

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the matter of adopting a resolution establishing)
transportation system development charges)
within the unincorporated 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

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

BE IT RESOLVED as follows:

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

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

SECTION THREE: Applicability and Collection.

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

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

SECTION FOUR: Credits for Developer Contributions of Qualified Public Improvements. The County may grant a credit against the improvement fee component of transportation system development charges imposed pursuant to Section Three for the donation of land for, or construction of, any qualified public improvements.

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

- (1) Required as a condition of development approval; and
- (2) Identified in the capital improvement plan adopted pursuant to Section Five (D); and either
- (3)
 - (a) Not located on or contiguous to property that is the subject of development approval, or
 - (b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(B) Prior to issuance of a building permit, the applicant shall submit to the county a proposed plan and estimate of cost for contributions of qualified public improvements. The proposed plan and estimate shall include:

- (1) a designation of the development for which the proposed plan is being submitted;
- (2) a legal description of any land proposed to be donated and a written appraisal prepared in conformity with Section Four (C)(1);
- (3) a list of the contemplated capital improvements contained within the plan;
- (4) an estimate of proposed construction costs certified by a professional architect or engineer;
- (5) an estimate of proposed construction costs certified a professional architect or engineer; and

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

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

(1) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and

(2) The cost of anticipated construction of qualified public improvements shall be based upon costs estimates certified by a professional architect or engineer.

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

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

(F) Any applicant who submits a proposed plan pursuant to this Section and desires the immediate issuance of a building permit shall pay the applicable transportation system development charges. Said payment shall be deemed paid under “protest” and shall not be construed as a waiver of any review rights. Any difference between the amount paid and the amount due, as determined by the county, shall be refunded to the applicant. In no event shall any refund under this sub-section exceed the amount originally paid by the applicant.

SECTION FIVE: Receipt and Expenditure of System Development Charges.

(A) Trust Accounts. The county hereby establishes a separate trust account to be designated as the “City of Silverton UGB Transportation SDC Account”, which shall be maintained separate and apart from all other accounts of the county. All transportation system development charge payments shall be deposited into the appropriate trust account immediately upon receipt.

(B) Use of System Development Charges. The monies deposited into the account designated as the “City of Silverton UGB Transportation SDC Account” shall be used solely for the purpose of providing capital improvements which provide for the increased capacity necessitated by development. Such expenditures may include, but are not limited to:

- (1) Design and construction plan preparation;
- (2) Permitting and fees;
- (3) Land and materials acquisition, including any costs of acquisition or condemnation;
- (4) Construction of capital improvements;

- (5) Design and construction of new drainage facilities required by the construction of capital improvements and structures;
- (6) Relocating utilities required by the construction of improvements and structures;
- (7) Landscaping;
- (8) Construction management and inspection;
- (9) Surveying, soils and material testing;
- (10) Acquisition of capital equipment;
- (11) Repayment of monies transferred or borrowed from any budgetary fund of the county which were used to fund any of the capital improvements as herein provided;
- (12) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the county to fund capital improvements;
- (13) Direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the transportation system development charges methodology report, resolution/ordinance, and capital improvements master plan; and the costs of collecting and accounting for transportation system development charges expenditures.

(C) 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.

(D) 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 first transportation system development charges out.
- (2) The application for refund shall be filed with the county and contain the following:
 - (a) The name and address of the applicant;

- (b) The location of the property which was subject of the transportation system development charges;
 - (c) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the transportation system development charges were paid, including proof of ownership, such as a certified copy of the latest recorded deed;
 - (d) The date the transportation system development charges were paid;
 - (e) A copy of the receipt of payment for the transportation system development charges; and, if appropriate; and
 - (f) The date the building permit was issued and the date of expiration.
- (3) The application shall be filed within ninety (90) days of the expiration of the building permit, or within (90) days of the end of the fiscal year following the tenth anniversary of the date upon which the transportation system development charges were paid. Failure to timely apply for a refund of the transportation system development charges shall waive any right to a refund.
- (4) Within thirty (30) days from the date of receipt of a petition for refund, the county will advise the petitioner of the status of the request for refund, and if such request is valid, the transportation system development charges shall be returned to the petitioner.

(5) A building permit which is subsequently issued for a development on the same property which was the subject of a refund shall pay the transportation systems development charges as required by this resolution.

(E) Annual Accounting Reports. The county shall prepare an annual report accounting for transportation system development charges, including the total amount of transportation system development charges revenue collected in the trust accounts, and the capital improvement projects that were funded. A copy of the report shall be sent to the City of Silverton.

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

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

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

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

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

(2) If the county determines that the expenditure was not made in accordance with the provisions of this resolution and other relevant laws, a reimbursement of transportation system development charges trust account revenues from other revenue sources shall be made within one

year following the determination that the expenditures were not appropriate.

- (3) The county shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review within ten days of completion of the review.

SECTION SIX: Severability. If any clause, section or provision of this resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

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

DATED this 25th day of October, 1995.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner