BEFORE THE CITY COUNCIL

FOR THE CITY OF MEDFORD

JACKSON COUNTY, OREGON

IN THE MATTER OF ORDINANCE NUMBER 2008-XXX, A PROCEDURAL CLASS A LEGISLATIVE AMENDMENT TO THE CITY OF MEDFORD COMPREHENSIVE PLAN THAT REPLACES THE EXISTING ECONOMIC ELEMENT AND ADOPTS A NEW ECONOMIC OPPORTUNITIES ANALYSIS AS THE NEW APPENDIX TO THE ECONOMIC ELEMENT.	)	**FINDINGS OF FACT AND CONCLUSIONS OF LAW** ***File No. CP-08-077*** ***Ordinance Exhibit 'X'*** **October 13, 2008**

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I

PROCEDURAL FINDINGS OF FACT

1. **Nature of the Amendment**: On April 6, 2006, the City Council voted to support a motion made by Jim Key directing staff to start the Urban Growth Boundary review process. The Economic Element update was determined to be a necessary first step to determine the City's employment land needs.

   The purpose of the amendment is to replace the existing Economic Element with an updated Economic Element and Economic Opportunities Analysis that collectively comply with the State's recently revised Goal 9 administrative rule (OAR 660-009).

   The Comprehensive Plan amendments supported by these Findings of Fact and Conclusions of Law are not subject to specific criteria established in advance. Rather, they must be generally consistent with State Law, Administrative Rules, the Statewide Planning Goals and the balance of the Comprehensive Plan.

2. **Public Process**: The following summarizes the key public process components leading to the development and adoption of the Comprehensive Plan amendments supported by these findings of fact and conclusions of law:
   a. The Medford City Council appointed an advisory committee to guide the draft Economic Element and Economic Opportunities Analysis development, especially the technical aspects of the plan update. The Economic Opportunities Analysis (EOA) Subcommittee consisted of six members representing a cross-section of private sector and not-for-profit members all with expertise in various aspects of economic development in the City of Medford. This subcommittee held meetings of one to two hours on November 15, 2007, January 24, 2008, February 11, 2008, and March 20, 2008 with the consultants and Planning Department staff to refine and improve the draft plan development.
   b. The draft document was developed through a series of work sessions with the Planning Commission and Medford City Council. The following joint work sessions were held during the course of the Economic Element development: December 6, 2008, January 24, 2008, February 11, 2008 and March 20, 2008. The Planning Commission discussed the project further at study sessions on July 28, 2008, August 4, 2008 and September 22, 2008. The City Council discussed the project further on July 31, 2008 and August 14, 2008.
   c. The draft Economic Element and Economic Opportunities Analysis Appendix documents were made available for public review on the internet on June 13, 2008. Since that internet posting, the Planning Department received five comments on the document. Where deemed appropriate by the City Council, comments have been incorporated into documents from the public hearings draft documents and those documents initially posted for public review.

d. The Planning Commission reviewed the Public Hearing Draft and provided its comments and recommendation at a properly-noticed regular meeting on October 23, 2008. The City Council held a properly-noticed Public Hearing on December 4, 2008.

e. The written public record was open from the time the project was initiated until the Public Hearing was closed by the Mayor of the City of Medford.

3. Agency Coordination: The following summarizes the agency coordination undertaken by the City of Medford

a. Timely 45-day notice was provided to the Department of Land Conservation and Development (DLCD) of the amendments supported by the Findings of Fact and Conclusions of Law provided herein on or before October 20, 2008.

b. The City of Medford made reasonable effort to identify potentially affected agencies and provide notice that the City was undertaking efforts to update its Economic Element and adopt a new Economic Opportunities Analysis. To accomplish the same the City notified the following agencies:

i. City of Medford Departments: Building, City Attorney, Engineering, Fire Department, Parks and Recreation, Police Department, Public Works Service Center, Water Commission, City Manager

ii. Utilities: Avista, Charter Communications, PacfiCorp, Qwest, Rogue Disposal

iii. Rogue Valley Transit District

iv. Jackson County Planning

v. Medford Irrigation District

vi. Medford School District (549c)

vii. Oregon Department of Transportation

viii. Phoenix School District (4)

ix. Rogue Valley Irrigation District

x. Rogue Valley Sewer Services

xi. CPAC

xii. Department of Land Conservation and Development

4. Agency Comments

a. The Oregon Department of Transportation (ODOT) had no specific comments on the Economic Element update itself. In general, ODOT commented that future TSP updates will likely be needed in response to changing assumptions about future land needs in the City's UGB.

b. Initial comments from the Department of Land Conservation and Development were favorable regarding the proposed amendments. DLCD suggested more specific implementation policies, especially regarding the order to execute implementation of the plan and public participation.

II

PROCEDURAL CONCLUSIONS OF LAW

II.1 STATE OF OREGON REQUIREMENTS

II.1(A) Applicable Case Law:

The Oregon Supreme Court has laid forth standards by which land use decisions are determined to be either quasi-judicial or legislative in nature as provided in *Strawberry Hill Four-Wheelers Association versus Benton County*. In that case, the court held that such determinations are subject to three tests:

1. *Does the decision apply to a circumscribed factual situation that applies to a limited number of people or properties?*
2. *Is the decision subject to a pre-determined set of criteria?*
3. *Is the application destined to result in a decision?*

Conclusions of Law: In the case of this Comprehensive Plan Amendment, the changes apply to the text of the Comprehensive Plan and affect the policy basis of the plan as a whole so the changes do not apply to a circumscribed factual situation nor do they apply to a limited number of people or properties. The amendments of the Comprehensive Plan are based upon a choice of the City Council to change the City's databases, conclusions, analyses, goals and policies and the changes are not therefore subject to a pre-determined set of criteria. The proposed amendments were drafted and a decision reached based upon the desire of the Council to change the City's policy, but a final decision on the review of this policy position was not required by the mere act of initiating the review. Because the answer to all the above questions was in the negative, the Comprehensive Plan Amendments supported by these Findings of Fact and Conclusions of Law are legislative in nature and subject to the procedures and requirements of legislative land use decisions.

II.1(B) Oregon Revised Statutes

POST-ACKNOWLEDGMENT PROCEDURES [Oregon Revised Statutes and Administrative Rules]

ORS 197.610 Local government notice of proposed amendment or new regulation; exceptions; report to commission.

(1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation shall be forwarded to the Director of the Department of Land Conservation and Development at least 45 days before the first evidentiary hearing on adoption. The proposal forwarded shall contain the text and any supplemental information that the local government believes is necessary to inform the director as to the effect of the proposal. The notice shall include the date set for the first evidentiary hearing. The director shall notify persons who have requested notice that the proposal is pending.

(2) When a local government determines that the goals do not apply to a particular proposed amendment or new regulation, notice under subsection (1) of this section is not required. In addition, a local government may submit an amendment or new regulation with less than 45 days' notice if the local government determines that there are

emergency circumstances requiring expedited review.

Conclusions of Law: Based upon the Findings of Fact in Section I and supporting record herewith incorporated and adopted, the City Council concludes proper notice was given to DLCD.

ORS 197.615 Local government notice of adopted amendment or new regulation; content; notice by director. (1) A local government that amends an acknowledged comprehensive plan or land use regulation or adopts a new land use regulation shall mail or otherwise submit to the Director of the Department of Land Conservation and Development a copy of the adopted text of the comprehensive plan provision or land use regulation together with the findings adopted by the local government. The text and findings must be mailed or otherwise submitted not later than five working days after the final decision by the governing body. If the proposed amendment or new regulation that the director received under ORS 197.610 has been substantially amended, the local government shall specify the changes that have been made in the notice provided to the director. If the text and findings are mailed, they shall include a signed statement by the person mailing them indicating the date of deposit in the mail.

(2) (a) On the same day that the text and findings are mailed or delivered, the local government also shall mail or otherwise submit notice to persons who:

(A) Participated in the proceedings leading to the adoption of the amendment to the comprehensive plan or land use regulation or the new land use regulation; and
(B) Requested of the local government in writing that they be given such notice.

(b) The notice required by this subsection shall:

(A) Describe briefly the action taken by the local government;
(B) State the date of the decision;
(C) If delivered by mail, include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail;
(D) List the place where and the time when the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation, and findings, may be reviewed; and
(E) Explain the requirements for appealing the action of the local government under ORS 197.830 to 197.845.

Conclusions of Law: The City Council herewith concludes that the required notice can feasibly be provided and the same is herewith ordered at the time and in the manner prescribed in the above statute.

II.1(C) Oregon Administrative Rules

OAR 660-018-0020
Filing of a Proposed Amendment to or Adoption of a Comprehensive Plan or Land Use Regulation with the Director
(1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation must:

(a) Be submitted to the director at least 45 days before the first evidentiary hearing on adoption. The submittal must be received by the department at its Salem office;
(b) Be accompanied by appropriate forms provided by the department;
(c) Contain two copies of the text and any supplemental information the local government believes is necessary to inform the director as to the effect of the proposal. One of the required copies may be an electronic copy;
(d) Indicate the date of the final hearing on adoption. If a final hearing on adoption is continued or delayed, following proper procedures, the local government is not required to submit a new notice under OAR 660-018-0020.
(e) In the case of a map change, include a map showing the area to be changed as well as the existing and proposed designations. Wherever possible, this map should be on 8-1/2 by 11-inch paper;
(f) Where a goal exception is being proposed, include the proposed language of the exception. The Commission urges the local government to submit information that explains the relationship of the proposal to the acknowledged plan and the goals, where applicable.

(2) The text submitted to comply with subsection (1)(c) of this rule must include the specific language being proposed as an addition to or deletion from the acknowledged plan or land use regulations. A general description of the proposal or its purpose is not sufficient. In the case of map changes, the text must include a graphic depiction of the change, and not just a legal description, tax account number, address or other similar general description.

Conclusions of Law: Based upon the Findings of Fact in Section I and supporting record herewith incorporated and adopted, the City Council concludes proper notice was given to DLCD.

OAR 660-018-0040
Submittal of Adopted Material

(1) Amendments to acknowledged comprehensive plans or land use regulations, new land use regulations adopted by local government, and findings to support the adoption shall be mailed or otherwise submitted to the director within five working days after the final decision by the governing body and shall be accompanied by appropriate forms provided by the department. If the text and findings are mailed, they shall include a signed statement by the person mailing them indicating the date of deposit in the mail.

(2) Local government must notify the department of withdrawals or denials of proposals previously sent to the department under requirements of OAR 660-018-0020.

(3) The local government must clearly indicate in its transmittal which provisions of ORS 196.610(2) are applicable where the adopted amendment was not submitted for review 45 days prior to the first evidentiary hearing on adoption.
NOTE: (ORS 197.610 clearly requires all adopted plan and land use regulation amendments and new land use regulations to be submitted to the director even though they were not required to be submitted for review prior to adoption.)

(4) Where amendments, including supplementary materials exceed 100 pages, a summary of the amendment briefly describing its purpose and requirements shall be submitted to the director. Such amendments should be submitted as an electronic copy.

Conclusions of Law: The City Council herewith concludes that the required submittal of adopted material can feasibly be provided and the same is herewith ordered at the time and in the manner prescribed in the above Administrative Rule.

OAR 660-018-0045
Changes in Proposals
If comprehensive plan or land use regulation amendments or new land use regulations that are adopted by a local government have been substantially amended, the local government must specify the changes that have been made in the notice to the director provided in OAR 660-018-0040.

Conclusions of Law: The City Council herewith concludes that the proposed amendments have not changed a substantial degree from that originally submitted with the 45-day notice and on that basis concludes further specificity is not required by the rule.

II.2 CITY OF MEDFORD REQUIREMENTS

II.2(A) Medford Land Development Code

10.102 Plan Authorizations

A plan authorization is a specific planning and development review process which sets forth specific conditions

for development consistent with the policies, standards and criteria of the Comprehensive Plan and this chapter. Plan authorizations are categorized as follows:

Plan Authorization	Procedural Class
Major Comprehensive Plan Amendment	"A"

10.111 Authority of the City Council

The City Council is hereby designated as the approving authority for the following plan authorizations:

Plan Authorization	Class
1. Amendments to the Comprehensive Plan, Major	"A"

10.122 Authority of the Planning Commission
The Planning Commission is hereby designated as the approving authority for the following actions:

The Planning Commission shall also act as the advisory agency to the City Council for all Class "A" and Class "B" actions, except annexations as set forth in Section 10.111, Authority of the City Council.

10.140 Duties of the Approving Authority
Under the provisions cited in Article II, Section 10.110, Designation of Approving Authority, through 10.135, Authority of the Planning Director, there is hereby designated to the approving authority the power to:
(1) Approve, conditionally approve, or disapprove development permits and plan authorizations;
(2) Determine compliance or lack of compliance of the proposed development, together with the provisions for its design, improvement and use with the Comprehensive Plan and all applicable specific plans, regulations, standards and criteria.

Conclusions of Law: The City Council herewith concludes that the proposed amendment is a procedural Class A Plan Authorization. The City Council concludes it is solely vested with the public hearings process and approval authority and that by action of the ordinance that is the subject of these findings the City Council will herewith dispense with it duties as the approving authority. The City Council further concludes that the Planning Commission has provided a recommendation on the subject amendments consistent with its advisory agency role for Class A actions such as that proposed herein.

10.145 Referral Agencies

It is the responsibility of a referral agency to provide timely review and comment on all proposals referred by the City. The referral agency shall be requested to determine consistency of a proposal with the referral agency's operating policies and standards and to recommend conditions on development.

10.146 Referral Agencies, Distribution

This Chapter employs the use of referral agencies for the review of those plan authorizations indicated below, as shown on the Schedule which follows:

A. Major Comprehensive Plan Amendment
B. Land Development Code Amendment
C. Minor Comprehensive Plan Amendment
D. Annexation, except as provided in Section 10.199

E. Vacation
F. Zone Change
G. Conditional Use Permit
H. Exception
I. Planned Unit Development
J. Land Division
K. Site Plan and Architectural Review
L. Transportation Facility Development

Numerical references in the Schedule refer to the following:
1. When the proposal is within, or abutting the referral agency's jurisdiction.
2. When the proposal is within, or abutting the Airport Approach or Airport Radar Overlay Districts.
3. When the proposal is within the Bear Creek Overlay District.
4. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.
5. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.
6. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.
Referral agencies may be asked to review certain proposals not indicated on the Schedule if, in the judgment of the Planning Director, the agency may have an interest in the proposal.

SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

CITY DEPTS.	A	B	C	D	E	F	G	H	I	J	K	L
Planning	X	X	X	X	X	X	X	X	X	X	X	X
Public Works	X	X	X	X	X	X	4		X	X	X	
Engineering Division	X	X	X	X	X	X	4		X	X	X	X
Police	X		X	X	X	X			X	X	X	
Fire	X	X	X	X	X	X	4		X	X	X	
City Manager	X	X	X	X								
Water Commission	X	X	X	X	X	X	4		X	X	X	X
Parks & Recreation	X	X	X	X	X	X	4		X	X	X	
Parks Director	5	5	5	5	5	5	5	5	5	5	5	5
City Attorney	X	X	X	X	X	X	X	X	X	X	X	X
Building Safety	X	X	X	X	X	X	X	X	X	X	X	

OTHER AGENCIES	A	B	C	D	E	F	G	H	I	J	K	L
Jackson Co Health Dept				X						X		
RVS*	1		1	1	1	1	4		1	1	1	
Irrigation Districts												
Medford	1		1	1	1		4		1	1		
Rogue River Valley	1		1	1	1		4		1	1		
School Districts												
Medford 549C	1		1	1		1	4		1	1		
Superintendent	5	5	5	5	5	5	5	5	5	5	5	5
Phoenix-Talent	1		1	1		1	4		1	1		
Superintendent	5	5	5	5	5	5	5	5	5	5	5	5
Jackson Co. Planning	X	X	X					1	1		1	
RVTD*	X		1	1	1	X	4		1	1	X	X
ODOT*	X		1	1		1	4		1	1	1	1
ODFW*							3.6	6	6	6	6	6
DSL*							3.6	6	6	6	6	6.6
DLCD*	X	X	X									
Garbage Company				X	X							
Telephone Company			X	X	X	X	4		X	X	X	X
Natural Gas Company			X	X	X	X	4		X	X	X	X
Power Company			X	X	X	X	4		X	X	X	X
CPAC*	X	X	X									
Cable Television Co.			X	X	X	X	4		X	X	X	X
U.S. Post Office									X	X	X	X
Water Districts	1		1	1		1			1	1		
RV - Medford Airport*	1		1			1	2	2	2	2	2	
Urban Renewal Agency			1		1	1	1	1	1	1	1	1

Conclusions of Law: The City Council herewith concludes that on June 13, 2008 the proposed amendment, in substantially the same form as it currently exists, was distributed according to the above referral schedule and in a timely manner to receive comments.

10.150 General Procedural Requirements

There are five (5) procedural classifications employed in the administration of this chapter:

CLASS "A"	Legislative actions (major comprehensive plan amendments, code changes, major zoning map amendments)

Conclusions of Law: The City Council herewith concludes that the subject amendment is a procedural Class A legislative action.

10.155 Due Process
In addition to the application review requirements of Section 10.175, Application Review Procedure, there are eight (8) basic due process elements applicable to Class "A", Class "B" and Class "C" procedural classifications. The due process requirements are:
(1) Notification
(2) Disclosure
(3) Conflict of Interest
(4) Hearing
(5) Cross-Examination
(6) Action and Decision Time
(7) Findings
(8) Record

Conclusions of Law: Based upon the evidence in the record, the City Council herewith concludes that the proposed amendment has followed the due process requirements of the MLDC.

10.156 Notification General

The notice provided shall:
(1) Explain the nature of the application and the proposed use or uses which could be authorized;
(2) List the applicable criteria from the Code and the Comprehensive Plan that apply to the application at issue;
(3) Set forth the street address or other easily understood geographical reference to the subject property;
(4) State the date, time and location of the hearing;
(5) State that failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
(6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
(8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

10.157 Notification, Publication and On-Site Posting.
(1) Publication. Unless otherwise indicated notification of all proposed actions shall be published in a newspaper of general circulation prior to the scheduled meeting date before the approving authority. The schedule of publication for each type plan authorization shall be as follows:

Plan Authorization Class	Publication Schedule
"A" (All)	Ten (10) days prior to the scheduled meeting date before the advisory agency. Ten (10) days prior to the scheduled public hearing date before the approving authority.

Conclusions of Law: Based upon the evidence in the record, the City Council herewith concludes that the proposed amendment has followed the notification procedures of the MLDC for procedural Class A plan authorizations.

10.168 Findings

Findings which address applicable criteria shall accompany all actions required of this chapter for plan authorizations.

Conclusions of Law: The City Council herewith incorporates and adopts the balance of the Findings of Fact and Conclusions of Law in this document and concludes on this basis that the City has developed and adopted findings which address applicable criteria. The same accompanies the plan authorization supported herein.

10.180 Class "A" Actions

Class "A" actions are comprised of the following plan authorizations:
(1) Major Comprehensive Plan Amendments
(2) Major Zoning Map Amendments
(3) Code Amendments

Conclusions of Law: The City Council herewith concludes that the proposed amendment is a Major Comprehensive Plan Amendment and is therefore a Class A plan authorization.

10.181 Application for Major Class
Applications for Major Class "A" authorizations may only be initiated by the Planning Commission or City Council. Class "A" amendments are legislative actions and include adoption or revision of:
(1) The following components of the Medford Comprehensive Plan:
- (a) General Land Use Plan Map, if legislative (affecting a large area or many properties).
- (b) New Comprehensive Plan Elements.
- (c) Goals, policies, conclusions, or implementation strategies.
- (d) Special area plans or neighborhood circulation plans.
- (e) Significant resource inventories.
- (f) Transportation System Plans:
  - Street Functional Classification Plan
  - Bicycle Facilities Plan
  - Major Pedestrian Facilities Plan
  - Major Transit Routes and Stops
  - Designated Truck Routes
- (g) By reference, separate functional plans, such as public facility plans (parks, sewer, storm water, etc.) and capital improvement plans. (h) Urban Growth Boundary. (i) Comprehensive Plan review and amendment procedures.

(2) The Medford Land Development Code.
‘
(3) The Medford Zoning Map, if legislative (affecting a large area or many properties).

Conclusions of Law: Based upon the Findings of Fact in Section I and the content of the adopting Ordinance, the City Council concludes the proposed Major Class A plan authorization functions as a new Comprehensive Plan Element under (b) above by replacing the existing Element with a new and updated element. The Council further concludes the update was initiated as a function of the motion and vote by the City Council on April 6, 2006 to initiate a UGB review and an update to the Economic Element was determined to be a necessary component of that review to determine the City’s employment land needs.

10.182 Application Form
An application containing the following information shall be prepared by the City:
(1) Identification of all applicable Statewide Goals.

(2) Identification and explanation of the goals and policies of the Comprehensive Plan considered relevant to the decision.
(3) Statement of the facts relied upon in rendering the decision, if any.
(4) Explanation of the justification for the decision based on the criteria, standards, and facts

Conclusions of Law: The City Council concludes the Findings of Fact and Conclusions of Law developed herein together with the compendium Staff Report function as the application form for the subject application and the same is incorporated and adopted herein as evidence that the subject Class A plan authorization contains all information required by 1-4 above.

II.2(B) Medford Comprehensive Plan

TYPES OF AMENDMENTS

Because of the diverse structural nature of the *Medford Comprehensive Plan*, it is necessary to categorize Plan amendments in several ways (bearing in mind that all Plan amendments are land use actions defined by statute). It is apparent that the *Medford Comprehensive Plan* contains a variety of components; i.e., data, conclusions, goals and policies, implementation strategies, a General Land Use Plan (GLUP) Map, and an Urban Growth Boundary (UGB) with Urbanization Policies adopted by the City of Medford and Jackson County, among other components. Specific procedural requirements for all land use actions are codified in "Article II" of the *Medford Land Development Code.*

Two different procedural categories apply to amendment of the various *Comprehensive Plan* components, as follows:

Class "A"
Conclusions
Goals and Policies
Implementation Strategies
General Land Use Plan Map (major)
Urban Growth Boundary (major)
Citizen Involvement Program
Review and Amendment Procedures

Class "B"
General Land Use Plan Map (minor)
Urban Growth Boundary (minor)

The distinction between "major" and "minor" *Comprehensive Plan* amendments is based on the following definitions, which were derived from the guidelines associated with Statewide Planning Goal 2: "Major" amendments are those land use changes that have a widespread and significant impact beyond an immediate area, such as quantitative changes that have a widespread and significant impact beyond an immediate area, such as quantitative changes producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential land to industrial use; or a spatial change that affects large areas, or many different ownerships. "Minor" amendments are those land use changes that do not have significant effect beyond the immediate area, and should be based upon the special studies, or the other information that serves as the factual basis to support the change. The public need and justification for the particular change should be established

Conclusions of Law: The City Council herewith incorporated and adopts its Conclusions of Law addressing the applicable case law for legislative amendments and on this basis, concludes the subject amendment is a legislative amendment. The City Council further concludes the proposed amendment will change the Economic Element conclusions, goals and policies, and implementation strategies and will have implications for future General Land Use Plan Map and Urban Growth Boundary reviews and therefore the subject application is categorized as Class A.

III

SUBSTANTIVE LEGISLATIVE FINDINGS OF FACT

1. **Buildable Lands Inventory Information:** Geographic Information System (GIS) software was used to compile and analyze lands within the Medford UGB. The analysis done for the Economic Element was an update and Goal 9 refinement of the Buildable Lands Inventory base data set compiled by City Planning Staff and adopted by the Medford City Council and incorporated into the Comprehensive Plan on February 28, 2008. The buildable lands inventory for the City's Goal 9 compliance, and its development from the City's BLI adopted on February 28, 2008, depicted in Figure 24 of the Economic Opportunities Analysis (EOA).

   Base data for the inventory was obtained from the cadastral maps and associated property tax information prepared and maintained in GIS format by the Jackson County Assessor in cooperation with Jackson County GIS Services. GIS GLUP Map coverages are prepared and maintained by the Medford Planning Department's in-house GIS staff. Environmental constraints information was obtained from Jackson County GIS Services and the City's Wetland Inventory Map.

   The Goal 9 inventory process disaggregated land supplies by categorizing land inventory information by development patterns, evaluating ownership patterns and constraints, and refining redevelopment assumptions; the analysis also assessed the ability of each parcel analyzed to function as short-term land supply. This process also relied on local area knowledge from the EOA Subcommittee, City Staff and the consultants for the project.

   Every parcel within the City's employment land designation was categorized according to either its developed condition or its suitability to meet the needs of each of the types of development patterns described in the Site Requirements analysis.

   The City's Goal 9 buildable land inventory is depicted as Figure 24 in the Economic Element.

2. **Economic Opportunities Analysis:**

   a. **Review of National, State, Regional County and Local Trends:** The City's consulting economist for the Economic Element update, Johnson-Gardner LLC, performed a review of the National, State, Regional, County and local economic trends.

   b. **Employment Projections:** High, medium and low employment projections were developed by the City's consulting economist, Johnson-Gardner LLC. At a work session on April 17, 2008, the City Council by consensus selected the high growth projection as the City's estimate for land use planning purposes and as the official adopted forecast within the Economic Element. That employment projection

estimates an annual average growth rate of 2.0%.

c. **Target Industry Opportunities:** The City's previous Economic Element included an analysis of Medford's Target Industry Opportunities performed by E.D. Hovee using a series of measures to identify Target Industry Opportunities. These industries are the sectors where the City of Medford is expected to have a comparative advantage during the planning horizon. The Hovee analysis was supplemented by analysis from Johnson-Gardner LLC that identified high growth sectors by industry from 2002-2007, providing insight into recent trends utilizing employment data from years following the Hovee analysis. This supplemental analysis supported the trends identified in the Hovee analysis and was consistent with the previously identified Target Industry Opportunities for the City of Medford. However, the analysis also identified recent growth in the Leisure and Hospitality Services Sector and this has consequently been added as a Tier 3 locally competitive Target Industry Opportunity.

3. Employment Land Demand:

a. **Site Requirements Descriptions (Qualitative):** The Economic Element contains qualitative as well as quantitative analyses to project land demand. OAR 660-009 requires cities to plan lands for the types of businesses expected to locate in the planning area. This requires an analysis that considers not just required acreage but site needs and amenities to serve the needs of firms likely to locate in the planning area. Emphasis is placed on the site needs for the City's Target Industry Opportunities. The City's Economic Element contains a general discussion of site requirements and the Economic Opportunities Analysis contains detailed tables of the site requirement descriptions. These descriptions are the foundation for the development pattern segments utilized in the quantitative analysis. These descriptions inform the evaluation of land supply characteristics to meet the needs of firms.

b. **Land Demand (Quantitative):** Johnson-Gardner LLC translated the employment projections into aggregate net-buildable land demand by major development pattern type. This land demand analysis utilizes a series of ratios for floor space demanded per job and the ratio of floor area to developed acreage for each major land development pattern category and for the more specific development pattern categories described in the Site Requirements analysis. These aggregate acreages are then converted to gross acres using a ratio for the amount of net buildable acreage developed in relation to the total amount of public and private acreage consumed for each built acre.

c. **Sites Demanded (Quantitative):** Utilizing the aggregate land demand estimates with the amount of acreage required for typical sites for each site type described in the site requirements analysis, the aggregate acreage demanded was refined to estimate the number of sites expected to be demanded for each site type.

4. **Employment Land Supply:**

   a. **Aggregate Land Supply:** The Buildable Land Inventory information data set, GIS software and Excel were used to estimate the amount of land available to satisfy the needs for each development pattern type.

   b. **Number of Sites Supplied:** The Buildable Land Inventory information data set, GIS software and Excel were used to estimate the number of sites available to satisfy the needs for each development pattern type.

   c. **Short Term Supply:** The Buildable Lands Inventory process identified the ability of each site to be utilized for short-term supply. Land supplies were estimated by number of sites and acreage that could meet short-term supply requirements.

5. **Land Supply and Land Demand Reconciliation:** The analysis reconciled the amount of acreage and number of sites by type projected to be demanded and the amount supplied within the existing Urban Growth Boundary. This reconciliation was done for the planning horizon and short-term supply of lands over the next five years.

6. **Economic Element Policies:** With the Economic Opportunities Analysis complete and the land supply and demand reconciled, the City developed its Economic Development policies to achieve Goal 9 for the City of Medford. These policies respond to the preceding analyses and characterize the City's land use planning objectives to accomplish economic development. The policies seek to attract and retain target industry opportunities. The policies seek an environment that supports the City's Economic Development objectives. The policies commit the City to provide at least an adequate supply of lands to meet short-term and planning horizon land demands.

IV

LEGISLATIVE CONCLUSIONS OF LAW

IV.1 STATE OF OREGON CRITERIA

IV.1(A) Oregon Revised Statutes

ORS 197.175 (2) Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall:

(a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission;
(b) Enact land use regulations to implement their comprehensive plans;
(c) If its comprehensive plan and land use regulations have not been acknowledged by the commission, make land use decisions and limited land use decisions in compliance with the goals;
(d) If its comprehensive plan and land use regulations have been acknowledged by the commission, make land use decisions and limited land use decisions in compliance with the acknowledged plan and land use regulations; and
(e) Make land use decisions and limited land use decisions subject to an unacknowledged amendment to a comprehensive plan or land use regulation in compliance with those land use goals applicable to the amendment.

Conclusions of Law: The Council concludes the City has undertaken an update to its Comprehensive Plan in accordance with ORS 197.175 and the subject amendment will revise the City's Comprehensive Plan to assure continued compliance with the Statewide Planning Goals adopted by the Land Conservation and Development Commission.

ECONOMIC DEVELOPMENT

ORS 197.707 Legislative intent. It was the intent of the Legislative Assembly in enacting ORS chapters 195, 196, 197, 215 and 227 not to prohibit, deter, delay or increase the cost of appropriate development, but to enhance economic development and opportunity for the benefit of all citizens. [1983 c.827 §16]

Conclusions of Law: The Council concludes the City's proposed amendments to its Economic Element are fully consistent with ORS 197.707 and will ensure a Comprehensive Plan that will not prohibit, deter, delay or increase the cost of appropriate development and is expected to enhance economic development and opportunity for the benefits of all Medford Citizens and will do so in a manner that will not adversely affect surrounding communities and Jackson County as a whole.

ORS 197.712 Commission duties; comprehensive plan provisions; public facility plans; state agency coordination plans; compliance deadline; rules.

(1) In addition to the findings and policies set forth in ORS 197.005, 197.010 and 215.243, the Legislative Assembly finds and declares that, in carrying out statewide comprehensive land use planning, the provision of adequate opportunities for a variety of economic activities throughout the state is vital to the health, welfare and prosperity of all the people of the state.
(2) By the adoption of new goals or rules, or the application, interpretation or amendment of existing goals or rules, the Land Conservation and Development Commission shall implement all of the following:
    (a) Comprehensive plans shall include an analysis of the community's economic patterns, potentialities, strengths and deficiencies as they relate to state and national trends.
    (b) Comprehensive plans shall contain policies concerning the economic development opportunities in the community.

(c) Comprehensive plans and land use regulations shall provide for at least an adequate supply of sites of suitable sizes, types, locations and service levels for industrial and commercial uses consistent with plan policies.
(d) Comprehensive plans and land use regulations shall provide for compatible uses on or near sites zoned for specific industrial and commercial uses

Conclusions of Law: The Council concludes the City's proposed amendments to its Economic Element are fully consistent with ORS 197.712 and will ensure the Comprehensive Plan will provide for adequate opportunities for a variety of economic activities and especially those for which the City has a comparative advantage to provide and the same will support the health, welfare and prosperity of all the citizens of Medford, surrounding communities and the State as a whole.

The Council further concludes the proposed amendments are fully consistent with Goal 9 and Oregon Administrative Rule 660-009 and herewith incorporates and adopts its conclusions of law addressing the same below. In accordance with these conclusions of law below herein incorporated and adopted, the Council concludes that the proposed Economic Element amendment will further LCDC's statutory mandate to implement ORS 197.712(2)(a-d) through local government Comprehensive Plans.

IV.1(B) Oregon Statewide Planning Goals

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process…

Conclusions of Law: The Council concludes the City has maintained record of the public process and the City herewith incorporates its procedural findings of fact and conclusions of law in Sections I and II as evidence that the City has properly achieved Goal 1 for the subject legislative amendment to the City of Medford Comprehensive Plan.

Goal 2: Land Use Planning

PART I -- PLANNING

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions…

Conclusions of Law: The Council herewith incorporates and adopts the balance of the Findings of Fact in Section III and Conclusions of Law in Section IV as its basis to conclude the City has dutifully conducted its Goal 2 Planning Requirements.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands...

Conclusions of Law: Based upon its Findings of Fact in Section V above, the Council Concludes that achievement of Goal 3 is balanced against the urban economic development goals embodied in Goal 9 through the application of OAR 660-009 and OAR 660-024.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture…

Conclusions of Law: The Council concludes the City does not have employment lands located near Goal 4 protected lands and nothing in the Economic Element update could reasonably be interpreted to affect achievement of Goal 4 in Jackson County.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces…

Conclusions of Law: The Council concludes that the proposed amendments will not affect any identified Goal 5 resource nor is any additional Goal 5 review required for this amendment. But the Council does recognize that the Economic Element may inform future Goal 5 reviews that involve employment lands.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state…

Conclusions of Law: The Council concludes that the proposed amendments will not affect achievement of Goal 6 nor is any additional Goal 6 review required for this amendment. But the Council does recognize that the Economic Element may inform future Goal 6 reviews that involve employment lands.

Goal 7: Areas Subject to Natural Hazards

To protect people and property from natural hazards…

Conclusions of Law: The Council concludes that the proposed amendments will not affect any identified Goal 7 natural hazard areas nor is any additional Goal 7 review required for this amendment, but the Council does recognize that the Economic Element may inform future Goal 7 reviews that involve employment lands.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts…

Conclusions of Law: The Council concludes that the proposed amendments will not affect any Goal 8 recreational needs directly nor is any additional Goal 8 review required for this amendment, but the Council does recognize that the Economic Element may inform future Goal 8 reviews where interaction between recreation objectives and employment objectives may be interrelated.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Comprehensive plans and policies shall contribute to a stable and healthy economy in all regions of the state. Such plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability and cost; labor market factors; educational and technical training programs; availability of key public facilities; necessary support facilities; current market forces; location relative to markets; availability of renewable and non-renewable resources; availability of land; and pollution control requirements.

Comprehensive plans for urban areas shall:

1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;
2. Contain policies concerning the economic development opportunities in the community;
3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;
4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses. In accordance with ORS 197.180 and Goal 2, state agencies that issue permits affecting land use shall identify in their coordination programs how they will coordinate permit issuance with other state agencies, cities and counties.

GUIDELINES

A. PLANNING

1. A principal determinant in planning for major industrial and commercial developments should be the comparative advantage of the region within which the developments would be located. Comparative advantage industries are those economic activities which represent the most efficient use of resources, relative to other geographic areas.
2. The economic development projections and the comprehensive plan which is drawn from the projections should take into account the availability of the necessary natural resources to support the expanded industrial development and associated populations. The plan should also take into account the social, environmental, energy, and economic impacts upon the resident population.
3. Plans should designate the type and level of public facilities and services appropriate to support the degree of economic development being proposed.
4. Plans should strongly emphasize the expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development.
5. Plans directed toward diversification and improvement of the economy of the planning area should consider as a major determinant, the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

B. IMPLEMENTATION

1. Plans should take into account methods and devices for overcoming certain regional conditions and deficiencies for implementing this goal, including but not limited to

(1) tax incentives and disincentives;
(2) land use controls and ordinances;
(3) preferential assessments;
(4) capital improvement programming; and
(5) fee and less-than-fee acquisition techniques.

2. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those private and governmental bodies which operate in the planning area and have interests in carrying out this goal and in supporting and coordinating regional and local economic plans and programs.

Conclusions of Law: First and foremost, the Medford City Council concludes that Goal 9 is implemented by a detailed administrative rule found at OAR 660-009 and the conclusions of law addressing this rule herein below are herewith incorporated and adopted as the overarching basis to conclude the proposed Economic Element amendment complies with Statewide Planning Goal

9. In addition to this overarching Conclusion of Law, the City Council concludes as follows with respect to Statewide Planning Goal 9:

1. Based upon the Findings of Fact in Section III and the updated Economic Element itself, the Council concludes the Economic Element contains analysis of state and national trends and carries forward and verifies a target industry opportunities analysis that relates to the City's economic patterns, potentialities, strengths and deficiencies in relation to the rest of the nation and the State of Oregon. The methodology for this analysis was a location quotient analysis performed by E.D. Hovee which compares the relative strength of the local industry against that industry nationally and this analysis is acknowledged to comply with Goal 9. The target industry opportunity analysis was supplemented with sector growth analysis with recent data and this analysis confirmed strong growth in those target industry opportunities as well as growth in the leisure and hospitality sector.

2. The Economic Element contains policies concerning economic development opportunities in the City.

3. The Economic Element contains a detailed analysis of site needs of a variety of types, locations and service levels by and through the detailed Buildable Lands Inventory process, site requirements descriptions and projection and reconciliation of required number and types of sites and acreage.

4. The City of Medford concludes that the Economic Element site requirements descriptions provide a framework to consider compatibility issues between commercial and industrial uses, but that specific restrictions are appropriately dealt with through the GLUP Map plan element and the Medford Land Development Code which are not proposed for amendment at this time.

5. The Planning Guidelines and Implementation Strategies do not function as mandatory approval criteria, but the Council concludes that the Economic Element is generally responsive and consistent with all Goal 9 planning guidelines. It does not preclude future application of all listed implementation strategies.

Goal 10: Housing

To provide for the housing needs of citizens of the state…

Conclusions of Law: The City Council concludes that the Comprehensive Plan amendments to update the Economic Element have been coordinated through the Planning Staff with the concurrent update to the Housing Element and that employment land need estimates recognize that up to seven percent of housing needs will be met on employment lands and that some employment land needs will be met in residential areas through the Planned Unit Development approval process. Collectively, the Council expects these two land need factors to self-balance over time and therefore projected employment land consumption by housing does not require an offsetting amount of additional residential land.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development…

Conclusions of Law: The City Council concludes the Economic Element is generally consistent with the policies of the City's adopted and acknowledged Comprehensive Plan to achieve Goal 11. The Council also concludes that long-term facility plans for fundamental key facilities such as water supply with necessary rights and sewage treatment have been planned consistent with the levels of demand likely to result from the realization of the Economic Element objectives.

However, the Council recognizes major updates such as the Economic Element update often articulate future public facility demands likely to occur from economic development activities. These demands are likely to have localized effects. For this reason, the City Council concludes that ultimate achievement of Goal 11 will likely require updates to the City's Public Facilities Element.

The City Council also concludes that the City is undergoing a concurrent Housing Element update and that similar public facility demands will likely be articulated from that process. Moreover, both of these updates are expected to precipitate an Urban Growth Boundary review. Localized public facilities demands are appropriately considered as part of a Goal 14 UGB review. Decisions about growth are made in part based upon serviceability when comparing alternative growth areas. For these reasons, the City Council concludes that updates to the Public Facilities Element will be most timely in response to growth planned through the Economic Element update, Housing Element update, and UGB review. Following those legislative amendments, a review of the Public Facilities Element would be timely.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system…

Conclusions of Law: The City Council concludes the Economic Element is generally consistent with the policies of the City's adopted and acknowledged Transportation System Plan (TSP) to achieve Goal 12.

However, the Council recognizes major updates such as the Economic Element update often articulate future transportation facility demands likely to occur from economic development activities and that these demands are likely to have localized effects. For this reason, the City Council concludes that ultimate achievement of Goal 12 will likely require updates to the City's Transportation System Plan; this conclusion is consistent with comments to the City made by the Oregon Department of Transportation.

The City Council also concludes that the City is undergoing a concurrent Housing Element update and that similar public facility demands will likely be articulated from that process. Moreover, both of these updates are expected to precipitate an Urban Growth Boundary review and localized public facilities demands are appropriately considered as part of a Goal 14 UGB review; decisions about growth are made in part based upon serviceability when comparing

alternative growth areas. The City also recognizes that the County's TSP requires UGB amendments to identify higher-order street corridors at the time of the UGB amendment and this will need to be developed during that Goal 14 UGB review. For these reasons, the City Council concludes that updates to the TSP will need to occur in two steps. First, a conceptual higher-order street plan will need to be developed for any future growth areas that result in amendments through the UGB review process. (These amendments would be developed to accommodate demands projected in the Economic Element and the Housing Element updates.) Second, a more detailed TSP update(s) will be most timely once specific areas for type and quality of growth are identified through completion of the UGB review.

Goal 13: Energy Conservation

To conserve energy…

Conclusions of Law: The City Council concludes that the Comprehensive Plan amendment to update the Economic Element will support employment concentration in the region's largest City thereby supporting efficient urbanization; this concentration of employment and efficient urbanization will conserve energy by locating employment in close proximity to existing and future housing stock and government services.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Urban Growth Boundaries
Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

Land Need
Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection(2).

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.

Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

Boundary Location
The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

(1) Efficient accommodation of identified land needs;

(2) Orderly and economic provision of public facilities and services;

(3) Comparative environmental, energy, economic and social consequences; and

(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Urbanizable Land
Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

Unincorporated Communities
In unincorporated communities outside urban growth boundaries counties may approve uses, public facilities and services more intensive than allowed on rural lands by Goal 11 and 14, either by exception to those goals, or as provided by commission rules which ensure such uses do not adversely affect agricultural and forest operations and interfere with the efficient functioning of urban growth boundaries.

Single-Family Dwellings in Exception Areas
Notwithstanding the other provisions of this goal, the commission may by rule provide that this goal does not prohibit the development and use of one single-family dwelling on a lot or parcel that:

(a) Was lawfully created;

(b) Lies outside any acknowledged urban growth boundary or unincorporated community boundary;

(c) Is within an area for which an exception to Statewide Planning Goal 3 or 4 has been acknowledged; and

(d) Is planned and zoned primarily for residential use.

Rural Industrial Development
Notwithstanding other provisions of this goal restricting urban uses on rural land, a county may authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, on certain lands outside urban growth boundaries specified in ORS 197.713 and 197.714, consistent with the requirements of those statutes and any applicable administrative rules adopted by the Commission.

GUIDELINES
A. PLANNING

1. Plans should designate sufficient amounts of urbanizable land to accommodate the need for further urban expansion, taking into account (1) the growth policy of the area; (2) the needs of the forecast population; (3) the carrying capacity of the planning area; and (4) open space and recreational needs.

2. The size of the parcels of urbanizable land that are converted to urban land should be of adequate dimension so as to maximize the utility of the land resource and enable the logical and efficient extension of services to such parcels.

3. Plans providing for the transition from rural to urban land use should take into consideration as to a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

4. Comprehensive plans and implementing measures for land inside urban growth boundaries should encourage the efficient use of land and the development of livable communities.

B. IMPLEMENTATION

1. The type, location and phasing of public facilities and services are factors which should be utilized to direct urban expansion.

2. The type, design, phasing and location of major public transportation facilities (i.e., all modes: air, marine, rail, mass transit, highways, bicycle and pedestrian) and improvements thereto are factors which should be utilized to support urban expansion into urbanizable areas and restrict it from rural areas.

3. Financial incentives should be provided to assist in maintaining the use and character of lands adjacent to urbanizable areas.

4. Local land use controls and ordinances should be mutually supporting, adopted and enforced to integrate the type, timing and location of public facilities and services in a manner to accommodate increased public demands as urbanizable lands become more urbanized.

5. Additional methods and devices for guiding urban land use should include but not be limited to the following: (1) tax incentives and disincentives; (2) multiple use and joint development practices; (3) fee and less-than-fee acquisition techniques; and (4) capital improvement programming.

6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.

Conclusions of Law: First and foremost, the Medford City Council concludes that Goal 14 is implemented by detailed administrative rules found at OAR 660-009 and OAR 660-024 and the conclusions of law addressing those rules herein below are herewith incorporated and adopted as the overarching basis to conclude the proposed Economic Element amendment complies with Statewide Planning Goal 14. In addition to this overarching Conclusion of Law, the City Council concludes as follows with respect to Statewide Planning Goal 14:

1. The inventory of buildable land for employment uses, projection of land demands, and supply and demand reconciliation analysis do not independently amend the Urban Growth Boundary. Rather they develop a sufficient basis of facts for land needed under Statewide Planning Goal 2 upon which a UGB review may be conducted at some time in the future.

2. The Economic Element establishes the City's land need and supply for the City of Medford UGB for adequate employment opportunities and with supporting infrastructure for those employment opportunities by evaluating the ability of existing lands within the UGB to satisfy projected land demands.

3. The site requirements analysis in the Economic Element and corresponding Economic Opportunities Analysis functions to specify characteristics necessary to satisfy Medford's urban land needs for adequate employment opportunities.

4. The Economic Element and Economic Opportunities Analysis assess the extent to which existing land supplies could be leveraged to satisfy identified needs. The analysis indicates that land use changes within the existing UGB could satisfy additional needs of up to 88 net acres of commercial land demand by redesignating 44 acres of industrial land and 44 acres of residential land.

IV.1(C) Oregon Administrative Rule Division 009

660-009-0010

Application

(1) This division applies to comprehensive plans for areas within urban growth boundaries. This division does not require or restrict planning for industrial and other employment uses outside urban growth boundaries. Cities and counties subject to this division must adopt plan and ordinance amendments necessary to comply with this division.

(2) Comprehensive plans and land use regulations must be reviewed and amended as necessary to comply with this division as amended at the time of each periodic review of the plan pursuant to ORS 197.712(3). Jurisdictions that have received a periodic review notice from the Department (pursuant to OAR 660-025-0050) prior to the effective date of amendments to this division must comply with such amendments at their next periodic review unless otherwise directed by the Commission.

(3) Cities and counties may rely on their existing plans to meet the requirements of this division if they conclude:

(a) There are not significant changes in economic development opportunities (e.g., a need for sites not presently provided for in the plan) based on a review of new information about national, state, regional, county and local trends; and

(b) That existing inventories, policies, and implementing measures meet the requirements in OAR 660-009-0015 to 660-009-0030.

(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

(5) The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.

(6) The amendments to this division are effective January 1, 2007. A city or county may voluntarily follow adopted amendments to this division prior to the effective date of the adopted amendments.

Conclusions of Law: The Medford City Council concludes that the express language of the rule does not require compliance with OAR 660-009 independently because the City is not in periodic review and is not proposing to change any map designations. However, the Council also recognizes that the proposed amendments are a wholesale revision of the Economic Element. Therefore, they are similar in nature to the types of amendments often adopted through a periodic review process; OAR 660-009-0010 provides no express language that prohibits the City from adopting an amendment that fully complies with the rule voluntarily

outside of periodic review and OAR 660-009-0010(1) states that the division is applicable within Urban Growth Boundaries. Moreover, the Council notes that the initiation of the Economic Element legislative review occurred in response to a motion made by the City Council to initiate UGB review proceedings and those proceedings require an assessment of land need and any ultimate UGB review must ultimately comply with OAR 660-024, which provides in relevant part:

> (5) Except for a metropolitan service district described in ORS 197.015(14), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.

The rule provisions in Division 024 require a determination of short-term supply and *applicable requirements of Division 9* for any UGB amendment regarding employment land needs. Because of this cross-connection within the rule and ultimate purpose of this Goal 9 Economic Element update, the City Council concludes that Division 009 is applicable in its entirety and consistency with the same is necessary to establish the City's need for land to supply adequate employment opportunities and supporting infrastructure accordance with Goal 14 land need analysis.

The Council further concludes that the level of effort taken to comply with OAR 660-009-0015 through 660-009-0030 is appropriate and has used the best available data to support that effort and the same is reflected in the positive comments received from the Department of Land Conservation and Development staff during the City's 30-day agency review comment period.

660-009-0015

Economic Opportunities Analysis

Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.

(1) Review of National, State, Regional, County and Local Trends. The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses as described in section (4) of this rule. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. Cities and counties are strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential pursuant to section (4) of this rule.

Conclusions of Law: Based upon the Findings of Fact in Section III and text of the Economic Element and Economic Opportunities Analysis themselves, the City of Medford concludes the Economic Element has reviewed National, State, Regional, County and Local Trends and utilized this trends analysis to estimate future industrial and other employment

uses likely to locate in the City of Medford. The Council concludes that these projections were based upon employment projections for the entire County, with capture rates by industry for the Medford Urban Growth Boundary. These county-wide projections were derived from the regional growth forecasts developed by the Oregon Employment Department. Based upon these foregoing conclusions, the Council ultimately concludes that the high-growth employment projection can reasonably be expected to locate in the City of Medford Urban Growth Boundary.

(2) Identification of Required Site Types. The economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. Cities and counties are encouraged to examine existing firms in the planning area to identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories.

Conclusions of Law: The City Council concludes that the land demand analysis first projects the aggregate amount of land expected to be demanded by broad development pattern types – office, industrial and commercial – utilizing typically observed ratios of building space per job and floor area (or land area per square foot of building space). Utilizing existing inventory composition as a baseline and the site requirements descriptions augmented by input from the EOA Subcommittee, the aggregate acreages for each broad development pattern type were translated into projected acreage for large, medium and small sites for office, industrial and commercial development patterns respectively. Utilizing a typical site size for each of these, the Economic Element and Economic Opportunities Analysis divides the acreage by the typical site size to arrive at a projection of the number of sites by type reasonably expected to be needed to accommodate expected employment growth. The Council also concludes that the site requirements descriptions provide a range of building sizes and site sizes and that the typical site size is within this range, but that the number of sites needed will likely vary as actual site needs may not equate to precisely typical site sizes.

The Council further concludes that one of the consulting firms for the project, CSA Planning Ltd., performs a significant amount of permitting work in the City of Medford for industrial and other employment uses and is familiar with the types of sites needed by firms in the region for expansion of new site needs. The other consulting firm for the project, Johnson-Gardner LLC, performs market studies for real estate needs throughout the State of Oregon. The Council further concludes that the EOA Subcommittee included numerous professionals with expertise in site needs for businesses likely to locate in the City of Medford Urban Growth Boundary.

Finally, the Council concludes that the analysis has grouped employment uses with common and therefore compatible site characteristics in its projections of needed sites as described in the site requirements descriptions.

(3) Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.

(a) For sites inventoried under this section, plans must provide the following information:

(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;

(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory; and

(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.

(b) When comparing current land supply to the projected demand, cities and counties may inventory contiguous lots or parcels together that are within a discrete plan or zoning district.

(c) Cities and counties that adopt objectives or policies providing for prime industrial land pursuant to OAR 660-009-0020(6) and 660-009-0025(8) must identify and inventory any vacant or developed prime industrial land according to section 3(a) of this rule.

Conclusions of Law: Based upon the Findings of Fact in Section II and the inventory information in the Economic Element and Economic Opportunities Analysis themselves, the City Council concludes as follows with respect to this matter:

1. Figure 22 of the Economic Element identifies the amount of vacant acreage according to the site requirements descriptions (site characteristics) within each GLUP designation.

2. Figure 23 of the Economic Element estimates the development constraints and infrastructure constraints for the supply of sites larger than two acres. The Council concludes that this type of detailed constraints analysis for sites between 0.5 and two acres is impractical due to shear number of such sites and their relatively small impact of that assessment on total land supplies and plan as a whole.

3. The City of Medford is within an MPO and Figure 26 of the Economic Element estimates the approximate total acreage by development pattern type available as short-term supply. The Council concludes that Economic Opportunities Analysis Figure 26 expresses the percent of short-term supply from site and acreage standpoints.

4. The Council concludes that contiguous lots and parcels were inventoried together when ownership and development patterns were appropriate to do so.

5. The Council concludes that the City proposes to adopt objectives or policies providing for prime industrial land at a later date.

(4) Assessment of Community Economic Development Potential. The economic opportunities analysis must estimate the types and amounts of industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to sections (1) to (3) of this rule and must consider the planning area's economic advantages and disadvantages. Relevant economic advantages and disadvantages to be considered may include but are not limited to:

(a) Location, size and buying power of markets;

(b) Availability of transportation facilities for access and freight mobility;

(c) Public facilities and public services;

(d) Labor market factors;

(e) Access to suppliers and utilities;

(f) Necessary support services;

(g) Limits on development due to federal and state environmental protection laws; and

(h) Educational and technical training programs.

(5) Cities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies. Cities and counties are strongly encouraged to use the assessment of community economic development potential to form the community economic development objectives pursuant to OAR 660-009-0020(1)(a).

Conclusions of Law: The City Council concludes that the existing adopted and acknowledged Comprehensive Plan was adopted under the previous Division 009 rule, but that rule includes similar or exact language and the City believes these economic fundamentals have not changed and therefore the community economic potential has been largely transferred from the existing adopted and acknowledged Comprehensive Plan. The Council does note that early in this decade, the City undertook a broad community visioning/strategic planning process that resulted in the Medford Vision Strategic Plan for the City. The Council finds the assessment of Community economic development potential in the Economic Element is also generally consistent with the results of that visioning process.

660-009-0020

Industrial and Other Employment Development Policies

(1) Comprehensive plans subject to this division must include policies stating the economic development objectives for the planning area. These policies must be based on the community economic opportunities analysis prepared pursuant to OAR 660-009-0015 and must provide the following:

(a) Community Economic Development Objectives. The plan must state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and other employment uses desired by the community. Policy objectives may identify the level of short-term supply of land the planning area needs. Cities and counties are strongly encouraged to select a competitive short-term supply of land as a policy objective.

(b) Commitment to Provide a Competitive Short-Term Supply. Cities and counties within a Metropolitan Planning Organization must adopt a policy stating that a competitive short-term supply of land as a community economic development objective for the industrial and other employment uses selected through the economic opportunities analysis pursuant to OAR 660-009-0015.

(c) Commitment to Provide Adequate Sites and Facilities. The plan must include policies committing the city or county to designate an adequate number of sites of suitable sizes, types and locations. The plan must also include policies, through public facilities planning

and transportation system planning, to provide necessary public facilities and transportation facilities for the planning area.

Conclusions of Law: The City Council concludes the proposed amendments state the City's overarching goal for land use planning to support economic development and growth in the City of Medford and that this statement functions as the City's community economic development objective. The Council concludes Policy 1-6 commits the City to provide a competitive short-term supply of land and defines the amount of land necessary to satisfy that commitment. The Council concludes that Policy 1-5 commits the City to designate an adequate number of sites of suitable sizes, types and locations to accommodate anticipated employment growth. The Council further concludes that the City has adopted and acknowledged public facilities and transportation system plans to serve the City and that these plans commit the City to the provision of adequate sites. Consistent with its Conclusions of Law addressing Goals 11 and 12, the Council notes, however, that updates to the City's public facilities and transportation system plans will likely be required to serve identified land needs in the Economic Element. These updates will be appropriate when the Economic Element is acknowledged and the UGB review is complete.

(2) Plans for cities and counties within a Metropolitan Planning Organization or that adopt policies relating to the short-term supply of land, must include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed. These policies must describe dates, events or both, that trigger local review of the short-term supply of land.

Conclusions of Law: The City Council concludes Policy 1-6 relates to short-term supply and that policy contains three detailed strategies with dates and events that trigger local review of the short-term supply of land.

(3) Plans may include policies to maintain existing categories or levels of industrial and other employment uses including maintaining downtowns or central business districts.

Conclusions of Law: The City Council concludes that the Economic Element includes no policies to maintain existing levels of industrial and other employment uses, but rather projects and plans for growth and identifies land needs for new sites and expansion of existing sites.

(4) Plan policies may emphasize the expansion of and increased productivity from existing industries and firms as a means to facilitate local economic development.

Conclusions of Law: The City Council concludes the plan policies emphasize retention and expansion of existing firms as a means to facilitate local economic development.

(5) Cities and counties are strongly encouraged to adopt plan policies that include brownfield redevelopment strategies for retaining land in industrial use and for qualifying them as part of the local short-term supply of land.

Conclusions of Law: The City Council concludes the Economic Element includes policies that are supportive of all types of redevelopment of underutilized employment lands and that these policies support brownfield redevelopment where the same will serve the City's greater Goal 9 objectives.

> (6) Cities and counties are strongly encouraged to adopt plan policies pertaining to prime industrial land pursuant to OAR 660-009-0025(8).

Conclusions of Law: The City Council concludes that the Economic Element defines the City's lands needs for a variety of development pattern types. The City Council further concludes that the White City Industrial Area is the area of Jackson County that contains the largest concentration of large industrial uses and that Medford is at a competitive disadvantage to White City to act as a supply source for those lands. The City Council also notes that the Economic Element identifies employment land needs in excess of 500 acres, most of which is office and commercial land, and this will likely result in an assessment of the best general location for all these land needs over the next few years. Until that future process is complete, it would be untimely to determine where prime industrial land designations would be most appropriate. For this reason, the City is not adopting plan policies pertaining to prime industrial land at this time.

> (7) Cities and counties are strongly encouraged to adopt plan policies that include additional approaches to implement this division including, but not limited to:
>
> (a) Tax incentives and disincentives;
>
> (b) Land use controls and ordinances;
>
> (c) Preferential tax assessments;
>
> (d) Capital improvement programming;
>
> (e) Property acquisition techniques;
>
> (f) Public/private partnerships; and
>
> (g) Intergovernmental agreements.

Conclusions of Law: The City Council concludes the Goal, Policies and Implementation strategies of the Economic Element contain a number of the above approaches to implement Goal 9 objectives for the City of Medford.

> 660-009-0025
>
> Designation of Lands for Industrial and Other Employment Uses Cities and counties must adopt measures adequate to implement policies adopted pursuant to OAR 660-009-0020. Appropriate implementing measures include amendments to plan and zone map designations, land use regulations, public facility plans, and transportation system plans.

Conclusions of Law: The Council concludes the Economic Element identifies several implementation strategies that support comprehensive plan and development code amendments to assure policy implementation.

(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to implement plan policies. Plans do not need to provide a different type of site for each industrial or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas. Cities and counties may also designate mixed-use zones to meet multiple needs in a given location.

Conclusions of Law: The Council concludes the Economic Element identifies the number, acreage, and characteristics of sites needed to accommodate industrial and other employment uses to implement plan policies. The Council further concludes that the identification of needed sites was performed on a development pattern basis. Therefore, changes and amendments to GLUP map designations can be evaluated from the standpoint of responding to identified development pattern needs. The Council concludes the analysis has combined compatible uses with similar site characteristics into broad site categories and the City is maintaining its existing policies to allow residential development in commercial areas and planned unit developments where appropriate.

(2) Total Land Supply. Plans must designate serviceable land suitable to meet the site needs identified in section (1) of this rule. Except as provided for in section (5) of this rule, the total acreage of land designated must at least equal the total projected land needs for each industrial or other employment use category identified in the plan during the 20-year planning period.

Conclusions of Law: The Council concludes the Economic Element identifies the employment land needs for the City. Based upon the same, the Council Concludes an Urban Growth Boundary review will be required following adoption and acknowledgement of identified lands needs.

(3) Short-Term Supply of Land. Plans for cities and counties within a Metropolitan Planning Organization or cities and counties that adopt policies relating to the short-term supply of land must designate suitable land to respond to economic development opportunities as they arise. Cities and counties may maintain the short-term supply of land according to the strategies adopted pursuant to OAR 660-009-0020(2).

(a) Except as provided for in subsections (b) and (c), cities and counties subject to this section must provide at least 25 percent of the total land supply within the urban growth boundary designated for industrial and other employment uses as short-term supply.

(b) Affected cities and counties that are unable to achieve the target in subsection (a) above may set an alternative target based on their economic opportunities analysis.

(c) A planning area with 10 percent or more of the total land supply enrolled in Oregon's industrial site certification program pursuant to ORS 284.565 satisfies the requirements of this section.

Conclusions of Law: The Council concludes the City is within a Metropolitan Planning Organization and is therefore subject to this rule. With respect to (a), the City Council concludes the term 'total land supply' is unclear as to its meaning. The requirement could be read to refer to supply of all lands, developed or not. Supply could also be read to mean the total supply of lands available to support development (i.e., lands identified as supply for

new or expanding employment uses in the buildable lands inventory). If (a) were read to mean supply refers to all lands developed or not, then based upon the 2008 BLI, the City would require 1,407 acres of land to be available as short-term supply. The City cannot meet this requirement from an acreage standpoint. Even with significant additional land added to the UGB, the City would be required to undertake large public infrastructure planning projects to make virtually all of its undeveloped land in the UGB available for development within one year consistent with the Division 009 definition of short-term supply. If (a) were read to mean that at least 25% of the total supply where supply refers to lands available for development, then the City does comply with that requirement.

In the event the adoption of the Economic Element were challenged and the Courts were to conclude that the term *supply* in (a) must refer to all land vacant or developed, then the City adopts the following conclusions of law; the City will meet an alternative target based upon the Economic Opportunities Analysis and conclude that standard is clearly laid forth in Policy 1-6 and its associated implementation strategies, which will assure at least 25% of the projected land demands over the 20-year planning horizon will be available as short-term supply. The Council further concludes that Policy 1-6, together with its implementing strategies, will often assure much more land than the minimum target will be available as short-term supply.

> (4) If cities and counties are required to prepare a public facility plan or transportation system plan by OAR chapter 660, division 011 or division 012, the city or county must complete subsections (a) to (c) of this section at the time of periodic review. Requirements of this rule apply only to city and county decisions made at the time of periodic review. Subsequent implementation of or amendments to the comprehensive plan or the public facility plan that change the supply of serviceable land are not subject to the requirements of this section. Cities and counties must:
>
> (a) Identify serviceable industrial and other employment sites. The affected city or county in consultation with the local service provider, if applicable, must make decisions about whether a site is serviceable. Cities and counties are encouraged to develop specific criteria for deciding whether or not a site is serviceable. Cities and counties are strongly encouraged to also consider whether or not extension of facilities is reasonably likely to occur considering the size and type of uses likely to occur and the cost or distance of facility extension;
>
> (b) Estimate the amount of serviceable industrial and other employment land likely to be needed during the planning period for the public facilities plan. Appropriate techniques for estimating land needs include but are not limited to the following:
>
> (A) Projections or forecasts based on development trends in the area over previous years; and
>
> (B) Deriving a proportionate share of the anticipated 20-year need specified in the comprehensive plan.
>
> (c) Review and, if necessary, amend the comprehensive plan and the public facilities plan to maintain a short-term supply of land. Amendments to implement this requirement include but are not limited to the following:
>
> (A) Changes to the public facilities plan to add or reschedule projects to make more land serviceable;
>
> (B) Amendments to the comprehensive plan that redesignate additional serviceable land for industrial or other employment use; and

(C) Reconsideration of the planning area's economic development objectives and amendment of plan objectives and policies based on public facility limitations.

(d) If a city or county is unable to meet the requirements of this section, it must identify the specific steps needed to provide expanded public facilities at the earliest possible time.

Conclusions of Law: The City Council concludes the subject Economic Element amendments are not subject to periodic review, and therefore amendments to facility plans are not necessarily required. However, the Council concludes that findings herein above addressing Goals 11 and 12 recognize the Economic Element contains implications for long-term facility planning. Future updates to the City's facility plans will occur to support the City of Medford's economic opportunities.

(5) Institutional Uses. Cities and counties are not required to designate institutional uses on privately owned land when implementing section (2) of this rule. Cities and counties may designate land in an industrial or other employment land category to compensate for any institutional land demand that is not designated under this section.

Conclusions of Law: The Council concludes that the site requirements description section includes specific descriptions of campus development patterns, many of which are uses that are institutional in nature. But land need and supply have not attempted to capture specific institutional demands because these demands are highly specialized and very difficult to predict. Instead, the Economic Element contains a broader projection of employment land needs for special uses and some of these needs would be expected to be consumed by institutional uses.

(6) Compatibility. Cities and counties are strongly encouraged to manage encroachment and intrusion of uses incompatible with industrial and other employment uses. Strategies for managing encroachment and intrusion of incompatible uses include, but are not limited to, transition areas around uses having negative impacts on surrounding areas, design criteria, district designation, and limiting non-essential uses within districts.

Conclusions of Law: While the Council observes this is not a mandatory criterion, the Council concludes the Economic Element contains a new policy that recognizes the importance of retaining and expanding existing businesses. This policy includes a strategy to review GLUP Map amendments for the impact on neighboring uses and the policy under which this strategy resides provides a GLUP Map level basis to manage the encroachment and intrusion of incompatible uses. The Council further concludes that the adopted and acknowledged MLDC contains provisions for compatibility. The zone change criteria include locational standards that are intended to promote compatibility. Also, compatibility is an express standard for commercial and industrial site plan review approval at the development permitting level. The Economic Element contains no goals, policies or strategies that suggest amendments to this approval criterion are warranted and on this basis the City relies on its adopted and acknowledged MLDC site plan review approval criteria to assure uses are compatible.

(7) Availability. Cities and counties may consider land availability when designating the short-term supply of land. Available land is vacant or developed land likely to be on the market for sale or

lease at prices consistent with the local real estate market. Methods for determining lack of availability include, but are not limited to:

(a) Bona fide offers for purchase or purchase options in excess of real market value have been rejected in the last 24 months;

(b) A site is listed for sale at more than 150 percent of real market values;

(c) An owner has not made timely response to inquiries from local or state economic development officials; or

(d) Sites in an industrial or other employment land category lack diversity of ownership within a planning area when a single owner or entity controls more than 51 percent of those sites.

Conclusions of Law: The City Council first and foremost concludes that the City has a relatively active and liquid Commercial and Industrial real estate market and therefore extensive availability analysis was not conducted nor does the Council believe it to be necessary. However, the Goal 9 inventory did assess availability primarily through an assessment of ownership patterns and in-process projects. The analysis recognizes certain ownership patterns may limit availability, such as some of the land owned by Boise Cascade in the northwest corner of the UGB. The analysis also recognizes that some projects are in-process and that while this land might appear available, it is expected to be consumed in the very short-term by projects in the design and construction phases.

(8) Uses with Special Siting Characteristics. Cities and counties that adopt objectives or policies providing for uses with special site needs must adopt policies and land use regulations providing for those special site needs. Special site needs include, but are not limited to large acreage sites, special site configurations, direct access to transportation facilities, prime industrial lands, sensitivity to adjacent land uses, or coastal shore land sites designated as suited for water-dependent use under Goal 17. Policies and land use regulations for these uses must:

(a) Identify sites suitable for the proposed use;

(b) Protect sites suitable for the proposed use by limiting land divisions and permissible uses and activities that interfere with development of the site for the intended use; and

(c) Where necessary, protect a site for the intended use by including measures that either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.

Conclusions of Law: The Council concludes that it has not adopted objectives or policies for uses with special site needs and that this standard does not require the City to do so. The Council concludes that the Economic Element may be appropriate for future policies and objectives addressing uses with special siting characteristics, but proposals for such changes may be evaluated at a later time.

IV.1(D) Oregon Administrative Rule Division 024

660-024-0000
Purpose and Applicability

(1) The rules in this division clarify procedures and requirements of Goal 14 regarding local government adoption or amendment of an urban growth boundary (UGB).

(2) The rules in this division interpret Goal 14 as amended by Land Conservation and Development Commission (LCDC) on or after April 28, 2005, and are not applicable to plan amendments or land use decisions governed by previous versions of Goal 14 still in effect.

(3) The rules in this division are effective April 5, 2007, except as follows:

(a) A local government may choose to apply this division prior to April 5, 2007;

(b) A local government may choose to not apply this division to a plan amendment concerning the evaluation or amendment of a UGB, regardless of the date of that amendment, if the local government initiated the evaluation or amendment of the UGB prior to April 5, 2007;

(c) For purposes of this rule, "initiated" means that the local government either:

(A) Issued the public notice specified in OAR 660-018-0020 for the proposed plan amendment concerning the evaluation or amendment of the UGB; or
(B) Received LCDC approval of a periodic review work program that includes a work task to evaluate the UGB land supply or amend the UGB;

(d) A local government choice whether to apply this division must include the entire division and may not differ with respect to individual rules in the division.

Conclusions of Law: The City Council concludes that the proposed Economic Element update serves to evaluate the City's employment land needs and supply within the existing Urban Growth Boundary. Thus, this Economic Element update must be consistent with the land need requirements of Division 024. The City Council further concludes that the version of Division 024 and Goal 14 addressed herein is in full force and effect and none of the exceptions listed at OAR 660-024-0000(3)(a-d) are being utilized herein.

660-024-0010
(3) "UGB" means "urban growth boundary."

660-024-0040

Land Need

(1) The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.

Conclusions of Law: The Council concludes that the Economic Element identifies the employment land needs and the other urban use needs to serve those employment land needs and that the analysis in the Economic Element has been performed using the best available information and methodologies, reasonably accurate and precise.

(2) If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:

(a) On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660-018-0020; or

(b) If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the coordinated population forecast for the urban area adopted by the city and county pursuant to OAR 660-024-0030, unless ORS 197.296 requires a different date for local governments subject to that statute.

Conclusions of Law: The City Council concludes the actual UGB review will commence following acknowledgement of the Economic Element and the City will coordinate with the State of Oregon Department of Land Conservation and Development and Jackson County on the planning period for the UGB review.

(3) A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).

Conclusions of Law: The City Council concludes the Economic Element is directed only at characterizing employment land needs within the existing Urban Growth Boundary and future UGB review will result in definitive land need determinations for UGB changes. The City is performing concurrent reviews of housing needs, but the City recognizes that the UGB review for employment lands may proceed in advance of the review for other land needs if the City and County determine this to be the appropriate course of action.

(4) The determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goal 10, OAR 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

Conclusions of Law: The Council concludes that the Economic Element does not directly affect residential land need.

(5) Except for a metropolitan service district described in ORS 197.015(14), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.

Conclusions of Law: The City Council herewith incorporates and adopts its conclusions of law addressing OAR 660-009 and on this basis concludes the proposed Economic Element amendments are fully consistent with Goal 9. The employment estimates were prepared by a duly qualified consulting economist Jerry Johnson according to generally accepted professional standards for such forecasts and on this basis, they are reasonable.

(6) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with ORS 195.110 and 197.296 for local governments specified in those statutes.

Conclusions of Law: The City Council concludes the Economic Element has estimated land for transportation and public facilities as part of its analysis of the gross land need. A more detailed facility planning process will follow the completion of the Economic Element update and expected UGB review.

(7) The following safe harbors may be applied in determining housing needs:

(a) Local governments may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

Conclusions of Law: The City Council concludes the proposed Economic Element update does not affect housing needs.

(8) The following safe harbors may be applied in determining employment needs:

(a) The local government may estimate that the current number of jobs in the urban area will grow during the 20-year planning period at a rate equal to either:

(A) The county or regional job growth rate provided in the most recent forecast published by the Oregon Employment Department; or

(B) The population growth rate for the urban area in the adopted 20-year coordinated population forecast specified in OAR 660-024-0030.

(b) A local government with a population of 10,000 or less may assume that retail and service commercial land needs will grow in direct proportion to the forecasted urban area population growth over the 20-year planning period. This safe harbor may not be used to determine employment land needs for sectors other than retail and service commercial.

Conclusions of Law: The City Council concludes that the employment forecast utilized in the Economic Element is bounded by two safe harbors. The annual average regional job growth rate forecast by the Employment Department is 1.5 percent and the adopted and acknowledged Medford UGB population forecast annual average growth rate is 2.07% (2009-2028 and this figure involves interpolation between disparate growth rates from 2005-2026 and 2026-2040). Therefore, the 2.0% average annual growth rate for employment in the Medford UGB under the adopted high growth scenario is between the two safe harbor projection rates and is therefore reasonable and arguably a functional safe harbor.

The City Council further concludes that the Economic Element identified significant supply deficiencies in the commercial and service commercial land categories and so (b) is not utilized as it would only serve to perpetuate current land supply and demand imbalances.

(9) As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule. For purposes of this rule, a "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas.

Conclusions of Law: The City Council concludes that the above language applies only to residential lands, but that the DLCD guidebook for Goal 9 review recognizes a similar rate for employment lands is within the acceptable range and the Economic Element utilizes a 25 percent gross to net factor.

660-024-0050

Land Inventory and Response to Deficiency

(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015(3).

Conclusions of Law: The City Council herewith incorporates and adopts its findings of fact and conclusions of law addressing OAR 660-009-0015(3) and on this basis concludes employment land has been inventoried consistent with the rule.

(2) As safe harbors, a local government, except a city with a population over 25,000 or a metropolitan service district described in ORS 197.015(14), may use the following assumptions in inventorying buildable lands to accommodate housing needs:

(a) The infill potential of developed residential lots or parcels of one-half acre or more may be determined by subtracting one-quarter acre (10,890 square feet) for the existing dwelling and assuming that the remainder is buildable land;

(b) Existing lots of less than one-half acre that are currently occupied by a residence may be assumed to be fully developed.

Conclusions of Law: The City Council concludes these provisions are not applicable to employment lands inventorying.

(3) As safe harbors when inventorying land to accommodate industrial and other employment needs, a local government may assume that a lot or parcel is vacant if it is:

(a) Equal to or larger than one-half acre, if the lot or parcel does not contain a permanent building; or

(b) Equal to or larger than five acres, if less than one-half acre of the lot or parcel is occupied by a permanent building.

Conclusions of Law: Based upon the Findings in Section III and the Economic Element and Economic Opportunities Analysis themselves, the Council concludes the employment land has been inventoried consistent with this safe harbor.

(4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. Changes to the UGB must be determined by evaluating alternative boundary locations consistent with OAR 660-024-0060.

Conclusions of Law: The City Council concludes that ORS 197.296 is not applicable to inventory and analysis of employment land needs and does not apply in its entirety to the Economic Element update. The Council concludes that the Economic Element update is the foundation upon which the City may review its Urban Growth Boundary for employment lands and that identified needs in the Economic Element may be relied upon to satisfy the need deficiencies.

(5) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination. The local government must also apply appropriate zoning to the added land consistent with the plan designation, or may maintain the land as urbanizable land either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development until the land is rezoned for the planned urban uses. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.

Conclusions of Law: The Council concludes that no land is being added as part of the Economic Element update but that any future land that may be added to satisfy identified employment land needs can feasibly and must comply with this rule.

Ultimate State Criteria Conclusions of Law: Based upon the Findings of Fact in Section III and all the above foregoing Conclusions of Law, the City Council concludes the Economic Element amendment is fully consistent with applicable State of Oregon approval criteria.

IV.2 CITY OF MEDFORD CRITERIA

IV.2(A) Medford Land Development Code

10.184 Major Comprehensive Plan Amendment Criteria

See the Review and Amendment section of the Comprehensive Plan text.

Conclusions of Law: The Council concludes the criteria contained in the review and amendment section of the plan text is addressed herein below and herewith incorporated and adopted and on that basis concludes the MLDC approval criteria for the subject amendment are satisfied.

IV.2(B) Review and Amendments Section of the Comprehensive Plan

The seven criteria within the Review and Amendments section of the comprehensive plan are prefaced with the following language, which clearly establish alternative tests prerequisite to an affirmative decision:

" [. . .] While all of the criteria may not apply to each proposed amendment, all must be considered when developing substantive supporting final action on the amendment, and those criteria which are applicable must be identified and distinguished from those which are not."

The City Council construes the above language to mean that not all criteria may apply to any given application, but all must be considered. The City Council further understands that if it finds that some of the criteria do not apply, it must explain why. The criteria listed in the Comprehensive Plan *Review and Amendments* section, which pertain to the subject changes are addressed herein below:

Conclusions
Amendments shall be based on the following:

A change or addition to the text, data, inventories, or graphics that substantively affects the nature of one or more conclusion.

Conclusions of Law: The Council concludes that the Economic Element update proposes changes and/or additions to text, data, inventories, and graphics that substantively affect the nature of one or more conclusions in the existing Economic Element. The Council concludes that the changes to text, data, inventories, and/or graphics are consistent with land use planning for employment lands pursuant to Statewide Planning Goal 9 and that the conclusion amendments are consistent with that Goal 9 analysis and the City's policy objectives to achieve Goal 9.

Goals and Policies
Amendments shall be based on the following:

1. A significant change in one or more conclusion.
2. Information reflecting new or previously undisclosed public needs.
3. A significant change in community attitudes or priorities.
4. Demonstrable inconsistency with another *Comprehensive Plan* provision.
5. Statutory changes affecting the *Comprehensive Plan.*
6. All applicable Statewide Planning Goals.

Conclusions of Law: The Council concludes as follows with respect to the proposed changes to the Economic Element Goals and Policies:

1. The Goal 9 analysis presented in the Economic Element yielded some significant changes to the Economic Element conclusions, such as the amount of land needed to meet employment land demands through the year 2028. On this basis, the Council concludes the proposed changes to the Goals and Policies are responsive to identified and significant changes to one or more conclusions.

2. The Council concludes the Economic Element update is a thoroughgoing update to the Element that included comprehensive analysis of the City's Goal 9 objectives. While the project built on the previous element and does not chart a radically different course than the previous element, it does reflect new and/or previously undisclosed public needs, such as the more detailed analyses of site requirement needs of firms.

3. The Council concludes that the Economic Element update represents a refinement of attitudes and priorities to achieve Goal 9 for the City of Medford but that the general approach is consistent with the existing element. Therefore, the changes are not due to significant changes in community attitudes or priorities.

4. The Council concludes it has reviewed the Comprehensive Plan and has identified one potential demonstrable inconsistency with another *Comprehensive Plan* provision. Policy 1-A of the General Land Use Plan (GLUP) Element states that the GLUP Map shall be reviewed at least every five years. It has been more than 5 years since a comprehensive review of the GLUP Map occurred for employment lands and it has been more than 5 years since a comprehensive assessment of the City's employment land needs. The Council concludes that changes to the Goals and Policies are warranted as part of a thoroughgoing update to the Economic Element as a necessary prerequisite to a GLUP Map review, consistent with current LCDC Goal 9 rules, in order to first assess the extent to which the GLUP Map is adequately planning for employment land needs consistent with Statewide Planning Goal 9.

5. The Council concludes that there have been no Oregon Revised Statute changes affecting the Comprehensive Plan that have precipitated the Economic Element update and corresponding changes to the Plan's Goals and Policies.

6. The City Council concludes that in January 2007, LCDC's new administrative rule to implement Goal 9 went into full force and effect. While the Goal itself was not amended, this rule change has the effect of changing the application of the Goal and on that basis, warranted review and update of the City's Economic Element Goals and Policies pursuant to OAR 660-009-0020. Consistent with the requirements of this rule, the Council concludes the proposed Goal and Policy amendments are warranted to assure the City's plan remain in full compliance with Goal 9. With respect to the balance of the Statewide Planning Goals, the City Council herewith incorporates and adopts its Findings of Fact in Section III and its Conclusions of Law in Section IV addressing the Statewide Planning Goals and concludes the proposed amendments are fully consistent with all applicable Statewide Planning Goals.

Implementation Strategies
Amendments shall be based on the following:

1. A significant change in one or more goal or policy.
2. Availability of new and better strategies, such as those resulting from technological or economic changes.
3. Demonstrable ineffectiveness of a present strategy(s).

4. Statutory changes affecting the *Comprehensive Plan.*
5. Demonstrable budgetary constraints in association with at least one of the above criteria.
6. All applicable Statewide Planning Goals.

Conclusions of Law: The Council concludes as follows with respect to the proposed changes to the Economic Element Goals and Policies:

1. The Goal 9 analysis presented in the Economic Element yielded some significant changes to the Economic Element conclusions and this yielded some significant changes to one or more goals and/or policies; all new or modified implementation strategies have been written to further the objectives of said goal and/or policy changes.

2. The Council concludes the Economic Element update is a thoroughgoing update to the Element that included comprehensive analysis of the City's Goal 9 objectives. While the project is built on the previous element and does not chart a radically different course than the previous element, it does refine the City's strategies in response to this update project. In particular, the update utilizes the best available information and methodologies to describe the current needs of firms, economic forecasts and more detailed property information available for analysis through the use of Geographic Information Systems and statistical analysis software packages. For these reasons, the Council expects the Economic Element strategies to be new and potentially better than the existing body of Goal 9 strategies.

3. The Council concludes it has reviewed the previous Economic Element and because the City's general approach to achieve Goal 9 is not radically changed, the existing strategies do not require amendment because they were demonstrably ineffective.

4. The Council concludes that there have been no Oregon Revised Statute changes affecting the Comprehensive Plan that have precipitated the Economic Element update and corresponding changes to the Plan's Goals and Policies.

5. The Council concludes it is not aware of demonstrable budgetary constraints that have rendered any of the previous Economic Element strategies impractical for any of the reasons given for the proposed amendments in 1-4 above.

6. The City Council concludes that in January 2007, LCDC's new administrative rule to implement Goal 9 went into full force and effect. While the Goal itself was not amended, this rule change has the effect of changing the application of the Goal and on that basis, warranted review and update of the City's Economic Element Goals and Policies pursuant to OAR 660-009-0020. Consistent with the requirements of this rule, the Council concludes the proposed Goal and Policy amendments are warranted to assure the City's plan remains in full compliance with Goal 9. With respect to the balance of the Statewide Planning Goals, the City Council herewith incorporates and adopts its Findings of Fact in Section III and its Conclusions of Law in Section IV

addressing the Statewide Planning Goals and concludes the proposed amendments are fully consistent with all applicable Statewide Planning Goals.

General Land Use Plan Map Designations
Amendments shall be based on the following:

1. A significant change in one or more goal or policy, or implementation strategy.
2. Demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs or to assure adequate employment opportunities.
3. The orderly and economic provision of key public facilities.
4. Maximum efficiency of land uses within the current urbanizable area.
5. Environmental, energy, economic and social consequences.
6. Compatibility of the proposed change with other elements of the *Comprehensive Plan.*
7. All applicable Statewide Planning Goals.

Conclusions of Law: The Council concludes the proposed Economic Element amendment does not alter the application and/or description of any General Land Use Plan Map Designations. But the implication of its adoption may result in changes to the GLUP Map and/or the employment land map designation descriptions in order to carry out the City's long-term Goal 9 objectives. The findings above addressing portions of OAR 660-009 and OAR 660-024 consider such changes are appropriate to assure consistency with all aspects of the rules.

Urban Growth Boundary
Amendments shall be based on the following:

1. A significant change in one or more goal or policy, or implementation strategy.
2. Demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs or to assure adequate employment opportunities.
3. The orderly and economic provision of key public facilities.
4. Maximum efficiency of land uses within the current urbanizable area.
5. Environmental, energy, economic and social consequences.
6. Compatibility of the proposed change with other elements of the *Comprehensive Plan.*
7. All applicable Statewide Planning Goals.

It should also be noted that amendments to the Urban Growth Boundary and Urbanization Policies must be approved by a majority vote of the Jackson County Board of Commissioners, as well as Medford City Council, pursuant to applicable county procedures, and the joint Urban Area Management Agreement. (This amendment procedure is further described under Urbanization Policies in the Urbanization Element.)

Conclusions of Law: The Council concludes the proposed Economic Element amendment does not alter the Urban Growth Boundary, but the implication of its adoption may result in future changes to the UGB in order to carry out the City's long-term Goal 9 objectives. The findings above addressing portions of OAR 660-009 and OAR 660-024 contemplate such changes are appropriate to assure the plan is ultimately consistent with all aspects of those rules.

Citizen Involvement Program
Amendments shall be based on recommendations from the Committee for Citizen Involvement (CCI), and on Statewide Planning Goal 1, and any other applicable Statewide Planning Goals.

Conclusions of Law: The Council concludes the proposed amendments will have no affect on the City's Citizen Involvement Program.

Revision of Data, Inventories and Graphics
Revisions of those portions of the *Comprehensive Plan* document which do not affect a Plan conclusion, goal, policy, implementation strategy, General Land Use Plan designation, the Urban Growth Boundary, the Citizen Involvement Program, or the Review and Amendment Procedures may be made when need by order of the Planning Director. Such revisions shall be transmitted to the Planning Commission, City Council, and all other recorded holder to the *Comprehensive Plan.*

Conclusions of Law: The Council concludes the Economic Element update contains a thoroughgoing review of data, inventories, and graphics applicable to the City's employment land base and achievement of Goal 9. While some of this data might have been adopted through an independent order, the Council concludes that this type of comprehensive review is appropriately adopted by ordinance as part of this legislative review process.