



## RESOLUTION 2008-049

### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH PORTLAND GENERAL ELECTRIC (PGE) REGARDING AN EFFORT TO REZONE PROPERTY OWNED BY PGE AND CONCEPT PLAN AN URBAN GROWTH AREA IN EXCHANGE FOR PGE DEDICATING REAL PROPERTY NECESSARY TO CONSTRUCT ADAMS AVENUE NORTH**

**WHEREAS**, Metro Ordinance 02-986A established a UGB expansion area, which includes taxlot 2s129b001800 and a portion of taxlot 2s129a001600, both owned by PGE; Title 11 of Metro's Urban Growth Management Functional Plan requires that local governments adopt a Concept Plan prior to annexation; and

**WHEREAS**, Both the City and PGE wish to have the area identified in the Metro ordinance annexed into City limits; PGE also wishes to establish a zone change for taxlot 2s129b001900, which is situated at the south corner of 99W and Adams Avenue; and

**WHEREAS**, the City of Sherwood staff and PGE held a series of discussions concerning future development and transportation issues surrounding the UGB area and a series of principles have been reached in a proposed MOU (Exhibit 1); and

**WHEREAS**, the MOU is a precursor to concept planning work and authorization of the MOU will establish the initial framework and understandings for concept planning for the area and identify that the City and PGE intend to enter into an agreement that will reflect and contain provisions representing the intent and understandings set forth in this Memorandum; and

**WHEREAS**, the City of Sherwood City Council conducted a work session regarding the draft MOU on June 3<sup>rd</sup>, 2008.

### **NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

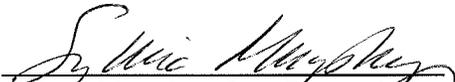
**Section 1.** The City of Sherwood City Council hereby authorizes the City Manager to sign the MOU attached as Exhibit 1, establishing the initial framework for the concept planning and rezoning attempt for the UGB area situated on land owned by PGE attached as Exhibit 2.

**Section 2:** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 5<sup>th</sup> day of August 2008.**

  
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Keith S. Mays, Mayor

ATTEST:

  
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Sylvia Murphy, City Recorder

## MEMORANDUM OF UNDERSTANDING

### Purpose

This Memorandum of Understanding (MOU) is entered into between the City of Sherwood, Oregon, (City) and Portland General Electric Company (PGE). The purpose of this MOU is to set forth the terms of the understanding between PGE and the City under which the City will support an effort to rezone property owned by PGE and, in return, PGE will dedicate right-of-way to accommodate an extension of Adams Road. It is the express understanding of the parties that the commitments described in this MOU is based upon a mutual exchange of value.

### Recitals

Whereas, PGE owns several parcels of land lying generally north of Tualatin-Sherwood Road and east of Hwy 99W known as tax lots 1100, 1600, 1800 and 1900 (the Property);

Whereas, Metro Ordinance 02-986A expanded the Metro Urban Growth Boundary (UGB) to include TL 1800 and a portion of TL 1600;

Whereas, as a result of Ordinance 02-986A, all of the Property is inside the UGB with the exception of the eastern portion of TL 1600;

Whereas, the eastern portion of TL 1600 located outside the UGB is not subject to the provisions of this MOU;

Whereas, TL 1100 and TL 1900 are located within City limits and are zoned for "Light Industrial" (LI) use under the City Development Ordinance;

Whereas, TL 1800 and the portion of TL 1600 that was brought inside the UGB retain the County zoning designations that applied prior to the adoption of Ordinance 02-986A;

Whereas, Title 11 of the Metro Code requires the City to adopt a master plan (the Concept Plan) for TL 1800 and TL 1600 before they can be annexed into the City;

Whereas both the City and PGE wish to annex TL 1800 and the portion of TL 1600 inside the UGB to the City;

Whereas, pursuant to the required master planning process, PGE wishes to change the zoning of TL 1900 from LI to General Commercial (GC);

Whereas, the City wishes to extend Adams Road north from its current terminus at Tualatin Sherwood Road to connect with Hwy 99W;

Whereas the proposed alignment of the north extension of Adams Road (Adams North) will cross TL 1100, TL 1600, TL 1800 and TL 1900;

Whereas, PGE agrees with the proposed alignment of Adams North and is willing to dedicate right-of-way as necessary to accommodate the alignment, and

Whereas, the City agrees that GC zoning may be appropriate for TL 1900 and will support a master planning process that evaluates and considers rezoning TL 1900 from LI to GC as well as determining the appropriate zone for TL 1800 and portion of TL 1600 in the UGB;

**Now, therefore, it is the understanding of the Parties:**

City:

1. The City, at its expense, will complete a Concept Plan for the Property, including transportation elements that provide access to Tax Lot 1900 from Adams North. The Concept Plan will address all relevant criteria established by the State of Oregon, Metro, Washington County, Clean Water Services, and other applicable agencies.
2. The City shall, during the master planning process, evaluate the best zoning designation for each of the PGE properties, based on consideration of economic circumstances and infrastructure needs including transportation, water, sanitary sewer and storm water management.
3. Provided the Concept Plan is approved by the Sherwood City Council and Metro, the City will develop and adopt an amendment to the City's comprehensive plan to implement the master plan.
4. Pending approval of the Concept Plan, the City will at its expense place a measure on the ballot to annex Tax Lot 1800 and the portion of Tax Lot 1600 that is inside the UGB.
5. The City, at its expense, will complete the engineering, design, permitting and right-of-way acquisition for Adams North as described in the development agreement between the City and Langer Family LLC, adopted by the Sherwood City Council in Resolution 2007-081.

PGE:

1. Following adoption of the Concept Plan and the adoption of an amendment to the City's comprehensive plan to implement the master plan each upon terms and conditions acceptable to PGE, PGE will dedicate such easements and right-of-way across the Property as

necessary to construct Adams North according to the engineering design developed by the City. The easements and right of way dedications shall be upon terms and conditions, including without limitation the consideration made therefore, mutually acceptable to the City and PGE.

2. PGE will provide technical support as necessary to complete the engineering design for Adams North. Such technical support will be provided by PGE's internal staff and PGE will not be obligated to obtain or provide such support from any outside sources.
3. PGE will dedicate PGE internal staff and resources as necessary and appropriate and participate in the development of the Concept Plan. PGE will take all appropriate internal actions necessary to ensure that PGE's issues, concerns and commitments are fully considered in the development of the Concept Plan.

#### Terms and Conditions

1. The City does not guarantee any specific outcome from the Concept Planning process, including the rezoning of Tax Lot 1900 from LI to GC. However, the City will make all reasonable efforts to zone Tax Lot 1900 consistent with PGE's objectives and applicable public policies.
2. The Parties do not anticipate that PGE will be responsible for any costs associated with the construction of Adams North. It is expected by that PGE's costs will be limited to staff time and the dedication of right-of-way. The relocation and reinforcement of any transmission towers is not anticipated. Modifications to transmission towers will be the responsibility of the utility owning & maintaining each tower.
3. Pending adoption of the Concept Plan, the City will follow state and municipal code requirements for annexing TL 1800 and a portion of TL 1600 (the portion within the UGB) to the City and in the construction of the right-of-way.
4. The City will exercise reasonable efforts to ensure full access to Tax Lot 1900 from Adams North. However, because access to Tax Lot 1900 is subject to regulation by ODOT and Washington County, the City cannot guarantee the scope or location of any particular access to Tax Lot 1900. In the event either ODOT or Washington County will not approve such access or will condition such access to the extent that the Concept may be rendered commercially impractical to either party, such party will immediately notify the other party.

5. It is the express understanding of the Parties that this MOU is not a contract and its terms are not binding on the Parties. Each Party's commitments under this MOU are expressly conditioned upon the other Party performing its commitments.
6. PGE's commitments under this MOU, including the dedication of any easement, right-of-way or other property interest, are expressly conditioned upon review and approval by the Oregon Public Utility Commission (OPUC) upon terms and conditions acceptable to PGE.
7. Any binding agreement with respect to the transactions contemplated by this MOU and the rights and obligations of the Parties related thereto will only arise upon the negotiation, execution and delivery of mutually satisfactory definitive agreements and the satisfaction of the conditions set forth therein, including without limitation the approval of such agreements and the Transaction by the respective Senior Management and/or Board of Directors of PGE, the City Council of the City, each upon terms and conditions mutually acceptable to the City and PGE. Any binding agreement between the parties to this MOU may be subject to review and approval by the OPUC upon terms and conditions acceptable to PGE.
8. Each Party shall provide written notice to the other Party if the Party decides, in its sole discretion, that it is unable or unwilling to abide by the commitments described in this MOU.
9. Unless extended by mutual written agreement of the Parties, this MOU shall expire on December 31, 2011.

Signed this \_\_\_\_\_ day of August, 2008.

For the City of Sherwood:

For Portland General Electric  
Company:

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Jim Patterson, City Manager

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# Sherwood Plan and Zone Map - May 2007

