

Final Documents

For

Annexation to the  
**City of Portland**

MU0402  
Ordinance: 176678

Final sent to DOR: \_\_\_\_\_

Signature:

  
\_\_\_\_\_

Date of

Mailing: \_\_\_\_\_ 8/8/02 \_\_\_\_\_

MU0402

Sent

Received

DOR: 8/8/02

Sec. State: Not Applicable

Assessor: 8/8/02

Elections: 8/8/02

Mapped: Yes

Posted to Web:

Addresses: 9899 SE TENINO CT  
12E28AB01300



**ORDINANCE No. 176678**

Authorize an extraterritorial service extension from City of Portland to the property in case number SE-1-02, 9899 SE Tenino Court. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The owner of the property shown on the map in Exhibit "B" initiated a proposal to receive sewer service from Portland to remedy a failing septic system.
2. Based on the findings and reasons for decision detailed in Exhibit "A," this proposal for extraterritorial sewer extension sufficiently meets applicable criteria for approval.

NOW, THEREFORE, the Council directs:

- a. The proposed extraterritorial sewer extension to the property shown on the map in Exhibit "B" is approved.
- b. The City Auditor is authorized and directed to file a certified copy of this Ordinance with the Boundary Change Office of Metro (Metropolitan Service District).

Passed by the Council, **JUL 03 2002**

Mayor Vera Katz  
Office of Management and Finance  
June 26, 2002  
TF:LB

GARY BLACKMER  
Auditor of the City of Portland

By *Susan Parsons*  
Deputy

**PROPOSED FINDINGS AND REASONS FOR DECISION**

Based on the staff study and the public hearing the City Council found:

1. The proposal involves the extension of 350 feet of service line from the City's existing 8-inch sewer line in Sun Crest Drive east onto the property to be served. The property to be served is located generally on the south edge of the City, east of Sun Crest Drive and south of SE Clatsop Street. The territory to be served contains 1.42 acres, 1 single-family residence, an estimated population of 3 and has an assessed value of \$207,430.
2. The property owners desire City sewer service to replace a failed septic system. The system was cited by Clackamas County, dried up for a while and then failed again after the drainfield was negatively impacted by construction of an adjacent subdivision.
3. The only criterion for deciding city boundary changes within the statutes is that city annexations must be contiguous. Extraterritorial extensions are not treated as boundary changes in ORS 222 or otherwise regulated by statute.

The 1997 Legislature directed Metro to establish criteria applicable to boundary changes, which must be used by all cities within the Metro boundary. As noted above, Metro included extraterritorial extensions within its definition of a boundary change to which its criteria apply.

The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.

3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional framework or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

Each of these factors is addressed below. The Metro Code also contains a second set of 10 factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this extension because no necessary party has contested the proposed extraterritorial extension.

4. The territory is within the regional Urban Growth Boundary and it is within the jurisdictional boundary of Metro.

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan. Both of these Plans have been examined and found not to contain specific criteria relative to extraterritorial sewer line extensions.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to extraterritorial sewer line extensions.

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5. The Clackamas County Comprehensive Plan (Northwest Urban Land – Map IV-1) identifies this area as Immediate Urban. “Immediate Urban Areas are lands within Urban Growth Boundaries which are . . . substantially developed or surrounded by development at urban densities” (p.45, Clackamas County Comprehensive Plan). The plan designation for this parcel is Low Density Residential. Zoning is R-10, residential, 10,000 square foot lot sizes.
  6. This area is within the Clackamas County segment of the City’s Urban Services Boundary. (The City’s Urban Services Boundary replaced the Urban Planning Area Boundary in 1985.)

The Urban Services Boundary identifies an area within which the City believes it can and should ultimately provide urban services. The Portland Urban Services Policy established in Resolution No. 33327, adopted February 23, 1983, states:

4. The City shall consider requests for delivery of services within the urban services boundary wherever the following conditions exist.
  - A majority of the residents and property owners within an area to be served desire delivery of services by the City of Portland.
  - The City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses.
  - The City can supply the needed services most effectively and efficiently.
  - The City can expect to recapture its service investment.
5. The City shall deliver services within the urban services boundary by means of annexation to Portland or, on an interim basis, through alternative approaches that are demonstrated to be in the best long-term interest of both the City and the future service areas.
7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this part of Multnomah County.
8. Records from Clackamas County indicate the property has been cited by the County for

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its failing septic system. This was followed by a period when the system appeared to be operating correctly again. But a later inspection again indicated the system had failed. Because of the failure, which included sewage on the surface, the City line to serve this house has been installed.

The City of Portland has an 8-inch sewer line in Suncrest Drive from which the service line can be extended.

9. The dwelling is provided water service by the Sunrise Water Authority.
10. The area is served by the Clackamas County Sheriff's Department. The sewer extension will have no effect on police service.
11. The territory is within the Clackamas County Rural Fire Protection District #1. The sewer extension will have no effect on fire service.
12. Access to the site is by a private drive that connects to SE Tenino Court. The sewer extension will have no effect on the access.

### CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the City Council determined:

1. The Metro Code at 3.09.050(d)(1) calls for consistency between the City's decision and an agreement adopted pursuant to ORS 195.065. There are no such agreements in this area and therefore the Councils concludes no inconsistency exists.
2. The Metro Code at 3.09.050(d)(2) calls for consistency between the City's decision and urban planning area agreements, or other agreements. The territory to be annexed is within both the urban planning area boundary and urban services boundary of the City of Portland recognized in the City / County urban planning area agreement (UPAA). The agreement recognizes that Portland will eventually annex and service the area. The agreement furthers an objective of Multnomah County to not be an urban service provider. The extension is consistent with the UPAA. Portland has agreements with other service providers but none contains criteria that are directly applicable to decisions on the extraterritorial extension of services.

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3. The Metro Code at 3.09.050(d)(3) calls for consistency between the City's decision and any "directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans;" The Council has reviewed the acknowledged Clackamas County Comprehensive Plan which currently applies to this site. The County plan contains no criteria that are directly applicable to decisions on extraterritorial extensions.

Policy 4 of the Portland Urban Services Policies contains criteria related to annexation. It says that the city shall "consider" requests for the delivery of services within the urban services boundary when certain conditions exist. This policy is not a mandatory approval criterion, but rather contains a set of factors to consider.

The first factor is "residents and property owners within an area to be served desire delivery of services by the City of Portland." The area to be served is limited to the parcel that is proposed to be served. The property owner desires the extension.

The second factor is "the City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses." The only service being extended by the City is sewer service and this is only for one single family dwelling. The Council concludes that this will not diminish the City's ability to serve existing City residents and businesses.

The third factor is that "the City can supply the needed services most effectively and efficiently." The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

The fourth factor is "the City can expect to recapture its service investment." The only service being extended at this time is sewer service which the property owner is paying for.

The Council concludes that the annexation is consistent with policy 11.1 B. (4).

Policy 5 says that Portland will deliver services by annexing areas or other methods on an interim basis. This proposed annexation is consistent with policy 11.1 B (5).

5. Metro Code 3.09.050(d)(4) requires the City's decision to be consistent with directly applicable standards or criteria in the Regional Framework Plan or any functional plan. The Council has reviewed these plans and found no directly applicable criteria.

6. Metro Code 3.09.050(d)(5) states that another criterion to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provision of public facilities and services." The Council concludes that the City's adequate services can be provided to serve this area in the future and that extension of sewer service now will not compromise that ability.

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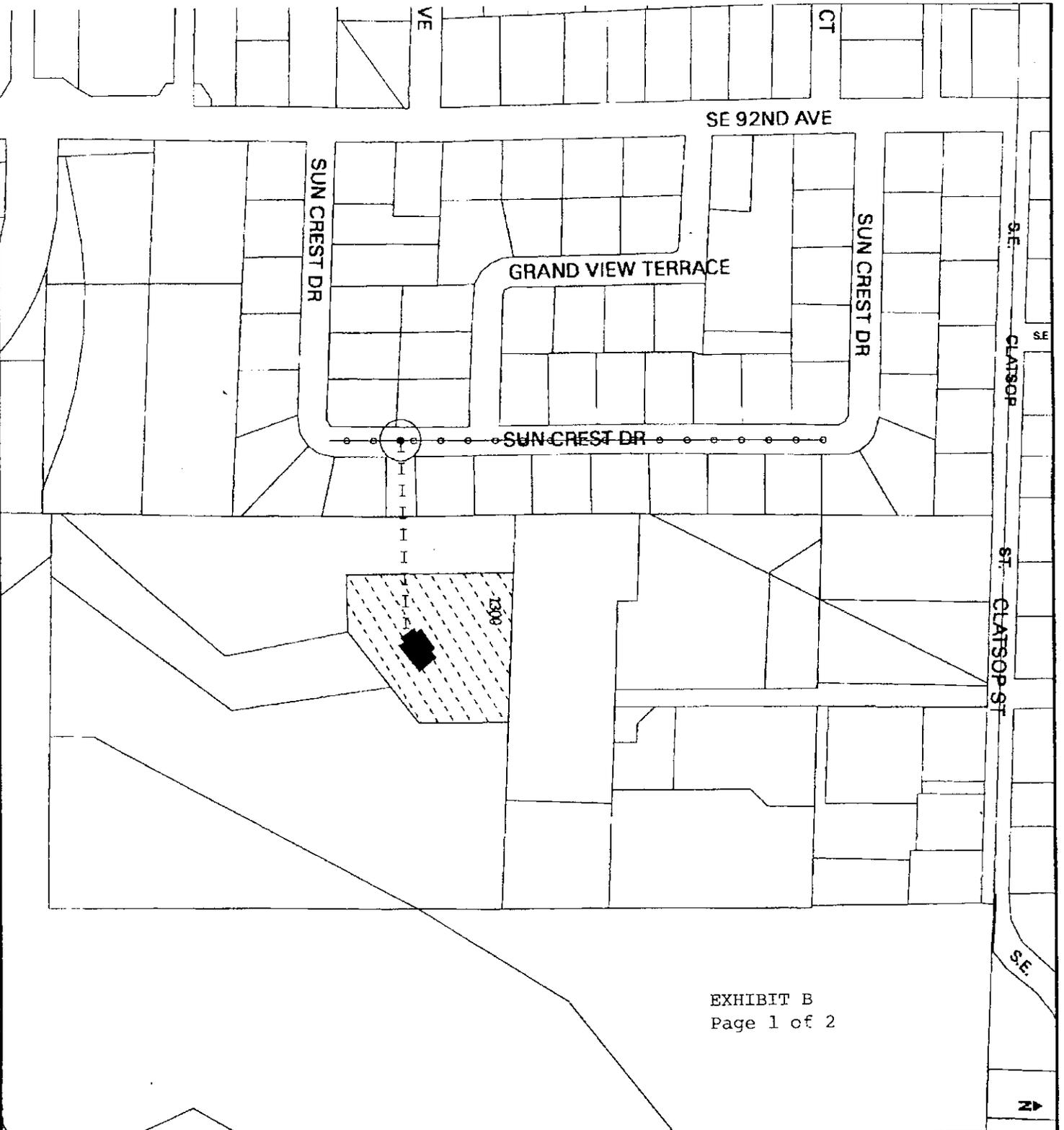


EXHIBIT B  
Page 1 of 2

R L I S  
REGIONAL LAND INFORMATION SYSTEM

# Proposal No. SE-1-02

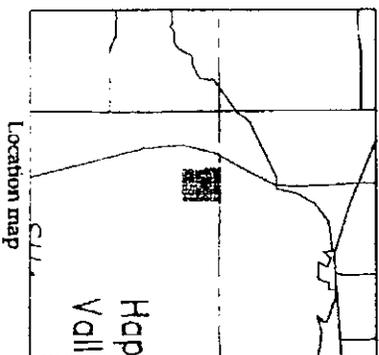
## Portland Sewer Extraterritorial Extension Figure 1

- Existing 8" Sewer Line
- Extension to lot
- Approximate location of sewerline extension
- Property served by extension.



METRO

600 NE Grand Ave.  
Portland, OR 97232-2736  
Voice 503 787-1742  
FAX 503 787-1808  
Email [de@metrodservices.com](mailto:de@metrodservices.com)

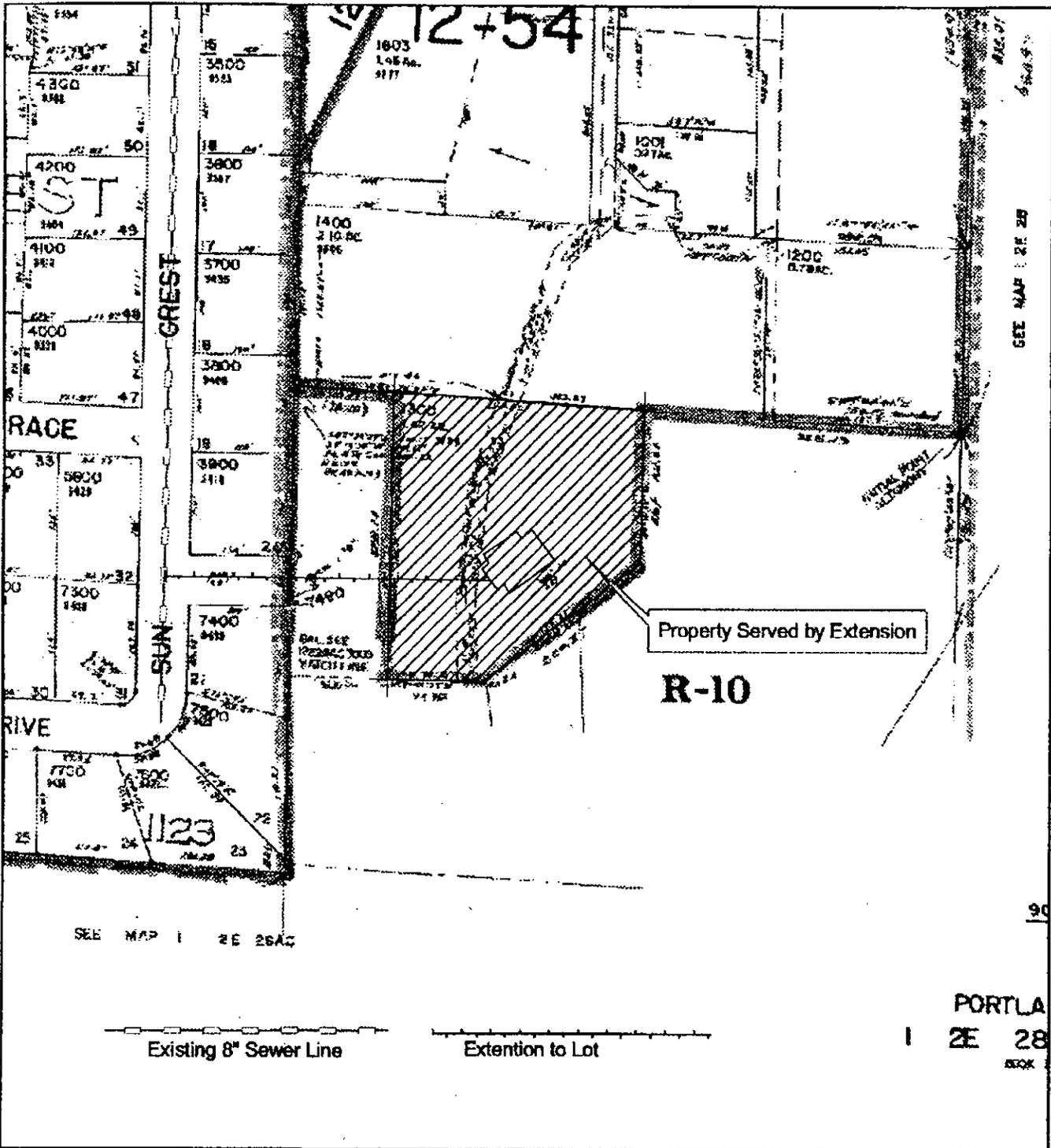


Location map

# PROPOSAL SE-1-02

**K M C**  
 Ken Martin Consulting  
 P.O. Box 29079  
 Portland, OR 97298-9079  
 (503) 222-0855

Portland Sewer Extraterritorial Extension  
 Clackamas Co.  
 Map 1S2E28AB



PROPOSAL NO. SE-1-02  
 Portland Sewer Extraterritorial Extension  
 Figure 2