it rains some of it soaks in your yard, but a good portion of it comes off your roof and goes out those drains right into the street and now it's the City's water. We have to deal with it for quantity and quality; we can't just flush

that dirty water down into the creeks. I don't think it's a good idea as a steward of the environment, and DEQ says you're not going to do that and get a permit to discharge runoffs because their waters of the state. They're not our waters.

Councilor White commented, isn't that what we do though? That very thing happens all over this city.

Steve Gaschler responded yes, and there's grandfathered in and they'd like us to fix all that. In fact, that's part of the code. If you redevelop, you have to build to those standards, but they can't force you to go back in and correct the existing stuff there. There's not a tool to do it; it's through redevelopment. They know in time eventually that stuff will get redone, rebuilt, and eventually go away.

Councilor Allen noted the other side of the equation is that there are projects we want or need to do within some period of time that we want to try to finance and that goes into these rates. Regarding the TRIP property, I've seen some improvements we want to do there. Not bad improvements, but they are a considerable chunk of change aren't they?

Steve Gaschler stated that whole project is \$35 million. I can't give you a number on what the split would be between what they are doing strictly on their private property versus what was a public benefit. I do know we are paying a portion of that, but that portion is to improve our portion of Graham Rd, which is the City's.

Councilor Allen added I hear the PDC approved buying the postal service property for \$88 million, and so if they come over here, do they help us with any of the improvements that will be needed? Or is there information I don't know about?

Steve Gaschler stated let's say that ground is still there, somebody is going to come along and the Port has invested millions of dollars to basically put all the infrastructure in place, the streets, water lines, wastewater lines, stormwater lines, and that will go into the price of that ground when they sell it. When somebody builds in there, they are still going to deal with their water quality issues that come off there. Part of our Development Codes requires them to treat that water quality. They can't just discharge that into our system without addressing that water quality issue. When FedEx came in, we pointed that out to them. I wasn't here, but my Staff said, "Our storm rate is based on square footage and you might consider doing something different than these massive concrete impervious surfaces. There are other things you can do, like using impervious pavements and surfaces, and we'll take care of your storm drain problem." They said, "Don't worry about it. We know what we are doing. We've done this all over and we aren't worried about the stormwater piece of it."

Mayor Daoust stated regarding the credits, those people paying between \$25 and \$50 per year aren't going to bother with all the paperwork required to get a credit. It's the 99 businesses; if we do raise the rate cap, we can make sure those 99 businesses are aware of any kind of a credit process we may want to have and take it from there.

Steve Gaschler replied I think that's the split; the 30 total that were there and there is only 12 left of that 99, so the bulk of them got it paid up in that \$26 to \$49 range. Like I say, with Council's approval is have Staff figure out what that is and offer that credit to them, up to 70 percent.

Councilor White stated we actually did get feedback from businesses about that. I think someone in your position might not feel safe complaining because there were legitimate flags and that's why we're being careful and cautious with this. We're talking about phasing them in overtime. And, it's about fairness. If 3 percent of someone's runoff is going to the City, they shouldn't have to pay 97 percent.

Steve Gaschler replied with the stormwater system, I don't know that we could ever get to the point that we're going to analyze each specific property; trying to do and manage that would be horrific. So, we basically said the driver is impervious area. If there's impervious area, we all know it's going to come into the street and the system we had built, so we're dealing with it. If you can come up with a way to keep that on site some way, then you would get credit back. FedEx and the others on that surrounding low land can't because the ground water is too high. They can't get rid of it, so they have to discharge it; that's the only option for them.

Councilor White stated we had the ability to design that but you thought that given our grade, not doing the bioswale was adequate, and now, had I known this new information, I would have gone a different route. Just as a matter of fairness, because I heard that complaint. I would rather call it the stormwater rate instead of the subsidized large lot. It's just a personal preference, I'd rather call it the stormwater rate, instead of the subsidized large lot. I think it kind of creates the vibe within the City. I don't know if anybody else feels like that, but that's my preference, that we just call it storm sewer rate or whatever we want to title it.

Councilor Allen stated I don't care that much.

Steve Gaschler stated it's called the rate cap in the ordinance. We have touched on the way we view the fairness issue and we kind of saw that it was too political, so we kind of tried to stay away from that.

Councilor White asked does the stormwater come into the system separate or is it mixed with sewer?

Steve Gaschler replied it does not mix.

Craig Ward stated perhaps part of your question comes from the fact that stormwater rates were kept low because we were mixing revenue from the Sewer Fund to help cover some of the stormwater cost. It's not that the flow is mix, but the cash mixed. We had to separate this and that's how we sort of got to this problem.

Councilor White commented he liked it better the old way.

Councilor Allen stated you have a complete system failure when they start mixing. I used to live in Mississippi and stormwater started flowing into businesses, homes, and they did mix.

Steve Gaschler stated at one time, putting all the water into one pipe was the standard. It was all going into the river anyway, so there was no need to build two systems. Then, we saw what happened to our rivers and knew that was not working, so the big thing was getting the wastewater out of the river first. Portland has large pipes and tunnels and is still working on separating those. When they get a big rain event, they still have a lot of rain coming into their wastewater treatment plants and they can't process it all, so they just bypass and dump it into the river.

Councilor White stated I'm trying to think of ways we can look at instead of just automatically going to the ratepayers every time. In the budget meeting, we talked about doing that system that used grey water for irrigation or selling it to the Troutdale Energy Center, which might be a perfect solution because they are going to need additional water. If that project goes through, let them treat the stormwater runoff because they can use it for cooling and treat it to a higher standard than we would. I want to make sure that before we automatically go to rate payers, we are doing everything possible.

Steve Gaschler stated I agree 100 percent. We are doing that, we're looking at that; we put that rate in there for that reuse water in anticipation of that possibly happening. I think we showed you that would bring in about \$1 million. The problem is these funds are separate, they are Enterprise Funds. That reuse water back to them would actually go to the Sanitary Sewer Fund, which would save them \$1 million, which means we could do some things with their rate. The Stormwater Fund—they're all like separate profit centers/businesses and all have to stand on their own and do their own thing. So what we save in the Sanitary Fund has to stay there. We did lower or keep them from increasing so fast. I'm really reluctant to ever tell you these rates will go down. That would be awesome, but I just don't see it happening, even with a windfall like that. It might mean you could keep it flat for quite a long time before you ever have to raise it again, but we still have the stormwater issue to deal with it and it is its own fund, and storm, sewer, and drinking water, and sanitary sewer should never mix.

Craig Ward added I like your idea, but keep in mind the Troutdale Energy Center came to us and wanted to use our effluent from our wastewater treatment plant, and we did establish a new rate for that but have not had any subsequent conversations about that with the Troutdale Energy Center, so there is no revenue coming in; there's just the potential when they come in, we can say, "Sure, we'll sell you the effluent", and that will help keep our sewer rates low, which benefits everybody. Why sewer and not stormwater? I expect the answer from Troutdale Energy Center would be that it's about liability. They need to have a reliable source of water for their cooling purposes year round, and we have a very reliable and steady—it fluctuates even for the Sewer Fund, but it's pretty reliable. We know year in and year out how much we're going to get there. If they rely on stormwater, that's much less reliable. In the summer time, they're going to be running short on water. They might be able to shift that and turn a valve and start taking it out of the sewer system instead of the stormwater system, but they are going to want liability. It makes a lot more sense, in my opinion, to give them a source that is reliable, which we can depend upon from the wastewater treatment plant. But the citizens, the ratepayers, are still going to benefit by us selling that water from the sewage effluent to the Troutdale Energy Center. And in the end, it comes down to the pocket book. You may be paying stormwater, water, and sewer in different components, but in the end, if we can keep sewer less expensive that benefits everybody anyway.

Councilor White asked are we facing rate increases from the Sandy Drainage Improvement Company [SDIC] as well. Are you aware of anything?

Craig Ward responded he had a meeting today with the SDIC and the Multnomah County Drainage District regarding the Levy Trail that will connect from where the trail ends now to Fairview and then connect it through from the end of the Levy Trail now to Harlow Place. That discussion all revolved around the SDIC's very limited revenue base and the fact there were potential costs that they might have to bear, and they want to shift those cost to the jurisdictions that want to build the trail. There was no suggestion that they were going to raise rates to their customers, but they were suggesting pushing expenses off to us. You'd have to talk with those on the SDIC Board to figure out if they are talking about internal rate increases, but that wasn't discussed overtly. The message seemed to be that they have risks, they don't need a trail, they need a levy and that trails on top of levies are nothing but trouble for them, so if we want the trail, we should be able to bear the cost and risks they might have for building a trail on the levy. That was my gross interpretation of their proposal.

Councilor White stated I just want to see if we are facing a double hit here.

Craig Ward stated their proposals could cost us some money down the road, but it's all risked based and it's not overt.

Steve Gaschler stated it's a good point to raise because from all indications it looks like it's very possible with the issues they are facing on that levy, and that's the difference. What we do on the stormwater side is really a different service and issue and that is flood protection due to development for the people down the stream and water quality. Whereas, their primary mission when they were formed was that flood control levy issue. We are not responsible for that levy, they are, and that's primarily what they collect their money for. The other issue they deal with is now that they built that levy, they trap all the water coming from Gresham, Portland, Wood Village, Troutdale, and Fairview and it all comes down and dumps in on them. They're responsible for now getting it up over the levy and back out to the river. They have discharge permits and water quality issues like we do. They are dealing with some of the same issues we are, but they are coming at it from a different entity and different fee. They don't have fees. It's a taxed base in the district. The way I see it, two separate total entities serve the citizens, although they kind of have the same driver, rain, which we get plenty of.

Councilor White stated, well, not this summer; that was some additional feedback, because we doubled the rate and then had the driest summer that I've ever seen. It was beautiful. I hope we get another one, but our weather patterns—

Steve Gaschler interjected December kind of made up for it though, just ask Gresham.

Mayor Daoust stated before we get into the public outreach discussion or anymore on the rate cap, is there anybody in the audience who wants to speak to us about the rate cap? The subject

wouldn't be over after public input. We'll continue it, and then we'll talk about the public outreach part and what we want to do with this rate cap.

Paul Wilcox, Troutdale resident, stated I really don't see any basis for the rate cap, personally. You wouldn't calculate a golf course's water bill at the same rate as residential lawns. I honestly don't see any basis for the rate cap. I looked at the top 10 offenders of sorts, and obviously FedEx is there. If FedEx doesn't choke on a \$4,000 stormwater bill, you don't have anything to worry about.

Tanney Staffenson, Troutdale resident, stated this has been an issue the Budget Committee has bantered back and forth. I have to say, I take a bit of exception to the position of subsidy. That we are subsidizing people and the residents are subsidizing the businesses and the City is fostering this culture. I think it makes us all look bad. The rate cap went into effect in 1994, so it has been around for 22 years. The thing that's interesting is if you look at the assessments that have been done to the funds, like water, it's recommended that we raise the rates 9 percent per year for 10 years.

Steve Gaschler clarified that isn't proposed, it's just showing what it could look like.

Tanney Staffenson replied that's kind of what's needed. I think there are shortfalls in all of these. Interestingly, the stormwater has some unique issues with it. We look at giving a 70 percent credit if you have on site mitigation that meets a standard that we defined. We do the calculations for the swales and so that is our determination of how much water they're retaining on site and how much they're reducing. So, how much is being released into the system? How much is being released into actual groundwater from any of these sites? The other thing is we do have some on the list that may be remedied by public outreach, but they are firmly convinced that they are not discharging into our system.

Councilor Morgan asked businesses?

Tanney Staffenson replied yes. We may be able to work with them and say, "Okay, you actually are," and that would be good, but at this point, we have large business that are saying, "I'm not discharging into the system, I'm discharging into something else." So, I think that's something we have to get around because in addition to that, they are paying someone else to handle the stormwater for them. We talked about levies and who handles what. But the other piece of it is—let's pick on somebody as an example. Toyo Tanso pays, and rightfully so, approximately \$20,000 a year to the City of Troutdale, \$8,000 a year in Troutdale bonds and \$1,600 a year to the Sandy Drainage Improvement Company, who is getting rid of their water. But as part of that, they're paying for the maintenance and operation of that system. It is also getting rid of some water that is coming from our residential properties in that area. Maybe because of the levy's, I don't know, but the fact is, we're putting water somewhere. As an example, there may be water, I don't know how much, coming from your house that Toyo Tanso is paying money to get into the river.

Councilor Ripma asked is that \$1,600 a year?

Tanney Staffenson replied yes, which isn't much, but it's an example. This has come up kind of recently, and I just ran some numbers because I am trying to figure how to solve this. We're not bringing in enough revenue. I know that's clear, but what's happened is, look at the last two columns where it says "Fiscal Year Budget" for last year and this year. When I ran the cost, I took the materials, services, personnel, and the overhead, but I did not take any capital expenditures, such as cars or the improvements on Graham Rd. That wasn't in there because I was trying to have apple-to-apples comparison. This is just what I found by fund, because I was thinking, if we broke the sewer piece out, since sewer and storm were combined together, we have a little offset there. But looking at the totals, if I go back to 2011, our cost went up to 8.7 percent and then they actually went down, went up 3 percent, then .4 percent, then went up 14 percent and then 11 percent. Our rates went up 5 percent, 3 percent, 3 percent, 2 percent, 4 percent and 4 percent.

Mayor Daoust asked are you saying we are in worse shape than we thought?

Tanney Staffenson replied it's like a lot of things, our costs are going up more than our revenues are, and I'm not exactly sure how to fix that.

Councilor Morgan besides increasing revenues, that won't quite get us there.

Tanney Staffenson stated I don't know that we can increase the rates enough to make all of this work. There's a good chance that we can, and I know that some businesses especially that are in that basin, are opposed, rightfully or wrongfully so, they are not really on board. My concern is, and we tried to do this last year in the budget cycle, but is there another way to do this because what is the end effect going to be for us?

Mayor Daoust stated if I'm reading your table correctly, are you saying that in the 2015/2016 budget, the minus \$350,000 is what you've come up with, and that's way more than the \$202,000 that we say needs to be transferred from the General Fund to cover the Storm Sewer Fund. Is that correct?

Tanney Staffenson replied this was based on the budget.

Mayor Daoust stated, so you're saying we are in worse shape than we thought we were. Is that what you're trying to convey?

Tanney Staffenson replied I mean is, how our costs are escalating, I don't think changing the cap and raising the rates 4 percent a year, as an example, will work for us.

Mayor Daoust asked what do you think will work? Besides raising the cap, what other tool do we have that you're thinking of?

Tanney Staffenson stated I'm still trying to fully understand how we got here. We weren't here and now we're here, and we're in a bad situation. The other concern that I have is driving a wedge between parts of the community, and a serious one. I'm looking more at some type of alternative so that we don't.

Councilor White stated you did such a good job last time, I don't want to over burden your team. We sent this to Planning last time and got some really good results. I agree. I'm trying to say "Have we exhausted every effort on the City's end on thinking outside of the box."

Tanney Staffenson responded I don't know that this would really fall under Planning. We've looked at the CIP, which doesn't play into this, but there are a lot of projects we need to do and we should do and we are going to do what we can to fund them. I just think we will have some issues with the cap that are probably bigger than we think.

Mayor Daoust stated one question I heard in your comments is how did we get here? Could staff quickly answer that based on what Tanney has been trying to point out, this multi-year trend where we're only in the hole in the last two years? How did we get here?

Steve Gaschler stated it was an exercise in accounting; we had FCS come in to look at the storm rate piece, that's what we started with. It's been about two years since that presentation, and basically we weren't accounting for those costs, we were just absorbing them into the wastewater system and making an arbitrary percentage trade. When we brought FCS in, they said, "We can't do an analysis based on this information. You are going to have to figure this out and track it for us. Actually by State law, you're supposed to and this is what all the other jurisdictions are doing." So, that's the road we went down so that we can show you, long term, what was actually happening based on our costs of providing that service based on the actual labor, equipment, services tracked into that fund. We quit fudging, and basically, hiding it under the Sewer Fund, and brought it out into the open and saying, "We have a problem here" and that's why we are here today. That cap was brought in and made sense at the time. I went back and looked at old notes and minutes of the meeting. It was when the whole Stormwater Fund was brought into existence, which met a lot of resistance. People said, "You're going to charge me because it rains? Are you kidding me?" They said, "Okay, we're going to go with the residents, but we think it's an undue burden on the businesses to go from zero to the full bore so let's put a cap on it and see where it goes." Nobody dealt with it and we're dealing with it today.

Councilor Allen asked if it's an accounting change, shouldn't I see an improvement somewhere else?

Steve Gaschler replied yes, you should see it in the wastewater fund. I don't know that it's gone down because there are other expenses that come in, but we've taken some of the pressure off that and got some of the labor over where it should be and some of the cost.

Councilor Anderson asked \$140,000 to \$70,000, right? If you're looking at 2013-14, 2014-15?

Councilor Anderson stated, the Water Fund, \$139,000 to \$169,000.

Steve Gaschler replied, well, it would be the wastewater versus the storm sewer.

Councilor Anderson stated in 2014-15 sewer was \$355,000 and in FY 2015-16 was \$130,000. So it dropped by \$225,000.

Tanney Staffenson stated if you look at the three funds combined in FY 2013-14, we are at \$3.8 million and we had a revenue surplus of \$500,000. Then the three funds combined went to \$4.4 million with the revenue, and of course we had the cap of \$4.5 million. And then the three funds combined were \$4,897,000.00 and revenue of \$4,762,000.00.

Mayor Daoust stated, well that's why Steve wants to look at all the funds. If you started looking at just one fund you get caught up in the account adjustment magic that we had to do.

Tanney Staffenson explained if you add it all together, it wouldn't be any different than what we were doing in the past.

Mayor Daoust responded, yes, if you add them all together we're in the hole.

Craig Ward stated the question is, where are we going? Mr. Staffenson's information is valuable and his message is that we are not sustainable in these times, so how do we get sustainable? From what I understand, about the time I got here, Charlie had done some analysis, and he warned me that we need to be raising our rates 3 percent to 4 percent a year. The figures showed we needed to be raising them more than that. The authority we got was to develop a plan to raise it less than that. And, with the expenses going up and revenue going down, they would inevitably grow further apart. The solution to that is that we essential use our reserves. At some point, we go through enough reserves that we can't afford to replace the equipment and to staff. I think the Staffing component is mainly what you are looking at here, but it's hard with these figures because you took the capital out, that's the operating expenses to run the system. Those operating expenses are people. There may be some things we can do to make some changes there, but I'm not optimistic. We have statutory obligations to monitor, report and manage these systems on behalf of the State, in many cases. Laying people off isn't going to allow us to continue performing the responsibilities that we have, even though it may save some money up front. Rather than getting bogged down in the accumulative of each account, I would suggest the better approach is to do a work session on one account, one night, and talk about where that's going and the sustainability of that fund and what we need to do to keep that fund intact. When we come in with just an arbitrary number like increasing it 4 percent a year, the reality is I'm not sure we have increased them on a regular basis as we predicted or were given direction years ago. It's hard to maintain that momentum. We do get bogged down in the comparison across all the funds when we talk about all the funds on one night, and we are getting into that tonight. The only way to do it, and do it well, is to look at each fund as a discrete entity. I don't care if we talk about subsidy or stormwater cap. I would like to see a sustainable plan for each of those funds, regardless of whether it comes in the form of a rate cap.

Tanney Staffenson replied, I would agree with you, it's just the cusp of the conversation came from when we broke it out, that was the problem. If we're increasing at half a million a year, you could raise the rate cap, but you are going to have to raise the rates at least 10 percent a year to even keep pace with that.

Councilor Wilson stated, even if you kept them combined, we'd still be in this same situation. Whether you broke them apart or combined them, we would still be dealing with a negative number. Breaking it up didn't cause the problem, but it just made the problem show up sooner.

Craig Ward that is correct. I agree with you.

Mayor Daoust stated it's a good history lesson, pointing out how we got here. As far as laying off people, I worked at a business for 25 years that kept reducing personnel trying to fix the problem, but they never addressed the problem so it was never remedied. Laying off people is a short term fix, maybe a year or two years, but you really have to figure out how you need to get it stabilized and laying off people is not always the answer.

Tanney Staffenson replied I'm not at all indicating that it is.

Craig Ward stated I understand, I didn't mean to put that on you.

Tanney Staffenson stated our operating expenses are going up and that may be the reality of it, and we may need to raise rates accordingly. We could end up in a really interesting situation with some of our customers on the stormwater side that do not believe they are our customers. We may be able to convince them otherwise, but their general feeling is that this is not something they should be paying for.

Councilor Wilson asked, could you give that list of customers to Mr. Gaschler, so he could reach out to them or address their concerns directly?

Steve Gaschler replied I'd be happy to do that.

Tanney Staffenson added some are rather upset.

Councilor Ripma stated logically, everyone contributes to stormwater, even if they are not hooked up to the system. It's going into the street; it's being captured somewhere and directed by the City, ultimately. The argument that they are not discharging to the stormwater system is not logical, Tanney, once the ground is saturated they are discharging to the system. I'm an engineer, it does not make sense. The argument that they are not discharging to the system will not fly with me, anyway.

Tanney Staffenson responded, I don't know if it needs to fly with anybody—

Councilor Ripma interjected some people may feel that way.

Tanney Staffenson asked, if water is being dumping into a creek managed by another agency that pumped that water, do we charge them for impervious service?

Mayor Daoust replied it's something we need to deal with and address under public outreach.

Councilor Ripma replied it is part of our discharge permit.

Craig Ward stated everybody benefits from the stormwater investments that we've made throughout the community, regardless of whether they're individual property is managing its own stormwater. If the streets aren't flooded when they drive to work, that's because our stormwater system is working. There are benefits that include everybody even though their individual circumstances may differ widely. I think that is part of the reason why contributing to the administrative costs of the stormwater system ought to be shared among all of our property owners.

Tanney Staffenson asked is it a tax or a fee?

Craig Ward responded it is a fee because everybody benefits from it. The rains we've had over the last couple of months have not posed an issue to our city unlike the jurisdictions surrounding us. I give a lot of credit to our stormwater structure.

Councilor Allen stated if our operating and project costs are going up, if we are doing the things we need to be doing efficiently, then it comes down to a matter of how do we fairly distribute those costs. We're not going to be able to ignore them; we are going to have to distribute them. From an engineering standpoint, I understand what Councilor Ripma was saying and that there is another service district to help us out. Somehow we have to be able to figure out how to fairly do it and if we get it wrong, we're going to need some kind of process for people to get back to us and request a credit. We are going to have to figure out what that looks like.

Mayor Daoust stated we are starting to repeat ourselves now.

Councilor Ripma commented I have confidence that if someone can demonstrate that they captured more than 70 percent, we would listen to them. You mentioned that you thought removing or raising the cap would cause division in the City. I agree if we move the cap we will hear from more people than we did the first time probably. You said we need an alternative or some alternate system that isn't going to be divisive and I welcome your ideas. What were you thinking of? What did you have in mind?

Tanney Staffenson replied I hadn't thought of anything directly. I'm concerned about the legal ramifications.

Councilor Anderson I don't have any questions. I want to solve the problem.

Mayor Daoust asked is that the end of the input?

Brian Sheets, Troutdale Resident, stated that by saying it's a subsidy I think it is pejorative. I think with City benefits and services people give more than their fair share than they do and by saying one group subsidizes another, I think it's pejorative. We don't have any problem feeding into the school district or taxing someone on gas when they don't even touch our streets when they drive through. When you are talking about rates, think about rate cases with your public utilities commission and be sure the rates with the state of Oregon was getting handled because there was a basis for putting those rate cases together. Make sure that is explored because you can

get in a lot of trouble. Ratepayers can individually or collectively go through different processes to get those remedies in court or to the public utilities commission. Be cautious of that. Also, and I think Tanney fleshed it out, but I think he was talking about to get out of this is more than just raising the cap, it's also about trying to reduce expenses. That's part of the process he's talking about; it might not have come out to that degree. It's looking at increasing your inputs and reducing your outputs.

Councilor Allen stated when you talk about subsidy, one can't help but notice that water rolls downhill, sometimes come from other jurisdictions. We don't get it as bad as Fairview, but we are dealing with water that doesn't originate with us.

Brian Sheets agreed adding, the process depends on the scope you look at. If you look at it thorough a basin wide study, things can get a little complex, or if you try to do the city limits versus gravity. It's all different. You can get as detailed as you want and get into the minutia; the appeals process is for 70 percent versus 69 percent. Or, you can look at broader brush strokes and I think that's what the rate cap was. It's not looking for this big administrative cost and going through all these different things. I don't want to say it's a one size fits all solution, but it's a pretty big size fits all solution. It's looking at capturing your administrative costs and going to something that is really hard to manage that will increase those administrative costs even more than you might be saving. Just think about the processes as you address this, because before you know it, you've got three different departments working on appeals processes and figuring out the exact GIS landscaping and topography. It can get complex.

Councilor Wilson commented when looking at expenses, you can either lower your quality of service to your customers or you have to increase your cost somehow by diversifying if possible, and you have to figure out a way to make your profits bigger. If the first two don't work, you close up shop.

Brian Sheets stated I think there's a lot of competition involved. In some of the industries you talk about, you don't get a lot of competition at the lower levels for those; you still have fixed costs.

Councilor Wilson interjected not necessarily; the only way to adjust those fixed costs is to eliminate them.

Brian Sheets stated there are definitely tradeoffs. As the cost of running government goes up and the tax base stays the same, we are going to get to a situation where services are going to have to be cut. That's just, I don't want to say physics, but it's getting pretty close to it. You have to innovate somewhere and that's where looking at your inputs really gets important because you have no output.

Councilor White added at last year's LOC, I think Island City won an award for decreasing their cost without going to the ratepayers; it was on storm, sewer, water. Out there it's real sensitive and the economy is doing much worse, so we had no choice but to look at that. They actually won an award, I don't know the details, but that's the type of stuff I think we're going to have to start looking at.

Brian Sheets stated I definitely agree.

Mayor Daoust stated thank you all. So we can continue the discussion, did you have something, Councilor Anderson?

Councilor Anderson stated I want to solve it.

Mayor Daoust added yes, me, too, so let's discuss it.

Councilor Morgan stated there was a lot of things that were said, I'm sure you're looking for recommendations and I know this is a controversial issue. I appreciate you bringing it up as an end to solve that problem, but is there a way to work with Tanney to help those businesses that he's reach out to that some of concerns. In proximity, at the end of going with Libby & Clark on that aspect to be sensitive to some of their concerns. That's a question. My second question, is there a way to work with Ed Trompke regarding any legal ramifications as Brian Sheets referenced with utility, adjustments, costs, overruns, etc.? I think if we are going to be increasing rates or changing anything, it's important that we be conscious of the legal aspects and business ramifications. Lastly, in my thoughts about this conversation, this is an attempt to get our funds and our road map of all these funds sustainable long term. You've said many times that increasing rates this year and or next year won't get us out of the forest, but it might get us on the right path; just to look at things like, Councilor White mentioned, innovation and Brian said it as well. Is that fair?

Steve Gaschler responded that's fair. My answer is absolutely yes, yes, yes.

Councilor Morgan asked is that something Council would be interested in having Tanney and Ed work with Steve Gaschler on the legal approach and the outreach approach to these businesses?

Councilor White replied I think Steve Gaschler could handle it.

Councilor Morgan stated I agree, but just so that Tanney is able to get the information he has, those conversations, to Steve so it's out and mitigate that. He might have relationships Steve doesn't have.

Craig Ward replied Steve Gaschler has already said he is happy to get that information and to reach out to those businesses. As you look in the packet, the reason we have our other guests here is because Steve's desire and proposal was essentially to do a broader public outreach effort, overall for all of our rate and utility needs. We really haven't addressed that here tonight at all.

Mayor Daoust stated I think that's what a public outreach package should be, is those specific parts and as long as we can include a discussion on how, or if, we're reducing expenses, how we're managing administrative costs just to tie that all together, and keep the quality of service, that would help. Tanney?

Tanney Staffenson responded with a thumb up from the audience.

Councilor Anderson stated Craig, I agree with what you said earlier about conquering them one at a time. I think we should. I also agree with Libby & Clark doing the legwork on all of them, but just not just this leg. Let's get the library done, and then get back to us and deal with sewer and water. There was great input and testimony on stormwater. Tanney, your stuff's invaluable. I think I know how we got here because there are so many arguments for keeping or moving the cap, and I think we've heard some tonight, is that we tend to say, "We have to think about this a little longer, and then we don't act. It's a complex issue as Brian said, it is a tough issue. That said, we have to do something about this, and I think we have to remove the cap and we have to do it the right way. So everything Councilor Morgan said about Tanney, and working with Steve on these businesses. We need a solid appeals process in place and great, I mean great outreach to those affected. We need a way to address those businesses that can't handle the increase. If there's a business that can't go from \$50 to \$220, let's have a mechanism that takes them \$50 to \$125 to \$200. We might have to subsidize this out of the General Fund one more year, but not the \$200,000, but maybe \$80,000 or \$100,000 and we're getting out of the hole. I think all those things need to happen. We need a good solid plan, but it needs to start now so by time we get to April, we don't have what we dealt with last year. We'll have answers as opposed to more questions. I think we cover all of our bases here. We have a Staff that's capable to doing that. We've had great ideas tonight. Tanney can be invaluable. Libby and Clark will be helpful. Steve, you're going to be invaluable but we have got to deal with this problem. So, I say we start dealing with it tonight, and we start phasing out the rate cap tonight, where practical.

Councilor Morgan responded I second that summation.

Councilor Wilson stated I think there will have a big ripple effect if people have to absorb a rate increase all at once. I think one of the options you showed us was a stepped increase and then eliminating the rate cap, was that correct? I think you did about three years ago?

Steve Gaschler replied that's one option. You did that in affect by doubling it last time, so if you double it again, then you would be going to \$100. I could look on that sheet.

Councilor Wilson stated maybe that's an approach we could bring up to our customers, instead of saying, "You should really be at \$4,000, but we're going to step rate this in" – the same thing that we're doing with our gas tax, phased in so they can make adjustments as they move—

Councilor Anderson interjected on a case-by-case basis; if Steve talks to somebody that said going from \$50 to \$4,000 is no big deal, I'm not going to phase them in. If they agreed to it, take them to the top.

Councilor Wilson stated I just used that as an example. It could be a resident that goes up to \$650 a month.

Councilor Anderson responded that's fine, so let's go \$50 to \$125 to \$200, whatever, but have a plan and appeals process in place for the people who argue. And, I've heard what they said and water does roll downhill. I don't know enough about the engineering aspect and I'm not trying to, I'm just trying to solve a problem here, but we need a solid appeals process and be able to listen.

Steve Gaschler replied one does exist.

Councilor Allen asked just for clarification, is our targeted audience for outreach the businesses that will be affected by the cap removal? Is it the entire 99 or the top 50? Is there some point here that makes sense?

Mayor Daoust replied that is why we are talking about a phased in approach. Obviously, some of them don't go above 50, they don't go that high. You're trying to find a cutoff point that makes sense on the next increase, is that where you are going?

Councilor Allen stated yes; how much time and money do you spend talking to somebody that's just going to raise the bill.

Craig Ward stated my understanding in interpreting this is it's the 99, because the other ones have already had their rate cap adjusted. What you want is a phasing plan to remove the rate cap over a period of three years and we could see if that works and get back to you.

Councilor Anderson stated if we can remove it this year, before April, I'm all for it. I just don't think it's practical. I'm not saying a phased in approach globally, I'm just saying—

Craig Ward interjected you want a phasing plan.

Councilor Anderson replied yes, I want a plan—

Councilor Morgan added this for businesses that might be absolutely dire or be at risk for litigation, etc., and working inside of that fabric, which I'm sure Steve is amicable to, as well as the Staff and everyone else.

Mayor Daoust commented there has to be some structure to the plan, though. Are we talking about a three-year plan?

Councilor Anderson answered no.

Councilor Allen stated we've got to do outreach.

Councilor Anderson stated we do the outreach; we remove it this year if we can. If we can't, we have a phased in option for affected businesses. We have an appeals process that Dave says we've got and it's great, so just educate people.

Mayor Daoust stated I hear what you're saying. The administrative costs of that could get out of hand if you saying to handle all 99 companies individually. What you're saying is, lift the cap off, but give all 99 companies a chance to rebut it. The administrative costs for that could really—

Councilor Anderson clarified what I said was we would educate them about what the rate is going to and send a letter out to everybody. I think Steve sent one, and he only got two responses back,

so send the letter again to all 99. Whatever pushback we get, then we'll know if we have to have a model plan in place to deal with it.

Mayor Daoust understood he did not send that letter out yet stating, "We are going to raise the cap and this is what your fee is going to go up to".

Steve Gaschler replied yes and no. The letter went out to those that said it's going from \$25 to \$50, that's all that letter said to that group. There was 127 letters that went out that said, "Your rate is going from \$25 to \$49.99, based on your impervious area" and we did every one of those and we got those two replies. As I said, my experience is, that's the group that you're going to hear from, mostly. There are outliers out there and no matter what system we come up with, there's somebody that it's not going to be very fair to. I don't know if you want to pull them in and do some special deal with them. I guess as a Council, you could. I can't. I have to follow the ordinance and what it says. If the Council decides to go down that road, that's a risky place to go and sets all kinds of precedents.

Councilor Anderson stated we are setting policy and asking you to enact it.

Steve Gaschler replied I'm more than happy to do that. We are here to find out what that is.

Councilor Anderson stated just be careful.

Councilor Allen asked do we send the letter to the 99 then to say this is what the rate is going to?

Several Councilors responded I would.

Councilor Anderson stated I think Libby and Clark has much more experience with it than we do.

Mayor Daoust replied I thought that's all we were talking about.

Councilor Ripma stated I don't think this is a job for public relations people. These 99 are not like the other rates applied to everybody in the city. I think sending them the letter saying "Over the next three years, we are going to be increasing your rate..." or however you decide to do it, and then see what happens. Those that say, "I'm not discharging to the system," work with them. There probably will be a couple and we do have a process for doing that and getting back 70 percent or whatever; if they can prove more, I'm sure we'd agree if they can prove it. But I don't see a need for a public relations effort for the 99. I didn't realize you were thinking that. Their expertise is going out to the whole city. These businesses will understand the letter and understand the approach. There's no way to smooth it over; their rates are going to go up. I don't care what pretty flyers you use, they are going to know what it means.

Councilor Wilson suggested asking Steve what his thoughts were on bringing in a PR firm.

Steve Gaschler replied I think Councilor Ripma echoed my sentiment. The PR thing was for this whole rate scheme and policies. You've already seen SCS work, we brought each of them in and you all thought they did very good work. They did the analysis and included long-term everything.

Their comments, their finance people, they are experts. To me, that is foundational. If we don't have good numbers that I can go out and talk to you and the public about, we've got problems. So, we brought in some high dollar people, paid them good money, they did good work and they do it all over the State. I'll stand behind those numbers all day long. As far as cost cuts, I don't think you remember that was the first thing I told you. I was looking at cutting costs first. I've been here for almost three years now and I didn't bring this in. It was obvious to me the day I started; I looked at the budgets and the numbers and knew we have a problem. I've seen this before but I'm not going to go there now. I'm going to look at the operation and see if there are any dollars that we can bring out of that. I told you a couple times I'll look at it. If I have any skill that I bring to this position, for 25 years I was a very good contractor. I know a lot of tricks and unfortunately, I can't use a lot of them here because it's a different ball game. But, I have a keen eye for costs because that's how I made a living for 25 years, figuring out how to be the low bidder on the job, take it, break it apart, and figure out the best and cheapest way to do it. Put that number in and now you have to live by it, and then go do it. If I bring anything to this job, I can tell you that the operation here can't get any skinnier. We're living paycheck to paycheck here and if that's how you run your household, you know what happens when your roof starts leaking or your car breaks down, you don't have any money to take care of it.

Councilor Anderson stated nobody is arguing that; I'm not debating that point at all. I'm just saying let's fix it.

Councilor White stated looking at the budget, you see the consultant fees going way up. Can you give us any insight on that?

Steve Gaschler replied we either hire it out or do it in house. For one, my staff's job is not to be consultants and do that work. Their job is to review plans, issue permits and make sure that when developments come in that we're checking things and identifying the impacts to our systems. That is a different skill set than a consultant who primarily addresses design. It's similar, but two different things. It's like a race car driver and the guy working on the engine; they both know a lot, but one has a certain skill set and the other has another one. The other issue is time. My Staff picks up the phone and talks to people and answers to things that happens around here on a daily basis based on developments that come in the door that we don't have control over and a lot of other outside issues. I can't just give them a project to get done in two weeks, because they might have 5 hours to put on that project. Most consultants put 10 or 12 people on those jobs with different expertise, and they usually have one or two projects they are working on. We can go hire more people, but I already heard that message "We are not hiring more people," or we have consultants do it. I think it's a good mix. Some things we can do in house, we'll try to do, but for some things, it make sense to hire an expert to get it done right, fast and for a reasonable price. That's my defense of that.

Mayor Daoust stated if we are going to send this letter to the 99 companies, we're going to have to set the structure, whether to lift the cap off this year or in a three year increment?

Councilor Anderson suggested staff return with a resolution and their recommendations.

Councilor Morgan added based on expertise, research and information that they have, staff has the full authority and creative flexibility to research that.

Steve Gaschler replied staff would be happy to do that.

Councilor Anderson added and then Barney & Worth can do the other rates. As I said, I love Craig Ward's idea to take water, one night; sewer, one night; and building tomorrow.

Steve Gaschler replied I'm happy to do that, I just want to make sure you saw the full scope and the brunt of the issue and didn't think I was coming at it one at a time, so like I said that's why I put all mixed together.

Councilor Morgan stated because it's illegal if they're not separated, anyway. You had mentioned about the accounting practice? They should be standalone funds, period.

Councilor Anderson stated I trust and understand we have a problem. I'm just looking for solutions.

Steve Gaschler added and unfortunately, it's across the board, I mean, I can tell you what order they are in. Your biggest problem is stormwater, the next problem is water and then the sanitary sewer service is in the best condition. If you look at the rates compared to other entities, you have been paying a pretty reasonable rate for sanitary sewer for a long time. But as you look at stormwater or water, we are lagging behind everybody.

Councilor Wilson stated rather than comparing ourselves to other cities, I think we just have to look at our own costs and worry about what we need to deliver and not worry about—I think one presentation had a 2.1 percent pain threshold on utilities. Do we have to be there? Yes or No? I just think we need to look at our own and not worry about—

Craig Ward stated so our direction is to not give you comparable prices for other utilities?

Councilor Wilson answered no, I mean when we go to set our prices—our main concern is we can deliver our product cheaper than somebody else. It doesn't matter if we are in the middle or the bottom, as long as it's keeping its head above water.

Mayor Daoust stated we had the first of possibly two discussions on the stormwater issue. We gave them a window of options to lift the rate cap off at the end of the year and also within a three-year period to return to us at a second work session that maybe we could combine with the water to handle both of them that night. We've done most of the discussion on stormwater tonight, so when we do come back and talk about it again with staff's proposals on how to best handle the rate cap, there will be a few more questions.

Councilor Anderson stated with all due respect, why not give them direction to go forward and fix it and bring back a resolution and not have a work session. Let's do this.

Councilor Wilson stated let's do it on both stormwater and water, that way we don't have to send it back out again.

Mayor Daoust stated I assume we need to discuss water.

Craig Ward stated there's no rate cap on water, so the rate cap issue is specific to stormwater. My preference and recommendation is we bring back a resolution with an option for removing the rate cap and with an option built in for a three-year rate cap. You could then pick which of the two options you prefer at that time.

Mayor Daoust answered sure, adding there would be no work session then.

Councilor Morgan noted and then, we can have two other work sessions for water and sewer separately.

Mayor Daoust stated that's perfect, if you think you can come back with a resolution, that's fine.

Councilor Anderson I think they want to.

Mayor Daoust I won't deny that, rather than schedule another work session.

Steve Gaschler stated I've gotten a lot of good information and I will pass it out but I'd like you all to go through it and share their experiences.

Craig Ward added a PR plan would probably be necessary for administrative water and sewer rates, anyway.

Mayor Daoust stated I don't know how long it will take to get it back when we get it back.

Mayor Daoust calls for a 10 minute break at 8:19pm.

Mayor Daoust calls the meeting back to order at 8:31pm.

### **3. Discussion: 2015-2016 Budget Amendments**

Craig Ward stated Councilor White brought this up at the beginning and we somewhat deflected in-depth conversation about this at the Budget Committee, noting that these are budget amendments for this fiscal year. It wasn't the purview of the Budget Committee to weigh in on these, but we discussed them because we wanted to set the understanding that if we approve all of these projects this fiscal year as budget amendments, then the Ending Fund Balance at the end of this year will clearly be affected. While it may not have been their responsibility to say 'yes' or 'no' to midyear budget amendments, that is your purview. We said we would bring this back and you can give us the direction you feel is appropriate. It's not too late on some of these, although we are pretty far down the path on a few. This is your opportunity tonight to give us direction on any items you want to continue to pursue, which we will bring back as an action by the Council to amend the budget and incorporate that direction, or not. There is always the potential to say, "This year isn't looking as optimistic as our original budget projection, so let's put some of these off as budget proposals for the next fiscal year." That alternative is available to you if you don't feel that you're ready for all of these now. That's the reason why these slides are

essentially extracted directly from the Budget Committee presentation. I wanted to be faithful to the numbers and descriptions that we have here. There are a few things that will be modified. All we're really looking for is direction. If there's something you'd like to change, if you had questions or concerns about some, this is your opportunity tonight to give us that direction and have questions answered.

Councilor Anderson stated Visionary Park Sculpture, \$100,000. We approved \$60,000 in a budget modification earlier, correct?

Craig Ward replied correct.

Councilor Anderson asked what is the \$100,000? I thought the sculpture is being donated.

Craig Ward replied I believe the \$100,000 was the original number. Is that what Rip Caswell brought to us?

Erich Mueller stated that particular slide is a version of what was in the Budget Committee from six months ago, and it was at \$175,000 or something. There was a conversation about there being additions done at Visionary Park and additions that the City would pay for; suggestions, comments, inferences from various people on the Council and in the community. Because it's a Council priority, that's why it was put in a slide and put in the meeting slides from January 5th. That's just there as a reference point. It is not a suggestion that you're actually going to spend it. It's more there to stimulate the conversation.

Council Anderson replied you answered my question. I know we approved the \$60,000. You answered my question when you said, "various and sundry comments from Council and other members of the community."

Craig Ward stated we are currently budgeted at \$60,000 and we're perfectly prepared to hold the line on that. That's our budget and that's as far as we're planning to go.

Councilor Anderson stated I'm fine with that.

Mayor Daoust stated this started out with the City trying to help with the cost of making that statue. Since then, Rip has made the comment that he's going to cover the cost of the statue. That is where the \$100,000 came from six months ago. We thought we should, or could, help him pay for the statue, like any city would that hires an artist to create a statue for them.

Craig Ward stated when I think of Visionary Park, I think of the statue sitting on a pedestal that has to be designed to certain standards. There are street improvements that go with that. Steve, you've been working on that. Where does that stand? To me, those are legitimate. As far as we know, they are for site engineering, design, and construction. My guess is we can burn that \$60,000 on those aspects that are not the statue itself, but are necessary to finish the project.

Councilor Anderson stated that was the deal.

Councilor Morgan agreed we pay \$60,000 and he would cover the statue.

Craig Ward asked what happens if the cost of those other improvements exceed \$60,000, the site engineering, design, and construction?

Councilor Morgan replied I guess we'll cross that bridge when we get there.

Councilor Wilson stated I asked you about it and he felt that we could come in below this number, when we were discussing it because there's \$15,000 in contingency fees built into the \$60,000. We just have to stop them from wanting to make this more than what we have now.

Councilor White stated there seems to be support throughout the community. We stretched that money pretty good by getting the building torn down. The quarry is going to donate the rock. If there's something that is really needed and necessary, it makes sense to do it now before you pour the concrete. I would like to at least hear that and see if we can come up with a creative way to fund it. I don't want to have you hold a hard line and not tell us something that makes sense.

Craig Ward replied my default condition would be to say Mr. Gaschler, "Are we within the \$60,000?" If we are and something needs to be added to the site design, for instance, and we can afford it out of the \$60,000 then we go with that. We are running out of time here. If there's something that needs to be done, we're going to need to come up with the money and get it done. I'm not looking to save that \$60,000. I'm assuming we will spend it, but we will spend up to \$60,000 and not above that. If there's something that pushes this above that, I have every confidence that Mr. Caswell will be happy to present that proposal to you.

Councilor White stated I do feel kind of guilty accepting such an extravagant gift. Is there something we could do in the form of a fundraiser?

Councilor Wilson stated we tried that.

Craig Ward replied our raising money for a private venture, even though it sits on a city park, is problematic. As I reminded, we've looked into the grants and the grants didn't fit this model very well either. What we've done here is a considerable donation to try to make this improvement to a small city park. It really has been a public-private partnership.

Councilor White stated I say we hold the line at \$60,000.

Craig Ward stated the Depot site, the Council approved \$150,000. Of course, that's based on a pretty rough estimate that Steve Winstead did for us, so we are continuing down the path to see what we can do make that happen. I've had several conversations with Claude Cruz about it, so we're still on that track. The bike hub and restrooms concept, the Chamber has submitted a letter of intent to see if we can get some grant money, particularly to build the restrooms. We are looking at the bike hub to be built in phases, so that essentially the plaza and utilities that need to go into the bike hub would be built in the initial phase. How that will be funded, we will see. Mr. Cruz did get a grant and I think it may cover some of or all of that. It may cover the shelter that then would

be constructed on top of that plaza. We're just going to have to see how far the grant money that Mr. Cruz has will take us.

Councilor Wilson stated you and I talked about the Depot site and it is under the urban renewal area (URA). If some of this stuff doesn't come through a grant, instead of having to pull it back out of the General Fund, you already authorized monies being spent on these things?

Craig Ward replied the expenses relate to the trail. The bike hub is about a trail. It's about the 40-Mile Loop. It's about improvements for pedestrians and bicyclists. I think we are on pretty strong ground to argue that urban renewable funds, the tax increment is an eligible source of funding to build trail-related improvements, and that potentially improves the restrooms because that's clearly related to the need for bikes. The building upgrades, however, are largely internal improvements to the existing building and would be a tougher justification. I would not look forward to having to argue before a court on how that would be okay. The other item that I've mentioned several times is that the Community Enhancement Fund is also hanging out there as an opportunity. It won't go this far, but it could go part of the way and particularly dedicated over a period of several years, could reimburse the City for funds. That's where I would go. We'd have to bring it back to the Urban Renewal Board to see if you are prepared to commit tax increment towards the improvements that are bike-related.

Councilor Wilson asked are we married to the archive storage?

Craig Ward replied no. We don't have any formal agreement with anybody to move the archives. But it was understood that the Chamber also needs the space downstairs. In order to accommodate that need, a longer-term phase would include finding an alternative for storing the Troutdale Historical Society's archives.

Councilor Wilson asked are we responsible for them?

Craig Ward replied no, we're not responsible. It's a three-way deal that we're trying to strike, and that would wrap up the deal. I'm pretty optimistic that the Historical Society—these are their archives. We do have the boxcar that's out back. Steve Winstead and I are quite sure we can design the boxcar to meet Building Code and ADA requirements. If we could get grant money or other sources of funding, then to me, that would be an ideal solution to wrap the project up. But in the interim, the Historical Society will continue to use the basement and the Chamber will use the upper floor. That's why it is a long-term project because it doesn't really have to be done immediately.

Councilor Anderson asked if \$150,000 is too much now based on these alternative funding mechanisms, like the possible URA and Community Enhancement Fund?

Craig Ward replied no, at this point it's \$150,000, regardless of where the money comes from. We would have to budget \$150,000 for the expenses, even if we also budgeted \$150,000 for a grant. Either way, we will have to budget money and amend the budget this year in order to have the funding to making the improvements this year.

Councilor Morgan stated so, it's an appropriation.

Councilor Anderson stated right, so \$150,000 is the number.

Craig Ward replied \$150,000 is the only number I've got right now.

Councilor Morgan stated if we are going to renovate this building and it's tied to the bike hub and park concept, this is a lot of money to spend on something. I'm assuming this is going to be the last hurrah for this planning process, because if we're going to renovate the building and reconstruct the parking lot; there's like four things going on at once. The bike hub is supposed to be on that site, we have the engineering of that. We also have bathrooms and then, we have the retrofit redesign of the whole building itself and then, we're also going to tie in storage to the boxcar. It might be a suggestion, if we can have a subcommittee on the Council to work with Staff on this because there's just a lot of moving parts and it would be unfortunate if we spent \$150,000 to design something we'll have to redesign when parking or something changes.

Craig Ward replied I don't have any objection to that. I thought that there was a driving need for the Chamber to move in. At this point, it's unlikely to happen in time for this summer. We're talking about it taking most of this calendar year to realize that change. If the Council wants to assign some Council members to assist us in that, I'm happy to do that.

Councilor Wilson stated I take it there are no internal changes that the outside is not going to be affected by this. Since this is a whole calendar-year process, is there a way we can estimate what it's going to cost the rest of this fiscal year and then, put the rest into the next fiscal year?

Craig Ward replied I'm sure that we can. Most of the expenses will be born in the next fiscal year. If you want me to break it 50/50, I don't think that will be a problem at all.

Councilor Wilson stated this would be the best way to do it.

Mayor Daoust stated if we budget the \$150,000 for this fiscal year, and then put the rest of this into consideration for next fiscal year, for the Budget Committee discussion or whatever in April, that seems like a logical way to handle it.

Councilor Wilson stated I don't see the archives storage being needed for over a year because it's going to take that long to get the building ready for them to move in. I think you presented this as Phase 2 of the process when we were talking—

Craig Ward interjected it is Phase 4.

Councilor Wilson stated okay, Phase 4. I think the bike hub will probably be taken care of through grants, but I think moving the archive thing is a long ways off.

Councilor Anderson stated the \$150,000 isn't for the archives.

Councilor Wilson replied I understand that. I'm just saying we can look at these other things next fiscal year, but the archives are probably going to be in the next fiscal year, or two fiscal years from now, before we even have to address it.

Councilor Anderson asked Mayor Daoust, do you want to include this all in this fiscal year, the \$150,000?

Mayor Daoust replied the \$150,000 in this fiscal year are the budget adjustments we are talking about. Then put the bike hub and restrooms in the next fiscal year and bring it up to the Budget Committee.

Councilor Anderson stated that's fine with me.

Councilor Allen asked where do they plan on using the archives storage?

Craig Ward replied they will continue to use it until it gets a new home, is my understanding.

Councilor Allen asked at what point do they need to move the archives storage or if we're going to use that space?

Craig Ward stated my conversation with Claude Cruz indicates that they are patient and there's no immediate need to vacate the basement, which is where the archives are, in order to satisfy their need to move in. There doesn't seem to be a huge time driver. He's never given me a reason to believe that has to happen this, or even next, fiscal year. But he does want it long-term, and he wants to have office space down there and feels the need for additional space and he is willing to be patient.

Councilor Allen stated in your discussion with him Councilor Wilson, what was it three years?

Councilor Wilson replied I said it could be two years from now before we even need to discuss it.

Craig Ward stated I don't think that is unreasonable at all. Mr. Cruz hasn't told me how fast. I'm sure the sooner the better. The Historical Society may prefer a good long-term plan for archive storage, sooner or later, but we need to look at grants. It's the other things that are a much higher priority and that's why they are listed in this order. Okay, \$150,000 this year is what I heard. Before we move on from that, I think that the question of timing is important. I don't think we will spend \$150,000 this fiscal year on the building-up phase. We're going to spend time early-on designing it, getting cost estimates and construction contracts. Most of that money will, in fact, be spent the next fiscal year. If we don't spend it this year, it will be rolled over to the next year.

Councilor White stated they are having quite a few alarms going off there. I think it's good we are spending money on the building because it looks like there are critters getting into the building and crawling up into the attic, that sort of thing.

Craig Ward stated potential staffing increases; I've noted this before and it's certainly got the support for moving the contract position for a Planning Director to an employee. There is a net

\$40,000 we are estimating would be needed that. It is a strong recommendation from Steve Winstead and from John Morgan, our former Planning Director. I won't speak for Tanney Staffenson, except that he and I have talked about it. I think he sees wisdom in that, as well. Two things I remind you of. One is, however good a consultant is, they have other clients, so they always have some divided responsibility, if not loyalty. I don't question their loyalty. I think they've done good work for us. But they do have other clients, so when you need that effort and energy focused on us, that may not be something they can honestly give you 100 percent. We can get 120 percent by having exempt employees work overtime at no additional pay. Sometimes that comes in really handy. But the other thing is that, not only do they have other clients, by law, a consultant cannot work for you 100 percent. They have to be a consultant. They have to have other clients, essentially. You just can't expect and demand that you're going to get 100 percent. You may get it over a short period of time, but you won't get it over the long-term. In my opinion, the sooner we get onto that the better, but Steve Winstead is also prepared to continue to provide the service he is providing now. This is an item that could be put over to the next fiscal year if you chose to down that route. It's not what I recommend.

Councilor White noted you said you had buy-in on getting rid of the contractor position. When did that occur?

Craig Ward replied I had buy-in from Steve Winstead and John Morgan. I had spoken to Tanney Staffenson and my sense is he was also accepting of this.

Councilor White stated my concern is then we're right back where we used to be.

Craig Ward replied from my perspective, where we are, where we used to be, was partially driven by the sense that if we had a problem, if the performance of a department head was not satisfactory, we had to go through progressive discipline in order to prove that they weren't doing their job well and justify the removal from that position. That was true with some of our former department heads. It's been my practice that every time we create a new department head position that that position be under a contract. It's not a contractor. It is under a contract and therefore, if their performance isn't satisfactory, we can execute the termination provisions, which generally include severance. Steve Gaschler was hired under that arrangement and that gives me a lot of confidence that, in fact, we can manage it way better than we were previously able to do so.

Several Councilors stated they're fine with that.

Craig Ward stated about building inspectors. This I also heartily endorse. I mentioned previously, we did try to hire two different inspector positions at a quarter-time. We had a pretty constant process of one expressing his frustration. Of course, this is over the last few years. The economy was bad. The building activity wasn't high. They weren't generating a lot of revenue. It was very hard to justify increasing a quarter-time position to half-time. When we lost our building inspector, per se, and we advertised the position at a quarter-time, we were unable essentially to fill that position. We do have a person who is working for us now, and they are working half-time, but they are a staff member of Steve Winstead's firm because we could do a contract for half-time, but not hire an employee. His strong recommendation to me, is that we are paying a premium for that.

We could hire that same person under a City position here and pay less because we are paying the overhead to Steve Winstead for that position. Now when you add these two, and moving them from a quarter-time to half-time, it is a \$47,000 hit to us. But, that also provides more time at the counter of our two part-time inspectors to be there to respond to questions. You all know we've had ongoing comment by developers in the community that we don't have our Staff at the counter enough. This will double the amount of time that these employees have. If we can afford it, I strongly recommend it and again, I would propose it for this year.

Several Councilors stated I agree.

Councilor Wilson asked they are basically supported by the building permits anyway, aren't they?

Craig Ward replied if we were bringing in that much revenue. If we don't have enough revenue, the General Fund is subsidizing this area, as it has done for several years.

Councilor Wilson stated but we don't need to do this to generate more revenue.

Craig Ward replied it doesn't generate more revenue.

Councilor Wilson stated having them on the counter might help—

Craig Ward interjected I think it might enhance our customer service. We will have happier people developing and that may translate into choices to develop in Troutdale, but it's also important to recognize that essentially, we've been loaning money from the General Fund to Code Specialties for several years. If we can get some new, good-sized projects that bring in a lot more permit revenue, we hope that Fund will start paying back the General Fund.

Councilor Wilson replied I'm good with it.

Mayor Daoust stated whenever a developer has a complaint, I seem to get the emails that I do not pass on to the rest of the Council. Maybe I should, just to let you know there are complaints out there about our inspection services, performance, and lack of customer service, at times. That's not a general statement. It is pretty specific to the project, but I do get those emails. This is a gap that we need to fill if we are going to maintain our customer service mantra that we have been saying for a while now, that we want to improve that. This is the way to do that.

Councilor White stated I know that building has a season. Is it possible to fund this seasonally, gear up for our busy season?

Craig Ward replied I don't think so. We have to be prepared. We have to make sure that the door is open and people are behind the counter other than Jodi. The problem with funding it seasonally is you have the administrative costs of advertising positions. These are skilled positions with certifications and experience. They are in demand, too. As building activity increases throughout the region, these people can find other jobs. We need to give them their confidence. Even at half-time, we've had good luck hiring retired employees, and we can pay them up to half-time and still get them qualified under PERS.

Councilor White stated I was thinking along the lines of outsourcing, but you say that's more expensive. Is it if you look at all the add-on costs? And, we are running out of inventory, that's another reason I bring that one up. We outsource for those inspections usually. We didn't do the FedEx inspections; we had to up hire those out.

Craig Ward replied we outsourced some of that work, that's true. Tom Sherborn did a fair amount of work, and Dick Baldwin did quite of bit of supervision. At this point, this is currently what Steve Winstead is recommending and I am recommending as well.

Councilor White added I've heard that complaint myself. It sounds like you thought of everything.

Councilor Morgan stated part of the reason why I was in support of updating the website was in some capacity, to move towards virtual or online work permitting where we can. In an attempt to scale up on staffing to service, that is due to personnel?

Craig Ward asked are you aware that we have online permitting through a State system now?

Councilor Morgan replied I am aware of the system that is in place, yes. But other cities have been able to scale that in one regard and scale up on another regard. If this is a staff recommendation, I fully understand that, but part of my support for moving toward virtual is, in some capacity, less personnel need. I don't think it's going to go up, but if you think all of our problems are because we don't have enough people, that's one thing.

Craig Ward replied I would never say that. There may be opportunities, but the opportunities come with more advanced skills. Larger departments have a tendency to have more people, some of whom can specialize in doing things like tech upgrades and the like. We have a very limited staff. Just staying on top of the phone calls, drop-ins, and permit reviews that we have, doesn't leave them a lot time for creative tech solutions to their work. Just getting the online State permitting process has been quite a challenge. One thing we don't have right now, which I would love to see and look for the Planning Director to assist us in, is applying online permitting for land use permits because right now that's handled by things like Excel spreadsheets, which are functional, but they're hardly cutting edge. To do that, we have to spend more money in order to get the software and training to make sure our staff is prepared and has adequate backup, so they can have time to devote to learning and implementing those new systems. That is always been a strain.

Councilor Morgan stated then my strong recommendation is if we go forward with authorizing these expenditures this year, that built into whatever description or job requirement might be some of these more innovative practices that would allow us to not be dealing with these same problems in the future.

Craig Ward stated I agree. I think that is one preference we'd have for the Planning Director position, in particular. I don't think we're going to get there with building inspectors. I think we need the building official to have the skills sets necessary to take us down that road. Do we have support for that then?

Councilor Morgan replied yes.

Craig Ward stated you may know that I've modified this next item somewhat. That's partially because I recently had an in-depth conversation with another City. They have an assistant to the City Manager who is also performing their Human Resources (HR) function. They are the same size as we are in terms of staff. Eric Mueller has been doing a capable job as HR Director with the support of Denise, and our HR needs have diminished. But the great thing about this other model is this that this lady is not only handling the HR administrative functions, she does a whole bunch of other can-do projects. It would be very beneficial to me, and I think to you and the City as a whole, if I had some support which included some HR. How do we split those? I think we'd split them first by looking for a person with the highest, most complicated skill set, which are HR Directors, and we'd be paying for a half-time HR Director, no doubt about it, we'd have to do that and pay accordingly. That is where the \$70,000 comes in for a half-time position. But I don't think that person will be busy in HR all the time. The most complicated part of HR is when you are dealing with labor negotiations, which we are not going to need to start for probably at least another year. In addition, you have disciplinary issues which pop up that bring legal questions and process in the mix that Eric Mueller has been distracted by considerably because it's complicated. It has to be handled very carefully or we expose ourselves to liability. The nice thing about putting this in as a shared position is that I'd have the flexibility to put them on special projects and work on issues. Probably the number-one issue I would put them on is the website updates, and potentially even the City Hall settings because both need to be bird-dogged by somebody who is pretty technically skilled, so I am also not distracted by the meetings that I am called into. I might be able to plug them in if they've got a strong skill set in economic development, which would also free me to work on some of the other projects. I brought this up in Budget Committee as a half-time HR Director. I'm modifying that now because I would like more flexibility in the position, even though we will be paying for that skill set, I'm sure.

Councilor Wilson replied I'm good with that.

Councilor Anderson replied I'm good with that.

Councilor White stated I brought it up because we lost a lot of our staffing with the Sheriff merger, and we've been going without. We've been running a tight ship, status quo. I get that it's a difficult decision to make without being in your shoes. My preference would be to continue the status quo. I don't want to see us continuing to grow and then relying on ratepayers to take care of it.

Craig Ward replied I am fully prepared to make due with our current situation. I hope you're willing, too. Erich Mueller has been doing a terrific job as the HR Director, but it would be nice to free him up to work on more finance-related things, which I perceive as his strong suit.

Mayor Daoust replied this wouldn't be passed onto the ratepayers. This is part of our fixed property tax, so it's not like it would be passed onto ratepayers.

Erich Mueller replied no, it's the General Fund.

Councilor White stated it all ends up that way.

Councilor Allen stated if our budget can handle it, then that's seems like the direction to go.

Councilor Wilson stated with all the work you do, even though you handle it well, I think we need some help so you can focus on some bigger issues as they pop up.

Councilor Anderson stated or we could move quicker on some bigger issues, such as City Hall and things of that nature that have languished.

Mayor Daoust stated I agree, too. I was willing to say we needed a half-time HR Director, but I do like the new way you've restructured it because I can't believe that a city of our size does not have a HR Director. You've got hiring and firing, disciplinary actions, outreach for positions that you want to fill, conflict resolution, equal employment opportunity complaints. You've got all that package that Erich Mueller probably tried to handle as best he could, but we can do a lot more to address employees' moral in the City by having somebody there that they can go and address these issues with.

Erich Mueller replied I do not do 100 percent of HR. I have an HR generalist who handles a lot of the day-to-day that you just referred to. All of the call-in-sick notices that happen each day from each department go to her. The recruitment plan I review, she implements. The 100s of applications that we get for a public works laborer or seasonal position end up on her desk, not mine. I'm not doing all of the HR by any means. I'm dealing with higher-level policy issues. When we deal with disciplinary issues, I am dealing with our labor attorney on what we have to do to ensure we are minimizing our employment practices liability in the process. Just to be fair.

Mayor Daoust replied you need to focus on financial issues. It sounds like we are good with that one.

Craig Ward stated we're going to get to somewhat to the bottom line and see how much money we are spending here, which you will have a chance to come back on. With the 40-mile loop, the Council understands that we're speaking of potential acquisition of some properties for right-of-way along Harlow Place north of the I-84 bridge. The Mayor and I we were informed by the Port that they are supportive of and have fairly recently found the flexibility by the FAA to construct a 40-mile loop, which was reinforced in a meeting I had today. Here's the end of the runway. This is the trailhead now. This is Harlow Place. So what they need to do is connect that through here. Until fairly recently, the FAA was objecting to putting any trail in there. You can actually see right here there is a trail, but it's not a 10-foot wide asphalt trail. How you get from the levy down to that trail on a wet day; I suspect, is quite an adventure for some people. But they've gotten the FAA permission to move ahead with that and committed to us on Friday that they would do the engineering. I don't think the engineering is that complicated. It's called a ramp to get down and build the trails. They didn't offer to pay for it except to do the engineering. We will see how that goes. Once they get it to Harlow Place, then we ought to proceed with moving down Harlow Place to the I-84 underpass. That too, is highly, perfectly positioned for grant money. If we aren't successful with that grant money, then I suspect we won't do it. That is my qualifier that we primarily rely on grant money, at least for the construction. I don't think they will give us grant

money for the right-of-way acquisition. We would need to work on the Harlow Place road design, much of which may be eligible for grant money.

Mayor Daoust stated but even it is a grant, we still need to put it in the budget.

Craig Ward replied that's correct; we need to put a revenue line to offset it.

Councilor Morgan stated that's my recommendation is grant funding first. I know Metro has talked—there's been a lot of loose conversations about where the money might come from and allocating Staff time to work through that and coming back to us with the plans.

Councilor Wilson stated we have to put the \$150,000 to show goodwill, even though we're not going to spend it.

Craig Ward replied we'll have to put it in the budget. Whether it is this year or next, this is one of those items that might be put in next year's budget as opposed to this year's. If there's a grant opportunity and we need put cash match in to make that happen and that happens this year, I'll be happy to come back to you and suggest we've got to amend the budget this year. But, I think the \$150,000 for next year would be a reasonable thing to do.

Mayor Daoust commented maybe we should time this according to when the Port of Portland is going to seek a Metro trail grant. This could help us to get funding in one grant for both sections because if I recall, the Port of Portland was going to look at Metro's trail grants. If that timing is this fiscal year, we should put it in this fiscal year. If it's next, we should do it then.

Craig Ward replied I don't believe it will be this fiscal year. I think next year is probably perfectly reasonable.

Mayor Daoust replied that sounds good, but whatever that timing is so that we can go in with the Port.

Councilor Allen stated from what he remembers, the levy won't be ready until 2017. For me, it definitely would be a priority to get the lots. The timing of when the trail starts can be whatever makes sense, but the lots are needed.

Craig Ward relayed in my meeting today with ODOT and other parties related primarily to completing the trail from Sundial Road all the way to Fairview. I'll be bringing an IGA back to you on that issue in due course. I'm quite confident it's not going to happen this fiscal year, and because of the levy design issues we discussed already, so it may be a couple years before that matures. That's our proposal for next fiscal year, unless an opportunity arises that needs quick action, in which case, I'll come back to you.

Erich Mueller stated for clarification, then the acquisition of the lots on NE Harlow Place is not to occur this fiscal year.

Councilor Allen replied no, this would be a priority.

Erich Mueller stated that's what I'm hearing is two different stories. I'm trying to be clear.

Councilor Morgan asked you're saying you prioritized what amount of money? Do we have any idea how much just the lot portion is?

Erich Mueller replied not one that the current owners all collectively agreed to.

Councilor Morgan replied good point. Councilor Allen, do you have a number you want to allocate for priority for this year?

Councilor Allen replied I'm not in the best place because I've not been talking with the lawyers.

Councilor Anderson asked do you want to put the \$150,000 in this year in case the opportunity arises or do you want to put it in next year, and if Craig could acquire it, then we could do a budget amendment?

Councilor Allen replied if we put the money in and it comes up lower, or we don't do it, then it rolls into the reserve.

Mayor Daoust replied I wasn't thinking of that, I was just thinking of the trails. We may have the acquisitions this fiscal year.

Councilor Anderson replied I'm fine with that.

Erich Mueller stated much of it is related to the lot and there's a lot above it which they've been pretty silent about. The lot beyond that to the north has a significantly different view of the value of the property than the appraisal.

Mayor Daoust replied I wasn't thinking of that. Maybe we should put it in this fiscal year.

Craig Ward stated those properties will be critical to realizing it and we have begun the process.

Councilor Anderson stated Councilor Allen just made a pretty strong case.

Craig Ward stated okay, \$150,000 this year.

Craig Ward stated the City's website update is something of an evolution, as we have thought about this. But concern has been expressed that our website is obsolete—dated is probably fair. It serves its primary function, which is to give access to public records and information about the City. It's not been rebranded or reformulated.

Councilor Anderson stated it's been that way since dial-up.

Craig Ward stated I reached out to my peers around the State and I asked, "Has anybody done any major website refresh and how did you go about doing that." I think that was the estimate one

of the few communities got back to me with, I believe it was Tigard, and I've got a scope of work for what they did. It is largely a branding effort, however, because you have to first have the conversation about what does the public need and how you want to display yourselves to the public, and what services was really where I was caught off. So, if we are going to do it, what ought to be included that the public sees as being—I don't think cutting-edge is fair—I think, just common in modern websites. What we have is a functional and somewhat dull presentation that we're making to the public on our behalf. If we do that, though, it's a lot of work. While this number may seem excessive, if you do a deliberate branding effort to figure out what you're going to need and really look through the alternatives available in the marketplace and then every department's webpage would need to be updated and refreshed and new data brought into it. This doesn't include staff time. It's a lot of work and I take for granted that Tigard found \$50,000 to be adequate. It seems like a lot of money, but I think it's a significant underestimate considering the amount of staff time that goes in. I think that there's value, but not sure the value in the end will be tangible to most of our citizens. But those who are sophisticated and looking for a website representing a sophisticated city will immediately understand that that's not what they are looking at when they look at our website. That's the benefit for investing money into it.

Councilor Allen stated I've been doing websites for Fortune 500 companies since the mid-90s. I would be interested in what plan they have and see what their scope is. If it's something that's doable and I feel it would possibly be successful, then I'm more likely to support it.

Craig Ward stated I will send the scope of work that they provided to all of you.

Councilor White asked how much use does the website get? Do we track that at all, like on a monthly basis?

Mayor Daoust stated Lane could answer that.

Craig Ward stated I think we can inconveniently find out how many hits occurred on any given website. I think that we can get that very general information. Erich, do you know?

Erich Mueller commented I suspect we'll have to research to see if we can gather all the information, the metrics, in terms of access to the site. We don't have a counter.

Councilor Allen stated the software itself keeps track of it if it's enabled; it may not be. Some people disable it for performance purposes.

Councilor Anderson stated I'm all for this. We've talked about it forever. It's sorely needed. You can build it with ways to move it forward in the future that won't cost you \$50,000. You can anticipate what your needs are going to be and build that functionality into it now, maybe not go all the way with it, but you can anticipate it. It's sorely needed.

Councilor Allen stated build the framework.

Mayor Daoust stated I agree. I think there's a lot more we could put on our website that we're not putting on it now.

Councilor Wilson asked can we put this in the next fiscal year?

Mayor Daoust replied if we're going to get started, we probably should start it now. This may be a phased-in thing. I don't know.

Craig Ward stated I'm sure that it would be.

Councilor Morgan stated I don't know Tigard's scope of work, but normally they give a timeline of months. It's more than a year.

Craig Ward replied it takes quite a while. It will clearly continue into the next fiscal year.

Councilor Anderson asked knowing it will cost \$50,000, can you amortize what you might need this year in this year's budget? Would that help you, Councilor Wilson?

Councilor Wilson replied if it's just going to roll over anyway. I'm just looking at what we've spent right now looks like \$569,000. I just wanted to know a way to maybe trim it a little bit.

Councilor Anderson stated we can amortize this.

Councilor Morgan stated to quote you, Mr. Ward, it's kind of squishy right now. As it relates to what Tigard has, Council will probably will get feedback based on what we are looking at and go from there. That might be a three-month process in itself, just defining that, and then we're in April. We don't necessarily have to allocate \$50,000 now. We can allocate \$10,000 now and make an amendment later. This is going to be a long period of time to distill everything out.

Mayor Daoust stated I only came up with a \$457,000 prior to talking about this. If he's going to throw out a number, I will, because I only come up with \$457,000.

Councilor Wilson stated I came up with \$60,000.

Mayor Daoust stated the \$60,000 is already in the budget. We've got \$509,000 and the \$202,000 is still up in the air, so that one is not in there. The \$150,000 is the first one that's in, and then you add \$40,000.

Councilor Wilson stated okay, the \$202,000 I put in here.

Mayor Daoust stated I didn't, because we don't know whether we are going to subsidize it from the General Fund or not.

Craig Ward clarified that is already in the budget this year. I think the idea of putting \$10,000 in this year for this project is reasonable. We'll probably have to bring a consultant in. We probably have to have an in-depth conversation with you about branding and which way we want to go and how deep you want to go into picking the options. I can see spending some money this year, but I don't think that we'll spend \$50,000 this year.

Craig Ward stated one more left, which is the City Hall Study. We have \$10,000 proposed for City Hall Study. Again, we're past the mid-year point, so even if we geared this up and went full-bore this year, I doubt we will spend \$50,000 in this fiscal year.

Councilor Anderson asked can you clarify what City Hall we're studying?

Craig Ward replied the only City Hall option that we have at the moment is the old City Hall. There are really two alternatives to the old City Hall. One is to just restore the building in its current footprint to meet the needs we were satisfying when we left the building and not making any significant changes. The other is how would we utilize that lot for a 15,000 sq ft footprint for what I think of as a new city hall, but, in fact, it may utilize components of the existing Wood Village model. I have spoken to an architect about those two alternatives, and he was confident that he could do the work, not that there was any commitment at all. We would have to bid this work out and go from there, but it would be less than \$50,000. I think \$50,000 is a reasonable estimate, and we will bid it less than a \$50,000 contract and we get a scope of work with three bids.

Councilor Anderson asked if we do this, would this be a good candidate to put in next year's budget? We are in January; we're halfway through the year.

Craig Ward stated I think it could be in next year's budget. We have a busy spring as it is.

Councilor Anderson asked are you comfortable with that?

Councilor Ripma replied yes, either way.

Craig Ward stated Erich just sent out the renewal notices to our landlords for this space and the 321 Space. Erich, how long do we have under the existing options that we can exercise to stay in these spaces?

Erich Mueller replied this is the third of our five, so we have two more.

Craig Ward stated but we are just renewing, so we actually have three fiscal years.

Erich Mueller stated one starts in April and one starts in May.

Craig Ward stated so the clock is ticking.

Mayor Daoust stated we need to make a decision when it comes to old City Hall. We're holding up our whole timeline for a city hall to answer the question of what we are going to do with the old City Hall. The timeline has just stopped. We need to address what we are going to do with the old City Hall.

Councilor White stated I agree with the Mayor. We can't let a building sit as long as we have. I drove down the side access road to see what kind of parking might occur behind it and I was

shocked by the condition of the southern wall. It's really starting to get bad. The more we wait, the more it's going to cost.

Councilor Morgan stated I agree as well. I had brought this up in a Council meeting and asked Councilor Ripma about this because from a Council decision and closure standpoint, we have to act, but I understand the budgetary reasons. Can we allocate half of it now and half of it later? Is that reasonable?

Craig Ward replied I think it is. As long as we have a contract and a contractor on board, the work is clearly going to spill over into the next fiscal year; 50/50 will not reach it.

Councilor Ripma stated let's do that.

Mayor Daoust asked when you award a contract, you award the money upfront, true?

Erich Mueller replied we've got to have the appropriation available within the year it's spent. When we award the contract, we need to have the funding, but if it goes into a subsequent fiscal year, we have to have appropriation in that subsequent fiscal year in order to stand by the contract that we awarded. There are both parts of it. That is one of the challenges we have every year, particularly with the Public Works side on the streets. We can't do asphalt in the wintertime and so, they're always doing it in the summer. Then, we get a week of rain and then they have to do the project after July 1, and we're constantly challenged with that.

Mayor Daoust stated so you can award a \$50,000 contract and we'll only have \$25,000 in cash.

Erich Mueller replied no, I wasn't clear. We have to have the appropriations when we award the contract, but if it continues into the following year, we have to have subsequent appropriations again for that following year, because unlike the Federal government, at midnight on June 30th, all of our appropriations go poof. We have no appropriations for the following year unless it's in the budget.

Mayor Daoust stated so you do need all \$50,000 this fiscal year.

Erich Mueller replied it depends on the scope of the award.

Councilor Wilson stated I think it's best to have it all this fiscal year and let it roll over.

Councilor Allen stated the thing I brought up at the previous Council meeting, we've got that community room that's not being used anymore. The Council chambers takes up a lot of space in old City Hall.

Councilor Anderson stated I knew you would go there, because I wanted to go there and I didn't know if this was going to be the right forum. I think it's a discussion for another day, but we just added a Planning Director and two half-time building officials and we've got people scattered all over the City. I think we could make it happen. This would be a logical extension of the operation

and moving the Council chambers over to the community room makes sense. But I'm not sure this is the time or place for that discussion.

Councilor Allen stated where it fits in is if we do structural engineering and design of the old City Hall and we end up changing what that design is going to be after the design, then we have to pay for—.

Councilor Anderson stated what I hear you saying is you want to keep it over there permanently, so you'd have a City Hall without a Council chambers.

Councilor Allen replied yes.

Councilor Wilson stated I think a lot of the issue is moving over to the community room all the time and the safety of our clerks getting back and forth at midnight, 1:00 in the morning, or 10:00 pm.

Mayor Daoust stated we've gotten down to the pros and cons before. I think maybe you are asking for a cost estimate to moving over there, because we are just talking about budget items right now.

Councilor Allen stated the question is "Where do we go?" We have old City Hall. We could do a structural engineering design on that. We can allocate money to it, but we all realize it's probably going to be too small for what we want to do. We could remove the Council chambers out and now you have more room for base City operations. The Council chambers could go to the community room and I believe we have some offices over there, too. There's some staff that supports the Court there, but basically you consider that in the design and part of the process.

Councilor Morgan asked that could be considered as part of the structural engineering and design couldn't it?

Councilor Allen stated it could.

Craig Ward stated if you want a work session on this movement over there and how we might be able to handle that, I think that's appropriate. I don't see this as a substitute for this item.

Councilor Allen replied it's not a substitute. It's an alternative.

Councilor White stated the position we added to the budget represents only one additional person in HR. I just wanted to clarify.

Craig Ward stated from a planning and building standpoint, it's only one additional position. It's not even one additional person because right now we have an office vacant, essentially for a Planning Director. We'll fill that. There are spaces available over there for inspectors. It's just that we will be filling them twice as much. It shouldn't have any effect on the planning and building function in the Parks building. I had a plan for the other position that would be in the 321 space that unfortunately, is now dedicated for the Mayor. He and I have spoken about that and having that used by the other position would be problematic.

Mayor Daoust stated I do not have an office as Mayor.

Councilor Anderson stated I'm in favor of putting the \$50,000 in this fiscal year's budget.

Councilor White stated I think we do need to decide what to do with the police conference room over there, but we don't have to do it tonight. I would like to see it on the radar screen.

Craig Ward replied we'll schedule a work session on it.

Erich Mueller stated I wanted to clarify for you financially because the last time I brought budget changes, I got sticker shock from people. I want to make sure next time I bring budget changes, you are not going, "Holy mackerel. Where do these numbers come from?" Based on the conversations, this was the adopted budget; \$60,000 surplus was the net. When the Council made their final change, they got rid of the Christmas tree planter, when the budget was adopted in June of last year. These were the October budget changes. The salary benefits all related to the collective bargaining agreement, clerk's costs, and all of those things; the whole list of items that was already done. This \$367,000 deficit, that's the same number that was on the screen during the Budget Committee meetings two-three weeks ago. That's before we add in another \$150,000 for the Depot, so now we're at \$517,000. I had Visionary Park as zero because that was part of the discussion. The Planning Director piece—

Craig Ward interjected that was because we already have \$60,000 budgeted?

Erich Mueller replied no. That's because the question was whether or not there were going to be additions. The \$60,000 is up there. Tonight was if there was something else we wanted to add to it, so that's in there at zero; that deficit doesn't change. The \$40,000 for the Planning Director, I've got zero in here for building inspectors because they are not paid for out of the General Fund. It's that \$47,000 cost, but I'm not increasing the deficit. There's the \$70,000. This \$150,000 I've got sitting here takes the deficit up to that, but the argument could be made that it's going to come out of the SDC fund or someplace else rather than the General Fund. I could take it out, but if it doesn't come from one of those other places, it would end up coming out of the General Fund. I didn't want to hide this from you. There's the website and City Hall Study updates. As I was trying to put this together this afternoon, Craig also mentioned some of what we disclosed at the Budget Committee meeting. We've got a \$47,000 shortfall and what I expect for property tax revenue from the originally adopted budget way up at the top. We also have the Fire Study, that at least this fiscal year, the Council has chosen not to go forward, so that's an expenditure reduction that I don't expect to spend. So that brings us, potentially, to a \$704,000 deficit in the General Fund for this fiscal year if we implemented all of this and of course, if everything came in exactly as predicted, which of course isn't going to. I just wanted to make sure nobody feels surprised.

Mayor Daoust stated that this is a planning number; it's not an exact number.

Councilor Morgan asked and it could be worse, right?

Erich Mueller replied if I'm bringing back the budget amendments to add these in, then that would be the deficit. For it to get worse, we either have to have less revenue come in, or you'd have to say, "We actually want to spend some more money, so do another budget adjustment." If we get the revenue that we should, it shouldn't get any worse than that because it can't get any worse without you saying, "Let's do another budget amendment and spend more money."

Craig Ward stated the outcome of this is we will bring a budget amendment to you, so it will be formal and official and you'll approve it and we'll try to underspend.

Erich Mueller stated it's going to have all those items in particular, so you won't be surprised and go, "Wait a minute, now that it's all here in one place, this is more than what I expected," which is why you felt caught off guard last time when I brought that whole long laundry list because it had been different things you talked about at different meetings at different points in time.

**4. Adjourn**

**MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Anderson. Motion passed unanimously.**

Meeting adjourned at 9:43pm.

**DRAFT**

\_\_\_\_\_  
**Doug Daoust, Mayor**

Dated: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**Sarah Skroch, Deputy City Recorder**

**CITY OF TROUTDALE**  
**CITY COUNCIL – Work Session**  
**Tuesday, January 19, 2016**

**PLEASE SIGN IN**

Name – Please Print	Address	Phone #
Diane Castillo - White	1225 E. HISTORIC	503-888-1405
PAUL WILCOX	+ TROUTDALE	
Brian Shultz	715 SW 28th St. Troutdale	503-830-1448
TANNY STAFFORSON	1820 Hiscapue Co Rd	503-319-7732
RIS Canfield	Troutdale	

**DRAFT**

**MINUTES**  
**Troutdale City Council – Regular Meeting**  
**Troutdale City Hall – Council Chambers**  
**219 E. Historic Columbia River Hwy.**  
**Troutdale, OR 97060**

**Tuesday, January 26, 2016**

**1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**

Mayor Daoust called the meeting to order at 7:00 pm.

**PRESENT:** Councilor Ripma, Councilor Anderson, Councilor Morgan, Councilor White, Councilor Allen, Councilor Wilson, and Mayor Daoust

**ABSENT:** None.

**STAFF:** Ed Trompke, City Attorney; Steve Winstead, Planning Director and Building Official; Chris Damgen, Senior Planner; and Sarah Skroch, City Recorder.

**GUESTS:** See Attached List.

There were no agenda updates.

**2. MOTION: Election of 2016 Council President**

Mayor Daoust opened up the nominations for Council President.

**Nominations:**

- **Councilor Morgan nominated Councilor Ripma for Council President.**
- **Mayor Daoust nominated Councilor Wilson for Council President.**

Councilor White stated I have a request. Can we do an oral vote?

Mayor Daoust replied yes, we will do that. We will be transparent and just vote.

**VOTE: Councilor Anderson – John Wilson; Councilor Morgan – Dave Ripma; Mayor Daoust – John Wilson; Councilor White – Dave Ripma; Councilor Allen – Dave Ripma; Councilor Wilson – John Wilson; Councilor Ripma – Dave Ripma**

**Dave Ripma was elected as Council President 4 – 3.**

Councilor Ripma stated well, there we go. Thank you. I have been on this Council many years and this is the first time I've been elected Council President.

Mayor Daoust said so David Ripma is our 2016 Council President. Congratulations, David.

**3. CONSENT AGENDA:**

**3.1 MINUTES:** Revised October 13, 2015 regular meeting.

**MOTION:** Councilor Anderson moved to approve Consent Agenda Item 3.1. Seconded by Councilor White. The motion passed unanimously.

**4. PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items.

Scott Kenney, Troutdale resident, stated I live in Troutdale. I own Troutdale Aircraft Services, and I am just curious how many of the Council members and City officials know or understand what is going on at the Troutdale Airport with the Port of Portland?

Mayor Daoust replied yes, we do. We're very familiar with that.

Councilor Ripma stated we might not know everything so feel free to enlighten us.

Scott Kenney stated they are going to shorten the runway. Everybody is aware of that, and then they're going to eventually tear down all of the buildings on the north side of the runway, relocate those businesses who want to build new buildings to the south side. That will take somewhere between 5 and 17 years to tear those buildings down, but they are coming down. The tower will be moved to the south side of the runway, but the big thing is they're shortening the runway, and if they can wave their magic wand and get what they want, and they will, it will be shortened to 3,800 ft. Right now, it stands at 5,400 ft. We can get light to medium jets in, and that is what I basically operate, anywhere from small, single engine up to medium-sized jets. Once the runway goes to 3,800 ft., I am done. It will take all that traffic and force it right to Portland. There will be no need for an FPO with fuel sales anymore in Troutdale. Most of the maintenance facilities will close. I know every one of them. They've all said the same thing, "We can't support our business on single-engine work." Nobody seems to want to do anything about shortening the runway. I understand we need to shorten it from 5,400 because of the overlying airspace and some of the terrain requirements that we have, but down to 3,800 ft., you will have a bunch of helicopters operating at Troutdale is what's going to happen.

Mayor Daoust replied normally we do not dialogue with people during public comment, but on this particular one we will feed you back a couple of points or comments. Okay?

Councilor Anderson asked can we get Mr. Kenney on the agenda for a future meeting, because I have more than one or two. This is a big deal.

Scott Kenney replied it's all going to be decided Thursday night.

Councilor Anderson stated let me follow up, don't we have a task force for this? Don't we have a presence here?

Mayor Daoust replied yes, we do. Thursday night, as you mentioned, there's a big Advisory Committee for the Troutdale Airport Master Plan, and you obviously know what's going on. They have not made any decision yet. Thursday night they are wrestling with two alternatives on what to do with the airport. One of them does shorten the runway like you said. The other one shortens it less.

Scott Kenney stated to 4,500 ft.

Mayor Daoust replied yes, but I guess the bottom line of my comment is that they have not made that decision yet. Thursday night at 5:30pm, at McMenamins Edgefield up in the ballroom, is going to be the next meeting where they go over some of the economic impacts of both alternatives, the financial impacts, the impacts to businesses like what you're talking about, for both of the alternatives.

Scott Kenney asked have you talked to any of the people from the Port of Portland?

Mayor Daoust replied I've testified before that Committee.

Scott Kenney asked lately?

Mayor Daoust replied yes, yes, I have, twice. And Claude's on the Committee, he's sitting back there. He's with the Chamber of Commerce.

Scott Kenney said I just got out of a private meeting with the head of General Aviation for Troutdale and I just flat out asked him, I said, "Look, if you could wave a magic wand and get what you wanted, what would it be?" He said, "Oh, we are shortening it to 3,800 ft., Scott, that's just the way it is going to be."

Mayor Daoust replied, well, we'll see. I think Larry wants to make a comment and then, Claude, you can come up. Normally we don't dialogue during this section of the agenda so I don't want this to get carried away with too much of a conversation.

Councilor Morgan asked can the Council to give direction to our City Attorney to work with Mr. Kenney, and maybe some of the other businesses, before Thursday to gather some of the information that they might have to kind of represent Troutdale at that meeting? Either the Mayor can deliver that information or Mr. Kenney can, but I had no idea that was the plan. I know they have been talking and there have been steerings toward having this happen, but would 4,500 ft. put you guys also out of business, as well as 3,800 ft. would?

Scott Kenney replied 3,800 ft., we're done. You're down to helicopters and single-engine airplanes. No multi-engine aircraft. Not that they couldn't get in, but pilots are not going to choose to come to Troutdale at 3,800 ft. with a light jet. They will run right off the end of the runway and there will be an accident.

Mayor Daoust stated you can testify Thursday night.

Scott Kenney replied I understand. Behind the scenes, I've been very involved in this but I am just telling you what they're going to do.

Councilor Allen stated it seems to me that a key component to an airport is air operations, I'm just guessing here, and if you shorten the runway you're basically going to be killing the business and I don't understand why somebody would develop near an airport that they are killing off. It just doesn't make sense.

Scott Kenney replied it's a financial decision with the Port of Portland, and I completely understand that. I make those decisions in my business every day, but their financial decision to cost-effectively run the airport is going to be to operate that 3,800 ft. runway rather than the 4,500 because it takes less money to maintain the 3,800 than it does the 4,500. It's a dollars and cents thing with them and I get that, but what I have to look at is the future of my business and other businesses around it. 3,800 ft. basically puts me out of business. I will have to take my whole facility and turn it into industrial manufacturing or storage.

Councilor Allen stated right, there are other economic benefactors from having an airport there that go beyond the spreadsheet.

Scott Kenney said that is arguable until the cows come home.

Mayor Daoust asked Mr. Kenney, are you going to be there Thursday night?

Scott Kenney replied yes.

Mayor Daoust stated I would suggest that you testify before the Committee and say some of the same stuff you've been telling us. I mean, you don't need to work through the City Attorney. Did you want to say anything, Claude?

Claude Cruz replied if I could, yes.

Mayor Daoust stated come forward.

Claude Cruz replied I must say I'm a little bit shocked because the discussion group, for quite some time now, has been between Options B and C, the difference between those being the extent to which the runway is shortened. And, it was clear at the outset that the technical folks from the Port wanted to shorten it, and what the Committee had angled for, and decided on, was in favor of preserving as much length as possible, realizing you can't go backwards once that is gone. And I have made numerous comments on that committee about preserving the operations capability so that we retain a viable airport. I'm kind of shocked to hear what is happening, potentially, in the background, and I will definitely probe into that from the Committee's perspective come Thursday.

Scott Kenney stated I would appreciate that.

Mayor Daoust stated that part of the runway shortening is actually FAA guidelines that are new, and if the runway gets rebuilt to bring it up to standards, the shortening of the runway, the ends of the runway are part of that redesign, and that's part of why it's getting shortened.

Scott Kenney replied that's not quite true. The FAA says that for the type of operations that you have at Troutdale, you really don't need 5,400 ft. We're not saying you have to get rid of it. We're just saying you really don't need it. And if you want federal matching funds to maintain your runway, here is how much we will give you to maintain this much runway. So, it's not that we have to get rid of it. It's that it is a dollar and cents deal to maintain in the future.

Mayor Daoust said thank you very much for coming forward. That is a very good point but, again, Thursday, why don't you testify with some of that stuff.

Scott Kenney added I'd encourage everybody to come.

Mayor Daoust stated yeah, I'll be there. Very good. Thank you very much. So, I think that was it. Sam, keep it short, Sam.

Sam Barnett, Troutdale resident, stated I would prefer a meeting that I can come to and not feel like I need to say anything, but this is not one of those. My topic is just a friendly reminder. It is not an admonishment. You know what I'm really happy about is that today I picked up an *Outlook* and there was nothing embarrassing or anything in it that made Troutdale look like a laughingstock. I was very happy about that. That being said, I just want to say what's gone on around here in the last couple of weeks and in the *Outlook* and that kind of thing, I think that every once in a while we all need to be reminded that we are all neighbors. You're all neighbors. We're all neighbors. I think most of you live in Troutdale. I live in Sweetbriar. I'm kind of your neighbor. We're all neighbors. It's a small town. Yet, sometimes we're so divisive, and I understand that this is a democratic society. I hope to continue to see less negative stuff about Troutdale in the paper and more positive stuff. We've got a good thing going here it seems like. We are still a small town. We still have a voice, and I'm afraid that voice is going away. I'm thinking that maybe we're rushing ourselves to become a little bit bigger of a town than we want to be, and that's all I have to say. Thank you, Council.

**5. RESOLUTION:** To make January of each year Human Trafficking Awareness Month.

Mayor Daoust stated this resolution follows up on the work session we had, just prior to most of you folks coming in, on human trafficking. The reason Troutdale has got this resolution in front of us is to raise the collaboration item that was discussed. We want to raise awareness of human trafficking as a City, and we know that not many cities are doing this in Oregon or anywhere, but we want to do it. We want to take a leadership role on this issue, which was presented to us in a work session pretty clearly, and we want to step up and be in a leadership role hoping that other cities take notice of what Troutdale is doing. So, that's why we have this resolution in front of us. That is why we had the work

session an hour prior to this meeting where we had speakers come forward and talk to us on this subject.

Mayor Daoust reviewed the resolution. A copy of the resolution can be found in the meeting packet.

**MOTION: Councilor Anderson moved to approve the resolution to declare January of each year Human Trafficking Awareness Month. Seconded by Councilor White. The motion passed unanimously.**

**6. REPORT: An update on Mt. Hood Community College**

Mayor Daoust stated we have an update, on Mount Hood Community College, so come forward and share with us what is going on at the college.

Al Sigala, Executive Director, College Foundation, stated Council members, Staff, and our great community members who are here tonight, my name is Al Sigala. I am the Executive Director of our College Foundation. Before I turn it over to our distinguished Board member, I am going to give you a little update and also show you a little video about the college. What we're going to talk to you about is a bond initiative that the college is going to bring to voters in May, and also let you know that this is the beginning of the 50<sup>th</sup> Anniversary of our institution. September 2016 is the anniversary date Mount Hood Community College started offering great educational opportunities to our students. What I would like to do before Kenney Polson addresses you is to show you this video.

Al Sigala played the video on Mount Hood Community College.

Al Sigala said now, Kenney Polson, one of our district Board members, will explain what the Board is taking to the voters.

Kenney Polson stated first before I get started, I'm just curious: how many people in the room have taken a class at Mount Hood Community College? Let me see, raise your hands. Now, leave your hands up. How many of you know somebody that took a class at Mount Hood Community College? Okay, so that's pretty much most everybody in the room. We can clearly say that Mount Hood Community College has touched this community in a big way. As a result of everything that we've done, we want you to know that over a million people have passed through the doors of the college, and when you think about it, that's a lot of folks. Wouldn't it be nice to have a dollar for each of those people? Anyway, as Al told you earlier, this is our 50<sup>th</sup> year coming up, so it's a very important milestone, and we're looking to take what we've done into the future. We are not ready, and one reason why we're not ready is because the college was built for, what was it, 20,000?

Al Sigala replied about 10,000.

Kenney Polson stated and we have 25,000 students enrolled right now, so we're busting at the seams. It's time for something new. In fact, we went out into the community to find

out the college needs to do in order to get ready for the future. We surveyed our community, spent nine months doing it in fact, and we found out that students, and potential students, wanted to be prepared for the job market. Everybody wants to try to get a gig, so they can get out and support themselves and their families. Then, the same thing was asked of the businesses, "what does the college need to do in order to move forward into the future?" Their response was, "prepare students for the jobs that we have for them, so they can be prepared for the workforce". As a result of everything we've done and going through all of our notes and our work and looking to the future, we realized that we really didn't have the money to do that. So, we're asking the community to help us get it done. The same community that we've helped, the same community that we've touched with everybody involved in this room pretty much. As a result of that, we crunched the numbers, and came up with the fact that we need a bond in order to make that happen. What we are going to do with the money will be a question, right? First of all, we need some new buildings. We want to show you one of the buildings. It's our applied technology building that we're hoping to put together if the bond passes, and techtronics is one of the things that we want to get into training people. Does everybody know what techtronics is? I get these funny looks. Some of the technology in techtronics is actually in our cars. For example, it comes on and says, "door is ajar." Well, what happens if that "door ajar" gets stuck? You'll be hearing that all night. Well, we want to be able to also train people to fix that, not just have it, but to also fix it, and also to create the cars and other techtronic stuff that is needed in the future, so we're trying to look at the bigger picture. There's also another building that we're trying to get together, the Maywood Park Center. We're trying to set that up so that we can put up some different programs and ways to train future students for other types of employment. That's pretty much what it is, so, we're here to ask for your support, to ask you to help us get it done. That's pretty much the reason why we are here and, so, I'm hoping that the presentation you saw, the video and my little bantering, is answering any kind of ideas or questions that you may have.

Mayor Daoust stated very good, we might have a few questions.

Councilor Wilson stated I would like to thank you for coming in tonight, and it's a shame that we haven't been able to pass a bond for so long. Clackamas County just passed a \$90 million bond, and it was ten years ago that they had passed another one and, so, I wish you the best of luck and I hope you have a very strong campaign. I hope it passes. My wife works at the Bruning Center and my son graduated from Mount Hood. My daughter went there, but ended up graduating from "Disney" University in hospitality. But she did go there, and I have taken some classes there, too, and I wish you the best of luck. You have my support.

Councilor Morgan stated well, I just want to thank you both for being here. Mount Hood is a place close to my heart, you know, running for student government and winning by two votes not very long ago, and the opportunity it provides for our community. I have a question though. In light of some of the school shootings and safety measures, is there currently a system in place that locks down or secures the facility from an active shooter or any kind of protocol like that?

Al Sigala replied part of our challenge and included in the bond measure is safety and security: We cannot lock down that institution. As those of you who are familiar with it, there are over 100 exterior doors. There's no one way to close every one of those at one time. What we have to do is manually lock down, and really, what we're practicing on our lockdown procedures is basically run and hide, take cover, because we don't want you exposed. That's part of our challenge. Through this bond is included an initiative that would allow us to institute a system in which you could lock down the facility all at once or in segments, depending on what the challenge is.

Kenney Polson stated that's right because right now we're vulnerable, which is another reason why we need to pass that bond.

Al Sigala added the safety aspect also includes the seismic upgrades that are needed. The college gymnasium is dedicated to being one of our sites in case of evacuation, so if it is a school, if it is a community, we would take them to the gymnasium because it is almost all taken care of as far as seismic. The rest of the institution is not, so livability in a catastrophic event is not good for the rest of the institution. So, whether it's students, community members, or staff, we want to work towards making that facility safe. Really, this initiative is about jobs. That's why you saw the Workforce Training Center. It's about meeting industries' demand. We partner with just about every industry in our district along Airport Way and throughout. This includes Boeing. This includes McKinstry, Letterman, you name it. We're assisting them, but what they are telling us is we need you to get ready for what is going to happen, and that is, Boomers are retiring and it's going to be huge. Not only that, as Kenney was saying, there are new jobs that they are asking us to train their people for. So, how do we meet those, continue to do what we're doing, but meet the demands of the future? This facility is how we plan to do that, and, again, it's a result of talking to the community and talking to our industry partners. This is what they want, so that is what we're working on.

Mayor Daoust stated I am a strong supporter of the college, and we'll do our best to help with the bond, as you know. Congratulations on 50 years. I went there in 1970 and took care of my whole freshman year of college at Mount Hood, transferred 62 credits. It was a good thing for me to be at Mount Hood Community College, and I remember that year vividly. It's a good place to be, so I wish you the best. It is going to be a \$125 million bond on the May ballot. You've got your work cut out for you. I wish you the best.

Al Sigala replied thank you. This college was built because of this community, and we want to continue to have it be a part and play that important role that it needs to play in building the economic stability of our whole district. We cover Gresham, Troutdale, Fairview, Portland, Sandy, Government Camp, Cascade Locks. It's a huge district, but we want to continue to do what we can to assist our folks in meeting their goals.

Mayor Daoust asked do you know what the rate of the bond will be per thousand?

Al Sigala said \$30 per year for a \$100,000 assessed value home, so that's \$60 for a \$200,000 assessed value home.

Councilor White asked what is the lifespan of the bond?

Al Sigala replied 20 years.

Kenney Polson stated I have one question. Is it possible for a Council to consider endorsing this as a group? I don't know that answer. That is why I'm asking.

Councilor Anderson replied we will get back to you.

Councilor Morgan asked did Fairview pass a resolution of support?

Al Sigala replied not yet, but they're considering it. I just spoke with Wood Village and they're considering the same thing. I do have to say that I just came from Wood Village City Council, and you guys beat them with attendance. Theirs was zero.

Ed Trompke, City Attorney, stated one government entity can support another government entity's actions.

Kenney Polson responded all right, so, we will ask you to please consider it.

Mayor Daoust replied very good. Thank you for the request and the ask.

Al Sigala replied thank you.

**7. PUBLIC HEARING/ORDINANCE (Introduced 1/12/16):** An ordinance amending the Comprehensive Land Use Plan Map and Zoning District Map for a 6.88 acre parcel, currently designated MDR Medium Density Residential and zoned R-5 Single Family Residential, and proposed to be designated HDR High Density Residential and zoned A-2 Apartment Residential.

Mayor Daoust asked does any Councilor have any ex parte contact on this?

Councilor White stated as I said at the first meeting, I had a brief conversation at a birthday party with Mr. and Mrs. Savage. I don't think it affects my decision making at this time, and I also want to point out that I own land in Troutdale that is similarly zoned.

Councilor Anderson stated as I pointed out last time, I believe the seller of the parcel, Frank Annatto, is somebody I knew from my days at Multnomah Greyhound Park. The last time I have seen this individual was in 2004. Most recently, however, I have driven by this site and through this intersection numerous times in my 20 years as a resident of Troutdale, I've driven by that site many times.

Councilor Allen stated two things I have suggested, that comments go to our City Recorder so that we can get them in our packets and have more time to read them. The second thing is after our last meeting, I had mentioned to Steve Winstead that I thought he did a good job on his presentation. The more information we have, it's just a better chance we make a well-informed decision and it makes it easier for us.

Councilor Wilson stated since I live in that neighborhood, on the other side of the neighborhood, I've had people come up and talk to me regarding this possible resolution.

Mayor Daoust asked does everybody on the Council feel they can be fair minded about this even with your contacts?

The Council responded yes.

Councilor Ripma responded yes, I also have had citizens speak to me about this, but I believe I can be impartial on this decision. I've also been on the site. You know, there's a fruit and berry stand there, and so I'm very familiar with it.

Mayor Daoust stated yes, as am I.

Councilor Ripma stated, as I am sure we all are.

Mayor Daoust added I think I can be impartial.

Steve Winstead, Planning Director and Building Official, stated Mayor and Council Members, this is your second hearing on this proposal. The first time we went through it, there was a slide presentation. I believe that you are all familiar with that. I'm glad that you had a chance to make yourself familiar, not only with the application and everything else that's gone on, but one of the other things that occurred between our meetings, is that I was out of town in Uganda for about two weeks and all of the follow-up has been done by our City Planner, Chris Damgen, in terms of additional notification. I'm going to let him speak a little bit to that. We have probably let in the neighborhood of 180 people know about this project, including the surrounding area. Within about a 250-ft circumference or proximity, we made it know that this was what was going to go on, and we did make notification. The Staff, at this point, is still recommending approval. We are looking at what criteria are required on this Comprehensive Land Use Plan Amendment and Zone Change. As we discussed previously, it is very difficult to look at this without looking at the proposal, to try to separate the design from the actual application. Some of the comments had to do with what does it look like, where are the egress points, connectivity across the site. All of those issues, as discussed before, would be going back to the Planning Commission if Council decides to approve this. There is yet another step that does occur, and that is at the design review, the Planning Commission will look at it again. There will be more opportunities for that to happen. So, there's an issue on design and again, that's another opportunity to be looked at. But getting back to the basic list, of the criteria in terms of findings, as you've read our Staff reports, I'm just going to kind of highlight it again to you briefly. Is it in compliance with the statewide land use goals and related administrative rules? We have found that it is. In addition to that, is it consistent with the goals of the Comp Plan? One of the things we were looking at was that in our Comp Plan, Goal Number 10 states, "The City recognizes multifamily dwelling is a legitimate and needed housing type in Troutdale." Is it consistent with the goals of the Comp Plan? We believe that it is. Does it provide adequate areas and appropriate location for use allowing the proposed land use designation, and the addition of this property to

the inventory of lands designated as consistent with the project needs? We also have stated; again, that we believe that the criteria are met on this. We do have the developer here tonight. We do have the traffic engineer here tonight address any of these issues in terms of the project. One thing, I believe, that really kind of set the stage for us was really the definition of what an A-2 is, and its proximity to Safeway, proximity to an area that could be walked to. This is a choice site in terms of where it is located. And, if you look at the definition of a multifamily residential, it is intended for high density, it is in proximity to a planned shopping center, employment centers, transit routes; all of this is true for this A-2. After saying that, we looked at both the Comp Plan and Zone District Map in terms of its criteria. And, again, we felt that each of the criteria that are required to be met, was met. Now having said that, we have a tremendous amount of activity in terms of what people had written and their opinions of this project. One of the major issues that we are dealing with is traffic, and, in fact, more than once it has come up. We know we have a difficult situation with that intersection. And, as I mentioned before, I believe that that is a legitimate concern. We've been told in the past from Multnomah County that they are working through those issues. In fact, Multnomah County has provided that information to us. They testified last time we were together. The traffic engineers also provide some additional comments tonight, which you have in your package. At this point with the feedback we've received is in Exhibit C, additional citizens' comments. Between 4:30 and 5:00 o'clock today, we got a letter from the Reynolds School District. Basically, their comments also ranged with safety and traffic and its proximity to Reynolds High School. That is also in the package I've given you as well. Their concern, again, gets back to traffic. That seems to be the primary concern that is most represented from all the feedback that we've received in the last two weeks. So that being said, I would like Chris to come on up and discuss what has happened in the last two weeks, while I was gone and maybe some of the things that he has received as well.

Chris Damgen, Senior Planner, stated good evening Mayor and City Council, as well as citizens of Troutdale. To recap on what Mr. Winstead has said, at the previous meeting you directed the City Manager to see about the possibility of extending the area for notification beyond the regular 250 ft. required by the Troutdale Development Code. Just so you have a figure, as far as the Staff and with the assistance of City Hall Staff, the original notification, which occurred back in November, in addition to going to the review agencies such as Multnomah County, the Reynolds School District, and a few of our other partners that were reviewing this plan, including Metro and DLCD too, 48 neighboring properties within the 250 ft. radius were initially notified. After your directive, we expanded that to 187 properties. We covered the entirety of the Wooddale Subdivision, which is immediately to the south of the property. And we covered two of the four areas in Cherry Ridge, the area on the side of the street that this property in question is along 18<sup>th</sup> Way and Cherry Park Rd, as well as the first phase of the Phase I of Cherry Ridge that is closest to Cherry Park Rd. We did not cover the latter two sections. That was primarily due to an inability to get it done fast enough in that guaranteed time, but we did it with door hangers, and in situations where we were able to determine it was not an owner-occupied residence, we also mailed out correspondence. But for the ones that had owner occupation, regardless, we did door hangers and it was 187 total lots.

Mayor Daoust stated thanks for doing that.

Chris Damgen replied sure.

Steve Winstead stated so with that being said, we think that there are a number of things you can do tonight. You can approve, you can deny, or you can approve with conditions. I guess I would ask Council at this point, is there any other information that we may not have been able to give to you or any questions you would have of Staff at this point? We've already kind of gone through this one time already. Is there anything else that you would want us to respond to?

Mayor Daoust asked are there any questions for staff?

Councilor White asked given our limited inventory of buildable land, are we looking at any future overall zoning changes throughout the city? Do you see that in our future?

Steve Winstead replied ten years ago, I would have said yes, but today, I'm just not certain. We've got varying market trends going on. We have people telling us that we're going to have a larger population, and yet in the last few years those have not been warranted. It is difficult for me, Councilor White, to even project that at this point. Available land, we do have some A-2 in the city that is not developed, but most of our A-2 has been developed, and I know we went through that last time together and I told you what we had that was available in terms of inventory. I'm not giving an answer because I really don't know, sir.

Councilor Allen stated it seems to me that most of the inconvenience to surrounding neighbors that might upset them is purely how many spaces do you have, cars parking in their neighborhood, and traffic situations. I know that the traffic engineers will take a look at this and there will be a study. If this were to go forward, how long does it take between the time that they build and traffic improvements actually occurring to alleviate the projected problems?

Steve Winstead stated if there is a condition of approval that requires certain things to be done, of course, that timeframe can actually go back to occupancy, if that was all part of the conditions of approval. If it was said that you had to have certain road proofs done before occupancy, we could always make that a stipulation. In terms of what Multnomah County's major plan is, I'm not sure of their timeframes, so if we are asking or if you approve this, there is no guarantee on the time. It's interrelated with what Multnomah County is doing at this point. If there is a mandate that certain improvements have to be done, that would always be part of the conditions of approval prior to gaining occupancy. So, there's always going to be a condition of approval that we mandate. And to the extent of this coordinating with county improvements, that is something I would have to turn back to the county in terms of when they want to upgrade, or when they're mandating the upgrade of the intersection.

Councilor Allen stated so we've got the county planning intersection upgrades, 238<sup>th</sup> Dr. upgrades, and the school bond measure that passed is going to require some development changes at the school. Would they address, any of the loop back situation

they have there on traffic? If you look at the traffic at Reynolds High School, it kind of loops back on itself. It's not the most efficient design from an engineering standpoint. Will they be looking at that when they do their development there?

Steve Winstead stated well, again, what kind of development that occurs in terms of the street improvements will come through the design review process. That is going to be part of the package that's brought to the Planning Commission in terms of what the developer is going to be doing in terms of improvements and in terms of how they are going to deal with the intersection. That's going to be in concert with Multnomah County and our Public Works office.

Councilor Allen stated so the devil is in the details of the design process that comes after this process.

Steve Winstead replied that's exactly right; that is correct, sir.

Councilor Anderson asked after the public hearing can I ask that we view questions and/or comments in voting order so everybody is just not stepping over everybody?

Mayor Daoust replied sure.

Councilor Wilson stated the last time we talked, the current traffic was rated at a D. Is that correct?

Steve Winstead replied I believe that is true.

Councilor Wilson asked after this development, even if they mitigate the traffic signals, we're looking at lowering it to an F, is that correct?

Steve Winstead replied yes.

Councilor Wilson stated all right, so, I guess I'm having a fight with the traffic, because I come in and out of there all the time and the traffic is already bad, and we're going to make it worse, and as indicated, it's not going to get any better. So, I guess that's where I'm having a big hang up. We're talking about how it's going to improve with Multnomah County, but it does not sound like it's going to improve with Multnomah County. I talked to one of the Commissioners tonight that put me in touch with the people who are in charge of the transportation out there. Whether this development takes place or not, we need to start to take care of the traffic problem now instead of at a later time, maybe even make it a C right now, if we can, but I don't see an improvement going from a D to an F of getting the flow of the traffic better out of there, plus the traffic that's already there, plus the high school is just going to get bigger. We've known that for a long time. I guess that is where I have the biggest problem is just trying to move the traffic in and out. And then, I think you said it was 55 cars an hour that were expected to come in and out of there.

Steve Winstead stated I believe that is what the testimony was last time we got together. I think that, quite frankly, some of your questions and concerns could probably better be

answered by the traffic engineer, working for the development, at this point. They may have some additional information that has been submitted to Council, and my recommendation at this point is to allow that traffic engineer to address your concerns with what they've got planned and what their proposal is, and how they've been able to work with Multnomah County.

Councilor Wilson responded as soon as they're available to come up, those are my questions I need addressed.

Councilor Morgan stated I am going to reserve my judgment until I hear further from the public, but I just had a question to clarify. For Ed, the traffic study that is currently available from the County and/or other entities, has the current roads as one at a D and one at E or one at a D and one at an F?

Ed Trompke, City Attorney, clarified they were at the intersection, so there's really only one intersection, one rating. It's currently at a D. It's projected to go to F even if nothing is done, even if nothing is built there. It will be generated to an F unless something is done with the intersection.

Councilor Morgan asked if the suggested change in the structure is 2040 or 2038?

Ed Trompke replied my recollection is 2040, but the traffic engineer would be the best person to answer that. I'm just working off of my recall.

Councilor Morgan asked so you wouldn't see dramatic change in infrastructure to complement this development for 20 years. Would that be safe to say?

Chris Damgen replied you'd have to defer to the traffic engineer on that.

Councilor Ripma stated you said that the Staff is recommending approval, but it sounds like you're recommending approval because it meets the criteria for a change. There isn't anything requiring us to make this zone change, is there? It isn't required by our Code or state law or anything else? We are free to decide.

Steve Winstead responded that is correct.

Councilor Ripma stated so, you're saying it meets the criteria. The opportunity that would come up again at the Planning Commission, should we approve this, would be only an opportunity to review a site and design plan for apartments, right? In other words, tonight is the decision whether we rezone it for apartments. After that, all you're arguing about is the design of those apartments.

Steve Winstead replied well, actually, we're also looking at the traffic impact that is going to happen at that point, too. That would be one of the major viewpoints that we have to look at with Multnomah County. Does the design, when it is submitted for design review, address all of our concerns from traffic's point of view? I am absolutely certain the Planning Commission is going to be looking at that with scrutiny based on testimony and

based on information we have received. That is clearly something that is going to be on the radar screen for the Planning Commission to look at, as well as Multnomah County, as well as many of the other respondents here and, so, this is not going away. Whether you approve it as a Council, we still have to look at it. We still have to address the issue of transportation and traffic. It's just not part of our Comp Plan criteria at this point. That's more of a land use action, in terms of design review, because that's when it really gets into the particulars of the specific design.

Councilor Ripma stated right, I guess what I'm saying is the Planning Commission, in considering all the issues if it gets rezoned, couldn't decide that it should go back to medium density residential single-family homes. That wouldn't be an option.

Steve Winstead replied that would not be an option.

Councilor Ripma stated that decision is tonight.

Steve Winstead said that is correct.

Mayor Daoust asked any other questions of Staff? Does the developer need to say anything before we go to public comment?

Rick Givens, Planning Consultant to the Applicant, stated I guess we could do this two ways. We can either let everybody raise their objections and deal with it in rebuttal or we could try to answer some of the questions that you've raised now and then we will respond to those things. It's kind of your choice. Either way is fine with us.

Mayor Daoust replied efficiency-wise, why don't we let you rebut to any comment you have heard so far later, if that would be okay with you.

Rick Givens replied that would be fine. Thank you.

Mayor Daoust asked do you have any additional information for everybody before we get public input.

Rick Givens replied I do have some information that I have prepared in response to some of the issues that were raised last time and, so, some of it is additional sources that will support my position. So from a procedural standpoint, if you would like that to be in the record now, I'm happy to do that.

Mayor Daoust replied actually, I would. If it is new information that we did not hear last time then that should be brought forward now.

Rick Givens stated I'd be happy to do that. Let me deal with a few of the things that were raised last time and then I will turn it over to Rick Nys to talk about. There's a new letter that he has put into the record. As I listened to the people talking last hearing, a number of objections were raised. Traffic was obviously number one, but there were other concerns raised: impact on schools, impact on the neighborhood due to increased crime,

impact on property values and those kinds of things. So, I did a little research on those things and I've got with me tonight, that I will put into the record, a report from the Urban Land Institute that was prepared under the auspices of the National Multi-Housing Council, Sierra Club, and the American Institute of Architects. And these objections that are being raised by the neighbors in this area are ones that are commonly raised when you talk about rezoning for multifamily housing and, so, they are all in this report. I think that the information that is here is helpful in understanding the true impact of this project. Regarding impacts on schools, we're talking about going from R-5, and when I project that out taking out 20 percent, roughly, for streets, which is fairly common for a single-family development, you're looking at roughly 48 to 50 homes that would be built on this property under the current R-5 zoning. The number of school-age children that are generated per household is considerably different for multifamily development than it is for single-family development. The information provided in this report finds that for garden apartments, which this would be in that classification, you're looking at roughly 21 school-age kids from K-12 per 100 units. For a single-family development, it's 64, so it's a little more than three times as much that a single-family generates in terms of kids going to the schools. So, we're talking about a little over three times the number of units we are proposing. So the impact, on schools is negligible. There really is very little difference. Just to look to see whether that was holding true, in Oregon I looked at a report prepared by the Lake Oswego School District that provides information on that. I couldn't find anything specific to Troutdale but they found that single-family homes, detached homes that were built in the 2000 to 2010 period generated 68 students per 100 households and apartments were 15 per 100 households, so less than what was found nationally. So, the net result is that because of the type of project that we're looking at, which would deal with a lot of young people just starting out, empty nesters who are downsizing, people who are in all stages of different living stages than typically you find in a single-family neighborhood, you just get less kids. So, there really wouldn't be an impact on schools overall, compared to if this property were developed as single-family homes under the current zone.

Councilor Wilson asked could you just go over how many students for apartments again, please?

Rick Givens replied we're talking just round numbers, let's say, 50 single-family homes times – if we use the number in this, 64, we're talking about 32 houses. If we go with 168 apartments, as we've talked about...

Mayor Daoust interjected it is about 34 kids. So what you are saying is, regardless of whether you have apartments or houses, according to two studies, the number of kids going to Reynolds School District will be the same.

Rick Givens replied that's right, and that is confirmed not only nationally, but locally as well. The fact that we used the local numbers, the disparity will be greater. It will be a reduction with multi-family. Looking at Lake Oswego, the numbers were 68 per 100 for single-family and 15 per 100 for multi-family.

Councilor Allen stated well, we're always being pressured to provide parking spaces per unit; and the last time that came before the Council, we said, "no, we are not reducing what we have." And I'm not sure what we currently have on the books is actually sufficient. Do you have any data with you? Since you had some data, I'm just wondering if you had any about that.

Rick Givens replied your Code requires two parking spaces per unit plus a third of a space for guest parking, so that is 2.33, and that is more than any other jurisdiction I know of in the metro area. Many of them are restricting the number of parking spaces in order to encourage people to take the bus.

Councilor Allen stated, some of the backlash you see coming from higher density development is just people realizing that typically there aren't enough spaces and I don't know whether that's based on our correct number or the reduced spaces that other jurisdictions require.

Rick Givens stated well, I will just say that our preliminary site plan is based on 2 1/3 parking spaces per unit, and we would fully anticipate that that would be a fine topic of discussion in the site design review. And if we can't demonstrate that it's adequate, we would look at reducing the number of units; that would be the net result. But, we believe that we will find that is adequate. We haven't prepared that part of our application to be able to provide details on it, but just to say we are meeting your Code and we think that your Code is, based on everybody else's, on the high end.

Mayor Daoust replied the reason we decided on that Code was we did not want the apartment complexes and all the parking involved to go over into to neighborhoods, so we raised the number so that the apartment complexes could handle their own parking.

Rick Givens responded I think that is a fully defensible position for the City to take and we do not have any objection to meeting that higher number. I'm just saying it is higher than what is typically found and therefore you should have a pretty good clue that it is going to work without any problems.

Councilor Morgan stated I'm just looking at your numbers, I haven't fact-checked them, but a lot of the letters and the opposition to that for schools was based on the fact that we already have one of the top five largest schools in the state. It's not that 34 wouldn't have been bigger or smaller, but we are already currently overcrowded, just to clarify that point.

Rick Givens stated I understand that that's an issue with Reynolds School District. It's an issue that the district is going to have to address at some point. We all agree on that, but the point is that either way you go here, it's not going to make a significant difference in the number of kids that are generated to increase the school population. I wanted to go on just a little bit more here. The other point that was raised was regarding crime statistics, and I'll just read what it says here. "People sometimes associate density with crime even though numerous studies show that no relationship exists between the two. A Study in Irving, Texas using geographic information systems and crime statistics found no link between crime and density. In fact, it found that single-family neighborhoods are not all

associated with lower crime rates. Another study by the University of Alaska found no relationship between housing density and crime in Anchorage. One reason for the misperception that crime and density are related could be that crime reports tend to characterize multifamily properties as a single house and may record every visit to an apartment community as happening at a single house or address, but in multifamily property with 250 units, it's more accurately defined as 250 houses. To truly compare crime rates between multifamily properties and single-family houses, the officer would have to count each household in the multifamily community as the equivalent of a separate single-family household. What the previous studies prove, crime rates between differing housing types topple." And I think—there simply isn't any demonstrable evidence that I was able to find that you would expect a nice clean project in a nice suburban area like Troutdale is going to have any impact on criminal activity in the area. And finally, before I turn it over to Rick, there was a comment about concern about impact on home values. It says that no discernible difference exists in appreciation rates of properties located near a higher density development and those that are not. Some research even shows that a higher density development can increase property values, specifically since – not only is there compelling evidence that increased density does not hurt property values of nearby neighbors, researchers at Virginia Tech University have concluded that over the long run, well-placed market rate apartments with attractive design and landscaping actually increase the overall value of detached houses nearby. They cite three possible reasons. First, the new apartments could themselves be an indicator that an area's economy is vibrant and growing. Second, multifamily housing may increase the pool of potential future homebuyers, creating more possible buyers for existing owners when they decide to sell their houses. Third, new multifamily housing, particularly as part of mixed-use development, often makes an area more attractive than nearby communities that have fewer housing and retail choices. To kind of confirm that, and this is not the greatest source, but I did a quick look at a couple of apartment complexes in Troutdale that have similar kinds of densities. The Cherry Ridge Apartments located north of the Safeway complex, the houses that abut the apartments or that are just across the street from them, have very similar values as to those found farther away. Similarly, when I looked at the Kempton Downs estimates, those are backed up to the apartment complex along here, they have very similar values to those that are removed from the site. I think people's perceptions are often not borne out by reality. A good, well-designed project with good landscaping, nice entrances and a nice, clean look to it is an asset to the community and would not have a negative impact on values. I'll pass this information over, and, at that point, I'll turn it over to Rick Nys to talk about the traffic issue.

Rick Nys stated I am the traffic engineer with Greenlight Engineering. I am a professional engineer and a professional traffic operations engineer, and I just wanted to kind of dig into the criteria a little bit and then comment on the operations of, particularly, the 242<sup>nd</sup> and Cherry Park intersection. So, it's true that the intersection today operates at Level of Service (LOS) D in the PM Peak Hour. In the weekday PM Peak Hour the intersection operates at LOS D, today, and then the AM Peak Hour operates at LOS C. The existing operations really aren't part of what we're talking about tonight though. Part of the Comprehensive Plan Amendment zone change is to look at the 2040 Year scenario. The existing operations aren't particularly relevant to the type of application we're talking about. So, in 2040, without the approval of the zone change, the intersection will operate

at LOS F. If you do approve the zone change, the intersection operations will also be a LOS F. With the approval and zone change, and without mitigation, the project would make the intersection slightly worse. We proposed a signal timing modification to the intersection, which Multnomah County has accepted as feasible mitigation. It indicates in their letter that they accept that mitigation, so we mitigate our impacts, and that is all the project is required to do in order to meet the Transportation Planning Rule, is to mitigate our impacts. Further down the line, for the Site Plan Review, we will still be required to meet the County standards for operation of an intersection, which is LOS D, but the intersection is already planned to fail. We mitigate our impact back to the background condition under the existing zoning, so this will have no impact. In terms of trip generation, someone mentioned the 55 trips. With the approval of the zone change, the increase in traffic on the overall system is 55 trips in the PM Peak Hour. In the AM Peak Hour it is 43 trips. So overall, the entire system, there would be 55 more cars driving around during one hour, the PM Peak Hour. At the 242<sup>nd</sup> and Cherry Park Intersection, the impact is even less. The impact at that intersection is 40 cars in the PM Peak Hour, so it's less than 1 percent of the overall traffic volume at the intersection, so it's very minor. It's basically two-thirds of a car per minute added to that intersection that wouldn't be there without the approval of the zone change. So, it's a very minor impact. I just want to emphasize City Staff and County Staff have no objections to the proposal. They understand that it meets the requirements of the application, so hopefully, they support the application. As part of the Site Plan Review, our team will work with County Staff and City Staff and we will look at mitigating our impacts of that project at that time. In terms of this application, we meet all of our required mitigation and requirements.

Rick Givens stated I would like to add just a couple of points on that. Basically what he is saying is that right now, the intersection meets the design standards for our project to go forward under the existing zones, C and D. So, if somebody wanted to come in with a development proposal for this property under current zoning, they would be allowed to do so because the intersection currently is acceptable. When you're operating under current zoning, you don't have to look out 20 years. The Transportation Planning Rule says that when you propose a zone change, you have to look out this 20-year period. And, as he said, it fails either way, assuming nothing else is done to the intersection in that time period. As soon as Multnomah County and the City work together to improve that intersection, make some changes to it, it's possible that condition does not happen, but you have to look at in terms of what the numbers are based on nothing else happening. The fact of the matter is that right now the project could be approved because you've got LOS C and D and in the future, we're not going to have any impact on it because it will make the signal modification changes. Hopefully, Multnomah County will find some money to do something in the long run and not have a LOS F intersection for very long, but the fact is that it does meet the approval criteria under the City standards and also under the State Transportation Planning Rule standards. The other thing I guess I would point out is right now the property is zoned R-5 and a connection at Larsson Ave would exist that would call for a connection through this site to Cherry Park. We're proposing, as a part of our development that would be reviewed in the Design Review Application, that that connection be only in terms of pedestrian and bicycle traffic. There would be no vehicular connection. We would have an emergency vehicle gate there that would allow for an additional access either way, which may be necessary in terms of the emergency

traffic, but there would be no traffic going that way. Under development of your R-5, the fact of the matter is that there is a new signal planned at 38<sup>th</sup>. People are going to be hopefully feeling like to avoid the Cherry Park intersection that going south through the neighborhood down to 38<sup>th</sup> and getting onto the signal there at 242<sup>nd</sup> would avoid that whole issue. So, I think that there may well be more impact on the neighboring subdivision, if it were developed under the current zoning than in the way we are proposing that it be done. We're not saying that there aren't problems that have to be fixed in the long-term, but those are going to exist whether or not you approve this application. What we're doing is providing \$20 some-odd million in improvements to the property that will provide an increased tax base and provide housing for the community, including people at Multnomah Community College. Right now the median housing price in the Portland area is \$345,000, and I think Troutdale is something like \$260,000. That is a pretty tough nut for a young family to get started without having other good housing opportunities, and this would provide excellent housing opportunities for this area to let people get started and move up in the future.

Mayor Daoust stated if I recall the way that you're proposing to mitigate the traffic impacts in the next 20 years from an apartment development would be signal timing. Would that be the mitigation metric?

Rick Nys stated since we add so little impact to the intersection from the background condition, the existing zoning, it really requires very little mitigation, so it's a very minor signal timing modification. The Subaru project was required to conduct a signal timing modification. We're proposing to modify it a little bit further, which mitigates our impact at that intersection.

Councilor Morgan asked point of order, what we're voting on is a zoning change, correct, not a site review plan?

Mayor Daoust replied that's right.

Ed Trompke added and a Comprehensive Plan change.

Mayor Daoust stated that's correct. So, a couple of things going through my head. We've been sitting here for an hour and an half. We're probably ready for a break, but before we do, how many people in the audience are here to testify in approval of making this amendment change to apartments? We have two people. I'm just trying to sense the audience and what we have here. So, the rest of you are here to testify against the change, I take it. How many people want to speak to us? Raise your hand, so we know how many speakers there are. There are 16 and they keep coming up. So, given that, to make this manageable, if you have submitted an email to the Council, we already have it. You do not need to come forward and repeat what you said in the email, okay? So that may drop a few hands. We all have it. We've all read it. You don't need to speak to your email. And secondly, if what you want to say has already been said by somebody else, you need not repeat it. We can count, and we don't need to take a count on how many people say the same thing, so don't feel compelled to say the same thing that your neighbor just said. How is the Council doing, do you want to move on or take a break?

Councilor Anderson stated how about move on with public comment and then maybe take a break depending on how long that goes because I'd like to get through this.

Mayor Daoust stated okay, we will move on then. So, keep your comments to just a couple of minutes, two to two-and-a-half minutes. I would like to hear from the people that support this change in the Comp Plan and zoning. If you want to raise your hand, come forward, and state your name and the city you live in.

**Mayor Daoust opened the public hearing at 8:33 pm.**

Jamie Ellam, resident of Troutdale, stated I have lived here for over 44 years, being the owner of a property for 28. I just wanted to say I've been through this process a few times. In 1995 through 1996, I was against the Cherry Park Safeway development because I thought it would impact so much of my life, but I use that Safeway all the time; the Dollar Store, there's so many things there that we use all of the time that I don't think people give consideration that it would be great for new residents to Troutdale to be able to enjoy the conveniences that we have, and they're within walking distance. And it will bring a lot to Troutdale as far as the police and schools. The Cherry Park Shopping Center has never been full, and I think this could bring it to capacity. That would help a lot, and we'll have a lot more people using the facilities. There's some pads in there that have never been built on that are ready for building in the shopping area. I use Safeway and the Dollar Store two to four times a week. We buy all of our fuel over there and, so, development always isn't bad, you know? Look forward to what it is for the future and give other people the opportunity to live in a great town like Troutdale. It's just beautiful and I think we need to give other people the opportunity to have the same things that we have.

Mayor Daoust stated there were some other people that wanted to speak in favor of this change. Come forward please. State your name and the city you live in.

Dell Allen, resident of Troutdale, stated my parents bought their property in 1958 and my family has been on that property ever since then. A lot of these people that have homes there, they built those on berry fields that I used to pick berries in. I think it's great for this development because I think it will help the community with dollars that we need, and it will help the mall across the street fill in and support it, because we've had, down on Stark, passed the college, we had the Safeway all go away. And so, I think it is smart for us to support this. Thank you.

Richard Shepard, resident of Troutdale, stated I had sent a letter but I wanted to address points that were not covered in the letter. I think one of the difficulties with changing the zoning and the density on that corner is the fact that it is not totally within Troutdale. It is bounded by Wood Village and Gresham. And when you talk about traffic, you have to deal with other cities and other counties, and promises are not always going to be kept, or at least on a schedule that might suit the City. Realtors say that the three important things about housing is location, location, location, and this location on this corner is not appropriate for multifamily, high-story, high-density housing. It is incompatible with all the single-family dwellings that are around it. Egress and ingress might be a real hassle. If

somebody has a medical emergency and needs to get to Mount Hood Medical Center, that might be a difficulty unless you go over a median; same thing with fire service. But I would also just like to say that the multi-city and county intersection there, and its complexity that you don't have, for example, in the apartment development behind the Safeway, which is off a very quiet street, I sat there for five minutes at lunch time today at noon, I could have laid down on that speed bump and been perfectly safe. You can't do that on Cherry Park Rd or NE 42<sup>nd</sup> Drive at noontime. So, I think that there is a lot of incompatibility, and with all due respect to the developer, in my 25-plus years as an environmental consultant, I know that if you look hard enough, you can always find data that supports your position. And just because you find it in Lake Oswego or Bend or some other place doesn't necessarily make it applicable to, A, Troutdale and, B, that specific site. Thank you.

Paul Charpentier, resident of Troutdale, stated I live on Sturgis. I own the second house down and I have never gotten a notification, so I'm almost the closest one. I hope you've all been able to drive by that neighborhood and see the traffic problems that we deal with already. Right down the street, we've got a 20 mph school zone, so that backs up traffic. And we talked about adding maybe bus service there. How many stops is that bus going to make along there, eventually? This is a map (a copy of the map can be found in the meeting packet). If you make a right-hand turn going on Cherry Park, and you want to go to Fred Meyers or Lowe's, you have to make a right-hand turn, go down 18<sup>th</sup>, go through the light, go down to Sturgis and turn around and come back, or you have to cut across traffic, go through the shopping mall, and then go down. And if you come out on 242<sup>nd</sup> and make a right-hand turn, you're going to go across three lanes of traffic, 90 degrees through everybody going this way, so that's just going to be a nightmare. He said he went to McDonald's, and they have a right-hand turn there. How many times have you seen people trying to go left over the sidewalk? Cherry Park and Wooddale, there's 500, 600 people that are in this community and Mr. Sheldon lives in Gresham. You guys were voted into office by us to represent us. That's all I've got.

Tom Slyter, resident of Troutdale, stated I have some notes here, which I need to go through, so I may cover a couple of things that have already been covered. Number one, I think the traffic issue, you've got three arterials coming in that are two-lanes coming in to a one lane. I don't see a solution to that. We haven't discussed, or I haven't heard tonight, about the potential for increased traffic in Subaru and any other development that occurs on that corner, which is in the City of Gresham. What are they going to put in there? Are they going to put in more commercial, who knows what Gresham will do. I just heard a comment that they are going to increase bus service, but there is no bus service in that area right now that I can see. The closest one is at 238<sup>th</sup> and Halsey, 223<sup>rd</sup> and Glisan, 242<sup>nd</sup> and Stark, or 257<sup>th</sup> and Cherry Park, quite a ways from the complex. I'm concerned whether the City has the infrastructure in place to accommodate the apartment construction. I am also curious as to what the benefits are to the City if this change is made? There's got to be some benefit to the City, and I haven't heard of any so far. And, contrary to what the contractor said, my career in law enforcement and in the public, increased housing density oftentimes does bring more problems for your public safety services, which aren't incremental to any benefits to the City. I'm not a planner, but I don't see how they can put 50 houses on that property, unless they're mini houses. So far, I've

only heard negatives as to rezoning this property. I would sure like to hear some positives, if there are any, and share those with your constituents, if there are any. Thank you for your time.

Ryan Richter, resident of Troutdale, stated I came last week and listened to the developer. Having to go to Anchorage to find statistics to support the crime and that, it just doesn't sit. The decision before you today is whether or not to change the existing zoning, which would allow high-density multifamily housing to be built. It is my understanding that you are all elected officials here to represent the citizens of Troutdale. There is other A-2 zoning, and we do not have to pass this. I live right there. I can tell you that if I was trying to sell my house, if you were looking for a house to buy and one of them backed up to an apartment complex and one of them did not, it is going to affect the resale value. It is going to affect the value of my home. You can hire officials to review statistics and present the case, and that's wonderful, but the truth is not always a fact. I was able to talk to about two dozen or so people across Troutdale that I know, either from a Lions Club that I'm involved in or a business group that I'm a part of, and not a single one of those people were aware of the proposed change until I brought it to their attention. Furthermore, not a single one of them was in favor of the proposed change. I talked to people in Gresham, Fairview, and Wood Village. I also found out that Fairview is building a 180-unit apartment complex that is breaking ground in May of 2016. And that is down on approximately 220<sup>th</sup> and Halsey. So there is adequate housing for these apartment complexes. I received a letter from Letha Bowen, who is one of my neighbors, and she said that she spoke to Chris Damgen.

Mayor Daoust stated he is our Senior Planner.

Ryan Richter stated okay, and that that was going to be submitted upon the record. I spoke to somebody last week at City Hall about having people direct their emails in and they informed me that it was too late to send in emails. This was last week on Thursday, and that if people wanted to send in a letter, they needed to give it to me and have me come read them out loud at the meeting.

Mayor Daoust stated we got plenty of emails up until a half hour before the meeting.

Councilor Ripma asked was it Letha Bowen?

Ryan Richter replied yes.

Councilor Ripma stated we did get it. It's stamped in on today, so we did read it, just so you know.

Ryan Richter stated in part of her letter she cites a report from ODOT, and within that report, it doesn't sound like they would even allow the right-turn in, right-turn out on 242<sup>nd</sup>, which would mean, they would have to break the road through on Larsson Ave. So, if they break the road through on Larsson Ave, you're going to have parking on both sides of a street that's already an undersized street. There are going to be concerns for safety, getting fire trucks and ambulances in and out of there as well as the kids that play up and

down the street. There's going to be increased traffic flow through there. As a Troutdale citizen, I rely on you, City Council members to hear our voices when we say this development is not wanted and will drastically reduce the livability of Troutdale. Thank you.

Virginia Welch resident of Troutdale, stated I have the property exactly adjacent to the proposed change, and all of those homes there are single-level homes, and you're talking triple-level apartments. It doesn't fit with what's around that area, first of all, and that's part of the livability of a city. And then, I'm also concerned, very much so, about the traffic. I have lived in that house for 23 years, and the traffic has grown exponentially in that area.

Keith Blick, resident of Troutdale, stated the last time I was here, it was proposed to open up Sturgis as a throughway to Safeway, and they had projected 3,500 cars a day going through our neighborhood. Now, you are proposing to add a 168-unit apartment, and when you talk about the traffic improvements that will need to be made to correct what you might approve, you're talking about a 20-year period that we might have to deal with a problem that you create until it might be solved, which is incredible. To put on this neighborhood and this area a 20-year period that might not be solved in that amount of time is just ridiculous.

Virginia Welch stated they can't even fix the potholes.

Keith Blick stated no, that's right. We already have a thoroughfare up there. The intersection is rated a D and is going to be probably rated an F without any impact, and then if you have this impact, it will immediately go to an F and even worse. And you can imagine the kind of accidents you're going to have of people trying to get across there and turn when the traffic at 4:00 o'clock is already gridlocked with all of the school buses and everything. And as has been stated, we don't even know how the Subaru warehouses and the development on that section is going to impact it.

Bruce Wasson, resident of Troutdale, stated the one issue I would say about traffic is it is bad, and with deference to the engineer, if he doesn't drive it daily, he doesn't know what it's like. He can cite all the issues he wants to, but retiming the lights is not a fix. It doesn't address the issue; it only delays it. The other thing I have an issue with that is the fact that it is three-story. It would be akin to taking the Empire State Building and dropping it in the middle of Kansas. It's out of place. That's all I've got.

Shirley Prickett, resident of Troutdale, stated I have two things. Again, traffic, and something that hasn't been mentioned is that when 242<sup>nd</sup> and Cherry Park gets closed because of ice that traffic has to go somewhere else. And, number two, we had an incident in Gresham where 257<sup>th</sup> was shut down because of a culvert issue, so that increased the traffic impact on that. Plus, they have those cement dividers in there, so people that want to turn left have to wait in that line in order to wait for traffic to go through to get in to turn left off of 242<sup>nd</sup> onto Cherry Park. So, there's issues that aren't addressed yet. If we have a major event that shuts down a major thoroughfare, that intersection takes a real big brunt of the through traffic that comes through. Thank you.

Jon Lowell, resident of Troutdale, stated I live in that neighborhood. My thing is traffic, and I'm not going to go over everything they have. I want to say that when the culvert went out on 257<sup>th</sup>, 242<sup>nd</sup> Dr. was a disaster zone, and I think anybody else who has traveled that agrees with that. Second, I heard that there was going to be a signal at 38<sup>th</sup> Dr. on the Gresham Grid Zone, which comes out of the Subaru plant. That's going to go in there for the trucks, not for the people. It is not going to make it easier for people to get on and off the road. If you look at 38<sup>th</sup> Dr. where it comes across on the Troutdale side, that is a maze; that is not going to help traffic at all trying to get other people out of that neighborhood. I think that is all I want to say, but if you do feel that you have to approve this zoning change, please make it contingent on the traffic changes being done first.

Gary Dunn, resident of Troutdale, stated I live on Berryessa and Cherry Park Rd. I live on the side the Section 8 housing development is on. I would dispute everything that was said about multifamily living not having issues. I live on Berryessa. It is a nightmare with the traffic coming up and down. I can't get speed bumps there. People speed up and down there. I have to wait five minutes now, just to get out onto Cherry Park Rd. the way it is. And then the last thing I want to say is, it seems odd to me, somebody here said what's the benefit? Well, staff just said they recommend you approve it, but what's the benefit? What does staff find is the benefit to the City? I haven't heard any. So, I just urge you to vote no on this. Thank you.

Sherry Winters, resident of Troutdale, stated I live south and east of the proposed development. I want to first say that I respectfully disagree with staff. I believe that from their criteria report, their findings report, I believe Number 4, livability, value of property, that whole thing does not meet. I am a school teacher, and I find it amazing when I talk to the children. A sixth grader even today gave me this information saying where the property was at, and I said, "what do you think about an apartment complex that's possibly three stories high there?" And he goes, "Ms. Winters, that's not fair. Those people that live by there, they'll look right down into their backyard. I wouldn't want to live there then." So, even out of the mouths of babes somebody is giving the correct information. I would also say that there will be an issue with the traffic, and Multnomah County will just mandate that Larsson Ave. get open. And if you look at a development that is getting put in over on 148<sup>th</sup> between Sandy Boulevard and Halsey, they're talking about Rose Park Way getting opened up which has been a dead-end street for my entire life. That's where I grew up and I can't even imagine the volume of cars that they will be suffering with there. I worry about it for my neighborhood and my property value because, just like you, they'll be coming from 257<sup>th</sup> and snaking all the way through the neighborhood and going back. And there are kids just down the street that like to play in the middle of the road. I can imagine that can be a problem. So, anyway, I feel like the issues on what to address, property values, everything that has been said here I totally agree with, and I would also say that the idea that there will be a lot of people biking and stuff, okay, the east wind, really? Thank you.

Marilyn Pierce, resident of Troutdale, stated I am one property over, two-and-a-half acres, to the east. This is about traffic again, and I won't take a lot of time because I'm repeating. Rather than go the way I should to my left to go out to the stop sign, I go through that neighborhood to get to a light to get to Cherry Park. And when this all came up, I just said,

well, they won't do it. They can't do it. Where will all the people go? And, so, I'm hoping it won't go. And I wanted to mention that the apartments that are built there by Safeway down the hill, that is a whole different landscape. It's on a hillside. It's not sticking out of place, nothing like an apartment building. Thank you very much.

Sherry Winters stated I just want to say one more thing if possible. I don't know if it was addressed here or not. I couldn't hear everything in the back, but the Mountain Meadows Apartments, I think that's what they're called on 257<sup>th</sup>, they spill out 100 percent of the time onto Hensley for parking. So, if that is a two-and-a-one-third parking issue there, and if that's even A-2, I don't know if it is, but those are pretty tall apartments and that's a pretty big issue with parking all the time.

Mayor Daoust stated yeah, I think they went ahead before we increased the parking. But thank you, good points.

Nicole Parker, resident of Troutdale, stated I live right behind the Safeway where Sturgis and Cherry Park Rd come together. Forgive me if this has already been talked about. I wasn't at the last meeting. There is police at those apartment all the time, usually every night. We have a lot of homeless people that cross right back there also. Our car got broken into about two weeks ago, and the policemen took hours to get there and said, "we apologize. There's not enough police force as it is right now ever since Troutdale doesn't have their own police station anymore," and that they are having a really hard time keeping up with what they already have. So my fear is if another apartment building goes in, that's just going to create even more havoc for our police officers to have to go for disputes or whatever happens all the time. I just want you guys to keep that in mind when it comes to single-family compared to apartment dwellings. Thank you.

Katie McAllister, resident of Troutdale, stated I live in Wood Village to the west, and I received a notice. I appreciate what the contractor had to say what kinds of apartments they want to build. I do not think that elderly people or retired people would necessarily move into them because they are going to be several stories. I also think because they're so close to the street to have your children that close unless they build a wall around there, and heading the traffic out in a different direction would be advantageous for new families or families with children. Also, the impact on the area where we live, we have noticed crime going up in there. So, we're not sure what kind of apartment complex this is going to be, low income, middle income, or a combination. I have no problem with a combination. It's just that a lot of times, it comes with more crime into the area, and you're worried about your kids walking out.

Bob Schmit, resident of Troutdale, stated just to touch on the crime issue, my wife happens to work for the City of Gresham Police Department. She works at night and she works the radio. I asked her a couple of nights ago when I found out this was happening, which I should have found out a long time ago. I'm pretty close. I'm in Cherry Ridge. I should have found out a long time before this. But at any rate, her estimate is about 80 percent of the calls that police have to respond to residential are apartments. Eighty percent. That's eight and a zero. I guess what I'm saying is a snake salesman is going to sell you –

Councilor Wilson interjected let's be nice, okay? Everybody is being nice.

Bob Schmit stated his stats are ridiculous. So anyway, 80 percent are apartments. We don't need this, and you guys and gals are smart enough to see that. I hope you are. Thank you.

Marco Lasconic, resident of Troutdale, stated I live on Larsson Ave., right across from where the apartments will be maybe built. Let's say they will not. Anyway, my concern is that, first of all, I would like to tell you that I would like to see houses built in that area because all houses around are houses of one level and that would be the best for all of us, for you, for the whole of Troutdale. Not just for us, but for the whole of Troutdale. And also, let's say if you decide to build those apartments over there, you make sure that you tell these guys who will build these apartments they make enough parking spaces, not just for the tenants who will live there, but also for every person who will come visit them. Now, they will have that parking space over there, but they will not cross over on our street and park all over. We don't want to see our Larsson look like a parking street like 4<sup>th</sup> Ave. downtown Portland. We don't want to see it. I want to say that if these apartments are built people have definitely more crime because all kinds of people will move there. And secondly, that will be too many people going to the school down there, way too many. Police will have much more crime if this happens. So, that is why I am asking you, I am pleading with you so much, that you work hard and let's build houses around there and that will be the best for all of us. One more thing, make sure that once these houses or apartments are built over there that we build a sound wall all the way down from Glisan to 23<sup>rd</sup> St, which turns into Troutdale, so that we don't look like over there like they live like some kind of gypsy town. When I talked to you Mayor, you know that it is all broken. All these fences are broken. All these people who own these places don't take any care of this and the fences need to be built. Any kind of good fences need to be built all the way, so that kids who live over here will not end up on a street and get run over by a car or whatever. You don't want to see any accidents happen too, and that's pretty much all I have to say.

Mayor Daoust replied I did talk to the Mayor of Gresham about a sound wall on the Troutdale side of 242<sup>nd</sup> and unfortunately, the City of Gresham is handling a lot of the improvement costs along 238<sup>th</sup> in agreement with Subaru. Rather than Subaru paying for the improvements, the City of Gresham is paying for them, and I asked them to consider a sound wall along 242<sup>nd</sup> on the Troutdale side. They said they would consider it.

**Mayor Daoust closed the public hearing at 9:10 pm and called for a brief break. He reconvened the meeting and reopened the public hearing at 9:19 pm.**

Mayor Daoust stated we are continuing our discussion on the public hearing and ordinance, and because of the type of hearing it is, we allow the developer rebuttal time. If you can keep it to the key points, around five minutes or so, that would help with our timing, so if you have anything you would like to say, please come forward.

Rick Nys, Greenlight Engineering, stated I just wanted to address at least a few issues. Several people brought up access to the site, speculation about right in/right out or access to Cherry Park Rd. Again, that's not necessarily something that is established here at the Comprehensive Plan Amendment and Zone Change level. We made certain assumptions on our traffic study, for the right in/right out to 242<sup>nd</sup> and then full access to Cherry Park Rd. that is related to something that's double with that site plan review. It was mentioned that ODOT was being involved. I don't know if he misspoke or not, but it is really Multnomah County's decision about access to 242<sup>nd</sup>, and we haven't heard one way or the other about access there. One person brought up the impact of Subaru. The traffic study does include the impacts of the approved portions of the Subaru project for the near-term analysis and also assumes general growth in the area as well as the approval of the Subaru project for our 2040 analysis, so that is already built into the analysis. Some mentioned the traffic signal at 242<sup>nd</sup> and 38<sup>th</sup> and that it had only been for the trucks. Actually, it will help the neighborhood. A full signal will be installed at 242<sup>nd</sup> and 38<sup>th</sup>. It won't just help that intersection, but it will also help the intersection to the north, the 23<sup>rd</sup> intersection, because it will create gaps in the traffic streams. It will actually make it easier for traffic to turn out from 23<sup>rd</sup> onto to 242<sup>nd</sup>, so it does provide additional benefits to others than just at the 38<sup>th</sup> intersection.

Rick Givens stated a lot of points were brought up. I'll just hit the high points here because I know you've been listening for a long time. Several people asked, "what's the benefit to the community in terms of approving this project versus leaving it as it is currently zoned." There are a number of them. I think we're talking, like, \$23 million or \$24 million of assessed value that's a benefit to the community. We're talking about 168 households that would shop at area commercial and retail developments, and use the bank and all those kinds of things, so there's a certain economic development benefit to the City; jobs created during the construction of the project, money spent from other businesses in the area while the project is being built. Providing housing, a needed type of housing in an area that currently is underserved with this particular type of housing. I know you've got some more A-2 in other parts of the city, but not right in this area where there is so much economic development going on. The other question that was raised that I thought was on point was about livability, and the criterion we have to meet regarding livability, the impacts of the project on livability. I did a quick count from aerial photographs and there are, I think, six single-family homes that about this site in that developed project to the south. Several people have talked about, "Well, you're going to have three-story apartments over-viewing my property." I've mentioned in our testimony at the previous night that we're looking at a lot of things to mitigate that in terms of setting the units back quite a long ways and using garages as buffers. So, we're not talking about right on the property line, we're talking about 60 to 70 feet back from there being the closest units. But all of that will be hashed out in the design review. The question you have to look at is, is there a possible way this property can be developed in a way that wouldn't impact those properties, because there are a number of things we can do. We can set all of the units to one side, leave an open field in between. All of that is a design review question. The question is, are there other apartments of similar size that are developed in close proximity to single-family neighborhoods in Troutdale that operate successfully without impacting the neighborhood? Clearly there are, you can look at the aerial photographs I provided for a couple of projects that are found in the area. It's a design issue. It's a matter

of where do you put the houses, the apartments, how tall are they, what are their site lines, what do you do with the way of landscaping and screening? All those kinds of things get hashed out at the next phase. The other point that was raised that I got kind of beat up on was as if I cherry-picked stats regarding crime and the impact on property values. This is the Urban Land Institute, folks, it doesn't get much more respectable than that. It's a study produced by them in conjunction with, as I said before, the National Multi-Housing Council, Sierra Club, and American History of Architecture. It is a well-researched study, and the impacts they are finding here is that there is no evidence to show that there is an increase in crime associated with well-done apartment complexes. Sure, there may be some skid row kind of development elsewhere that you do have issues with, but nice, clean, new apartments are not an issue for crime. Also, there's no evidence that there is any negative impact on property values. I can read you more quotes. The ones I read were from Anchorage. Those were just a couple of things out of this whole report, you're welcome to read the whole thing. It mentions several other projects in other cities. It is a well-respected analysis, and I am not cherry-picking stats. Again, I think the biggest issue is traffic. We've gone over it a bunch of times, but suffice it to say that there is an issue that has to be dealt with here and in the long-term to improve that intersection, whether it is adding lanes or whatever. We have left room along the frontage there so there would be room for an additional traffic lane if that eventually becomes the design solution to help fix the thing. But the fact of the matter is that we meet the criteria the way they are established. We look at the current situations, C & D, that meets your standards if we were to go forward with developing the property. In the long-term there is an issue but our impact on it is negligible. Either way, it needs to be fixed. This is not unique. It is all throughout the metropolitan area, and the solution to our housing needs is not stop building until we fix all of the roads because we all know that never happens. There is never enough money until you do the development, get system development charges, and then you've got some money to do something good with. That concludes my remarks. Thank you.

Mayor Daoust stated thank you very much. So now I'll just open it up real briefly for the last few questions from Council before we go around and make our statements. Are there any last minute questions from the Council for Staff or the developer?

Ed Trompke stated Mr. Mayor, first you should close the hearing now that the rebuttal is over.

**Mayor Daoust closed the public hearing at 9:28 pm and asked for final questions.**

Councilor Allen stated it sounds to me like a lot of the devil is in the details in the planning phase of it, the design phase and not the actual zoning phase. And yet, if we go ahead and we zone for an A-2 then the amount of control that you have over design is limited. So, my question is, is A-2 as an optional zone or conditional zone, a possibility so that the design can be reviewed with more scrutiny in the planning meetings?

Steve Winstead replied first of all they have addressed that. The decision on design review right now, rests with the Planning Director, but if he chooses to do it himself and make a statement and then give notice of his decision –

Councilor Allen interjected unless it's conditional, then it's the Planning Commission.

Steve Winstead stated unless it's conditional, yes. I have already stated from the very beginning that I will not do this unilaterally. I will totally engage the Planning Commission all the way through on this project. I work well with them and they basically are very tuned in to what this project is about and I will engage them completely in terms of design.

Councilor Allen stated well, the question still stands, is it an option?

Steve Winstead asked is it an option not to do that?

Councilor Allen replied to have a decision where A-2 is a conditional use for this property.

Steve Winstead stated under the R-5, I don't believe A-2 can be approved as conditional use.

Councilor Allen asked is there a zoning board that would make it conditional?

Steve Winstead replied with the densities that are proposed I do not believe there is another zone that it can go to even as a conditional use.

Councilor White stated one quick question. Is Troutdale completely in charge of how this property is zoned?

Steve Winstead replied that is correct.

Councilor White asked there is no outside influence from Metro or other agencies that can force workforce housing since it is so close to the Vista property?

Steve Winstead replied I believe this is totally a Troutdale issue.

Mayor Daoust asked a question for Ed, are we voting on this tonight?

Ed Trompke replied yes, you may. There should be a Council discussion with a motion and a vote.

Mayor Daoust replied okay, we'll move forward then. So we kind of agreed to go around in a circle starting with Eric Anderson, and make any comments that the City Councilors want to make. If you don't want to comment, you don't have to. You can just vote, but if you do have comments or whatever you want to say, go right ahead.

Councilor Anderson stated I feel, with all the testimony, compelled to comment. First of all, I would like to express my appreciation to the many community members who took the time to appear in person to offer their input on this issue and to those who sent their thoughts along via email. I would also like to thank Sheldon Development for considering Troutdale and showing the Council a very detailed proposal of what they would ultimately

like to build on the site. I've listened intently to your input and I've researched this issue just as intently, and while I appreciate concerns about property values, livability, and the like, those are concerns unique to the Cherry Ridge neighborhood in this case, and, most likely, any existing neighborhood anywhere that a development like this may occur. But what I do base my decision heavily on is the impact such development will have on the overall area, including Gresham, Fairview, and Wood Village, along with Troutdale both now and in the future. Quite simply, the intersection of 238<sup>th</sup>, 242<sup>nd</sup>, and Cherry Park Rd is failing now, and we all saw what the temporary closure of 257<sup>th</sup> did to the traffic in our area. But having had a daughter to drop off and pick up from Reynolds High School, having friends who live east of 242<sup>nd</sup> and in order to get onto to 242<sup>nd</sup> southbound during afternoon rush, they must utilize Sundial and Stark to get there. This intersection and stretch of road is troublesome under normal circumstances. You combine that with Glisan St. and Cherry Park Rd. being a major conduit for buses going to and from Reynolds High School, Walt Morey Middle School, Sweetbriar, and Troutdale elementary schools, and it can be argued that it's maxed out now. But what's most alarming when considering this development is the fact that Multnomah County has no plans to make any improvements to 242<sup>nd</sup> or Cherry Park Rd now or in the foreseeable future. Signal modifications by themselves, in my opinion, aren't enough, especially as the Subaru plant and resulting development comes online. It is for that reason alone that I cannot support this or any development on this site, including the single-family homes it is zoned for now. In fact, if possible, given that Christmas trees and strawberries don't drive, I would love to see the site zoned agricultural until such time as 238<sup>th</sup>, 242<sup>nd</sup>, and Cherry Park Rd. can be widened or modified to accommodate additional use. I also want to be perfectly clear that my decision tonight is not anti-development. Furthermore, I would encourage Sheldon Development to consider areas of Troutdale zoned for multifamily and where traffic concerns aren't as pronounced as they are on the proposed site. Again, thank you to all who have appeared before Council on this issue. I sincerely appreciate your input.

Councilor Morgan stated so, mine aren't quite as prepared as Councilor Anderson's, but I really appreciate what he mentioned. I work in real estate and, so, for me, I don't see there being enough housing in Troutdale. I'd ask for unanimous consent to enter in the Harvard study that would counteract a lot of the beliefs about this type of development. I don't think this is the type of development the citizens want in Troutdale, at least in this neighborhood. I also don't think it's a development that we're striving for, at least in this area. It goes back to what Paul had mentioned and what Ryan had mentioned. This gig is pretty easy. You listen to what citizens say. You listen to what they want. All the rest is pretty simple, so in that thought I intend to oppose the proposed zone amendment.

Mayor Daoust stated I focused mainly on the decision criteria and the findings and the way that the statements were made that said we meet the criteria. When it comes to a decision like this, when we are talking about Comprehensive Land Use Plan change or a zoning district map, those are the criteria we have to look at. I did go through and I will use the word "disagree" with staff, although I have the utmost confidence in staff, but the fact that we'd met the criteria, the wording was not concrete enough that I could say that we met the criteria. In the Comprehensive Criteria Number 6, it talks about traffic and it is recognized that both entities and review entities have expressed concerns of the impact of future development on the property, but those concerns shall be addressed during site

and design review. My concern is there's not that many options that will be considered during site and design review when it comes to traffic because if Larsson Ave. is not an option, pretty much the options for traffic have been presented and discussed right in/right out onto 242<sup>nd</sup>, something off the north end to get people in and out of there. I don't know what other site design options there would be. So, we can say that we think we met the criteria, but I'm not so sure that we can meet the criteria that follow along with the Zoning District Map Criteria Number 4 that one of the citizens brought up. "The amendment will not interfere with the livability, development, or value of other land in the vicinity of site-specific proposals when weighed against the public interest in granting the proposed amendment." That's the one I had the most problem with. When staff said the criteria are met, my gut kind of clenched up a little. And again, for the buffering solutions, probably can be dealt with by setting back the apartments, but the access restrictions, again, I go back to the point of how many options will there be during site and design review for access restrictions? And I can't come up with that many. I can't come up with other options that could be, I mean, besides opening up Larsson Ave and letting traffic go through the neighborhood. I mean, I suppose that could be brought up during site and design review, but it sounds like it may not be. And, Number 5 talks about the general interest of the community and again, staff said the criteria has been met, but again, I think, well, there's more than just Troutdale involved here. We have Gresham, Wood Village, the Reynolds School District and Troutdale. So, we can say we meet the criteria for just Troutdale, but my gut tells me there's more to that answer than just saying we meet it. Nothing against staff. Staff does a great job here, and you've done a great job throughout this whole thing, but the reason I am not going to vote to change the zoning is I had a problem with some of the criteria.

Councilor White stated I drove through the neighborhoods and it's a beautiful neighborhood, very charming, and I think the people that live there made a wise choice to move to Troutdale. Part of that choice was how are the surrounding properties zoned? And I'm always okay with the down-zoning option like Edgefield proposed for the old pig farm. But to go the other way undermines everybody's decision-making process and how do you have a sense of fairness if you impose that on a community or a neighborhood? I agree there is a housing shortage. I started out in an apartment, as I think many of you probably did. It encouraged me to get my own place. And as far as traffic goes, I think we're going to see the bus down there soon. I think you're going to see improvements. They need to be made and it sounds like this Council is willing to look at that. It's not really our road, but it borders our city and we use it. I'm talking about 238<sup>th</sup>. For that road to be three lanes, I think, was a mistake and I know Councilor Allen led the charge on that idea. That ship has sailed unfortunately, but maybe it's not too late to relook at that, especially with this added development. I also think it is unfair to the property owners that own A-2 or similarly-zoned properties, that those properties should be developed first. But keep in mind that we all need jobs. We need businesses supported by built-in residents. It helps a community. I don't want to see this community die by not having enough development when businesses pull out and all of a sudden are replaced with a less desirable business. I worry about that. Unfortunately, I'm not going to be able to support this tonight. That's all I have.

Councilor Allen stated we see a room full of people who are predominantly telling us we have a traffic problem. I wish they were here last year when we were talking about this intersection and 238<sup>th</sup>. I do firmly believe that 238<sup>th</sup> needs to be four lanes. This one development that we are talking about is really a gnat on the elephant. When you look at the other properties that are around that have recently been developed and are about to be developed, we've got a problem, and that needs to be fixed. And it's not going to get better if we wait. The next thing is, I heard that there definitely needs to be a respect for privacy. If this were to go forward, there has to be mitigation methods. I'm hearing that it is not going to go forward. The other thing is adequate parking. I think the Council made the right decision when we were asked to reduce the number of spaces. We did not do that and I think that was appropriate. I do question whether our current parking requirements are actually enough. I think it is a burden on surrounding areas when vehicles start parking in neighborhoods in order for visitors to visit a higher-density development. There would need to be isolation, such as Larsson Ave. should not be allowed as an access into the property without just the flow of traffic into single-family residential areas. And one of the things I'm seeing is a lot of growth in this area, and I'm seeing that people who are moving here, most of them actually know they are going to be able to afford housing, so what's happening is people who already live here are getting displaced. They can't afford the high rents. They get displaced from their home. Part of that is the urban growth boundary has not been moving. We've made requests. It hasn't moved in this area and I think that the cost of rentals right now is high, and I don't know how our young people – I don't know how they survive. I just don't know. So, I think the devil is in the design phase, and I would approve it only under the condition that the design goes to the Planning Commission because I know that they're very concerned people to ensure proper development. Let's face it, R-5 is not a picnic either.

Councilor White stated I would like to thank everybody for sticking it out here tonight. You see the wheels move slowly trying to get through the process of plan changes. You guys should come every week so you can see how it all operates, and it's not as easy as it looks on the surface. I want to thank the City staff and the Sheldon group for presenting us with this opportunity to change the R-5 to an A-2 lot, but because of the time of night and trying to respect all of you out there, I'm just going to say I can't support it tonight. And if there needs to be a motion not to support it, I'm willing to move forward with that after Councilor Ripma speaks.

Councilor Ripma stated I was just listening carefully. Unfortunately, we can't require that well-placed market rate apartments that have no negative impact on property values get built there. All we can do is zone it A-2, and anything could get built there, and that worries me. Just a couple of things, under R-5, Larsson Ave. might be used. It was mentioned, but we can't guarantee that Larsson isn't going to get used with the apartments. It sure looks to me like that would be an option that would end up being used, and well, that would be bad. That's all I heard was how bad it would be. I am glad so many people came. You care about your city, your neighborhood. What I heard from everybody I talked to about this—was negative. It meets the criteria for a zone change, but it's not beneficial to Troutdale. And, we saw fit to zone this the way we did when the plan was originally done years ago with full public input, and we should not set that aside, so I am glad to agree with my fellow Councilors on this issue.

**MOTION: Councilor Ripma moved to vote no on the ordinance. Seconded by Councilor White.**

Councilor Morgan stated point of order.

Mayor Daoust stated yeah, go ahead.

Councilor Morgan stated noted you're making a motion to vote it down, so that's yes to deny it and a vote no to accept it.

Councilor Ripma replied I don't mean to make it confusing but, yes, I would like a yes vote to turn this down. Is that ok?

Mayor Daoust stated why don't we just read the ordinance the way it is and then vote yes or no on it?

Ed Trompke stated that would be the appropriate thing to do.

**AMENDED MOTION: Councilor Ripma read the ordinance "An ordinance amending the City of Troutdale Comprehensive Land Use Plan Map and Zoning District Map for a 6.88 acre parcel, 1N3E35BC700, currently designated MDR, medium density residential, and zoned R-5 single-family residential and proposed to be designated high density residential as zoned A-2 apartments residential consistent with the Type 4 quasi-judicial procedures as defined by Oregon Revised Statutes and found in Chapters 215 and 216 of the Troutdale Development Code." Seconded by Councilor Morgan.**

**VOTE: Councilor Anderson – No; Councilor Morgan – No; Mayor Daoust – No; Councilor White – No; Councilor Allen – Yes; Councilor Wilson – No; Councilor Ripma – No.**

**Motion Failed 1 – 6.**

## **8. STAFF COMMUNICATIONS**

Ed Trompke, City Attorney, stated I thought the Council might be interested to know that it was reported today in the newspaper that the deed for the Simon Outlet Mall has been recorded as of January 8<sup>th</sup>. It was bought by three Delaware limited liability companies; Austell Columbia Gorge Equities owns about 61.5 percent; TPI Diversified Columbia Gorge, LLC owns about 33.5 percent; and TPI Columbia Gorge Investors, LLC owns about 4.95 percent. It does impact what we are doing with the negotiations on the Urban Renewal District, but not in any great way, so we can continue those negotiations and we'll be reporting to Council on that in the near future.

Councilor Morgan asked for \$28 million?

Ed Trompke replied I'm sorry, I should have said \$28.245 million.

## **9. COUNCIL COMMUNICATIONS**

Councilor Anderson stated Mr. Mayor, members of the Council, City Staff, and citizens of Troutdale, after terrible consideration I have decided to resign my position effective March 31, 2016 due to an increasing workload, travel schedule, and family concerns. I take very seriously my commitment to the City and the citizens. We meet twice or more per month to do the people's business. I was elected by the people to represent them and make the most informed and best decisions on issues facing us that I can. Though some disagree, I feel I've done that. But to do that effectively, however, you have to be present. To be present more than absent is not a promise I can make anymore. I will walk away from five years in this chair having learned a lot about this City, how it is governed, how it is run, the people who govern and run it, and small town politics in general. I have taken great pride in serving Troutdale for the last five years. I love this City and no matter where my travels take me I always look forward to coming home. I value the friendships that I have made with fellow Councilors, members of our staff, citizen volunteers, and our citizens at large, and in closing I would like to acknowledge the support of my wife and daughter and my many, many friends in my service to our City. It truly means a lot.

Mayor Daoust stated thanks, Eric. I will work with Ed on what the next steps will be for the Council to fill his position. I don't think we quite have that figured out yet.

Ed Trompke replied no, I will need to take a look at the Code and the Charter.

Councilor White asked since we are so close to election, would it be an option to run a Councilor short and let the people decide?

Ed Trompke replied the election is May 17<sup>th</sup>, so March 31<sup>st</sup> is less than 60 days, so it wouldn't be in May.

Mayor Daoust stated I don't want to let it go that long. We can talk about this another time.

Councilor Ripma stated we should learn our options.

Mayor Daoust stated very good, well, that took guts to say, so, thanks.

Councilor Morgan stated I would like to thank Eric for his service to the citizens of Troutdale. I know that he works awfully hard. It's family first though, whether it be family of Troutdale or family blood relations, so I appreciate that. I don't have much other than I'm really proud of this Council for being one of the only cities in our region to act on human trafficking in a compelling and swift way. I think that says a lot about the leadership on the Council says a lot about the need to solving this issue. In closing, I'm excited to

leave tomorrow morning to go to Iowa to the caucus, so that should be a fun experience. And I will bring you all back an ear of corn.

Mayor Daoust stated I will bring up one more time the Troutdale Airport, the Advisory Committee meeting Thursday at 5:30 pm at McMenamins Edgefield up in the ballroom. I'm on four transportation committees in the Portland Metro area, and the one that is the most impactful right now is ODOT's Area Commission on Transportation, which I am on. We are making decisions and prioritizing all the ODOT projects in the Portland Metro area all the way to Hood River. There's a list of 22 projects we have to prioritize and narrow the list down. There's one in Gresham. There's none in Troutdale because Troutdale has been the receiver of some of the biggest ODOT highway construction project dollars in the entire state with the new interchange we got at Marine Drive and the new bridge across the Sandy River. I mean, ODOT just slammed millions of dollars into Troutdale this last year, so we had our share. The Golden Age of Troutdale happened as far as the highway improvements that happened in our City. We need to decide whether we will have an Executive Session next Tuesday on property acquisition issues. Ed and I will talk about whether that is next Tuesday, the 2<sup>nd</sup> or the following Tuesday on the 9<sup>th</sup>. I guess we haven't decided that yet, even though I said I would be okay with an Executive Session on February 2<sup>nd</sup> next week, I don't know for sure whether we are going to actually do it then, depending on whether we're ready. And that's all I've got.

Councilor White stated I know the National League of Cities trip is coming up, and we talked about doing this as a test run and we also mentioned the Council input on the criteria for that trip, so I know it's getting close and I would like to see that scheduled.

Councilor Anderson stated I'm not going, and I think somebody else dropped out, too.

Mayor Daoust stated Craig is going and I'm going. I haven't talked to Councilor Morgan about that yet.

Councilor White said okay, I just didn't want to miss that, whether you guys go or not.

Sarah Skroch said Craig Ward has it for February 9<sup>th</sup> on the agenda to discuss the priorities.

Councilor White stated I wanted to introduce our new Deputy City Recorder, but she's left, so I'll save that for another time. I want to thank Councilor Allen for his service last year as Council President. I thought you did a good job. That's all I have.

Councilor Allen stated well, I'm sensing a change of heart for the Council and I'm just wondering if the members of this Council will support 238<sup>th</sup> being a four lane. It's only a matter of time; it's got to happen.

Mayor Daoust stated well, we're not going to make any decision or conversations tonight on that. I mean, you remember what the engineer said, the intersection is the problem, so I don't want to get into a discussion on that tonight. The intersection is the problem. Even if they added the fourth lane, that would increase the problems at the intersection.

So, that's my two cents worth. I don't want to talk about it tonight, but you know what I mean. I don't know how to handle that, it's already been discussed numerous times.

Councilor Allen stated it is flow of traffic to the freeway, that's what bothers me.

Councilor Wilson stated I would like to thank Eric, when I first got on the City Council, for his guidance and support of my ideas. Don't make yourself a stranger, Eric. I know you're not cold yet. I would also like to have a work session regarding the rent that we get from the police department. I know that we set aside a certain amount of money that is not in resolution form, so it can be changed any time, but I would like to have a resolution of either having the amount that we've set aside or an increased amount based on a work session that I would like to have before the budget meeting.

Mayor Daoust asked to pay down the police building bond?

Councilor Wilson replied yes, to guarantee there is a certain amount because it's not guaranteed right now by resolution. Any Councilor can just take that money and put it in the General Fund. It's not what our citizens of Troutdale expected of that money. It hasn't been dealt with yet but the entire \$200,000 is not being used to pay down the bond, and I would like to either see the amount that we've set aside, or increase the amount, and put it into a resolution to help pay down the bond and guarantee that the money is used for that.

Mayor Daoust stated before the budget committee meeting, we might be able to arrange that.

Councilor White stated I think I'm still in shock over Eric's announcement. I just want to make sure I thanked Eric personally for his service and devotion to this City, and you'll be missed.

Councilor Anderson replied you're welcome, thank you.

Mayor Daoust stated I'm going to give my goodbye speech in March. I'm not going to say it now. I'll congratulate him, right now.

Councilor Anderson replied you do it in March and I might not leave until April.

Councilor Ripma stated by the way, putting something in resolution form doesn't prevent the next Council from changing it.

Councilor Wilson stated it makes it hard though.

Councilor Ripma replied not much harder, but I'm all for having the discussion. And Eric, your five years gave you all the experience of being on the Council and all the fights and good times. You just never had a contested election, lucky guy; that's what you missed. Anyway, we're going to miss you, but not until March so I won't say anything more. On Scott Kenney's public comment about the airport, you know the Port, when they were

here a few months ago, talked about doing a study that had several options, and I remember that we forcefully reminded them that we wanted Troutdale Airport to prosper. Scott Kenney was under the impression that the decision has already been made and they're not going to honor that, and it sounds like this advisory group on Thursday will advise the Port. I assume no final decision is made on Thursday. We still should go; we should have them support us, but we need to be forceful in protesting them tearing down all the buildings and shortening the runway to a non-useful commercial length is—well, I object.

**10. ADJOURNMENT**

**MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Anderson. Motion passed unanimously.**

Meeting adjourned at 10:07 pm.

**DRAFT**

\_\_\_\_\_  
Doug Daoust, Mayor

Dated: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Sarah Skroch, City Recorder

**CITY OF TROUTDALE**  
**CITY COUNCIL – Work Session/Regular Meeting**  
**Tuesday, January 26, 2016**

**PLEASE SIGN IN**

Name – Please Print	Address	Phone #
Keith Bickford	MCSO	503-793-9221
Brad Robertson	FPD - East Metro Gangs	503-209-0072
Robin Sells	GPD	503-618-2165
JOAN Semprebon	334 SE 21 <sup>st</sup> AVE	503 232-7148
Bob	11	11
DAVID Brown	2006 SW 24 <sup>th</sup>	503 666-6524
Edith Gillis	4626 SE Clinton	503 777 4411
PAUL Wilcox	Troutdale	
Diane Castillo White	Troutdale	503 888-1405
Sam	Troutdale, OR.	
Sanders	2225 SW Larsson	503 665-5684
Levi Allheart	2012 SW Lewis Way	971-212-3827
Joyce + Bob Lavoni	2124 SW Lewis Way	503-730-2307
Richard Shepard	2404 SW 22 <sup>nd</sup> St.	503-667-4517
J.T. Wright	1530 NB Kane	NA
Yom Nlyte	1615 SE 28th Ct, Troutdale	503-358-1313
Sally Sundry	990 SW Montmore	
Brady ONeil	2000 SW Stella Way Troutdale	503 267 3777
Carey SAVIDGE	1980 SW MONTMORE	
WAYNE BERE	2423 SW 23 ST	503 661 9150
Rob Spears	2437 SW 23 ST	503 577 5642
Brian Shurt	715 SW 28th St	503 230 1448
BRUCE WASHON	150 SW CHERRY PL RD	503-661-1042

Name - Please Print	Address	Phone #
ANGIE SCONFIENTZA	1302 SW Napoleon P Troutdale	503-863-6900
<del>Michelle Joyce</del> Carol L. Elton	3260 SW 18 <sup>TH</sup> Way	503-665-0256
PAUL O'NEILL	3320 SW 18 <sup>TH</sup> Way	503-618-0170
Anthony Meyer	2120 SW STARBUCK LN	503-253-5946
Virginia Wilson	2309 SW 22 <sup>ND</sup> ST	503-929-2895
Joyce Lorce	2133 SW Larsson Ave	503-669-7264
Clark Coz	2239 SW Larsson Ave	503-492-1546
Becky Smith	1097 E 1 <sup>ST</sup> Col Ruthy Troutdale	503-729-7667
KENNEY Polson	2535 SW 23 <sup>RD</sup> Circle	503-349-0795
Kathleen C. McAllister	2359 SW THOMAS AVE, Gresham	(503) 380-9861
Sam Rooney	2402 NE Oregon St Troutdale	503-991-1823
Doug Hanack	1865 SW Mainway	503-413-9758
Shirley Prickett	2035 SW Montrose Way	503-816-0124
ROBERT Schmit	2617 SW Indian Trl Ph	503-667-5412
Jon Lowell	2006 SW NORTHSTAR way	503-667-0193
Nicole Parker	2304 SW INDIAN MARK CT.	503-570-6484
Philip Anand	2202 SW NorthStar Way	971-344-3021
	2121 SW CECILIA WAY	503-734-9439

Meeting Date: \_\_\_\_\_

Page #: \_\_\_\_\_

**DRAFT**

**MINUTES**  
**Troutdale City Council Work Session**  
**Troutdale City Hall – Council Chambers**  
**219 E. Historic Columbia River Hwy.**  
**Troutdale, OR 97060-2078**

**Tuesday, January 26, 2016**

**1. Roll Call**

Mayor Daoust called the meeting to order at 6:02pm.

**PRESENT:** Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Morgan, Councilor White, Councilor Allen, and Councilor Wilson (6:07).

**ABSENT:** None.

**STAFF:** Scott Anderson, Commander, Multnomah County Sheriff's Office; Sarah Skroch, City Recorder; Kenda Schlaht, Deputy City Recorder; and Ed Trompke, City Attorney.

**GUESTS:** See attached.

**2. Discussion: Human Trafficking**

Mayor Daoust stated January is Human Trafficking Awareness Month. Councilor Morgan and I went to a meeting of Multnomah County's Commercial Exploitation of Children Unit last year which started the awareness topic. It is one of our Council goals this year to address. Councilor Morgan and I had an hour long interview on a local radio station on human trafficking a couple weeks ago. It was an extremely good interview with a lot of good information from the public calling in that added to what Councilor Morgan and I were talking about.

Keith Bickford, Detective with Multnomah County Sheriff's Office, stated I am in the Human Trafficking Unit and have been for about 8 years. It started with child sex trafficking in the United States and now a lot of my focus has been working with immigrants. I would like to start off with a real quick definition of human trafficking. As defined in the trafficking victims protection act of 2000, the legal definition of severe forms of trafficking in persons is: sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery. Human trafficking is a form of modern day slavery. It's a crime that exploits men, women and children from all over the world, including the United States. It is not smuggling. Smuggling is transportation based, trafficking is exploitation based. Trafficking exists on

principles of supply and demand and it continues to grow because of high profits and low risks. In Oregon there are both domestic and foreign born human trafficking victims. Trafficking is a crime that can hide in plain sight. Most trafficking victims do not call 911 when they need help. They are either afraid to or brainwashed to believe that law enforcement and victim service providers are the enemy. This makes it very difficult for law enforcement to find victims and convict traffickers. Federal, state and local law enforcement officers realize that they can't defeat this problem alone. A corroborative approach that includes the community, law enforcement and victim service providers is the answer. Because it's everywhere in high end schools, truck stops, neighborhoods and businesses it's important to bring all of us together. By increasing the East County law enforcement and the victim service provider training and communication, along with community outreach and education, we have a chance to get ahead of this problem. Troutdale and Multnomah County Sheriff's Office can work together to start law enforcement training, community outreach and education and contacting of appropriate service providers. Part of my many jobs at the Sheriff's Office is being a part of OATH which is the Oregonian's Against Trafficking Humans. OATH consists of 6 volunteers and is under the umbrella of the Sheriff's Office. The goal of OATH is to educate all Oregonians about trafficking through presentations, classes and social media. The classes and presentations are free and they educate people on trafficking but they also teach people what to do if they see this crime. We don't want to wait and react to trafficking cases. We need to start educating people now. In my experience, no person or community is immune to this crime. If there is a way to exploit people and make money, traffickers will do it. When I started working on human trafficking 8 years ago I made several trips to Salem to do presentations in front of different political work groups. For the first couple of years just about every group said they saw a lot of smoke but no fire. But as you all probably know now, the elected officials realize through the education they were supplied that trafficking exists and now they are writing laws to effectively combat the problem.

Brad Robertson, Fairview Police Officer and East Metro Gang Enforcement Team (EMGET) member, stated EMGET is a special unit that is comprised of 2 officers from the City of Gresham, 3 Multnomah County Sheriff's Deputies and 1 officer from Fairview and are supervised by Gresham Police Department, Sgt. David Schmidt. EMGET has been around for 11 or 12 years. I have been on the team for 4 years in May and I'm currently the Senior Officer on the team. The task of the gang unit is to educate the public about criminal gangs. We go to schools, universities and a bunch of different organizations and educate them on how gangs are affecting livability in East County. We enforce the laws against gangs, we investigate them and also collect criminal intelligence on gangs. Within the past couple of years my partner, Chris Stephens and I noticed that there wasn't really any specific detective, officer or unit assigned in East County to investigate human trafficking or prostitution related crimes. A lot of the gang members are on open social media like Facebook and Instagram, things like that and were posting and outright bragging about being pimps and how they would make money off of these girls. Since 2013, Officer Stephens and I started investigating these more, in addition to investigating all sorts of different stabbings and shootings and all the other gang crime doing trafficking crime. Specific to Troutdale, just like Fairview, Wood Village and even Gresham, the gang team came around because it was obvious to the public and the state

that there was a gang problem and human trafficking is starting to get recognized as more of a problem and that's why EMGET is addressing it now. We're all potentially victims of a larger metropolitan area negatively affecting us in some ways. In the past few years the EMGET has been investigating those. We took a collaborative approach to investigating these crimes and the Multnomah County District Attorney's Office hosts meetings that actually incorporate officers from the gang team from the state, Oregon State Police, from the FBI and from the Portland Police Bureau. The meetings are once a month and they share their case work, share people they are investigating and educated at the same time on how to investigate these crimes. These meetings hosted by the Multnomah County District Attorney's Office are very helpful. One of the first cases handed to EMGET was reported by a Gresham Neighborhood Enforcement Team that there was a 15 year old female that was suspected to being trafficked out of an apartment complex. Had the EMGET not gotten the education from Multnomah County Attorney's Office on how to do these we wouldn't have been able to investigate this case. This case was interesting to work and also a large amount of resources for EMGET. We worked with the Neighborhood Enforcement Team, it was a weeklong of surveillance and a lot of very intricate work on collecting information about who went to those apartments, license plates those sorts of things. Multnomah County drafted a search warrant to make anything in that apartment available to save that 15 year old girl from any further harm. We arrested 2 other people for prostituting her out. This case on itself resulted in well over 30 or 40 different felonies on people that were involved. That's just one example of how we are able to make a difference on one case. In the course of the last 2 years, EMGET has arrested 11 people for a variety of different felonies, out of those 11 people investigated there were over 80 felonies specific to human trafficking crimes, so that's prostitution, promoting prostitution and compelling prostitution. Prostitution is a misdemeanor, compelling and promoting prostitution are both felonies. Outside of those human trafficking crimes, when we started investigating gang members we were able to discover all sorts of additional information and we were able to discover things involved in stabbings, shootings, assaults, restraining order violations, identity thefts and a variety of crimes. And in adding those additional crimes that we were looking at probably well over 100 other felonies in just these 11 individuals that committed crimes. Out of those 11 individuals a lot of the information we were also able to capture from their investigations we discovered that there is well over a dozen criminal street gangs in East Multnomah County that are participating in human trafficking and making money off of doing trafficking. It's like Detective Bickford said, the issue that police have investigating these crimes is that they're very easy for a victim to hide in plain sight and it's very difficult for a uniformed patrol officer if he pulls over a car and there's a 14 year old female in that car and a 30 year old male in it for them to detect what's going on. Law enforcement is looking for guns or drugs, it is obvious contraband by the time we can automatically make an arrest. It's very easy to assess probable cause. But when you're looking at something that's as delicate as human trafficking, the last thing a lot of victims are going to want to do is to give information to the police in front of the person that's been abusing them for months or years. Considering that, after all those cases EMGET has done, in the future we're going to continue to collaborate with the Multnomah County District Attorney's Office. We will continue to take these cases as they come to us. It is very difficult for us to maintain a uniform presence on the street which is our charter for the East Metro Gang

Team to keep doing it. One of the suggestions that we have gone with is to do what is called a targeted prosecution approach. If we know a gang member is actively engaged in compelling and promoting prostitution we will focus efforts specifically on that person. He mentioned what is extraordinarily helpful in combatting gang crime is that through these investigations, when we get things back like cell phones and computers and that sort of thing, we were able to learn a huge amount of intelligence and out of the other crimes we were investigating we discovered that a number of gang members either knew people or were directly involved with 5 different homicides in East County. We were able to use some of these cases on human trafficking and the District Attorney's Office would use those as leverage to get those people to cooperate and give testimony on homicide cases. And several of those are actually still being adjudicated. That kind of sums up how EMGET is being affected and it's going to keep going forward as we keep working to combat this.

Michael Palmer, FBI Special Agent and member of the Child Exploitation Task Force, stated this task force handles all federal crimes that involve children. The majority of the task force time is tied up with investigating child sex trafficking. With that, we have 3 Portland Police Detectives on the task force, we have a Vancouver Police Detective and Beaverton and Tigard Officers, all assigned to the task force. We also participate in the monthly meeting that happens that combines with East County where we share information. We also work with Clackamas, Gresham and all of East County even though they are specifically beyond the task force. Child sex trafficking is not really something you're ever going to see but those that investigate it the common phrase is that if you have a hotel in your city you have a problem with child sex trafficking. The first time I told my brother in law that I was going to work this he was baffled, he didn't know it was an issue. This is a problem that is in every part of Oregon, every part of the U.S. This task force is a little unique in that we can cross the Washington border and work in Vancouver. Once a year the FBI, nationwide, conducts what they call Operation Cross Country. That week every FBI division in every city in the country conducts operations specifically targeted at recovering minors, that are victims of sex trafficking. These minors range in the ages of just under 18 down to 12. Commonly, in this area we find girls that are 15 and 16 and then we find them repeatedly after that until they're 18. These girls range in all demographics. Everyone wants to know who does it, why they do it is the million dollar question. Everyone gets to the point where they'll do anything for money. That's what a lot of these girls do. Going back to Operation Cross Country, every year the FBI spends 1 week intensely looking for girls. This year the Portland division conducted operations in Eugene for 2 nights, 1 night in Salem and a 1 night in Beaverton, Portland and Vancouver. We recovered 3 minors, multiple adults and identified several pimps or traffickers. Portland is a little unique to other cities because gang members are almost always tied with prostitution or trafficking in some way. Often times it's their girlfriend or what they claim to be their girlfriend. It's usually not multiple girls per trafficker here in Portland but it's usually 1 or 2 working for one guy. He is completely living off these girls and their work but they are so enticed by whatever he is, whatever line he has told them that they, for whatever reason, cannot get away. The FBI responds to a girl when we find out a girl is posting, often times we will set up a typical sting to be able to recover her and start interviewing her. And hopefully take them to the trafficker. As part of that, here in Portland

and the metro area, it's a little bit different once you get out of the metro area in that they don't arrest minors and the minors are treated entirely as victims. The FBI has a victim's service specialist, she comes out with them to almost every call out they go to. If she's not available someone from the county SARC (Sexual Assault Response Coordinator) unit is usually there. There is always a victim's advocate there. They will take the victim to the hospital, often times they will just buy them a sandwich. Most of the time they haven't eaten in days or all day. That's kind of the victim's advocate job. They really want to focus on the child as a victim. They are not able to make decisions for themselves and so they take that approach and really target the traffickers as far as the criminal justice system and bringing all the charges on the traffickers, not the minors. They do everything they can to keep the minors out of the criminal justice system.

Diane McKeel, Multnomah County Commissioner, stated I would like to speak a little about the County efforts around trafficking. Before I was elected to the Board of County Commissioners I took a class that was offered by the Multnomah Sheriff's Office called Citizen's Academy. It's offered in Wood Village and it's offered every fall and I recommend that you all take the class. Officers from each division of the Sheriff's Office come in and take a one day course 2 hours a week and talk about what it is that they do. One of the speakers was Detective Keith Bickford and like most people I thought human trafficking as an international issue. He was talking about how it was here in our schools and our parks and our shopping malls. It was troubling to hear what he was talking about. I went up to him and asked how do we do something about this? Once I was elected I decided this was going to be a priority out of my office. I decided I was going to focus on those underage because it was so disturbing that these are children and they are our children and if we don't do something about it who is going to do something about it. Myself and others formed CSEC (Commercial Sexual Exploitation of Children) steering the committee to develop a community wide response. That was started in 2009. Sitting at that table we have law enforcement, the DA, social services, advocates, faith based communities, survivors and just about everybody that touches this population. We meet on a very regular basis, monthly actually. We knew our first challenge was the awareness piece, to make people aware that this is a domestic issue and what it is about. We were very focused in the beginning on victims and the services for the victims and we still are but we also know that there were 2 other pieces to this. One is the traffickers and one is the buyers so we moved into those areas. The District Attorney has been able to get some very significant sentences for the traffickers which we are very thrilled about. We also started on reducing demand and we have an entire group that works on that. Actually that group is led by a group of men because they thought they needed to step up and be a part of this issue. We also have what's commonly known as a "John's School" in the county to hold them accountable. We just recently received a grant that will help us extend our services to the 18 to 25 year old population because we know this is a bigger issue than just the underage trafficking. One of the things we are able to do is to help affect legislation down at the State and our State Legislators have stepped up. They passed a number of laws that have been very significant and helpful. They have another bill coming in a short session so they don't miss a session without bringing something forward again. I am thrilled that the City Council has this resolution on today's meeting agenda.

Mayor Daoust stated I open the floor for people to speak at this time.

Edith Gillis, Portland resident, stated I came here tonight because I want to provide a human face and gets some factual, actual true stories that I have experienced from multiple sides so that you understand how pervasive and omnipresent this is. I was a foster parent. I had children who were toddlers, 2 year olds and 3 year old. One little boy came to me at age 3 ½, he had been in 16 foster placements before he came to me. In each of those he was raped multiple times by multiple people. Before that, he was with multiple family members and raped by multiple people multiple times. He had severe signs reaching signs/symptoms of autism. Under my care he greatly improved, Multnomah County Children's Services Division sold him, they called it adoption, very profitable to a family that was totally unprepared for him in a situation that was horrific for him. They got rid of him. When I was getting ready to leave my abusive husband I talked to the people at Hillsboro, at the domestic violence shelter. I was pregnant and expecting to give birth any hour of any day. I wanted to talk through an action plan, plan A, B, C...what to do with my 7 ½ son who was suicidal and my 2 ½ year old daughter who had severe medical needs. They didn't want to talk about it, said they would do it later. My children and I showed up and the next afternoon I had the same symptoms that I had when I nearly died and bled to death with an abrupted placenta with my second child, then 2 ½. The women's shelter would not allow me to go by life flight to Emanuel hospital to the trauma center. The local hospital wasn't prepared for this and they wouldn't allow me to go by ambulance, taxi or police or sheriff or a friend or staff or volunteers and I couldn't drive. I was having contractions every 5 seconds or less. The only way I could get to the hospital was to have a woman that they said was a nurse, who was another person supposedly escaping domestic violence. I didn't trust or like her but I had no other alternative. We couldn't leave anyone to take care of our kids for child caring or anything, babysitting. When I was in labor with my third child, instead of me having my son, who had taken several classes in child birth attending, the nurses wouldn't let me be with him, I knew something was wrong. I was hooked up with IVs, they thought I was dying, thought my unborn baby was dying. Hours later, couldn't find our kids and a homicide detective of East Precinct Portland Police Bureau said, Tamica stole your car and kidnapped your children to sell them into prostitution for drug money and she will do anything for a fix. Grace was 2 ½ and Will was 7 ½. The FBI, the police, none of them wanted to help me. I was under orders not to go to the media, not to get a posse or any support. I could only turn to God. And thankfully, that was more reliable. But my son, who is going to turn 30 on April Fool's day, has never forgiven me for that, he's really messed up. My daughter has some very serious problems. Has never had a friend in her life and is still traumatized by the experience. I found out that my son knew when he was 6 ½ to 7 ½ that I was being drugged and prostituted without me knowing it. I only found out when I was 3 ½ months pregnant and had not known I had had sex for 7 months, I'm not Mother Mary. I didn't know what was going on and that was the story. The evidence supported. I don't know the whole stuff about that. But other people later found out about it. I have never been able to have services for domestic violence support groups because they didn't want to scare anyone from going to a shelter. We have not got mental or physical help. My daughter was raped when she was 5. The rape kits were lost and never acted upon. It was never prosecuted and then years later we moved to east Portland and my son went

to Kellogg Middle School. A little while before that a little girl had been taken from the school hallway, across the street to the hotel and raped. Her father lived one door down from us. As a volunteer for Franklin High School Student Learning Gardens, I've had multiple children who I am trying to therapy in gardening, who are prostituted and raped and they cannot get services from anyone...from anyone. And for years employees of Multnomah County Children's Services Division, were not checked and some were pedophiles, pedophiles, they were raping our kids. They were doing a lot of false accusations against the whistle blowers. It is widespread, it goes on for years and years of suffering and harm to people. I ask please, please don't think it doesn't exist there. People are even turned down from church memberships because people don't want to think about it. Thank you Council for acting on this.

Mayor Daoust stated there seems to be a big connection to drug addiction and a need for money in that community. How strong of a connection is there between human trafficking and the need for drug addiction money?

Officer Robertson replied all the 11 major cases that we've had in the past few years, every single search warrant we executed and every single person we arrested as a suspect and as a defendant and the victims, all had drug problems. Usually heroin, methamphetamine and sometimes cocaine. That was in every single instance.

Mayor Daoust asked how often do victims themselves actually report or get free enough to say I'm in this situation, please help?

Agent Palmer replied from the FBI's perspective, we do get some self-reporting but that's usually after some traumatic event. They're usually in the hospital. The nurses are pretty well educated to human trafficking and they'll start doing a rape kit. That will usually come out during that process and is notified through CPS. Often times it is family. Family members will get kind of tired of it and try to figure out what's going on. A lot of it is figured out through other investigations. Here in Portland there's usually gangs involved to some degree. It's pulling over, finding some drugs then asking a 14 year old girl why she is with this 30 year old man. Then you can usually start piecing things together from there.

Officer Robertson stated a lot of the times officers respond to domestic violence incidents where the person has been assaulted to the point where they need admission to the hospital and they get a break from the person that's basically keeping them in prison, their pimp or trafficker, and sometimes the nurses or officers will get them to divulge that information. In the cases we have had of juveniles, they did not self-report, one of the juveniles had her mother report her as a runaway and then a person in an apartment complex wanted to remain anonymous started reporting that she thought something suspicious was going on in this one apartment where she would see a young female come and go and then a lot of men coming and going. It was relatively obvious what was going on and she was smart enough to tell police about it.

Commissioner McKeel stated through some of the trainings that we do there are populations that are able to better recognize the signs to report for example, an

emergency room nurse, the tourism industry. It happens in every hotel. Not just your seedy ones that you think. It's every hotel so they do a lot of those trainings for them to watch for the signs and what looks like trafficking. Some of that training from around the different populations that come in contact with it are helpful to get people to report it.

Councilor Allen stated I have grown up in some horrible areas and one of the reasons I moved to Troutdale was because it was a better place to raise my family. I have family members, a couple of them that counsel and provide counseling for people that are wanting to come out of the trade. I also have one that helps find safe places for them to go when they get out of the trade. Usually they're threatened with violence or they're going to be in trouble if they leave. How well are we established at providing alternatives for people who want to get out that kind of environment?

Officer Robertson replied in my experience the multi-disciplinary approach that we have when we involve law enforcement, the District Attorney's Office, the Sexual Assault Resource Centers and a variety of other counselors and support systems in the county. Our model is actually sought after by a lot of other government's around the country so Multnomah County kind of leads in a lot of ways that multi-disciplinary model in combatting it. It doesn't mean that they can't do a better job of it but they have a lot of systems that are already set up. The best example I can give is of how advanced they are. I was a Deputy Sheriff in Montana for about 4 years before I moved out here and started my job as a Police Officer in Fairview. Montana is severely lacking in having that sort of multi-disciplinary approach where it is collaborative. There are plenty of other states that don't have those services. They have these services in place here but it's just making sure we upkeep and always look for something new and better that we can do, and making sure that those things get the funding they need and make sure that those people are properly trained.

Councilor Allen asked are these victims able to go somewhere safe that they can escape? They're usually afraid to they leave and threatened to be prosecuted.

Officer Robertson replied there are places they can be set up with. But that's one thing that has been talked about, trying to get funding to create a shelter for underage victims.

Edith Gillis stated A Door to Grace has a few in a hidden suburban home setting but there is nothing for boys. There is nowhere near enough beds for those who have already escaped and want to tell people about it.

Commissioner McKeel stated there are several other nonprofits that do have beds. They do not have enough shelter there's no doubt about that. There is another shelter that has about 7 or 8 beds and they take both boys and girls. They have some short term shelters and some type of medium length stays and then a longer term shelter. There are services, there's not enough by any means but those steps are being taken toward those shelters.

Councilor Anderson asked what can we do that we're not already doing? Either through our relationship with Multnomah County Sheriff's Office or independently.

Commissioner McKeel replied it's probably around the collaboration of all of us. There are a number of people sitting at the table, not everybody, but a lot of people working on this issue. And there's a lot of people that do a lot of good work around the issue. It's very important to have them networking each other so they know what steps they can take and where they can go and who they can contact.

Councilor White asked is there any funding mechanism that's being looked at that can be dedicated to this problem?

Commissioner McKeel replied they dedicate funds through the County. They have funds for shelters.

Councilor White asked is there any new funds or are you looking at some type of new revenue source?

Detective Bickford replied there are some federal grants that we look to.

Commissioner McKeel stated the grant we just received was a federal grant to expand to the population 18 to 25.

Mayor Daoust stated the reason for the work session was to raise awareness for the Council and to anybody else because we are going to have a resolution before us during the regular meeting. The time was well worth it for you to come forward and talk to the Council before they take up the resolution and make a decision on it. This really helped.

### **3. Adjourn**

Mayor Daoust adjourned the meeting at 6:48pm.

**DRAFT**

\_\_\_\_\_  
**Doug Daoust, Mayor**

**Dated:**\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**Kenda Schlaht, Deputy City Recorder**

**CITY OF TROUTDALE**  
**CITY COUNCIL – Work Session/Regular Meeting**  
**Tuesday, January 26, 2016**

**PLEASE SIGN IN**

Name – Please Print	Address	Phone #
Keith Bickford	MCSO	503-993-9221
Brad Robertson	FPD - East Metro Bangs	503-209-0072
Robin Sells	GPD	503-618-2165
JOAN Semprebon	334 SE 21 <sup>ST</sup> AVE	503 232-7148
Bob		
DAVID Blower	2006 SW 24 <sup>th</sup>	503 666-6524
Edith Gillis	4626 SE Clinton	503 777 4411
PAUL WILCOX	7200 24 <sup>th</sup>	
Diane Castillo White	Troutdale	503 888 1905
Sam	Troutdale, OR.	
Sandra	2225 SW Larsson	503 665-5684
Leona	2012 SW Lenia Way	971-202-7827
Joyce + Bob Lawon	2124 SW Lenia Way	503-730-2007
Richard Shepard	2404 SW 22 <sup>nd</sup> St.	503-667-4517
J.T. Wright	1530 NW Lane	NA
Yonnylyta	1615 SE 28th Ct, Troutdale	503-358-1313
Sally Saredy	980 SW Montmore	
Brady ONeil	2000 SW Stellaway Troutdale	503 267 3772
Carey SAVIDGE	1980 SW MONTMORE	
WAYNE BERE	2423 SW 23 ST	503 661 9150
Rob Spears	2437 SW 23 ST	503 577 5642
Bria Shub	715 SW 20th St	503 830 1448
BRUCE WASHON	150 SW CHERRY PL RD	503-661-1042

Name - Please Print	Address	Phone #
ANGIE SCORFIEZZA	1302 SW Napoleon P Troutdale	503-863-6900
<del>Marilyn Deje</del>	3260 SW 18 <sup>th</sup> Way	503-665-2556
<del>Sam L. Elou</del>	2320 SW 18 <sup>th</sup> Way	503-618-0172
PAUL CARPENTER	2120 SW 16 <sup>th</sup> St	503-253-5946
Anthony Meyer	2309 SW 22 <sup>nd</sup> St	503-929-2895
Virginia Wilson	2133 SW Larsson Ave	503-669-7264
Joyce Lorce	2239 SW Larsson Ave	503-492-1596
Clark Coz	1097 E 1/2 Col Ruthy Troutdale	503-799-7667
Becky Smith	2535 SW 23 <sup>rd</sup> Circle	503-349-0795
KEENEY Polson	2359 SW THOMAS AVE, GRESHAM	(503) 380-9861
Kathleen C. McAllister	24002 NE Oregon St Troutdale	503-991-1823
Sam Rooney	1865 SW Montmarz Way	503-413-9758
Doug Hanack	2035 SW Montmarz Way	503-816-0124
Shirley Prickett	2617 SW Indian Trail Pk	503-667-5912
ROBERT Schmit	2006 SW NORTHSTAR Way	503-667-0193
Jon Lowell	2304 SW INDIAN MARY CT.	503-570-6484
Nicole Parker	2202 SW NorthStar Way	971-344-3021
Philp Anand	2121 SW CERISE WAY	503-734-9439

Meeting Date: \_\_\_\_\_

Page #: \_\_\_\_\_

**DRAFT**

**MINUTES**

**Troutdale City Council – Regular Meeting  
Troutdale City Hall – Council Chambers  
219 E. Historic Columbia River Hwy.  
Troutdale, OR 97060**

**Tuesday, June 14, 2016 – 7:00PM**

**1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**

Mayor Daoust called the meeting to order at 7:00pm.

**PRESENT:** Mayor Daoust, Councilor Ripma, Councilor Brooks, Councilor Morgan, Councilor White, Councilor Allen and Councilor Wilson.

**ABSENT:** None.

**STAFF:** Craig Ward, City Manager; Ed Trompke, City Attorney; Kenda Schlaht, Deputy City Recorder; Erich Mueller, Finance Director; Steve Gaschler, Public Works Director.

**GUESTS:** See Attached List.

Mayor Daoust asks if there are any agenda updates.

Craig Ward replies there are no updates.

**2. CONSENT AGENDA:**

**2.1 MINUTES:** November 24, 2015 Regular Meeting, March 8, 2016 Regular Meeting and March 15, 2016 Special Meeting.

**2.2 RESOLUTION:** A resolution approving an Intergovernmental Agreement with Metro to continue receiving solid waste clean-up services at unlawful camping sites in Troutdale.

**2.3 RESOLUTION:** A resolution accepting the May 17, 2016 Primary Election results from the Director of Elections, Multnomah County, Oregon.

**2.4 RESOLUTION:** A resolution authorizing the City to enter into a Stipulated Supplemental Judgment with DEQ for the public improvements including public right-of-way, easements, infrastructure and utilities located at or adjacent to the Troutdale Reynolds Industrial Park (TRIP) property.

**MOTION:** Councilor Wilson moved to approve the Consent Agenda. Seconded by Councilor Morgan. The motion passed unanimously 7-0.

**3. PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items.

Rip Caswell, Troutdale, Oregon, states I wanted to thank the Council and the City and staff for a wonderful 100 year celebration of the highway. We unveiled the monument dedicated to Visionary Park of Sam Hill and Samuel Lancaster called "Devoted Passion". It was well attended and I want to thank the City staff for cleaning everything up and making everything look so nice for that day. I also wanted to point out Steve Gaschler's leadership in the project of Visionary Park. We're really getting a lot of value. He's enlisted a lot of people to donate all of the engineering. There's been a tremendous outpouring of support for this project and I wanted to thank the vision of the Council for seeing this project through and making a beautiful statement to inspire future generations. I would also like to present an idea about the manholes in Troutdale. It would be a wonderful opportunity for future development and I called the City and talked to Public Works and it's a small investment but to do our logo on the manholes so that we have that for now and into the future when we do new projects that we have kind of an advertisement for the quality of our City. Just an idea. Also, I'm bringing my foundry back into Troutdale. We'll be bringing jobs and growth. We're developing on Harlow Rd. and it is right next to I-84. We have to plan artwork throughout and it's going to be a wonderful project and bring in a lot of artists. I look forward to seeing Troutdale become a real art's destination. There are some other developers here tonight. We've been meeting and talking about the possibilities and want to keep you informed of the exciting news. Thank you.

Robert Butler, Portland, Oregon, states Rip has a really good looking project and it's going to be a landmark for Troutdale. Next door to that lot is Columbia Ridge Church property which is 4 acres and another company moving in there, which I represent, is Apollo Drain and Plumbing. They're coming out of Gresham and bringing 50 employees and have been in business for 33 years. Scott Berg is President and his 3 sons run a division of it. They're proud of their sustainability. They're a high tech company that has some state of the art equipment that is called non-intrusive for excavating. The instigator of an association that is being formed that Rip is part of and I guess I'm the instigator. We're going to call ourselves as a group NE Harlow Business Association. We're proud to bring in over 100 employees on Harlow Place. We look forward to working with you.

Dan Woods, Boring, Oregon, states I am the owner and founder of Custom Asphalt Products. Custom Asphalt is a green growth company. I have been environmentally responsible since 1979 when I produced the first asbestos free asphalt sealer anywhere in the NW. I was also the largest contractor for asphalt seal coating. We use 10% recycled tire rubber for parking lots. Combined with our partners we have taken more than 11 million tires out of landfills to a better place. The City of Portland applies our road surface to approximately 100 miles of roadway each year reducing their overall paving costs. I'm a proud member of the NE Harlow Business Association and I'm in the process of purchasing land and building a new facility in Troutdale. We're excited to grow our business at the new Troutdale location and become a member of this exceptional community.

Kristin Lewton, Troutdale, Oregon, states I'm here to introduce the business that we're bringing to Troutdale. In This Together has been working out of my home for 3 years now.

We work with people with disabilities and integrating them into the community, establishing safe relationships and allowing them to have their independence. What we do not do is teach them anything. All we do is draw it out of them. In This Together is proud to present My Brother's Keeper. It is a community service center located behind the Dairy Queen in the Yoshida building. We will be providing arts, crafts, games, movie nights on Fridays, Bingo on Mondays, color me beautiful which is adult coloring and collecting non-perishable food for we got your back backpacks distributing to the community and students, schools supply drives and mentoring. We do not have wi-fi. We are looking into getting wi-fi. In This Together opens July 1<sup>st</sup> and My Brother's Keeper opens August 10<sup>th</sup>. Most everything is donations.

Mike Purcell, Portland, Oregon, states I'm a general contractor and have worked in the Portland area for 43 years and have built a number of buildings here in Troutdale. I'm here representing my client NW Freight, located in Ridgefield, WA. They're small freight company with 2 trucks presently. They would like to relocate their facility and expand into Troutdale at Eastwind and Marine Drive. We would like to build a 36,000 sq. ft. building that would house some cold storage and fresh produce for distribution to local businesses. They would like to locate here in Troutdale and we would like to see if there was any possibility for incentives for them to do that such as maybe waiving SDC fees or something along those lines.

Mayor Daoust states Craig Ward, City Manager, should be your first contact to try to work something out.

Paul Wilcox, Troutdale, Oregon, states the County recently released their precinct results from the May primary elections. I thought it might be interesting for Council to see how Troutdale voted. One that was noteworthy to me was Troutdale overall voted in favor of the MHCC school bond. It lost overall but the Troutdale voters approved it. The City Charter 84% and Historical Society was 63%. President number 1 Sanders, number 2 Clinton, number 3 Trump, number 4 Cruz and number 5 Kasich. I treated it as an open primary. Governor Brown, Pierce and Alley with Brown overwhelming with 46%. One thing that was interesting Troutdale has 2 precincts, 4904 and 4905. 4905 is just a tiny sliver of the city on the east side of the Sandy River. They vote differently over there. They voted down the college bond and their presidential preferences are Trump, Sanders then Clinton.

**4. REQUEST: A request for the City to provide sponsorship for the Cruise In.**

Councilor Allen states I wanted to point out to the committee that I am a Kiwanis member.

John Leamy, Troutdale, Oregon, states I am with Kiwanis and we're working on the 13<sup>th</sup> annual Troutdale Cruise In scheduled for Sunday, August 7<sup>th</sup>. Part of the success of this event has been your past support and support of area businesses. So tonight I would like to come before you and ask for \$1,500 sponsorship of our event this year.

Councilor Morgan asks is this going to require a budget amendment?

Erich Mueller replies no.

Councilor Wilson states we donated the same amount last year.

**MOTION: Councilor Morgan moves to approve a \$1,500 sponsorship for the Kiwanis Club of Troutdale Cruise In. Seconded by Mayor Daoust. The motion passed unanimously 7-0.**

**5. MOTION: A motion to approve the Mt. Hood Cable Regulatory Commission's 2016-17 Annual Budget.**

Norm Thomas, Mt. Hood Cable Regulatory Commission (MHCRC), states I would like to introduce Rob Brading who is the outgoing CEO for Metro East Community Media and introduce our new CEO, Marty Jones.

Rob Brading, former CEO Metro East Community Media, states good evening, I was the CEO for Metro East Community Media and I wanted to take the opportunity to do a few things. First, to thank you for your support for Metro East Community Media over the 24 years I had the honor and privilege of serving as CEO there. I had a great time and it was an honor and I'm deeply grateful for the opportunity. I would deeply remiss if I did not point out that Metro East Community Media would not exist and not be successful without the MHCRC and terrific work they have done over the years to support our communities. I also wanted to take the opportunity to introduce my successor, Marty Jones. Marty comes from Oregon Episcopal School and he is a successful filmmaker. I am confident will continue Metro East's strong record and grow and prosper.

Marty Jones, Metro East Community Media, CEO, state I am looking forward to working with the Council. 40 years ago I was a young teenager in Columbus, OH and wanting to start a career that led to a really wonderful time in the entertainment industry. A new chapter has opened up for me in Oregon and staying in Portland after 6 years of Oregon Episcopal School as senior administrator and the director of marketing and having the opportunity to rebrand a 150 year old school and make sure its relevance is well known to the evolving educational landscape was a fun challenge. The same thing with Community Media. Community Media is really striving in a strong place where you'll hear lots of great things from Norm and Julie Omelchuck, Program Manager. Looking forward to being here and being a part of your communities.

Norm Thomas states tonight I'm here representing the Mt. Hood Cable Regulatory Commission on our budget request for the next fiscal year of 2016-17. Tonight I have with me Julie Omelchuck who is part of the staff at MHCRC. I am here to highlight a couple of the many MHCRC activities over this past year and ask to seek your approval of the MHCRC Fiscal Year 2016-17 proposed budget.

Norm Thomas read a statement about the MHCRC and their budget that is before the City Council. A copy of the statement is attached to the minutes as Exhibit A.

Mayor Daoust states thank you Norm for being the Troutdale rep for 20 years. On page 12 of the report it talks about 10 years ago Metro East used the investment fund to construct the current facility that they're in and over the last decade Metro East has used capital revenue from the Cable Regulatory Commission to aid the investment. It says the repayment in the initial investment in the facility will be complete in the current year you're in creating a potential gap in Metro East's 2016-17 current service level operating budget. I didn't quite understand that. Why paying off a building created a gap.

John Brading replies it's slightly messy. When we constructed our current facility we used non-capital money. We used money that we had in our investment fund to build the building for a capital expenditure. Our funds are divided between capital funds so we used operating money for a capital expense. Over the years we have paid ourselves back with capital money moving into operations. Now that we have paid back essentially an internal loan operating funds will be less because we cannot continue to move capital money into operational money. We have used the investment fund for this year to fund that gap. But there is a potential for a gap in future years and I wanted to make sure you understood that.

**MOTION: Councilor Morgan moves to approve the Mt. Hood Cable Regulatory Commission's 2016-17 annual budget. Seconded by Councilor Wilson. The motion passed unanimously 7-0.**

- 6. PUBLIC HEARING / RESOLUTIONS:** A public hearing on the following resolutions:
- 6.1** A resolution certifying the City of Troutdale's *eligibility* to receive Fiscal Year 2016-17 State Shared Revenues.
  - 6.2** A resolution declaring the City of Troutdale's *election* to receive State Shared Revenues for Fiscal Year 2016-17.

Erich Mueller, Finance Director, states the requirement is that there is public hearing on the proposed uses of the funds. Once that public hearing is done then the 2 resolutions would need to be acted on. There are 4 steps that are required for the City to receive State Shared Revenues which we have for many years and is part of our budget. The first step was accomplished during the Budget Committee meetings back on April 18<sup>th</sup> when there was the opportunity for the public to comment on possible uses of State Share Revenues before the Budget Committee. The second step is the public hearing that we'll hold this evening on the possible uses. It's just one public hearing. We don't have to do one for each resolution. Once that hearing is concluded then the State requires 2 things. One is the City certify to the State that the City is indeed eligible based on the statutory criteria and that once that has been established then the City has to actually elect to receive the funds that they represented they are eligible to receive.

**Mayor Daoust opens the public hearing at 7:54pm.**

No public comment.

**Mayor Daoust closes the public hearing at 7:54pm.**

**MOTION: Councilor Wilson moves to approve resolution 6.1 certifying the City of Troutdale's eligibility to receive Fiscal Year 2016-17 Stated Shared Revenues. Seconded by Councilor Morgan. The motion passed unanimously 7-0.**

**MOTION: Councilor Wilson moves to approve resolution 6.2 declaring the City of Troutdale's election to receive State Shared Revenues for Fiscal Year 2016-17. Seconded by Councilor White. The motion passed unanimously 7-0.**

**7. PUBLIC HEARING / RESOLUTIONS:** A public hearing on the following resolutions:

- 7.1** A resolution adopting the City of Troutdale's Fiscal Year 2016-17 Annual Budget and making appropriations.
- 7.2** A resolution imposing and categorizing Ad Valorem Taxes for Fiscal Year 2016-17.

Erich Mueller, Finance Director, states this is the next step in the process and I want to invite our Budget Chair, Tanney Staffenson to join me. This represents the budget that was prepared by the Budget Committee through our 4 nights of meetings and categorized and published in the Gresham Outlook on May 31<sup>st</sup> and March 3<sup>rd</sup> to comply with our publication requirements. The local budget law requires that the Budget Committee approve a budget and forward it to the City Council for public hearing. I mentioned in the staff report that I had a recap error in which I've put in the written record and corrected in the resolution and everything is in balance.

Tanney Staffenson, Budget Committee Chair, states along with the 7 appointed members of the Budget Committee, that makes up 14 members of the Budget Committee and each one of those members has one equal vote. We had a lot going on this year. We had staff changes, a 5 million dollar loan for access to the Urban Renewal Agency, a gas tax, storm water fees, allowance for contingency for funding and these are just some of this year's changes that we really hadn't dealt with in the past. Last year we finished with a surplus. Last year we were actually ahead when we finished the meetings. This year we didn't quite make that mark. We ended up using .0047% in reserves on our entire budget. It's a small amount that we did use reserves to accomplish our goal. I did feel it was challenging and through the process there was an awful lot that happened but I believe we got where we needed to be in the end. Maybe in the future we could go about things differently.

Councilor Wilson states on the percentage that you said we went into reserves that equated to \$198,000 bringing us from about a 2.2 million in reserves down to a 2 million. That's why I was so adamant in trying to get that corrected through other projects that we're subsidizing. It is real dollars even with the percentage being small.

Tanney Staffenson replies it is real dollars. I don't think it brought us quite down to the 2 million mark.

Councilor Wilson asks Erich, where are we going to end up?

Erich Mueller replies that will remain to be seen depending on what other adjustments are may occur.

Mayor Daoust states I see an unappropriated fund balance of \$2,194,000. That's the planning amount for the 2016-17 budget.

Erich Mueller states that's the current budget projection.

Mayor Daoust states for the audience's sake, our General Fund is about 14 million dollars but if you take into account all the funds that the City of Troutdale works with it's about 41 million dollars. If you look at the contingency fund there is still \$750,000 in contingency. The unappropriated fund balance is that 2,194,000.

Councilor Morgan states I see the gasoline tax for the City \$923,713. Do we know the difference from 2016 to 2015 as it relates to the gas tax?

Erich Mueller replies that is the State shared revenues and this is just the money we get from the State so it isn't impacted by the local gas tax that went into effect January 1<sup>st</sup>.

Councilor Morgan asks do we have any indication of revenues from a year ago?

Erich Mueller replies you're asking what the gas tax revenue was current to a year ago budget? Last year the adopted budget to this year that will expire in 2 weeks was \$923,713 which is what I think we proposed. The year prior we actually received \$915,000 and \$905,000 for the year prior to that. I need you to hold another public hearing for us Mayor Daoust.

**Mayor Daoust opens the public hearing at 8:06pm.**

Zach Hudson, Budget Committee member, states we are going to meet again in December for the mid-year budget meeting and I had some thoughts we might consider over the next 6 months before we meet again. So far we have been working year to year as far as the budget goes. We've been working through some difficult times economically. Now would be a great time to start some long term planning looking 4, 8 and 12 years into the future. We can't predict things year to year but we can make some big picture plans about where we want to be years from now. What kind of reserves would we like to have in 8 years? What do want revenue sources to look like? These are the kind of things we could start looking at now. I think it would be very valuable to come to our December meeting having already had a discussion about a big picture outlook for Troutdale's budget rather than waiting until December. It would be valuable for City staff. The clearer we are about what we want as a City and as a Budget Committee and the more advance warning of what we can give them about what we're going to ask for the more valuable it will be for them as far as their own planning process.

Bruce Wasson, Troutdale, Oregon, states as the only non-voting member of the Budget Committee I was hoping that something would get removed. Actually 2 items that should get removed. One is the dog park because that put us deeper in deficit and the other was the part time job at \$70,000 a year. I can't see how you can justify paying someone \$70,000 a year as a part time position. Those 2 things should be removed from the budget because we're in a deficit as it is and I don't think we really need to have those. I don't see the money being available for those items. I think we should remove those and come closer to a balanced budget.

Councilor Morgan asks is that the HR Director position that you're talking about?

Bruce Wasson replies yes.

Mayor Daoust states just to put that in context, those 2 items were voted on by the Budget Committee and approved.

Carrie Loucks, Troutdale, Oregon, states we voted on the budget for the dog park to be put in. Several people have been asking when and how this dog park is coming about. It is very important for our community to have a safe place that we can take and let our dogs free. We keep them tied up 24/7 when they go outside. It's something that we voted in several years ago and we still have nothing done about it. I think it's time that we do put it in the budget and let it happen.

Paul Wilcox, Troutdale, Oregon, states I attended the last 3 of the 4 budget meetings and I recall the deficit being \$196,000. In the 2015-16 budget commentary I read that the City was saving 1 million dollars by going with the Multnomah County Sheriff's Office contract service. It's hard to understand how you could run out of a \$200,000 deficit when you save a million dollars just last year. My other item is the 5 million dollars in the street fund for the access road into the URA. I wanted to emphasize the fact that I understand there is going to be an IGA to transfer that debt to that agency so it wouldn't be on the City's books. I wanted to be sure that next year the City's not using 40 million as your base.

#### **Mayor Daoust closes the public hearing at 8:15pm.**

Councilor White states I also had a concern with hiring an HR person mainly because staff wasn't even asking for that and we have an HR person.

Mayor Daoust states staff did ask for that HR person.

Councilor Wilson states staff asked for it but didn't put it in the budget.

Councilor Ripma states I call that not asking for it then.

Councilor Wilson states they still needed it. It's not just HR. It's also assistant to Craig Ward.

Mayor Daoust states we discussed this quite a bit at the Budget Committee and we decided to put that in there. It was discussed.

Councilor Allen states it's my recollection that we should have a HR person, we need an HR person however, our City Manager felt it was not necessary this particular year and could wait for next year's budget.

Mayor Daoust states that's not what I recall. Can you elaborate on that Craig?

Craig Ward replies we would like to have more staff to do many things. I think having somebody who is dedicated to HR would be valuable to us. I had to sort through all of the things that we need to spend money on and develop a proposal that met the Budget Committee's direction of no more than \$125,000 use of reserves so it fell below that level of things that I felt I needed to recommend this year and Councilor Allen is correct. My sense was that we will start gearing up for labor negotiations next year. It's something I think that we could easily put off for a year. The Budget Committee took a different path and I'm fine with that too. It does require use of more reserves that I was directed to budget for so I decided it was something I wasn't going to recommend this year.

Councilor Ripma states we did discuss it at budget. Don't we have an HR person already with the City?

Craig Ward replies we have an HR Coordinator who is full time but Erich Mueller serves as the HR Director which this intends to satisfy. Denise is not intended to fill the position of HR Director. It's a very complicated role and we're fortunate that Erich Mueller with all of the other hats that he wears has been able to perform that function. But it comes at a price. It means he has to maintain his education in HR issues as well as finance and risk and the many things that he does. It also means he has a limited amount of time. Erich puts in probably more hours than any other staff person in the City. I think adding the capacity of a part-time HR Director and hope to hire someone who is maybe a retired PERS HR Director they could work up to half time and would have the skills and time necessary to supplement our needs for an HR Director.

Councilor Ripma states I agree with what Craig said and I understand but I think the discussion at the Budget Committee did not bring out that we had HR capabilities. To me it felt like this was going to be an HR person and we need an HR person at the City. I personally did not favor adding the position and I appreciate Craig's willingness not to put it in the budget and I thought it was ridiculous for us to put it in the budget. The Budget Committee did vote to put it in the budget. It is certainly the one thing I would be willing to take out of the budget here at this point because it was well advised to put it in. It would save \$70,000 of the deficit. I don't think the discussion brought out that we already had HR capabilities.

Councilor Morgan states if it is in the interest of the Council not to go into reserves but in the debate it was Carol Hassler who brought up that due to the fact we do not have a director exclusively it opens up potential situations of risk or exposure. Having someone solely committed to that as opposed to having 3 or 4 positions that is the primary reason.

I think the clarity was made. But if it's a financial decision versus an oversight or exposure that is different.

Councilor Allen states I wasn't at the last budget meeting and I'm actually surprised how deeply we're going into reserves and I'm concerned. We have to prepare ourselves for the next recession. It will happen. We're need to make decisions as to where if we add something we're normally going to want to take something away to balance.

Councilor Wilson states I tried 3 times Rich. You weren't there the last meeting. I tried to help eliminate the subsidy that we're getting in the storm water runoff to help finance this. You, Glenn, Corey, Dave and Larry elected to table it until February. You talk about trying to find money. That's where I was trying to find money to help eliminate that but we want to keep kicking the storm water thing down the road and that's where the problem is.

Councilor Allen states we've made a number of increases in utility fees and my concern is that in an economic situation with businesses you typically don't want to do large changes. You do smaller changes over time. You usually have a 2 year plan, a 5 year plan and looking out. The other concern that I have is that we did a lot of incentives to try to bring businesses to Troutdale and I don't want to reverse that and drive them away and then have to do more incentives to bring them back.

Councilor Wilson states so we're going to continue to kick the can down the road and next year there's going to be at least \$340,000 in healthcare expenses and employee raises and storm water runoff is going to go up another \$40,000. It's going to have to be addressed at some time. I'm trying to get it addressed now.

Councilor Allen states what we want to do isn't new. We want to increase a fee so you can spend more money. We need to look at this and decide what is important to us.

Mayor Daoust states I don't think the storm water rate cap is on the table right now.

Councilor White states I want to respond to Councilor Morgan's point and Councilor Wilson's. Councilor Morgan's point was that Carol Hassler said that we might be at great risk. I want to point out that Troutdale has an excellent track record in that department. We also have a great City Attorney that helps us steer out of other important situations.

Councilor Morgan asks don't we use a labor attorney for negotiations?

Craig Ward replies we have another attorney we use for HR related issues.

Councilor White states in response to Councilor Wilson, we made that decision in February and I distinctly remember our Mayor asking Steve Gaschler are you okay with that and Steve said he was. It was the right thing to do. I think it's disingenuous to vote things in that staff didn't ask for like the \$70,000 half time HR person and then complain the budget wasn't balanced. There was plenty of opportunities to balance it besides rehashing an agreed position of the entire Council.

Mayor Daoust states we did approve that part time position and it was not a close split vote. A lot of the Budget Committee was for that position to be put in the budget. In my mind it was a good discussion. And we did recognize that we did have an HR person already. That was brought out at the meeting.

Councilor White states it wasn't.

Councilor Ripma states I don't believe so.

Mayor Daoust states it was.

Councilor Morgan states read the minutes. It's very clear. The statement was made of having the position versus having the Director.

Councilor Ripma states I trust your memory more than mine as far as whether it was a close vote. I still would be willing to revisit it. We don't usually change the budget but that one item I disagree with. How much trouble would it cause if we were to remove that one thing?

Erich Mueller replies the Council each year has the opportunity to reduce expenditures. In terms of the process it's somewhat simple in that it is one of the straight items. We've done changes in past years.

Councilor Ripma states I would be interested if anyone else is interested in taking this HR position out.

Mayor Daoust states I wasn't quite done yet. As I was saying, I will remind the Council that having this HR Director was part of a personnel decision that the Council talked about previously. Even before the Budget Committee meetings. It was to take the work load off of Erich so he could focus on budget and have an HR Director. We did talk about that as a Council and that was our negotiated decision.

Councilor Morgan states we had a work session where we had around 4 items and they all passed.

Mayor Daoust states when we brought it up at the Budget Committee we did have a good discussion. And we brought up the fact that we have an HR Technician and we needed an HR Director and that was combined with giving Craig help as well. I still support it and follow through with what the Council wanted in the first place.

Councilor Allen states I care less about whether we do the HR person or not and care more about a balanced budget. We add more but are we going to take away somewhere else? It's more than just \$70,000.

Mayor Daoust states these are the numbers as a result of having both those items in the budget. I'm not sure where the \$250,000 comes from.

Councilor Allen states we agreed to \$125,000 and now we're about ¼ of a million past a balanced budget.

Mayor Daoust asks where does that number come from?

Erich Mueller replies from a recap standpoint the manager's proposed budget had \$116,000 deficit. The Budget Committee made 5 changes that effected the net. They made other changes to the General Fund but they also provided revenue like the money for Imagination Station, the loan for the Depot remodeling the cost was funded by a loan. So there were changes other changes that were made that didn't affect the net but there were 5 that changed the net. The dog park for \$70,000 increased the deficit, the \$15,000 for the floodplain consultant increased the deficit and the \$70,000 for the half time HR position increased the deficit. Then there were 2 reductions in expenditures. The removal of the greenhouse of \$25,000 and removal of the downtown master plan of \$50,000. Those were the 5 changes that effected the budget that the manager proposed and the committee adopted. That brings the deficit to \$196,614.

Councilor Ripma states despite the fact that there was a discussion and a work session and at the budget meeting, Craig didn't include the \$70,000 half time HR position in the budget for reasons that I thought were good.

**MOTION: Councilor Ripma moves to remove the \$70,000 half time HR position out of this year's budget. Seconded by Councilor White.**

**VOTE: Councilor Wilson – No; Councilor Ripma – Yes; Corey Brooks – Yes; Councilor Morgan – No; Mayor Daoust – No; Councilor White – Yes; and Councilor Allen – Yes.**

**Motion Passed 4 – 3.**

Mayor Daoust states we will take the \$70,000 half time HR position out of the budget. Do we want to deal with the dog park now?

Councilor Wilson states I would like to deal with the \$15,000. I don't think we have a really good value for the response we got for this person that we hired for the floodplain study. I find it self-serving to have that \$15,000 in there.

Councilor Ripma asks what is self-serving about it?

Councilor Wilson replies the FEMA money. The floodplain study.

Councilor Allen asks our town is surrounded by water. How can that not be important?

Councilor Wilson replies I'm not saying it's not important. I'm saying I don't think it belongs in the budget.

Councilor Ripma asks you want to take it out?

Councilor Wilson replies yes.

Craig Ward states we had \$15,000 in this year's budget. Professor Huber has attended some meetings, reviewed documents, given staff some feedback and there's been some comfort for me having that expertise. To date he hasn't found any significant discrepancies that he's reported to the staff about the methodology FEMA consultants were using to update the maps. We're not done with the process. We just found out that there's an appeal period that applies for the maps themselves. That meeting triggered the beginning of a 90 day appeal period that we have. That has been extended now to the fall. At this point while I've got some comfort out of Professor Huber's insight into the process he has essentially validated the processes that they use to date. If we're going to make comments on the map we will hear responses from FEMA and the State about those comments then we'll have to decide whether or not to appeal. Certainly I don't want to throw \$15,000 at Professor Huber to burn. He has shown no inclination of that sort so far. I think it would be unfair to assume that suddenly he's going to waste money. It's really a question of the Council's comfort level. I don't object to having Professor Huber to continue to provide services.

Councilor Wilson asks the 2 meetings that he attended, have we gotten any feedback from him on what he has gotten out of those meetings?

Craig Ward replies yes. His feedback is that he hasn't found any glaring errors in the methodology that they appeared to apply in creating those draft maps. He will give us a written report on future meetings.

Councilor Wilson states then I'm fine with it.

Councilor Brooks states in regards to the dog park, in the area that it's going in, it seems like it's a lot of money. Is there a way to decrease that if there's people willing to volunteer?

Craig Ward replies you asked if we could separate the labor costs for some of the installations but there really were no significant labor costs except by the City Park staff with the exception of installation of fencing at \$15,000. That is to be done by a contractor. I expected they would not entertain a volunteer of the installation process.

Ed Trompke states there have been a couple of court of appeals decisions in the last 4 months that had to do with recreation workers in the City and other employees in the City who don't receive the same type of immunity from lawsuits that the City receives. There is exposure to volunteers and we should explain that to them before they do that volunteer type of labor if it's done negligently and somebody gets hurt they could be sued unless the City wants to buy insurance.

Councilor Wilson asks how long ago was the study done on the dog park?

Steve Gaschler, Public Works Director, states the estimates that were done on the dog park were done by a previous director in 2011.

Councilor Wilson asks is there a way we can look revisit and reduce the cost of the dog park? I think the numbers have had a lot of movement to them. Can the PAC and you take a look at that and see if we get the almost the same thing but try to cut back on the cost?

Steve Gaschler states what I would say at this point is the numbers are always fuzzy because right now that estimate was at Sunrise Park. I think it's still open as to where the dog park is going to be put. I don't know that that decision has been made. There's going to be some public outreach and feedback and eventually the Council will make that decision. It's just an estimate and I would rather come in here and tell you it's going to be \$70,000 and we end up spending \$50,000 then come in here and tell you it's going to be \$70,000 and it gets  $\frac{3}{4}$  done and have to come back and tell you we can't do it at that price and I need more money.

Councilor Wilson states that's what I want to hear.

Councilor Allen asks if you come in under \$70,000 where does that extra money go?

Steve Gaschler replies it carries over to next year's budget.

Sharon Ezzell, Troutdale, Oregon, states I have a question for Ed Trompke. You were talking about the legalities of possible lawsuits and that volunteer labor. What is the difference between the volunteer labors for the dog park versus the volunteer labor for the Imagination Station?

Ed Trompke replies yes. That is the best answer I can give you.

Councilor Allen states Councilor Brooks, maybe you can help me with this. The website update of \$50,000, is \$50,000 really necessary and is that all software or do you think some of that would be for hardware?

Craig Ward asks isn't the budget for the website at \$25,000?

Mayor Daoust replies yes.

Councilor Brooks states a lot of it is based on the platform that you're using. There's a lot of things to be looking for. A reputable agency will give training for staff to do updates themselves. Unfortunately the way technology is moving, 3 to 5 years you're probably going to be rebuilding the site again. It's moving that fast.

Councilor White states I have a question for our chair, Tanney. Do you see anything in the budget that concerns you?

Tanney Staffenson replies Councilor Wilson made the comment yes it is dollars. I guess I would say there's 40 million concerns because I think every dollar of somebody else's money you should be concerned about. I felt personally challenged this last time.

Comment was made about me not being a proponent of a balanced budget. I think if you went back and look at the minutes and the records you would find that is not an accurate statement. I have continuously fought for a balanced budget. I have probably put more cuts on the table than almost anybody. I find that pill a little hard to swallow. Also being told that I wasn't transparent. I take the responsibility very, very seriously. It is other people's money and I think we should all take that responsibility seriously. We are using reserves. We've used reserves in the past. Last year we didn't use reserves and I personally feel our federal government is kicking the can down the road. We did go into reserves but what we had in contingencies I think there's plenty of room for this to go any direction it wants to at this point.

Councilor White states I had a big problem with contingency in the budget. My proposal was to increase it 5% that's slightly over our intake instead some of these contingencies have doubled and tripled in size. We weren't given a very good answer. Is there an update from Craig? Has anything changed that you can share with us?

Craig Ward replies when Erich and I were going through the budget we were uncomfortable with not having enough contingency and felt that was appropriate. I think it's important for the public to understand that the Council can't just use contingency. It's not just a simple savings account that you can dip into when you feel the need. We cannot tap into it and there is a formal process the Council has to use in order to take advantage of contingencies for unexpected situations. My simple answer to your question is, no, there is no update.

Erich Mueller states contingency is one of the appropriated requirements however staff cannot touch contingency. This resolution is adopted, it allocates a certain amount of money for the administration department or finance then that staff is authorized to spend that based on what's in the budget. Staff is not authorized by that resolution to spend any contingency. All contingency has to be transferred out of contingency into some other expense category. That can't be done by staff. That has to be done by staff bringing a resolution to the Council to approve. There will be a budget transfer in 2 weeks, as we do every year, at the final Council meeting of fiscal year where we'll true up where we're over and under and we'll there will be transfers of contingency there. Again that is something that has to be approved by council. Staff cannot spend contingency on their own.

Craig Ward states the contingency is specific to each department. I did discuss at the Budget Committee the possibility that investments at right now cannot be well defined. Sometimes the public suffers from the belief that we can just waive SDCs and that is very tempting for the public to think that and for developers to think it but in reality we're obligated to pay SDCs so what happens is should we decide to provide an incentive of that sort we have to pay for it out of the General Fund and transfer into those utility funds. I think having more money in contingencies in the event situations like that arise and we can bring a proposal to the Council and say this was unanticipated in the fact we don't know what those expenses may be at this point and they aren't well defined it's true but in fact we do have some development opportunities in this coming year and it's quite possible that we may find ourselves in a situation where we'll be really happy to be at least budgeted for contingencies.

Tanney Staffenson states Councilor Wilson mentioned that we were getting down towards that 2 million dollar mark and if we reduce some of the contingencies in the General Fund that would assist that.

Councilor Wilson replies but if we don't use it just goes back in there anyway.

Councilor White asks Erich, how much did contingency rise with this budget? Do you have that figure?

Erich Mueller replies it didn't rise at all in the General Fund. It's been \$750,000 for the last many years.

Councilor White asks can you show me the 2 highest?

Erich Mueller replies I don't know off the top of my head. There's different types of funds. The SDC funds typically we budget all of it or capital funds like say the utility underground, we put all of the money in there because they're a dedicated purpose. Some of the operating funds we've had more expenditures occurring that were unanticipated. So we upped some of the available contingency in those operating funds but there's really different types of funds that's why there isn't really that one size fits all answer. Regardless of what fund it is, if it's in contingency it can't be spent without Council action to transfer that.

Councilor White states it's potentially millions more in the hands of 4 Councilors. That is my concern.

Erich Mueller states again, regardless of what budget category it's in, the money can't be spent for something that isn't the purpose of the fund. There are still restraints.

Councilor White states we've been at it for 2 hours and 10 minutes. How about a break and that will give me an opportunity to ask Erich some questions and get answers.

Councilor Wilson states I would like any of the questions that any Councilors have to ask Erich to be done in public.

Councilor White states I'll be glad to share the answers I get. Our contingencies is almost 11% of our budget. The total amount is equal to a city the size of Tigard. This is the first year we've done this. It concerns me.

Mayor Daoust states we discussed it at the budget meeting and we voted on it and the Budget Committee decided to keep it the way it was. And we talked about the same issue there.

**Mayor Daoust calls for a 10 minute break at 9:09pm.**

**Mayor Daoust calls the meeting back to order at 9:23pm.**

Mayor Daoust asks what is the end result of your discussion, Councilor White and Erich Mueller?

Councilor White states Erich answered my questions and the 2 highest increases were the Sewer System Development Fund which went from \$150,000 to \$1.3 million dollars and the other one was Parks. It went from \$300,000 to \$753,000. The other question I had for Erich is sometimes we use the System Development Funds as a way of borrowing money from the City for projects and they have to be paid back within 10 years. Even though it's been transferred to contingency we still are allowed that flexibility. That was one of my major concerns in bringing this up. It concerns me because contingency is supposed to be for something that is unexpected yet you see an increase like these it's kind of hard to believe that we don't have something expected coming for this money. I'm also concerned for next year's budget when you see numbers come up it's going to be difficult for the Budget Committee to realize that this year we increased them. We're not going to see those big dramatic increases because they're already in the existing budget assuming these large numbers get repeated in next year's budget.

Councilor Allen asks so you're thinking we might not have an unexpected park or unexpected sewer situation?

Councilor White replies we've never exhausted a contingency fund to date with the lower numbers. It's concerning to me to have that much money in the hands of 4 people.

Mayor Daoust states I'm not sure where that argument comes from. If you increase sewer contingency fund, are you saying 4 Councilors could go wild and spend it on a big sewer project? I don't get what the argument is there.

Councilor White states I think false representation is my concern.

Mayor Daoust asks so you're concerned we're going to spend sewer money, 4 Councilors, whoever those 4 Councilors are, I don't even know who they are, but we're going to spend more sewer money? I don't get the concern. It's up to staff to propose the use of the contingency fund. That is where the proposal comes from. Not the Council.

Councilor White states I would like to hear an explanation before we do this.

Councilor Allen asks so you're thinking we might actually be thinking of putting in a sewer line that isn't going through normal budget process? I guess that is possible.

Councilor Morgan states the question I have is theoretically if you want to play that game, couldn't 4 Councilors decide to spend \$40 million dollars on a hot dog stand? Because 4 Councilors have to vote for the budget.

Erich Mueller states there is enough other limitations in local budget law that would preclude a hot dog stand.

Councilor Ripma states I do recall the Storm Improvement budget going up from \$150,000 to \$1.3 million dollars. There must be an explanation for that, why the contingency went up that much. I am curious. Is there an explanation for why it went up so much?

Erich Mueller replies there are 2 pieces there. It is fundamentally a change in the process. Rather than all the money sitting in unappropriated where it can't be spent even if something comes up. So moving the balance sitting in unappropriated to moving it sitting into contingency so it's a fundamental change in process. The other piece is that there is, as Craig shared before, some interest about a significant potential development that may require some significant infrastructure obligations on the City should it come to pass and because of the confidentiality agreements that they required we can't be more deliberate about it.

Councilor Morgan asks can you comment, Craig, whether you are or are not negotiating for property on the Port land?

Craig Ward replies I could comment except for the confidentiality agreement. Although I would really prefer to not. I did share some information in the Budget Committee which was before the confidentiality agreement was signed but I am bound by it at this point. I'm eager to be able to lift that confidentiality agreement so that I can share that with the Council. From my perspective I will also add if I had my druthers, I would put all of the unexpended fund balance in contingency to provide us maximum flexibility in all the funds to be able to do something that pops up during the year. If something goes wrong with our reservoir those are big facilities with big tickets when things go bad. I would much prefer to have the flexibility if something goes bad all of a sudden to be able to come in and explain to you why we need to use contingency. There is nothing specific regardless of the confidentiality agreement that leads me to believe that suddenly we're going to need a million and a quarter for sewage system improvements next year.

Councilor Morgan asks is the Port of Portland prohibited from commenting?

Craig Ward replies I believe they have also signed a confidentiality agreement.

Councilor Brooks states in regards to the non-disclosure, contingency has to be used for something that is not known about and it sounds like we do know about that so we could use contingency.

Craig Ward states there is nothing about that discussion that leads me to believe that we will have to make a big investment in an infrastructure. That possibility is out there but there is nothing so well defined that I could estimate the potential cost or any cost to us at this point.

**MOTION: Councilor Wilson moved to adopt the resolution adopting the City of Troutdale's Fiscal Year 2016-17 Annual Budget and making appropriations. Excluding \$70,000 for the half time HR position. Seconded by Mayor Daoust.**

**VOTE: Councilor Wilson – Yes; Councilor Ripma – Yes; Corey Brooks – Yes; Councilor Morgan – Yes; Mayor Daoust – Yes; Councilor White – Yes; and Councilor Allen – Yes.**

**Motion Passed 7 – 0.**

Mayor Daoust states 7.1 passes. Is there any further discussion on 7.2?

Erich Mueller states it's the next piece of the puzzle for the requirement for adoptions for local budget law process. There is no public hearing required for this item. This is an action that needs to be acquired in order for us to communicate to the County Assessor what is to be assessed to property owners in Troutdale. It specifies to collect both the permanent rate as well the general obligation bond levies that were reviewed and addressed in the budget.

**MOTION: Councilor Wilson moved to approve resolution imposing and categorizing Ad Valorem Taxes for Fiscal Year 2016-17. Seconded by Councilor Morgan.**

**VOTE: Councilor Wilson – Yes; Councilor Ripma – Yes; Corey Brooks – Yes; Councilor Morgan – Yes; Mayor Daoust – Yes; Councilor White – Yes; and Councilor Allen – Yes.**

**Motion Passed 7 – 0.**

## **8. STAFF COMMUNICATIONS:**

Craig Ward, City Manager, states just a few items, on the 21<sup>st</sup> of June. We will have a meeting at 7:00 here for the Community Enhancement Fund Committee to discuss the proposals and deliberate on how to extend those funds. On June 26<sup>th</sup> we have a meeting at 1:30 at the Kellogg Community Room at the police department for the flood insurance rate map. It is an open house and will have people from FEMA and the State and their consultants largely presenting the draft for insurance rate maps. In the evening there's also a meeting on the same topic in Gresham and Troutdale residents are invited to attend. The general public is also welcome to attend. On the 29<sup>th</sup> of June there will be a meeting at Mt. Hood Community College at 6:00pm on route alternatives for trail to connect the 40 Mile Loop from Depot Park to the Springwater Trail in Gresham. We will be briefing the Council on that the night before on the 28<sup>th</sup> in the regular council meeting as well.

## **9. COUNCIL COMMUNICATIONS:**

Councilor Wilson states regarding the recent events in Mosier, if the same situation happened through Troutdale this side of the street would probably be gone and maybe over into the following side of the street and even though it may only be symbolic I would like to have a work session on the oil trains coming through Troutdale. Possibly slowing them down to 10mph like in Mosier or protesting them not to travel through Troutdale. I

know we have very little power but I think it's important that the railroads and federal government knows.

Mayor Daoust states I'll cover that subject when it gets to me tonight because Craig and I had a meeting today with Union Pacific. I have a few things. Today Tim Seery and I spent all morning talking to children about Imagination Station. It was a positive experience. We went to Troutdale Elementary School and talked to 400 students in groups of classes every 15 minutes. Then we went to Sweetbriar Elementary and talked to another 250 students on the same subject. It's encouraging and exciting to listen the kids and the ideas they have about Imagination Station and how they want to rebuild it. We couldn't keep them quiet. They were raising their hands with ideas. We asked how many of them had played on Imagination Station and every one of them raised their hands. We had the design consultant from New York come out and Tim Seery kept notes on what the kids came up with. The design consultant drew up a potential design for the rebuild of the burnt part of the structure. He presented the design earlier tonight at 6:30 at the Sweetbriar school. Another subject we need to decide on is filling an alternate position on the IMPACT (Metro Policy Advisory Committee). Tim Clark, who is the chair of IMPACT, contacted me and currently the alternate position would go to other cities in Multnomah County and it's vacant. Tim asked if there was a City Councilor in Troutdale that would like to serve as the alternate. They deal with policy, regional transportation, management of the urban growth boundary and protection of lands outside the urban growth boundary etc. They typically meet on the second and fourth Wednesday of each month from 5 to 7pm at Metro. Is there anybody interested in volunteering?

Councilor Morgan states I will try it.

Councilor White states I will if no one else can do it.

Mayor Daoust states we received a note from Ron Wyden. Ron says, "It has come to my attention that your City was recently granted "Tree City Recognition" from the National Arbor Day Foundation. Congratulations on this accomplishment. I would also like to offer my support for your efforts to improve your communities and the lives of your residents. Let me know if I can do anything for Troutdale."

Mayor Daoust states I will not be at next Tuesday's meeting. I told staff the Community Enhancement Program meeting will stay on for next Tuesday. I just won't be there. Councilor Ripma will have to run the meeting in my absence. The URA budget approval was also on that night but I'm moving that meeting to June 28th so I can be present. Those are the 2 agenda changes that I'm proposing. Next, another position has come open on the Citizen's Advisory Committee. Zach Hudson contacted me that Danny Stoddard resigned because he is moving to Portland. The CAC has no alternate so Zach asked if he had my approval to assign Victoria Rizzo to the CAC. She really wanted to be on the CAC but she got her application in late. She told Zach she wanted to know if a position came open. I'm good with Victoria Rizzo being put on the CAC. But I would like her to re-apply in January. So she would just be filling in until January. Onto the Union Pacific meeting that Craig and I had today. They had 4 people show up from Union Pacific. There was a local Portland representative and some of their public relations staff. They're

meeting with all the cities along the Columbia River Gorge in light of the accident in Mosier. They know they have a public relations issue to deal with. What they talked about was that the train at Mosier was going only 26 mph when it derailed. They talked about more monitoring of the tracks and curves of the tracks. They're more concerned about the curves and talked about more inspections of 4 times a year. High rail inspections which are a special technology to monitor the rails. They talked about replacing the bolts because that is what caused the Mosier derailment. Some of the bolts sheared off below the surface so it's not anything you could physically see. They're talking about replacing all of the bolts and using lag screws between Troutdale and all the way past The Dalles. Their new methodology uses screws instead of hammer it in stakes. They're also talking about placing 4 foam cars along the Gorge and one right here in Troutdale/Gresham. They did say regular oil car traffic will resume in 2 weeks. We asked them about slowing down in Troutdale and their reply was "We'll go the required speed limit through Troutdale." So no change in speed limit.

Councilor Wilson asks what speed is that?

Mayor Daoust replies they couldn't answer that. We asked them. I just don't think they had that off the top of their head. They came to town to make us feel better that they're on top of things. They have a good safety record of 99.5%.

Craig Ward states Union Pacific is very aware of the proximity of our downtown to the railroad.

Councilor Wilson asks how did the City of Mosier get the trains to slow down to 10mph? They say they have a great safety record but I read in a newspaper that they've had over \$7 million dollars in a year because they failed to set the parking brakes on cars and have runaway trains.

Mayor Daoust replies I don't know if the 10mph through Mosier was a City Council dictate. I think it was Union Pacific deliberately slowing down because they had oil cars still on the side of the track. It was a temporary slowdown.

Councilor Wilson states I would still like to have a work session if the rest of the Council does even if it's a symbolic. We have a whole lot to lose on the north and south of the tracks here.

Mayor Daoust states they heard our concerns today. I don't know how many people we could get to show up. Maybe the local Portland Union Pacific representative.

Councilor Morgan states we could also do a resolution.

Zane Sparling, Gresham Outlook, states I'm the new reporter covering Fairview, Troutdale, Corbett and Wood Village. I would love to hear from any of you if you would support a non-binding resolution. It would be symbolic but I know that Multnomah County has issued one. Governor Brown has issued a symbolic one and of course, Mosier has as well. I don't know if you read the email from Len that pointed out that we are very close

to the train right now. As far as I can tell, Mosier was unlucky and rest of the state was lucky. Certainly a catastrophic explosion of a train right in the heart of downtown Troutdale would be that.

Bruce Wasson, Troutdale, Oregon, states I've been around railroads since I was 6 years old. I retired from Amtrak. I'll start with this derailment in Mosier. What they're talking about with the tie downs is the engines in the yard not being tied down. They don't tie down trains out of the main line. As for the bolts in there, the bolts that broke, as opposed to the old ties and spikes they used to use, on the spikes they used a softer and brittle metal. That's the reason that the old tie plates and old spikes didn't have that problem. The newer ones that they're using are more brittle and higher carbon content and they tend to break more under stress. As for oil trains blowing up, oil does not explode unless it is ignited by something that is put underneath it. It will burn if it's given sufficient heat but it does not explode. If I was concerned about something going by out here I would start looking at other things like liquefied petroleum natural gas, propane, ammonia, chlorine, benzene and denatured alcohol. This trying to get a passing of a resolution is not what a reporter should be doing. These guys at Union Pacific do the best they can in the situations they have. These railroads are doing a very fine job in difficult situations. I'm tired of seeing them vilified in the press because of this. I believe Union Pacific will take our concerns and deal with them. I'm irritated that this reporter would come up here and advocate something like that. I think he ought to be ashamed of himself.

Mayor Daoust states I talked to Kelly Broomall because he sits in the Depot Museum and watches the trains go by and he's been monitoring the speeds of the trains going by in Troutdale. And they have slowed down in Troutdale even though they don't have to. I witnessed a train only going around 20mph going through Troutdale. I empathize with having another work session but I don't know if it would do anything. They heard our concerns today.

Councilor White states I wanted to thank Rip Caswell and the Caswell family for their sculpture that they donated to Visionary Park and the many others that helped. I'm proud to say that it turned out really nice. Then on this Imagination Station, is this like a committee? Are you going to continue to meet and get ideas? Maybe we could involve some more members.

Mayor Daoust replies we did the design today because the kids are leaving school. We tried to time it so we could talk to the kids while they're still in school. The Council will be briefed by Tim Seery and the Parks Advisory Committee possibly having our first meeting in July. At that meeting we will have different options for Imagination Station.

Councilor Allen states I wanted to say I support community involvement and I appreciate what you did with the kids today regarding Imagination Station. Our Parks Director is very much in a leadership role and I'm all for it.

Mayor Daoust states Tim Seery is very much in a leadership role and he's doing a great job.

**10. ADJOURNMENT:**

**MOTION:** Councilor Ripma moved to adjourn. Seconded by Councilor Morgan.  
Motion passed unanimously.

Meeting adjourned at 10:13pm.

\_\_\_\_\_  
Doug Daoust, Mayor

Dated: \_\_\_\_\_

**DRAFT**

**ATTEST:**

\_\_\_\_\_  
Kenda Schlaht, Deputy City Recorder

# CITY OF TROUTDALE

City Council – Regular Meeting

7:00PM

Tuesday, June 14, 2016

**PLEASE SIGN IN**

Name – Please Print	Address	Phone #
In This Together <sup>Kristy</sup> <sup>meath</sup> <sup>Lani</sup>	PO Box 786 <sup>Troutdale</sup> 97060	503-319-9794
<del>Chris Cudd</del> ROBERT Butler	824 SW 18 <sup>th</sup> AVE	POX 503-222-4949
BRUCE WAGSON	TROUTDALE	503-661-1092
John Leamy	Troutdale	503-492-1243
EUGENIA TERZIS	Troutdale/Boring	
Dan Woods	Boring	503-989-8218
MARTY JONES	) MetroEast Media	(503) 667-8848
ROB BRADING	755 SE Beaver Creek	665-5439
Zach Hodgson	2751 SW cloo CT	(503) 667-4320
Norm Thomas		503-888-1405
Diane White		503-701-8979
Carol Allen	Troutdale	503-995-5524
Rob Canfield		
PAUL W/COBE	TROUTDALE	
Nancy Stiborec	TROUTDALE	503-317-7732

**Troutdale, Tuesday, June 14, 2016, 7:00 p.m.**

## **Talking Points**

I am here to highlight a couple of the many MHCRC activities over this past year; AND to seek your approval of the MHCRC Fiscal Year 2016-17 proposed budget.

I believe you have both the MHCRC's annual activity report and the proposed budget in front of you.

As a reminder, the Mt. Hood Cable Regulatory Commission is an intergovernmental partnership among Gresham, Fairview, Portland, Troutdale, Wood Village and Multnomah County.

Each of these jurisdictions appoints citizen representatives to the Commission.

The MHCRC has oversight, enforcement and public benefit responsibilities for the cable services franchises with the cities and the County.

Troutdale has two cable service franchises: Comcast and Frontier.

Over this past year, the MHCRC has provided many services to our communities and residents.

- The MHCRC continued its work with public school districts under the TechSmart Initiative for Student Success. Reynolds, David Douglas, Portland Public and Parkrose have active grants. We also just signed a grant agreement with Gresham-Barlow for a TechSmart investment that begins in this next school year.

About 151 classroom teachers are now supported by resources provided under the TechSmart Initiative.

The MHCRC launched the TechSmart initiative with plans to invest a total of \$19 million by 2021. We are a little over \$9 million into that investment goal.

- The Community Technology competitive grant round funded 12 new grants with community organizations. These grants leveraged over \$1.6 million in matching resources.

Like many others, the MHCRC Community Grants is supporting access to opportunity in the Rockwood neighborhood. Rockwood Library, Friends of the Children and Open School East have all been recent grant recipients.

- Affordable broadband has become more and more critical to our local public institutions. The MHCRC is leading a long-term network planning effort in partnership with 19 public agencies within Multnomah County. The current Institutional Network provides high speed broadband connectivity to 295 schools, libraries and public agencies throughout the County.
- The MHCRC provided funding and franchise enforcement support to MetroEast Community Media. This past year, MetroEast produced over 2,500 hours of original local programming. They also trained over 460 residents in digital media and literacy skills.
- The MHCRC addressed consumer protection issues both broadly and with individual subscribers. For example the MHCRC worked with the cable companies on issues related to clear information on subscribers' bills, service line extensions, phone answering standards and service fees.

The MHCRC assisted in the resolution of 330 complaints from cable TV subscribers.

- I'm happy to report that, once again, the MHCRC received a clean audit for FY2014-15. The full audit document is available on the MHCRC's website.

I also wanted to note a couple trends we are seeing in cable revenues. On page 9 of the Annual Report, you will see two graphs that show these trends. The number of cable subscribers grew consistently from about 2006 through 2012. However since then, subscriber numbers have been declining. Despite this decline, cable franchise fee revenues have consistently increased, beginning to flatten only in the past couple years. This is primarily due to cable companies raising rates and offering more services and program packages.

The MHCRC is closely watching these trends as they have possible future implications for franchise fee revenues for local government and for revenues that support MHCRC community grants and other programs.

- Coming up in FY16-17, the MHCRC is engaged in "future focus" planning. Considering rapidly evolving technology and public policy - and our community's increasing reliance on availability of broadband - the MHCRC is turning its sights on the future.

We intend to work with you and your city staff and our communities to identify needs and opportunities for our broadband future. The budget includes funds to assist the MHCRC in this endeavor.

- More specifically on the MHCRC's FY16-17 budget proposal, the annual budget allocation from all the jurisdictions collectively funds about half the MHCRC total operating budget. Another way to view it is that each jurisdiction spends about 5% of the cable franchise fees on regulation and administration services.

The remaining portion of the budget is funded by other MHCRC resources mostly to administer the dedicated capital revenues and related programs, such as the MHCRC Community grants, the I-Net and MetroEast Community Media.

Troutdale's allocation for FY16-17 is \$18,056.

I also want to note that although on paper, it looks as if the Commission has a high beginning fund balance for FY16-17; however nearly \$6 million of it is due to carry over, encumbrances and contingency for the MHCRC Community Grants.

- Before closing, I want to thank the Mayor and Council for supporting this county-wide partnership among the jurisdictions since 1993.

With that support, the MHCRC has been very successful at convening community members and public agencies to steward and creatively leverage resources and regulatory authority to amplify the benefit for all.

Over the coming year, we are excited to work with you to explore and discover how to leverage our success as we adapt to the evolving needs of our city and communities.

- I thank you for your time today. As always, please contact me or the MHCRC staff with any questions, ideas or concerns.

And to conclude:

The MHCRC respectfully requests that the Troutdale Council approve the Fiscal Year 2016-17 proposed MHCRC Fund Budget.



- ◆ The Port has offered dedication of an easement on the Portland-Troutdale Airport property along NW Graham Road to accommodate the needed stormwater channel.

### **BACKGROUND:**

The Port of Portland, in partnership with the City, is presently constructing improvements to NW Graham Road to support freight and passenger car traffic to, from and through the north industrial area of Troutdale including the Troutdale Reynolds Industrial Park (TRIP). These road improvements are being constructed concurrently with the Port's development of TRIP. NW Graham Road is an existing, previously under-improved, City owned road.

The NW Graham Road improvements require and include improvements to the storm drainage systems along the roadway. These road and storm drainage improvements are already in progress and nearing completion. The City's existing stormwater collection and conveyance system in the area is almost entirely a closed pipe system. However, due primarily to topographical constraints, stormwater conveyance along a significant portion of Graham Road will be achieved by construction of an open channel. This channel will run east to west from roughly the US Forest Service fire tanker base to discharge into the Salmon Creek channel where it crosses Graham Road. This channel will convey stormwater from existing City systems, from NW Graham Road, and from adjoining private lands.

There is insufficient space within the Graham Road right-of-way to accommodate the open channel. The Port has offered to dedicate an easement for this channel on the Portland-Troutdale Airport property, paralleling and adjacent to the Graham Road right-of-way.

The City commissioned a Phase I Environmental Site Assessment that included this proposed easement area. That Ph I ESA has been completed. The City, with the assistance of its environmental counsel (Ater-Wynne) has further filed a Stipulated Supplemental Judgment, recently approved by the Council, to provide legal defenses against exposure to environmental liability for preexisting contamination associated with this easement area.

The City does not typically operate or maintain open channels of this type, but the Sandy Drainage Improvement Company does maintain such channels in the north industrial area of Troutdale. It is the City's intent to contract with Sandy Drainage Improvement Company (SDIC) to perform maintenance for this channel, as that agency has the appropriate equipment as well as staff that are familiar with maintaining such facilities. The SDIC provides similar services to Multnomah County for the County's open channel system along Sundial Road, and SDIC has indicated that they are open to providing those services to the City for this channel. To that end, the City and Port have ensured the channel is designed to accommodate SDIC's typical maintenance practices and needs. Staff anticipates bringing an IGA to the Council in the future for the provision of these services by SDIC.

The Port and City have negotiated the terms of the proposed easement agreement. City staff and the City's environmental counsel find the terms of the easement appropriate and acceptable.

**PROS & CONS:**

Pros:

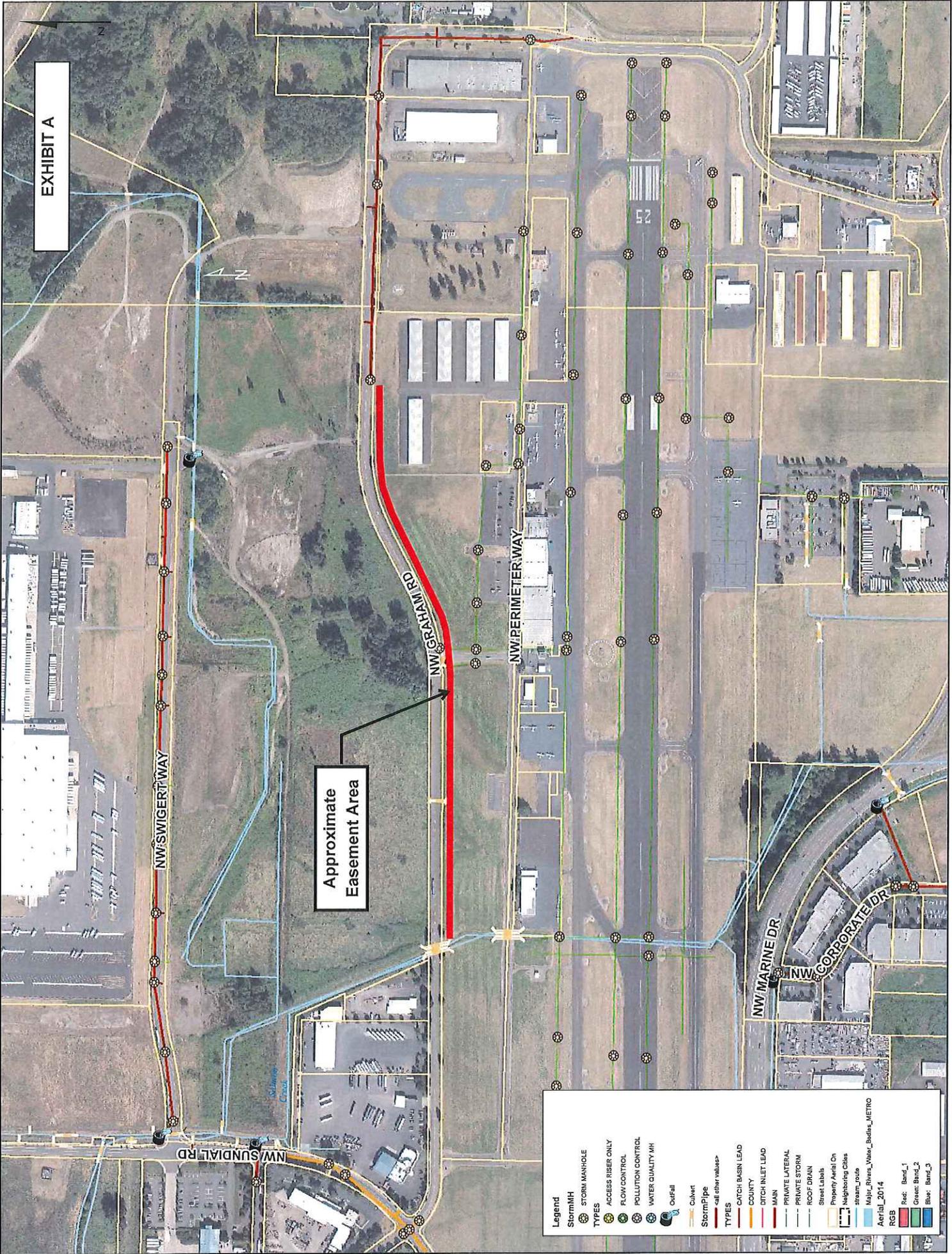
- Provides necessary easement area for construction of a City-owned drainage facility associated with improvements to Graham Road and additionally serving adjacent privately-owned lands.
- The Port is dedicating this easement to the City free of charge.

Cons

- None

<p><b>Current Year Budget Impacts</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A</p> <p><b>Future Fiscal Impacts:</b> <input checked="" type="checkbox"/> Yes (<i>describe</i>) <input type="checkbox"/> N/A Routine operation and maintenance costs, likely via an IGA with SDIC</p> <p><b>City Attorney Approved</b> <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes Ater-Wynne</p> <p><b>Community Involvement Process:</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A</p>
--

EXHIBIT A



Approximate Easement Area

Legend	
StormMH	STORM MANHOLE
TYPES	ACCESS RISER ONLY
	FLOW CONTROL
	POLLUTION CONTROL
	WATER QUALITY MH
	Outfall
	Culvert
StormPipe	StormPipe
TYPES	all other values
	CATCH BASIN LEAD
	COUNTY
	DITCH INLET LEAD
	MAIN
	PRIVATE LATERAL
	PRIVATE STORM
	ROOF DRAIN
	Street Labels
	Property Aerial On
	Neighboring Cities
	stream_ridge
	Major_Rivers_Water_Bodies_METRO
	Aerial_2014
RGB	Red: Band_1
	Green: Band_2
	Blue: Band_3

## **RESOLUTION NO.**

### **A RESOLUTION ACCEPTING A PERPETUAL NONEXCLUSIVE UTILITY EASEMENT ALONG NW GRAHAM ROAD FROM THE PORT OF PORTLAND**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. The Port of Portland is constructing improvements to the storm drainage system along NW Graham Road in partnership with the City of Troutdale.
2. The Port of Portland is the owner of the real property identified by State ID 1N3E23 – 00111.
3. A utility easement from the Port of Portland to the City of Troutdale on the above referenced property is necessary to complete and maintain the improvements.
4. The Port has prepared the necessary easement documents in collaboration with the City and the Port has executed the easement agreement.
5. The Port is not requesting compensation for this easement.

#### **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. The City of Troutdale accepts the Utility Easement from the Port of Portland, included herewith as Attachment A.

Section 2. This resolution is effective upon adoption

**YEAS:**  
**NAYS:**  
**ABSTAINED:**

\_\_\_\_\_  
**Doug Daoust, Mayor**

\_\_\_\_\_  
**Date**

Sarah Skroch, City Recorder

**Adopted:**

After recording return to:

City Recorder  
City of Troutdale  
104 SE Kibling Avenue  
Troutdale, OR 97060

2016-092

## UTILITY EASEMENT AGREEMENT

This Public Utility Easement Agreement ("AGREEMENT") is entered into by THE PORT OF PORTLAND, a port district of the State of Oregon, whose address is P.O. Box 3529, Portland, Oregon 97208 ("GRANTOR"), and the CITY OF TROUTDALE, an Oregon municipal corporation ("GRANTEE"), shall become effective (the "Effective Date") upon the date both parties sign.

### RECITALS

A. GRANTOR owns the property described in this Agreement in paragraph 11 and depicted in Exhibit A (the "Easement Area"). GRANTOR also owns other real property adjacent to and in the vicinity of the Easement Area.

B. GRANTEE is a municipal corporation in the State of Oregon which owns and operates public utilities consisting of storm water systems serving drainage basins identified in the City's National Pollutant Discharge Elimination System Permit (WQ File Number: 110793), a portion of which drains through the Easement Area (the "City MS4 Stormwater Systems").

C. The purpose of this Agreement is to grant a storm water systems utility easement to GRANTEE for access and use of the Easement Area, which area shall include storm water systems improvements shown in the plans described in Exhibit B, which are being constructed by GRANTOR (the "Port-Constructed Improvements"), the ownership of which will be transferred to GRANTEE by the dedication process applicable to the improvements.

### EASEMENT GRANTED

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Easement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### 1. GRANT

For no dollars but for other good and valuable consideration that is acknowledged and received, GRANTOR hereby grants to GRANTEE, and GRANTEE hereby accepts from GRANTOR, a perpetual nonexclusive easement for the Easement Area so that GRANTEE may own, operate, maintain, repair, replace, and/or modify the Port-Constructed Improvements and any storm water systems constructed, replaced, repaired, or modified by the City within the Easement Area (collectively, the "Storm Water System Improvements"). These easements shall extend to a depth not exceeding five (5) feet below any utility systems installed beneath the ground surface

of each easement or, in the case of ditches, a depth not exceeding five (5) feet below the ditch bottom. In the event of abandonment of this use by GRANTEE, this easement will automatically terminate.

## **2. LIMITATIONS; GRANTOR AND GRANTEE'S OBLIGATIONS FOR EXISTING CONDITION OF EASEMENT AREA**

Any structure, pavement, or vegetation GRANTEE has within the Easement Area will be compatible with the operation of an airport and comply with all applicable law, including but not limited to any applicable Federal Aviation Administration regulations.

The parties agree that GRANTOR shall, release, indemnify, and defend GRANTEE from and against any and all past, present, and future liability, costs (including attorney fees), losses, fines, penalties, claims, demands, orders, causes of action, or lawsuits (collectively, "Claims Against GRANTEE") brought by any party under any theory or source of law relating to or arising from the environmental condition of, on, in, or under the Easement Area, whether known or unknown, existing as of the Effective Date or contamination migrating to the Easement Area from the Troutdale Reynolds Industrial Park or the Troutdale Airport after the Effective Date (the "Covered Environmental Condition"), provided that this indemnity does not extend to an environmental condition to the extent that GRANTOR demonstrates that such an environmental condition is the result of past, present or future discharges from the City MS4 Stormwater Systems and unrelated to the ownership and/or operations of GRANTOR. GRANTEE shall release, indemnify, and defend GRANTOR and its agents and officials from and against any and all liability, costs (including attorney fees), losses, fines, penalties, claims, demands, orders, causes of action, or lawsuits (collectively, "Claims Against GRANTOR") brought by any party under any theory or source of law arising from or relating to the environmental condition of, on, in, or under the Easement Area arising after the Effective Date to the extent caused by GRANTEE's ownership and/or operation of the City MS4 Storm Systems draining to the Easement Area. GRANTOR and GRANTEE's respective release, defense, and financial responsibility obligations under this paragraph shall apply to, without limitation, Claims Against GRANTOR or Claims Against GRANTEE, as applicable, by a third party and/or agency relating to or arising from (a) damages to natural resources or (b) the cost to oversee, investigate, respond to, or remediate the release or migration of hazardous substance or material to, on, in, under, or from the Easement Area. To the extent all or any part of the parties' release, indemnity, and defense obligations in this paragraph 2 are not permitted by Oregon law, the unpermitted obligation(s) shall be void and unenforceable and shall be considered severed from this Agreement. The obligations in this paragraph 2 will survive any termination of the Agreement under paragraph 1.

## **3. USE AND ACCESS**

GRANTOR shall allow GRANTEE unrestricted access to the Easement Area at all times to properly construct, install, own, operate, maintain, repair, replace, and/or modify the Storm Water System Improvements, provided such access does not impact airport operations including but not limited to constraining or otherwise limiting access to or from the airport and access to GRANTOR owned infrastructure, including existing conduits and vaults if coordinated in advance with the GRANTOR. Any loss, damage, or destruction caused by the negligence or

willful misconduct of GRANTEE to GRANTOR's property in accessing the Easement Area or in performing the aforementioned actions shall be the responsibility of GRANTEE.

#### **4. GRANTOR'S USE**

Grantor reserves the right for reasonable use of the Easement Area in compliance with all applicable law consistent with Grantee's use permitted in paragraphs 1 and 3, including the installation, maintenance, repair, removal, replacement or relocation of underground utilities and services and continued operation and development of its adjoining property; provided, however, that Grantor's use shall neither impede nor interfere with Grantee's rights under this Agreement. In the event that Grantor needs all or a portion of the Easement Area for other purposes, Grantor reserves the right to relocate, at Grantor's expense, the Easement Area and any utilities located in the Easement Area provided that all of the following conditions are satisfied: (i) Grantor shall install new storm water systems in the relocated easement area at the sole expense of Grantor, equal to or better than the Storm Water System Improvements replaced; (ii) the relocated route has the same flow and treatment capacity as the Storm Water System Improvements replaced; (iii) drainage during the period of any construction is maintained; (iv) Grantee shall have approved the specifications for the relocated storm water systems prior to commencement of construction; and (v) Grantor shall obtain all permits and consents required to undertake the construction.

#### **5. BINDING EFFECT, RUN WITH THE LAND**

This Agreement shall run with the land as to all real property burdened and benefited, and shall inure to the benefit of GRANTOR, GRANTEE and their respective successors and assigns.

#### **6. ATTORNEY FEES**

In the event legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and any appeal therefrom. The term "action" shall be deemed to include action commenced in the Bankruptcy Court of the United States and any other court of general or limited jurisdiction. The reference to "costs" includes, but is not limited to, deposition costs (discovery and otherwise), witness fees (expert and otherwise), out-of-pocket costs, title search and report expenses, survey costs, surety bonds and any other reasonable expenses.

#### **7. SEVERABILITY**

If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

#### **8. INTEGRATION AND RESERVATION OF RIGHTS**

This Agreement constitutes the entire, final and complete agreement of the parties pertaining to this utility easement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the Easement Area is concerned. Neither party shall be bound by any promises, representations or agreements except as are expressly set forth herein. This Agreement is not intended to address stormwater quantity or flow issues, and the parties reserve the right to enter into good faith discussions in the future if necessary to address water quantity and flow across GRANTOR's property.

**9. GOVERNING LAW; VENUE**

This validity of this Agreement and the rights, obligations and relations of the parties shall be construed in accordance with and governed by the laws of the state of Oregon without regard to its principles of conflicts of law. The parties agree to the exclusive jurisdiction and venue for any action to enforce or interpret this Agreement shall be either the Multnomah County Circuit Court, state of Oregon, or the United States District Court, District of Oregon, Portland Division.

**10. NONWAIVER**

Failure by either party at any time to require performance by the other party of any of the provisions in this Agreement shall in no way affect the party's rights under the Agreement to enforce the provisions in this Agreement, nor shall any waiver by a party of the breach of the provisions in this Agreement be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

**11. EASEMENT AREA**

**STORM DRAINAGE LEGAL DESCRIPTION**

A STRIP OF LAND VARIABLE IN WIDTH, LOCATED IN THE JAMES M. STOTT D.L.C No. 48 AND THE LEWIS MARR D.L.C. No. 45 IN THE SOUTHWEST AND SOUTHEAST ONE-QUARTERS OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON, THE OUTBOUNDS BEING DESCRIBED AS FOLLOWS:

COMMENCING AT A 4-1/4 INCH DIAMETER BRASS DISK IN CONCRETE AT THE SOUTHEAST CORNER OF SAID SECTION 23; THENCE NORTH 29°25'57" WEST, 1,613.49 FEET TO A FOUND 9/16-INCH DIAMETER STAINLESS STEEL ROD (PORT OF PORTLAND SURVEY CONTROL POINT No. 200, AS SHOWN ON DWG. No. "MD TTD 2011-3012"; THENCE NORTH 45°38'50" EAST, 421.20 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF NW GRAHAM ROAD (30.00 FEET FROM CENTERLINE) AND THE TRUE POINT OF BEGINNING; THENCE, DEPARTING SAID RIGHT OF WAY LINE, SOUTH 41°00'52" WEST, 26.92 FEET; THENCE SOUTH 72°49'48" WEST, 42.28 FEET; THENCE SOUTH 89°44'26" WEST, 84.11 FEET TO A POINT OF CURVATURE; THENCE 369.18 FEET ALONG THE ARC OF A 735.48-FOOT RADIUS CURVE TO THE LEFT, CONCAVE TO THE SOUTHEAST, THROUGH A CENTRAL ANGLE OF 28°45'35" (THE LONG CHORD BEARS SOUTH 75°21'39" WEST, 365.31 FEET) TO A POINT OF TANGENCY; THENCE SOUTH 60°58'51" WEST, 295.83 FEET TO A POINT OF CURVATURE; THENCE 240.34 FEET ALONG THE ARC OF A 862.50-FOOT RADIUS CURVE TO THE RIGHT, CONCAVE TO THE NORTHWEST, THROUGH A CENTRAL ANGLE OF 15°57'56" (LONG CHORD BEARS SOUTH 68°57'49" WEST, 239.56 FEET) TO A POINT OF TANGENCY; THENCE SOUTH 76°56'47" WEST, 35.86 FEET; THENCE SOUTH 58°27'20" WEST, 104.97 FEET; THENCE SOUTH 89°01'37" WEST, 1,156.54 FEET; THENCE NORTH 31°16'55" WEST, 42.86 FEET; THENCE NORTH 89°01'37" EAST, 1,209.65 FEET; THENCE NORTH 02°14'37" WEST, 42.03 FEET TO A POINT OF NON-TANGENCY ON THE SOUTH RIGHT OF WAY LINE OF SAID NW GRAHAM ROAD, FROM WHICH THE RADIUS POINT BEARS NORTH 06°53'30" WEST; THENCE, RUNNING ALONG SAID SOUTH RIGHT OF WAY LINE, 319.44 FEET ALONG THE ARC OF A 830.00-FOOT NON-TANGENT RADIUS CURVE TO THE LEFT,

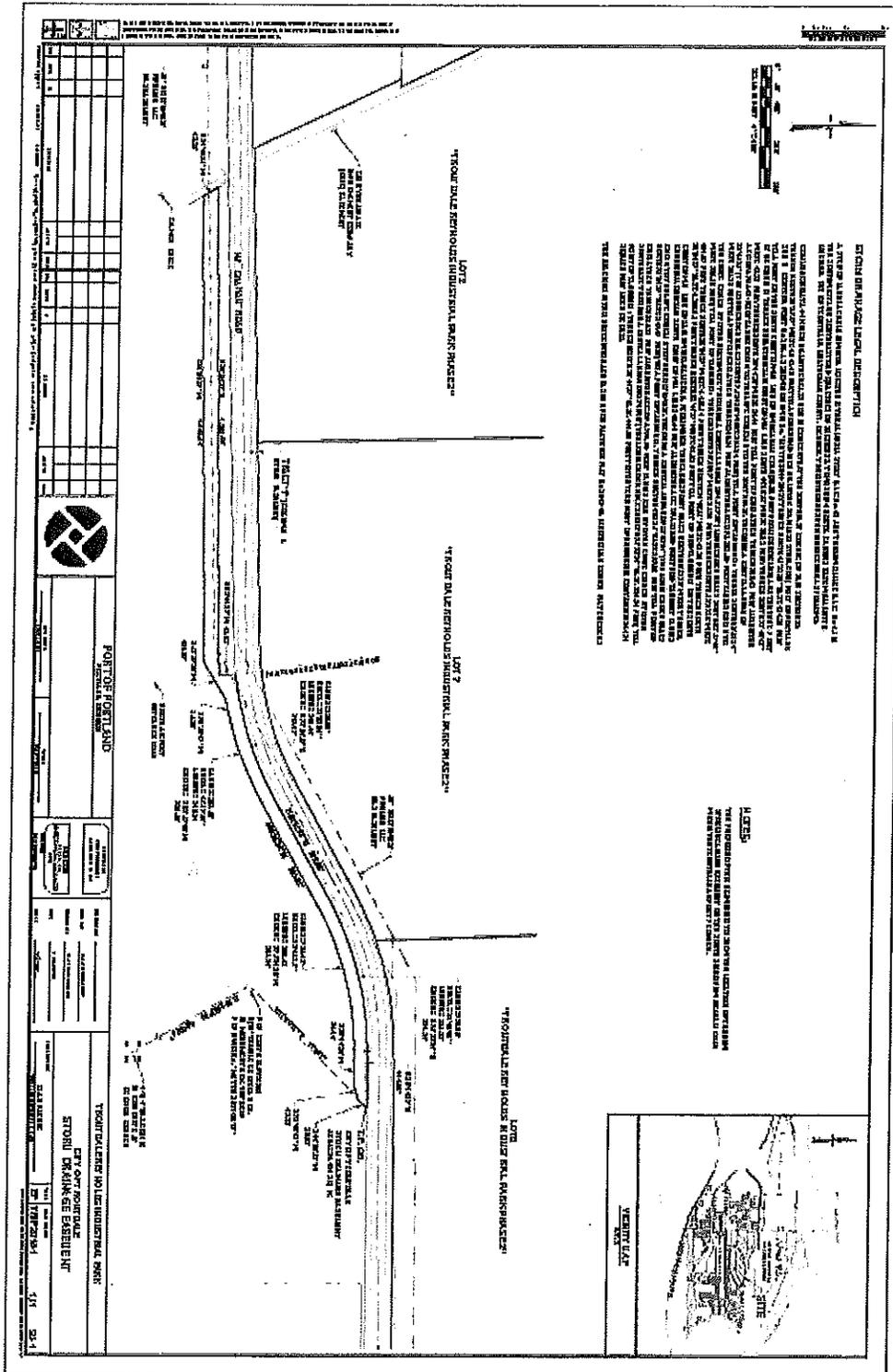
CONCAVE TO THE NORTHWEST, THROUGH A CENTRAL ANGLE OF 22°03'04" (THE LONG CHORD BEARS NORTH 72°04'57" EAST, 317.47 FEET) TO A POINT OF TANGENCY, THENCE NORTH 61°03'25" EAST, 297.60 FEET TO A POINT OF CURVATURE; THENCE 385.32 FEET ALONG THE ARC OF A 770.00-FOOT RADIUS CURVE TO THE RIGHT, CONCAVE TO THE SOUTHEAST, THROUGH A CENTRAL ANGLE OF 28°40'19" (THE LONG CHORD BEARS NORTH 75°23'34" EAST, 381.31 FEET) TO A POINT OF TANGENCY; THENCE NORTH 89°44'37" EAST, 141.60 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 81,481 SQUARE FEET MORE OR LESS.

**THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON PARTITION PLAT No. 2012-46, MULTNOMAH COUNTY PLAT RECORDS.**

As depicted on Exhibit A below.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

# Exhibit A



**EXHIBIT B**

Port Constructed Improvements

As shown on:

TROUTDALE REYNOLDS INDUSTRIAL PARK

PHASE 2 – GRAHAM ROAD AND SWIGERT WAY IMPROVEMENTS  
DITCH PLAN AND PROFILE  
STA D39+00 TO D44+00

REVISED AS OF 3/31/15

DRAWING NO. TRIP 2014-501 PAGES 54-58/188 (C-51), SUBMITTED BY ROGER  
ANDERSON  
PREPARED BY DAVID EVANS AND ASSOCIATES INC. FOR THE PORT OF  
PORTLAND

CERTIFICATE OF GRANTOR

I, Bill Wyatt, ~~owner~~ of the authorized representative of the property described above, hereby certify that the foregoing easement is granted to the City of Troutdale.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,

**GRANTEE**  
**CITY OF TROUTDALE**

**GRANTOR**  
**THE PORT OF PORTLAND**

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

By: Bill Wyatt

Print Name: \_\_\_\_\_

Print Name: BILL WYATT

As Its: \_\_\_\_\_

As Its: EXECUTIVE DIRECTOR

Date: \_\_\_\_\_

Date: 6/13/16

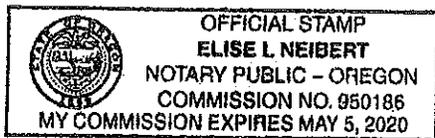
APPROVED FOR LEGAL SUFFICIENCY  
FOR THE PORT:

By: [Signature]  
Counsel for Port of Portland

ACKNOWLEDGMENTS

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

This Easement was acknowledged before me on June 13, 2016 2016, by Bill Wyatt, as Exec. Dir. of the Port of Portland, a port district of the State of Oregon.



Elise L. Neibert  
Notary Public for Oregon  
My Commission Expires: May 5, 2020

CERTIFICATE OF GRANTEE

I, \_\_\_\_\_ Recorder of the City of Troutdale, hereby certify that the foregoing  
easement was accepted by the City Council of the City of Troutdale on the \_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_ by Resolution No. \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
City Recorder

(seal)

APPROVED AS TO FORM:

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

Special City Attorney  
Nathan Karman  
Ater Wynne, LLP

STATE OF OREGON            )  
  ) ss.  
COUNT OF MULTNOMAH    )

Personally appeared the above named City Recorder and acknowledged the foregoing instrument  
to be the voluntary act and deed of the CITY OF TROUTDALE.

BEFORE ME: \_\_\_\_\_  
Notary Public for Oregon  
Commission Expires: \_\_\_\_\_

(seal)



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A resolution authorizing a City Official to negotiate and execute an agreement concluding the employment of the City Manager.

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** July 12, 2016  
**STAFF MEMBER:** Erich Mueller  
**DEPARTMENT:** Finance/Personnel

**ACTION REQUIRED**  
Consent Agenda Item

**ADVISORY BOARD/COMMISSION RECOMMENDATION:**  
Not Applicable

**PUBLIC HEARING**  
No

**STAFF RECOMMENDATION:** Approve the proposed resolution

**Subject / Issue Relates To:**

- Council Goals  
 Legislative  
 Other (describe):  
 Administrative transition

**Issue / Council Decision & Discussion Points:**

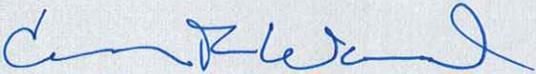
Subject to adoption of the proposed resolution, the Council at its *next* meeting, may consider options and timelines for the potential recruitment of an Interim City Manager and or a successor City Manager.

**BACKGROUND:**

In order to allow the City Council time to conduct a search for a successor, the City Manager has informed the Council that it is his intention to retire at the end of 2016.

An agreement satisfying the City's existing employer obligations, and providing for a smooth transition is necessary and needs to be negotiated and executed.

City staff will consult with employment law counsel to develop an appropriate and professional transition agreement fulfilling existing City obligations.

Reviewed and Approved by City Manager: 

Upon the successful negotiation of an agreement as expressed by the City Council consensus, the City Manager and the City Council have agreed that a change in the City Manager may be appropriate at the time that either an Interim City Manager or a successor City manager is hired.

**PROS AND CONS:**

- A. Approving the resolution as recommended provides for a process leading to an appropriate and professional transition.
- B. Not approving the resolution as recommended would complicate negotiations and transition issues, and likely result in greater costs.

<p><b>Current Year Budget Impacts</b> <input checked="" type="checkbox"/> Yes (<i>describe</i>) <input type="checkbox"/> N/A Legal services associated with drafting a proposed agreement and subsequent transition and implementation costs.</p> <p><b>Future Fiscal Impacts:</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A subsequent transition and implementation costs.</p> <p><b>City Attorney Approved</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A</p> <p><b>Community Involvement Process:</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A</p>
---

## **RESOLUTION NO.**

### **A RESOLUTION AUTHORIZING A CITY OFFICIAL TO NEGOTIATE AND EXECUTE AN AGREEMENT CONCLUDING THE EMPLOYMENT OF THE CITY MANAGER.**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. That the City Manager has informed the City Council that it is his intention to retire at the end of 2016.
2. City Manager and the City Council have agreed that a change in the City Manager may be appropriate at the time that either an Interim City Manager, or successor City Manager is hired.
3. City Council believes that an appropriate agreement addressing the City's existing employer obligations, and transition issues, should be negotiated, in order to allow the City Council time to conduct a search for a successor.

#### **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:**

Section 1. The consensus of the City Council shall guide the authorized City Officials as to negotiated terms and conditions of the agreement, in consultation with employment law counsel.

Section 2. The City Attorney, Ed Trompke, and Finance Director and City Personnel Officer, Erich Mueller, (each a "City Official") are designated to act jointly and cooperatively, on behalf of and in the best interest of the City consistent with the consensus of the City Council, and without further action by the City Council, the City Officials are hereby, authorized, empowered and directed to negotiate the terms of, and to execute a separation agreement on behalf of the City.

Section 3. Further, the City Officials are authorized to negotiate and execute any and all other required and necessary supporting documents to implement the of the terms of the separation agreement, and to take any other action as may be advisable, convenient, necessary, or appropriate to give full force and effect to the terms and intent of the agreement, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 4. The Finance Director is authorized to disburse funds, as necessary to fulfill the terms and conditions of the agreement, and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 5. This Resolution shall take effect immediately upon adoption.

**YEAS:**  
**NAYS:**  
**ABSTAINED:**

---

**Doug Daoust, Mayor**

---

**Date**

---

**Sarah Skroch, City Recorder**  
**Adopted:**



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A resolution continuing Workers' Compensation coverage of volunteers to the City of Troutdale for fiscal year 2016-2017.

<p><b>MEETING TYPE:</b> City Council Regular Mtg.</p>	<p><b>MEETING DATE:</b> July 12, 2016 <b>STAFF MEMBER:</b> Erich Mueller <b>DEPARTMENT:</b> Finance &amp; Risk Mgt</p>
<p><b>ACTION REQUIRED</b> Consent Agenda Item</p> <p><b>PUBLIC HEARING</b> No</p>	<p><b>ADVISORY BOARD/COMMISSION RECOMMENDATION:</b> Not Applicable</p>
<p><b>STAFF RECOMMENDATION:</b> <i>Adopt the proposed Resolution</i></p>	

**Subject / Issue Relates To:**

Council Goals                     
  Legislative                     
  Other (describe):  
 Manages liability exposure for volunteers and elected officials

**Issue / Council Decision & Discussion Points:**

- ◆ Continued insurance coverage through City County Insurance Services (CIS)
- ◆ Workers' compensation coverage to be continued for the classes of volunteer workers, (such as Troutdale elected officials), is necessary.

**BACKGROUND:**

Insurance coverage provided through City County Insurance Services (CIS) Trust membership is governed by the CIS Trust Agreement, Bylaws and Rules. The City's membership in CIS dates from resolution 1581 in September 2001 and our Membership was amended and renewed in June 2009 with resolution 2015 and resolution 2169 in July 2012.

Reviewed and Approved by City Manager: 

The City has continued to receive various risk management services, including risk financing, loss prevention and loss control programs, claims management and legal representation, risk management consulting, data gathering, information sharing, training and related services.

The coverage provided through the CIS Trust for Workers' Compensation, which is considered a self-insured employer group under ORS 656.430. The resolution continues coverage and membership in the employer group. The resolution, pursuant to ORS 656.031, revises the volunteer codes covered and continues workers' compensation coverage to the classes of volunteer workers, including elected officials.

Assumed minimum wages are used to calculate premiums. Coverage is for elected officials, volunteer boards, commission, and committees for the performance of administrative duties, reserve officers, and court-mandated community service workers/inmates on work release

**PROS & CONS:**

An approved resolution will continue to provide workers' compensation coverage of volunteers to the City.

Absent an approved resolution, the City would be exposed to employer liability for potential risks associated with volunteers and potentially place the City's insurance coverage in doubt.

<p><b>Current Year Budget Impacts</b> <input checked="" type="checkbox"/> Yes (<i>describe</i>) <input type="checkbox"/> N/A First Year: Continues existing coverage with premium provided for in the adopted budget.</p> <p><b>Future Fiscal Impacts:</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A Future Years: This resolution relates to the current year only.</p> <p><b>City Attorney Approved:</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A</p> <p><b>Community Involvement Process:</b> <input type="checkbox"/> Yes (<i>describe</i>) <input checked="" type="checkbox"/> N/A</p>
--

## **RESOLUTION NO.**

### **A RESOLUTION CONTINUING WORKERS' COMPENSATION COVERAGE OF VOLUNTEERS TO THE CITY OF TROUTDALE FOR FISCAL YEAR 2016-2017.**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. That the City of Troutdale appreciates the necessary and the valuable service provided by volunteers which contributes to better government through citizen involvement.
2. That the City strives to offer volunteers a safe and pleasant place to volunteer.
3. That Oregon law allows cities to elect coverage for various classes of volunteers.
4. That the City participates in the City County Insurance Services (CIS) Group Self-Insurance Program, which requires a resolution be adopted annually by the Troutdale City Council to elect Workers' Compensation Insurance coverage for City of Troutdale volunteers.

#### **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:**

Section 1. The City of Troutdale elects, pursuant to ORS 656.031, that workers' compensation coverage will be provided to the classes of volunteer workers listed in this resolution and as reported on the periodic payroll schedules, and subject to CIS policy terms and conditions, and verified at audit.

Section 2. An aggregate assumed annual wage of \$2,500 will be used per volunteer board, commission and/or council for the performance of administrative duties; The covered bodies are: City Council, Urban Renewal Agency Board of Directors, Planning Commission, Budget Committee, Citizens Advisory Committee, Historic Landmarks Commission, Parks Advisory Committee, Public Safety Advisory Committee, and Community Enhancement Program Committee.

Section 3. An assumed monthly wage of \$800 per month will be used for public officials for the performance of non-administrative duties other than those covered in paragraph 2 above.

Section 4. Non-public safety volunteers as listed below will track their hours and Oregon minimum wage will serve as assumed wage for both premium and benefits calculations. CIS will assign the appropriate classification code according to the type of volunteer work being performed.

Section 5. Pursuant to ORS 656.041, workers' compensation coverage will be provided to Court-mandated community service workers/inmates on work release who are sentenced by the City of Troutdale's Municipal Court. They will keep track of their hours and have their assumed payroll reported in Class Code 7720V using Oregon minimum wage. Tracked hours will be used for both premium and benefit calculations, verifiable by providing a copy of the roster and/or sentencing agreement from the court.

Section 6. A roster of active volunteers will be kept monthly for reporting purposes. It is acknowledged that CIS may request copies of these rosters during year-end audit.

Section 7. Unanticipated volunteer projects or exposure not addressed herein will be added onto City of Troutdale's coverage agreement (1) by endorsement, (2) with advance notice to CIS, and (3) allowing two weeks for processing. It is hereby acknowledged that coverage of this type cannot be backdated.

Section 8. The City of Troutdale agrees to maintain verifiable rosters for all volunteers including volunteer name, date of service, and hours of service, and make them available at the time of a claim or audit to verify coverage.

Section 9. The City of Troutdale elects to provide workers' compensation coverage to the following classes of volunteers: Public officials on unpaid boards, commissions, committees and councils (Code 8742V); Public officials performing manual labor (Code 8742V); Court-Mandated Community Service Workers/Inmates (Code 7720V); and, all other volunteers (Codes: 5506V, 7520V, 7580V, 8380V, 8810V, 9015V, 9063V, 9102V, & 9402V) as listed in the following table:

Class Code – Description	Projected Hours
5506V - VOLUNTEER STREET/ROAD MAINTENANCE	50
7520V - VOLUNTEER - WATER	12
7580V - VOLUNTEER - SEWER	12
7720V – Court Mandated Community Service	12
8380V - VOLUNTEER GARAGE/SHOP	12
8810V – VOLUNTEER - CLERICAL	12
9015V - VOLUNTEER BUILDING MAINTENANCE/LIFEGUARDS/RV PARK	12
9063V - Volunteer Clubs - YMCA/YWCA	12
9102V - VOLUNTEER PARKS/SUMMER REC/TEEN CENTER	1,600
9402V - VOLUNTEER- STREET/SEWER CLEANING & SNOW REMOVAL	12

Section 10. Volunteers at City-wide celebrations and public events such as Summer Fest, Earth Day, etc. which include, but are not limited to, activities such as event set-up and tear down, general cleaning, planting trees, community clean-up, and street clean-up patrols, will be covered under workers' compensation coverage using verified hourly Oregon minimum wage as basis for premium and/or benefit calculation.

Section 11. The City of Troutdale does hereby provide for workers' compensation insurance coverage as indicated above.

Section 12. The signature dates below notwithstanding, the effective date of coverage shall be July 1, 2016 and shall remain in effect until coverage is canceled or otherwise rescinded.

Section 13. City Manager, Craig Ward, and/or the City Risk Manager and Finance Director, Erich Mueller, are each hereby authorized to execute on behalf of the City any further documents that may be needed as necessary or appropriate to give full force and effect to the terms and intent of this resolution, and the execution thereof by either shall be conclusive as to such determination.

Section 14. Resolution No. 2294 which provided for workers' compensation insurance coverage with CIS effective July 1, 2015, is hereby rescinded effective July 1, 2016.

Section 15. Upon adoption, this Resolution shall be effective as of July 1, 2016.

**YEAS:**  
**NAYS:**  
**ABSTAINED:**

\_\_\_\_\_  
**Doug Daoust, Mayor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Sarah Skroch, City Recorder**  
**Adopted:**



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A resolution recognizing the completion of the public improvements associated with the Discovery Block subdivision and accepting them into the City's fixed asset system

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** July 12, 2016

**STAFF MEMBER:** Travis Hultin, Chief Engineer

**DEPARTMENT:** Public Works

**ACTION REQUIRED**  
Consent Agenda/Resolution

**ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:**  
Not Applicable

**PUBLIC HEARING**  
No

**Comments:**

**STAFF RECOMMENDATION:** Approve the resolution accepting the improvements

**EXHIBITS:**

- A. Discovery Block Vicinity Map
- B. Dedication letter from Bremik Construction on behalf of Discovery Block LLC

**Subject / Issue Relates To:**

- Council Goals                     
  Legislative                     
  Other (describe) Development

**Issue / Council Decision & Discussion Points:**

- ◆ Discovery Block LLC developed the Discovery Block subdivision pursuant to a subdivision plat approved by the City of Troutdale.
- ◆ The Discovery Block subdivision infrastructure construction included utility systems intended to be publicly owned and operated as indicated by the subdivision approval.
- ◆ Construction of the public improvements associated with the Discovery Block subdivision were completed by the developer and found to be in conformance with the applicable construction standards and conditions of approval.

Reviewed and Approved by City Manager:

- ◆ Utility and frontage improvements along East Historic Columbia River Highway were deferred until commercial building construction with the consent of the City and County.
- ◆ The developer has offered dedication of the applicable public improvements to the City.

**BACKGROUND:**

The Discovery Block is a mixed-use (residential and commercial) subdivision redevelopment of the downtown Troutdale block bounded by SE Dora Avenue, SE Harlow Avenue, SE 2<sup>nd</sup> Street and E Historic Columbia River Highway.

The Discovery Block subdivision received tentative plat land use approval, with conditions, in 2007. Due to the collapse of the housing and real estate market at that time, the developer did not proceed with the subdivision improvements and development.

With the recovery of the economy, the developer reactivated the project in 2014 and proceeded to update the design of the project, followed by construction in the summer and fall of 2015.

Development of the Discovery Block subdivision necessitated the installation of a new sanitary sewer main, relocation and installation of domestic water services and improvements to the adjacent streetscapes, among other associated improvements.

The required public improvements were completed by the developer and found to acceptable in accordance with the applicable construction standards and the conditions of approval.

Additional utility service and streetscape improvements are required along the East Historic Columbia River Highway frontage, fronting the large commercial lot, that have yet to be completed. With the consent of the City and County, those improvements have been deferred until the construction of the planned commercial building on the commercial lot.

The developer has offered dedication of the applicable completed improvements to the City.

**PROS & CONS:**

Pros:

- Adds water, sewer, transportation and related infrastructure to the City's fixed asset system.
- Provides for the long term operation and maintenance by the City of public infrastructure needed to serve development within the Discovery Block subdivision.

Cons

- There are routine operation and maintenance burdens associated with the infrastructure assets to be accepted.

<b>Current Year Budget Impacts</b> <input type="checkbox"/> Yes ( <i>describe</i> ) <input checked="" type="checkbox"/> N/A
---

**Future Fiscal Impacts:**  Yes (*describe*)       N/A

Routine operation and maintenance of water, sewer and street improvements

**City Attorney Approved:**  N/A       Yes

**Community Involvement Process:**  Yes (*describe*)  N/A

EXHIBIT A

N

Discovery Block  
Vicinity Map



Discovery Block

HISTORIC COLUMBIA RIVER HWY

SE KIBLING AVE

SE HARLOW AVE

SE 2ND ST

SE DORA AVE

SE BUXTON RD

SW 2ND ST

Legend  
Street Labels  
Aerial\_2014  
RGB  
Red: Band\_1  
Green: Band\_2  
Blue: Band\_3



June 28, 2016

City of Troutdale  
219 E Historic Columbia River Hwy,  
Troutdale, OR 97060

Subject: Request for Accepting Public Improvements – Discovery Block Townhomes

Dear Mr. Hultin,

I am writing to request that the Council review and accept the improvements listed below for the Discovery Block Tract A. Please note that these improvements have already been incorporated in the as-built drawings to be submitted.

**FINAL COST REPORT FOR DISCOVERY BLOCK SUBDIVISION PUBLIC IMPROVEMENTS**

Description	Unit of Measure	Quantity	Unit Cost	Total Cost
<b>Water System</b>				
1" Double Water Service	EA	5	\$2,420	\$6,930
<b>WATER SYSTEM TOTAL</b>				<b>\$6,930</b>
<b>Sanitary Sewer System</b>				
<u>Sanitary Line 1</u>				
8" PVC Sanitary Sewer Main	LF	200	\$60	\$12,000
48" Manhole	EA	1	\$3,000	\$3,000
4" Sanitary Laterals	LF	165	\$42	\$6,930
<b>SANITARY SYSTEM TOTAL</b>				<b>\$21,930</b>
<b>Streets/Pedestrian</b>				
<u>SE 2<sup>ND</sup> St, SE Dora Ave and SE Harlow Ave</u>				
Curb and Gutter	LF	29	\$20	\$580.00
Sidewalk – ranged from 6' to 8' wide	SF	1760	\$4	\$7,040
Driveway Approach	SF	2 EA @ 450 SF/EA	\$8	\$7,200
<b>STREETS/PEDESTRIAN SYSTEM TOTAL</b>				<b>\$14,820</b>
<b>GRAND TOTAL VALUE</b>				<b>\$43,680</b>

Thank you,

  
Mike Greenslade, Vice President  
Bremik Construction, Inc.



## RESOLUTION NO.

### A RESOLUTION RECOGNIZING THE COMPLETION OF THE PUBLIC IMPROVEMENTS ASSOCIATED WITH THE DISCOVERY BLOCK SUBDIVISION AND ACCEPTING THEM INTO THE CITY'S FIXED ASSET SYSTEM

#### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The construction of the public improvements associated with the Discovery Block subdivision was necessary to meet the demands of public health, safety and welfare.
2. The construction of these public improvements has been completed by the developer, Discovery Block LLC.
3. The public improvements associated with City-operated systems for the Discovery Block have been inspected and found to be in compliance with the Construction Standards for Public Works Facilities and the approved plans and specifications.
4. The developer has requested to dedicate the public improvements associated with City-operated systems to the City of Troutdale.

### NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The following public improvements associated with the Discovery Block subdivision are accepted into the City's fixed asset system, valued as follows:

Description	Unit of Measure	Quantity	Unit Cost	Total Cost
<b>Water System</b>				
1" Double Water Service	EA	5	\$2,420	\$6,930
<b>WATER SYSTEM TOTAL</b>				<b>\$6,930</b>
<b>Sanitary Sewer System</b>				
<b>Sanitary Line 1</b>				
8" PVC Sanitary Sewer Main	LF	200	\$60	\$12,000
48" Manhole	EA	1	\$3,000	\$3,000
4" Sanitary Laterals	LF	165	\$42	\$6,930
<b>SANITARY SYSTEM TOTAL</b>				<b>\$21,930</b>
<b>Streets/Pedestrian</b>				
<b>SE 2<sup>ND</sup> St, SE Dora Ave and SE Harlow Ave</b>				
Curb and Gutter	LF	29	\$20	\$580.00
Sidewalk – ranged from 6' to 8' wide	SF	1760	\$4	\$7,040
Driveway Approach	SF	2 EA @ 450 SF/EA	\$8	\$7,200
<b>STREETS/PEDESTRIAN SYSTEM TOTAL</b>				<b>\$14,820</b>
<b>GRAND TOTAL VALUE</b>				<b>\$43,680</b>

Section 2. This Resolution is effective upon adoption.

**YEAS:**  
**NAYS:**  
**ABSTAINED:**

\_\_\_\_\_  
**Doug Daoust, Mayor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Sarah Skroch, City Recorder**

**Adopted:**



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A motion accepting the Mayor's nominations for appointment to fill vacancies on the Citizens Advisory Committee.

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** July 12, 2016

**STAFF MEMBER:** Sarah Skroch  
**DEPARTMENT:** Executive

**ACTION REQUIRED**  
Motion

**SELECTION COMMITTEE RECOMMENDATION:**  
Approval

**PUBLIC HEARING**  
No

**Comments:**

**STAFF RECOMMENDATION:** Approve the recommendations forwarded by Mayor Daoust.

**EXHIBITS:**  
None.

**Subject / Issue Relates To:**

Council Goals

Legislative

Other (describe)  
Committee Appointments

**Issue / Council Decision & Discussion Points:**

- ◆ Consideration of Mayor Daoust's nominations for appointment to fill vacancies on the Citizens Advisory Committee.

Reviewed and Approved by City Manager:

**BACKGROUND:**

On January 12, 2016 the City Council made their annual appointments to fill vacancies on the City's committees. Since that time the Citizens Advisory Committee (CAC) has had members resign from position #7 and position #10. The alternate, Jon Brown, was appointed to fill the remainder of position #7. However position #10 remains vacant as well as the alternate position which become vacant when Jon Brown was appointed to position #7.

At the June 28, 2016 Regular City Council Meeting, Mayor Daoust proposed appointing Victoria Rizzo to position #10 and Will Knight to the Alternate position. The Council concurred and directed staff to contact Victoria and Will to see if they would be interested in serving on the CAC and if they are, to add the appointments to the next City Council meeting agenda. Victoria and Will have both been contacted and are interested in serving as members of the CAC.

Mayor Daoust is recommending the following appointments:

**Citizens Advisory Committee**

Position #10 – Victoria Rizzo  
Alternate – Will Knight

Term Expires 12/31/18  
Term Expires 12/31/16



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A resolution authorizing the City Manager to execute an Intergovernmental Agreement with the State of Oregon, Port of Portland, Multnomah County, Multnomah County Drainage District, Sandy Drainage Improvement Company, and the City of Fairview for the design, permitting, right-of-way acquisition, construction, operation and maintenance of segments of the "40-Mile Loop" trail between Blue Lake Park and NE Harlow Road.

<p><b>MEETING TYPE:</b> City Council Regular Mtg.</p>	<p><b>MEETING DATE:</b> July 12, 2016</p> <p><b>STAFF MEMBER:</b> Travis Hultin, Chief Engineer</p> <p><b>DEPARTMENT:</b> Public Works</p>
<p><b>ACTION REQUIRED</b> Consent Agenda/Resolution</p> <p><b>PUBLIC HEARING</b> No</p>	<p><b>ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:</b> Not Applicable</p> <p><u><b>Comments:</b></u></p>
<p><b>STAFF RECOMMENDATION:</b> Authorize the City Manager to execute the proposed IGA</p>	

**EXHIBITS:**

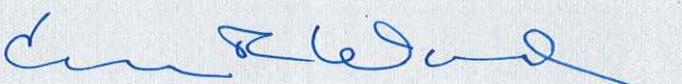
- A. Map of proposed trail connections
- B. Example of typical proposed trail cross section

**Subject / Issue Relates To:**

- Council Goals                     
  Legislative                                     
  Other (describe)  
 Council Goal 10: Pursue the connection of the 40-Mile Loop Trail.

**Issue / Council Decision & Discussion Points:**

- ◆ The Council has a goal of pursuing connection of the 40-mile loop trail
- ◆ The City owns an existing 1.6-mile segment of the trail atop the SDIC levee between Sundial Road and Graham Road (at Perimeter Way) that was constructed by the Port as part of TRIP Phase I

Reviewed and Approved by City Manager: 

- ◆ A Metropolitan Transportation Improvement Program grant was awarded several years ago to fund design, construction and related tasks to complete a segment of the trail atop the levee connecting Sundial Road to Blue Lake Park and a segment along the Sandy River connecting the existing trail at Graham Road to Harlow Road.
- ◆ During the planning stages of the project, ODOT added a trail connection along Jordan Road to the Sandy River Delta Park to the project and increased the grant funds accordingly.
- ◆ The project involves a number of agency partners with varying roles and responsibilities associated with the project. The proposed IGA establishes those roles and responsibilities.
- ◆ Upon completion, Troutdale will take ownership and maintenance responsibility for the segments within Troutdale city limits, Fairview will own and maintain the segment within Fairview City limits and ODOT will own and maintain the Jordan Road trail connection.
- ◆ This project has been in the works for several years, and this IGA has been in negotiation between the many parties since 2012. After much collaboration, negotiation and several revisions, all of the parties have indicated in principle that this IGA is now appropriate and acceptable, subject to approval by their respective governing boards and/or executives.
- ◆ The bulk of the agreement deals with relationships between the Port and the State in administration of the funds and management of the project. A smaller subset of the agreement's terms address roles and responsibilities of the other partner agencies, including the City of Troutdale.
- ◆ City staff and the City Attorney have participated actively in the negotiation and finalization of this proposed IGA. Both City staff and the City Attorney are satisfied with the terms of the agreement.
- ◆ Due to the long delay in reaching consensus on this IGA, the Federal Highway Administration (the ultimate authority for the grant funds) has indicated that it is imperative that this IGA be executed now or the project will lose its grant funding. If that were to occur, the funds would be redirected to another project.

#### **BACKGROUND:**

It is a goal of the City of Troutdale to complete connection of the 40-mile loop trail through Troutdale. The 40-mile loop trail is a regional pedestrian, bicycle, and in some cases equestrian, trail originally conceived in the early 1900's that will form a continuous loop around the Portland metropolitan area, connecting various other parks, trails, natural areas, scenic points of interest and other amenities. Since its conception, many miles of the trail system have been built around the metro area, now well exceeding 40-miles in total. Still, segments to complete the primary loop remain incomplete in East County, particularly in and around Troutdale.

In conjunction with Phase I of the Troutdale Reynolds Industrial Park (TRIP), a 1.6 mile section of the trail was constructed atop the SDIC levee within Troutdale, between NW Sundial Road and NW Graham Road (at Perimeter Way). That segment was constructed by the Port, dedicated to the City of Troutdale, and has been in operation for several years.

A Metropolitan Transportation Improvement Program grant was awarded to the City of Fairview to lead, with other agency partners, the construction of the missing segment between Sundial Road and Blue Lake Park. The MTIP funds originate from the Federal Aid Urban Surface Transportation Program (STP-U), administered by the Federal Highway Administration.

Construction of the missing segment between Graham Road and NE Harlow Road was included in that project, and a trail connection along Jordan Road to Sandy River Delta Park was further added to the project by ODOT.

Subsequently, the City of Fairview stepped back from the lead agency role and that role was assumed by the Port of Portland as a complementary effort to the development of TRIP Phases II and III.

The project involves a number of partner agencies at the State, regional and local level, including the State of Oregon, Port of Portland, Multnomah County, Multnomah County Drainage District, Sandy Drainage Improvement Company, the City of Troutdale and the City of Fairview. The proposed IGA establishes the roles and responsibilities of these various partners in the execution of the project. METRO also has a facilitating and supporting role for the project through the MTIP grant process, but is not a party to this IGA. The majority of the responsibility for executing the project lies with the Port of Portland (lead agency for managing the project) and the State of Oregon (easement/right of way acquisition). The City's primary responsibility under this IGA is the ownership, operation and maintenance of the trail segments within Troutdale upon its completion. While not directly addressed in this IGA, the partners have assumed that the City will contribute approximately \$120,000 to the project as 1/3 of the required local match. The City has budgeted for this expenditure in the past several budget cycles in anticipation of this project moving forward.

Negotiation of this IGA began in 2012, and took considerable collaboration and negotiation due to the number of agency partners involved. Preliminary engineering and other initial design, permitting and right-of-way work has not been able to commence, and therefore the grant funds have not been committed, during these negotiations. The MTIP funds originate from the Federal Aid Urban Surface Transportation Program (STP-U). Due to this long delay, the Federal Highway Administration (the ultimate authority for disbursement of STP-U funds) has indicated that work must commence soon, committing grant fund expenditures, or the grant funds will be lost and redirected to another project. In order to meet FHWA's deadline, the various partner agencies must execute the IGA, substantially as proposed herewith, by the end of July 2016.

After much hard work by the various agencies' staff and attorneys, the partners have reached consensus on the attached proposed IGA. City staff and the City Attorney have participated in the negotiation and finalization of this IGA and believe it to be appropriate and acceptable for execution by the City of Troutdale.

#### **PROS & CONS:**

##### Pros:

- Serves the Council's goal of pursuing connection of the 40-mile loop trail.
- Implements projects planned in the City's Parks and Recreation Master Plan (2006).
- Completes the connection of the City's existing levee trail to Fairview (Blue Lake Park) and NE Harlow Road.
- Adds a trail connection along Jordan Road to the Sandy River Delta Park.
- The project is predominantly grant and Port funded, requiring a relatively small capital contribution from the City to obtain two miles of desired new trail segments.

- Provides and/or enhances a cycling attraction in Troutdale, ultimately connecting to the Urban Renewal Area and Central Business district, furthering the City's desires to promote bicycle tourism.

Cons

- The City will assume ownership, operation and maintenance of the trail upon completion.

**Current Year Budget Impacts**  Yes (*describe*)  N/A

Indirectly, assumes City's contribution of 1/3 (~\$120,000) of the required local grant match

**Future Fiscal Impacts:**  Yes (*describe*)  N/A

Routine operation and maintenance costs for the trail. Given the anticipated design of the trail, these routine costs are not expected to be extraordinary.

**City Attorney Approved**  N/A  Yes

**Community Involvement Process:**  Yes (*describe*)  N/A



Columbia River

Sandy River

Sandy River  
Delta Park

Jordan Rd. Segment

Harlow Rd.  
Segment

Troutdale Airport

84

Sundial Road

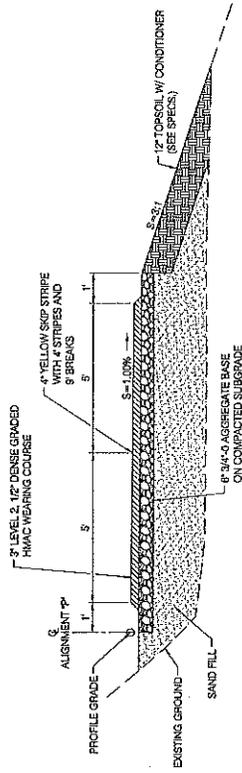
Marine Drive

Blue Lake to Sundial Rd. Segment

223rd

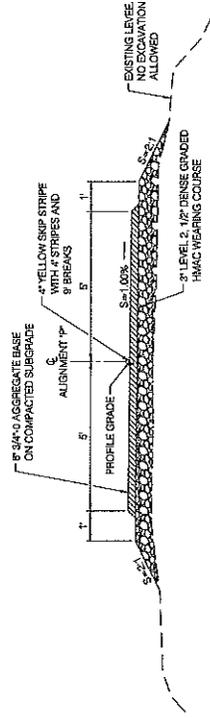
Key 17270  
40 Mile Loop Trail Extension  
Blue Lake Park to Sundial Road

**EXHIBIT B**



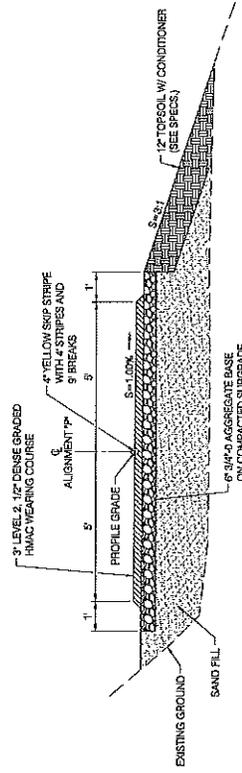
40-MILE LP. TRAIL SECTION ON LEVEE SLOPE  
 STA. P=30+15.98 TO STA. P=34+23.93  
 SCALE: 1"=2'

1  
C-45



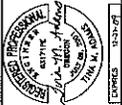
40-MILE LP. TRAIL SECTION  
 STA. P=34+23.93 TO STA. P=103+21.16  
 STA. P=105+66.63 TO STA. P=113+99.96  
 SCALE: 1"=2'

2  
C-45



40-MILE LP. TRAIL SECTION TRANS. OFF LEVEE  
 STA. P=103+21.16 TO STA. P=105+66.33  
 SCALE: 1"=2'

3  
C-45

				TROUTDALE REYNOLDS INDUSTRIAL PARK PHASE ONE PUBLIC IMPROVEMENTS TYPICAL SECTIONS - 40-MILE LOOP	
PORT OF PORTLAND PORTLAND, OREGON		SUBMITTED BY ROGER ANDERSON		THE DRAWING CD TRIP 2008-500 51/152 C-45	
DAVID EVANS AND ASSOCIATES, INC. 2100 Southwest Power Parkway Portland, Oregon 97228-3803 Phone: 503.223.8800		DESIGNED BY J. DEGLO		DATE MARCH 2008	
2007 026-4 100482		CHECKED BY J. DEGLO		DATE MARCH 2008	
AS NEGOTIATED		APPROVED BY [Signature]		DATE [Blank]	
NO PAGE		NO PAGE		NO PAGE	

## **RESOLUTION NO.**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON, PORT OF PORTLAND, MULTNOMAH COUNTY, MULTNOMAH COUNTY DRAINAGE DISTRICT, SANDY DRAINAGE IMPROVEMENT COMPANY, AND THE CITY OF FAIRVIEW FOR THE DESIGN, PERMITTING, RIGHT-OF-WAY ACQUISITION, CONSTRUCTION, OPERATION AND MAINTENANCE OF SEGMENTS OF THE "40-MILE LOOP" TRAIL BETWEEN BLUE LAKE PARK AND NE HARLOW ROAD**

**THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. The City of Troutdale contains existing and planned segments of the "40-mile Loop" regional trail.
2. A 1.6 mile segment of the "40-mile loop" trail was completed atop the Sandy Drainage Improvement Company levee between NW Sundial Road and NW Graham Road (at Perimeter Way) in conjunction with TRIP Phase I, and dedicated to the City for operation and maintenance.
3. The City of Troutdale and its agency partners desire the construction of additional segments of the trail between NW Sundial Road and Blue Lake Park, between NW Graham Road (at Perimeter Way) and NE Harlow Road.
4. The above-referenced segments of the trail have received regional Metropolitan Transportation Improvement Program grant funding to execute the project, with the Port of Portland acting as the lead agency for execution. The City of Troutdale has previously committed to provide one-third of the matching funds for the project with the Port providing the remaining two-thirds match.
5. The Oregon Department of Transportation, as the State level administrators of the grant, have also included a trail connection along Jordan Road as an element of the project, completing a trail connection to the Sandy River Delta Park, and increased the grant funding accordingly.
6. The project involves a number of agency partners with varying roles and responsibilities associated with the project. The City and its partners desire to execute a multi-agency Intergovernmental Agreement to establish the roles and responsibilities of these various agencies in the execution of the project.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. The City Manager is authorized to execute an Intergovernmental Agreement with the State of Oregon, Port of Portland, Multnomah County, Multnomah County Drainage District, Sandy Drainage Improvement Company, and the City of Fairview for the design, permitting, right-of-way acquisition, construction, operation and maintenance of segments of the "40-Mile Loop" trail between Blue Lake Park and NE Harlow Road, substantially in conformance with Attachment A.

Section 2. This resolution is effective immediately upon adoption.

**YEAS:  
NAYS:  
ABSTAINED:**

\_\_\_\_\_  
**Doug Daoust, Mayor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Sarah Skroch, City Recorder**

**Adopted:**

**LOCAL AGENCY AGREEMENT  
SURFACE TRANSPORTATION PROGRAM – URBAN  
40 MILE LOOP: BLUE LAKE PARK - SUNDIAL RD**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State," the PORT OF PORTLAND, a Port district of the State of Oregon, acting by and through its Executive Director, hereinafter referred to as "Port," Multnomah County, acting by and through its elected officials, hereinafter referred to as "County," MULTNOMAH COUNTY DRAINAGE DISTRICT, acting by and through its elected officials, hereinafter referred to as "MCDD," SANDY DRAINAGE IMPROVEMENT COMPANY, acting by and through its elected officials, hereinafter referred to as "SDIC," the CITY OF TROUTDALE, a municipal subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "Troutdale," and the CITY OF FAIRVIEW, a municipal subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "Fairview," each herein referred to as a "Party" and collectively as the "Parties."

**RECITALS**

1. The 40-Mile Loop Trail is a multi-jurisdictional publically-owned bicycle- pedestrian trail located in Multnomah County. Portions of the trail addressed in this Agreement pass through the jurisdiction or property of the various Parties to this Agreement.
2. NE Sundial Road, NE Marine Drive and NE 223<sup>rd</sup> Avenue are a part of the County Road system under the jurisdiction and control of County. NE Harlow Road is part of the city street system under the jurisdiction and control of Troutdale. Jordan Road is a local access road owned by State under the jurisdiction and control of Oregon Transportation Commission (OTC). The Columbia River and Sandy River levees are federal flood control levees under the jurisdiction and control of MCDD and SDIC.
3. Port has been awarded funds by Metro under the Federal-Aid Urban Surface Transportation Program ("STP-U") pursuant to Title 23, United States Code, to fund acquisition of easements, permitting, design and construction for three sections of the 40-Mile Loop Trail: a 1.7-mile connection from Blue Lake Park to Sundial Road, hereinafter "**Blue Lake Section**"; a .33- mile section connecting the terminus of the existing trail located at the north-east end of the Troutdale Airport runway to Harlow Road, hereinafter "**Harlow Road Section**"; and a 1000 linear foot (+/-) section of multi-use path north of Jordan Road connecting the trail from the new pedestrian tunnel under I-84 and to Sandy River Delta Park, hereinafter referred to as the "**Jordan Road Section**"; as further described in the MTIP and shown in the attached **Exhibits A and B**, and by this reference made a part hereof, (the Project).
4. Portions of the Project will be constructed upon County right-of-way, including a connection to the existing Marine Drive multi-use trail and trail crossings at NE 223<sup>rd</sup> Avenue and NE Sundial Road. A flashing beacon will be installed at Marine Drive to

connect the trail with the existing multi-use path on the south side of Marine Drive.

5. Portions of the Project will also be constructed upon or adjacent to the District's federal flood control system, which is subject to certain flood control or levee operations, regulatory requirements and standards within the MCDD and SDIC levee easement.
6. Portions of the project will be constructed within public trail easements to be acquired from property owned respectively by the Port, Metro, US Forest Service (USFS), and private third parties. State and Port will enter into separate Right of Way Services Agreement No. 29846 to address responsibilities for land acquisition and right-of-way requirements for the Project.
7. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
8. State, Port, County, MCDD, SDIC, Troutdale and Fairview wish to enter into this Agreement to authorize and provide for the design, construction and long term maintenance of the Project.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

#### **TERMS OF AGREEMENT**

1. This Project involves three sections of the 40-Mile Loop Trail as described in Recital No. 3, all hereinafter referred to collectively as the "Project". The Project includes the design, permitting, and construction of the Blue Lake Section and the design, permitting and possible construction of the Harlow Road and Jordan Road Sections. The Project will be re-evaluated at the 60 percent design stage at which point the State, Metro and Port will jointly determine if construction of all sections can be accomplished within the available remaining Project funds. Should additional funds be necessary to complete all sections of the project, the parties may amend this Agreement to include the additional funding. Otherwise, the Port and State agree to prioritize construction of trail segments in the following prioritized order: (1) Blue Lake Section; (2) Harlow Road Section; and (3) Jordan Road Section, as remaining funds allow. If final Project does not include construction of all three sections the Port will provide shelf-ready Plans, Specifications and Estimates ("PS&E") packages to State for the sections not being constructed.
2. The Project will be conducted as a part of the Federal-Aid Urban Surface Transportation Program under Title 23, United States Code. The total Project cost is estimated at \$3,424,073 ("Estimated Cost"), which is subject to change. STP-U funds for this Project will be limited to \$3,072,421. The Project will be financed with STP-U funds at the maximum allowable federal participating amount, which is 89.73

percent, with Port providing the 10.27 percent match for eligible costs and paying for any non-participating costs, including all costs in excess of the available federal funds. Any Project costs, including without limitation costs pursuant to the Right of Way Services Agreement, exceeding the Estimated Cost shall be subject to the Port's prior written approval.

3. The Federal funding for this Project is contingent upon approval by the Federal Highway Administration (FHWA). Any work performed by the Port prior to acceptance by FHWA or outside the scope of work will be considered nonparticipating and paid for at Port expense.
4. State considers Port a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
5. The term of this Agreement will begin upon execution by the Parties and will terminate upon completion of the Project and final payment, or ten (10) calendar years following the date of final execution of this Agreement, whichever is sooner, unless this Agreement is earlier terminated pursuant to the terms of this Agreement.
6. This Agreement may be terminated by mutual written consent of all parties.
7. State may terminate this Agreement effective upon delivery of written notice to Port and the other Parties to this Agreement, or at such later date as may be established by State, under any of the following conditions:
  - a. If Port fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If Port fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
  - c. If Port fails to provide payment of its share of the cost of the Project.
  - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.

8. Port may terminate this Agreement effective upon delivery of written notice to State and other Parties to this Agreement, or at such later date as may be established by Port, under any of the following conditions:
  - a. If State fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If State fails to perform any of the State's other obligations under this Agreement, and after receipt of written notice from Port fails to correct such failures within ten (10) days or such longer period as Port may authorize.
  - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
9. Either State or Port may terminate this Agreement effective upon delivery of written notice to the other Parties to this Agreement if State and Port are unable to obtain required governmental approvals, rights of entry or right of way within the timelines required for completion of the Project, or to resolve issues related to environmental or other Studies (defined below) or costs in excess of the Estimated Cost.
10. Any termination of this Agreement will not prejudice any rights or obligations accrued to the Parties prior to termination.
11. Information required by 2 CFR 200.331(a), except for (xiii) Indirect cost rate, shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by ODOT to Port with the Notice to Proceed.
12. The indirect cost rate for this project at the time the agreement is written is zero percent.
13. The Special and Standard Provisions attached hereto, marked **Attachments 1 and 2**, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in **Attachments 1 and 2**. In the event of a conflict, this Agreement will control over **Attachments 1 and 2**, and **Attachment 1** will control over **Attachment 2**.
14. Port, Multnomah County, Troutdale and Fairview shall, upon completion of Project and as a condition to this Agreement, complete and file with the appropriate County Clerk, an Acknowledgment of Federal Assistance, which is attached hereto as **Exhibit C**, and by this reference is made a part hereof or the filing of a memorandum of this Agreement including Acknowledgement of Federal Assistance.

Port shall provide confirmation of this filing by forwarding to the State's Region 1 Manager a conformed copy of the recorded **Exhibit C** or memorandum. By means of said acknowledgment of Port's financial obligations, the continued use of said property for public purposes, and the maintenance of the facility or service at a level consistent with normal depreciation or demand is recognized and attached to the property as conditions of receipt of these funds. Any interest in said property by State is proportional to the federal and state participation in Project. Port will be ineligible to receive any state or federal funds while in default of the Port's obligations pursuant to this Agreement or the Acknowledgment of Federal Assistance, but shall have no liability for any default of by Troutdale and Fairview of their respective obligations pursuant to this Agreement or the Acknowledgement.

#### **15. Port's Obligations**

- a. State will hire the Consultant and Port shall perform all project management for preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates for all sections of the Project ("PE Work"). If Port chooses to use ODOT's Region 1 On-Call Preliminary Engineering (PE), Design and Construction Engineering Services consultant for Local Agency Projects, Port shall assist State in performing project manager services for administration of the contract and shall assist State in managing the work performed by the consultant and shall make funds available to the State for payment of those services. All eligible work will be a federally participating cost and included as part of the total cost of the Project.
- b. Port shall conduct the necessary field surveys; foundation explorations; and traffic, hydraulic, geotechnical and storm water studies as determined necessary by Port and State for the three sections of the Project.
- c. Port shall identify and obtain all local governmental, State and Federal permits, necessary to construct the three sections of the Project except those identified under State Obligations. Port shall also be responsible for any Project coordination with all local governments and the FAA. Port's construction permit obligations include any US Army Corps of Engineers (USACE) permits required for Project impacts on the levee that is a flood protection system, and include coordination with MCDD and SDIC and reimbursement of MCDD and/or SDIC costs and expenses of compliance with applicable flood control or levee operation regulations and standards incurred during and as a direct result of design and construction of the Project and supported by reasonable documentation.
- d. All work by any contractors for the Project work within Port owned portions of the Project will be pursuant to the Port's form of Permit and Right of Entry for work within the Port's Troutdale Industrial Park. State's access to portions of the Project within the Port's Troutdale Reynolds Industrial Park for any non-construction activities is subject to receipt from the Port of the Port's form of Permit and Right of Entry for access to the property.

Port/MCDD/SDIC/County/Troutdale/Fairview/State  
Agreement No. 29165

- e. Upon State's award of the construction contract, Port, or its consultant, shall be responsible to perform all construction engineering, field testing of materials, technical inspection and project manager services for administration of the contract.
- f. Port shall assist State with acquisition of necessary right of way and/or easements as provided in separate Right-of-Way Services Agreement No. 29846 ("ROWSA").
- g. Port, as a subrecipient of federal funds, pursuant to this Agreement with State, shall assume sole liability for Port's breach of any federal statutes, rules, program requirements and grant provisions applicable to the Port's performance of its obligations pursuant to this Agreement, and will, upon Port's breach of any such conditions that requires State to return funds to the Federal Highway Administration, hold harmless and, subject to the limitations in the Oregon Tort Claims Act and Oregon Constitution, indemnify State for an amount up to, but not to exceed, the funds received by Port from State under this Agreement; or if legal limitations apply to the indemnification ability of Port, the indemnification amount will be the maximum amount of funds legally available for expenditure, including any available contingency funds or other available non-appropriated funds, up to, but not to exceed the amount received under this Agreement. With respect to any indemnity by the Port pursuant to this Agreement, the ROWSA, or any other agreement related to the Project, such indemnity obligations shall survive for a period of two (2) years following completion of the Port's construction of the Project, after which time such indemnity obligations shall terminate and be of no further force or effect.
- h. During the construction of the Project, to the extent the Port terminates this Agreement pursuant to paragraph 8.d. of this Agreement as a result of a noncompliance with changed or modified flood control or levee regulatory requirements and standards affecting the MCDD and SDIC flood control system, the Port will correct such noncompliance with Project funds to ensure the flood control system is in compliance
- i. Port shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents, Troutdale, Fairview, and County, from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Port's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from

the negligent or willful acts or omissions of the State, be indemnified by the contractor and subcontractor from and against any and all Claims.

- j. Any such indemnification shall also provide that neither Port's contractor and subcontractor nor any attorney engaged by Port's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, Troutdale, Fairview, and County nor purport to act as legal representative of the State of Oregon or any of its agencies, Troutdale, Fairview, and County without the prior written consent of the Oregon Attorney General or the legal counsel of Troutdale, Fairview, and County. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Port's contractor is prohibited from defending the State of Oregon, Troutdale, Fairview, and County, or that Port's contractor is not adequately defending the State of Oregon's, Troutdale's, Fairview's, and County's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon, Troutdale, Fairview, and County to do so. The State of Oregon Troutdale, Fairview, and County reserve all rights to pursue claims it may have against Port's contractor if the State of Oregon, Troutdale, Fairview, or County elects to assume its own defense.
- k. Port will include the following provisions in its construction contract(s) with contractors for performance of work on the project and will require its contractors to agree to the following:
  - i. Contractor and Port shall name State, Troutdale, Fairview, and County as third party beneficiaries of the resulting contract.
  - ii. Contractor shall indemnify, defend and hold harmless State, Troutdale, Fairview, and County from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, sub-contractors, or agents under the resulting contract.
  - iii. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State, Troutdale, Fairview, and County. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than \$2,048,000 for each job site

or location. Each annual aggregate limit shall not be less than \$4,096,000.

- iv. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.
  - v. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include State and its divisions, officers and employees, Troutdale, Fairview, and County as Additional Insured but only with respect to the Contractor's activities to be performed under the resulting contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
  - vi. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State, Troutdale, Fairview, and County. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.
- I. All covenants provided in this Section, and the indemnities set forth in subsection (g) will survive termination of this Agreement, but any claim for breach of any covenant provided in this Section must be made within two (2) years of such termination, after which any right to make a claim is extinguished.

#### **16. State's Obligations**

- a. State shall coordinate with the Port to perform environmental studies as determined by Port and State, to obtain the required National Environmental Policy Act (NEPA) clearance and shall complete the environmental and hazmat investigations for all sections of the Project. The State will perform an investigation consistent with the AASHTO Guide for Hazardous Waste Guide for Project Development (February 1990) to evaluate the potential presence on the Project site of any Hazardous Substance Release prior to construction. The Parties agree that in the event that a Hazardous Substance Release is discovered during construction of the Project, the Parties will suspend Project performance and consult with one another to determine next steps. The

Parties each acknowledge that further agreements may be necessary to address the Parties' respective rights and liabilities with respect to such discovery of any Hazardous Substance Release. For purposes of this Agreement, the following definitions shall apply:

"Hazardous Substance Release" means the threatened or actual spilling, discharge, deposit, injection, dumping, emitting, releasing, placing, leaking, migrating, leaching, and seeping of any Hazardous Substance into the air or into or on any land, sediment or waters, except any release in compliance with Environmental Law and specifically authorized by a current and valid permit issued under Environmental Law which Lessee is in compliance with at the time of the Hazardous Substance Release, but not including, within the exception, any such release in respect of which the State of Oregon has determined that application of the State of Oregon's Hazardous Substance removal and remedial action rules might be necessary in order to protect public health, safety or welfare, or the environment.

As used in this Agreement, the following definitions shall apply:

"Environmental Law" means any and all federal, State of Oregon and local laws, regulations, rules, permit terms including but not limited to any storm water pollution control requirements, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which govern materials, substances, regulated wastes, petroleum products, emissions, pollutants, animals or plants, noise, or products or relate to the protection of human health, natural resources, safety or the environment.

"Hazardous Substance" means any and all substances, pollutants, contaminants, materials or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any applicable Environmental Law. Hazardous Substance shall also include, but not be limited to, fuels, petroleum and petroleum-derived products."

- b. State shall perform Section 106 Clearance for the National Historic Preservation Act (NHPA) Requirements; the Endangered Species Act (ESA) No Effect Memo; the National Scenic Area (NSA) Permit; the Section 4(f) Temporary Occupancy Permit; and the Categorical Exclusion Closeout.
- c. State shall advertise, bid and award the construction contract for the Project.
- d. State shall provide the Port with proposed contracts with third party consultants and contractors for the Project design and construction work for the Port's review and comment.

- e. The State shall oversee each of the Port's project management services during preliminary engineering and for the administration of the construction contract. All billings for contract work shall be approved by Port and State. State shall be responsible for invoicing.
- f. State shall make available Region 1's On-Call Preliminary Engineering (PE), Design and Construction Engineering Services consultant for Local Agency Projects. State will contract with the consultant for such services.
- g. State will obtain from USFS and each private owner of real property within the Project Area rights of entry as needed for environmental study purposes.
- h. State shall acquire easements and right of way necessary for the Project as agreed to in ROWSA No. 29846. Upon completion of construction of the Project, and acquisition by State of right of way easements, State shall transfer the right of way easements and ownership of the Project right-of-way to Fairview and Troutdale for such Parties' maintenance, repair, or removal (the "Continuing Trail Obligations") of the paved trail surface and immediate subsurface that does not comprise any structural portion of the levee as provided in this Agreement. The Continuing Trail Obligations includes, but are not limited to, inspection, repair, and removal of the paved trail surface and immediate subsurface that does not comprise any structural portion of the levee, but excludes, without limitation, any portion of the levee proper, as required by applicable flood control or levee operation regulations and standards.
- i. State will obtain the permit and subsequent easement from USFS for the Multnomah County National Scenic Area for the Jordan Trail section of the Project.
- j. State will, at its own expense and upon completion of the Project, maintain the Jordan Trail section of the Project.
- k. State hereby agrees to allow access by Port and the contractors for the Project to State's right of way for construction of this Project for the Jordan Trail section of the Project.
- l. All covenants provided in this Section will survive termination of this Agreement, but any claim for breach of any covenant provided in this Section must be made within two (2) years of such termination, after which any right to make a claim is extinguished.

**17. County, MCDD SDIC Troutdale and Fairview Obligations**

- a. County, MCDD, SDIC, and, if applicable, Troutdale and Fairview hereby agree to allow access to their respective right of way for construction of the Project. If needed the Port and State will apply to the County, MCDD, SDIC, and if applicable Troutdale and Fairview for a permit, right of entry or access permit,

- on terms mutually agreed with Port and State, to authorize the Port and State and their contractors to enter upon and construct the Project located upon the respective Parties' rights of way. If issued, each permit will grant a right of entry to the Port, State, and the contractor for the Project, and set forth reasonable terms of said authorization, as mutually agreed with Port and State, including responsibilities for obtaining applicable regulatory approval related to flood control or levee operation, and reasonable indemnification provisions for liability arising out of the Port's supervision of the Project.
- b. All work by the contractor within Port owned portions of the Project will be pursuant to the Port's form of Permit and Right of Entry for work within the Port's Troutdale Industrial Park.
  - c. Maintenance responsibilities upon completion of construction of the Project and transfer by State of right of way easements and of ownership of the Project right of way:
    - i. Troutdale and Fairview each shall be responsible at such Party's sole cost for the Continuing Trail Obligations as defined in Paragraph 16.h of those portions of the paved trail surface and immediate subsurface that does not comprise any structural portion of the levee, that fall within such Party's respective City limits excepting those portions located upon County right-of-way.
    - ii. County shall be responsible at its sole cost for the Continuing Trail Obligations of the portions of the Project that fall within County right-of-way and is responsible for maintaining, repairing, and paying for power costs for the pedestrian activated overhead warning light constructed for the Project. County's right-of-way does not impact or concern levee areas and County is not responsible for any maintenance or maintenance costs related to compliance with state or federal flood control or levee operations rules and regulations. County is responsible for maintaining, repairing, and paying for power costs for the pedestrian activated overhead warning light constructed for the Project.
    - iii. Troutdale, Fairview, and County each must maintain those portions of the trail located within their respective jurisdictions at a level that is consistent with normal depreciation and/or service demand, in a manner satisfactory to State and FHWA and in compliance with the relevant drainage and flood protection regulations, requirements and standards and must reimburse SDIC and MCDD-actual costs and expenses of compliance with applicable flood control or levee operation regulations and standards incurred during and as a direct result of such Continuing Trail Obligations. Troutdale and Fairview must rely upon the expertise and knowledge of MCDD and/or SDIC to give Troutdale and Fairview written notice of any non-conformity

or non-compliance with state or federal requirements of flood control or levee operations that give rise to Troutdale's and Fairview's Continuing Trail Obligations. If such modification of the trail becomes required, Fairview and Troutdale reserve the right to remove and not rebuild the trail rather than remedy based on its own reasonable discretion. County, Troutdale and Fairview must indemnify and hold harmless the Port, State, MCDD and SDIC, subject to the limitations set forth in the Oregon Tort Claims Act and the Oregon Constitution, for all claims arising from any County, Troutdale or Fairview failure to perform their respective Continuing Trail Obligations for the Project and meet their other obligations under this Agreement.

- d. All covenants provided in this Section, and the indemnities set forth in subsection (c) will survive termination of this Agreement, but any claim for breach of any covenant or indemnity provided in this Section must be made within two (2) years of such termination, after which any right to make a claim is extinguished...
  - e. This agreement does not create any standards enforceable by nonparties regarding maintenance of any facilities constructed or maintained pursuant to the agreement, and does not create any duties to any nonparty enforceable in tort or otherwise.
18. Each Party certifies and represents that the individual(s) signing this Agreement have been authorized to enter into and execute this Agreement on behalf of such Party, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind such Party.
19. The following individuals are hereby designated by each Party as that Party's Project Manager under this Agreement. Notices required under this Agreement required or desired to be directed to a Party under this Agreement shall be directed to that Party's Project Manager, at the addresses provided below. Each Party shall notify the other Parties in writing of any changes in the Project Manager or its contact information during the term of this Agreement.
- a. **State's Project Manager** for this Project is Reem Khaki, Local Agency Liaison, 123 NW Flanders Street, Portland, OR 97209, 503-731-8501, reem.d.khaki@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Parties in writing of any contact information changes during the term of this Agreement.
  - b. **Port's Project Manager** for this Project is Philip Healy, Senior Transportation Planner, 7200 NE Airport Way, Portland, OR 97218, 503-415-6512, Philip.Healy@portofportland.com, or assigned designee upon individual's absence. Port shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

- c. **County's Project Manager** for this Project is Ian B. Cannon, P.E. County Engineer, 1620 SE 190th Avenue Portland, OR 97233 (503) 704-5170 ian.b.cannon@multco.us, or assigned designee upon individual's absence. County shall notify the other Parties in writing of any contact information changes during the term of this Agreement.
- d. **MCDD and SDIC Project Manager** for this Project is Sunny Simpkins 1880 NE Elrod Drive, Portland OR, 97211, 503-281-5675 x 313 ssimpkins@mcdd.org, or assigned designee upon individual's absence. MCDD and SDIC shall notify the other Parties in writing of any contact information changes during the term of this Agreement.
- e. **Troutdale's Project Manager** for this Project is Travis Hultin, City Engineer, 342 SW 4th Street, Troutdale, OR 97060 (503) 674-7265, travis.hultin@troutdaleoregon.gov , or assigned designee upon individual's absence. Troutdale shall notify the other Parties in writing of any contact information changes during the term of this Agreement.
- f. **Fairview's Project Manager** for this Project is Allan Berry, P.E. Public Works Director 1300 NE Village Street Fairview, OR 97024 (503) 674-6235 berrya@ci.fairview.or.us or assigned designee upon individual's absence. Fairview shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

20. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together will constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed will constitute an original.

21. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding 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 and all necessary approvals have been obtained. 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 State to enforce any provision of this Agreement will not constitute a waiver by State of that or any other provision.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2015-2018 Statewide Transportation Improvement Program, (Key #17270) that was approved by the Oregon Transportation Commission on December 18, 2014 (or subsequently approved by amendment to the STIP).

**SIGNATURE PAGE TO FOLLOW**

**PORT OF PORTLAND**, by and through  
its Executive Director

By \_\_\_\_\_  
Executive Director

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY FOR THE PORT**

By \_\_\_\_\_  
Port Counsel

Date \_\_\_\_\_

**Port Contact:**  
Phil Healy  
Senior Transportation Planner  
7200 NE Airport Way  
Portland, OR 97208  
503-415-6512  
Philip.healy@portofportland.com

**CITY OF TROUTDALE**, by and through its  
elected officials

By \_\_\_\_\_  
City Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
Troutdale Counsel

Date \_\_\_\_\_

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Highway Division Administrator

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
Project Services Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

Date \_\_\_\_\_

**State Contact:**  
Reem Khaki  
Local Agency Liaison  
123 NW Flanders Street  
Portland, OR 97209  
503-731-8501  
reem.d.khaki@odot.state.or.us

**Troutdale Contact:**

Travis Hultin, City Engineer  
City of Troutdale Public Works  
342 SW 4<sup>th</sup> Street  
Troutdale, OR 97060  
503-674-7265  
travis.hultin@troutdaleoregon.gov

**MULTNOMAH COUNTY DRAINAGE DISTRICT #1**, by and through its elected officials

By \_\_\_\_\_  
Board of Supervisors, President

Date \_\_\_\_\_

**MULTNOMAH COUNTY**, by and through its elected officials

By \_\_\_\_\_  
Chair

Date \_\_\_\_\_

By \_\_\_\_\_  
Recorder

Date \_\_\_\_\_

By \_\_\_\_\_  
Secretary-Treasurer

Date \_\_\_\_\_

**SANDY DRAINAGE IMPROVEMENT COMPANY**, by and through its elected officials

By \_\_\_\_\_  
Board of Directors, President

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
County Attorney

Date \_\_\_\_\_

By \_\_\_\_\_  
Secretary-Treasurer

Date \_\_\_\_\_

**County Contact:**

Ian B. Cannon  
County Engineer  
1620 SE 190<sup>th</sup> Avenue  
Portland, OR 97233  
503-704-5170  
ian.b.cannon@multco.us

**APPROVED AS TO LEGAL SUFFICIENCY**

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

Date \_\_\_\_\_

**MCDD and SDIC Contact:**

Sunny Simpkins  
Planning Director  
1880 NE Elrod Drive  
Portland, OR 97211  
503-281-5675 ext. 313  
ssimpkins@mcdd.org

Port/MCDD/SDIC/County/Troutdale/Fairview/State  
Agreement No. 29165

**CITY OF FAIRVIEW** by and through its  
elected officials

By \_\_\_\_\_  
Fairview Manager

Date \_\_\_\_\_

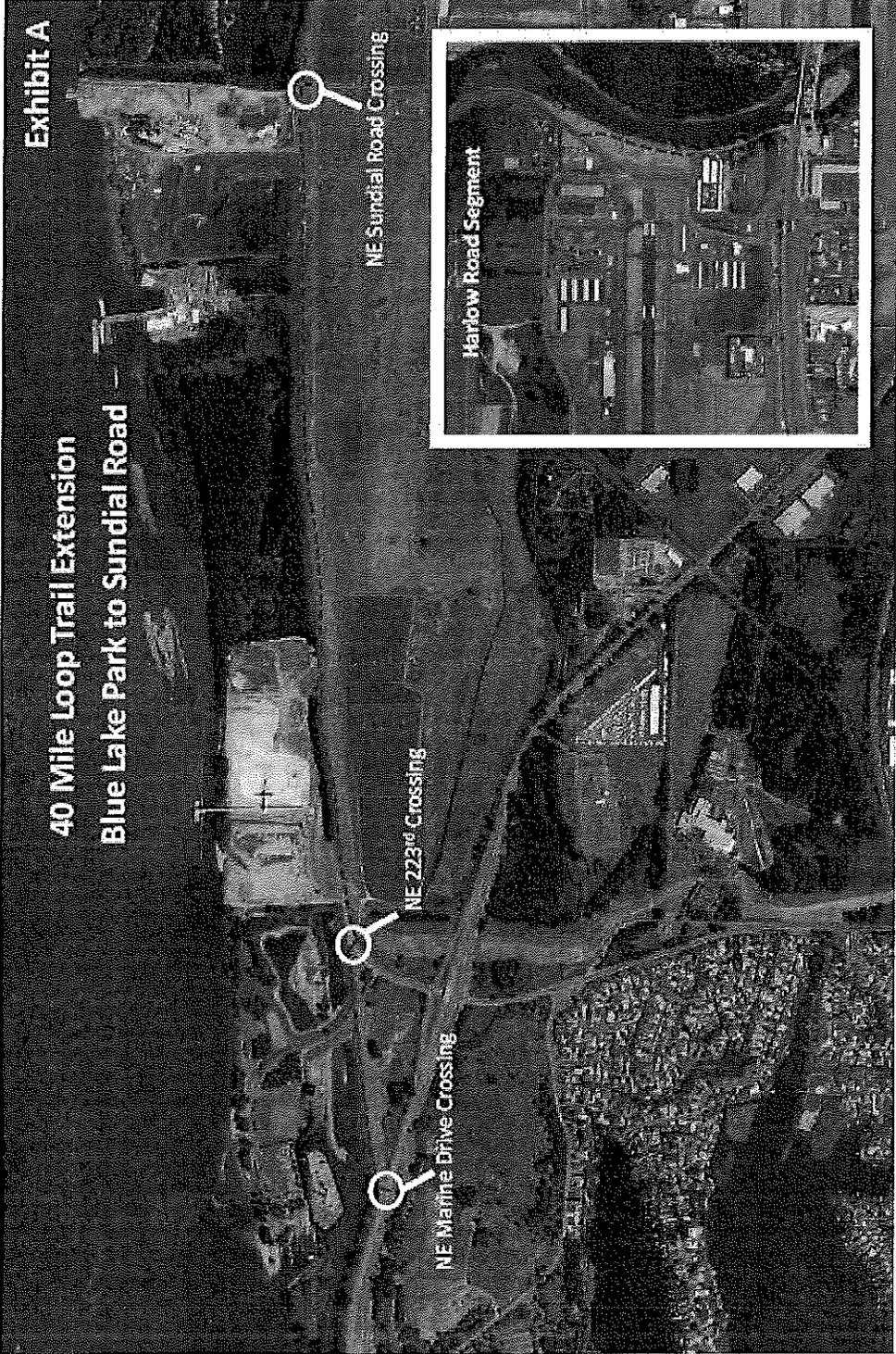
**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
Fairview Counsel

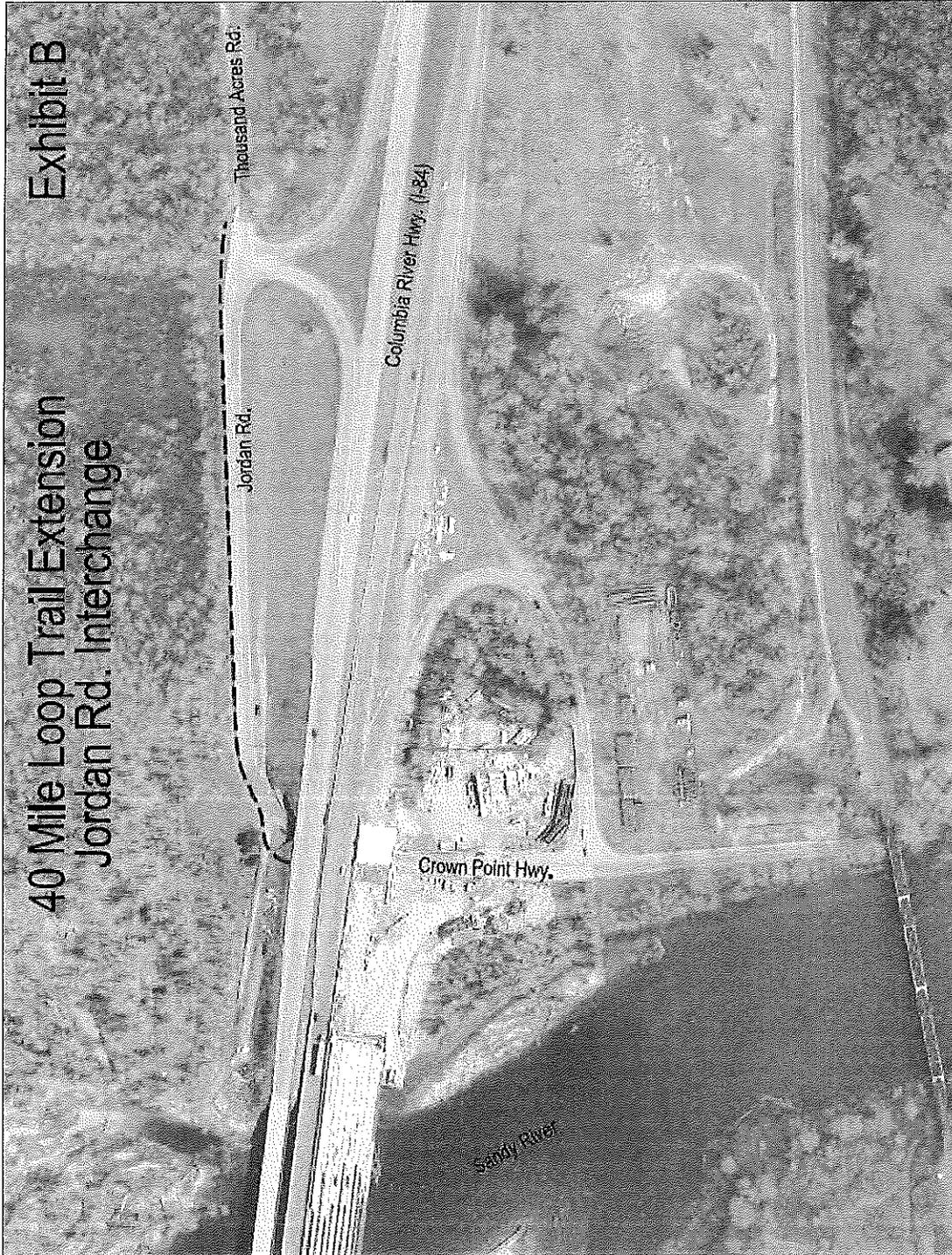
Date \_\_\_\_\_

**Fairview Contact:**  
Allan Berry, PE  
Public Works Director  
City of Fairview  
1300 NE Village Street  
Fairview, OR 97024  
503.674.6235  
berrya@ci.fairview.or.us

### EXHIBIT A – Project Location Map BLUE LAKE SECTION & HARLOW ROAD SECTION



### EXHIBIT B Project Location Map JORDAN ROAD SECTION



After recording, return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT C**  
**MEMORANDUM OF AGREEMENT AND ACKNOWLEDGEMENT OF**  
**FEDERAL ASSISTANCE**

**[State Recording Authority: ORS 93.710 and ORS 205.130(2)]**

Agreement Number: 29165

Project Name: 40 Mile Loop Trail: Blue Lake Park to Sundial Drive

Key Number: 17270

Local Agency Agreement No. 29165 between the Port of Portland, Multnomah County, City of Troutdale, City of Fairview and the State of Oregon, Department of Transportation was executed on . Pursuant to paragraph 12, Terms of Agreement, page 4 of the Local Agency Agreement, upon the recording of this document, the *Port* received federal funds for the Project described in the Local Agency Agreement. The property and assets under the jurisdiction of Multnomah County, the City of Troutdale, and the City of Fairview, respectively, and the Port were improved with the assistance from the United States Government. Such assistance was provided in reimbursement of costs associated with the Project. The use and disposition of said property is subject to the terms of the above noted Local Agency Agreement, copies of which may be obtained from the Director of ODOT and is also subject to 49 CFR Part 18. A description of the improved property is attached.

**THE PORT OF PORTLAND**

By: \_\_\_\_\_  
(Name of person)

(Notary Stamp)

Title: \_\_\_\_\_

State of Oregon: County of \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_  
(Date)

(name(s) of person(s))

\_\_\_\_\_ My commission expires on \_\_\_\_\_.

**STATE OF OREGON, DEPARTMENT OF TRANSPORTATION**

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

(Notary Stamp)

Port/MCDD/SDIC/County/Troutdale/Fairview/State  
Agreement No. 29165

Title: Active Transportation Section Manager

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_  
(Date)

(name(s) of person(s))

\_\_\_\_\_ My commission expires on \_\_\_\_\_.

Oregon Department of Transportation; 555 13<sup>th</sup> Street NE, Salem, OR 97301-4178

**CITY OF FAIRVIEW**

By: \_\_\_\_\_ (Notary Stamp)  
(Name of person)

Title: \_\_\_\_\_

State of Oregon: County of \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_  
(Date)

(name(s) of person(s))

\_\_\_\_\_ My commission expires on \_\_\_\_\_.

**CITY OF TROUTDALE**

By: \_\_\_\_\_ (Notary Stamp)  
(Name of person)

Title: \_\_\_\_\_

State of Oregon: County of \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_  
(Date)

(name(s) of person(s))

\_\_\_\_\_ My commission expires on \_\_\_\_\_.

**ATTACHMENT NO. 1 to Agreement No. 29165**  
**SPECIAL PROVISIONS**

1. All contracts for which State is the signatory shall be subject to a not to exceed amount consistent with the estimated Project cost for such work, as mutually agreed by State and Port. State will provide Port with copies of all documentation created or received by State in connection with the Project. Project deliverables and invoices shall be subject to review and approval by State and Port. If at any time unexpected Project costs or impacts to the Project timing or implementation are encountered or expected to be incurred, State and Port will meet promptly and work together to determine possible ways to reduce or mitigate such costs and impacts. State shall require that all consultants and contractors for the Project work defend, indemnify, and hold harmless the Port, and, as applicable the other Parties to this Agreement in a form acceptable to the Port, for, from and against all loss, claims and costs arising from or related to performance of the Project work by such contractors, their employees, agents and subcontractors. Including, without limitation, any claims, loss, or costs resulting from the acts, omissions, or negligence of, contractors, their employees, agents, and subcontractors, and (ii) any Hazardous Substances, whether known or unknown, encountered in the course of performing the Project work. The Port shall be made a third party beneficiary with respect to such indemnification.
2. Any indemnification by the Port pursuant to this Agreement, including, without limitation, Attachment No. 1 or Attachment No. 2, to accept responsibility, defend lawsuits, or indemnify and hold State or any other Party harmless for any claims or other lawsuits, shall be subject to any limitations imposed by state law, including without limitation the Oregon Tort Claims Act and the Oregon Constitution, and, to the extent arising from any work of contractors for the Project, shall be further limited to work performed by such contractors solely under the direction and control of the Port.
3. The Continuing Trail Obligations, as required in paragraph 16.h of the Agreement 29165, will survive any termination of this Agreement 29165.
4. The Parties agree that in the event that any Hazardous Substance Releases are discovered during construction of the Project, the Parties will suspend Project performance and consult with one another to determine next steps. The Parties each acknowledge that further agreements may be necessary to address the Parties' respective rights and liabilities with respect to such discovery of Hazardous Substance Releases.
5. The Parties agree that the useful life of this Project is defined as 20 years. The Continuing Trail Obligations, as required in paragraph 16.h of the Agreement 29165, will survive the useful life of this Project.

6. It is understood that if the trail becomes noncompliant with flood control or levee regulatory requirements and standards and the compliance of which requires the removal of the trail from the levees, State and the Federal Highway Administration (FHWA) would not seek repayment of the project funds. Port, MCDD, and SDIC agree to work with all affected parties to insure that, in such an event and if possible the noncompliance status can be remedied by retaining the trail, but at no cost or expense to MCDD or SDIC. To the extent that the trail cannot be retained to address the noncompliance status, the Port will coordinate with the City of Troutdale, the City of Fairview, and Multnomah County and achieve compliance at no cost or expense to MCDD or SDIC. If remediation or removal of the trail is required by flood control or levee regulatory requirements during the Project construction and up to the period of the warranty in the permit, the remediation or removal can be paid for by the Project funding. After the warranty in the permit, remediation or removal is the responsibility of Troutdale, Fairview, and Multnomah County.

## ATTACHMENT NO. 2

### FEDERAL STANDARD PROVISIONS

For the purposes of this Agreement, Agency refers to the Port of Portland.

#### PROJECT ADMINISTRATION

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this Project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will act for Agency in other matters pertaining to the Project. Prior to taking such action, State will confer with Agency concerning actions necessary to meet federal obligations. Agency shall, if necessary, appoint and direct the activities of a Citizen's Advisory Committee and/or Technical Advisory Committee, conduct a hearing and recommend the preferred alternative. State and Agency shall each assign a person in responsible charge "liaison" to coordinate activities and assure that the interests of both Parties are considered during all phases of the Project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting on behalf of FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.
3. Non-certified agencies must contract with State or a State certified local public agency to secure services to perform plans, specifications and estimates (PS&E), construction contract advertisement, bid, award, contractor payments and contract administration. Non-certified agencies may use a State-approved consultant to perform preliminary engineering, and construction engineering services.

#### PROJECT FUNDING REQUEST

4. State shall submit a separate written Project funding request to FHWA requesting approval of federal-aid participation for each project phase including a) Program Development (Planning), b) Preliminary Engineering (National Environmental Policy Act - NEPA, Permitting and Project Design), c) Right of Way Acquisition, d) Utilities, and e) Construction (Construction Advertising, Bid and Award). Any work performed prior to FHWA's approval of each funding request will be considered nonparticipating and paid for at Agency expense. Agency shall not proceed on any activity in which federal-aid participation is desired until such written approval for each corresponding phase is obtained by State. State shall notify Agency in writing when authorization to proceed has been received from FHWA. All work and records of such work shall be in conformance with FHWA rules and regulations.

#### FINANCE

5. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount for the federal funds and any portion of the Project, which is not covered by

Port/District/County/Troutdale/Fairview/State  
Agreement No. 29165

federal funding, unless otherwise agreed to and specified in the intergovernmental Agreement (Project Agreement). Agency must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Project Agreement. State will also determine and clearly state in the Project Agreement if recipient is a subrecipient or vendor, using criteria in 2 CFR 200.330.

6. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration outside the *Local Agency Guidelines Manual* that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State.
7. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
  - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
  - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
  - c) Pursuant to Oregon Revised Statutes (ORS) 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
9. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or

Port/District/County/Troutdale/Fairview/State  
Agreement No. 29165

circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.

10. Agency shall follow the requirements stated in the Single Audit Act. Agencies expending \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, shall have a single organization-wide audit conducted in accordance with the Single Audit Act of 1984, PL 98-502 as amended by PL 104-156 and subject to the requirements of 49 CFR parts 18 and 19. Agencies expending \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014 shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Agencies expending less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials based on the records retention period identified in the Project Agreement. The cost of this audit can be partially prorated to the federal program.
11. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
12. Agency shall present invoices for one hundred (100) percent of actual costs incurred by Agency on behalf of the Project directly to State's Liaison for review, approval and reimbursement to Agency. Costs will be reimbursed consistent with federal funding provisions and the Project Agreement. Such invoices shall identify the Project by the name of the Project Agreement, reference the Project Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one-month duration, based on actual expenses to date. All invoices received from Agency must be approved by State's Liaison prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of the Federal-Aid Policy Guide (FAPG), Title 23 CFR parts 1.11, 140 and 710. Final invoices shall be submitted to State for processing within forty-five (45) days from the end of each funding phase as follows: a) preliminary engineering, which ends at the award date of construction b) last payment for right of way acquisition and c) contract completion for construction. Partial billing (progress payment) shall be submitted to State within forty-five (45) days from date that costs are incurred. Invoices submitted after 45 days may not be eligible for reimbursement by FHWA. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the Project Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period ending on the later of six (6) years following the date of final voucher to FHWA or after resolution of any disputes under the Project Agreement. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition ((2 CFR 200.333(c)).

13. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:
- a) Right of way acquisition is not undertaken or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. Agency may submit a written request to State's Liaison for a time extension beyond the twenty (20) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
  - b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
14. Agency shall maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that the Project is completed in conformance with approved plans and specifications.
15. State shall submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay all reimbursable costs of the Project. Agency may request a statement of costs-to-date at any time by submitting a written request. When the actual total cost of the Project has been computed, State shall furnish Agency with an itemized statement of final costs. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal one hundred (100) percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of the Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the total cost of the Project.

## STANDARDS

16. Agency agrees that minimum design standards on all local agency jurisdictional roadway or street projects on the National Highway System (NHS) and projects on the non-NHS shall be the American Association of State Highway and Transportation Officials (AASHTO) standards and be in accordance with *State's Oregon Bicycle & Pedestrian Design Guide* (current version). Agency shall use either AASHTO's A Policy on Geometric Design of Highways and Streets (current version) or State's Resurfacing, Restoration and Rehabilitation (3R) design standards for 3R projects. Agency may use AASHTO for vertical clearance requirements on Agency's jurisdictional roadways or streets.

17. Agency agrees that if the Project is on the Oregon State Highway System or State-owned facility, that design standards shall be in compliance with standards specified in the current *ODOT Highway Design Manual* and related references. Construction plans for such projects shall be in conformance with standard practices of State and all specifications shall be in substantial compliance with the most current *Oregon Standard Specifications for Highway Construction* and current *Contract Plans Development Guide*.
18. Agency agrees that for all projects on the Oregon State Highway System or State-owned facility any design element that does not meet *ODOT Highway Design Manual* design standards must be justified and documented by means of a design exception. Agency further agrees that for all projects on the NHS, regardless of funding source; any design element that does not meet AASHTO standards must be justified and documented by means of a design exception. State shall review any design exceptions on the Oregon State Highway System and retains authority for their approval. FHWA shall review any design exceptions for projects subject to Focused Federal Oversight and retains authority for their approval.
19. Agency agrees all traffic control devices and traffic management plans shall meet the requirements of the current edition of the *Manual on Uniform Traffic Control Devices and Oregon Supplement* as adopted in Oregon Administrative Rule (OAR) 734-020-0005. Agency must obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a state highway pursuant to OAR 734-020-0430.
20. The standard unit of measurement for all aspects of the Project shall be English Units. All Project documents and products shall be in English. This includes, but is not limited to, right of way, environmental documents, plans and specifications, and utilities.

## **PRELIMINARY & CONSTRUCTION ENGINEERING**

21. Preliminary engineering and construction engineering may be performed by either a) State, b) Agency, c) State-approved consultant, or d) certified agency. Engineering work will be monitored by State or certified agency to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, b) State-approved consultant or c) certified agency. State shall review and approve Project plans, specifications and cost estimates. State shall, at project expense, review, process and approve, or submit for approval to the federal regulators, all environmental statements. State or certified agency shall, if they prepare any of the documents identified in this paragraph, offer Agency the opportunity to review and approve the documents prior to advertising for bids.
22. Agency may request State's two-tiered consultant selection process as allowed by OAR 137-048-0260 to perform architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects. Use of the State's processes is required to ensure federal reimbursement. State will award and execute the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR part 172, 2 CFR part 1201, ORS 279A.055, 279C.110, 279C.125, OAR 137-048-0130, OAR 137-048-0220(4) and State Personal Services Contracting Procedures as approved by the FHWA.

Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or the consultant prior to receiving authorization from State to proceed.

23. The party responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
24. State or certified agency shall prepare construction contract and bidding documents, advertise for bid proposals, and award all construction contracts.
25. Upon State's or certified agency's award of a construction contract, State or certified agency shall perform quality assurance and independent assurance testing in accordance with the FHWA-approved Quality Assurance Program found in State's *Manual of Field Test Procedures*, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
26. State shall, as a Project expense, assign a liaison to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). State's liaison shall process reimbursement for federal participation costs.

#### **REQUIRED STATEMENT FOR United States Department of Transportation (USDOT) FINANCIAL ASSISTANCE AGREEMENT**

27. By signing the Federal-Aid Agreement to which these Federal Standard Provisions are attached, Agency agrees to adopt State's DBE Program Plan, available at [http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/pages/sbe/dbe/dbe\\_program.aspx#plan](http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/pages/sbe/dbe/dbe_program.aspx#plan). Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. Agency agrees to take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. State's DBE program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this Project Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Project Agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 United States Code (USC) 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

#### **Disadvantaged Business Enterprises (DBE) Obligations**

28. State and Agency agree to incorporate by reference the requirements of 49 CFR part 26 and State's DBE Program Plan, as required by 49 CFR part 26 and as approved by USDOT,

into all contracts entered into under this Project Agreement. The following required DBE assurance shall be included in all contracts:

*"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR part 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b))."*

29. Agency agrees to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
30. The Parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR parts 1.11, 140, 635, 710, and 771; Title 49 CFR parts 24 and 26; 2 CFR 1201, Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, the provisions of the FAPG and *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*. State and Agency agree that FHWA-1273 Required Contract Provisions shall be included in all contracts and subcontracts verbatim and not by reference.

## **RIGHT OF WAY**

31. Agency and the consultant, if any, agree that right of way activities shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR, and the *ODOT Right of Way Manual*, Title 23 CFR part 710 and Title 49 CFR part 24. State, at Project expense, shall review all right of way activities engaged in by Agency to ensure compliance with all laws and regulations.
32. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. Agency may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project provided Agency or the consultant are qualified to do such work, as required by the *ODOT Right of Way Manual*, and Agency has obtained prior approval from State's Region Right of Way office to do such work.
33. Regardless of who acquires or performs any of the right of way activities, a right of way services agreement shall be created by State's Region Right of Way office setting forth the responsibilities and activities to be accomplished by each Party. If the Project has the potential of needing right of way, to ensure compliance in the event that right of way is unexpectedly needed, a right of way services agreement will be required. State, at Project

expense, shall be responsible for requesting the obligation of project funding from FHWA. State, at Project expense, shall be responsible for coordinating certification of the right of way, and providing oversight and monitoring. Funding authorization requests for federal right of way funds must be sent through State's Liaison, who will forward the request to State's Region Right of Way office on all projects. Agency must receive written authorization to proceed from State's Right of Way Section prior to beginning right of way activities. All projects must have right of way certification coordinated through State's Region Right of Way office to declare compliance and project readiness for construction (even for projects where no federal funds were used for right of way, but federal funds were used elsewhere on a project). Agency shall contact State's Liaison, who will contact State's Region Right of Way office for additional information or clarification on behalf of Agency.

34. Agency agrees that if any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair market value may be required.
35. Agency ensures that all project right of way monumentation will be conducted in conformance with ORS 209.155.
36. State and Agency grants each other authority to enter onto the other's right of way for the performance of non-construction activities such as surveying and inspection of the Project.

## **RAILROADS**

37. Agency shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Liaison, who will contact State's Railroad Liaison on behalf of Agency. Only those costs allowable under Title 23 CFR part 140 subpart I, and Title 23 part 646 subpart B shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others. Agency may request State, in writing and at Project expense, to provide railroad coordination and negotiations. However, State is under no obligation to agree to perform said duties.

## **UTILITIES**

38. Agency shall follow State established statutes, policies and procedures when impacts occur to privately or publicly-owned utilities. Policy, procedures and forms are available through the State Utility Liaison or State's Liaison. Agency shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility Liaison. Only those utility relocations, which are eligible for reimbursement under the FAPG, Title 23 CFR part 645 subparts A and B, shall be included in the total Project costs; all other utility relocations shall be at the sole expense of Agency, or others. Agency may send a written request to State, at Project expense, to arrange for utility relocations/adjustments lying within Agency jurisdiction. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. However, State is under no obligation to agree to perform said duties. Agency shall not perform any utility work on state highway right of way without first receiving written authorization from State.

### **GRADE CHANGE LIABILITY**

39. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
40. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
41. Agency, if a City, by execution of the Project Agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by the Project Agreement.

### **MAINTENANCE RESPONSIBILITIES**

42. Agency shall, at its own expense, maintain operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. The useful life of the Project is defined in the Special Provisions. State may conduct periodic inspections during the life of the Project to verify that the Project is properly maintained and continues to serve the purpose for which federal funds were provided. Maintenance and power responsibilities shall survive any termination of the Project Agreement. In the event the Project will include or affect a state highway, this provision does not address maintenance of that state highway.

### **CONTRIBUTION**

43. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
44. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to,

among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

45. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

#### **ALTERNATIVE DISPUTE RESOLUTION**

46. The Parties shall attempt in good faith to resolve any dispute arising out of this Project Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

#### **WORKERS' COMPENSATION COVERAGE**

47. All employers, including Agency, that employ subject workers who work under this Project Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than five hundred thousand (\$500,000) must be included. Agency shall ensure that each of its contractors complies with these requirements.

#### **LOBBYING RESTRICTIONS** – pursuant to Form FHWA-1273, Required Contract Provisions

48. Agency certifies by signing the Project Agreement that:
- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

Port/District/County/Troutdale/Fairview/State  
Agreement No. 29165

- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

*“Exemplary Service for a  
Safe, Livable Community”*



**The City of Troutdale  
Contract Police Services  
Annual Report  
2015-2016**

## 2015-16 Accomplishments

- Merging of Two Policing Agencies
- City of Troutdale Partnership –  
Management Team, Code Enforcement,  
Parks and Recreation
- Community Policing and Special Events
- Contract
- SRO Program

## School Resource Officers

- Reynolds School District Contract
- 2 SRO's at Reynold's High School
- 1 SRO at Walt Morey Middle School
- 1 SRO at Corbett Schools District
- Community Policing/Special Events Sergeant
- 2016 "Summer Safety Class"
- Truancy program – Parent accountability
- Peer Court – 45 cases
- SRO Team Collaboration
- Friday Night Hoops
- Youth Academy

# Sheriff's Office Patrol Unit

## Highlights - Data

	FY 2014 (TPD)	FY 2015 (TPD)	FY 2016 (MCSO)*
<b>Calls for Service</b>	<b>10,997</b>	<b>10,030</b>	<b>10,320</b>
Dispatched	5,161	4,989	5,111
Self-Initiated	5,836	5,041	5,209
<b>Response Times</b>			
Emergency (P1-2)	4 min 30 sec	4 min 29 sec	4 min 48 sec
Non-Emergency (P3-7)	7 min 28 sec	7 min 36 sec	8 min 9 sec
<b>Traffic Stops</b>	<b>2,864</b>	<b>1,961</b>	<b>2,103</b>
<b>Subject Stops</b>	<b>623</b>	<b>613</b>	<b>570</b>
<b>Arrests</b>	<b>712</b>	<b>637</b>	<b>640</b>
Adults	612	530	594
Juveniles	100	107	46
<b>Warrant Arrests</b>	<b>294</b>	<b>254</b>	<b>209</b>

\* FY 2016 data through June 28.

# Investigations Divisions

## 2015-2016

Detectives Unit

- 5 General Detectives
- 1 Detective Sergeant
- 1 Investigations Captain
- 1 Investigative Technician
- East Multnomah County Major Crimes Team

# Troutdale Cases Referred to the Detective Unit

## Detective Case Activity

FY 2016\*

<b>Total Cases</b>	<b>139</b>
Person Cases	74
Property Cases	65
<b>Total Cases Disposed</b>	<b>73</b>
Person Cases	53
Property Cases	20

\* FY 2016 data through June 28.

# Investigations Division

## 2015-2016

Logistics Unit and Evidence  
Processing

- 300 Firearms designated for destruction
- Delivered over 1300 pounds of Prescription medications to DEA through Drug-Turn-in Boxes
- 350-400 pounds of dangerous drugs designated for destruction

# Investigations Divisions 2015-2016

## Special Investigations Unit

- 4 Dangerous Drug Detectives
- 1 Sergeant
- 1 Investigative Technician
- \$5,849,998 Dollar Value of Dangerous Drugs Seized to be Destroyed
- 102 Felony Arrests
- 144 Dangerous Drug Cases



# Investigations Divisions 2015-2016

## Warrant Strike Team

- 4 Detectives
- 1 Sergeant



- 2008: 30,000 outstanding felony and misdemeanor warrants in Multnomah County
- July 1, 2016: 17,128 Total 10,672 misdemeanor 6,456 felony warrants

# Investigations Division

2015-2016

## Protecting our Vulnerable Citizens

Intercept Detective –  
Online Predators of  
Children

Elder Abuse  
Detective

Human Trafficking  
Detective

Domestic Violence  
Detectives  
(DVERT/VROGDT)

# Domestic Violence Detectives

## DVERT/VROGDT

- 639 DVERT calls and referrals – 100 in East Multnomah County since January 2016.
- Two DVRA's serving East County – Assist victims after deputies have cleared the scene.
- 11 "Gun Disposition" cases in Troutdale since July 1, 2015.

# Human Trafficking Detective

- Intervention and investigation of human trafficking
- Emphasis on Foreign Born Trafficking Victim
- 220 U Visas, 60 T Visas
- Average 50 Hours of Training to Law Enforcement and Citizens each month

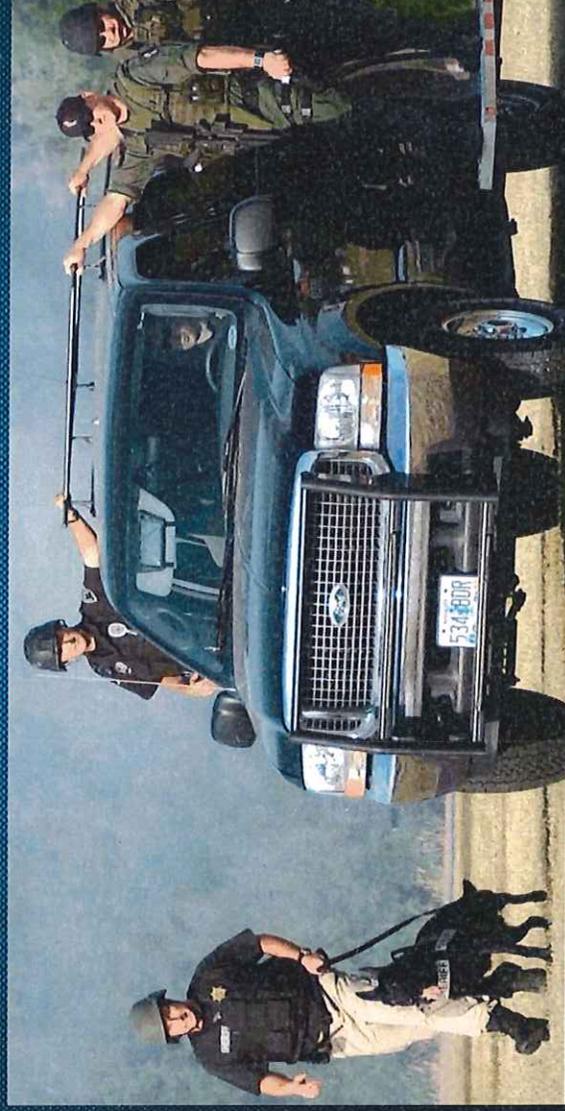
# East Metro Gang Enforcement Team

- 3 EMGET Deputies
- Grant Funded
- Multi-agency Gang Prevention and Enforcement Plan

# 2015-2016

## S.W.A.T.

- 8 Deputies / 22 Total
- 2 Sergeants
- 1 SWAT Deployment in Troutdale



## MCSO Search and Rescue

- 87 SAR Volunteers
- 8 Coordinators
- 1 Head SAR Coordinator
- 37 Missions
- MCSO Green Hornet Hasty Team – 9 Members
- 30 Green Hornet Deployments per year



## Addressing Traffic Concerns

- Challenges without a Traffic Team
- New Moving Radar Units
- Selective Enforcement and Grants
- Projecting Traffic Team Concept
- COP Projects Moving Forward – Selective enforcement and community involvement

# Traffic Related Statistics

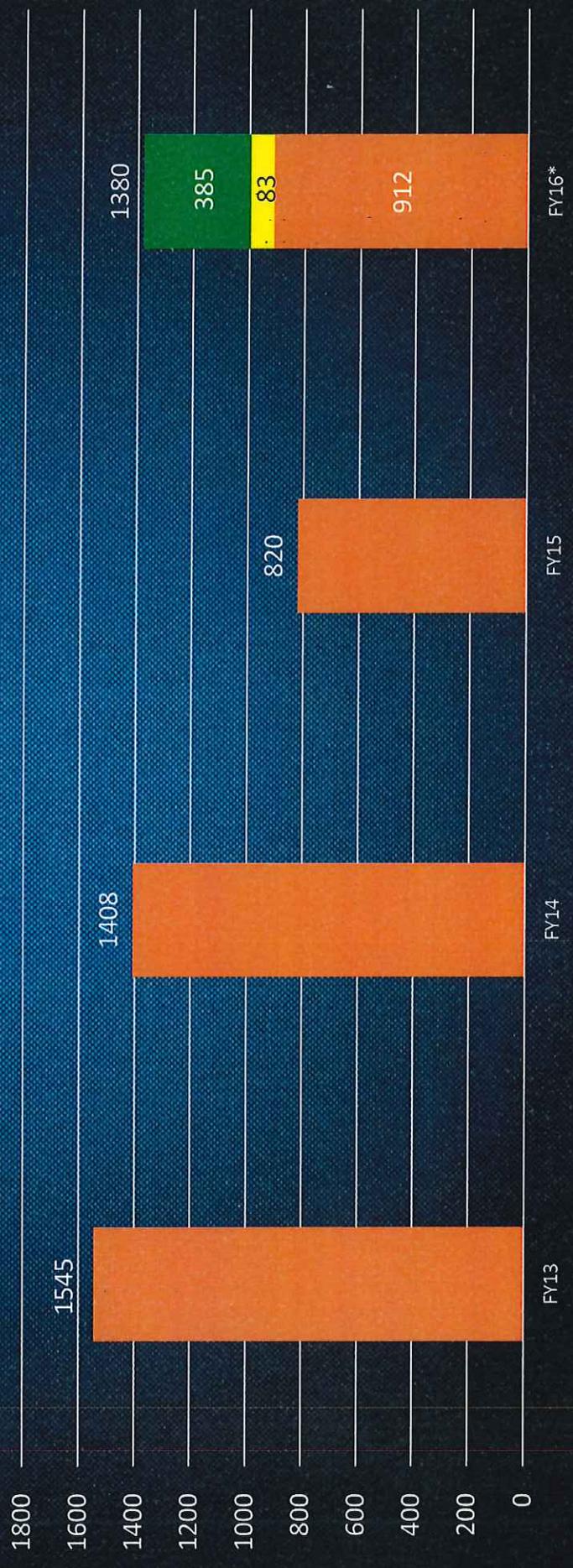
## City of Troutdale

FY 2014 (TPD) FY 2015 (TPD) FY 2016 (MCSO)\*

<b>Traffic Stops</b>	<b>2,864</b>	<b>1,961</b>	<b>2,103</b>
Warning Issued	1,910	1,344	1,284
Citation Issued	721	461	623
Arrest	68	46	79
<b>Traffic Accidents</b>	<b>212</b>	<b>193</b>	<b>236</b>
Injury	56	50	59
Non-Injury	116	107	128
Unknown Injury	40	36	49
<b>DUII</b>	<b>53</b>	<b>44</b>	<b>43</b>

\* FY 2016 data through June 28.

# Addressing Municipal Court Data Concerns



■ Citations Sent to Circuit Court   
 ■ D60/D70 Car Citations Sent to Circuit Court   
 ■ Citations Sent to Municipal Court

\* FY16 data is through April.

## Grant Funding Opportunities

- Oregon State Sheriff's Safety Belt Overtime Grant - \$10,000
- DUII Enforcement - \$44,439
- Justice Assistance (Homeless outreach, Mobile Command Post Upgrades, AED's, SWAT "throw-phone" and Naloxone purchases) -\$55,027

# 2015-2016 K-9 Program Highlights

## Narcotics K9 "Spencer"

- 248 Searches
- 119 Drug Finds
- City of Troutdale – 23 Narcotics searches and 25 drug finds



# 2015-2016 Tracking K9

## “Ranger”

- 46 Searches
- 3 Captures
- 6 Assisted Captures
- 5 Building Searches



# 2015-2016

## Records Unit Highlights

- Averages 275-300 monthly customer “walk-in” contacts at TPCC
- Protection Orders, Report Processing, Warrant entries (entry/verification/clearance), background checks

# Crime Situation in Troutdale

FY 2014 (TPD) FY 2015 (TPD) FY 2016 (MCSO)\*

UCR Part I Crimes	369	374	375
Homicide	1		
Sexual Assault	5	4	6
Robbery	15	6	6
Aggravated Assault	10	26	14
Burglary	65	68	58
Larceny	215	215	234
Motor Vehicle Theft	52	50	51
Arson	6	5	6

\* FY 2016 data through June 28.

# Homeless Outreach Team

- 6 Deputies and 1 Sergeant
- 2014 Sandy River Delta
- Collaborative Project
- On-going HOT Team Missions



# Community Policing and Special Events

- Annual Events – Troutdale Trot, Summer Fest, Centennial Columbia River Gorge Celebration, Tree Lighting Friday, First-Fridays, Edgefield Concert Safety
- City of Troutdale and MCSCO Collaborations
  - Friday Night Hoops, Children Internet Safety Class, CPR/First Aid, MCSCO Youth Academy, Citizen's Academy, Internet Safety Exchange Location



# MCSO Enforcement Division

## Goals and Priorities

### 2016-2017

- Community Policing Projects – POP Projects
- Community Feedback – Parks, Traffic
- Community/Neighborhood Meetings
- MCSO Community Updates
- Technology



*"Exemplary Service for a  
Safe, Livable Community"*

Chief of Police (Commander)

Monte Reiser

[monte.reiser@mcso.us](mailto:monte.reiser@mcso.us)

(503)988-0352

Thank You

Questions?



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** Imagination Station Playground recommendation

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** July 12, 2016

**STAFF MEMBER:** Tim Seery Parks and Facilities Superintendent  
Ryan McNaughton Parks Advisory Committee  
**DEPARTMENT:** Public Works

**ACTION REQUIRED**  
Information/Discussion

**ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:** By committee Motion the Parks Advisory Committee recommends that the entire imagination station playground be replaced with new materials.

**PUBLIC HEARING**  
No

Approval

**Comments:** Unanimously approved

**STAFF RECOMMENDATION:** N/A

**EXHIBITS:** None

**Subject / Issue Relates To:**

- Council Goals
  Legislative
  Other (describe)  
 Parks facilities replacement

**Issue / Council Decision & Discussion Points:**

- ◆ Replacement of Imagination Station playground equipment destroyed by fire
- ◆ Replacement of the remaining Imagination Station playground equipment due to age, condition, safety concerns and ADA requirements.

**BACKGROUND:** On April 9<sup>th</sup> 2016 arsonists started a fire which burned down approximately 1/3 of this unique playground, which has had a very large emotional impact on our community. We have a large pool of volunteers to rebuild the playground with cash donations and offers to volunteer labor and materials. The replacement of the portion destroyed by fire is covered by insurance for like kind. The entire structure was inspected in February of 2016 by Leathers and Associates who concluded that "There are many maintenance and safety compliance issues. [The report recommendations] will help

Reviewed and Approved by City Manager:

reduce overall maintenance needs, bring the playground back into safety compliance and ensure the structure lasts as it was intended to. The finished work will comply with the current version of ASTM F1487 and CPSC Pub. 325". Leathers and Associates concluded that the structure has exceeded its 20 year expected life and should be replaced at a range of estimated costs of:

- Rebuild existing structure cost with volunteer labor \$175,000 - \$200,000
- Custom designed replacement cost with volunteer labor \$275,000 - \$350,000

There are other replacement options available to the city with other playground manufactures with national purchasing agreements that may provide considerable savings to Leather's estimates, while also providing opportunities for volunteers to provide labor and materials.

**PROS & CONS:**

Pros:

- A new system would significantly extend the useful life; lower maintenance costs; foster community involvement.
- Installation costs may be reduced significantly through the availability of grants and discounts.
- A new system would provide full ADA compliance, address safety concerns, provide age appropriate features, reduce product liability, and provide a fresh warranty

Cons:

- Potential unbudgeted costs

<p><b>Current Year Budget Impacts</b>   <input checked="" type="checkbox"/> Yes (<i>describe</i>)   <input type="checkbox"/> N/A</p> <p>The fiscal impact depends on which type of playground is installed. The amount of insurance money is still to be determined, as are any grants and discounts we might receive. \$200,000 is budgeted for FY16/17.</p> <p><b>Future Fiscal Impacts:</b>   <input checked="" type="checkbox"/> Yes (<i>describe</i>)   <input type="checkbox"/> N/A</p> <p>Reduced maintenance costs for playground system and lower liability risk to City.</p> <p><b>City Attorney Approved:</b>   <input type="checkbox"/> Yes (<i>describe</i>)   <input checked="" type="checkbox"/> N/A</p> <p><b>Community Involvement Process:</b>   <input checked="" type="checkbox"/> Yes (<i>describe</i>)   <input type="checkbox"/> N/A</p> <p>Two town hall meetings were held to gather input and a design day with the children from two grade schools provided great that children could best provide.</p>
--



# CITY OF TROUTDALE



## STAFF REPORT

**SUBJECT / ISSUE:** A report on the Water Pollution Control Facility permit for Class V Stormwater Underground Injection Control System from DEQ.

**MEETING TYPE:**  
City Council Regular Mtg.

**MEETING DATE:** July 12, 2016

**STAFF MEMBER:** Amy Pepper, Civil Engineer  
**DEPARTMENT:** Public Works

**ACTION REQUIRED**  
Information/Discussion

**ADVISORY COMMITTEE/COMMISSION RECOMMENDATION:**  
Not Applicable

**PUBLIC HEARING**  
No

**Comments:**

**STAFF RECOMMENDATION:** Not applicable

**EXHIBITS:**

A. Draft Water Pollution Control Facility permit for a Class V Stormwater Underground Injection Control System

**Subject / Issue Relates To:**

Council Goals

Legislative

Other (describe)  
Stormwater permit

**Issue / Council Decision & Discussion Points:**

- ◆ Stormwater in portions of the City infiltrates into the ground, primarily through drywells, which are "Underground Injection Controls" (UIC's).
- ◆ Six of the City's drywells do not meet the requirements of OAR Chapter 340, Division 44. (OAR 340-044) and require permit coverage.
- ◆ The City applied for a permit in 2010.
- ◆ DEQ anticipates issuing the permit in August 2016, after a 35-day public comment period.

Reviewed and Approved by City Manager:

**BACKGROUND:**

Stormwater in Troutdale is completely separate from the sanitary sewer system and discharges to surface waters (i.e. Beaver Creek, Sandy River, and the Columbia River) or infiltrates into the ground, primarily through drywells.

The City currently owns and operates 125 drywells that drain stormwater from our City streets and adjoining private properties, mostly in residential neighborhoods, primarily in the southwest area of the City. Drywells are Class V underground injection control systems (UICs), regulated by the Oregon Department of Environmental Quality (DEQ) under OAR 340-044. The standard City-owned drywell is a 48-inch diameter manhole with a perforated manhole section to a depth of approximately 20-feet.

The UIC program was enacted in 1974, under the Safe Drinking Water Act, to protect groundwater aquifers from contamination. DEQ was delegated authority over this program from EPA in 1984. The current regulations went into effect in 2001.

The City completed a system-wide assessment in 2001 and identified that a majority of our drywells met the requirements of OAR 340-044 and could be authorized by rule. Six drywells could not be authorized by rule due to proximity to our City-owned drinking water wells and required the City to apply for permit coverage. Staff submitted a permit application to DEQ in 2010. November 4, 2014, DEQ concurred with City staff's findings and Rule Authorized 119 drywells. In May 2016, DEQ provided staff with a draft permit covering the remaining six drywells for applicant review. Staff provided comments to improve the permit prior to it being issued for a formal 35-day public comment period that commenced on June 22, 2016.

An evaluation of capital improvement projects needed to decommission these six drywells was performed as part of the South Troutdale Master Plan effort in 2012. Staff found that permit coverage would be the least cost solution to the City and did not recommend these proposed projects in the Capital Improvement Plan.

The draft permit requires the City to:

- Inspect drywells annually and maintain as needed;
- Collect stormwater samples;
- Develop and implement a spill response plan;
- Report annually to DEQ;
- Conduct employee training; and
- Perform a legal authority review and update ordinances if necessary.

DEQ anticipates issuing the permit to the City in early August.

**PROS & CONS: N/A**

**Current Year Budget Impacts**  Yes (*describe*)  N/A

It was anticipated that DEQ would take action this fiscal year in preparing the budget for the Storm Sewer Utility Fund.

**Future Fiscal Impacts:**  Yes (*describe*)  N/A

The requirements of the permit include annual actions that will be funded by the Storm Sewer Utility Fund.

**City Attorney Approved** N/A  Yes

**Community Involvement Process:**  Yes (*describe*)  N/A

DEQ has issued the draft permit for a 35-day public comment period, which expires July 27, 2016.

## Request for Comments

# Proposed City of Troutdale Water Quality Permit

DEQ invites the public to provide written comment on the conditions of the City of Troutdale's proposed water quality permit, known officially as a Water Pollution Control Facilities permit for Class V Underground Injection Control Systems, commonly known as stormwater drywells or UICs.

### Summary

Subject to public review and comment, DEQ intends to issue the UIC Water Pollution Control Facilities permit, which allows the City of Troutdale to discharge stormwater to drywells. Part of the review process is an opportunity for public comment, based on the application and other DEQ information.

### Where can I get more information?

View information about this proposed permit including the fact sheet and system-wide assessment following this notice, or by contacting Kate Strohecker to make an appointment to review the documents in person:

**Phone:** 503-229-5623

**Fax:** 503-229-6945

**Email:** [strohecker.kate@deq.state.or.us](mailto:strohecker.kate@deq.state.or.us)

### How do I participate?

You may submit your comments by mail, fax or email to:

Kate Strohecker  
Water Quality Permit Coordinator  
Department of Environmental Quality  
700 NE Multnomah Street Suite 600  
Portland, Oregon 97232

**Fax:** 503-229-6945

**Email:** [nwr.wqpermit@deq.state.or.us](mailto:nwr.wqpermit@deq.state.or.us)

**All comments are due by 5 p.m., Wednesday, July 27, 2016.** All comments will become part of the public record.

### About the facility and the receiving water

The City of Troutdale has applied for an Underground Injection Control System Water Pollution Control Facilities permit for drywells that it owns and operates. The drywells collect stormwater from streets in the City of Troutdale.

The City of Troutdale holds a Water Pollution Control Facility permit from DEQ for sewage disposal, and a National Pollutant Discharge Elimination System permit for its Municipal Separate Storm Sewer System.

There is no history of complaint-based enforcement actions related to this permit because the City of Troutdale is applying for a new permit.

### What types of pollutants does the permit regulate?

This permit sets conditions for how the facility deals with the following pollutants: benzo(a)pyrene, pentachlorophenol, di(2-ethylhexyl)phthalate, lead, zinc and copper.

### How would the draft permit change the amount of pollution the facility is allowed to release?

The draft permit does not change the amount of pollution the facility is allowed to release.

### How did DEQ determine the proposed permit requirements?

DEQ evaluated the types and amounts of pollutants in stormwater that drains to UICs, and determined permit requirements to ensure the proposed discharges will meet applicable statutes, rules, regulations and effluent guidelines of Oregon and the U.S. Environmental Protection Agency.

For this permit action, DEQ evaluated technical information about pollutant fate and transport, statistical studies about pollutant concentrations in municipal stormwater that discharge to UICs, and



State of Oregon  
Department of  
Environmental  
Quality

Northwest Region  
Water Quality Program  
700 NE Multnomah Street  
Suite 600  
Portland, Oregon 97232  
Phone: 503-229-6371  
Fax: 503-229-6945  
Contact: Matt Kohlbecker

*DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.*

DEQ provides documents electronically whenever possible in order to conserve resources and reduce costs.

If you received a hard copy of this notice, please consider receiving updates via e-mail instead. Send your request to: [subscriptions@deq.state.or.us](mailto:subscriptions@deq.state.or.us)

Please include your full name and mailing address so that we can remove you from our print mailing list.

annual stormwater monitoring data from other municipalities in Oregon with UIC permits. These materials are discussed in more detail in the permit fact sheet.

**How does DEQ monitor compliance with the permit requirements?**

This permit will require the facility to monitor pollutants discharged using approved monitoring practices and standards. DEQ reviews the facility's discharge monitoring reports to check for compliance with permit limits.

**What happens after the public comment period closes?**

DEQ will hold a public hearing if DEQ receives a written request for a public hearing within 14 days of mailing or posting the public notice from at least ten people or from an organization representing at least ten people.

DEQ will consider and respond to all comments received and may modify the proposed permit based on comments. DEQ gives equal weight to written and oral comments.

**Accessibility information**

DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in another format.

To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 800-452-4011, ext. 5696; fax to 503-229-6762; or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

People with hearing impairments may call 711.



Expiration Date: Month, Day, Year  
Permit Number: XXXXXX  
File Number: 119829  
Page 1 of 12 Pages

**Water Pollution Control Facilities Permit  
For Class V Stormwater Underground Injection Control Systems**

**Department of Environmental Quality**

700 NE Multnomah Street, Suite 600, Portland, Oregon 97232  
(503) 229-5263

Issued pursuant to ORS 468B.195 and 40 CFR Parts 144, 145 and 146, implementing the  
Federal Safe Drinking Water Act requirements for Underground Injection Control.

---

**ISSUED TO:**

City of Troutdale  
342 SW 4<sup>th</sup> Street  
Troutdale, Oregon 97060

**SOURCES COVERED BY THIS PERMIT:**

**Type of Waste:** Stormwater & Incidental Fluids  
**Outfall:** Individual Injection Systems  
**Method of Disposal:** Class V Underground Injection Systems

**SYSTEM TYPE:**

Class V Underground Injection Controls

**SYSTEM LOCATIONS:**

Within the jurisdictional boundaries of the City of Troutdale

**Waters of the State:** Groundwater

---

**Effective Permit Issuance Date:** Month, Day, Year

**Permit Expiration Date:** Month, Day, Year

**Permit Number:** WPCF-DOM-UIC-XXXXXX

**DEQ File Number:** 119829

This permit is issued based on the Land Use Compatibility Statement in the permit record.

\_\_\_\_\_  
Matt Kohlbecker  
Senior UIC Hydrogeologist

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine Svetkovich  
Water Quality Manager

\_\_\_\_\_  
Date

## DEFINITIONS

Definitions of 40 Code of Federal Regulations (CFR) part 144.3 and Oregon Administrative Rules (OAR) 340 Divisions 040, 044, and 045 apply to this permit unless the definitions are inconsistent with the provisions of the permit.

1. *Adaptive Management* is a structured, iterative process designed to refine and improve stormwater programs over time by evaluating results and adjusting actions on the basis of what has been learned.
2. *Best Management Practices* or *BMPs* means the schedule of activities, controls, prohibition of practices, maintenance procedures and other management practices designed to prevent or reduce pollution. BMPs also include treatment requirements, operating procedures, and practices to control stormwater runoff.
3. *Corrective action* means measures taken to improve a situation that may adversely affect groundwater quality or supply, endanger groundwater, or violate the prohibition of fluid movement standard.
4. *Endangerment* is defined in 42 United States Code (USC) 300h(d)(2) and occurs when injection may result in the presence of any contaminant in underground water which supplies or can reasonably be expected to supply any public water system, if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.
5. *Groundwater protectiveness* means that a discharge will not endanger groundwater or violate the prohibition of fluid movement standard.
6. *Hazardous materials* is defined at ORS 466.605(7) and includes: materials designated under ORS 466.630, hazardous wastes as defined at 466.005(7), radioactive wastes, communicable disease agents, and hazardous substances. *Hazardous substances* are substances designated by the Environmental Protection Agency pursuant to section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, oil or petroleum products, or any substance designated by the Environmental Quality Commission under ORS 465.400.
7. *Prohibition of fluid movement* is defined in 40 CFR 144.12(a) and occurs when a UIC allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons.
8. *Practicable* means reasonably possible to do or put into practice.
9. *Retrofitting* means physically modifying an existing Underground Injection Control system. Example retrofits include backfilling to increase the vertical separation distance between the bottom of the UIC and seasonal high groundwater, or implementing a variety of passive, structural, and/or technological controls to reduce or eliminate pollutants.
10. *Source controls* are methods to decrease the amount of pollutants entering stormwater runoff by preventing the contact of pollutants with rainfall and runoff.
11. *Super-chlorinated* water is water with chlorine concentrations above 4 milligrams per liter.
12. *We* or *us* means the Oregon Department of Environmental Quality (DEQ).
13. *You* means the City of Troutdale.

## PERMITTED ACTIVITIES

You own or operate Underground Injection Controls (UICs) to manage stormwater. These injection systems are individual point sources that discharge stormwater and other incidental fluids below the ground surface.

As provided under federal law, this is an *area permit*, which means it covers all permittee-owned or permittee-operated injection systems for stormwater and incidental fluids, at multiple locations within the jurisdictional boundaries of the City of Troutdale. Until we modify or revoke this permit, or until it expires, the permit

authorizes you to construct, install, modify, operate, or close (decommission) injection systems in accordance with this permit. The permit also authorizes you to discharge stormwater or other fluids specifically identified in this permit into injection systems that are under your ownership or operation, or that you will construct, or that will be transferred to your ownership or operation while the permit is in effect, provided you conform to the requirements, limitations, and conditions described in the following schedules:

Schedule A. Control and Limitation Conditions .....	3
Schedule B. Monitoring and Reporting Conditions .....	5
Schedule C. Safe Drinking Water Act Compliance Schedule.....	8
Schedule D. Special Conditions .....	8
Schedule E. Pretreatment Conditions.....	Not Applicable
Schedule F. General Conditions .....	9

Any other direct or indirect discharge of waste to waters of the state or to an underground injection system is prohibited, unless specifically authorized by this permit; by another DEQ permit, agreement, authorization, or order; or by Oregon administrative rule.

### SCHEDULE A CONTROL AND LIMITATION CONDITIONS

1. **Authorized Discharges.** You may discharge stormwater into your UICs in accordance with the conditions of this permit. You may also discharge the incidental non-stormwater fluids listed below into your UICs. We may approve other similar temporary discharges after the permit is issued, provided the permittee shows us in writing that the discharge is *de minimis* and complies with OAR 340-040-0020(3), and the permittee obtains written approval from us prior to discharge. If any of these non-stormwater discharges cause or contribute to an exceedance of the action levels in Table 1, you must reduce or eliminate the discharge of pollutants associated with the source. Incidental non-stormwater fluids include:
  - a. Water line flushing (with the exception of super-chlorinated discharges);
  - b. Landscape irrigation;
  - c. Uncontaminated groundwater infiltration;
  - d. Uncontaminated pumped groundwater;
  - e. Discharges from potable water sources;
  - f. Water from potable groundwater monitoring wells;
  - g. Draining and flushing of municipal potable water storage reservoirs;
  - h. Foundation drains;
  - i. Air conditioning condensate;
  - j. Springs;
  - k. Water from crawl space pumps that has not been contaminated with oils or other chemicals;
  - l. Footing drains;
  - m. Lawn watering;
  - n. Individual residential car washing;
  - o. Charity car washing;
  - p. Other car washing provided that chemicals, soaps, detergents, steam or heated water are not used, and washing is restricted to the outside of the vehicle (no engines, transmissions or undercarriages);
  - q. De-chlorinated swimming pool and fountain discharges;
  - r. Street wash water, provided that street wash water is applied using best management practices that minimize debris and sediment entering the UIC. Washing any spill of any hazardous substance (including oil or hazardous materials as defined in Oregon Revised Statute 466.605) into any UIC is prohibited;
  - s. External building wash-down and pavement wash waters provided that chemicals, soaps, detergents,

- t. Discharges or flows from emergency fire-fighting activities provided you take precautions, to the extent practicable, to protect injection systems during emergency fire-fighting activities, and clean the UIC after the fire-fighting event if fluids from the fire fighting activities reach the UIC system;
  - u. Discharges of treated water from investigation, removal, and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465 (Hazardous Waste and Hazardous Materials);
  - v. Start-up flushing of groundwater wells; and
  - w. Other similar temporary discharges of uncontaminated water.
2. **Action Levels.** Action levels are guideline concentrations, not limitations; an action level exceedance, therefore, is not a permit violation. The action levels apply at the point of discharge into the underground injection system.

TABLE 1 – Action Levels for Pollutants		
Monitoring Parameter	Action Level at Injection Point (micrograms per liter)	EPA Method
Benzo(a)pyrene	2.0	EPA 8270
Pentachlorophenol	10	EPA 515.3 or EPA 8270
Di(2-ethylhexyl)phthalate	300	EPA 8270
Copper (Total)	1,300	EPA 200.7 or EPA 200.8
Lead (Total)	500	EPA 200.7 or EPA 200.8
Zinc (Total)	5,000	EPA 200.7 or EPA 200.8

3. **Table 1 Action Level Exceedance.** When stormwater concentrations exceed a Table 1 pollutant action level, you must take corrective action with respect to the UIC(s) that exceeded the action level as described in Schedule A, condition 6.
4. **Spills.** Spills of oil and hazardous materials that impact UICs are subject to the emergency response requirements of ORS 466 and OAR 340-142. You must take emergency response actions immediately. As the UIC owner or operator, you must also:
- a. Take corrective action in accordance with Schedule A, condition 5; and
  - b. Clean the UIC system.
5. **Imminent endangerment of human health or the environment.** If discharges from one or more UICs endanger human health or the environment or violate the prohibition of fluid movement standard, you must:
- a. Inform us consistent with Schedule F, condition 4(f), and
  - b. Take corrective action to eliminate any endangerment of human health or the environment as defined in 42 USC 300h(d)(2) or violation of the prohibition of fluid movement standard in 40 CFR 144.12(a). You must complete all corrective actions as soon as practicable, with DEQ approval of work scope and schedule. You must submit updates regarding progress to us at least annually; the updates may be included in annual reports required in Schedule B, condition 4.
6. **Corrective Action.** You must complete corrective action in response to discharges that endanger human health or the environment according to Schedule A, condition 5. Corrective action also includes the additional actions identified in 6(a) and 6(b), and as many additional actions [conditions 6(c) through 6(f)] as are required to protect groundwater or to demonstrate that it is already protected. You must obtain written approval from DEQ that the action(s) you take in conditions 6(c) through 6(f), and the schedule for taking the

- actions, are sufficiently protective of groundwater quality. Corrective actions include:
- a. Attempt to identify the source(s) of an exceedance of Table 1 action levels;
  - b. When source identification efforts are complete, determine the set of UICs affected, based on the identified source(s) or other factors;
  - c. Assess whether best management practices need adjustment to eliminate or reduce influent concentrations and make appropriate, practicable changes; and resample discharge to UIC(s) that had exceedances of Table 1 action levels and calculate a geometric mean that verifies or invalidates the original influent concentration;
  - d. Demonstrate that groundwater is protected through modeling or other approved approach;
  - e. Retrofit the affected UIC(s) so that groundwater is protected;
  - f. Decommission the UIC(s).
7. **Source Control Measures and Best Management Practices.** With the exception of UICs used to drain roof-only runoff, you must implement and maintain source control measures and operational and structural best management practices to reduce or eliminate pollutants from entering UICs in accordance with OAR 340-040-0020(11). Stormwater entering the UIC must not be exposed to hazardous substances, hazardous materials, or petroleum products. DEQ may require you to sample stormwater to demonstrate source control measures and best management practices are effective.
8. **Underground Injection Systems - Horizontal Setbacks.** All stormwater UICs are subject to the following horizontal setback requirements.
- a. **No Further Action.** You do not need to take further action for stormwater UICs that are:
    - i. Outside the two-year Time-of-Travel for public water wells, if one has been determined by the Oregon Health Authority, or
    - ii. More than 500 feet away from a known public or private drinking water or irrigation water supply well, if the Oregon Health Authority has not designated a two-year Time-of-Travel.
  - b. **Existing Systems within Horizontal Setbacks.** It is not a permit violation for existing stormwater UICs not to meet the horizontal setbacks described above. However, for each existing stormwater UIC that does not have the horizontal setbacks described above, you must provide a protectiveness demonstration within one year of permit issuance (month, day, year), and you must obtain written approval of the protectiveness demonstration from DEQ. If protectiveness cannot be demonstrated for a stormwater UIC, you must complete the following as soon as practicable during the ten-year term of this permit with DEQ approval of a work plan and schedule:
    - i. Retrofit the affected UIC(s) so that groundwater is protected; or
    - ii. Close the underground injection system(s).
  - c. **New Systems within Horizontal Setbacks.** You may construct and operate new stormwater UICs inside a horizontal setback if you are able to provide a groundwater protectiveness demonstration for the new UIC(s).

## SCHEDULE B MONITORING AND REPORTING CONDITIONS

1. **System-Wide Assessment.** We have approved the May 2016 System-Wide Assessment of UICs you own or operate in conjunction with issuance of this permit. You must prepare a System-Wide Assessment of UICs you own or operate under this permit, and update the System-Wide Assessment if the information in conditions 1(a) and 1(b) below changes. The System-Wide Assessment must include a cover page with the certification of accuracy required by 40 CFR 144.32(d), permit file number, date, and:
- a. Table(s) listing:

- i. Existing UICs, and the names or numbers that you use to identify the UICs;
  - ii. Latitude and longitude for each UIC in decimal degrees using the NAD 83 datum;
  - iii. Depth to seasonal high groundwater at each facility covered under the permit, depths of UICs, and approximate vertical separation distance between each UIC and the seasonal high groundwater;
  - iv. Whether the vehicle trips per day for the area(s) drained by the injection systems is greater than 1,000 or less than 1,000;
  - v. An inventory of all stormwater UICs that are known by you to not meet the setback distances to water wells listed in Schedule A, condition 8, the name(s) of the water well(s), and the data that was used to identify the water well(s);
  - vi. An inventory of the UICs that you own and are prohibited by OAR 340-044-0015(2), which includes injection systems in vehicle maintenance areas, fuel dispensing areas, floor pits, non-vehicle maintenance facilities' floor drains, and fire station bay floor drains. For these prohibited systems, you also must report and take corrective actions as described in Schedule A, conditions 5 and 6; and
  - vii. An inventory of all industrial facilities and commercial properties that pose a risk of pollutant discharge to injection systems that you own or operate.
- b. Map(s) of each facility covered under the permit that show:
- i. Property boundary, site features and adjacent streets;
  - ii. UIC locations, and the name or number that you use to identify the UICs;
  - iii. Locations where hazardous waste is treated, stored, or disposed (if applicable);
  - iv. Source controls that are used to prevent injection of stormwater from refueling areas, areas of hazardous and toxic material storage or handling, or other discharges that may contain pollutants above levels of concern;
  - v. Springs and surface water bodies within a quarter mile of the property boundary; and
  - vi. Water wells with two-year Time-of Travel zones and 500-foot buffers, if the time of travel or water well is located within a quarter mile of the property.

**2. Stormwater Quality Monitoring.** Stormwater sampling is required to determine whether source controls and best management practices are sufficient to prevent endangerment of groundwater.

- a. You must collect at least one stormwater sample annually from the UIC in Table 2. You must collect samples between September 1 and December 31, beginning in 2016. Stormwater samples must be collected from the end of pipe where stormwater discharges into the UIC, or upstream of the end of pipe. DEQ may require monitoring of additional or different UICs at any time during the ten year term of the permit, and will provide the requirement in writing.

<b>TABLE 2 – UICs for Sampling</b>	
<b>Location</b>	<b>UIC ID</b>
SW Country Club Avenue and SW 29 <sup>th</sup> Street	C440

- b. You must analyze samples for the pollutants in Table 1. All monitoring tests and analyses must be performed by a state of Oregon certified laboratory, using the analytical methods in Table 1. DEQ may require you to use different laboratory methods at any time during the permit term, and you may use different laboratory methods if approved in writing by DEQ.
- c. You may discontinue stormwater sampling for a Table 1 pollutant at a facility if the average concentration of the pollutant in at least two samples is below the Table 1 action levels – demonstrating the effectiveness of site controls and best management practices. The stormwater samples must be collected at least 14 days apart. If you discontinue stormwater monitoring, then you must certify in your annual report that there have been no changes to site conditions that would significantly change stormwater quality (see Schedule B, condition 4.b).

3. **Groundwater Monitoring.** If you cannot meet the action levels established in Schedule A, Table 1, or other information indicates that your injection systems may be adversely impacting groundwater quality, we may require groundwater monitoring or additional actions in accordance with OAR 340-040-0030 or both. Prior to completing such monitoring, you may apply for a concentration limit variance as provided in OAR 340-040-0030. If we grant a concentration limit variance, the action levels established in Schedule A, Table 1 may be revised, as appropriate.
  
4. **Annual Reporting.** By November 30 of each year, starting in 2016, you must submit an annual Underground Injection Control System Report, using a form that we provide. The annual Underground Injection Control System Report must:
  - a. Include the certification of accuracy required by 40 CFR 144.32(d);
  - b. Include the results of stormwater monitoring conducted in accordance with Schedule B, condition 2, or, if sampling has been discontinued in accordance with Schedule B, condition 2.c, a certification that there have been no changes to site conditions that would significantly change stormwater quality;
  - c. Discuss any Schedule A, Table 1 action level exceedances and actions taken to address the exceedances;
  - d. Describe any actions in Schedule D, condition 4 that were not completed and the reason they were not completed;
  - e. Identify any UICs closed, retrofitted, or installed during the year;
  - f. Describe your known plans to install, modify, convert, or close any UICs in the next year;
  - g. Identify the key personnel positions that are responsible for the permit and their contact information (see Schedule D, condition 1);
  - h. Identify any newly-discovered UICs; and
  - i. Provide one hard copy and one electronic copy of the annual Underground Injection Control System Report. Copies of laboratory results do not need to be submitted with the annual Underground Injection Control System Report; however, you must retain copies of analytical laboratory reports as described in Schedule F, condition 3.
  
5. **Decommissioning an Underground Injection System.** You must provide prior notice of decommissioning any underground injection system you own or operate, including UICs that are converted or closed. You may notify us in advance by listing future decommissioning plans in your annual Underground Injection Control System Report as in Schedule B, condition 4, or you may notify us in accordance with OAR 340-044-0040.
  
6. **Summary of Submittals & Notifications.** A summary of the submittals and notifications required under the permit is provided in Table 3.

TABLE 3 – SUMMARY OF SUBMITTALS			
Submittal/Notification	Permit Reference	Submittal/Notification Requirement	Estimated Date(s)
Progress Report for Corrective Actions	A.5.b	Annually	Month Day
Annual UIC System Report	B.4	Annually	Month Day
Permit noncompliance that endangers human health or the environment	F.4.f	Within 24 hours (oral) and five working days (written)	N/A
Corrective actions for prohibited UICs	F.4.f	Within 24 hours (oral) and five working days (written)	N/A
Permit Re-application	F.1.d	60 calendar days before permit expiration	Month, Day, Year

**SCHEDULE C  
SAFE DRINKING WATER ACT COMPLIANCE SCHEDULE**

This permit does not require a Safe Drinking Water Act compliance schedule (see 40 CFR 144.53) because you do not own any injection systems known to violate the Safe Drinking Water Act, state or federal underground injection control rules or regulations, or state groundwater quality protection rules.

**SCHEDULE D  
SPECIAL CONDITIONS**

1. **Permittee Personnel Responsible for Permit.** You must identify the key personnel positions and contact information responsible for establishing and maintaining compliance with all conditions of the permit. Contact information includes the employee's name, title, mailing address, email address, phone number, business section where the employee works, and the employee's area of responsibility for the permit. You must notify us in writing of any changes to the key personnel or areas of responsibility for the permit in the annual Underground Injection Control System Report required under Schedule B, condition 4.
2. **Reporting and Corrective Actions for Underground Injection Systems Prohibited by OAR 340-044-0015.** You must orally or in writing provide DEQ with any information you have about newly-discovered prohibited underground injection systems that you own within 24 hours of discovery. You must submit a written report within five working days of discovery and take the following actions unless otherwise approved by DEQ:
  - a. You must temporarily divert the discharge away from the UIC within five working days of discovering the UIC.
  - b. You must permanently close the prohibited injection systems as soon as practicable, with DEQ approval of work scope and schedule.
3. **Underground Injection Systems Discovered or Installed After the Permit is Issued.** Additional UICs may be authorized under this permit, so long as they inject fluids into facilities within the City of Troutdale's jurisdictional boundaries and they are constructed, installed, modified, operated, or closed in accordance with the permit. For any underground injection system you discover or install after the permit is issued, you must resubmit your System-Wide Assessment with the information required in Schedule B, condition 1 within 60 days of discovery of an existing UIC, or prior to installation of a new UIC. Discovered or new UICs at facilities not identified in Table 2 are subject to monitoring in accordance with Schedule B, condition 2, and we will provide monitoring locations to you in writing. You must still report prohibited underground injection systems according to Schedule D.2 above.
4. **Underground Injection Control System Management.** You must manage your UIC system in accordance with the following conditions:
  - a. You must have a spill kit available to respond to spills as appropriate, and inspect the spill kit semi-annually to ensure that all supplies are available and have not deteriorated. If your UICs are not equipped with shut off valves that allow you to block discharge into your UIC, then the spill kit must include a drain blocker/cover;
  - b. You must conduct and document visual inspections and physical maintenance of UICs. Visual inspections must occur annually; physical maintenance must occur as needed. You must provide

- documentation to DEQ upon request;
- c. You must train your employees annually on use of the spill kit and visual UIC inspection procedures, document the names of employees attending the training and dates of the training, and provide records of the documentation to DEQ upon request; and
  - d. You must follow housekeeping practices to protect groundwater quality, including segregating hazardous material storage or handling areas from stormwater run-off and run-on and regular parking lot sweeping.
- 5. Adaptive Management.** You must follow an adaptive management approach to assess annually, and modify as necessary, management of your UICs to ensure the program is efficient and effective. You must at least annually assess the need to further improve groundwater quality and protect groundwater beneficial uses, review available technologies and practices, review monitoring data and analyses as required in Schedule B, and evaluate resources available to implement the program.
- 6. Permit Shield.** Compliance with this permit constitutes compliance, for purposes of enforcement, with the UIC provisions of the federal Safe Drinking Water Act, implementing federal regulations, and OAR chapter 340, divisions 040 and 044. This provision, however, does not preclude modification, revocation and reissuance, or termination of this permit as authorized by applicable federal and state law.
- 8. Legal Authority.** Within 18 months of the effective permit issuance date, you must adopt and maintain, through ordinance or other means, adequate legal authority to implement and enforce the provisions of this permit. At a minimum, the legal authority must enable you to:
- a. Implement the stormwater monitoring requirements of Schedule B, condition 2, and UIC management requirements of Schedule D, condition 4;
  - b. Prohibit discharge to an underground injection system that may cause a violation of the conditions of this permit from publicly or privately owned properties; and
  - c. Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with the conditions of this permit.

#### SCHEDULE E PRETREATMENT CONDITIONS

*Not applicable to this permit*

#### SCHEDULE F GENERAL CONDITIONS

- 1. Standard Conditions.**
- a. **Duty to Comply.** You must comply with all conditions of this permit. Any permit noncompliance is grounds for enforcement action. It is also grounds for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that you need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 CFR 144.34.
  - b. **Penalties for Violations of Permit Conditions.** ORS 468.140 provides for civil penalties up to \$25,000 per day for each violation of a term, condition, or requirement of a permit. ORS 468.943 creates the criminal offense of unlawful water pollution in the second degree, for the criminally negligent violation of ORS chapter 468B or any rule, standard, license, permit or order adopted or issued under ORS chapter

468B. In some situations, violations of a term, condition or requirement of the permit may also be a criminal offense, specifically unlawful water pollution in the first degree (a felony) or unlawful water pollution in the second degree (a misdemeanor). [ORS 468.943 and ORS 468.946].

- c. **Duty to Mitigate.** You must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit. You must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. In addition, you must correct any adverse impact on the environment or human health or safety resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.
- d. **Duty to Reapply.** If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain a new permit. In accordance with OAR 340-045-0040(1), you must submit the application at least 60 calendar days before the expiration date of this permit. We may grant you permission to submit an application less than 60 calendar days in advance of the permit expiration date. We will not grant permission for a renewal application that you submit later than the expiration date of the existing permit.
- e. **Permit Actions.**
  - i. We may modify, revoke and reissue, or terminate this permit for cause including, but not limited to, the following:
    - (1) **Violation.** The violation of any term, condition, or requirement of this permit, or a related state rule or statute, or a federal regulation related to underground injection control for injection wells;
    - (2) **Misrepresentation.** Obtaining this permit by misrepresentation or failure to disclose fully all material facts; or
    - (3) **Change of condition.** A change of any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
  - ii. You may request a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, but this request does not stay the effectiveness of any permit condition.
- f. **Property Rights.** The issuance of this permit does not convey any property rights of any sort or any exclusive privileges.
- g. **Permit Reference.** All rules and statutes referred to in this permit are those in effect on the date we issue this permit, or the date we modify the permit to incorporate new provisions as provided in OAR 340-045-0055, whichever occurs later.
- h. **Penalties for False Information.** Under ORS 486.953, a person commits the crime of supplying false information if the person:
  - i. Falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit;
  - ii. Makes any false material statement, representation or certification knowing it to be false, in any application, notice, plan, record, report or other document required by any provision of ORS chapter 465, 466, 468, 468A or 468B or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A or 468B;
  - iii. Omits any material or required information, knowing it to be required, from any document described in paragraph (h)(ii) above; or
  - iv. Alters, conceals or fails to file or maintain any document described in paragraph (h)(ii) above in knowing violation of any provision of ORS chapter 465, 466, 468, 468A or 468B or any rule adopted pursuant to ORS chapter 465, 466, 468, 468A or 468B.
- i. **Duty to Provide Information.** You must furnish to us, within a time specified, any information that we may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. You must also furnish to us upon request, copies of

records that this permit requires you to keep.

- j. **Need to Halt or Reduce Activity not a Defense.** It is not a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- k. **Permit Modifications.** You may request a permit modification or we can initiate it. Any modification to the permit must be in accordance with the provisions of OAR 340-045-0055 and 40 CFR 144.41, as applicable.

**2. Operation and Maintenance.**

- a. **Proper Operation and Maintenance.** You must at all times properly operate and maintain all facilities and systems of treatment and control (and related equipment) that you install or use to comply with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of a back-up or auxiliary facilities or similar systems only when necessary to comply with the conditions of the permit.
- b. **Removed Substances.** You must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to a UIC in accordance with 40 CFR 144.82(b).

**3. Monitoring and Records.** You must comply with monitoring requirements of 40 CFR 144.51(j) and this condition:

- a. Samples and measurements taken for monitoring must be representative of the monitored activity.
- b. **Records Contents.** Records of monitoring information you must retain include:
  - i. The date, exact place, time and methods of sampling or measurements;
  - ii. The name(s) of the individual(s) who performed the sampling or measurements;
  - iii. The date(s) analyses were performed;
  - iv. The name(s) of the individual(s) who performed the analyses;
  - v. The analytical techniques or methods used;
  - vi. The results of such analyses;
  - vii. The nature and composition of all injected fluids until three years after completion of any plugging and decommissioning procedures; and
  - viii. We may require the owner or operator to supply the records to us at the conclusion of the retention period.
- c. **Inspection and Entry.** You must allow us, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
  - i. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - ii. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - iii. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Safe Drinking Water Act or state law, any substances or parameters at any location.
- d. **Retention of Records.** You must retain records of all monitoring and maintenance information, including all field notes, calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, all analyses of the data generated, all reports required by this permit, and records of all data used to complete the application for this permit. You must keep them for a period of at least 10 years from the date of the sample, measurement, report, or application.

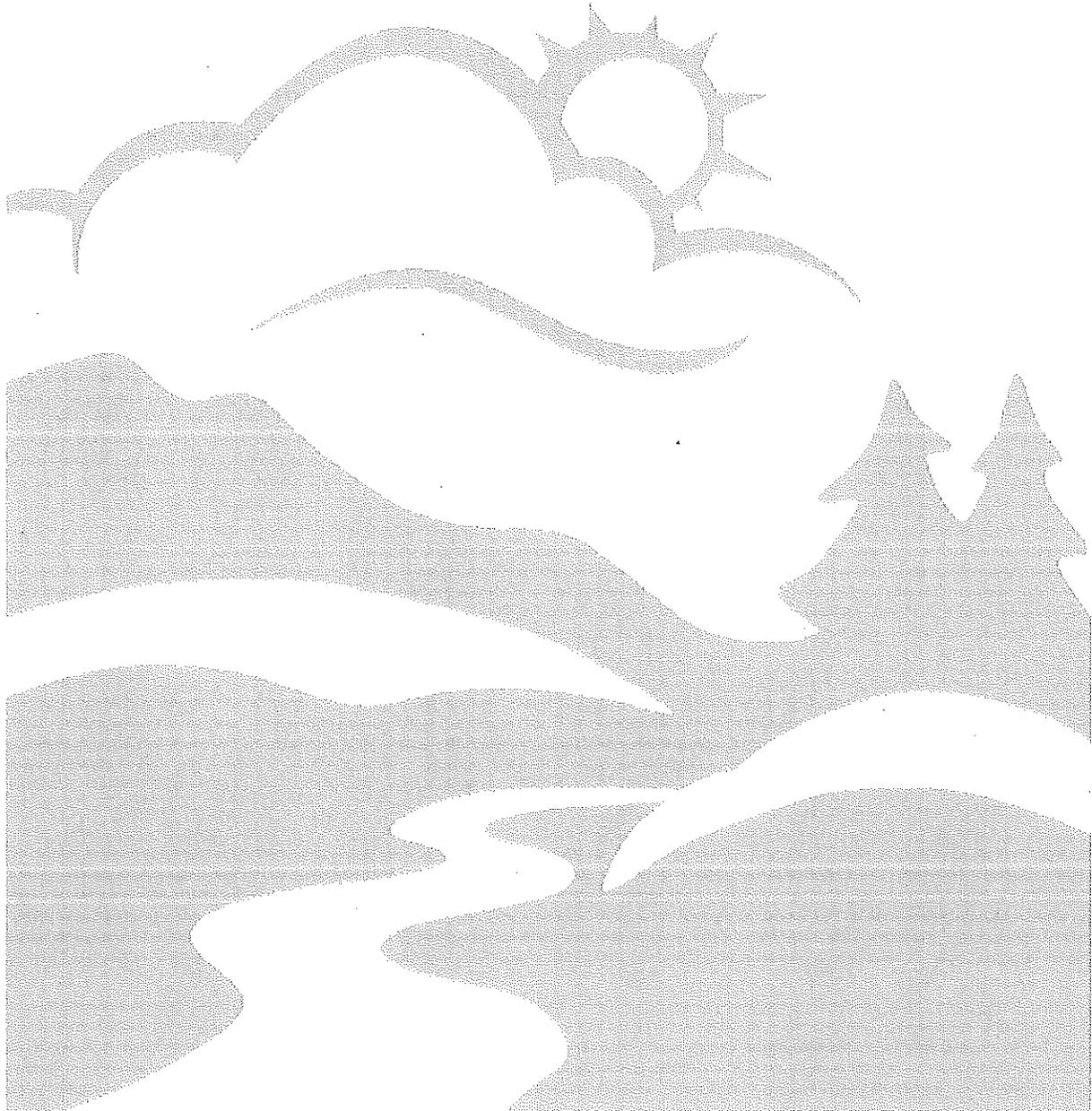
**4. Reporting and Signatory Requirements.** You must comply with the reporting requirements of 40 CFR 144.51(j) and this condition:

- a. **Planned changes.** You must give us notice of any planned physical alterations or additions to the permitted facility as described in Schedule B, condition 4.
- b. **Anticipated noncompliance.** You must give us advance notice of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.
- c. **Anticipated Violations.** You must give us advance notice of any planned changes in the permitted facilities or activities that may result in violations of permit requirements.
- d. **Transfers** This permit is not transferrable to any person except after giving us notice and meeting the conditions of OAR 340-045-0045. We may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the federal Safe Drinking Water Act (see 40 CFR 144.38; in some cases, modification or revocation and reissuance is mandatory).
- e. **Compliance Schedule.** You must make compliance reports on all interim and final requirements contained in any compliance or implementation schedule included in this permit. The reports must explain the cause of any noncompliance, if known, any remedial actions taken, and the probability of meeting the next scheduled requirements.
- f. **Twenty-Four-Hour and Five-Day Reporting.** Unless a different compliance schedule and reporting requirements are otherwise noted in this permit, you must report any non-compliance that endangers health or the environment in accordance with 40 CFR 144.51(l)(6). You must provide any information of non-compliance that endangers health or the environment orally within 24 hours from the time you become aware of the circumstances. You must submit a written report within 5 working days of the time you become aware of the circumstances. The written report must contain:
  - i. A description of the violation and its cause, if known;
  - ii. The period of violation, if known;
  - iii. The estimated time the violation is expected to continue if it has not been corrected; and
  - iv. Steps taken or planned to reduce, eliminate, and prevent recurrence of the violation.
- g. **Other Compliance.** In accordance with 40 CFR 144.51(l)(7), you must report all other instances of non-compliance not reported in Schedule F, conditions 4(e) and 4(f) at the time the annual reports are submitted. The reports must contain the information listed in Schedule F, condition 4(f).
- h. **Other Violations.** You must report all permit violations that occurred during a permit-established reporting period in the annual Underground Injection Control System Report for that period. The reports must contain the information listed in Schedule F, condition 4(f).
- i. **Signatory Requirements.** You must sign and certify all applications, reports or information submitted to us as provided in 40 CFR 144.32.

# Permit Fact Sheet

City of Troutdale  
Class V Underground Injection Control Systems  
Water Pollution Control Facilities Permit #XXXXXX

DRAFT



**Underground Injection  
Control Program**  
700 NE Multnomah Street  
Suite 600  
Portland, OR 97201  
Phone: 503-229-6371  
800-452-4011  
Fax: 503-229-6957  
Contact: Matt Kohlbecker  
[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

DEQ is a leader in restoring,  
maintaining and enhancing the  
quality of Oregon's air, land and  
water.



State of Oregon  
Department of  
Environmental  
Quality

# Table of Contents

Background.....	2
Overview.....	3
Groundwater Quality Data.....	5
Compliance with Federal Regulations.....	5
Groundwater Protection.....	6
Area Permit Coverage.....	7
Permit Conditions.....	8
Schedule A—Control and Limitation Conditions.....	8
Schedule B—Monitoring and Reporting Conditions.....	10
Schedule C—Safe Drinking Water Act Compliance Schedule.....	12
Schedule D—Special Conditions.....	12
Schedule E—Pretreatment Conditions.....	13
Schedule F—General Conditions.....	13
Appendix A.....	14
References.....	16

PUBLIC NOTICE DRAFT

## Background

Studies show that infiltrating stormwater into underground soils is protective of public health and water quality because the natural properties of soil filter and remove pollutants (e.g., Spromberg et al., 2015). One type of device used for infiltration is an Underground Injection Control (UIC), which is a drywell, soakage trench, drill hole, infiltration gallery, or other system or device that places fluids below ground. UICs are protective of human health and ecological receptors because stormwater solids and associated pollutants are collected in a pretreatment device (sedimentation manhole) or accumulate in soils surrounding the UIC; there is no exposure pathway by which humans or ecological receptors can contact stormwater solids and associated pollutants.

The federal Safe Drinking Water Act regulates UICs to ensure protection of drinking water supplies. The national UIC program is administered by the U.S. Environmental Protection Agency (EPA). In 1984, EPA delegated the UIC program to the Oregon Department of Environmental Quality (DEQ). Accordingly, the DEQ issued rules<sup>1</sup> for UIC construction and operation in 1984, and revised the rules in 2001 to conform to changes made to the federal UIC regulations in 1999.

Oregon's UIC rules require the owner or operator of a UIC to register the injection system with DEQ and either obtain authorization by rule<sup>2</sup> or permit<sup>3</sup> from DEQ to construct and operate the UIC. Groundwater quality is protected in Oregon through the state's UIC and groundwater quality protection laws and rules<sup>4</sup>.

The EPA and DEQ classify UICs on the basis of the type of fluid that is injected. This permit authorizes UICs that infiltrate only stormwater and incidental fluids, which are called Class V UICs. Because the permit authorizes discharge to the ground, it is a Water Pollution Control Facilities (WPCF) permit. In 2005, DEQ issued the first Class V UIC permit to the City of Portland. The City's permit was the first of its kind in the nation, and since it was issued, the understanding of the nature of stormwater that drains to UICs has significantly improved. Extensive stormwater quality sampling has been conducted throughout Oregon at UICs, and the data has been statistically analyzed to evaluate the types and concentrations of pollutants<sup>5</sup>. In addition, several permit applicants have used well-developed and well-understood pollutant fate and transport modeling approaches to evaluate attenuation of pollutants after discharge from a UIC<sup>6</sup>. DEQ reviewed the stormwater quality data and pollutant fate and transport models and concluded that:

- The types and concentrations of pollutants in stormwater from parking lots and streets are well-characterized based on the large number of stormwater samples that have been collected from UICs.
- Statistical analyses of municipal stormwater quality data used appropriate statistical methods (for example, 95 percent upper confidence limits on the average to conservatively estimate average concentrations). The results of the municipal stormwater quality analyses are consistent with

<sup>1</sup> Oregon Administrative Rules (OAR) 340-044

<sup>2</sup> OAR 340-044-0018

<sup>3</sup> OAR 340-044-0035

<sup>4</sup> OAR 340-040

<sup>5</sup> Kennedy/Jenks (2009, 2011); City of Bend (2014, 2015); City of Canby (2015); City of Eugene (2014, 2015); City of Gresham (2013, 2014, 2015); City of Keizer (2014, 2015); City of Portland BES (2006, 2007, 2008a, 2009, 2010, 2011, 2012, 2013, 2014, 2015); City of Redmond (2014, 2015); Clackamas County (2015); Multnomah County (2015); TriMet (2015).

<sup>6</sup> Portland (City of Portland BES, 2008b); Bend (GSI, 2011a); Clackamas County WES (GSI, 2011b); Gresham (GSI, 2011c); Redmond (GSI, 2011d); Eugene (GSI, 2013a); Lane County (GSI, 2013b); Milwaukie (GSI, 2013c); Canby (GSI, 2013d); Keizer (GSI, 2013e).

stormwater quality data collected from UICs in parking lots (i.e., both studies show that the same pollutants exceed EPA Maximum Contaminant Levels in over one percent of samples in stormwater from parking lots and municipal rights of way)<sup>7</sup>.

- The pollutant fate and transport studies were based on conservative models for pollutant attenuation and were correctly applied to UICs. Pollutant attenuation occurs because pollutants sorb to unsaturated zone soils, are degraded by biotic and abiotic degradation, and are dispersed by differential advection.
- Infiltrating stormwater meets the background groundwater concentrations at the groundwater table for stormwater pollutants that commonly exceed regulatory standards, as long as a minimum vertical separation distance exists between the bottom of the UIC and groundwater. The minimum vertical separation distance depends on the pollutant, and ranges from about one foot (lead and benzo(a)pyrene) to about five feet (pentachlorophenol).
- Based on groundwater quality data from areas with a high density of UICs<sup>8</sup>, the pollutants commonly found in stormwater discharges to UICs are generally not detected in groundwater, and when they are detected they can be attributed to non-UIC sources.

UIC permits are issued using a template that was developed by DEQ in 2012. DEQ has held public comment periods to solicit public input for: (1) major modifications to existing permits and (2) proposed permits for new permit applications. The UIC permit template used to develop the City of Troutdale's permit reflects these public comments. The comments were incorporated into the template to the extent that they met federal and state UIC regulations or state groundwater protection rules. Because this permit was developed from a template for an individual permit and not a general permit, DEQ made minor changes to conditions in the template have been made to address permittee-specific issues.

## Overview

The City of Troutdale uses UICs to infiltrate stormwater from public rights of way. The City currently owns and operates a total of 123 UICs. One hundred seventeen (117) of the City's UICs meet the conditions for authorization by rule, and were authorized by rule on November 4, 2014 (UIC Facility No. 10036). Six (6) of the City's UICs do not meet the conditions for authorization by rule because they are located within setbacks to water wells<sup>9</sup>, and are authorized under this UIC permit (UIC Facility No. 14999). Specifically, UICs B28, B29, B31 and B32 are located within the Two-Year Time-of-Travel of City of Troutdale Well No. 4, and UICs C438 and C440 are located within the Two-Year Time-of-Travel of City of Troutdale Well No. 2 [see City of Troutdale (2016) for UIC and water well locations].

Figure 1 shows the six City's UICs that are covered under this permit on a surficial geologic map from Ma et al. (2012). The Catastrophic Flood Deposits (Mfc in Figure 1) are present at ground surface at the

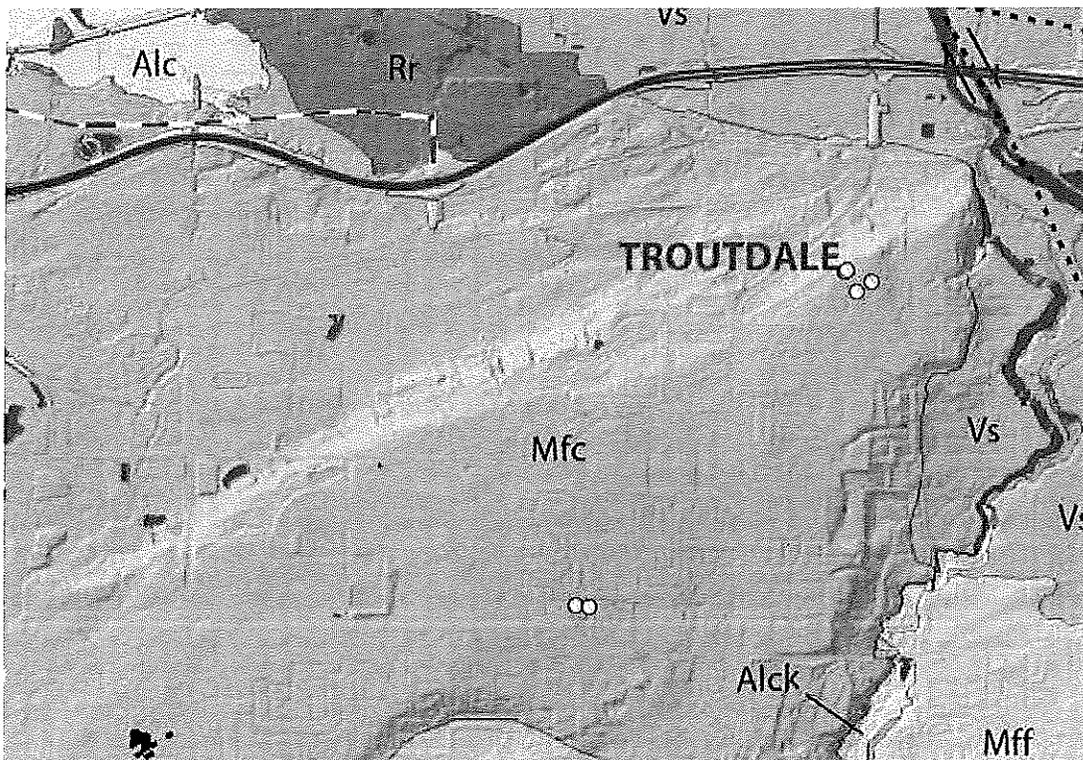
<sup>7</sup> The stormwater quality data from parking lots is from rule-authorized UICs located at "high risk" sites (i.e., parking lots with over 1,000 vehicle trips per day and sites where hazardous substances are used or stored).

<sup>8</sup> Laboratory analyses of pentachlorophenol in groundwater downgradient of UIC areas are available for the following cities: Eugene (DEQ, 2001), Portland (DEQ, 2015a), Hermiston (DEQ, 2015b), and Umatilla (DEQ, 2015c). DEQ considers pentachlorophenol to pose the highest risk of adverse impact to groundwater because it is detected above the Maximum Contaminant Level more frequently than other stormwater pollutants, and has a higher mobility in subsurface soils than other common stormwater pollutants (see DEQ, 2015a for a full discussion of stormwater quality data for pentachlorophenol and the subsurface mobility of pentachlorophenol). In addition, DEQ (in press) evaluates groundwater quality data downgradient of UICs that drain a parking lot with over 1,000 vehicle trips per day. Benzene, toluene, ethylbenzene, xylenes, benzo(a)pyrene, and total metals arsenic, cadmium, copper, lead, silver, and selenium were not detected downgradient of the UICs. Barium, nitrate and zinc were detected at concentrations well below regulatory standards (EPA Maximum Contaminant Levels).

<sup>9</sup> Within 500 feet of the Two-Year Time-of-Travel of a water well

locations of the UICs authorized under the permit. According to Swanson et al. (1993), the Catastrophic Flood Deposits are 21 feet thick at UICs B28, B29, B31 and B32<sup>10</sup> and 44 feet thick at UICs C438 and C440<sup>11</sup>. In both locations, the Catastrophic Flood Deposits are underlain by at least 176 feet of Troutdale Gravels. Based on the UIC depths reported in the City's System-Wide Assessment (City of Troutdale, 2016), DEQ concludes that the City's UICs infiltrate stormwater into either the Catastrophic Flood Deposits or Troutdale Gravels.

**Figure 1. City of Troutdale UICs Authorized by Permit.** Yellow circles indicate UICs. Geologic map is from Ma et al. (2012). The Catastrophic Flood Deposits is denoted by the Mfc (goldenrod). There are a total of six UICs—two in the southwest portion of the City and four in the northeast portion of the City. However, because of the scale of the map, it is difficult to see all four UICs in the northeast portion of the City (i.e., in the northeast portion of the map, two of the UICs appear to plot as one UIC due to their close proximity and large scale of the map).



Federal and state UIC rules require that UICs do not endanger groundwater or violate the prohibition of fluid movement standard. Groundwater is endangered [see 42 USC 300h(d)(2)] when discharge to a UIC results in polluting groundwater which supplies or can reasonably be expected to supply a public water system, if the presence of the pollutant results in the system violating primary drinking water regulations or adversely affecting public health. The prohibition of fluid movement standard (defined in 40 CFR 144.12) is violated when pollutants enter groundwater, if the presence of the pollutant results in a public water system violating a primary drinking water regulation or adversely affects human health.

<sup>10</sup> See Log ID 500006

<sup>11</sup> See Log ID 500001

DEQ evaluated whether the City's UICs endanger groundwater or violate the prohibition of fluid movement standard based on studies of the fate and transport of common stormwater pollutants in the geology where the UICs are located. The City of Portland (City of Portland BES, 2008b) and City of Gresham (GSI, 2011c) evaluated pollutant fate and transport from UICs located in the Catastrophic Flood Deposits and Troutdale Gravels. The City of Portland and City of Gresham found that pollutants attenuate to below detection within five feet of vertical transport from the UIC. The depth to seasonal high groundwater at the City of Troutdale's UICs is at least 45 feet below ground surface (City of Troutdale, 2016), and the vertical separation distance between the bottom of the UICs and seasonal high groundwater is at least 25 feet. Therefore, DEQ concludes that pollutants in stormwater will not reach groundwater, and that the City's UICs do not pose an endangerment condition to groundwater or violate the prohibition of fluid movement standard.

## Groundwater Quality Data

The City's UICs are within the two-year time-of-travel of the following wells:

- City of Troutdale Well No. 2 (MULT 1430): UICs C438 and C440
- City of Troutdale Well No. 4 (MULT 1340): UICs B28, B29, B31 and B32

Groundwater samples have been collected from these wells since 1993 and analyzed for pentachlorophenol as a part of regular sampling to meet the requirements of the Safe Drinking Water Act for public water systems. DEQ reviewed the pentachlorophenol data because this pollutant has been detected above MCLs in over one percent of municipal stormwater samples (see Appendix A), and pentachlorophenol is the most mobile and persistent of the common stormwater pollutants<sup>12</sup>. Groundwater samples were collected from City of Troutdale Well No. 2 and analyzed for pentachlorophenol a total of 15 times between 1993 and 2014; pentachlorophenol was not detected in any of the samples above the detection limit of 0.001 micrograms per liter (ug/L). Groundwater samples were collected from City of Troutdale Well No. 4 and analyzed for pentachlorophenol a total of 14 times between 1993 and 2014; pentachlorophenol was not detected in any of the samples above the detection limit of 0.001 ug/L. Therefore, groundwater samples collected from the City of Troutdale Well No. 2 and No. 4 do not indicate impacts from stormwater UICs owned and operated by the City of Troutdale.

## Compliance with Federal Regulations

Permits issued by DEQ must comply with the federal UIC permit requirements specified in 40 CFR 144.51. DEQ has compared the permit conditions with these federal requirements. The permit's general conditions in Schedule F meet the UIC permit requirements of 40 CFR 144.51. In addition, the permit specifically states all other pertinent local, state, and federal regulations apply.

---

<sup>12</sup> It is important to note that the groundwater samples were collected from Troutdale Well No. 2 and No. 4 after the water was treated with hypochlorination for disinfection purposes. Hypochlorination can reduce the concentrations of organic chemicals like pentachlorophenol. Therefore, pentachlorophenol concentrations in the water samples may not be representative of concentrations in native groundwater. However, DEQ reviewed the groundwater quality data from these wells because pentachlorophenol detections in the wells would be a cause for concern.

## Groundwater Protection

Oregon's policy is to protect groundwater to its highest beneficial use, which is usually drinking water<sup>13</sup>. In accordance with the Safe Drinking Water Act<sup>14</sup> and the state UIC rules<sup>15</sup>, UICs must not endanger existing or future underground sources of drinking water, and must not allow movement of fluid containing contaminants into underground sources of drinking water, if the presence of the contaminant may cause a violation of a Maximum Contaminant Level or otherwise adversely affect the health of persons. If DEQ concludes that the City of Troutdale's UICs endanger groundwater or violate the prohibition of fluid movement standard, then the City of Troutdale must retrofit or decommission the UICs. Endangerment of groundwater and violation of the prohibition of fluid movement standard are evaluated on the basis of:

- The Groundwater Protectiveness Demonstrations prepared by the City of Portland (City of Portland BES, 2008b) and City of Gresham (GSI, 2011c).
- Groundwater quality data downgradient of other cities' UIC areas (DEQ, 2001; DEQ, 2015a; DEQ, 2015b; DEQ, 2015c).

Pollutant fate and transport modeling indicates that stormwater pollutants will not reach groundwater. The modeling is supported by groundwater quality data downgradient of cities with a high density of UICs. Therefore, the City of Troutdale's UICs do not endanger groundwater or violate the prohibition of fluid movement standard.

The following permit conditions are designed to protect groundwater to its highest beneficial use, and to meet or exceed the minimum requirements for Class V stormwater UICs in the federal UIC rules:

- The permit only authorizes injection of stormwater runoff and incidental fluids, and does not authorize prohibited Class V UICs (e.g., cesspools, motor vehicle waste disposal wells, floor drains, agricultural drainage wells, and industrial process water disposal wells)<sup>16</sup>. These prohibited UICs must be closed. The City of Troutdale does not own or operate any of these prohibited UICs.
- Structural and operational best management practices must be implemented at sites that are authorized under this permit<sup>17</sup>. For example, hazardous material storage or handling areas must be segregated from stormwater run-off and run-on, the permittee must identify UICs that potentially receive drainage from areas where pollutants may be carried in stormwater, and UICs must be properly constructed and maintained.
- In accordance with federal rules and state rules, the permit prohibits operation of UICs in a manner that violates drinking water regulations under the Safe Drinking Water Act. The permit sets conditions for horizontal setbacks from domestic, irrigation, industrial, and public water wells, which is more protective than federal UIC rules because the federal rules do not require setbacks for Class V stormwater UICs. If a UIC does not meet a horizontal setback, then the applicant must demonstrate that the discharge does not endanger groundwater supplies as defined in 42 USC 300h(d)(2) or violate the prohibition of fluid movement standard as defined in 40 CFR 144.12, retrofit the UIC with additional protection controls, or decommission the UIC<sup>18</sup>. A

<sup>13</sup> OAR 340-040-0108

<sup>14</sup> 42 USC 300h(d)(2) and 40 CFR 144.12

<sup>15</sup> OAR 340-044-0014(1)

<sup>16</sup> See Schedule A, condition 1, and Schedule B, condition 1.a.vi

<sup>17</sup> See Schedule A, condition 7

<sup>18</sup> See Schedule A, condition 8

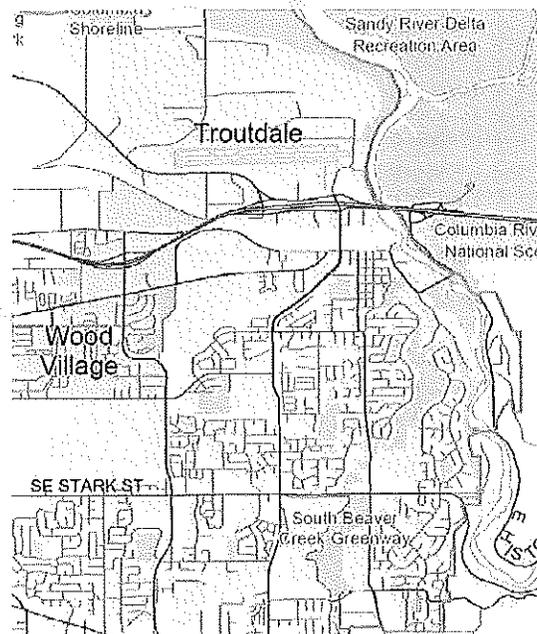
minimum vertical separation distance between the bottom of a UIC and seasonal high groundwater is not stipulated in the permit because there is no requirement for minimum vertical separation distance in the federal UIC rules (40 CFR 144) or state of Oregon UIC rules (OAR 340-044).

- The applicant has prepared a comprehensive System-Wide Assessment that identifies UICs that do not have minimum setbacks or that are prohibited UICs<sup>19</sup>. The permit provides a schedule for addressing these UICs<sup>20</sup>.
- The permit establishes requirements for managing the permittee's UIC system, that includes robust pollution prevention, inspection, maintenance, employee education, and good housekeeping practices<sup>21</sup>.
- The permit requires stormwater quality monitoring at UICs, reporting of stormwater monitoring data, and sets pollutant-specific concentration limits in stormwater (i.e., action levels). If an action level is exceeded, then the permittee is required to take corrective action<sup>22</sup>. This is more protective than the federal UIC rules which do not require stormwater monitoring or stipulate action levels for Class V stormwater UICs.

## Area Permit Coverage

The Safe Drinking Water Act allows area permit<sup>23</sup> coverage, meaning that a permit authorizes UICs on an area basis, rather than for each UIC individually. This permit authorizes UICs owned by the City of Troutdale within the City's jurisdictional boundary. Figure 2 is a map showing the jurisdictional boundary of the City of Troutdale from Metro (2015).

*Figure 2. City of Troutdale Jurisdictional Boundary. Pink indicates the city's jurisdictional boundary. From Metro (2015).*



<sup>19</sup> See Schedule B, condition 1

<sup>20</sup> See Schedule A, condition 8 (UICs that do not have minimum setbacks) and Schedule C (prohibited UICs)

<sup>21</sup> See Schedule D, condition 4

<sup>22</sup> See Schedule A, conditions 3 and 6

<sup>23</sup> Safe Drinking Water Act federal regulation, 40 CFR 144.33

Under area permit coverage, the permittee may construct, operate, maintain, convert, or plug and abandon underground injection systems covered under the permit, provided they meet conditions of the permit. If DEQ determines that the permittee is not in compliance with the permit, we may modify or terminate the permit, or require the applicant to take corrective actions to protect groundwater quality. We may also take enforcement action up to and including civil penalty in the event the permittee does not comply.

## Permit Conditions

The UIC WPCF permit allows the permittee to construct and operate injection systems which might not otherwise qualify for authorization by rule as well as injection systems that do qualify for authorization by rule. It also allows the permittee to continue to operate and maintain injection systems that meet the conditions and action levels set in the permit.

The UIC WPCF permit is effective for 10 years from the date DEQ issues it, unless DEQ modifies, terminates, revokes, or reissues the permit, or unless the permittee requests permit termination and we grant it. The permittee must maintain permit coverage and renew the permit as long as the permittee operates underground injection systems that do not meet authorization by rule conditions.

The remainder of this permit evaluation report annotates the permit conditions.

### SCHEDULE A CONTROL AND LIMITATION CONDITIONS

#### 1. Authorized Discharges.

Condition 1 identifies which fluids can be discharged into UICs. Most authorized discharges align with those allowed by the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System permit (that is, under what is called an *MS4 permit*). We may approve other similar temporary discharges after we've issued the permit, provided the permittee shows us in writing that the discharge is *de minimis* and complies with OAR 340-040-0020(3) (which states that groundwater must be protected to its highest beneficial use, which is usually drinking water), and the permittee obtains written approval from us prior to discharge.

#### 2. Action Levels.

Condition 2, Table 1 establishes action levels for discharges to UICs and the laboratory methods for analyzing pollutant concentrations in stormwater. Schedule B, condition 2 of this Permit Fact Sheet discusses the rationale for selecting the pollutants in Table 1 and determining the action levels.

#### 3. Table 1 Action Level Exceedance.

Condition 3 tells the permittee what actions to take when pollutant concentrations in stormwater exceed an action level.

#### 4. Spills.

Spills of hazardous substances, toxic materials, or petroleum products must be addressed in accordance with the emergency actions in Oregon spill rules (OAR-340-142). Because spills potentially endanger human health or the environment, it is also necessary to take corrective action in accordance with Schedule A, condition 5.

### **5.&6. Corrective Action.**

Both the federal and state rules require the permittee to take corrective action when contaminant discharges could potentially endanger human health or the environment. Condition 5 identifies corrective actions when there is an imminent endangerment to human health or the environment. An example of an imminent endangerment is a spill of a hazardous material, toxic substance, or petroleum product of sufficient quantity to adversely affect groundwater quality or into an injection system within any drinking water well setback area. Condition 6 identifies corrective actions when a Table 1 action level is exceeded, which may indicate that groundwater is endangered by a UIC.

### **7. Source Control Measures and Best Management Practices.**

Source controls or best management practices must be used to treat stormwater prior to discharge to the subsurface. This permit condition meets DEQ's policy to minimize groundwater quality degradation from point sources by using the highest and best practicable methods to prevent the movement of pollutants to groundwater<sup>24</sup>. For example, vegetated planters and swales installed upstream of UICs reduce suspended sediment concentrations in stormwater, thereby reducing the concentrations of pollutants that sorb to the sediment (in particular, metals and polycyclic aromatic hydrocarbons). DEQ's *Industrial Stormwater Best Management Practices Manual* (Jurries and Ratliff, 2013)<sup>25</sup> and EPA (2015)<sup>26</sup> provide examples of acceptable best management practices.

### **8. Underground Injection Systems - Horizontal Setbacks.**

The state UIC rules for rule authorization presume that stormwater injection systems located within horizontal water well setbacks could pose a health risk to persons<sup>27</sup>. Condition 8 applies to stormwater UICs that the permittee knows of at the time we issue the permit. The condition also applies to existing stormwater UICs that the permittee discovers after the permit is issued, and new stormwater UICs that the permittee installs after the permit is issued. Therefore, this condition ensures that additional injection wells covered under this permit will not endanger groundwater wells. If a new water well is installed within a setback area in the future, then the permittee must demonstrate the stormwater UIC will not cause an endangerment condition, or violate the prohibition of fluid movement standard, or must decommission the UIC.

The City has met the requirement to submit a protectiveness demonstration based on the several studies that have determined the vertical and horizontal separation distances that are necessary to prevent endangerment of groundwater and violation of the prohibition of fluid movement standard in the Catastrophic Flood Deposits and Troutdale Gravel. The City of Portland (City of Portland BES, 2008b) and City of Gresham (GSI, 2011c) have demonstrated that pollutants attenuate to below detection within five feet of vertical transport through soils. The City of Portland (GSI, 2012) has demonstrated that pollutants attenuate to below detection within 275 feet of horizontal transport through soils, and the City of Gresham (GSI, 2013f) has demonstrated that pollutants attenuate to below detection within 335 feet of horizontal transport through soils. Therefore, UICs in the Catastrophic Flood Deposits and Troutdale Gravel do not endanger groundwater or violate the prohibition of fluid movement standard as long as there are at least five feet of vertical separation distance between the bottom of the UIC and seasonal high groundwater, or 335 feet of horizontal separation distance between the UIC and a water well [the City of Gresham (2013f) determination of horizontal transport is used because the demonstration is more conservative].

<sup>24</sup> See OAR 340-040-0020(11)

<sup>25</sup> Available online at: <http://www.deq.state.or.us/wq/wqpermit/docs/IndBMP021413.pdf>

<sup>26</sup> Available online at: <http://water.epa.gov/polwaste/npdes/swbmp/PostConstruction-Stormwater-Management-in-New-Development-and-Redevelopment.cfm>

<sup>27</sup> OAR 340-044-0018(3)(a)(D) and OAR 340-044-0018(3)(a)(E)

## SCHEDULE B MONITORING AND REPORTING CONDITIONS

### 1. System-Wide Assessment.

The permittee is required to submit a System-Wide Assessment to track its UIC system and identify UICs that do not meet permit conditions.

### 2. Stormwater Quality Monitoring.

Neither the Safe Drinking Water Act nor the Oregon UIC rules for permits require stormwater quality monitoring. However, DEQ requires stormwater quality monitoring under the permit to verify that source controls and best management practices mandated by the permit are sufficient to prevent endangerment of groundwater and violation of the prohibition of fluid movement standard. DEQ determined stormwater monitoring requirements using a science-based approach.

The first step in developing stormwater monitoring requirements is to identify the pollutants that the permittee needs to monitor. The City of Troutdale is required to monitor the pollutants in Table 1 of the permit because:

- Municipal stormwater quality data from UICs indicate that four pollutants exceed MCLs in at least one percent of samples—di(2-ethylhexyl)phthalate (6.2%), total lead (12.2%), pentachlorophenol (13.7%), and benzo(a)pyrene (0.83%) (see Appendix A). Because these pollutants exceed EPA MCLs in at least 1% of samples, DEQ requires that The City of Troutdale monitor for these pollutants in stormwater.
- Copper and zinc are used in automobile brakes, and the copper and zinc are released to the environment as the brake pads wear. These pollutants are detected in 99.3% (copper) and 99.9% (zinc) of municipal stormwater quality samples; therefore, DEQ requires that The City of Troutdale monitor for these pollutants in stormwater.

The second step in determining stormwater monitoring requirements is to determine limits for pollutants in stormwater. Limits for pollutants in stormwater are not provided in the federal UIC rules because stormwater UICs are not mentioned in the Safe Drinking Water Act. In the absence of legal requirements, DEQ determined pollutant limits using a science-based approach and EPA guidance documents. The approach (science-based or guidance) depends on the pollutant in question:

- **Pentachlorophenol, lead, di-(2-ethylhexyl)phthalate, and benzo(a)pyrene.** For these pollutants, DEQ used a science-based approach to set pollutant limits. The approach is based on the fact that that pollutant concentrations are reduced as stormwater infiltrates into the ground. For example, volatile pollutants volatilize as stormwater cascades into the bottom of the UIC, pollutants that adhere to sediment settle in the UIC sump, pollutants that adhere to the remaining sediment particles are filtered out in soils around the UIC, bacteria in the soils consume the pollutants, pollutants sorb to soils around the UIC, and pollutants are dispersed by differential advection. City of Portland BES (2008b) and GSI (2011c) have taken these processes into account for the Catastrophic Flood Deposits and Troutdale Gravel geologic units (which is the unit in which the City of Troutdale's UICs are located), and calculated the pollutant concentrations that, if exceeded at the end-of-pipe where stormwater discharges into a UIC, may endanger groundwater. These concentrations are the limits in Table 1 for pentachlorophenol, lead, di(2-ethylhexyl)phthalate, and benzo(a)pyrene.

- **Zinc and copper.** For these pollutants, DEQ used EPA's guidance document *Technical Program Overview: Underground Injection Control Regulations* to set pollutant limits. This guidance is a non-legally binding document that provides recommendations for implementation of the UIC program (EPA, 2001). The document recommends that stormwater quality is monitored at the point of injection (i.e., where stormwater enters the UIC), and that MCLs be used to assess whether the Class V UICs potentially endanger groundwater. Because studies have not demonstrated that injection above MCLs does not endanger groundwater for these pollutants, DEQ is following this recommendation, and MCLs are the limit for zinc and copper in Table 1.

The final step in developing stormwater monitoring requirements is to determine which UICs should be sampled. DEQ requires that the City of Troutdale monitor stormwater quality at the site in Table 2 because this UIC is the closest UIC the City owns to a water well. The City is required to sample one of its UICs to align the sampling requirements with the sampling requirements under the UIC General Permit (which requires that the applicant sample stormwater from 1 or 5 percent of its UICs, whichever is greater).

Pollutant concentrations are highest in early season rains because pollutants have accumulated on impervious surfaces during the dry season. Therefore, the permit conservatively requires that the City of Troutdale collect stormwater samples at the onset of wet conditions (September through December).

The purpose of stormwater monitoring is to determine whether the source controls and best management practices required by the permit are sufficient to prevent endangerment of groundwater. Therefore, the City of Troutdale may discontinue stormwater quality monitoring at a facility if the City of Troutdale can demonstrate that the pollutant concentrations are below the action levels in Table 1 (see Schedule B, condition 2.e). As a condition of eliminating stormwater monitoring, the City of Troutdale must certify in the annual report that there have been no changes to site conditions that could potentially change stormwater quality. Conditions that potentially change stormwater quality include, but are not limited to, a parking lot or store expansion, addition of a tenant that may increase the pollutant load to a UIC (for example, automotive supply retailer), or significant change to source controls. DEQ may require that the permittee resume sampling at any time in accordance with Schedule A, condition 7.

### 3. Groundwater Monitoring.

Based on DEQ's technical review of the fate and transport of common stormwater pollutants<sup>28</sup> and existing groundwater quality data<sup>29</sup>, DEQ determined that no groundwater monitoring is required at this time. It is DEQ's policy that the injection of wastes to the subsurface shall be controlled in a manner that protects existing groundwater quality for current or potential use as an underground source of drinking water (see OAR 340-044-0010). In order to implement this policy, we may require that the permittee collect groundwater samples to evaluate impacts to an underground source of drinking water from stormwater infiltration, if there is a likely endangerment to the underground source of drinking water [see 42 USC 300h(d)(2)], or the prohibition of fluid movement standard is violated (see 40 CFR 144.12). The Groundwater Protection Rules (OAR 340-040) give DEQ the authority to require groundwater monitoring, and we have included this condition in the permit so that it is clear that DEQ has this authority under the permit as well.

<sup>28</sup> Portland (City of Portland BES, 2008b); Bend (GSI, 2011a); Clackamas County WES (GSI, 2011b); Gresham (GSI, 2011c); Redmond (GSI, 2011d); Eugene (GSI, 2013a); Lane County (GSI, 2013b); Milwaukie (GSI, 2013c); Canby (GSI, 2013d); Keizer (GSI, 2013e).

<sup>29</sup> See DEQ (2001), DEQ (2015a), DEQ (2015b), DEQ (2015c), and DEQ (in press).

#### 4. Annual Reporting.

This permit condition identifies the information that must be included in the permittee's annual Underground Injection Control System Report. The form for the annual report is available at: <http://www.deq.state.or.us/wq/uic/guidance.htm>.

#### 5. Decommissioning an Underground Injection System.

Oregon Administrative Rules (OAR) 340-044-0040 contain requirements for decommissioning UICs. DEQ has prepared a fact sheet that discusses these requirements, available online at: <http://www.deq.state.or.us/wq/uic/guidance.htm> (click on "Closure of an Injection System").

#### 6. Summary of Submittals & Notifications.

Table 3 summarizes the submittal and notification requirements under this UIC permit.

### SCHEDULE C SAFE DRINKING WATER ACT COMPLIANCE SCHEDULE

A UIC permit may, when appropriate, specify a compliance schedule leading to compliance with the Safe Drinking Water Act as expressed in 40 CFR 144.53. Underground injection control systems that endanger human health typically will be subject to the federal corrective action requirements of 40 CFR 144.53. Other conditions that would meet a federal compliance schedule condition under the Safe Drinking Water Act are permit-specific and we will evaluate them on a case-by-case basis as we issue permits.

The permittee's UIC permit does not require a Safe Drinking Water Act compliance schedule (see 40 CFR 144.53) because the permittee does not own any injection systems known to violate the Safe Drinking Water Act, state or federal underground injection control rules or regulations, or state groundwater quality protection rules.

### SCHEDULE D SPECIAL CONDITIONS

#### 1. Permittee Personnel Responsible for Permit.

The permittee must identify the key positions and the names, titles, mailing addresses, email addresses, phone numbers, business section where the employees work and responsibilities of persons in those positions. The permittee must submit, in writing, timely updates to key personnel or personnel responsibility.

#### 2. Reporting and Corrective Actions for Underground Injection Systems Prohibited by OAR 340-044-0015.

Prohibited underground injection systems are identified in OAR 340-044-0015. Under no circumstance are discharges allowed into prohibited UICs. Examples of prohibited UICs are UICs that receive wastes from vehicle repair or maintenance activities.

Federal law (40 CFR 144.85) required prohibited underground injection systems to have been closed by April 2005. We recognize that some prohibited underground injection systems might still be in operation. This condition specifies the reporting and corrective actions the permittee must take if they discover a prohibited injection system *they own*. Operating a prohibited injection system is a Class I violation subject to enforcement action under OAR 340-012-0055(1)(p) and ORS 468.B.025(a). Although we do

not intend to take enforcement action if the permittee complies with the requirements of this condition, the permittee must orally report prohibited injection systems to DEQ within 24 hours of discovery, and immediately implement the condition requirements, which include temporarily diverting discharges to the UIC within 5 days and permanently closing the UIC as soon as practicable.

**3. Underground Injection Systems Discovered After the Permit is Issued.**

For any injection system discovered after the permit is issued, you must update or submit an addendum to your System-Wide Assessment within 60 days of discovering an existing UIC, or prior to installation of a new UIC. The reason for this requirement is that DEQ considers the effects of additional UICs that are authorized under the permit. If DEQ determines that additional UICs endanger groundwater, then the UICs must be removed or modified (if the UIC is existing) or must not be constructed (if the UIC is new).

**4. Underground Injection Control System Management.**

This permit condition specifies the minimum requirements for UIC system management.

**5. Adaptive Management.**

This condition requires that the permittee use an adaptive management strategy to evaluate and refine the approach for protecting groundwater and its beneficial uses, including application of best management practices.

**6. Permit Shield.**

Compliance with this permit constitutes compliance, for purposes of enforcement, with the UIC provisions of the federal Safe Drinking Water Act, implementing federal regulations, and OAR chapter 340, divisions 040 and 044.

**7. Legal Authority.**

The permittee needs to adopt and maintain the legal authority to implement and enforce permit conditions and provisions.

**SCHEDULE E  
PRETREATMENT CONDITIONS**

*Not applicable to this permit.*

**SCHEDULE F  
GENERAL CONDITIONS**

Schedule F contains standard conditions that are required by the Safe Drinking Water Act and the EPA.

# Appendix A

Stormwater quality data from UICs that drain stormwater from streets is provided in Table A-1. The samples were collected by UIC owners to meet sampling requirements under their UIC WPCF permits. If a pollutant was not detected in a sample and the detection limit exceeded the Maximum Contaminant Level (MCL), then the sample was excluded from analysis because DEQ could not determine if pollutant concentrations exceeded the MCL.

*Table A-1. Pollutant Concentrations in Municipal Stormwater<sup>30</sup>.*

Pollutant	MCL (ug/L)	Number of Samples	Percent of Samples Exceeding MCL
Pentachlorophenol	1	1,440	13.7%
Lead	15	1,447	12.2%
DEHP	6	1,447	6.2%
Benzo(a)pyrene	0.2	1,445	0.83%
Zinc (Total)	5,000	1,447	0.14%
Benzene	5	1,025	0.10%
Arsenic (Total)	10	1,273	0.08%
Chromium (Total)	100	1,273	0.0%
Nitrate-Nitrite	10,000	1,233	0.0%
Barium (Total)	2,000	315	0.0%
Cadmium (Total)	5	1,273	0.0%
Copper (Total)	1,300	1,447	0.0%
Antimony (Total)	6	397	0.0%
Thallium (Total)	2	75	0.0%
Beryllium (Total)	4	95	0.0%
Cyanide (Total)	200	75	0.0%
Mercury (Inorganic)	2	341	0.0%
Selenium (Total)	50	79	0.0%
Toluene	1,000	1,025	0.0%
Ethylbenzene	700	1,025	0.0%
Xylenes, total	10,000	1,025	0.0%
2,4-D	70	1,362	0.0%
Picloram	500	1,358	0.0%
Dinoseb	7	1,358	0.0%
Chlorobenzene	100	995	0.0%
Carbon Tetrachloride	5	995	0.0%
o-Dichlorobenzene	600	995	0.0%
p-Dichlorobenzene	75	995	0.0%
1,3-Dichlorobenzene	5.5	995	0.0%
1,2,4-Trichlorobenzene	70	995	0.0%
Alachlor	2	106	0.0%
Atrazine	3	106	0.0%
Carbofuran	40	106	0.0%
Lindane	0.2	106	0.0%

<sup>30</sup> Data from City of Bend (2014, 2015), City of Canby (2015), City of Eugene (2014, 2015), City of Gresham (2013, 2014, 2015), City of Keizer (2014, 2015), City of Portland BES (2006, 2007, 2008a, 2009, 2010, 2011, 2012, 2013, 2014, 2015), City of Redmond (2014), Clackamas County (2015), and Multnomah County (2015).

Permit Fact Sheet

Glyphosate	700	83	0.0%
Chlordane	2	45	0.0%
Dalapon	200	111	0.0%
Bis(2-chloroisopropyl)ether	0.8	45	0.0%
Bis(2-chloroethyl)ether	0.3	45	0.0%
Diquat	20	75	0.0%
Endothall	100	75	0.0%
2,4,5-TP	50	90	0.0%

Note:

MCL = Maximum Contaminant Level

ug/L = micrograms per liter

PUBLIC NOTICE DRAFT

# References

City of Bend, 2014. 2013-2014 Annual Report, Stormwater UIC WPCF Permit No. 103052. Prepared by: City of Bend. Submitted to: Oregon DEQ. October 28.

City of Bend, 2015. 2014-2015 Annual Report, Stormwater UIC WPCF Permit No. 103052. Prepared by: City of Bend. Submitted to: Oregon DEQ. October 29.

City of Canby, 2015. City of Canby Annual Underground Injection Control Report. Prepared by: Curran McLeod Engineers. Submitted to: DEQ. November 24.

City of Eugene, 2014. Underground Injection Control System Annual Report. Permit Year 2 (July 1, 2013—June 30, 2014). Prepared by: City of Eugene. Submitted to: Oregon DEQ. December 30.

City of Eugene, 2015. Underground Injection Control System Annual Report. Permit Year 3 (July 2014—June 30, 2015). Prepared by City of Eugene. Submitted to: Oregon DEQ. December 30.

City of Gresham, 2013. WPCF Permit Annual Compliance Report—Permit Year 1. Prepared by: City of Gresham. Submitted to: Oregon DEQ. December 31.

City of Gresham, 2014. WPCF Permit Annual Compliance Report—Permit Year 2. Prepared by: City of Gresham. Submitted to: Oregon DEQ. December.

City of Gresham, 2015. WPCF Permit Annual Compliance Report—Permit Year 3. Prepared by: City of Gresham. Submitted to: Oregon DEQ. December.

City of Keizer, 2014. Annual Report, Permit Year 2013/2014, Class V WPCF Permit 103068. Prepared by: City of Keizer. Submitted to: Oregon DEQ. December.

City of Keizer, 2015. Annual Report, Permit Year 2014/2015, Class V WPCF Permit 103068. Prepared by: City of Keizer. Submitted to: Oregon DEQ. December.

City of Portland BES, 2006. Annual Stormwater Discharge Monitoring Report—Year 1 (October 2005 – May 2006). Prepared by: City of Portland. Submitted to: Oregon DEQ. July.

City of Portland BES, 2007. Annual Stormwater Discharge Monitoring Report—Year 2 (October 2006 – May 2007). Prepared by: City of Portland. Submitted to: Oregon DEQ, July.

City of Portland BES, 2008a. Annual Stormwater Discharge Monitoring Report—Year 3 (October 2007 – May 2008). Prepared by: City of Portland. Submitted to: Oregon DEQ, July.

City of Portland BES, 2008b. Decision making framework for groundwater protectiveness demonstration, underground injection control system evaluation and response.

City of Portland BES, 2009. Annual Stormwater Discharge Monitoring Report—Year 4 (October 2008 – May 2009). Prepared by: City of Portland. Submitted to: Oregon DEQ, July.

City of Portland BES, 2010. Annual Stormwater Discharge Monitoring Report—Year 5 (October 2009 – May 2010). Prepared by: City of Portland. Submitted to: Oregon DEQ, July.

Permit Fact Sheet

City of Portland BES, 2011. Annual Stormwater Discharge Monitoring Report—Year 6 (October 2010—May 2011). Prepared by: City of Portland. Submitted to: Oregon DEQ, July.

City of Portland BES, 2012. Annual Stormwater Discharge Monitoring Report—Year 7 (October 2011—May 2012). Prepared by: City of Portland. Submitted to: Oregon DEQ, November.

City of Portland BES, 2013. Annual Stormwater Discharge Monitoring Report—Year 8, Fiscal Year 2012 – 2013 (July 1, 2012 – June 30, 2013). Prepared by: City of Portland. Submitted to: DEQ, November.

City of Portland BES, 2014. Annual Stormwater Discharge Monitoring Report—Year 9, October 1, 2013—June 30, 2014. Prepared by: City of Portland. Submitted to: Oregon DEQ, November 1.

City of Portland BES, 2015. Annual Stormwater Discharge Monitoring Report—Year 10, October 2014–May 2015. Prepared by: City of Portland. Submitted to Oregon DEQ, November.

City of Redmond, 2014. 2013 Underground Injection Control System Report. Prepared by: City of Redmond. Submitted to: DEQ. May.

City of Redmond, 2015. 2014 Underground Injection Control System Report. Prepared by: City of Redmond. Submitted to: DEQ. May.

City of Troutdale, 2016. Troutdale Individual UIC Permit, updated System-Wide Assessment. Prepared by: City of Troutdale. Submitted to: DEQ. May 12.

Clackamas County, 2015. Annual Report for the WPCF Permit for Class V Stormwater Underground Injection Control Systems (Permit # 103059). Prepared by: Clackamas County. Submitted to: DEQ. December.

DEQ, 2001. Eugene Area Wide Initial Groundwater Investigation Summary Report. Prepared by: DEQ. April 23.

DEQ, 2015a. Permit Evaluation Report—City of Portland Class V Underground Injection Control Systems, Water Pollution Control Facilities Permit No. 102830.

DEQ, 2015b. Permit Evaluation Report—City of Hermiston Class V Underground Injection Control Systems, Water Pollution Control Facilities Permit No. 103126.

DEQ, 2015c. Permit Evaluation Report—City of Umatilla Class V Underground Injection Control Systems, Water Pollution Control Facilities Permit No. 103110.

DEQ, in press. Permit Evaluation Report—Fred Meyer Stores, Inc. Class V Underground Injection Control Systems, Water Pollution Control Facilities Permit No. XXXXXX.

EPA, 2001. Technical Program Overview: Underground Injection Control Regulations. 87 pg.

EPA, 2015. Post-Construction Stormwater Management in New Development and Redevelopment. Accessed by DEQ on 19 June 2015. Available online at:

<http://water.epa.gov/polwaste/npdes/swbmp/PostConstruction-Stormwater-Management-in-New-Development-and-Redevelopment.cfm>

Permit Fact Sheet

GSI, 2011a. Technical Memorandum, Pollutant Fate and Transport Model Results in Support of the City of Bend UIC WPCF Permit – Groundwater Protectiveness Demonstration and Proposed EDLs, Prepared for: City of Bend

GSI, 2011b. Technical Memorandum, Pollutant Fate and Transport Model Results in Support of Clackamas County WES' UIC WPCF Permit – Groundwater Protectiveness Demonstration and Proposed EDLs, prepared for: Clackamas County WES

GSI, 2011c. Technical Memorandum, Pollutant Fate and Transport Model Results in Support of the City of Gresham UIC WPCF Permit – Proposed EDLs, prepared for: City of Gresham, Oregon

GSI, 2011d. Technical Memorandum, Pollutant Fate and Transport Model Results in Support of the City of Redmond UIC WPCF Permit – Groundwater Protectiveness Demonstration and Proposed EDLs, prepared for: City of Redmond, Oregon

GSI, 2012. Determination of Waste Management Areas at Wet Feet UICs by Numerical Simulation of Pollutant Fate and Transport. Prepared for: City of Portland BES, May 22.

GSI, 2013a. Groundwater Protectiveness Demonstrations, prepared for: City of Eugene, Oregon

GSI, 2013b. Groundwater Protectiveness Demonstrations, prepared for: Lane County, Oregon

GSI, 2013c. Unsaturated Zone Groundwater Protectiveness Demonstration, prepared for: City of Milwaukie, Oregon

GSI, 2013d. Groundwater Protectiveness Demonstrations and Risk Prioritization for Underground Injection Control (UIC) Devices, City of Canby, Oregon, prepared for: City of Canby, Oregon

GSI, 2013e. Groundwater Protectiveness Demonstrations and Risk Prioritization for Underground Injection Control (UIC) Devices, City of Keizer, Oregon, prepared for: City of Keizer

GSI, 2013f. Phase I UIC Evaluation. Prepared for: City of Gresham. January.

Jurries, D., and K. Ratliff, 2013. Industrial Stormwater Best Management Practices Manual. February. Available online at: <http://www.deq.state.or.us/wq/wqpermit/docs/IndBMP021413.pdf>.

Kennedy-Jenks, 2009. Compilation and evaluation of existing stormwater quality data from Oregon, prepared for the Oregon Association of Clean Water Agencies

Kennedy/Jenks, 2011. Effects of structural best management practices on stormwater quality in central Oregon, prepared for the City of Bend

Ma, L., Madin, I. P., Duplantis, S., and K. J. Williams, 2012. Lidar-based surficial geologic map and database of the greater Portland area, Clackamas, Columbia, Marion, Multnomah, Washington, and Yamhill Counties, Oregon, and Clark County, Washington. 34 pp.

Metro, 2015. Portland Metropolitan Area Jurisdictional Boundaries. September 8. Available online at: [http://www.oregonmetro.gov/sites/default/files/2015\\_jurisdictional\\_boundaries\\_map\\_regional.pdf](http://www.oregonmetro.gov/sites/default/files/2015_jurisdictional_boundaries_map_regional.pdf)

Permit Fact Sheet

Multnomah County, 2015. Underground Injection Control Permit Annual Report 2015. Prepared by: Multnomah County. Submitted to: DEQ. December 8.

Spromberg, J. A., Baldwin, D. H., Damm, S. E., McIntyre, J. K., Huff, M., Sloan, C. A., Anulacion, B. F., Davis, J. W. and N. L. Scholz. 2015. Coho salmon spawner mortality in western US urban watersheds: bioinfiltration prevents lethal storm water impacts, Journal of Applied Ecology.

Swanson, R. D., McFarland, W. D., Gonthier, J. B., and J. M. Wilkinson, 1993. A description of hydrogeologic units in the Portland Basin, Oregon and Washington. U.S. Geological Survey Water Resources Investigations Report 90-4196, 64 pp.

TriMet, 2015. 2015 Annual Underground Injection Control System Report. Prepared by: TriMet. Submitted to: DEQ. July

PUBLIC NOTICE DRAFT



# CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

May 12, 2016

## PUBLIC WORKS DEPARTMENT

Department Management

Engineering

Environmental Services

Equipment Maintenance

Mapping Services

Parks Division

Streets Division

Wastewater Services

Water Division

Matthew Kohlbecker, RG  
UIC Senior Hydrogeologist  
DEQ Northwest Region  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-4100

**Re: Troutdale Individual UIC Permit, updated System-Wide Assessment  
Permit File No. 119829**

Dear Mr. Kohlbecker:

Per your email dated March 28, 2016, attached you will find an updated System-Wide Assessment as it relates to the City's March 2010 WPCF Individual Permit application. This information is intended to augment the previously provided application materials. For clarification, the City's application is to permit six drywells that are found to be within the Department of Human Services (DHS) approved 2-year time of travel of two different drinking water wells. All other drywells owned and operated by the City have been Rule Authorized and/or previously closed.

If you have any questions or comments about this submittal, please contact Amy Pepper, Civil Engineer at [amy.pepper@troutdaleoregon.gov](mailto:amy.pepper@troutdaleoregon.gov) or 503-674-7241.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A handwritten signature in black ink that reads "Steve Gaschler".

Steve Gaschler  
Public Works Director

CC: File

**SYSTEM-WIDE ASSESSMENT**

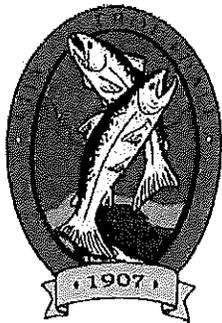
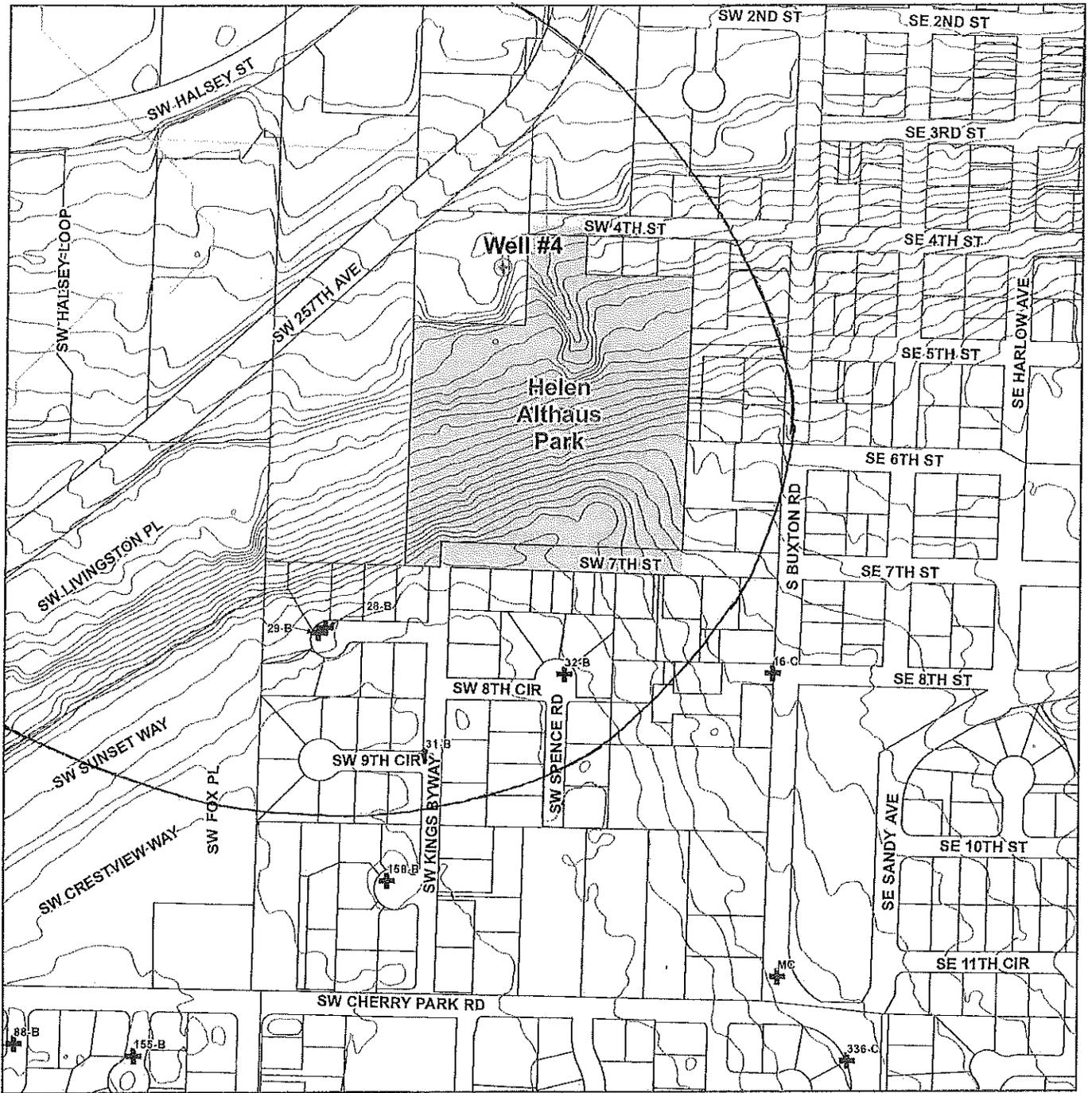
The following six UICs are found to be within the 2-year time of travel within the Department of Human Services (DHS) approved 2-year time of travel for two different public drinking water wells, owned and operated by the City. Below is a table listing those UICs to be included in the permit, including site specific information related to those UICs:

Drywell #	Latitude	Longitude	Depth to GW*	Depth of UIC	Vertical Separation between UIC & GW	Vehicle Trips	Well setbacks not met
C440	45.52157	-122.40949	67.47 ft	20 ft	47.47 ft	<1,000 trips	Well #2
C438	45.52143	-122.40844	65.55 ft	20 ft	45.55 ft	<1,000 trips	Well #2
B32	45.53573	-122.39048	66.58 ft	19 ft	47.58 ft	<1,000 trips	Well #4
B28	45.536	-122.39273	65.90 ft	18 ft	47.90 ft	<1,000 trips	Well #4
B29	45.53596	-122.39279	65.90 ft	15 ft	50.90 ft	<1,000 trips	Well #4
B31	45.53519	-122.39175	63.90 ft	18 ft	45.90 ft	<1,000 trips	Well #4

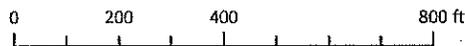
*\*Depth to seasonal high groundwater estimated based upon the USGS 2008-5059 "Estimated Depth to Groundwater and Configuration of the Water Table in the Portland, Oregon Area.*

The City does not own or operate in UICs prohibited by OAR 340-044-0015(2). All of the above drywells are located within residential neighborhoods and discharge stormwater from the public right-of-way in those areas.

The attached drywell maps show property boundaries, site features and adjacent streets. These maps were provided in Appendix A of the Preliminary Engineering Report/Facility Plan and have not been updated for this submittal. The only change is that drywell B212, shown on the first map, was closed in 2010 by the City as part of the City's Sedona Park Drywell Closure project.

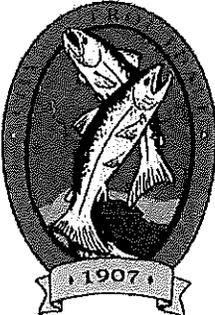
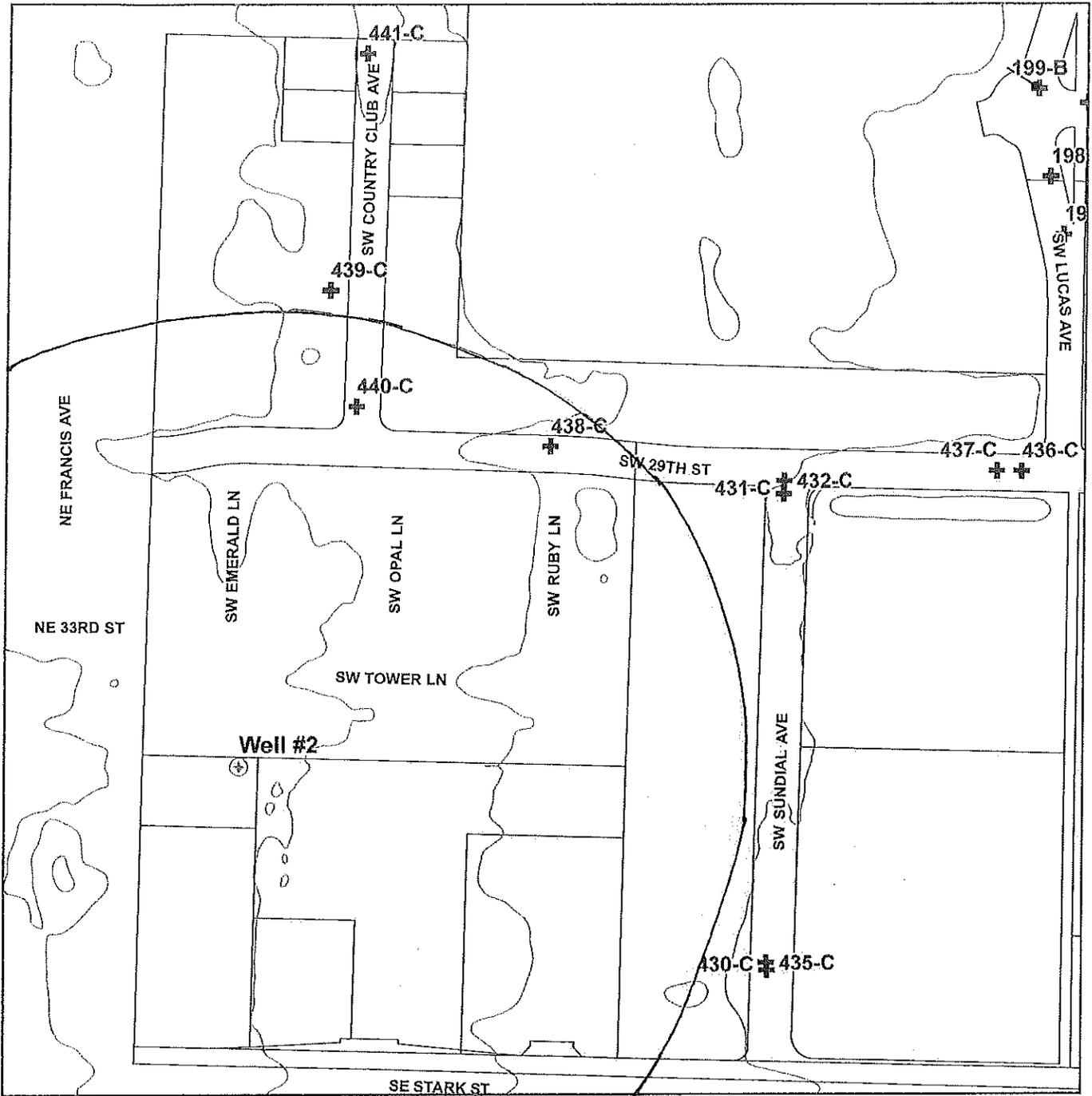


City of Troutdale  
Public Works  
**Drywell Map**  
June 2016



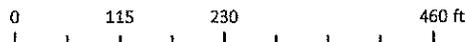
**LEGEND**

- Drywell
- Well
- Streams
- Contours 5 ft
- Taxlots
- Zoning**
- Open Space
- Residential
- Commercial
- 1/2" R.T.D.T



City of Troutdale  
Public Works  
**Drywell Map**

June 2016



**LEGEND**

- Drywell
- Well
- Streams
- Contours 5 ft
- Taxlots
- Zoning**
- Open Space
- Residential
- Commercial
- 2 Year Flood