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BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the matter of adopting a resolution)
establishing transportation system)
development charges within the unincorp-)
orated urban growth boundary area of the)
City of Silverton.)

RESOLUTION NO. 95-44R

This matter came before the Marion County Board of Commissioners at a public meeting on Oct. 25, 1995, to consider establishing transportation system development charges within the unincorporated urban growth boundary area of the City of Silverton; and

WHEREAS, ORS 223.297 through 223.314 authorize governmental units to establish transportation system development charges; and

WHEREAS, the City of Silverton has established system development charges for transportation capital facilities in compliance with all of the requirements of ORS Chapter 223; and

WHEREAS, the methodology used by the City of Silverton considers the needs of the unincorporated area within the urban growth boundary abutting the city; and

WHEREAS, revenues from the system development charges shall be used for development and expansion of transportation capital facilities to serve the growth related needs in the unincorporated area within the urban growth boundary adjacent to the City of Silverton; and

1 WHEREAS, the Board of Commissioners has determined that
2 it is in the public interest to provide transportation
3 capital facilities through the use of system development
4 charges; now, therefore,

5 BE IT RESOLVED as follows:

6 SECTION ONE: Purpose. This resolution authorizes the
7 collection of transportation system development charges
8 in the unincorporated urban growth boundary area adjacent
9 to the City of Silverton.

10 SECTION TWO: Rates of Charges. The County shall
11 collect transportation system development charges at the
12 rates adopted by the enabling legislation of the City of
13 Silverton, Resolution No. 94-39, dated October 3, 1994.

14 SECTION THREE: Applicability and Collection.

15 (A) Transportation system development charges
16 calculated in accordance with the enabling legislation of
17 the City of Silverton shall be collected as outlined in
18 said legislation on new development within the urban
19 growth boundary.

20 (B) Transportation system development charges
21 shall be collected and paid in full upon application for
22 a building permit.

23 SECTION FOUR: Credits for Developer Contributions of
24 Qualified Public Improvements. The County may grant a
25 credit against the improvement fee component of transpor-
26 tation system development charges imposed pursuant to

2 RESOLUTION NO. 95-44R

1 Section Three for the donation of land for, or construc-
2 tion of, any qualified public improvements.

3 (A) A qualified public improvement is land or a
4 capital facility which is:

5 (1) Required as a condition of development
6 approval; and

7 (2) Identified in the capital improvement
8 plan adopted pursuant to Section Five (D); and either

9 (3)(a) Not located on or contiguous to
10 property that is the subject of development
11 approval, or

12 (3)(b) Located in whole or in part on or
13 contiguous to property that is the subject of
14 development approval and required to be built
15 larger or with greater capacity than is
16 necessary for the particular development
17 project to which the improvement fee is
18 related.

19 (B) Prior to issuance of a building permit, the
20 applicant shall submit to the county a proposed plan and
21 estimate of cost for contributions of qualified public
22 improvements. The proposed plan and estimate shall in-
23 clude:
24

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1 (1) a designation of the development for
2 which the proposed plan is being submitted;

3 (2) a legal description of any land proposed
4 to be donated and a written appraisal prepared in
5 conformity with Section Four (C) (1);

6 (3) a list of the contemplated capital
7 improvements contained within the plan;

8 (4) an estimate of proposed construction
9 costs certified by a professional architect or engineer;

10 (5) an estimate of proposed construction
11 costs certified a professional architect or engineer;

12 and

13 (6) a proposed time schedule for completion
14 of the proposed plan.

15 (C) The credit provided for construction of a
16 qualified public improvement shall be only for the cost
17 of that portion of such improvement that exceeds the
18 minimum standard facility size or capacity needed to
19 serve the particular development project or property.
20 The applicant shall have the burden of demonstrating that
21 a particular improvement qualifies for credit. The
22 amount of credit shall be determined according to the
23 following standards of valuation:

24 (1) The value of donated lands shall be
25 based upon a written appraisal of fair market value by a
26 qualified and professional appraiser based upon

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1 comparable sales of similar property between
2 unrelated parties in a bargaining transaction; and

3 (2) The cost of anticipated construction of
4 qualified public improvements shall be based upon costs
5 estimates certified by a professional architect or engi-
6 neer.

7 (D) If a donation or constitution of a qualified
8 public improvement gives rise to a credit amount greater
9 than the amount of the transportation system development
10 charge that would otherwise be levied against the project
11 receiving development approval, the excess credit may be
12 applied against transportation system development charges
13 that accrue in subsequent phases of the original develop-
14 ment project. Any excess credit must be used not later
15 than ten years from the date the credit is given.

16 (E) The decision of the county as to whether to
17 accept the proposed plan of contribution shall be in
18 writing and issued within fifteen (15) working days of
19 the date all data is received for review. Notification
20 shall be provided to the applicant via regular mail.

21 (F) Any applicant who submits a proposed plan
22 pursuant to this Section and desires the immediate issu-
23 ance of a building permit shall pay the applicable trans-
24 portation system development charges. Said payment shall
25 be deemed paid under "protest" and shall not be construed
26 as a waiver of any review rights. Any difference between

1 the amount paid and the amount due, as determined by the
2 county, shall be refunded to the applicant. In no event
3 shall any refund under this sub-section exceed the amount
4 originally paid by the applicant.

5 SECTION FIVE: Receipt and Expenditure of System Develop-
6 opment Charges.

7 (A) Trust Accounts. The county hereby establish
8 es a separate trust account to be designated as the "City
9 of Silverton UGB Transportation SDC Account", which shall
10 be maintained separate and apart from all other accounts
11 of the county. All transportation system development
12 charge payments shall be deposited into the appropriate
13 trust account immediately upon receipt.

14 (B) Use of System Development Charges. The
15 monies deposited into the account designated as the "City
16 of Silverton UGB Transportation SDC Account" shall be
17 used solely for the purpose of providing capital improve-
18 ments which provide for the increased capacity necessi-
19 tated by development. Such expenditures may include, but
20 are not limited to:

- 21 (1) Design and construction plan prepara-
22 tion;
23 (2) Permitting and fees;
24 (3) Land and materials acquisition, includ-
25 ing any costs of acquisition or condemnation;
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- 1 (4) Construction of capital improvements;
- 2 (5) Design and construction of new drainage
- 3 facilities required by the construction of capital im-
- 4 provements and structures;
- 5 (6) Relocating utilities required by the
- 6 construction of improvements and structures;
- 7 (7) Landscaping;
- 8 (8) Construction management and inspection;
- 9 (9) Surveying, soils and material testing;
- 10 (10) Acquisition of capital equipment;
- 11 (11) Repayment of monies transferred or
- 12 borrowed from any budgetary fund of the county which were
- 13 used to fund any of the capital improvements as herein
- 14 provided;
- 15 (12) Payment of principal and interest,
- 16 necessary reserves and costs of issuance under any bonds
- 17 or other indebtedness issued by the county to fund capi-
- 18 tal improvements;
- 19 (13) Direct costs of complying with the
- 20 provisions of ORS 223.297 to 223.314, including the
- 21 consulting, legal, and administrative costs required for
- 22 developing and updating the transportation system devel-
- 23 opment charges methodology report, resolution/ordinance,
- 24 and capital improvements master plan; and the costs of
- 25 collecting and accounting for transportation system
- 26 development charges expenditures.

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(E) Investment of Trust Account Revenue. Any funds on deposit in transportation system development charges trust accounts which are not immediately necessary for expenditure shall be invested by the county. All income derived from such investments shall be deposited in the transportation system development charges trust accounts and used as provided herein.

(F) Refunds of Transportation System Development Charges. Transportation system development charges shall be refunded in accordance with the following requirements:

(1) An applicant or owner shall be eligible to apply for a refund if:

(a) The building permit has expired and the development authorized by such permit is not complete; or

(b) The transportation system development charges have not been expended or encumbered prior to the end of the fiscal year immediately following the tenth anniversary of the date upon which such charges were paid. For the purposes of this Section, transportation system development charges collected shall be deemed to be expended or encumbered on the basis of the first system transportation development charges in shall be the

1 first transportation system development
2 charges out.

3 (2) The application for refund shall be
4 filed with the county and contain the following:

5 (a) The name and address of the applicant;

6 (b) The location of the property which was
7 subject of the transportation system develop-
8 ment charges;

9 (c) A notarized sworn statement that the
10 petition is the then current owner of the
11 property on behalf of which the transporta-
12 tion system development charges were paid,
13 including proof of ownership, such as a
14 certified copy of the latest recorded deed;

15 (d) The date the transportation system
16 development charges were paid;

17 (e) A copy of the receipt of payment for the
18 transportation system development charges;
19 and, if appropriate; and

20 (f) The date the building permit was issued
21 and the date of expiration.

22 (3) The application shall be filed within
23 ninety (90) days of the expiration of the building per-
24 mit, or within (90) days of the end of the fiscal year
25 following the tenth anniversary of the date upon which
26 the transportation system development charges were paid.

1 Failure to timely apply for a refund of the transporta-
2 tion system development charges shall waive any right to
3 a refund.

4 (4) Within thirty (30) days from the date of
5 receipt of a petition for refund, the county will advise
6 the petitioner of the status of the request for refund,
7 and if such request is valid, the transportation system
8 development charges shall be returned to the petitioner.

9 (5) A building permit which is subsequently
10 issued for a development on the same property which was
11 the subject of a refund shall pay the transportation
12 systems development charges as required by this resolu-
13 tion.

14 (N) Annual Accounting Reports. The county shall
15 prepare an annual report accounting for transportation
16 system development charges, including the total amount of
17 transportation system development charges revenue col-
18 lected in the trust accounts, and the capital improvement
19 projects that were funded. A copy of the report shall be
20 sent to the City of Silverton.

21 (O) Challenge of Expenditures. Any citizen or
22 other interested person may challenge an expenditure of
23 transportation system development charges revenues.

24 (1) Such challenge shall be submitted, in
25 writing, to the county for review within two years fol-
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1 following the subject expenditure, and shall include the
2 following information:

3 (a) The name and address of the citizen or
4 other interested person challenging the
5 expenditure;

6 (b) The amount of expenditure, the project,
7 payee or purpose, and the approximate date on
8 which it was made; and

9 (c) The reason why the expenditure is being
10 challenged.

11 (2) If the county determines that the expen-
12 diture was not made in accordance with the provisions of
13 this resolution and other relevant laws, a reimbursement
14 of transportation system development charges trust ac-
15 count revenues from other revenue sources shall be made
16 within one year following the determination that the
17 expenditures were not appropriate.

18 (3) The county shall make written notifica-
19 tion of the results of the expenditure review to the
20 citizen or other interested person who requested the
21 review within ten days of completion of the review.

22 SECTION SIX. Severability. If any clause, section or
23 provision of this resolution shall be declared unconsti-
24 tutional or invalid for any reason or cause, the remain-
25 ing portion of said resolution shall be in full force and
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1 effect and be valid as if such invalid portion thereof
2 had not been incorporated herein.

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6 SECTION SEVEN: Effective Date. This resolution shall
7 take effect on the 25th day of October, 1995.

8 DATED this 25th day of October, 1995.

9
10 MARION COUNTY BOARD OF COMMISSIONERS

11 [Signature]
12 Chair

13 [Signature]
14 Commissioner

15 [Signature]
16 Commissioner

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19 cc: Clerk
20 cc: Public Works
21 BOC

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