

RESOLUTION NO. 1677

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY ENGINEER TO SIGN UNDERGROUND PIPELINE MAINTENANCE AGREEMENTS WITH THE PORTLAND AND WESTERN RAILROAD FOR THE PROJECT KNOWN AS THE COFFEE CREEK CORRECTIONAL FACILITY INFRASTRUCTURE – PHASE 2 SANITARY SEWER MAIN, AND 42” STORM SEWER MAIN PROJECT. (Project No. 520-49131-5000-131 and Project No. 570-49131-5000-131)

WHEREAS, on August 21, 2000, the City Council approved Resolution No. 1674 awarding a construction contract for portions of the sanitary sewer and storm water improvements associated with the Coffee Creek Correctional Facility ("Facility"); and

WHEREAS, in providing Public Services to the Facility certain portions of the right-of-way of the Portland and Western Railroad (Railroad) will be crossed with underground storm water and sanitary sewer lines; and

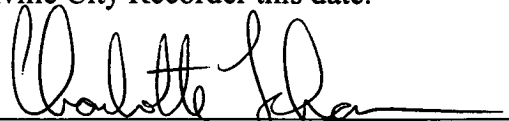
WHEREAS, the installation of the storm water and sanitary sewer lines within Railroad right-of-way requires a "Maintenance Agreement" wherein the City agrees to operate and maintain the storm water and sanitary sewer lines in a manner consistent with the safe operation of the Railroad; and

WHEREAS, the Railroad has prepared the required Agreement and Staff has reviewed the documentation.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City Engineer is hereby authorized to sign the Underground Pipeline Maintenance Agreements attached as Exhibit B and C on behalf of the City of Wilsonville.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 2nd day of October, 2000, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

ATTEST:



Sandra C. King, City Recorder, CMC

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Holt	<u>Yes</u>

LEASE AUDIT NO.: 2037

RELMIS: 3E-42.63-X

MAINTENANCE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2000, by and between **PORTLAND & WESTERN RAILROAD, INC.**, a New York corporation (“Railroad”), and **CITY OF WILSONVILLE**, a municipality, whose address is: 30000 SW Town Center Loop East, Wilsonville, OR 97070 (“Permittee”);

RECITALS:

- A. Permittee has applied to the State of Oregon, Department of Transportation, Rail Division (herein referred to as “State”), for a permit to occupy and perform certain operations (which are described in such application) on, over and across a certain rail line corridor owned by the State.
- B. The State’s ownership of such rail line corridor is subject to a permanent and exclusive rail service easement owned by Railroad, its successors and assigns, which easement allows Railroad to enter and remain on the rail corridor to operate and/or develop rail service over, or construct, maintain, replace or lawfully remove any rail facilities (including bridges, embankments, culverts, ditches, road crossings, signal systems and maintenance roadways) that now, or in the future, are present in the rail corridor.
- C. By virtue of the Railroad’s easement, State may not enter into any agreement or encumbrance relating to such rail line corridor that materially interferes with Railroad’s rights, and Railroad may prevent any access that would more than insignificantly increase Railroad’s liability risk or interfere with Railroad’s rail operation, construction or maintenance activities. Accordingly, the State must obtain Railroad’s prior written consent before entering into any agreement providing access to another party, including Permittee’s requested operations.
- D. As a condition of Railroad’s consent, Railroad requires that Permittee enter into this Maintenance Agreement.

WITNESSETH:

- 1. Subject to the terms of this Agreement, Railroad hereby consents to the State’s grant of a permit to Permittee to construct, reconstruct, maintain and operate a underground communication wire line crossing (herein called “structure”), at or near Wilsonville Station, Oregon Electric District, County of Clackamas, State of Oregon, in the location shown on the attached print of Exhibit A, dated July 12, 2000 (herein called “premises”).

Permittee's rights and use of the premises shall at all times be subject and subordinate to the prior and continuing rights and interests of the Railroad, its successors and assigns, as described above.

Railroad reserves the right, at any time that Railroad deems it necessary, to require Permittee, and Permittee agrees and shall, at Permittee's expense, reconstruct, alter or change the location of the structure as may be necessary to conform to the Railroad's operations.

2. If the structure or any portion thereof is underground, markers in form and size satisfactory to Railroad shall be installed and constantly maintained by Permittee at Railroad's property lines or such locations as Railroad shall designate and shall be relocated or removed by Permittee upon request of Railroad. The absence of markers does not constitute a warranty by Railroad that there are no subsurface installations.
3. *Costs:* Upon execution hereof, Licensee shall pay Licensor Five Hundred and No/100 Dollars (\$500.00) partially to defray cost of handling.

Permittee shall bear the entire cost of constructing, reconstructing, maintaining and operating the structure on the premises. Permittee shall reimburse Railroad for all cost and expense to Railroad in furnishing any materials or performing any labor in connection with such work, including, but not limited to, installation of falsework and other protection beneath or along Railroad's tracks, and furnishing such watchmen, flagmen and inspectors as Railroad deems necessary.

4. The structure shall be constructed, reconstructed and maintained in accordance with plans approved by Railroad. Approval by Railroad shall not constitute a warranty by Railroad that such plans conform with federal, state and/or local codes and regulations applicable thereto. All work upon or in connection with the structure shall be done to Railroad's satisfaction at such times and in such manner as not to interfere with Railroad's operations. In the construction, reconstruction and maintenance of the structure, Permittee shall keep the premises in a neat and safe condition, failing which Railroad may do so at Permittee's expense. If required by Railroad in its use of the premises, Permittee shall reconstruct, relocate or alter the structure. Except in emergencies, Permittee shall give Railroad five (5) days' written notice of the day and hour it proposes to do any work on the structure.

Clearances with respect to existing and future tracks and other rail facilities on the premises shall be provided by Permittee to conform with all applicable orders of governmental bodies and, in the absence of such orders, with the National Electrical Safety Code. Permittee shall take all precautions necessary to prevent interference by its structure with existing or future railway signals, gates or safety devices, or the telephone, telegraph or other circuits of Railroad, or of other persons on the premises with Railroad's consent, whether such interference be by leakage, induction or otherwise. Upon being informed by Railroad of such interference, Permittee shall forthwith discontinue operation or take such steps as may be necessary to avoid and

eliminate all such interference. Permittee shall assume the expense of insulating any wire lines and of any other alterations to any facilities on the premises required by reason of the structure.

Permittee shall cooperate with Railroad in making any tests it requires of any installation or condition, which in its judgment may have adverse effect on any of the facilities of Railroad. All costs incurred by the tests, or any corrections thereafter, shall be borne by Permittee.

5. Permittee agrees to and shall indemnify and hold harmless Railroad, its officers, agents and employees from and against any and all claims, demands, losses, damages, causes of action, suits and liabilities of every kind (including reasonable attorneys' fees, court costs and other expenses related thereto) for injury to or death of a person or for loss of or damage to any property, arising out of or in connection with any work done, action taken or permitted by Permittee, its subcontractors, agents or employees under this Agreement. It is the express intention of the parties hereto, both Permittee and Railroad, that the indemnity provided for in this section indemnifies Railroad for the negligence of each, whether that negligence is active or passive, or is the sole or a concurring cause of the injury, death or damage; provided that said indemnity shall not protect Railroad from liability for death, injury or damage arising solely from the criminal actions of Railroad, its officers, agents and employees.
6. If Permittee makes default in respect to any covenant or condition on Permittee's part hereunder and fails to correct such default within thirty (30) days' after receipt of notice from Railroad so to do, Railroad may forthwith terminate this Agreement by notice to Permittee. Permittee shall there upon remove the structure and appurtenances to Railroad's satisfaction, failing which Railroad may arrange to do so at Permittee's expense
7. Permittee shall, at its expense, comply with all applicable laws, regulations, rules and orders regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and waste and air quality, and furnish satisfactory evidence of such compliance upon request of Railroad.

Should any discharge, leakage, spillage, emission or pollution of any type occur upon or arise from the premises covered hereunder as a result of Permittee's use, presence, operations or exercise of the rights granted hereunder, Permittee shall immediately notify Railroad and shall, at Permittee's expense, be obligated to clean all property affected thereby, whether owned or controlled by Railroad, the State or any third persons to the satisfaction of Railroad (insofar as the property owned or controlled by Railroad is concerned) and any governmental body having jurisdiction in the matter. Railroad may, at its option, clean the premises; if Railroad elects to do so, Permittee shall pay Railroad the cost of such cleanup promptly upon the receipt of a bill therefor. Permittee agrees to release, indemnify and defend Railroad from and against all liability, cost and expense (including, without limitation, any fines, penalties, judgments, litigation costs and attorney fees) incurred by Railroad as a result of Permittee's breach of this section, or as a result of any such discharge, leakage,

spillage, emission or pollution, regardless of whether such liability, cost or expense arises during the time this Agreement is in effect or thereafter, unless such liability, cost or expense is proximately caused solely and exclusively by the active negligence of Railroad, its officers, agents or employees.

8. No work on the premises shall be commenced by any contractor for Permittee until such contractor has entered into Railroad's standard Contractor's Right of Entry agreement covering such work.
9. This Agreement is not assignable, in whole or in part, by Permittee without Railroad's prior written. The term "Railroad" as used in this Agreement shall include Railroad's successors, assigns and affiliated companies, and any other railroad company operating upon the tracks.
10. Permittee shall pay in full all persons who perform labor on said premises for Permittee, and will not suffer any mechanics' or materialmen's liens to be enforced against the premises for work done or materials furnished at Permittee's insistence or request. If any such liens are filed thereon, Permittee agrees to remove the same at Permittee's own cost and expense and to pay any judgment, which may be entered thereon or thereunder. Should Permittee fail, neglect or refuse so to do, Railroad shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein, and Permittee shall be liable to Railroad for all costs, damages, and reasonable attorney fees, and any amounts expended in defending any proceedings or in the payment of any said liens or any judgment obtained therefore.
11. The structure shall be installed in accordance with minimum requirements of Exhibit B, attached and made a part hereof.
12. As consideration for Railroad's consent and this Agreement, Permittee shall pay to Railroad a rental fee in the amount of \$Two Thousand Five Hundred and 0/100 Dollars (\$2500.00), one time user fee, payable in advance.

The fee shall automatically and without notice to Permittee, be adjusted, upwards only, on each anniversary of the effective date of this Agreement, by the CPI Factor as indicated on the Consumer Price Index, Urban Wage Earners and Clerical Workers, U.S. City Average, All Items (1982-84 = 100) ("Consumer Price Index"), published by the United States Department of Labor, Bureau of Labor Statistics, or any successor or substitute index published as a replacement for the Consumer Price Index by any United States governmental agency. The "CPI Factor" is the percentage of adjustment stated in the Consumer Price Index (indicated in the previous sentence) established during the last available twelve (12)-month period immediately preceding each anniversary of the effective date of this Agreement, adjusted to the nearest one-tenth of one percent.

The fee, as so increased, shall be effective as of each anniversary of the effective date of this Agreement.

13. It is the intention of the parties that the State is a third party beneficiary of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in triplicate the day and year first hereinabove written.

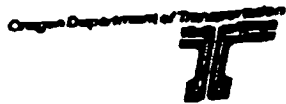
[THE NEXT PAGE OF THIS AGREEMENT IS THE EXECUTION PAGE]

RAILROAD:

By: _____
Its: Manager Engineering & Contracts

PERMITTEE:

By: _____
Its: _____



**APPLICATION AND PERMIT TO OCCUPY OR PERFORM
 OPERATIONS UPON A STATE RAILROAD RIGHT OF WAY**

PERMIT NUMBER

3E-P2/BL-00072/42-103

APPLICANT NAME AND ADDRESS City of Wilsonville 30000 SW Town Center Loop East Wilsonville, OR 97070		PURPOSE OF APPLICATION (TO CONSTRUCT/OPERATE/MAINTAIN)	
RAILROAD NAME AND BRANCH DESIGNATION Portland and Western Railroad-Oregon Electric Line		<input type="checkbox"/> POLE LINE	TYPE MIN. VERT. CLEARANCE
ADDRESS 110 West 10th Avenue, Albany, OR 97321		<input checked="" type="checkbox"/> BURIED CABLE	TYPE Power, Telephone & Cable TV
MILEPOST NUMBER 42.63	COUNTY Clackamas	<input type="checkbox"/> PIPE LINE	TYPE
NEAREST STATION OR LANDMARK Wilsonville		<input type="checkbox"/> OTHER <input type="checkbox"/> NON-COMMERCIAL SIGN	
OCCUPANCY DATES FROM August 2000 TO November 2000		<input type="checkbox"/> MISCELLANEOUS OPERATIONS AND/OR FACILITIES AS DESCRIBED BELOW	
		BOND REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO	AMOUNT OF BOND
		INSURANCE <input type="checkbox"/> YES <input type="checkbox"/> NO	SPECIFIED COMP. DATE

MILE POST TO	MILE POST	DETAIL LOCATION OF FACILITY (For more space attach additional sheets)
	42.63	See attached sketch.

DESCRIPTION AND LOCATION OF SIGNS OR MISCELLANEOUS OPERATIONS FACILITIES

SPECIAL PROVISIONS (FOR MORE SPACE ATTACH ADDITIONAL SHEETS)

1. THERE IS A \$50 NON-REFUNDABLE APPLICATION FEE. PLEASE RETURN THE APPLICATION, WITH PROJECT PLANS OR DRAWINGS, AND A CHECK MADE PAYABLE TO "OREGON DEPARTMENT OF TRANSPORTATION RAIL DIVISION" TO: OREGON DEPARTMENT OF TRANSPORTATION RAIL DIVISION, 666 13TH STREET NE STE 3, SALEM OREGON 97301-4179
2. TRAIN CONTROL REQUIRED, UNLESS OTHERWISE DIRECTED BY OPERATING RAILROAD.
3. AT LEAST 45 DAYS BEFORE BEGINNING WORK, THE APPLICANT OR HIS CONTRACTOR SHALL NOTIFY THE RAILROAD REPRESENTATIVE AT TELEPHONE NUMBER: (541) 924-6584.
4. WITHIN 30 DAYS OF COMPLETION OF THE PROJECT THE ATTACHED NOTICE OF COMPLETION SHALL BE SIGNED AND RETURNED TO: ODOT RAIL DIVISION, 666 13TH STREET NE STE 3, SALEM OREGON 97301-4179
5. A COPY OF THIS PERMIT AND ALL ATTACHMENTS SHALL BE AVAILABLE AT THE WORK AREA DURING CONSTRUCTION.
6. ORS 767.54 TO 767.571 REQUIRES EXCAVATORS TO LOCATE AND PROTECT ALL EXISTING UNDERGROUND UTILITIES. YOU MAY BE HELD LIABLE FOR DAMAGES. CALL FOR UTILITY LOCATES. CALL BEFORE YOU DIG. 1-800-332-2344
7. APPLICANT SHALL INDEMNIFY AND HOLD THE STATE HARMLESS FROM ALL COSTS, LIABILITY, DAMAGES OR FEES CAUSED BY THE OCCUPANCY OR USE OF THE PROPERTY BY APPLICANT, OR BY ANY IMPROVEMENTS LEFT OR CONTAMINATION DEPOSITED ON THE PROPERTY DURING APPLICANT'S OCCUPANCY.
8. APPLICANT COVENANTS AND WARRANTS THAT NO LIENS OR JUDGEMENTS SHALL ATTACH AS A RESULT OF APPLICANT'S ACTIVITIES UPON OR OCCUPANCY OF THE PROPERTY, AND APPLICANT SHALL INDEMNIFY AND HOLD STATE HARMLESS THEREFROM.

COMMENTS

APPLICANT <i>[Signature]</i>	APPLICATION DATE 06/07/2000	TITLE CITY ENGINEER	TELEPHONE NO. (503) 682-49 682-49
MANAGER RAIL SECTION <i>[Signature]</i>	DATE 7-12-00		

08/25/00 FRI 10:05 FAX
 Received: 4/21/00 8:56AM;
 04/21/00 FRI 07:56 FAX

Oregon Department of Transportation



OREGON DEPARTMENT OF TRANSPORTATION
 RAIL DIVISION
 555 13 TH STREET NE STE 3
 SALEM OR 97301-4179

APPLICATION FOR PIPELINE CROSSING OR LONGITUDINAL

DATE 4/25/00
 APPLICANT TAX ID NO. / SSN

3E-PR/PX-00022/42-43

LEGAL NAME OF COMPANY OR MUNICIPALITY WHO WILL OWN THE PIPELINE
 City of Wilsonville

STATE IN WHICH INCORPORATED
 Oregon

IF NOT INCORPORATED, CORRECT NAME OF OWNERS OR ALL PARTNERS (ATTACH SEPARATE SHEET IF NEEDED)

MAILING ADDRESS
 30000 SW Town Center Loop East

CITY, STATE AND ZIP CODE
 Wilsonville, OR 97070

TELEPHONE NUMBER
 (503)682-4960

LOCATION OF PROPOSED CROSSING
 NW 1/4 SEC 23 TWSP 3S RNG 1W W.M.MP 42.63 +

COUNTY
 Clackamas

STATE
 Oregon

NAME OF NEAREST TOWN ON RAILROAD
 City of Wilsonville

CROSSING WITHIN LIMITS OF PUBLIC ROAD OR STREET YES NO

NAME OF NEAREST ROADWAY CROSSING RAILROAD
 Wilsonville Road

Contents to be handled through pipe

Length of pipe on Railroad Co. property

(Plastic pipe must be encased full width of right of way)

Inside diameter of pipe

Pipe material

Specification & Grade (Min yield strength casing is 35,000 psi)

Wall Thickness (Min. wall thickness of casing pipe under 14in. 0.188 in. E-80 Leading)

Actual Working Pressure

Type of Joint (mechanical or welded type)

Longitudinal Joint Factor

Coating

Distance Base of rail to top of pipe

(Flammable contents, steam, water or non-flammable- min 5 1/2 ft.
 under main track.)(Uncased gaseous products - min 10 ft under track)

Minimum ground cover on Railroad Co. property (min. 3 ft.)

Cathodic protection casing -(Flammable substance)

Type of insulators or supports

Number of Vents (Flammable substance require 2 vents)

Method of crossing: JACKING TRENCH _____ DRY BORE ONLY _____

(If trenched, railroad furnish flagman at applicant's expense) (If bored or jacked - Jacking Pit location minimum 30 ft.
 from centerline of nearest track) Pit must not be open more than 48 hours. Also, it must be protected when not in use.

Does pipeline support oil or gas well? YES NO If yes, advise distance the well is from railway property _____

Name of well _____

CARRIER
Power, Tele, TV
60 ft.
6", 4" & 2"
PVC
Sch. 40 PVC
0.25 in.
Glued
None
5' 9"

CASING
60 ft.
24 in.
Steel
35,000 psi
0.406 in.
Welded
Coal Tar Epo
5' 6"

5' 6"
 No

SIZE _____
 SIZE _____

5' 6"
 No

SPACE _____
 HEIGHT ABOVE GROUND _____

Attached to this sheet is a location plan and detail sketch. Sketch shows tie-down measurement to centerline of nearest road crossing, bridge or other railroad structure. Please authorize us to proceed with this installation or advise what changes are necessary to meet your specifications.

SIGNATURE _____ TITLE _____ TELEPHONE _____

734-243814-000

LEASE AUDIT NO.: 3045

RELMIS: 3E-39.80-X

MAINTENANCE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2000, by and between **PORTLAND & WESTERN RAILROAD, INC.**, a New York corporation (“Railroad”), and **CITY OF WILSONVILLE**, a municipality, whose address is: 30000 SW Town Center Loop East, Wilsonville, OR 97070 (“Permittee”);

RECITALS:

- A. Permittee has applied to the State of Oregon, Department of Transportation, Rail Division (herein referred to as “State”), for a permit to occupy and perform certain operations (which are described in such application) on, over and across a certain rail line corridor owned by the State.
- B. The State’s ownership of such rail line corridor is subject to a permanent and exclusive rail service easement owned by Railroad, its successors and assigns, which easement allows Railroad to enter and remain on the rail corridor to operate and/or develop rail service over, or construct, maintain, replace or lawfully remove any rail facilities (including bridges, embankments, culverts, ditches, road crossings, signal systems and maintenance roadways) that now, or in the future, are present in the rail corridor.
- C. By virtue of the Railroad’s easement, State may not enter into any agreement or encumbrance relating to such rail line corridor that materially interferes with Railroad’s rights, and Railroad may prevent any access that would more than insignificantly increase Railroad’s liability risk or interfere with Railroad’s rail operation, construction or maintenance activities. Accordingly, the State must obtain Railroad’s prior written consent before entering into any agreement providing access to another party, including Permittee’s requested operations.
- D. As a condition of Railroad’s consent, Railroad requires that Permittee enter into this Maintenance Agreement.

WITNESSETH:

1. Subject to the terms of this Agreement, Railroad hereby consents to the State’s grant of a permit to Permittee to construct, reconstruct, maintain and operate a storm sewer pipe line crossing (herein called “structure”), at or near Tonquin Station, Oregon Electric District, County of Clackamas, State of Oregon, in the location shown on the attached print of Exhibit A, dated July 12, 2000 (herein called “premises”).

Permittee's rights and use of the premises shall at all times be subject and subordinate to the prior and continuing rights and interests of the Railroad, its successors and assigns, as described above.

Railroad reserves the right, at any time that Railroad deems it necessary, to require Permittee, and Permittee agrees and shall, at Permittee's expense, reconstruct, alter or change the location of the structure as may be necessary to conform to the Railroad's operations.

2. If the structure or any portion thereof is underground, markers in form and size satisfactory to Railroad shall be installed and constantly maintained by Permittee at Railroad's property lines or such locations as Railroad shall designate and shall be relocated or removed by Permittee upon request of Railroad. The absence of markers does not constitute a warranty by Railroad that there are no subsurface installations.
3. *Costs:* Upon execution hereof, Licensee shall pay Licensor Five Hundred and No/100 Dollars (\$500.00) partially to defray cost of handling.

Permittee shall bear the entire cost of constructing, reconstructing, maintaining and operating the structure on the premises. Permittee shall reimburse Railroad for all cost and expense to Railroad in furnishing any materials or performing any labor in connection with such work, including, but not limited to, installation of falsework and other protection beneath or along Railroad's tracks, and furnishing such watchmen, flagmen and inspectors as Railroad deems necessary.

4. The structure shall be constructed, reconstructed and maintained in accordance with plans approved by Railroad. Approval by Railroad shall not constitute a warranty by Railroad that such plans conform with federal, state and/or local codes and regulations applicable thereto. All work upon or in connection with the structure shall be done to Railroad's satisfaction at such times and in such manner as not to interfere with Railroad's operations. In the construction, reconstruction and maintenance of the structure, Permittee shall keep the premises in a neat and safe condition, failing which Railroad may do so at Permittee's expense. If required by Railroad in its use of the premises, Permittee shall reconstruct, relocate or alter the structure. Except in emergencies, Permittee shall give Railroad five (5) days' written notice of the day and hour it proposes to do any work on the structure.

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eliminate all such interference. Permittee shall assume the expense of insulating any wire lines and of any other alterations to any facilities on the premises required by reason of the structure.

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5. Permittee agrees to and shall indemnify and hold harmless Railroad, its officers, agents and employees from and against any and all claims, demands, losses, damages, causes of action, suits and liabilities of every kind (including reasonable attorneys' fees, court costs and other expenses related thereto) for injury to or death of a person or for loss of or damage to any property, arising out of or in connection with any work done, action taken or permitted by Permittee, its subcontractors, agents or employees under this Agreement. It is the express intention of the parties hereto, both Permittee and Railroad, that the indemnity provided for in this section indemnifies Railroad for the negligence of each, whether that negligence is active or passive, or is the sole or a concurring cause of the injury, death or damage; provided that said indemnity shall not protect Railroad from liability for death, injury or damage arising solely from the criminal actions of Railroad, its officers, agents and employees.
6. If Permittee makes default in respect to any covenant or condition on Permittee's part hereunder and fails to correct such default within thirty (30) days' after receipt of notice from Railroad so to do, Railroad may forthwith terminate this Agreement by notice to Permittee. Permittee shall there upon remove the structure and appurtenances to Railroad's satisfaction, failing which Railroad may arrange to do so at Permittee's expense
7. Permittee shall, at its expense, comply with all applicable laws, regulations, rules and orders regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and waste and air quality, and furnish satisfactory evidence of such compliance upon request of Railroad.

Should any discharge, leakage, spillage, emission or pollution of any type occur upon or arise from the premises covered hereunder as a result of Permittee's use, presence, operations or exercise of the rights granted hereunder, Permittee shall immediately notify Railroad and shall, at Permittee's expense, be obligated to clean all property affected thereby, whether owned or controlled by Railroad, the State or any third persons to the satisfaction of Railroad (insofar as the property owned or controlled by Railroad is concerned) and any governmental body having jurisdiction in the matter. Railroad may, at its option, clean the premises; if Railroad elects to do so, Permittee shall pay Railroad the cost of such cleanup promptly upon the receipt of a bill therefor. Permittee agrees to release, indemnify and defend Railroad from and against all liability, cost and expense (including, without limitation, any fines, penalties, judgments, litigation costs and attorney fees) incurred by Railroad as a result of Permittee's breach of this section, or as a result of any such discharge, leakage,

spillage, emission or pollution, regardless of whether such liability, cost or expense arises during the time this Agreement is in effect or thereafter, unless such liability, cost or expense is proximately caused solely and exclusively by the active negligence of Railroad, its officers, agents or employees.

8. No work on the premises shall be commenced by any contractor for Permittee until such contractor has entered into Railroad's standard Contractor's Right of Entry agreement covering such work.
9. This Agreement is not assignable, in whole or in part, by Permittee without Railroad's prior written. The term "Railroad" as used in this Agreement shall include Railroad's successors, assigns and affiliated companies, and any other railroad company operating upon the tracks.
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11. The structure shall be installed in accordance with minimum requirements of Exhibit B, attached and made a part hereof.
12. As consideration for Railroad's consent and this Agreement, Permittee shall pay to Railroad a rental fee in the amount of \$Two Thousand Five Hundred and 0/100 Dollars (\$2500.00), one time user fee, payable in advance.

The fee shall automatically and without notice to Permittee, be adjusted, upwards only, on each anniversary of the effective date of this Agreement, by the CPI Factor as indicated on the Consumer Price Index, Urban Wage Earners and Clerical Workers, U.S. City Average, All Items (1982-84 = 100) ("Consumer Price Index"), published by the United States Department of Labor, Bureau of Labor Statistics, or any successor or substitute index published as a replacement for the Consumer Price Index by any United States governmental agency. The "CPI Factor" is the percentage of adjustment stated in the Consumer Price Index (indicated in the previous sentence) established during the last available twelve (12)-month period immediately preceding each anniversary of the effective date of this Agreement, adjusted to the nearest one-tenth of one percent.

The fee, as so increased, shall be effective as of each anniversary of the effective date of this Agreement.

13. It is the intention of the parties that the State is a third party beneficiary of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in triplicate the day and year first hereinabove written.

[THE NEXT PAGE OF THIS AGREEMENT IS THE EXECUTION PAGE]

RAILROAD:

By: _____
Its: Manager Engineering & Contracts

PERMITTEE:

By: _____
Its: _____



APPLICATION AND PERMIT TO OCCUPY OR PERFORM OPERATIONS UPON A STATE RAILROAD RIGHT OF WAY

PERMIT NUMBER

3E-PR/PL-00023/39-80

APPLICANT NAME AND ADDRESS City of Wilsonville 30000 SW Town Center Loop East Wilsonville, OR 97070		PURPOSE OF APPLICATION (TO CONSTRUCT/OPERATE/MAINTAIN)	
		<input type="checkbox"/> POLE LINE	TYPE MIN. VERT. CLEARANCE
		<input type="checkbox"/> BURIED CABLE	TYPE
RAILROAD NAME AND BRANCH DESIGNATION Portland and Western Railroad—Oregon Electric Line		<input checked="" type="checkbox"/> PIPE LINE	TYPE Storm Sewer
ADDRESS 110 West 10th Avenue, Albany, OR 97321		<input type="checkbox"/> OTHER <input type="checkbox"/> NON-COMMERCIAL SIGN	
MILEPOST NUMBER 39.8	COUNTY Clackamas	<input type="checkbox"/> MISCELLANEOUS OPERATIONS AND/OR FACILITIES AS DESCRIBED BELOW	
NEAREST STATION OR LANDMARK Wilsonville		BOND REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO	AMOUNT OF BOND
OCCUPANCY DATES FROM Summer 2000 TO Summer 2000		INSURANCE <input type="checkbox"/> YES <input type="checkbox"/> NO	SPECIFIED COMP. DATE

MILE POST - TO	MILE POST	DETAIL LOCATION OF FACILITY (For more space attach additional sheets)
	39.8	See Attached Plan.

DESCRIPTION AND LOCATION OF SIGNS OR MISCELLANEOUS OPERATIONS FACILITIES

SPECIAL PROVISIONS (FOR MORE SPACE ATTACH ADDITIONAL SHEETS)

- THERE IS A \$50 NON-REFUNDABLE APPLICATION FEE. PLEASE RETURN THE APPLICATION, WITH PROJECT PLANS OR DRAWINGS, AND A CHECK MADE PAYABLE TO "OREGON DEPARTMENT OF TRANSPORTATION RAIL DIVISION" TO: OREGON DEPARTMENT OF TRANSPORTATION RAIL DIVISION, 655 13TH STREET NE STE 3, SALEM OREGON 97301-4179
- TRAIN CONTROL REQUIRED, UNLESS OTHERWISE DIRECTED BY OPERATING RAILROAD.
- AT LEAST 45 DAYS BEFORE BEGINNING WORK, THE APPLICANT OR HIS CONTRACTOR SHALL NOTIFY THE RAILROAD REPRESENTATIVE AT TELEPHONE NUMBER: (541) 924-6584.
- WITHIN 30 DAYS OF COMPLETION OF THE PROJECT THE ATTACHED NOTICE OF COMPLETION SHALL BE SIGNED AND RETURNED TO: ODOT RAIL DIVISION, 655 13TH STREET NE STE 3, SALEM OREGON 97301-4179
- A COPY OF THIS PERMIT AND ALL ATTACHMENTS SHALL BE AVAILABLE AT THE WORK AREA DURING CONSTRUCTION.
- ORS 767.54 TO 767.571 REQUIRES EXCAVATORS TO LOCATE AND PROTECT ALL EXISTING UNDERGROUND UTILITIES. YOU MAY BE HELD LIABLE FOR DAMAGES. CALL FOR UTILITY LOCATES. CALL BEFORE YOU DIG. 1-800-332-2344
- APPLICANT SHALL INDEMNIFY AND HOLD THE STATE HARMLESS FROM ALL COSTS, LIABILITY, DAMAGES OR FEES CAUSED BY THE OCCUPANCY OR USE OF THE PROPERTY BY APPLICANT, OR BY ANY IMPROVEMENTS LEFT OR CONTAMINATION DEPOSITED ON THE PROPERTY DURING APPLICANT'S OCCUPANCY.
- APPLICANT COVENANTS AND WARRANTS THAT NO LIENS OR JUDGEMENTS SHALL ATTACH AS A RESULT OF APPLICANT'S ACTIVITIES UPON OR OCCUPANCY OF THE PROPERTY, AND APPLICANT SHALL INDEMNIFY AND HOLD STATE HARMLESS THEREFROM.

COMMENTS

APPLICANT <i>[Signature]</i>	APPLICATION DATE 06/02/2000	TITLE CITY ENGINEER	TELEPHONE NO. (509) 682-4960
MANAGER, RAIL SECTION <i>[Signature]</i>	DATE 7-12-00		

Oregon Department of Transportation



APPLICATION FOR PIPELINE CROSSING OR LONGITUDINAL

OREGON DEPARTMENT OF TRANSPORTATION
RAIL DIVISION
555 13 TH STREET NE STE 3
SALEM OR 97301-4179

DATE	5/24/00
APPLICANT TAX ID NO. / SSN	

Cahalin Rd-East of RR
Private Property west of RR

3E-PR/PR-00023/39.80

LEGAL NAME OF COMPANY OR MUNICIPALITY WHO WILL OWN THE PIPELINE City of Wilsonville		STATE IN WHICH INCORPORATED Oregon
IF NOT INCORPORATED, CORRECT NAME OF OWNERS OR ALL PARTNERS (ATTACH SEPARATE SHEET IF NEEDED)		
MAILING ADDRESS 30000 SW Town Center Loop East	CITY, STATE AND ZIP CODE Wilsonville, OR 97070	TELEPHONE NUMBER (503)682-4960
LOCATION OF PROPOSED CROSSING 1/4 SE SEC 3 TWSP 3 S RINGW W.M. MP 39.8		
NAME OF NEAREST TOWN ON RAILROAD Wilsonville	COUNTY Clackamas	STATE Oregon
NAME OF NEAREST ROADWAY CROSSING RAILROAD Cahalin Road	CROSSING WITHIN LIMITS OF PUBLIC ROAD OR STREET <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

Contents to be handled through pipe

Length of pipe on Railroad Co. property

(Plastic pipe must be encased full width of right of way)

Inside diameter of pipe

Pipe material

Specification & Grade (Min yield strength casing is 35,000 psi)

Wall Thickness (Min. wall thickness of casing pipe under 14in. 0.188 in. E-80 Loading)

Actual Working Pressure

Type of Joint (mechanical or welded type)

Longitudinal Joint Factor

Coating

Distance Base of rail to top of pipe

CARRIER	CASING
N/A	Storm Water
N/A	50 feet
N/A	42 inches
N/A	Steel
N/A	35,000 psi
N/A	0.625 in. (5/8")
N/A	0
N/A	Welded
N/A	N/A
N/A	13 feet

(Flammable contents, steam, water or non-flammable- min 5 1/2 ft. under main track.)(Uncoated gaseous products - min 10 ft under track)

Minimum ground cover on Railroad Co. property (min. 3 ft.)

10 feet
N/A

Cathodic protection casing -(Flammable substance)

SIZE N/A
SIZE N/A

SPACE N/A
HEIGHT ABOVE GROUND N/A

Type of insulators or supports

Number of Vents (Flammable substance require 2 vents) _____

Method of crossing: JACKING _____ TRENCH _____ DRY BORE ONLY X

(If trenched, railroad furnish flagman at applicant's expense) (If bored or jacked - Jacking Pit location minimum 30 ft. from centerline of nearest track) Pit must not be open more than 48 hours. Also, it must be protected when not in use.

Does pipeline support oil or gas well? YES NO If yes, advise distance the well is from railway property _____

Name of well _____

Attached to this sheet is a location plan and detail sketch. Sketch shows tie-down measurement to centerline of nearest road crossing, bridge or other railroad structure. Please authorize us to proceed with this installation or advise what changes are necessary to meet your specifications.

[Signature] 06/02/2000 **CITY ENGINEER** (503) 682-4160 TELEPHONE

ENGINEERING DEPARTMENT
STAFF REPORT & RECOMMENDATION

DATE: October 2, 2000

TO: Honorable Mayor and City Councilors

FROM: Michael A. Stone PE, City Engineer

SUBJECT: Underground Pipeline Agreement with the Portland and Western Railroad associated with the Coffee Creek Correctional Facility

SUMMARY

Certain sections of the storm water and sanitary sewer pipelines cross over the right-of-way of the Portland and Western Railroad requiring, what amounts to an easement, from the Railroad.

RECOMMENDATION

Staff respectfully recommends that the City Council adopt the attached resolution (Exhibit A) authorizing the City Engineer to sign the respective Agreements (Exhibit B and C) , allowing the installation of the associated pipelines.