Oregon
Theodore R. Kulongoski, Governor

Department of Transportation
Office of the Director
355 Capitol St. NE
Rm 135
Salem, Oregon 97301-3871

DATE: November 2, 2006

TO: Oregon Transportation Commission

FILE CODE:

FROM: Matthew L. Garrett
Director

SUBJECT: **Agenda F** ~ Lower the Volume-to-Capacity (V/C) Ratio for Chenoweth Interchange at Interstate 84

Requested Action:
Conduct a public hearing on a proposed amendment to the Oregon Highway Plan to lower the V/C ratio from .85 to .75 for the Chenoweth Interchange ramp intersections with River Road at I-84 in The Dalles. Following the public hearing, the Commission will consider approval of the proposed amendment.

Background:
In July, the City of The Dalles approved a 67-acre zone change from Industrial to Commercial for a parcel adjacent to the Chenoweth Interchange at I-84. The Commission approved proceeding with an appeal of this zone change at its July 19, 2006, meeting. The appeal was filed with the Land Use Board of Appeals on July 28, 2006. Since then, region staff and the Attorney General's office have negotiated with the developer and city. A draft Intergovernmental Agreement is being prepared, which contains the following key provisions:

1. Lower the V/C standard for the Chenoweth Interchange from .85 to .75 in order to ensure capacity is reserved for future industrial development (this is the decision item currently before the Commission).
2. Oregon Department of Transportation and city will develop an Interchange Area Management Plan in 2007.
3. Allow 25 acres of subject property to submit site plans for commercial uses, but impose property covenants on the remaining 42 acres to restrict commercial development until the Interchange Area Management Plan is completed, any needed mitigation is identified, and agreement is reached on a funding strategy.
4. All site plans will include Transportation Planning Rule compliant traffic analysis, with notice and opportunity to participate provided to ODOT and the Department of Land Conservation and Development. Preparation and scoping of the traffic analysis will be closely coordinated with ODOT staff.
5. No changes to uses allowed in the industrial zone until after the Interchange Area Management Plan is completed.

6. The city and ODOT agree that the cost of any future capacity-increasing improvements to the transportation infrastructure, including the Chenoweth Interchange, Highway 30, and Weber Street Interchange, will be borne by the city.

Lowering the V/C ratio to .75 at the ramp intersections will reserve some capacity for future industrial use, while allowing some initial commercial use to proceed. Once the V/C ratio is lowered, and the intergovernmental agreement is signed, ODOT will withdraw its appeal.

Attachments: A. October 30, 2006, Letter from Daniel C. Durow, City of The Dalles
B. Findings of Compatibility
Vicinity and Location Maps

Copies (w/attachments) to:
Doug Tindall
Mike Marsh
Patrick Cooney
Joan Plank
Bob Bryant
Gary Farnsworth
Mark DeVoney

Attachment A

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490
Community Development Dept.

October 30, 2006

Bob Bryant
Oregon Dept of Transportation
Region 4
63055 N Hwy 97
P.O. Box 5309
Bend, OR 97708-5309

RE: Proposed terms of settlement agreement for LUBA No. 2006-136.
Chenoweth Interchange v/c ratio, comprehensive plan compatibility statement.

Dear Bob,

This letter is to confirm that a proposed settlement agreement term to change the v/c ratio of the Chenoweth Interchange from 0.85 to 0.75 is compatible with the comprehensive land use plan for the City of The Dalles.

The recently updated Transportation System Plan has been incorporated into the comprehensive land use plan by ordinance. The TSP does not set a specific v/c ratio for the interchange. The TSP does make a reference to the Oregon Highway Plan standards in the introductory chapter but only as a reference, not as a TSP standard. No where else in the TSP is there a specific standard identified or established for The Dalles.

In addition, this modified ratio is consistent with the economic development, and transportation goals and policies as stated in the Comprehensive Land Use Plan. Specifically, under the Statewide Goal 9 Economic Development, the Plan goals which apply are: 1. Provide family wage employment opportunities for The Dalles citizens, and; 6. Utilize Port District lands for job creation, and development of the tax base in The Dalles. The related policies include: 2.. Encourage the siting and growth of employers which pay family wage jobs; 3. Plan for and make prudent public investments to meet the future demands of industrial, commercial, and residential growth if The Dalles, and; 11. Reserve industrial lands for industrial uses and uses compatible with industry. In addition, under Goal 12, policy 8. Provide adequate access to the west side of the Urban Area, which also relates to this v/c ratio. Establishing a v/c ratio of .75 will help insure that capacity and access will be reserved for industrial uses in the Port area.

Sincerely yours,

Daniel C. Durow

[redacted] Parker, City Attorney

OCT 3 2006

Attachment B

I. Draft Findings of Compatibility with State Agency Coordination Agreement (OAR 731-015-0065).

1. OAR 731-015-0065(1). This amendment is precipitated by an earlier amendment to the City of the Dalles' (City) Comprehensive Plan which changed the comprehensive plan designation and zone for 67 acres of land from industrial use to commercial use on July 10, 2006. One of the conditions of approval was to establish a "reserve" for future industrial uses. The subject of this action, the amendment of the highway mobility performance standard at the ramp terminals of the Chenoweth Interchange will implement that condition of approval. The Oregon Department of Transportation and the City have coordinated extensively since July to reach agreement as to that condition of approval. Such meetings have occurred on September 26, October 2, and October 24, as well as numerous telephone conference calls. Wasco County was notified of the proposed volume to capacity (v/c) ratio change on October 31, 2006, and the Department of Land Conservation and Development was notified of the proposed changes on October 30, 2006. A public hearing is scheduled before the Oregon Transportation Commission on November 15, 2006.

2. OAR 731-015-0065(2). ODOT provided a draft of the proposed change to the highway mobility performance standard to the City on October 13, 2006. The City has responded that it deems the draft plan compatible with its acknowledged comprehensive plan. A copy of that letter is Appendix A.

3. OAR 731-015-0065(3). The City found that the proposed change to the performance standard is compatible with its acknowledged comprehensive plan. The provisions of OAR 731-015-065(3) are therefore not applicable.

4. OAR 731-015-0065(4). The attached draft findings found in Attachment B meet the requirements of OAR 731-015-065(4).

5. OAR 731-015-0065(5). The draft findings found in Attachment B are presented to the OTC on November 15, 2006.

II. Draft Findings of Compatibility with City Comprehensive Plan.

In the Economic Development Chapter (Statewide Goal 9) the Plan goals which apply are: 1. Provide family wage employment opportunities for The Dalles citizens, and; 6. Utilize Port District lands for job creation, and development of the tax base in The Dalles. The related policies include: 2. Encourage the siting and growth of employers which pay family wage jobs; 3. Plan for and make prudent public investments to meet the future

demands of industrial, commercial, and residential growth if The Dalles, and; 11. Reserve industrial lands for industrial uses and uses compatible with industry.

Finding: Establishing a v/c ratio of .75 will help ensure that capacity and access will be reserved for industrial uses in the Port area and thus help provide family wage jobs.

In addition, under Goal 12, policy 8. ***Provide adequate access to the west side of the Urban Area***

Finding: By reserving some capacity at the interchange ramps, this will help ensure there is adequate access between the east and west sides of the urban area across the interstate system.

III. Draft findings of Compatibility with Statewide Planning Goals.

Goal 1 (Citizen Involvement), Goal 2 (Land Use Planning), Goal 9 (Economic Development), Goal 12 (Transportation), Goal 14 (Urbanization), are relevant.

A. Goal 1, Citizen Involvement. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in its acknowledged comprehensive plan and land use regulations.

Finding: A public hearing before The Dalles City Council was held July 10, 2006, where the condition of providing reserve capacity at the Chenoweth Interchange was imposed. A public hearing is held on November 15, 2006, to amend the highway mobility performance standard for the Chenoweth Interchange in the Oregon Highway Plan to implement that condition of reserve capacity consistent with the provisions of OAR 731-015-0065.

B. Goal 2, Land Use Planning. Goal 2 requires that actions related to land use be consistent with the acknowledged comprehensive plans of cities and counties. It also requires appropriate coordination with affected governments.

Finding: The Comprehensive Plan and Transportation System Plan for the City of The Dalles does not call for a specific performance standard at the Chenoweth Interchange (See Attachment A). Amendment of the performance standard by the OTC is not inconsistent with those local plans. ODOT and the City have worked closely to implement the concept of reserve capacity and have had meetings on September 26, October 2, and October 24, as well as numerous telephone conference calls. For these reasons, Goal 2 is met.

C. Goal 9, Economic Development. Goal 9 requires local governments to adopt comprehensive plans and policies that "contribute to a stable and healthy economy in all regions of the state."

Finding: Amendment of the highway mobility performance standard at the Chenoweth Interchange will provide "reserve" capacity to allow the adjacent industrial lands to develop out and utilize the interchange facility. These adjacent undeveloped industrial lands are essential to the economic development strategies for The Dalles. Absent this "reserve" capacity, future comprehensive plan changes and zone changes could be approved allowing uses that would exhaust the capacity of the interchange before the end of the planning period and limit the amount of industrial land development. ODOT and the City have agreed to develop an Interchange Area Management Plan (IAMP) for the Chenoweth Interchange. That planning effort will begin on July 1, 2007. The focus of the IAMP is to ensure that there is adequate capacity at the interchange to accommodate planned industrial development. Where there is not adequate capacity, the IAMP shall identify needed planned improvements and funding mechanisms to ensure the interchange can support the adjacent industrial land.

D. Goal 12, Transportation. Goal 12 requires local governments to "provide and encourage a safe, convenient and economic transportation system." Goal 12 is implemented through the Transportation Planning Rule (TPR), OAR 660 Division 12.

Findings:

1. OAR 660-012-0010(1) divides transportation planning into two phases, (a) transportation system planning, and (b) transportation project development. Transportation system planning establishes land use controls and a network of facilities to meet overall transportation facilities. It also establishes the function and performance standards for those transportation facilities.

   The Chenoweth Interchange connects Interstate 84 with River Road on the west side of The Dalles. It was recently constructed at a cost of $12 million dollars and is expected to serve the state and local transportation needs for a minimum of 20-35 years. The interchange is included in the City's comprehensive plan. Currently, the City has hundreds of acres of lands designated for industrial use that may be developed or redeveloped adjacent to the Chenoweth Interchange within the planning period. In order to ensure that the interchange can support the transportation requirements of these industrial uses, the City and ODOT have agreed to "reserve" capacity for these uses by amending the highway mobility performance standard at the ramp terminals from v/c ratio .85 to v/c ratio .75. In addition, the City and ODOT have agreed to enter into a planning process to develop an Interchange Area Management Plan for the area

around the interchange. The intent of the Interchange Area Management Plan is to ensure that the interchange and local transportation system can support planned industrial uses. It is anticipated that the planning process will take up to three years to complete. The highway mobility performance standard will be reevaluated during the IAMP planning process.

2. OAR 660-012-0015 provides for coordination between the State of Oregon and affected cities and counties in developing transportation system plans. Local plans must be consistent with adopted elements of state plans.

   The highway element of the state transportation plan is the Oregon Highway Plan, (OHP). The OHP provides a *maximum* performance standard of v/c ratio .85 at interchange ramp terminals. That performance standard can be modified by the Oregon Transportation Commission to meet planning, land use and transportation objectives. In order to reserve capacity at the interchange ramps to allow for the development of the currently undeveloped adjacent industrial lands, the OTC will amend the highway mobility performance standard to v/c ratio .75 at the Chenoweth Interchange ramp terminals. This highway mobility performance standard will be evaluated during the interchange area management planning process. If changes to the performance standard are needed to accommodate needed industrial growth or the long term operational management of the interchange, such changes will be brought to the Oregon Transportation Commission upon completion of the plan. The City issued a letter dated October 30, 2006, found at Attachment A indicating that such modification of the performance standard at the ramp terminals is consistent with its comprehensive plan and TSP.

   3. OAR 660-012-0045 requires that local governments adopt regulations to protect transportation facilities for their identified functions.

   Modification of the highway mobility performance standard at the Chenoweth Interchange ramp terminals will protect the interstate interchange. The primary objective of interstate highways is to provide highway mobility and to provide connections to major cities, regions of the state and other states. Interstate 84 is the major east-west highway in Oregon connection Oregon to Idaho and states beyond. The modification of the highway mobility standard will "reserve" capacity at the Chenoweth interchange so the interchange can continue to function for its intended purpose. The development of the IAMP will help the City and ODOT manage the operations of the interchange to ensure that continues to serve its intended highway function.

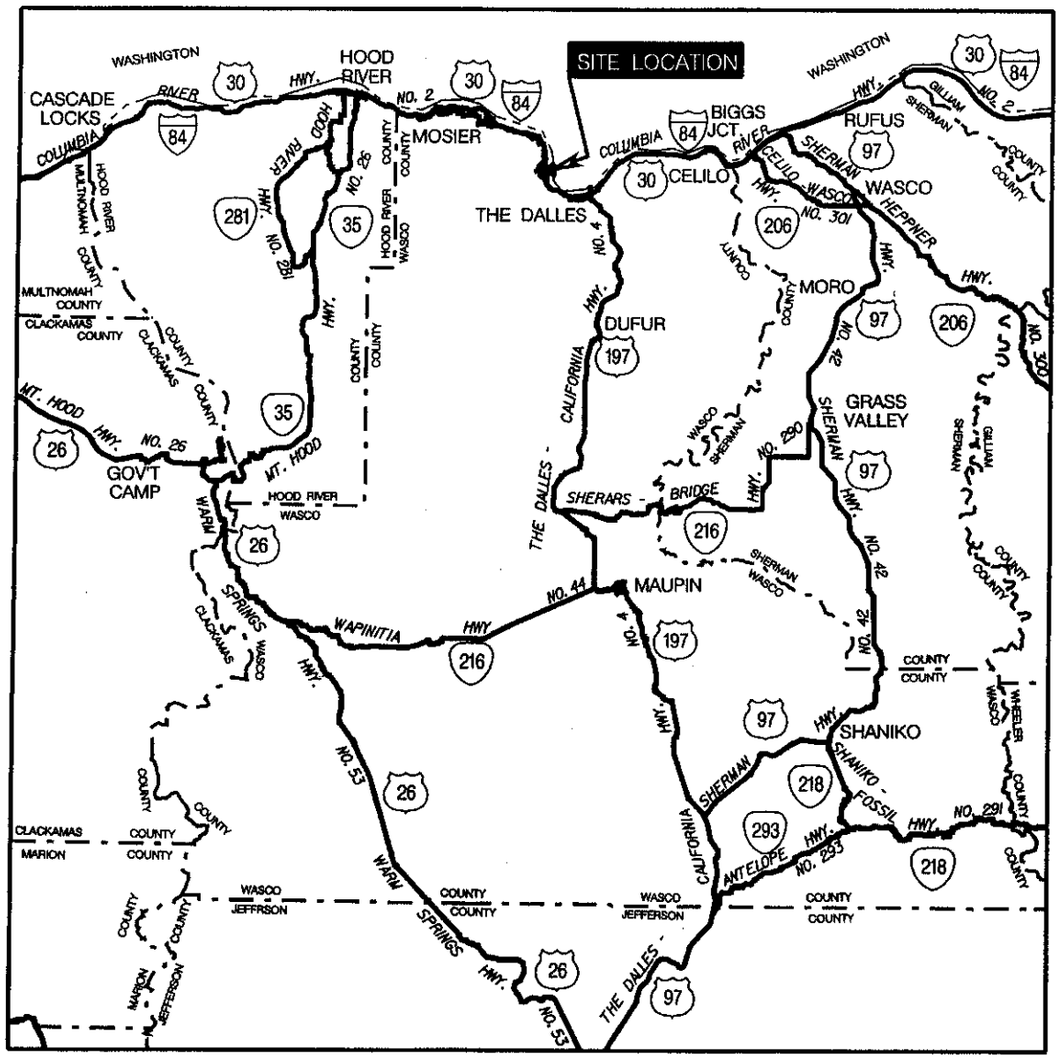
E. Goal 14, Urbanization. Goal 14 requires local governments to establish urban growth boundaries in accordance with standards and to separate urban and urbanizable lands from rural lands and call for the orderly and efficient conversion of urbanizable lands to urban uses.

Finding: This amendment does not change the urban growth boundary or the zoning of the adjacent lands.

PROJECT VICINITY

ODOT REGION 4

N



THE DALLES INTERCHANGE @ I-84

STATE HIGHWAY -

COUNTY BOUNDARY -

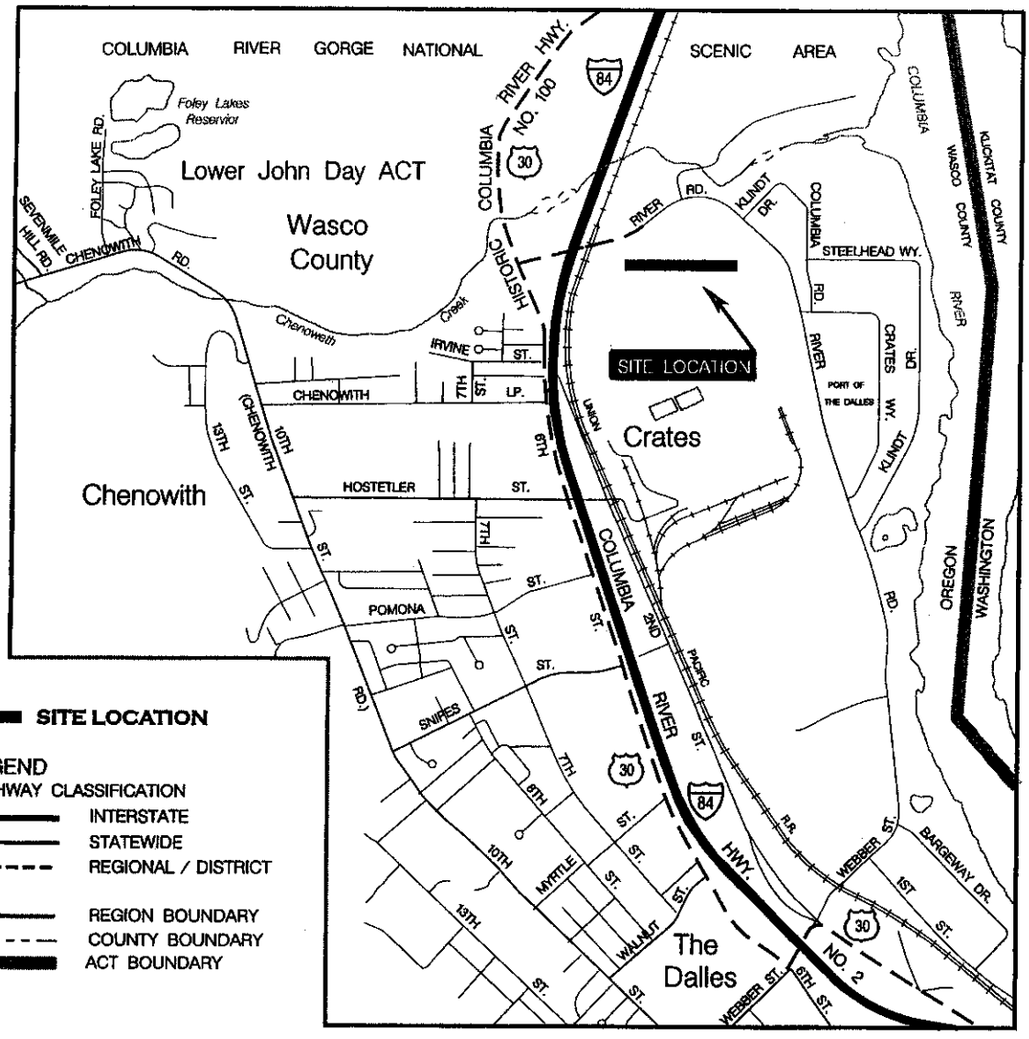
"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information."

SCALE 0 10 MILES

SPECIAL PROJECT # 1926
OCTOBER 2006

PROJECT LOCATION

ODOT REGION 4



THE DALLES INTERCHANGE @ I-84

"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information."

0 SCALE 2000 FEET

SPECIAL PROJECT # 1926
OCTOBER 2006

INTERGOVERNMENTAL AGREEMENT
Settlement Agreement
City of The Dalles; WM3, Inc.

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 "ODOT"; the City of The Dalles, acting by and through its elected officials, hereinafter referred to as "City"; and WM3, Inc., an Oregon corporation, acting by and through its corporate officers, hereinafter referred to as "WM3", collectively referred to hereinafter as the "Parties".

RECITALS

1. By the authority granted in ORS 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.

2. By the authority granted in ORS 184.618 and 190.220, the Oregon Department of Transportation has the authority to plan for transportation facilities and to enter into settlement agreements.

3. By the authority of ORS 227.090 and 190.010, local jurisdictions have the authority to plan for transportation facilities and to enter into settlement agreements.

4. Interstate 84 (I-84) and US 30 are part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). In 1997 the State invested $12 million to construct the Chenoweth Interchange at Exit 82 to provide access from I-84 to the west side of the City to allow access to the Port of The Dalles and the Discovery Center.

5. WM3 proposed to change the zoning designation and comprehensive plan designation for an approximate 67.2 acre parcel, referred to hereinafter as "Parcel", from industrial use to commercial/light industrial use. The location of the Parcel is depicted in Exhibit "A" attached hereto and by this reference made a part hereof.

6. On July 10, 2006, the City Council for the City adopted Ordinance No 06-1269 and found that the WM3 proposed zone change and comprehensive plan designation change would have a significant effect under OAR 660-012-0060 and approved the request to change the zone and comprehensive plan designations with conditions. ODOT appealed the decision to the Land Use Board of Appeals (LUBA) No 2006-136. Both ODOT and the City agreed to suspend the proceedings until March 30, 2007 in an effort to reach a settlement.

7. The Parties agreed that it is to their mutual benefit to settle LUBA No. 2006-136 and reached a settlement agreement which was presented to the OTC on November 15, 2006. At that meeting the OTC also held a a public hearing and took action to amend the Oregon Highway Plan (OHP) to lower the Volume-to-Capacity (V/C) Ratio from .85 to .75 for the Chenoweth Interchange ramp intersections with River Road at Interstate 84.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the Parties hereto, in order to settle the matter, as follows:

TERMS OF AGREEMENT

1. The Parties agree that:.

   (A) All traffic impact analyses shall apply a 20-year planning horizon. The traffic impact analyses will consider traffic impacts to the Chenoweth Interchange, Webber Street Interchange and U.S. 30, and adjacent local streets.

   (B) The performance standards established in the 1999 OHP do not apply to the Chenoweth Interchange ramp intersections at River Road. Instead the performance standard of a V/C ratio of .75 will be applied to the Chenoweth Interchange ramp intersections at River Road.

   (C) Capacity at the Chenoweth Interchange will be reserved to allow existing undeveloped industrial lands to develop out during the planning period. ODOT will reserve this capacity by amending the OHP to establish a performance standard of a V/C ratio of .75 for the Chenoweth Interchange ramp intersections at River Road.

   (D) Funding to pay for improvements to the interchange will be established upon the completion and adoption of an Interchange Area Management Plan (IAMP) for the Chenoweth Interchange. The IAMP is being developed because ODOT recently constructed the interchange at a public cost of approximately $12 million and made improvements to the Webber Street Interchange at a of cost of $4 million to support the development of the currently undeveloped land zoned for industrial use located adjacent to the Chenoweth Interchange, generally defined as the Study Area as shown in Exhibit A. The City and ODOT wish to manage the area to support needed economic growth over the next 25-30 years. The Parties recognize that the Chenoweth Interchange does not have unlimited capacity. Development of certain types of land use could exhaust that capacity and curtail development of key economic development opportunities associated with the industrial lands without substantial and costly improvements to the transportation infrastructure.

2. The City and ODOT agree that the cost of any future capacity increasing improvements to the transportation infrastructure limited to the Chenoweth

Interchange, Highway 30 and Webber Street Interchange due to increased traffic caused by City approved discretionary zoning changes in the study area will be borne by the City.

3. Accordingly, the City and ODOT agree to develop an IAMP for the Study Area around the Interchange. This planning process will be funded by ODOT at a cost of approximately $300,000 and will commence approximately July, 2007. The purpose of the plan is to identify land use management strategies, short term and long term transportation improvements, access management, and funding strategies to pay for any identified improvements. It is the intent of the Parties that the IAMP planning efforts will result in policies, ordinances, and other provisions that will be adopted into the City of The Dalles Transportation System Plan, Comprehensive Plan, and facility plan that will be adopted by the OTC and may amend the Oregon Highway Plan.

4. Until the IAMP provisions are adopted by the City, the City agrees that it will not consider comprehensive plan or zone amendments, or modifications to its industrial zone designation that would be applied to the area within the study area for the IAMP.

. The City has issued a letter to ODOT stating that changing the performance standard of the Chenoweth Interchange ramp intersections at River Road to a V/C ratio of .75 is compatible with its acknowledged comprehensive plan. These performance standards will remain until the IAMP is complete and the OTC takes action to amend it. It is the understanding of the Parties that during the IAMP planning process this performance standard will be evaluated and adjusted to meet the planning objectives of the City and meet minimum highway performance standards.

6. ODOT has amended the OHP to change the performance standard of the Chenoweth Interchange to a V/C ratio of .75.

7. WM3 Inc., shall not oppose or appeal the amendment to change the performance standard at the Chenoweth Interchange.

8. ODOT and the City shall enter into an Agreement by July 2007 to develop an IAMP for the Chenoweth Interchange consistent with the clarifications identified in Terms of Agreement Paragraph 1 Condition (D).

9. WM3, Inc. will voluntarily place property covenants on the remaining 42 acres of the 67 acres, which will prohibit "non-industrial" development of that portion of the property until the IAMP is adopted by the City or until July 1, 2010 whichever is sooner. Until the IAMP is adopted by the City, the City will provide ODOT with notice and opportunity to participate in any site plan review applications submitted within the IAMP study area as shown in Exhibit A.

10. ODOT shall withdraw its appeal of LUBA No.2006-136 when the covenants are placed upon the deed and legally recorded, and this Agreement is finalized.

11. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of the Parties.

2. ODOT may terminate this Agreement, upon delivery of written notice to the City, if the 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 ODOT is prohibited from paying for such work from any planned funding source.

3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

4. The Parties agree to promptly execute and deliver documents necessary to effectuate this Agreement.

5. This Agreement shall be binding on the successors and assigns of WM3.

6. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall 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 shall constitute an original.

7. 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 shall 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, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

SIGNATURE PAGE TO FOLLOW

City/ODOT/WM3
Agreement No. 23886

IN WITNESS WHEREOF, the Parties hereto have set their hands as of the day and year hereinafter written.

The Oregon Transportation Commission approved this Project on April 25, 2007 and delegated the Deputy Director, Highways to approve and sign agreements relating to this Project.

CITY OF THE DALLES, by and through its elected officials

By _____
Mayor

Date 2-26-07

By Julie Krueger
City Recorder

Date 2-27-07

APPROVED AS TO LEGAL SUFFICIENCY

By Gene E Parker
City Counsel

Date 2-27-07

WM3, Inc. by and through its corporate officers

By _____

Title _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
WM3, Inc. Legal Counsel

Date _____

STATE OF OREGON, by and through its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Manager

Date _____

By _____
Region 4 Manager

Date 03-20-07

By _____
Region 4 Tech Center Manager

Date 3/9/07

By _____
Region 4 Program & Planning Manager

Date 3/9/07

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date: _____

City/ODOT/WM3
Agreement No. 23886

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CITY OF THE DALLES, by and through its elected officials

By _____
Mayor

Date _____

By _____
City Recorder

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
City Counsel

Date _____

WM3, Inc. by and through its corporate officers

By _____

Title PRESIDENT

APPROVED AS TO LEGAL SUFFICIENCY

By _____
WM3, Inc. Legal Counsel

Date 2/26/07

STATE OF OREGON, by and through its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Manager

Date _____

By _____
Region 4 Manager

Date _____

By _____
Region 4 Tech Center Manager

Date _____

By _____
Region 4 Program & Planning Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By_____
Assistant Attorney General

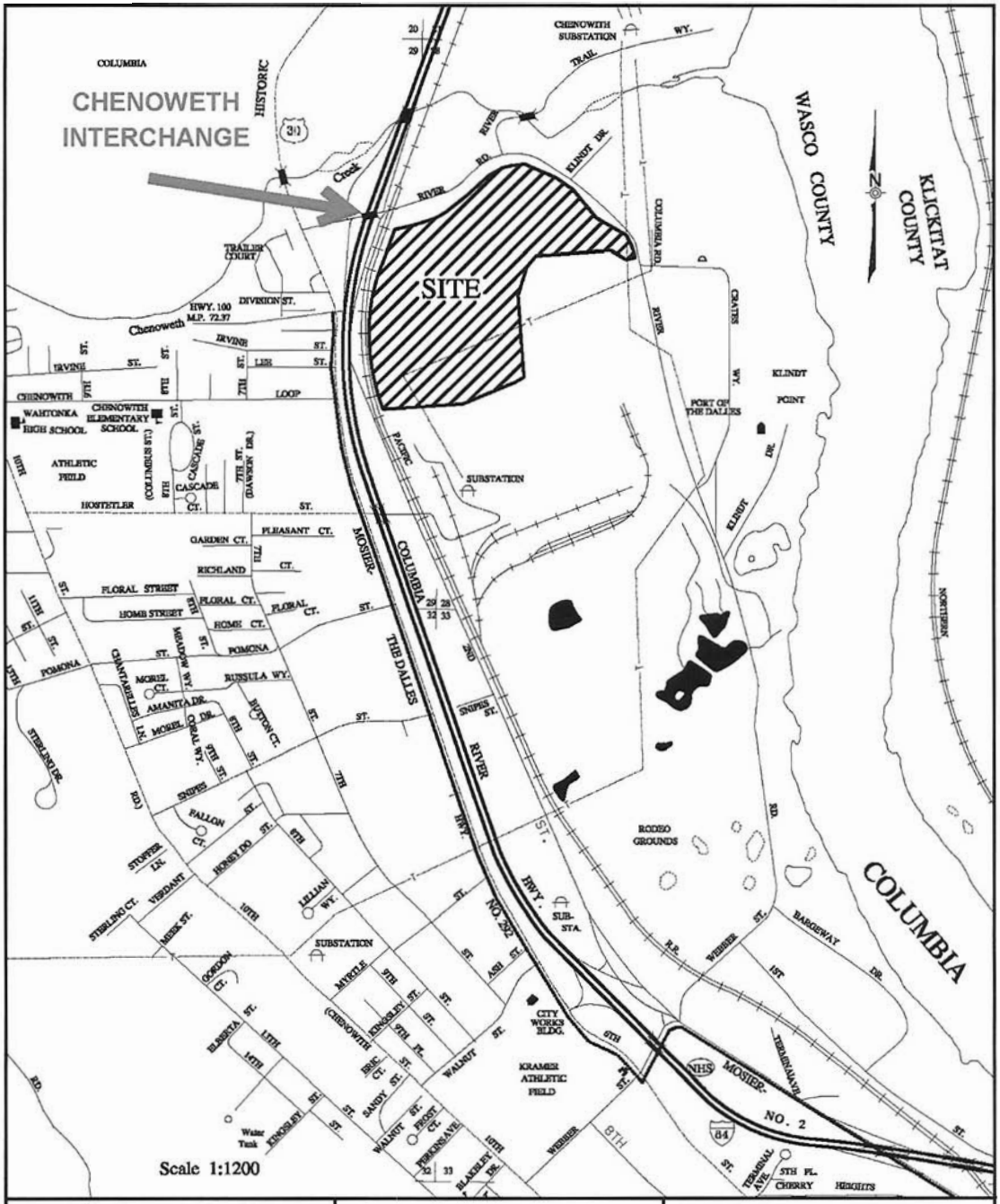
Date:_____

AGENCY CONTACT

City of The Dalles
Gene Parker, City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058

WM3, Inc.
James R. Foster , Attorney
Foster, Peachey & Young
420 E. 3rd St.
The Dalles, OR 97058

F:\Agreements\Developer s\WM3, Inc. Settlement Agreement\Chenoweth Interchange\FINALIZE 23886 WM3 Inc City of The Dalles Settlement Agreemen 022207.doc



NWS TRAFFIC ENGINEERING

SHOPPING CENTER
T.I.S.
THE DALLES, OREGON

EXHIBIT A