

RESOLUTION NO. 1249

A RESOLUTION ANNEXING CERTAIN PROPERTY INTO THE CITY OF PRINEVILLE

The Prineville City Council makes the following findings:

BACKGROUND:

The City of Prineville has received from Crook County, a petition to annex into the City the parcel of real property described as a parcel of land being a portion of Parcel 2 of Partition Plat 2014-06, located in the South one-half (S½) of Section 7, Township 15 South, Range 16 East of the Willamette Meridian, Crook County, Oregon, more particularly described as follows: The Northeast one quarter of the Southwest one quarter (NE ¼ SW1/4) and Government Lots 3 and 4 all located in Section 7, containing 114.06 acres, more or less. (Hereafter referred to as the “Property”).

LEGAL CRITERIA AND FINDINGS:

I. OREGON REVISED STATUTES

A. ORS 222.111, Authority and Procedure for Annexation.

(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

FINDING: The Property is contiguous to the Prineville City limits, is located within the City’s Urban Growth Boundary, which has been acknowledged to be suitable for urban development and is developed with sufficient transportation infrastructure to serve urban uses. City services can be easily extended to serve the Property. The Property is designated for future light industrial use.

In addition to the statutory criteria of ORS Chapter 222, the City finds that the proposed annexation meets the judicially imposed “reasonableness” test set forth in *Portland General Elec. Co. v. City of Estacada*, 194 Or. 145, 291 P.2d 1129 (1952) and the cases following it (citations omitted). Although the question of reasonableness is based on a case by case analysis, the reasonableness factors identified by the Oregon courts include:

- whether the contiguous territory represents the actual growth of the city beyond its city limits;
- whether it is valuable by reason of its adaptability for prospective town uses;
- whether it is needed for the extension of streets or to supply residences or businesses for city residents; and
- whether the territory and city will mutually benefit from the annexation.

DLCD v. City of St. Helens, 138 Or App. 222, 227-28, 907 P.2d 259 (1995).

The present annexation satisfies the reasonableness factors because the Property is contiguous to the City, was brought into the City's UGB as necessary for future urban, industrial development, is needed to provide a large light industrial parcel upon which to locate a large scale light industrial use and annexation will benefit the City in the form of economic growth and increased tax base.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

FINDING: The present proposal was initiated by the property owner of the territory to be annexed.

(3) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

FINDING: The present annexation is being conducted pursuant to and meets the requirements for annexation under ORS 222.125 because the sole landowner of the territory proposed for annexation has consented to the annexation in writing and there are no electors residing in the territory to be annexed.

B. ORS 222.125, Annexation by consent of all owners of land and majority of electors; proclamation of annexation.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

FINDING: The sole property owner of the territory to be annexed has consented to the annexation and there are no electors residing within the territory. The above statute does not require a hearing on the annexation.

C. ORS 222.177, Filing of annexation records with Secretary of State.

When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the

city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

FINDING: The City will submit the necessary documents to the Secretary of State following Council approval of this Resolution.

D. ORS 222.180, Effective date of annexation.

(1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

FINDING: The present annexation request was initiated by the property owner and will be complete as of the date of filing with the Secretary of State.

II. OREGON ADMINISTRATIVE RULES

A. OAR 660-014-0060, Annexation of Lands Subject to an Acknowledged Comprehensive Plan.

A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. [Stat. Auth.: ORS Ch 196 & 197]

FINDING: The City of Prineville's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 and 197.625. Therefore, the present annexation request is considered to be made in accordance with the statewide planning goals and the goals need not be directly applied to this decision.

III. CITY OF PRINEVILLE CODE

A. Chapter 153, Land Development; Section 153.034, Zoning of Annexed Areas.

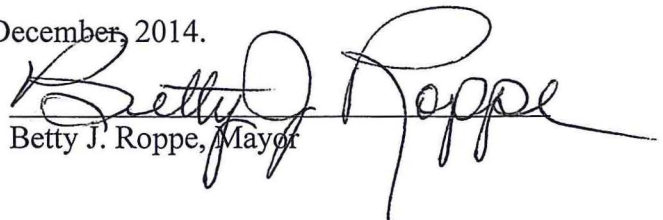
An area annexed to the City shall, upon annexation, assume the zoning classification determined by the City to be in compliance with the Comprehensive Plan; the determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.

FINDING: The Planning Commission considered the present annexation request at its December 2, 2014, meeting and recommended approval to the City Council. Based on the fact that the Comprehensive Plan designation for the Property is Light Industrial and the current County zoning is Light Industrial (LM), the Planning Commission recommended the zoning classification for the Property be Light Industrial (M1).

BASED UPON the above findings the City of Prineville resolves as follows:

1. The Property, shown on the maps attached hereto as Exhibit 'A' and Exhibit 'B,' and any adjacent rights-of-way are hereby annexed into the City of Prineville.
2. The Property is hereby rezoned to M1 (Light Industrial) from the current County zone as shown on the map attached hereto as the Before map on Exhibit A, which zoning is in compliance with the City's comprehensive plan and City policy concerning the rezoning of annexed properties for compatibility with the existing uses and/or previous Crook County zoning designations.
3. The City Manager or his designee shall submit to the Oregon Secretary of State the necessary documents showing the Property has been annexed into the City of Prineville.
4. This Resolution becomes effective immediately.

Passed by the City Council this 17th day of December, 2014.


Betty J. Roppe, Mayor

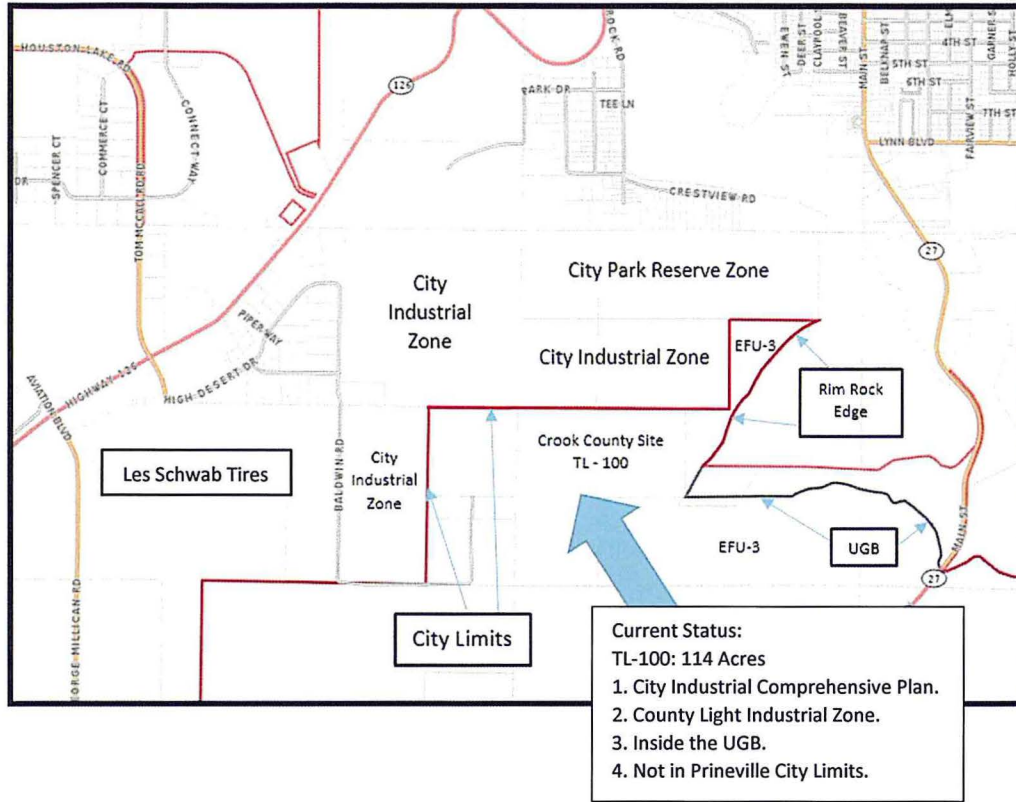
ATTEST:


Lisa Morgan, City Recorder

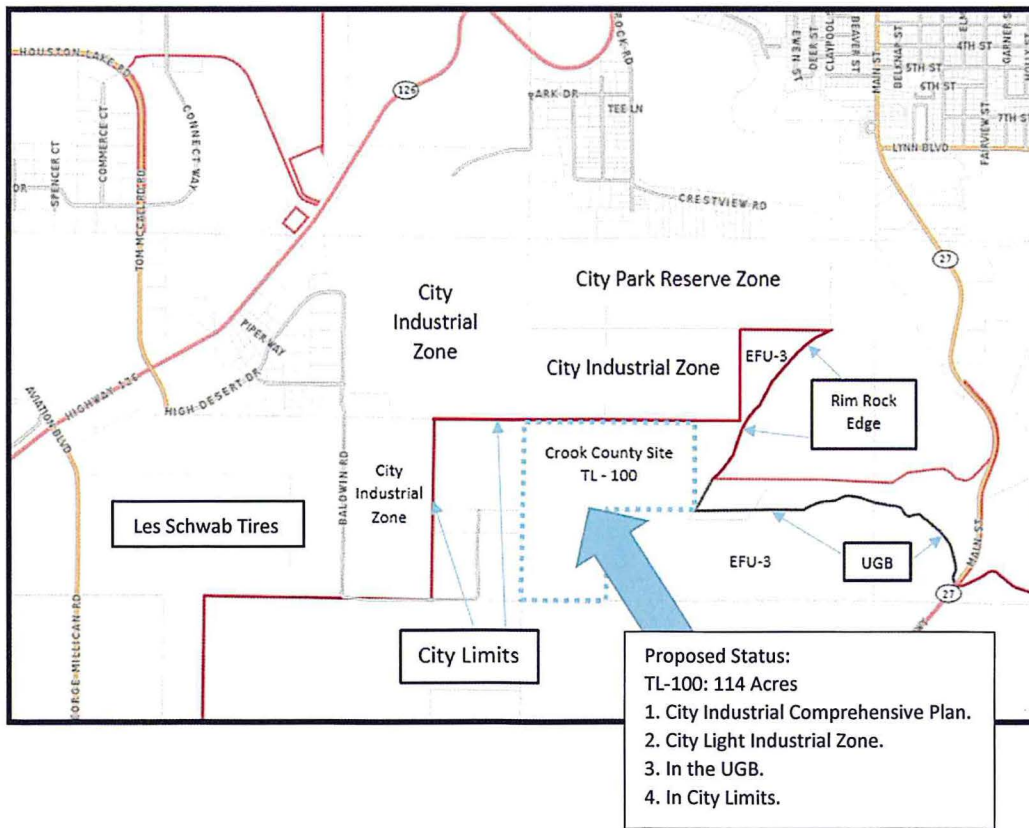
Attachment: Exhibit C – Planning Commission recommendation

AM-2014-103 - Legislative Amendment proposing a UGB Expansion, Comprehensive Plan and Zone Map Amendment and Annexation (ANX-2014-101)
 T15S, R16E, S07, TL 100 (114 acres)
 Baldwin Road Area

Before



After



PARTITION PLAT NO. 2014-06
PARTITION PLAT OF A PARCEL OF LAND LOCATED IN
SECTION 7, T.15S., R.16E., W.M., CROOK COUNTY, OREGON
LP-14-0069 SURVEY FOR SURVEY BY
W.O. 13-4367 CROOK COUNTY COURT ARMSTRONG SURVEYING & ENGINEERING, INC.

LEGEND

- FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W&H PACIFIC" AS PER C.S. 1305 BY LYNN J. BRUNO, LS 2335, RECORDED SEPTEMBER 24, 1993.
- FOUND 1/2" IRON ROD AS PER C.S. 551 BY EHLE P. BACHAND, LS 1122, RECORDED SEPTEMBER 4, 1979.
- FOUND 3/8" IRON ROD WITH 1-1/2" ALUMINUM CAP MARKED "ARMSTRONG S&E LS 2798" AS PER C.S. 1688 BY GREGORY R. KELSO, LS 2798, RECORDED SEPTEMBER 3, 1997.
- RECORD 2-1/2" ALUMINUM CAP AS PER CRCLM FORM BY DAVID B. ARMSTRONG, LS 1026, RECORDED MARCH 6, 1985.
- 1.) RECORD AS PER GENERAL LAND OFFICE SURVEY BY JOHN MCLUNG, DEPUTY SURVEYOR, UNDER JOINT CONTRACT NO. 129, DATED JUNE 7, 1889.
- 2.) RECORD AS PER C.S. 1305 BY LYNN J. BRUNO, LS 2335, RECORDED SEPTEMBER 24, 1993.
- 3.) RECORD AS PER C.S. 551 BY EHLE P. BACHAND, LS 1122, RECORDED SEPTEMBER 4, 1979.
- 4.) RECORD AS PER C.S. 2437 BY PETER A. MANLEY, LS 2214, RECORDED APRIL 12, 2005.
- 5.) RECORD AS PER PARTITION PLAT NO. 1997-20, C.S. 1688, BY GREGORY R. KELSO, LS 2798, RECORDED SEPTEMBER 3, 1997.
- 6.) RECORD AS PER PARTITION PLAT NO. 2013-05, C.S. 3993, BY TODD R. CATTERSON, LS 53270, RECORDED MAY 1, 2013.
- 7.) RECORD AS PER PARTITION PLAT NO. 2011-08, C.S. 3931, BY DAVID B. ARMSTRONG, LS 1026, RECORDED NOVEMBER 21, 2011.

SURVEYOR'S CERTIFICATE

I, TODD R. CATTERSON, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, HEREBY CERTIFY THAT I HAVE SURVEYED AND MARKED WITH PROPER MONUMENTS IN ACCORDANCE WITH OREGON REVISED STATUTES, CHAPTER 92, THE LANDS REPRESENTED ON THIS PLAT. SAID LANDS ARE LOCATED IN SECTION 7, TOWNSHIP 15 SOUTH, RANGE 16 EAST, W.M., CROOK COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- GOVERNMENT LOT 1
- GOVERNMENT LOT 2
- GOVERNMENT LOT 3
- GOVERNMENT LOT 4
- THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (SE 1/4 NW 1/4).
- THE WEST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (W 1/2 SW 1/4 NE 1/4).
- THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NE 1/4 SW 1/4).
- THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NE 1/4 NW 1/4).
- THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (NW 1/4 NE 1/4).
- THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (W 1/2 NE 1/4 NE 1/4), CONTAINING 348.00 ACRES, MORE OR LESS.

SUBJECT TO ANY EXISTING EASEMENTS & RIGHT-OF-WAYS.

SUBJECT TO AN EASEMENT IN FAVOR OF PACIFIC POWER & LIGHT COMPANY AS PER DEEDS BOOK 88 AT PAGE 209, RECORDS OF CROOK COUNTY, OREGON, MAPPED.

TOGETHER WITH NON-EXCLUSIVE, PERPETUAL EASEMENTS APPURTENANT TO THE ABOVE DESCRIBED PROPERTY CONVEYED TO GRANTEE IN THIS INSTRUMENT (A) FOR ACCESS, EGRESS AND ROADWAY PURPOSES ALLOWING FOR THE PASSAGE OF VEHICULAR AND PEDESTRIAN TRAFFIC AND (B) FOR DRAINAGE AND UTILITIES, TOGETHER WITH (C) THE ATTENDANT CUSTOMARY USES, INCLUDING INSTALLATION, CONSTRUCTION, USE, INSPECTION, REPAIR, MAINTENANCE, REPLACEMENT AND OPERATION OF VEHICULAR AND PEDESTRIAN ROADWAYS AND ACCESSWAYS AND RELATED IMPROVEMENTS AND UTILITIES AND RELATED FACILITIES OVER, UNDER, THROUGH, ACROSS AND ALONG THE APPROXIMATELY 300-FOOT WIDE STRIP OF LAND DESCRIBED AS TRACT B IN THAT CERTAIN WARRANTY DEED FROM GRANTEE HEREIN TO GRANTEE HEREIN DATED FEBRUARY 15, 2012 AND RECORDED IN THE RECORDS OF CROOK COUNTY, OREGON AT DOCUMENT NO. 2012-250783.

SURVEY NARRATIVE

WE WERE EMPLOYED BY CROOK COUNTY TO COMPLETE THE SURVEY AND MAPPING REQUIREMENTS OF THIS APPROVED PARTITION. SUBJECT PROPERTY HAD BEEN PREVIOUSLY SURVEYED DURING C.S. 1305 BY LYNN J. BRUNO, LS 2335. SEARCH IN THE FIELD RECOVERED ALL OF THE MONUMENTS AROUND SAID SURVEY AND I HELD THEM AS FOUND. THE REMAINING PARTITION LINES ARE FREE LINES AS DESIRED BY THE CLIENT. THIS SURVEY WAS PERFORMED USING A TRIANGLE RB OPS SYSTEM IN RTK MODE.

TAX CERTIFICATES

I HEREBY CERTIFY THAT ALL AD VALOREM TAXES, SPECIAL ASSESSMENTS, FEES, AND OTHER CHARGES REQUIRED BY LAW TO BE PLACED ON THE 2014 TAX ROLL WHICH BECAME A LIEN OR WILL BECOME A LIEN ON THIS PARTITION DURING THIS TAX YEAR BUT NOT YET CERTIFIED TO THE TAX COLLECTOR FOR COLLECTION HAVE BEEN PAID TO ME.

[Signature] 5-22-2014
 COUNTY ASSESSOR DATE

[Signature] 5-22-2014
 COUNTY TAX COLLECTOR DATE

I HEREBY CERTIFY THIS IS AN EXACT COPY OF THE ORIGINAL PLAT.
[Signature] 5/21/14
 TODD R. CATTERSON, LS53270

RECORDATION - CLERK

STATE OF OREGON | SS 2014-260181
 COUNTY OF CROOK |
 I CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED FOR RECORD ON THE 21ST DAY OF MAY, 2014, AT 9:50 AM, AND RECORDED IN DISTRICT 148, DEEDS BOOK NO. 10-122481, DEANNA B. BERMAN, CROOK COUNTY CLERK BY: *[Signature]* DEPUTY

RECORDATION - SURVEYOR

STATE OF OREGON | SS
 COUNTY OF CROOK | SS
 I CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED FOR RECORD ON THE 21ST DAY OF MAY, 2014, AT 9:50 AM, AND RECORDED IN SURVEYS & MAPS BOOK NO. 10-122481, OF SAID COUNTY, BY: *[Signature]* DEPUTY COUNTY SURVEYOR

APPROVALS

[Signature] 5/21/2014
 COUNTY SURVEYOR
 JEFFERSON COUNTY SURVEYOR
 O.A.S. §2.100(4)

[Signature] 5/22/14
 CROOK COUNTY CLERK DIRECTOR

[Signature] 5/22/14
 CITY OF PRINEVILLE PLANNING DIRECTOR

DECLARATION AND DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT CROOK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF OREGON IS THE OWNER OF THE LANDS REPRESENTED ON THIS PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND HAVE CAUSED SAID LANDS TO BE SURVEYED AND PLATTED INTO PARCELS AND NON-EXCLUSIVE ACCESS EASEMENT AS SHOWN HEREIN IN ACCORDANCE WITH OREGON REVISED STATUTES, CHAPTER 92, AND DO HEREBY DEDICATE TO THE USE OF PARCELS 1 AND 2 THE NON-EXCLUSIVE ACCESS EASEMENT, THERE ARE NO IRRIGATION WATER RIGHT APPURTENANT TO THIS PROPERTY.

[Signature] Not Present
 MIKE McCABE, COUNTY JUDGE KEN FAHLGREN, COUNTY COMMISSIONER SETH CRAWFORD, COUNTY COMMISSIONER

ACKNOWLEDGEMENT

KNOW ALL PEOPLE BY THESE PRESENTS THAT ON THIS 21ST DAY OF MAY, 2014, BEFORE ME, A NOTARY PUBLIC IN AND FOR THE COUNTY OF CROOK, STATE OF OREGON, PERSONALLY APPEARED THE ABOVE NAMED MIKE McCABE, KEN FAHLGREN AND SETH CRAWFORD, WHO BEING DULY SWORN DID SAY THAT HE, MIKE McCABE, IS COUNTY JUDGE AND HE, KEN FAHLGREN, IS COUNTY COMMISSIONER AND HE, SETH CRAWFORD, IS COUNTY COMMISSIONER OF CROOK COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF OREGON, AND THE SEAL OF SAID COUNTY AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF SAID COUNTY BY AUTHORITY OF ITS COUNTY COURT AND SAID MIKE McCABE, KEN FAHLGREN AND SETH CRAWFORD DO HEREBY ACKNOWLEDGE SAID INSTRUMENT TO BE A FREE ACT AND DEED.

[Signature]
 NOTARY PUBLIC FOR THE STATE OF OREGON



SHEET 1 OF 1
 DRC. NO. 13-4367.DWG
 W.O. 13-4367

Resolution 1249 - Exhibit B

