

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1542 | FAX 503 797 1793



**METRO**

**Agenda**

MEETING: METRO COUNCIL REGULAR MEETING – revised 2/23/07  
DATE: March 1, 2007  
DAY: Thursday  
TIME: 5:00 PM  
PLACE: Metro Council Chamber

**CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATIONS**

**3. CONSENT AGENDA**

3.1 Consideration of Minutes for the February 22, 2007 Metro Council Regular Meeting.

**4. ORDINANCES – FIRST READING**

**4.1 Ordinance No. 07-1143**, For the Purpose of Annexing Land on the West Side of Hwy 47 to the Metro Jurisdictional Boundary.

**5. ORDINANCES – SECOND READING**

5.1 **Ordinance No. 07-1141**, Amending the FY 2006-07 Budget and Appropriations Schedule Providing for Expenditures Related to the Natural Areas Bond and Declaring an Emergency. Hosticka

5.2 **Ordinance No. 07-1142**, Amending the FY 2006-07 Budget and Appropriations Schedule Recognizing Donations to the Oregon Zoo, Providing Appropriation for Fleet Replacement and Declaring an Emergency. Liberty

**6. RESOLUTIONS**

6.1 **Resolution No. 07-3766**, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan. Harrington

**7. CHIEF OPERATING OFFICER COMMUNICATION**

**8. COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for March 1, 2007 Metro Council meeting**

**NOTE: Due to the 5 p.m. start time, the Council meeting will not be aired live.**

<b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b> Channel 11 -- Community Access Network <a href="http://www.tvctv.org">www.tvctv.org</a> -- (503) 629-8534 2 p.m. Thursday, March 8	<b>Portland</b> Channel 30 (CityNet 30) -- Portland Community Media <a href="http://www.pcmv.org">www.pcmv.org</a> -- (503) 288-1515 8:30 p.m. Sunday, March 4 2 p.m. Monday, March 5
<b>Gresham</b> Channel 30 -- MCTV <a href="http://www.mctv.org">www.mctv.org</a> -- (503) 491-7636 2 p.m. Monday, March 5	<b>Washington County</b> Channel 30 -- TVC-TV <a href="http://www.tvctv.org">www.tvctv.org</a> -- (503) 629-8534 11 p.m. Saturday, March 3 11 p.m. Sunday, March 4 6 a.m. Tuesday, March 6 4 p.m. Wednesday, March 7
<b>Oregon City, Gladstone</b> Channel 28 -- Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275 Call or visit website for program times.	<b>West Linn</b> Channel 30 -- Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275 Call or visit website for program times.

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.**

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website [www.metro-region.org](http://www.metro-region.org) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING	)	ORDINANCE NO. 07-1143
LANDS ON THE WEST SIDE OF	)	
HIGHWAY 47 TO THE METRO	)	
JURISDICTIONAL BOUNDARY	)	
	)	
	)	Introduced by Council President,
	)	David Bragdon
	)	

WHEREAS, the duty and authority to review and approve annexations to the Metro jurisdictional boundary is granted to Metro pursuant to Oregon Revised Statute 268.354 (3) (c); and

WHEREAS, Metro received a complete petition from the property owners and registered voters of a certain tract of land depicted on the attached map and described in Exhibit A to this ordinance, requesting that their property be annexed to Metro; and

WHEREAS, Metro received written consent from a majority of the electors in the territory to be annexed and owners of more than half the land in the territory proposed to be annexed, as required by ORS 198.855 (3); and

WHEREAS, Metro Council in Ordinance No. 02-985A, For the Purpose of Amending the Metro Urban Growth Boundary in the Vicinity of the Forest Grove by adding and deleting an equivalent amount of land, adopted December 12, 2002, amended the Urban Growth Boundary to include the territory described in Exhibit A; and

WHEREAS, a report was prepared as required by law and Metro having considered the report and the testimony at the public hearing, does hereby favor annexation of the subject property based on the findings and reasons for decision attached hereto as Exhibit B; now therefore

THE METRO COUNCIL ORDAINS;

The territory described in Exhibit A and depicted on the attached map is hereby annexed to the Metro jurisdictional boundary.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
David Bragdon, Council President

ATTEST:

Approved as to Form

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel Cooper, Metro Attorney

Ordinance No. 07-1143  
Exhibit A  
Proposal No. AN-01-06

The Bearings noted hereon are based upon "Lancaster Square No. 2", a plat of record in Washington County.

A portion of the Benjamin Catching DLC No. 59 and the Orus Brown DLC No. 71, situated in the SW ¼ of Section 30, Township 1 North, Range 3 West, and the SE ¼ of Section 25, Township 1 North, Range 4 West, Willamette Meridian, Washington County, State of Oregon, being more particularly described as follows:

Beginning at the Northwest corner of Lot 47, Lancaster Square No. 2",

thence N89°32'43"W, 3269.52 feet along the North boundary line of said "Lancaster Square No. 2", to the Northwest corner of Lot 77 said plat;

thence S00°05'12"E, 60.16 feet along the West line of said plat to a point on the Southerly line of a 100 foot wide easement to Bonneville Power Administration;

thence leaving said West line of "Lancaster Square No. 2", N89°32'43"W, 448.38 feet along the Southerly line of said easement;

thence N01°12'18"E, 719.98 feet along the West line of said easement to a point on the North line of Tax Lot 1N42501003;

thence leaving the Westerly line of said easement, S89°32'55"E, 88.88 feet along the North line of said Tax Lot to the Southwest corner of the 40 foot wide County Road (C.R. 1245);

thence N00°27'05"E, 40.00 feet along the Westerly line of said County Road to the Northwest corner thereof;

thence S89°32'55"E, 3618.83 feet along the North line of said County Road to a point on the Westerly Right of Way line of State Highway No. 47;

thence S09°04'38"W, 40.46 feet along said Westerly right of way line to an angle point therein;

thence continuing along said right of way line, S00°05'20"E, 660.00 feet to the point of beginning.

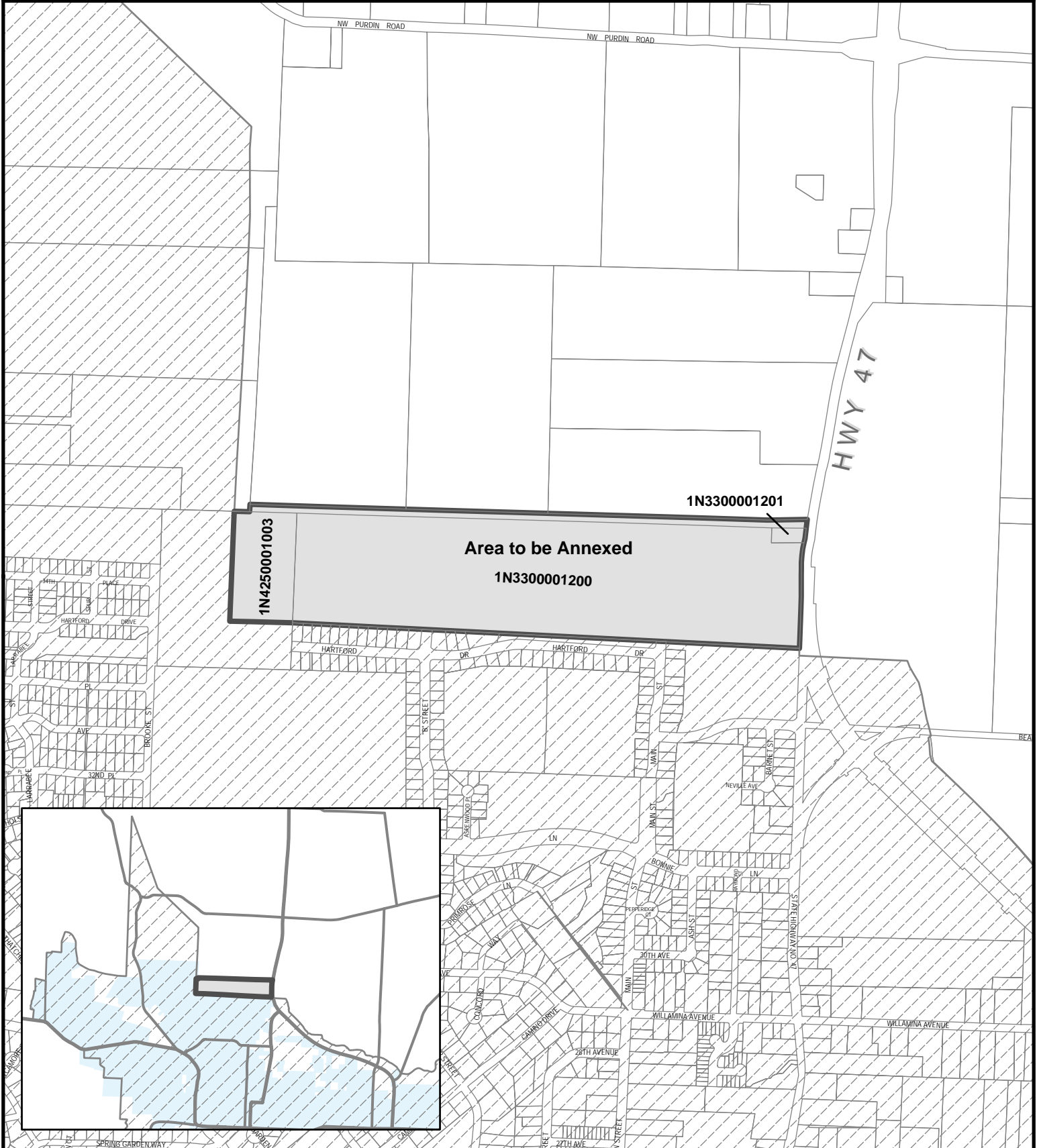
Containing 60.13 Acres

# Annexation: AN-01-06

1N4W25, 1N3W30

Annexation to Metro Boundary

Washington County



1N4250001003

1N3300001201

Area to be Annexed



1N3300001200

HWY 47



Data Resource Center  
600 NE Grand Ave  
Portland, OR 97232-2736  
(503) 797-1742  
<http://www.metro-region.org/drc>

1:10,000

-  Metro Annexation
-  Metro Boundary

AN-01-06  
WA6206

Ken Martin Consulting  
P.O. Box 29079  
Portland, OR 97296-9079  
(503) 222-0955



## FINDINGS

Based on the study and the public hearing, the Council found:

1. The territory is located on the west edge of the District north of Hartford Road and west of Highway 47. The territory contains 59.8 acres and 2 single family dwellings.
2. The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Forest Grove. The City is developing the Concept Plan for the area. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement.
3. Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address the following minimum criteria:

1. The affected territory lies within the UGB; and
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services

Additionally Metro Code 3.09.050 (b) requires issuance of a report addressing the above criteria “including at a minimum the following:

- (1) The extent to which urban services presently are available to serve the affected territory including any extraterritorial extensions of service;
- (2) A description of how the proposed boundary change complies with any urban service agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;
- (3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;
- (4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (5) The proposed effective date of the decision.”

The applicants have prepared a detailed response to each of the 5 criteria listed above. These responses are Shown below.

### **COMPLIANCE WITH METRO CODE**

#### **METRO CODE CHAPTER 3.09.050(b):**

**1. The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;**

**RESPONSE:** The proposed annexation area was annexed to the City of Forest Grove, Ordinance 2006-07. As part of annexation to the City, the Council authorized the annexed territory to be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the Washington County Service District for Urban Road Maintenance. This property was previously added to the UGB in 2002 as part of Metro's UGB update under Metro Ordinance 02-985A.

#### **FACILITIES AND SERVICES**

The following summarizes the availability of existing public facilities and services to this area. Generally, services are available to the property from abutting development to the south.

Sanitary Sewer. The site falls within the David Hill Service Area of the City's Sewer Master Plan. There is an existing 10-inch stub extending north of the intersection of Hartford Drive and Main Street as well as an 8-inch line along Hartford Drive at the intersection of B Street. The site will be served by an 8-inch sanitary sewer as proposed in the City's Sanitary Sewer Master Plan.

Forest Grove receives treatment and disposal of waste water and transmission services from the Clean Water Services County Service District. Forest Grove provides its own collection system while Clean Water Services provides regional transmission and sewage treatment services.

Clean Water Services' Hillsboro sewage treatment plant, is located on First Street in that community. The plant serves portions of the communities of Hillsboro, Forest Grove and Cornelius. Clean Water Services built an intertie between the various treatment plants. If there is any problem at the Hillsboro plant sewage can be diverted to the Rock Creek plant.

The City is responsible for billing its customers after service is installed and for collecting sanitary and storm sewer connection fees. If the City imposes the same connection fees and use charges as Clean Water Services, it simply passes these monies on to Clean Water Services to pay for the costs of treatment and transmission of the sewage or storm water. The City may impose higher costs than Clean Water Services charges and keep the difference to offset City costs. Forest Grove does not charge a higher fee. The City assesses system development charges (SDCs) upon development of the property.

Water. Water is available to the site via the existing 10-inch stub north of the intersection of Hartford Drive and Main Street and additional 8- and 1-inch pipes along Hartford Drive at the intersection of B Street.

The City of Forest Grove has two sources of water supply. The primary source is the Forest Grove watershed, consisting of 4,300 acres of the Clear Creek drainage basin. (The City also has water rights from Gales Creek.) Water from the Forest Grove watershed is treated at the City's treatment plant located in the northwest section of the City. The treatment plant has a capacity of about 3.0 million gallons per day (mgd). The other major source is the joint Hillsboro/Forest Grove/Beaverton water treatment plant, which is supplied from the Trask and Scoggins impoundments via the Tualatin River. The joint water supply system has a nominal capacity of 60 mgd. Forest Grove owns 13.3 percent (8 mgd) of the system's capacity.

The City's main storage reservoir is located adjacent to the Forest Grove Water Treatment Plant. It has a storage capacity of 5 million gallons (mg). This is adequate for the existing system. An additional reservoir provides 1 mg of storage for the Forest Gale Heights area.

Storm Water Management. The site is sloping toward the east to an existing unnamed stream. There is no storm sewer facility currently available on site. A water quality facility will be planned during the development phase of this site. Clean Water Services (CWS) County Service District is responsible for storm water management in Washington County. Due to the City's Intergovernmental Agreement with CWS, adequate storm water facilities meeting CWS standards will be required as part of any development approval

The District levies an annual assessment of \$3 per dwelling unit of which \$2.24 goes to the City. Upon development of the property the City charges a system development charged for each dwelling unit.

Police. The territory to be annexed was within the Washington County Enhanced Sheriff's Patrol District which, in addition to the basic County-wide level of protection, provides .94 officers per 1000 population. The City withdrew the territory from the District upon annexation.

Upon annexation the City of Forest Grove Police Department assumed responsibility for the property. The City employs 26 officers, equating to 1.46 officers per 1000 population. The department operates on three ten-hour shifts, 7 days a week. Manpower for each shift is determined by calls for service.

Fire. The territory was within the boundary of the Forest Grove Rural Fire Protection District. However, upon annexation, the City withdrew the territory from the District. Therefore on the effective date of the annexation the District's tax levy will no longer apply. The City Fire Department will now provide service for the annexed area. Fire service is provided from two fire stations. The new main station (constructed in 1995) is located in the center of the City on Ash Street. The second station is located in the Gales Creek area. The City plans a third



fire station in the future near the intersection of David Hill Road and Thatcher Road to serve development within the City.

The Department operates with 19 paid fire fighters and 42 volunteer fire fighters. The City provides four to eight paid personnel on duty at all times at the Ash Street station. On all alarms, the volunteers respond to the station along with off duty paid personnel. All personnel are provided with tone activated radio receivers. Night responses are augmented by the resident volunteers at the station. The Fire Department is equipped with 5 engines; 2 tankers; 5 pick-ups; a 104' platform truck; a command vehicle; a utility vehicle; and one rescue unit.

Transportation. The territory to be annexed was within the boundary of the Washington County Urban Road Maintenance District. The City withdrew the territory from the District upon annexation to the City. The site abuts Highway 47 and David Hill Road. Development of the subject properties will provide improvements to David Hill Road, which will also be coordinated with currently planned improvements by Washington County for the west end of the road. The adjacent development has stubbed streets to the southern boundary of the subject site. These roads will be extended into and through the subject property as development occurs.

Parks. The City of Forest Grove maintains one large community park (Lincoln) and two fully developed neighborhood parks (Joseph Gale and Rogers). There are three playgrounds included in the City park system (Bard, Hazel Sills, and Talisman). Land has been acquired by the City for a second community park at the intersection of David Hill Road and Thatcher Road.

Other Services. The City of Forest Grove provides a municipal utility for electric power through its City Light and Power Department. Forest Grove provides library services, land use planning, zoning, building and general administration services.

These basic services are available and adequate to support initial annexation and future development impacts.

***2. A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;***

**RESPONSE:** The annexation complies with urban service agreements as follows:

Washington County Planning The annexation was found to be consistent with Washington County planning policies (Ordinance 2006-07). Washington County reviewed its role in service provision in its County 2000 program, the County's financial management plan. The County established a policy of supporting a service delivery system that distinguishes between municipal and countywide services. To achieve tax fairness and expenditure equity in the provision of public services the County's policy is to provide only countywide services with general fund revenues. The County policy favors municipal services being provided either by cities or special

districts.

Washington County's Urban Growth Management policies require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water and a balanced urban level transportation system are the primary urban services considered.

Urban Growth Management Agreement.

Washington County and the City of Forest Grove jointly prepared and adopted an Urban Planning Area Agreement (UPAA) to coordinate land use actions within the City's planning area. The subject territory is within the area covered by the UPAA. Pertinent portions of the UPAA are as follows:

\* \* \*

III. Planning Responsibilities

A. The following policies are intended to further clarify the respective planning interests and duties of the CITY and the COUNTY as they relate to the Forest Grove Urban Planning Area:

The CITY shall be responsible for comprehensive planning in the incorporated and unincorporated portions of the CITY's urban planning area, and shall implement the planning process outlined in the CITY's comprehensive plan. The COUNTY shall support the planning process and participate as necessary.

\* \* \*

9. Urban development in the urban planning area shall be served with adequate urban services including sewer, water, storm drainage, streets, and police and fire protection. The CITY shall be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the urban planning area.

10. As required by OAR 660-11-010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area. Exceptions include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY. The CITY shall provide urban services consistent with annexation and fiscal policies.

11. The CITY has developed a transportation plan which addresses the existing and future traffic needs of the urban planning area. The CITY shall coordinate local transportation plans, proposals and improvements with the COUNTY.

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13. The CITY shall monitor and regulate the conversion of vacant and agricultural land to urban uses through the extension of water and sewer service, land partitioning requirements and annexations within the urban planning area. Unincorporated urbanizable land shall not be converted to urban development prior to annexation to the CITY.

City Planning: The City of Forest Grove has active planning responsibility for the entire area within the regional urban growth boundary surrounding the City. This territory is within the boundary. However, in this instance, the territory was added to the city's UGB in 2002 and thus is not part of the existing Comprehensive Plan. The City is required to do planning for this new area under Metro's Code Title 11 (Section 3.07.1105 – 3.07.1140 – Planning for New Urban Areas). The purpose of this title is to guide planning of areas brought into the UGB for conversion from rural to urban use. All land added to the UGB shall be included within a city's comprehensive plan prior to urbanization. The comprehensive plan amendment must be consistent with all applicable titles of Metro's Functional Plan. Title 11 lists ten provisions that need to be addressed in the comprehensive plan amendment including an urban growth plan diagram and policies consistent with the Regional Framework Plan and adopted 2040 Growth Concept Design types.

The Title 11 planning efforts for this territory are underway. The comprehensive plan designation will be established during this process.

The City's comprehensive plan policies were reviewed for policies related to annexation. The proposal was found to be consistent with the following:

Local Urbanization Goals:

Land shall be made available within the urban growth boundary to meet all urban land use needs.

Utility services shall be provided incrementally without bypassing large parcels of vacant land to serve peripheral parcels.

Local Urbanization Policies:

All lands within the Urban Growth Boundary shall be assigned priorities for urban development. Priorities shall be based on the City's ability to provide urban services and the orderly and efficient timing of service extensions. These priorities shall be the basis for making decisions on all development proposals and requests for annexation.

Provide for an Urban Growth Management Strategy to set forth policies on the urbanization of vacant and agricultural land. The policies should cover the extension of water and sewer service, land partitioning requirements, zoning, and annexations within the Urban Growth Boundary. The strategy shall provide for the orderly and cost-efficient accommodation of anticipated urban growth for the next 10 years.

Trunk lines for utilities shall be extended only to service areas which are adjacent to existing

development.

Sewer and water utilities shall not be extended beyond the City's corporate limits and shall be provided only after annexation.

**3. A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework plan and functional plans, regional urban growth goals and objectives, urban planning agreements of affected entity and of all necessary parties;**

**RESPONSE:** Consistency of Proposal with Land Use Planning Requirements:

The proposal is consistent with State, regional and local planning requirements listed in the preceding pages. The proposal meets the requirements of State Land Use Goal 14: Urbanization by providing for an orderly transition from rural to urban land use; allowing the efficient provision of public facilities; allowing for the future construction of needed housing; and implementing the City's acknowledged Comprehensive Plan.

Metro's action to add the territory to the Regional Urban Growth Boundary confirms conformance with the regional framework plan, and the regional urban growth goals and objectives (Metro Ordinance 02-985A).

The City's growth management strategy is represented by the Comprehensive Plan and the proposal is consistent with the goal and policies presented in this document. The property, when developed, will extend urban services from areas immediately adjacent to the property or to areas immediately adjacent to the property. These services have capacity to serve the site. Thus, the annexation of this area appears to be consistent with the intent of Policies 2 and 3. Policy 4 and 5 prohibits extension of utility outside the City and only to area which are adjacent to existing development. The following section will discuss the availability of municipal facilities and services to the territory in more detail.

**4. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party:**

**RESPONSE:** The proposed annexation area was annexed to the City of Forest Grove, Ordinance 2006-07. As part of annexation to the City, the Council authorized the annexed territory to be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the Washington County Service District for Urban Road Maintenance. This property was previously added to the UGB in 2002 as part of Metro's UGB update under Metro Ordinance 02-985A.

**5. The proposed effective date of the decision.**

**RESPONSE:** The proposed effective date of decision will be as soon as possible, or immediately upon approval of the Metro Council, and standard affective dates for Ordinances.

4. The site slopes gently from west to east. There is a low drainage channel which runs west to east along the southern edge of the property.

To the north and to the east (across Highway 47) lies farmland. To the west and south of the property are urban residential developments.

5. The area to be annexed is inside the Urban Growth Boundary. The territory abuts the Metro jurisdictional boundary on the west and on the south.

The law that dictates that Metro adopt criteria for boundary changes requires those criteria to include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) has been examined and found not to contain any directly applicable standards and criteria for boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A, Interim Protection of Areas Brought into the Urban Growth Boundary, concerns "annexations" of land added to the UGB. It requires local comprehensive plan amendments for land added to the UGB to include "provisions for annexation to the (Metro) district and to a city or any necessary service district prior to urbanization of the territory . . . to provide all required urban services". By its terms, this Title 11 provision requires local comprehensive plans to assure the provision of adequate public facilities and services to land added to the UGB through annexation of such lands to the Metro District, the affected city and/or any special service district responsible for providing such facilities and services to the land prior to its urban development.

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-985A).

6. The territory was recently annexed to the City of Forest Grove. The City is in the process of adopting a Concept Plan for the area, including Comprehensive Plan amendments in compliance

with Metro Title 11. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of the Concept Plan and rezoning in compliance with that plan. The City has very recently re-designated the area for urban residential use with R-5 zoning and the enacting ordinances have been submitted to Metro for Compliance Review with Title 11.

7. The availability of public services is addressed in Finding 3 above.
8. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

## CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Council has reviewed the applicable comprehensive plan which is the Forest Grove Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.
2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 8 Metro has no relevant service agreements.
3. Metro Code 3.09.120 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criteria for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 6. Therefore the Council finds this proposed annexation to be consistent with that criterion.
4. The final criterion to be considered under the Metro Code 3.09.120 (e) (2) is "The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services." As noted in Finding 6 the territory has been protected from premature development by application of FD-20 zoning. The territory has been annexed to Forest Grove and as stated in Finding 3 the City has necessary urban services available. The Council concludes this criterion is met.

**STAFF REPORT**

IN CONSIDERATION OF ORDINANCE NO. 07- 1143 FOR THE PURPOSE OF ANNEXING LAND ON THE WEST EDGE OF HIGHWAY 47 TO THE METRO JURISDICTIONAL BOUNDARY

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Date: February 15, 2007

Prepared by: Ken Martin, Annexation Staff

**SECTION I: APPLICATION SUMMARY**

CASE: AN-0106, Annexation To Metro Jurisdictional Boundary

APPLICANT: 99.2% Owners/100% Voters of Three Properties

PROPOSAL: The petitioners are requesting annexation to the Metro boundary following the Metro Council's addition of the property to the Urban Growth Boundary in December, 2002 and the City of Forest Grove's annexation of the property in 2006.

LOCATION: The territory is located on the west edge of the District north of Hartford Road and west of Highway 47. (See Figure 1).

PLAN/ZONING Future Urban/FD-20 (Future Development – 20 Acre District).

APPLICABLE REVIEW CRITERIA: ORS Chapter 198, Metro Code 3.09

**SECTION II: STAFF RECOMMENDATION**

Staff recommends adoption of Ordinance No. 07- 1143 approving Boundary Change Proposal No. AN-0106, annexation to Metro.

**SECTION III: BACKGROUND INFORMATION**

**Initiation:** Proposal No. AN-0106 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law), ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040 (a) (which lists minimum requirements for petition).

**Site Information:** The territory is located on the west edge of the District north of Hartford Road and west of Highway 47. The territory contains 59.8 acres and 2 single family dwellings.



## **REASON FOR ANNEXATION**

The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Forest Grove. The City is developing the Concept Plan for the area. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement.

## **CRITERIA**

Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address the following minimum criteria:

1. The affected territory lies within the UGB; and
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services

Additionally Metro Code 3.09.050 (b) requires issuance of a report addressing the above criteria “including at a minimum the following:

- (1) The extent to which urban services presently are available to serve the affected territory including any extraterritorial extensions of service;
- (2) A description of how the proposed boundary change complies with any urban service agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;
- (3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;
- (4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (5) The proposed effective date of the decision.”

The applicants have prepared a detailed response to each of the 5 criteria listed above. These responses are attached as Attachment 1.

## **LAND USE PLANNING**

### *SITE CHARACTERISTICS*

The site slopes gently from west to east. There is a low drainage channel which runs west to east along the southern edge of the property.

To the north and to the east (across Highway 47) lies farmland. To the west and south of the property are urban residential developments.

### *REGIONAL PLANNING*

This territory abuts the Metro jurisdictional boundary on the west and on the south.

#### Regional Framework Plan

The law that dictates that Metro adopt criteria for boundary changes requires those criteria to include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) has been examined and found not to contain any directly applicable standards and criteria for boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A, Interim Protection of Areas Brought into the Urban Growth Boundary, concerns "annexations" of land added to the UGB. It requires local comprehensive plan amendments for land added to the UGB to include "provisions for annexation to the (Metro) district and to a city or any necessary service district prior to urbanization of the territory . . . to provide all required urban services". By its terms, this Title 11 provision requires local comprehensive plans to assure the provision of adequate public facilities and services to land added to the UGB through annexation of such lands to the Metro District, the affected city and/or any special service district responsible for providing such facilities and services to the land prior to its urban development.

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

#### Urban Growth Boundary Change

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-985A).

### *CITY PLANNING*

The territory was recently annexed to the City of Forest Grove. The City is in the process of adopting a Concept Plan for the area, including Comprehensive Plan amendments in compliance with Metro Title 11. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of the Concept Plan and rezoning in compliance with that plan. The City has very recently re-designated the area for urban residential use with R-5 zoning and the enacting ordinances have been submitted to Metro for Compliance Review with Title 11.

## **FACILITIES AND SERVICES**

Public Services. The availability of public services is addressed in Attachment 1.

Metro Services. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

#### **SECTION IV: ANALYSIS/INFORMATION**

1. **Known Opposition** - There is no known opposition to this annexation. No one has contacted staff on this matter despite extensive notification which included posting and publishing of notices and notices to surrounding property owners.
2. **Legal Antecedents** - This annexation is a follow-up to the UGB change passed by the Council as Ordinance 02-985A. The annexation is being processed under provisions of ORS 198 and Metro Code 3.09.
3. **Anticipated Effects** - No significant effect is anticipated. The uses allowed on this site will be under the control of the City of Forest Grove and as anticipated by the Metro UGB expansion.
4. **Budget Impacts** - None

#### **SECTION V: SUMMARY AND RECOMMENDATION**

This petition seeks to annex approximately 59.8 acres of land into the Metro Jurisdictional boundary in order to provide for eventual residential development within the City of Forest Grove. Based on the study above and the proposed Findings and Reasons For Decision found in Attachment 2, the staff recommends that Proposed Annexation No. AN-0106 be *approved*. This approval should be implemented by adoption of Ordinance No. 07-1143 (attached).

Ordinance No. 07-1143  
ATTACHMENT 1

**COMPLIANCE WITH METRO CODE**

**METRO CODE CHAPTER 3.09.050(b):**

- 1. The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;*

**RESPONSE:** The proposed annexation area was annexed to the City of Forest Grove, Ordinance 2006-07. As part of annexation to the City, the Council authorized the annexed territory to be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the Washington County Service District for Urban Road Maintenance. This property was previously added to the UGB in 2002 as part of Metro's UGB update under Metro Ordinance 02-985A.

**FACILITIES AND SERVICES**

The following summarizes the availability of existing public facilities and services to this area. Generally, services are available to the property from abutting development to the south.

Sanitary Sewer. The site falls within the David Hill Service Area of the City's Sewer Master Plan. There is an existing 10-inch stub extending north of the intersection of Hartford Drive and Main Street as well as an 8-inch line along Hartford Drive at the intersection of B Street. The site will be served by an 8-inch sanitary sewer as proposed in the City's Sanitary Sewer Master Plan.

Forest Grove receives treatment and disposal of waste water and transmission services from the Clean Water Services County Service District. Forest Grove provides its own collection system while Clean Water Services provides regional transmission and sewage treatment services.

Clean Water Services' Hillsboro sewage treatment plant, is located on First Street in that community. The plant serves portions of the communities of Hillsboro, Forest Grove and Cornelius. Clean Water Services built an intertie between the various treatment plants. If there is any problem at the Hillsboro plant sewage can be diverted to the Rock Creek plant.

The City is responsible for billing its customers after service is installed and for collecting sanitary and storm sewer connection fees. If the City imposes the same connection fees and use charges as Clean Water Services, it simply passes these monies on to Clean Water Services to pay for the costs of treatment and transmission of the sewage or storm water. The City may impose higher costs than Clean Water Services charges and keep the difference to offset City costs. Forest Grove does not charge a higher fee. The City assesses system development charges (SDCs) upon development of the property.

Water. Water is available to the site via the existing 10-inch stub north of the intersection of Hartford Drive and Main Street and additional 8- and 1-inch pipes along Hartford Drive at the intersection of B Street.

The City of Forest Grove has two sources of water supply. The primary source is the Forest Grove watershed, consisting of 4,300 acres of the Clear Creek drainage basin. (The City also has water rights from Gales Creek.) Water from the Forest Grove watershed is treated at the City's

treatment plant located in the northwest section of the City. The treatment plant has a capacity of about 3.0 million gallons per day (mgd). The other major source is the joint Hillsboro/Forest Grove/Beaverton water treatment plant, which is supplied from the Trask and Scoggins impoundments via the Tualatin River. The joint water supply system has a nominal capacity of 60 mgd. Forest Grove owns 13.3 percent (8 mgd) of the system's capacity.

The City's main storage reservoir is located adjacent to the Forest Grove Water Treatment Plant. It has a storage capacity of 5 million gallons (mg). This is adequate for the existing system. An additional reservoir provides 1 mg of storage for the Forest Gale Heights area.

Storm Water Management. The site is sloping toward the east to an existing unnamed stream. There is no storm sewer facility currently available on site. A water quality facility will be planned during the development phase of this site. Clean Water Services (CWS) County Service District is responsible for storm water management in Washington County. Due to the City's Intergovernmental Agreement with CWS, adequate storm water facilities meeting CWS standards will be required as part of any development approval

The District levies an annual assessment of \$3 per dwelling unit of which \$2.24 goes to the City. Upon development of the property the City charges a system development charged for each dwelling unit.

Police. The territory to be annexed is within the Washington County Enhanced Sheriff's Patrol District which, in addition to the basic County-wide level of protection, provides .94 officers per 1000 population. The City may withdraw the territory from the District upon annexation. If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.

Upon annexation the City of Forest Grove Police Department would assume responsibility for the property. The City employs 26 officers, equating to 1.46 officers per 1000 population. The department operates on three ten-hour shifts, 7 days a week. Manpower for each shift is determined by calls for service.

Fire. The territory was within the boundary of the Forest Grove Rural Fire Protection District. However, upon annexation, the City withdrew the territory from the District. Therefore on the effective date of the annexation the District's tax levy will no longer apply. The City Fire Department will now provide service for the annexed area. Fire service is provided from two fire stations. The new main station (constructed in 1995) is located in the center of the City on Ash Street. The second station is located in the Gales Creek area. The City plans a third fire station in the future near the intersection of David Hill Road and Thatcher Road to serve development within the City.

The Department operates with 19 paid fire fighters and 42 volunteer fire fighters. The City provides four to eight paid personnel on duty at all times at the Ash Street station. On all alarms, the volunteers respond to the station along with off duty paid personnel. All personnel are provided with tone activated radio receivers. Night responses are augmented by the resident volunteers at the station. The Fire Department is equipped with 5 engines; 2 tankers; 5 pick-ups; a 104' platform truck; a command vehicle; a utility vehicle; and one rescue unit.

Transportation. The territory to be annexed was within the boundary of the Washington County Urban Road Maintenance District. The City withdrew the territory from the District upon annexation to the City. The site abuts Highway 47 and David Hill Road. Development of the

subject properties will provide improvements to David Hill Road, which will also be coordinated with currently planned improvements by Washington County for the west end of the road. The adjacent development has stubbed streets to the southern boundary of the subject site. These roads will be extended into and through the subject property as development occurs.

**Parks.** The City of Forest Grove maintains one large community park (Lincoln) and two fully developed neighborhood parks (Joseph Gale and Rogers). There are three playgrounds included in the City park system (Bard, Hazel Sills, and Talisman). Land has been acquired by the City for a second community park at the intersection of David Hill Road and Thatcher Road.

**Other Services.** The City of Forest Grove provides a municipal utility for electric power through its City Light and Power Department. Forest Grove provides library services, land use planning, zoning, building and general administration services.

These basic services are available and adequate to support initial annexation and future development impacts.

**2. *A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;***

**RESPONSE:** The annexation complies with urban service agreements as follows:

Washington County Planning The annexation was found to be consistent with Washington County planning policies (Ordinance 2006-07). Washington County reviewed its role in service provision in its County 2000 program, the County's financial management plan. The County established a policy of supporting a service delivery system that distinguishes between municipal and countywide services. To achieve tax fairness and expenditure equity in the provision of public services the County's policy is to provide only countywide services with general fund revenues. The County policy favors municipal services being provided either by cities or special districts.

Washington County's Urban Growth Management policies require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water and a balanced urban level transportation system are the primary urban services considered.

Urban Growth Management Agreement.

Washington County and the City of Forest Grove jointly prepared and adopted an Urban Planning Area Agreement (UPAA) to coordinate land use actions within the City's planning area. The subject territory is within the area covered by the UPAA. Pertinent portions of the UPAA are as follows:

\* \* \*

III. Planning Responsibilities

A. The following policies are intended to further clarify the respective planning interests and duties of the CITY and the COUNTY as they relate to the Forest Grove Urban Planning Area:

The CITY shall be responsible for comprehensive planning in the incorporated and unincorporated portions of the CITY's urban planning area, and shall implement the planning

process outlined in the CITY's comprehensive plan. The COUNTY shall support the planning process and participate as necessary.

\* \* \*

9. Urban development in the urban planning area shall be served with adequate urban services including sewer, water, storm drainage, streets, and police and fire protection. The CITY shall be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the urban planning area.

10. As required by OAR 660-11-010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area. Exceptions include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY. The CITY shall provide urban services consistent with annexation and fiscal policies.

11. The CITY has developed a transportation plan which addresses the existing and future traffic needs of the urban planning area. The CITY shall coordinate local transportation plans, proposals and improvements with the COUNTY.

\*\*\*

13. The CITY shall monitor and regulate the conversion of vacant and agricultural land to urban uses through the extension of water and sewer service, land partitioning requirements and annexations within the urban planning area. Unincorporated urbanizable land shall not be converted to urban development prior to annexation to the CITY.

City Planning: The City of Forest Grove has active planning responsibility for the entire area within the regional urban growth boundary surrounding the City. This territory is within the boundary. However, in this instance, the territory was added to the city's UGB in 2002 and thus is not part of the existing Comprehensive Plan. The City is required to do planning for this new area under Metro's Code Title 11 (Section 3.07.1105 – 3.07.1140 – Planning for New Urban Areas). The purpose of this title is to guide planning of areas brought into the UGB for conversion from rural to urban use. All land added to the UGB shall be included within a city's comprehensive plan prior to urbanization. The comprehensive plan amendment must be consistent with all applicable titles of Metro's Functional Plan. Title 11 lists ten provisions that need to be addressed in the comprehensive plan amendment including an urban growth plan diagram and policies consistent with the Regional Framework Plan and adopted 2040 Growth Concept Design types.

The Title 11 planning efforts for this territory are underway. The comprehensive plan designation will be established during this process.

The City's comprehensive plan policies were reviewed for policies related to annexation. The proposal was found to be consistent with the following:

Local Urbanization Goals:

Land shall be made available within the urban growth boundary to meet all urban land use needs.

Utility services shall be provided incrementally without bypassing large parcels of vacant land to serve peripheral parcels.

Local Urbanization Policies:

All lands within the Urban Growth Boundary shall be assigned priorities for urban development. Priorities shall be based on the City's ability to provide urban services and the orderly and efficient timing of service extensions. These priorities shall be the basis for making decisions on all development proposals and requests for annexation.

Provide for an Urban Growth Management Strategy to set forth policies on the urbanization of vacant and agricultural land. The policies should cover the extension of water and sewer service, land partitioning requirements, zoning, and annexations within the Urban Growth Boundary. The strategy shall provide for the orderly and cost-efficient accommodation of anticipated urban growth for the next 10 years.

Trunk lines for utilities shall be extended only to service areas which are adjacent to existing development.

Sewer and water utilities shall not be extended beyond the City's corporate limits and shall be provided only after annexation.

3. *A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework plan and functional plans, regional urban growth goals and objectives, urban planning agreements of affected entity and of all necessary parties;*

**RESPONSE:** Consistency of Proposal with Land Use Planning Requirements:

The proposal is consistent with State, regional and local planning requirements listed in the preceding pages. The proposal meets the requirements of State Land Use Goal 14: Urbanization by providing for an orderly transition from rural to urban land use; allowing the efficient provision of public facilities; allowing for the future construction of needed housing; and implementing the City's acknowledged Comprehensive Plan.

Metro's action to add the territory to the Regional Urban Growth Boundary confirms conformance with the regional framework plan, and the regional urban growth goals and objectives (Metro Ordinance 02-985A).

The City's growth management strategy is represented by the Comprehensive Plan and the proposal is consistent with the goal and policies presented in this document. The property, when developed, will extend urban services from areas immediately adjacent to the property or to areas immediately adjacent to the property. These services have capacity to serve the site. Thus, the annexation of this area appears to be consistent with the intent of Policies 2 and 3. Policy 4 and 5 prohibits extension of utility outside the City and only to area which are adjacent to existing development. The following section will discuss the availability of municipal facilities and services to the territory in more detail.

4. *Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party:*

**RESPONSE:** The proposed annexation area was annexed to the City of Forest Grove, Ordinance 2006-07. As part of annexation to the City, the Council authorized the annexed territory to be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the



Washington County Service District for Urban Road Maintenance. This property was previously added to the UGB in 2002 as part of Metro's UGB update under Metro Ordinance 02-985A.

5. *The proposed effective date of the decision.*

**RESPONSE:** The proposed effective date of decision will be as soon as possible, or immediately upon approval of the Metro Council, and standard affective dates for Ordinances.

## FINDINGS

Based on the study and the public hearing, the Council found:

1. The territory is located on the west edge of the District north of Hartford Road and west of Highway 47. The territory contains 59.8 acres and 2 single family dwellings.
2. The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Forest Grove. The City is developing the Concept Plan for the area. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement.
3. Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address the following minimum criteria:

1. The affected territory lies within the UGB; and
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services

Additionally Metro Code 3.09.050 (b) requires issuance of a report addressing the above criteria “including at a minimum the following:

- (1) The extent to which urban services presently are available to serve the affected territory including any extraterritorial extensions of service;
- (2) A description of how the proposed boundary change complies with any urban service agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;
- (3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;
- (4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (5) The proposed effective date of the decision.”

The applicants have prepared a detailed response to each of the 5 criteria listed above. These responses are Shown below.

### **COMPLIANCE WITH METRO CODE**

#### **METRO CODE CHAPTER 3.09.050(b):**

- 1. The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;**

**RESPONSE:** The proposed annexation area was annexed to the City of Forest Grove, Ordinance 2006-07. As part of annexation to the City, the Council authorized the annexed territory to be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the Washington County Service District for Urban Road Maintenance. This property was previously added to the UGB in 2002 as part of Metro's UGB update under Metro Ordinance 02-985A.

### **FACILITIES AND SERVICES**

The following summarizes the availability of existing public facilities and services to this area. Generally, services are available to the property from abutting development to the south.

Sanitary Sewer. The site falls within the David Hill Service Area of the City's Sewer Master Plan. There is an existing 10-inch stub extending north of the intersection of Hartford Drive and Main Street as well as an 8-inch line along Hartford Drive at the intersection of B Street. The site will be served by an 8-inch sanitary sewer as proposed in the City's Sanitary Sewer Master Plan.

Forest Grove receives treatment and disposal of waste water and transmission services from the Clean Water Services County Service District. Forest Grove provides its own collection system while Clean Water Services provides regional transmission and sewage treatment services.

Clean Water Services' Hillsboro sewage treatment plant, is located on First Street in that community. The plant serves portions of the communities of Hillsboro, Forest Grove and Cornelius. Clean Water Services built an intertie between the various treatment plants. If there is any problem at the Hillsboro plant sewage can be diverted to the Rock Creek plant.

The City is responsible for billing its customers after service is installed and for collecting sanitary and storm sewer connection fees. If the City imposes the same connection fees and use charges as Clean Water Services, it simply passes these monies on to Clean Water Services to pay for the costs of treatment and transmission of the sewage or storm water. The City may impose higher costs than Clean Water Services charges and keep the difference to offset City costs. Forest Grove does not charge a higher fee. The City assesses system development charges (SDCs) upon development of the property.

Water. Water is available to the site via the existing 10-inch stub north of the intersection of Hartford Drive and Main Street and additional 8- and 1-inch pipes along Hartford Drive at the intersection of B Street.

The City of Forest Grove has two sources of water supply. The primary source is the Forest Grove watershed, consisting of 4,300 acres of the Clear Creek drainage basin. (The City also has water rights from Gales Creek.) Water from the Forest Grove watershed is treated at the City's treatment plant located in the northwest section of the City. The treatment plant has a capacity of about 3.0 million gallons per day (mgd). The other major source is the joint Hillsboro/Forest Grove/Beaverton water treatment plant, which is supplied from the Trask and Scoggins impoundments via the Tualatin River. The joint water supply system has a nominal capacity of 60 mgd. Forest Grove owns 13.3 percent (8 mgd) of the system's capacity.

The City's main storage reservoir is located adjacent to the Forest Grove Water Treatment Plant. It has a storage capacity of 5 million gallons (mg). This is adequate for the existing system. An additional reservoir provides 1 mg of storage for the Forest Gale Heights area.

Storm Water Management. The site is sloping toward the east to an existing unnamed stream. There is no storm sewer facility currently available on site. A water quality facility will be planned during the development phase of this site. Clean Water Services (CWS) County Service District is responsible for storm water management in Washington County. Due to the City's Intergovernmental Agreement with CWS, adequate storm water facilities meeting CWS standards will be required as part of any development approval

The District levies an annual assessment of \$3 per dwelling unit of which \$2.24 goes to the City. Upon development of the property the City charges a system development charged for each dwelling unit.

Police. The territory to be annexed was within the Washington County Enhanced Sheriff's Patrol District which, in addition to the basic County-wide level of protection, provides .94 officers per 1000 population. The City withdrew the territory from the District upon annexation.

Upon annexation the City of Forest Grove Police Department assumed responsibility for the property. The City employs 26 officers, equating to 1.46 officers per 1000 population. The department operates on three ten-hour shifts, 7 days a week. Manpower for each shift is determined by calls for service.

Fire. The territory was within the boundary of the Forest Grove Rural Fire Protection District. However, upon annexation, the City withdrew the territory from the District. Therefore on the effective date of the annexation the District's tax levy will no longer apply. The City Fire Department will now provide service for the annexed area. Fire service is provided from two fire stations. The new main station (constructed in 1995) is located in the center of the City on Ash Street. The second station is located in the Gales Creek area. The City plans a third

fire station in the future near the intersection of David Hill Road and Thatcher Road to serve development within the City.

The Department operates with 19 paid fire fighters and 42 volunteer fire fighters. The City provides four to eight paid personnel on duty at all times at the Ash Street station. On all alarms, the volunteers respond to the station along with off duty paid personnel. All personnel are provided with tone activated radio receivers. Night responses are augmented by the resident volunteers at the station. The Fire Department is equipped with 5 engines; 2 tankers; 5 pick-ups; a 104' platform truck; a command vehicle; a utility vehicle; and one rescue unit.

Transportation. The territory to be annexed was within the boundary of the Washington County Urban Road Maintenance District. The City withdrew the territory from the District upon annexation to the City. The site abuts Highway 47 and David Hill Road. Development of the subject properties will provide improvements to David Hill Road, which will also be coordinated with currently planned improvements by Washington County for the west end of the road. The adjacent development has stubbed streets to the southern boundary of the subject site. These roads will be extended into and through the subject property as development occurs.

Parks. The City of Forest Grove maintains one large community park (Lincoln) and two fully developed neighborhood parks (Joseph Gale and Rogers). There are three playgrounds included in the City park system (Bard, Hazel Sills, and Talisman). Land has been acquired by the City for a second community park at the intersection of David Hill Road and Thatcher Road.

Other Services. The City of Forest Grove provides a municipal utility for electric power through its City Light and Power Department. Forest Grove provides library services, land use planning, zoning, building and general administration services.

These basic services are available and adequate to support initial annexation and future development impacts.

***2. A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;***

**RESPONSE:** The annexation complies with urban service agreements as follows:

Washington County Planning The annexation was found to be consistent with Washington County planning policies (Ordinance 2006-07). Washington County reviewed its role in service provision in its County 2000 program, the County's financial management plan. The County established a policy of supporting a service delivery system that distinguishes between municipal and countywide services. To achieve tax fairness and expenditure equity in the provision of public services the County's policy is to provide only countywide services with general fund revenues. The County policy favors municipal services being provided either by cities or special

districts.

Washington County's Urban Growth Management policies require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water and a balanced urban level transportation system are the primary urban services considered.

Urban Growth Management Agreement.

Washington County and the City of Forest Grove jointly prepared and adopted an Urban Planning Area Agreement (UPAA) to coordinate land use actions within the City's planning area. The subject territory is within the area covered by the UPAA. Pertinent portions of the UPAA are as follows:

\* \* \*

III. Planning Responsibilities

A. The following policies are intended to further clarify the respective planning interests and duties of the CITY and the COUNTY as they relate to the Forest Grove Urban Planning Area:

The CITY shall be responsible for comprehensive planning in the incorporated and unincorporated portions of the CITY's urban planning area, and shall implement the planning process outlined in the CITY's comprehensive plan. The COUNTY shall support the planning process and participate as necessary.

\* \* \*

9. Urban development in the urban planning area shall be served with adequate urban services including sewer, water, storm drainage, streets, and police and fire protection. The CITY shall be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the urban planning area.

10. As required by OAR 660-11-010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area. Exceptions include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY. The CITY shall provide urban services consistent with annexation and fiscal policies.

11. The CITY has developed a transportation plan which addresses the existing and future traffic needs of the urban planning area. The CITY shall coordinate local transportation plans, proposals and improvements with the COUNTY.

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13. The CITY shall monitor and regulate the conversion of vacant and agricultural land to urban uses through the extension of water and sewer service, land partitioning requirements and annexations within the urban planning area. Unincorporated urbanizable land shall not be converted to urban development prior to annexation to the CITY.

City Planning: The City of Forest Grove has active planning responsibility for the entire area within the regional urban growth boundary surrounding the City. This territory is within the boundary. However, in this instance, the territory was added to the city's UGB in 2002 and thus is not part of the existing Comprehensive Plan. The City is required to do planning for this new area under Metro's Code Title 11 (Section 3.07.1105 – 3.07.1140 – Planning for New Urban Areas). The purpose of this title is to guide planning of areas brought into the UGB for conversion from rural to urban use. All land added to the UGB shall be included within a city's comprehensive plan prior to urbanization. The comprehensive plan amendment must be consistent with all applicable titles of Metro's Functional Plan. Title 11 lists ten provisions that need to be addressed in the comprehensive plan amendment including an urban growth plan diagram and policies consistent with the Regional Framework Plan and adopted 2040 Growth Concept Design types.

The Title 11 planning efforts for this territory are underway. The comprehensive plan designation will be established during this process.

The City's comprehensive plan policies were reviewed for policies related to annexation. The proposal was found to be consistent with the following:

Local Urbanization Goals:

Land shall be made available within the urban growth boundary to meet all urban land use needs.

Utility services shall be provided incrementally without bypassing large parcels of vacant land to serve peripheral parcels.

Local Urbanization Policies:

All lands within the Urban Growth Boundary shall be assigned priorities for urban development. Priorities shall be based on the City's ability to provide urban services and the orderly and efficient timing of service extensions. These priorities shall be the basis for making decisions on all development proposals and requests for annexation.

Provide for an Urban Growth Management Strategy to set forth policies on the urbanization of vacant and agricultural land. The policies should cover the extension of water and sewer service, land partitioning requirements, zoning, and annexations within the Urban Growth Boundary. The strategy shall provide for the orderly and cost-efficient accommodation of anticipated urban growth for the next 10 years.

Trunk lines for utilities shall be extended only to service areas which are adjacent to existing

development.

Sewer and water utilities shall not be extended beyond the City's corporate limits and shall be provided only after annexation.

**3. A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework plan and functional plans, regional urban growth goals and objectives, urban planning agreements of affected entity and of all necessary parties;**

**RESPONSE:** Consistency of Proposal with Land Use Planning Requirements:

The proposal is consistent with State, regional and local planning requirements listed in the preceding pages. The proposal meets the requirements of State Land Use Goal 14: Urbanization by providing for an orderly transition from rural to urban land use; allowing the efficient provision of public facilities; allowing for the future construction of needed housing; and implementing the City's acknowledged Comprehensive Plan.

Metro's action to add the territory to the Regional Urban Growth Boundary confirms conformance with the regional framework plan, and the regional urban growth goals and objectives (Metro Ordinance 02-985A).

The City's growth management strategy is represented by the Comprehensive Plan and the proposal is consistent with the goal and policies presented in this document. The property, when developed, will extend urban services from areas immediately adjacent to the property or to areas immediately adjacent to the property. These services have capacity to serve the site. Thus, the annexation of this area appears to be consistent with the intent of Policies 2 and 3. Policy 4 and 5 prohibits extension of utility outside the City and only to area which are adjacent to existing development. The following section will discuss the availability of municipal facilities and services to the territory in more detail.

**4. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party:**

**RESPONSE:** The proposed annexation area was annexed to the City of Forest Grove, Ordinance 2006-07. As part of annexation to the City, the Council authorized the annexed territory to be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the Washington County Service District for Urban Road Maintenance. This property was previously added to the UGB in 2002 as part of Metro's UGB update under Metro Ordinance 02-985A.



**5. The proposed effective date of the decision.**

**RESPONSE:** The proposed effective date of decision will be as soon as possible, or immediately upon approval of the Metro Council, and standard affective dates for Ordinances.

4. The site slopes gently from west to east. There is a low drainage channel which runs west to east along the southern edge of the property.

To the north and to the east (across Highway 47) lies farmland. To the west and south of the property are urban residential developments.

5. The area to be annexed is inside the Urban Growth Boundary. The territory abuts the Metro jurisdictional boundary on the west and on the south.

The law that dictates that Metro adopt criteria for boundary changes requires those criteria to include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) has been examined and found not to contain any directly applicable standards and criteria for boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A, Interim Protection of Areas Brought into the Urban Growth Boundary, concerns "annexations" of land added to the UGB. It requires local comprehensive plan amendments for land added to the UGB to include "provisions for annexation to the (Metro) district and to a city or any necessary service district prior to urbanization of the territory . . . to provide all required urban services". By its terms, this Title 11 provision requires local comprehensive plans to assure the provision of adequate public facilities and services to land added to the UGB through annexation of such lands to the Metro District, the affected city and/or any special service district responsible for providing such facilities and services to the land prior to its urban development.

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-985A).

6. The territory was recently annexed to the City of Forest Grove. The City is in the process of adopting a Concept Plan for the area, including Comprehensive Plan amendments in compliance

with Metro Title 11. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of the Concept Plan and rezoning in compliance with that plan. The City has very recently re-designated the area for urban residential use with R-5 zoning and the enacting ordinances have been submitted to Metro for Compliance Review with Title 11.

7. The availability of public services is addressed in Finding 3 above.
8. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

## CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Council has reviewed the applicable comprehensive plan which is the Forest Grove Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.
2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 8 Metro has no relevant service agreements.
3. Metro Code 3.09.120 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criteria for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 6. Therefore the Council finds this proposed annexation to be consistent with that criterion.
4. The final criterion to be considered under the Metro Code 3.09.120 (e) (2) is "The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services." As noted in Finding 6 the territory has been protected from premature development by application of FD-20 zoning. The territory has been annexed to Forest Grove and as stated in Finding 3 the City has necessary urban services available. The Council concludes this criterion is met.

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND ) ORDINANCE NO. 07-1141  
APPROPRIATIONS SCHEDULE PROVIDING )  
FOR EXPENDITURES RELATED TO THE ) Introduced by Mike Jordan, Chief Operating  
NATURAL AREAS BOND AND DECLARING AN ) Officer, with the concurrence of Council  
EMERGENCY ) President Bragdon

WHEREAS, the Metro Council has reviewed and considered the need to modify appropriations within the FY 2006-07 Budget; and

WHEREAS, the need for the change in appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2006-07 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of providing appropriation authority for expenditures related to the Natural Areas bond work program.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No. 07-1141**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Regional Parks &amp; Greenspaces Department</b>							
<u>Personal Services</u>							
<i>SALWGE</i>	<i>Salaries &amp; Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Assistant Public Affairs Specialist	1.00	46,359	-	0	1.00	46,359
	Associate Management Analyst	2.00	115,454	0.13	5,056	2.13	120,510
	Associate Regional Planner	1.25	57,136	0.25	10,936	1.50	68,072
	Director II	1.00	119,769	-	0	1.00	119,769
	Education Coordinator II	1.00	53,638	-	0	1.00	53,638
	Management Technician	1.13	48,853	0.06	2,330	1.19	51,183
	Manager I	4.00	334,758	-	0	4.00	334,758
	Manager II	1.00	85,344	-	0	1.00	85,344
	Program Analyst I	1.00	31,346	-	0	1.00	31,346
	Program Analyst III	1.00	55,668	-	0	1.00	55,668
	Program Director I	1.17	117,512	0.17	16,877	1.34	134,389
	Real Estate Negotiator	0.50	33,310	0.62	41,167	1.12	74,477
	Senior Regional Planner	4.00	270,693	-	0	4.00	270,693
	Service Supervisor III	1.00	61,406	-	0	1.00	61,406
5015	Reg Empl-Full Time-Non-Exempt						
	Arborist	1.00	49,336	-	0	1.00	49,336
	Education Coordinator I	1.00	48,526	-	0	1.00	48,526
	Park Ranger	12.00	522,163	0.17	6,066	12.17	528,229
	Secretary	3.17	94,945	0.17	4,100	3.34	99,045
5020	Reg Emp-Part Time-Exempt						
	Education Coordinator I	0.50	24,263	-	0	0.50	24,263
	Program Supervisor II	0.50	25,549	-	0	0.50	25,549
	Senior Regional Planner	1.60	112,293	-	0	1.60	112,293
	Volunteer Coordinator I	0.80	33,511	-	0	0.80	33,511
	Volunteer Coordinator II	0.50	29,557	-	0	0.50	29,557
5025	Reg Employees-Part Time-Non-Exempt						
	Program Assistant 2	0.50	17,320	-	0	0.50	17,320
5030	Temporary Employees		12,575		0		12,575
5040	Seasonal Employees		280,668		0		280,668
5080	Overtime		14,995		0		14,995
5089	Salary Adjustments						
	Salary Adjustment Pool (non-represented)		46,977		0		46,977
	Step Increases (AFSCME)		28,550		0		28,550
	COLA (represented employees)		38,080		0		38,080
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		976,007		40,062		1,016,069
5190	PERS Bond Recovery		78,126		3,258		81,384
<b>Total Personal Services</b>		<b>42.88</b>	<b>\$3,882,982</b>	<b>1.83</b>	<b>\$147,945</b>	<b>44.71</b>	<b>\$4,030,927</b>

Materials & Services

<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		45,078		2,000		47,078
5205	Operating Supplies		55,299		0		55,299
5210	Subscriptions and Dues		2,423		0		2,423
5215	Maintenance & Repairs Supplies		81,185		0		81,185
5225	Retail		11,026		0		11,026

**Exhibit A**  
**Ordinance No. 07-1141**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Regional Parks &amp; Greenspaces Department</b>							
<i>SVCS</i>	<i>Services</i>						
	5240 Contracted Professional Svcs		918,849		50,000		968,849
	5250 Contracted Property Services		1,364,692		16,350		1,381,042
	5251 Utility Services		110,679		1,050		111,729
	5255 Cleaning Services		254		0		254
	5260 Maintenance & Repair Services		53,436		0		53,436
	5265 Rentals		28,409		0		28,409
	5270 Insurance		26,000		0		26,000
	5280 Other Purchased Services		42,558		2,500		45,058
	5290 Operations Contracts		5,242		0		5,242
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		262,299		1,000,000		1,262,299
	5310 Taxes (Non-Payroll)		199,461		0		199,461
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5450 Travel		2,620		0		2,620
	5455 Staff Development		21,600		700		22,300
	5490 Miscellaneous Expenditures		9,774		1,500		11,274
<b>Total Materials &amp; Services</b>			<b>\$3,240,884</b>		<b>\$1,074,100</b>		<b>\$4,314,984</b>
<b>Capital Outlay</b>							
<i>CAPNON</i>	<i>Capital Outlay (Non-CIP Projects)</i>						
	5700 Land (non-CIP)		4,200,000		2,605,500		6,805,500
<b>Total Capital Outlay</b>			<b>\$4,200,000</b>		<b>\$2,605,500</b>		<b>\$6,805,500</b>
<b>TOTAL REQUIREMENTS</b>		<b>42.88</b>	<b>\$11,323,866</b>	<b>1.83</b>	<b>\$3,827,545</b>	<b>44.71</b>	<b>\$15,151,411</b>

**Exhibit A**  
**Ordinance No. 07-1141**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Non-Departmental</b>							
<b>Total Personal Services</b>		<b>4.00</b>	<b>\$454,058</b>	<b>0.00</b>	<b>\$0</b>	<b>4.00</b>	<b>\$454,058</b>
<i>Materials &amp; Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		20,780		0		20,780
	5205 Operating Supplies		4,370		0		4,370
	5210 Subscriptions and Dues		32,500		0		32,500
	5215 Maintenance & Repairs Supplies		7,500		0		7,500
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		413,450		0		413,450
	5246 Sponsorships		30,000		0		30,000
	5251 Utility Services		1,000		0		1,000
	5280 Other Purchased Services		186,640		0		186,640
	5290 Operations Contracts		250		0		250
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		11,320,046		(3,827,545)		7,492,501
	5305 Election Expenses		300,000		0		300,000
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		1,175,000		0		1,175,000
	5450 Travel		6,000		0		6,000
	5455 Staff Development		2,000		0		2,000
	5470 Council Costs		0		0		0
	5475 Claims Paid		0		0		0
	5490 Miscellaneous Expenditures		50,000		0		50,000
<b>Total Materials &amp; Services</b>			<b>\$13,549,536</b>		<b>(\$3,827,545)</b>		<b>\$9,721,991</b>
	5635 Revenue Bond Payments-Interest		1,198,898		0		1,198,898
<b>Total Debt Service</b>			<b>\$1,198,898</b>		<b>\$0</b>		<b>\$1,198,898</b>
<b>TOTAL REQUIREMENTS</b>		<b>4.00</b>	<b>\$15,202,492</b>	<b>0.00</b>	<b>(\$3,827,545)</b>	<b>4.00</b>	<b>\$11,374,947</b>

**Exhibit B**  
**Ordinance No. 07-1141**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

<b>GENERAL FUND</b>	<b><u>Current</u></b>	<b><u>Revision</u></b>	<b><u>Amended</u></b>
	<b><u>Appropriation</u></b>		<b><u>Appropriation</u></b>
<b>Council Office</b>			
Operating Expenses (PS & M&S)	1,775,095	0	1,775,095
Subtotal	<u>1,775,095</u>	<u>0</u>	<u>1,775,095</u>
<b>Finance &amp; Administrative Services</b>			
Operating Expenses (PS & M&S)	7,374,001	0	7,374,001
Capital Outlay	205,150	0	205,150
Subtotal	<u>7,579,151</u>	<u>0</u>	<u>7,579,151</u>
<b>Human Resources</b>			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Subtotal	<u>1,527,312</u>	<u>0</u>	<u>1,527,312</u>
<b>Metro Auditor</b>			
Operating Expenses (PS & M&S)	579,455	0	579,455
Subtotal	<u>579,455</u>	<u>0</u>	<u>579,455</u>
<b>Office of Metro Attorney</b>			
Operating Expenses (PS & M&S)	1,582,475	0	1,582,475
Subtotal	<u>1,582,475</u>	<u>0</u>	<u>1,582,475</u>
<b>Oregon Zoo</b>			
Operating Expenses (PS & M&S)	22,508,631	0	22,508,631
Capital Outlay	200,000	0	200,000
Subtotal	<u>22,708,631</u>	<u>0</u>	<u>22,708,631</u>
<b>Planning</b>			
Operating Expenses (PS & M&S)	23,822,826	0	23,822,826
Debt Service	29,250	0	29,250
Subtotal	<u>23,852,076</u>	<u>0</u>	<u>23,852,076</u>
<b>Public Affairs &amp; Government Relations</b>			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Subtotal	<u>1,390,721</u>	<u>0</u>	<u>1,390,721</u>
<b>Regional Parks &amp; Greenspaces</b>			
Operating Expenses (PS & M&S)	7,123,866	1,222,045	8,345,911
Capital Outlay	4,200,000	2,605,500	6,805,500
Subtotal	<u>11,323,866</u>	<u>3,827,545</u>	<u>15,151,411</u>



**Exhibit B**  
**Ordinance No. 07-1141**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	14,003,594	(3,827,545)	10,176,049
Debt Service	1,198,898	0	1,198,898
Subtotal	15,202,492	(3,827,545)	11,374,947
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	2,773,189	0	2,773,189
Subtotal	10,596,881	0	10,596,881
Unappropriated Balance	3,982,542	0	3,982,542
<b>Total Fund Requirements</b>	<b>\$102,100,698</b>	<b>\$0</b>	<b>\$102,100,698</b>

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 07-1141 AMENDING THE FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE PROVIDING FOR EXPENDITURES RELATED TO THE NATURAL AREAS BOND AND DECLARING AN EMERGENCY

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Date: January 31, 2007

Presented by: Kathy Rutkowski

## BACKGROUND

On December 14, 2006 the Metro Council approved Ordinance No. 06-1133 amending the FY 2006-07 budget and appropriations schedule to provide interim appropriation authority for the Natural Areas bond program. That amendment provided for appropriation through the end of February and assumed a bond closing date in March 2007. To accommodate a request from Moody's Investors Service for an on-site bond rating presentation and discussion, the closing date of the bonds has been delayed until early April 2007. It is necessary to provide for additional interim appropriation authority for the months of March and April 2007.

The FY 2006-07 budget was adopted assuming the Council would make an additional lump sum payment to PERS from the PERS Reserve to buy down additional unfunded liability. The budget includes approximately \$9.3 million for this purpose. It is unlikely that staff would recommend making any additional contribution at this time. This action seeks to "borrow" some of that appropriation authority to provide interim appropriation authority for the natural areas program until such time as the bonds are sold. It does not seek to use the funding associated with the PERS Reserve to pay for natural areas program expenditures. Any expenditures of the program will be reimbursed from bond proceeds once the bonds are sold. If approved, this action would transfer \$3,827,545 from the non-department appropriation in the General Fund to the Regional Parks Department appropriation.

## ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this ordinance.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
3. **Anticipated Effects:** This ordinance provides interim appropriation for the program until such time as the bonds are sold.
4. **Budget Impacts:** This action transfers \$3,827,545 from existing non-departmental appropriation to the Natural Areas program of the Regional Parks department. All expenditures of the Natural Areas program will be reimbursed with bond proceeds once bonds are sold.

## RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance 07-1141

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND	)	ORDINANCE NO. 07-1142
APPROPRIATIONS SCHEDULE RECOGNIZING	)	
DONATIONS TO THE OREGON ZOO,	)	Introduced by Mike Jordan, Chief Operating
PROVIDING APPROPRIATION FOR FLEET	)	Officer, with the concurrence of Council
REPLACEMENT AND DECLARING AN	)	President Bragdon
EMERGENCY	)	

WHEREAS, the Metro Council has reviewed and considered the need to modify appropriations within the FY 2006-07 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the change in appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2006-07 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing \$108,394 in donations to the Oregon Zoo and providing appropriations for fleet replacement.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A**  
**Ordinance No. 07-1142**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
<i><u>Resources</u></i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Prior year ending balance		7,821,384		0		7,821,384
	* Undesignated		1,425,437		0		1,425,437
	* Cash Flow Reserve		936,668		0		936,668
	* Project Carryover		2,214,833		0		2,214,833
	* Tourism Opportunity & Comp. Account		715,658		0		715,658
	* Recovery Rate Stabilization Reserve		1,191,247		0		1,191,247
	* Reserve for Future Debt Service		1,728,371		0		1,728,371
	* Reserved for Parks (prior year per ton)		217,000		0		217,000
	* Prior year PERS Reserve		4,040,126		0		4,040,126
<i>EXCISE</i>	<i>Excise Tax</i>						
4050	Excise Taxes		14,588,507		0		14,588,507
4055	Construction Excise Tax		2,000,000		0		2,000,000
<i>RPTAX</i>	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		9,397,215		0		9,397,215
4015	Real Property Taxes-Prior Yrs		281,916		0		281,916
<i>GRANTS</i>	<i>Grants</i>						
4100	Federal Grants - Direct		5,203,777		0		5,203,777
4105	Federal Grants - Indirect		4,987,781		0		4,987,781
4110	State Grants - Direct		1,688,308		0		1,688,308
4120	Local Grants - Direct		10,787,682		0		10,787,682
4125	Local Grants - Indirect		64,000		0		64,000
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		120,822		0		120,822
4139	Other Local Govt Shared Rev.		387,225		0		387,225
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
4145	Government Contributions		165,300		0		165,300
<i>LICPER</i>	<i>Licenses and Permits</i>						
4150	Contractor's Business License		405,000		0		405,000
<i>CHGSVC</i>	<i>Charges for Service</i>						
4160	Boat Ramp Use Permits		500		0		500
4165	Boat Launch Fees		150,000		0		150,000
4180	Contract & Professional Service		209,860		0		209,860
4200	UGB Fees		50,000		0		50,000
4230	Product Sales		225,600		0		225,600
4280	Grave Openings		165,000		0		165,000
4285	Grave Sales		138,000		0		138,000
4500	Admission Fees		6,432,456		0		6,432,456
4510	Rentals		758,645		0		758,645
4550	Food Service Revenue		4,276,698		0		4,276,698
4560	Retail Sales		1,922,987		0		1,922,987
4580	Utility Services		2,142		0		2,142
4610	Contract Revenue		840,976		0		840,976
4620	Parking Fees		503,047		0		503,047
4630	Tuition and Lectures		859,875		0		859,875
4635	Exhibit Shows		460,000		0		460,000
4640	Railroad Rides		494,884		0		494,884
4645	Reimbursed Services		232,558		0		232,558

**Exhibit A**  
**Ordinance No. 07-1142**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
4650	Miscellaneous Charges for Service		29,753		0		29,753
4760	Sponsorships		14,000		0		14,000
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		692,412		0		692,412
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,259,990		108,394		1,368,384
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Service		1,246,998		0		1,246,998
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		25,000		0		25,000
4890	Miscellaneous Revenue		205,008		0		205,008
<i>INFREQ</i>	<i>Special Items-Infrequent Items</i>						
4810	Sale of Fixed Assets		2,000		0		2,000
<i>EQTRV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from MERC Operating Fund		2,447,956		0		2,447,956
	* from MERC Pooled Capital Fund		76,196		0		76,196
	* from Metro Capital Fund-Zoo Projects		11,955		0		11,955
	* from Open Spaces Fund		62,443		0		62,443
	* from Risk Management Fund		37,599		0		37,599
	* from Solid Waste Revenue Fund		1,591,663		0		1,591,663
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,726,466		0		1,726,466
	* from Open Spaces Fund		326,520		0		326,520
	* from Solid Waste Revenue Fund		3,650,734		0		3,650,734
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from MERC Operating Fund		73,585		0		73,585
	* from Open Spaces Fund		0		0		0
	* from Smith & Bybee Lakes Fund		20,000		0		20,000
	* from Solid Waste Revenue Fund		508,935		0		508,935
<b>TOTAL RESOURCES</b>			<b>\$102,100,698</b>		<b>\$108,394</b>		<b>\$102,209,092</b>

**Exhibit A  
Ordinance No. 07-1142**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Oregon Zoo Department</b>							
<b>Total Personal Services</b>		<b>148.13</b>	<b>\$13,378,734</b>	<b>0.00</b>	<b>\$0</b>	<b>148.13</b>	<b>\$13,378,734</b>
<b>Total Materials &amp; Services</b>			<b>\$9,129,897</b>		<b>\$0</b>		<b>\$9,129,897</b>
<i><u>Capital Outlay</u></i>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
	5710 Improve-Oth thn Bldg (non-CIP)		80,000		0		80,000
	5740 Equipment & Vehicles (non-CIP)		0		108,394		108,394
	5750 Office Furn & Equip (non-CIP)		50,000		0		50,000
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
	5715 Improve-Oth thn Bldg (CIP)		70,000		0		70,000
<b>Total Capital Outlay</b>			<b>\$200,000</b>		<b>\$108,394</b>		<b>\$308,394</b>
<b>TOTAL REQUIREMENTS</b>		<b>148.13</b>	<b>\$22,708,631</b>	<b>0.00</b>	<b>\$108,394</b>	<b>148.13</b>	<b>\$22,817,025</b>

**Exhibit B**  
**Ordinance No. 07-1142**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Council Office			
Operating Expenses (PS & M&S)	1,775,095	0	1,775,095
Subtotal	1,775,095	0	1,775,095
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,374,001	0	7,374,001
Capital Outlay	205,150	0	205,150
Subtotal	7,579,151	0	7,579,151
Human Resources			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Subtotal	1,527,312	0	1,527,312
Metro Auditor			
Operating Expenses (PS & M&S)	579,455	0	579,455
Subtotal	579,455	0	579,455
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,582,475	0	1,582,475
Subtotal	1,582,475	0	1,582,475
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	108,394	22,617,025
Capital Outlay	200,000	0	200,000
Subtotal	22,708,631	108,394	22,817,025
Planning			
Operating Expenses (PS & M&S)	23,822,826	0	23,822,826
Debt Service	29,250	0	29,250
Subtotal	23,852,076	0	23,852,076
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Subtotal	1,390,721	0	1,390,721
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	8,345,911	0	8,345,911
Capital Outlay	6,805,500	0	6,805,500
Subtotal	15,151,411	0	15,151,411

**Exhibit B**  
**Ordinance No. 07-1142**  
**FY 2006-07 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	10,176,049	0	10,176,049
Debt Service	1,198,898	0	1,198,898
Subtotal	11,374,947	0	11,374,947
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	2,773,189	0	2,773,189
Subtotal	10,596,881	0	10,596,881
Unappropriated Balance	3,982,542	0	3,982,542
<b>Total Fund Requirements</b>	<b>\$102,100,698</b>	<b>\$108,394</b>	<b>\$102,209,092</b>



## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1142 AMENDING THE FY 2006-07  
BUDGET AND APPROPRIATIONS SCHEDULE RECOGNIZING DONATIONS TO THE  
OREGON ZOO, PROVIDING APPROPRIATION FOR FLEET REPLACEMENT AND  
DECLARING AN EMERGENCY

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Date: February 2, 2007

Presented by: Craig M. Stroud

### BACKGROUND

The Oregon Zoo received unanticipated donations totaling \$108,394 during FY 2006-07. This action seeks to recognize the donations and appropriate them for the specific purposes designated in the donation.

#### *Vehicle Replacement*

Several of the vehicles in the Zoo's aging fleet are at the end of their useful life and due for replacement. The Oregon Zoo Foundation is donating \$95,894 specifically earmarked to the replacement of fleet vehicles. In addition, the Allergy and Dermatology Veterinary Referral Center provided a generous gift totaling \$12,500 with a stipulation the funds be used in the realm of veterinary services. The Oregon Zoo will combine these funds with the funds noted above from the Oregon Zoo Foundation to acquire a vehicle for the purpose of transporting animals to and from the zoo's veterinary hospital.

<i>General Fund – Oregon Zoo</i>	
<i>Revenues</i>	
Donations and Bequests	\$108,393.94
<i>Expenditures</i>	
Equipment and Vehicles (Non-CIP)	\$108,393.94

### ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose.
3. **Anticipated Effects:** This action allows the department to recognize the donations dedicated to the purpose described in this report and make expenditures to fulfill the terms of the donations.
4. **Budget Impacts:** This action recognizes \$108,394 in private contributions and increases by a like amount.

### RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance 07-1142.

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING ) RESOLUTION NO. 07-3766  
OFFICER TO PURCHASE PROPERTY WITH )  
ACCEPTED ACQUISITON GUIDELINES ) Introduced by Chief Operating Officer  
AS OUTLINED IN THE NATURAL AREAS ) Michael J. Jordan, with the  
IMPLEMENTATION WORK PLAN ) concurrence of Council President  
 ) David Bragdon

WHEREAS, in May 1995 regional voters approved a \$135.6 million Open Spaces, Parks and Streams bond measure (“1995 Open Spaces Bond Measure”); and

WHEREAS, In November 2006 regional voters approved a \$227.4 million Natural Areas Bond Measure (“2006 Natural Areas Bond Measure”); and

WHEREAS, in Resolution No. 95-2228A the Metro Council approved the Open Spaces Implementation Work Plan, “For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Open Spaces Implementation Work Plan.” This work plan, including amendments by Resolution No. 96-2424, “For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan,” and Resolution 01-3106, “For the Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties that Satisfy Specific Identified Criteria,” provided the framework within which implementation activities for the 1995 Open Spaces Bond Measure and preliminary work for the 2006 Natural Areas Bond Measure have proceeded; and

WHEREAS, updates and revisions have been made to the Open Spaces Implementation Work Plan to reflect the experience of Metro and respond to changed market conditions and goals of the 2006 Natural Areas Bond Measure; and

WHEREAS, acquisition of natural areas from willing sellers continues to be a primary strategy for preservation of natural areas; and

WHEREAS, property to be acquired by these procedures shall be within target areas identified in the 2006 Natural Areas Bond Measure and further refined by target area-specific refinement plans and tax lot specific maps adopted by Metro Council; and

WHEREAS, a pre-approved set of criteria or conditions under which the Chief Operating Officer and his/her designees are authorized to negotiate and complete land acquisition transactions, related to the implementation of the 2006 Natural Areas Bond Measure are necessary; now therefore

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/////

BE IT RESOLVED THAT the Metro Council hereby authorizes the Chief Operating Officer to acquire real property and property interests subject to the requirements of the *Acquisition Parameters* and *Due Diligence Guidelines* of the Natural Areas Implementation Work Plan. A copy of the *Acquisition Parameters* and *Due Diligence Guidelines* are attached as "Exhibit A" and hereby incorporated by reference.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 07-3766

NATURAL AREAS  
IMPLEMENTATION  
WORK PLAN

*Sections on Acquisition Parameters  
and Due Diligence Guidelines Only*



**METRO**

**REGIONAL PARKS AND GREENSPACES  
DEPARTMENT**

600 NE Grand Ave., Portland, OR 97232-2736 (503) 797-1850

## ACQUISITION PARAMETERS

### **Definition:**

"*Acquisition Parameters*" are the Council-approved criteria and conditions under which the Chief Operating Officer and his/her designees are authorized to negotiate and complete land acquisition transactions without further Council review and approval. The Chief Operating Officer and his/her designees may complete a land acquisition transaction that does not meet all of the *acquisition parameters* only with specific Council review and approval.

### **Rationale:**

The creation of pre-approved *acquisition parameters* will permit the agency to deal with willing sellers in a timely and business-like manner and allow the Council to focus on policy level issues.

### **Intent:**

Metro intends to pay no more than fair market value for property, it being acknowledged, however, that the Metro area real estate market is dynamic and the process of identifying fair market value is not exact. Metro's acquisition process should provide as much flexibility as possible to achieve the goals of the Natural Areas Bond Measure and to reflect the actual market conditions affecting the fair market value of properties targeted for natural areas acquisition.

### **Acquisition Parameters:**

The Metro Council authorizes the Chief Operating Officer and his/her designees to negotiate and close real estate transactions related to the 2006 Natural Areas Bond Measure provided all of the following criteria/conditions are met:

- The landowner is a willing seller.
- The property is identified on a Council-adopted target area "confidential refinement map."
- The Real Estate Negotiator and a stabilization team representative have inspected the property, they and the Natural Areas Manager have approved the purchase, and an acknowledgement of such visits and approvals has been completed (Appendix 1).
- If the property is identified as Agricultural Resource Land in the Refinement Plan adopted for the applicable target area, then Metro has complied with the Agricultural Resource Land Guidelines in this Work Plan, as specifically refined by the applicable Refinement Plan for the target area in which the property is located.
- The negotiated purchase price for the property is either:

1. Equal to or less than the fair market value as established by the appraisal and appraisal review processes described below (note that Metro will actively solicit donations and bargain sales); or
2. Not more than 10% or \$100,000, whichever is less, above such fair market value and the Chief Operating Officer has authorized acquisition of the property at such price after taking into account the following “public interest” factors:
  - The importance of the site based on the applicable adopted Refinement Plan for that target area;
  - The impact to the overall goals and progress of the program and the applicable Refinement Plan for that target area that will result if the property is not purchased; and
  - Whether any other parties are making financial contributions toward the purchase price.

- **Appraisal**

An independent certified appraiser has completed an appraisal of the property that states a conclusion of the fair market value of the property or, if appropriate, a range of value. The appraisal may be in summary report format. The appraiser shall state in the appraisal any assumptions that he/she relied upon to determine the property’s fair market value; however, the appraisal shall not be based upon any “extraordinary assumptions” made by the appraiser that materially affect the property’s fair market value.

- **Appraisal Review**

A certified appraiser has completed a review of the appraisal if either (1) the property’s purchase price is \$250,000 or more, or (2) the Metro Attorney determines, at his/her sole discretion, that such an appraisal review is appropriate under the circumstances of a particular proposed acquisition. Such appraisal review shall be completed in accordance with the Uniform Standards of Professional Appraisal Practice (“USPAP”) and general appraisal standards and may include a determination of an acceptable range of value for the property by the review appraiser. If the review appraiser determines that the appraisal does not meet USPAP or other general appraisal standards, the review appraiser, after consultation with and at the direction of the Office of the Metro Attorney, may either (a) work with the appraiser to correct the deficiencies, (b) order a second appraisal to be reviewed in the manner set forth herein, or (c) make a final determination of the range of value for the property.

- *"Due diligence"* has been completed in conformance with the *due diligence* section of this Work Plan and no unusual circumstances have been found to exist.

## **Notices and Reports to Council Regarding Completed Transactions**

The Natural Areas Bond Program Manager or his/her designees shall notify the Council promptly following the closing of any real estate transaction. The Chief Operating Officer or his/her designees shall prepare and present to the Council quarterly updates summarizing acquisition activity distinguished by target area.

## DUE DILIGENCE GUIDELINES

### **Definition:**

"*Due diligence*" is the systematic inspection of the legal title and physical condition of real property before that property is purchased to assure protection of public investment in natural area and trail properties. *Due diligence* should be conducted in advance of closing so that resolvable problems can be adequately addressed prior to closing.

### **Components:**

The primary areas of *due diligence* are described below. A more detailed list of items examined may be found in the Appendix under "Due Diligence and Closing Checklist." The Metro Attorney may amend the checklist as determined necessary and appropriate at his/her discretion.

The Due Diligence Team is comprised of the Real Estate Negotiator, Metro Attorney staff, and Stabilization Manager for each property.

- **Appraisal:** An appraisal of the property must be completed to determine the property's fair market value and provide other useful information about the property. The appraisal shall be in the format described in the previous section regarding *acquisition parameters* and shall be reviewed in the manner set forth therein.
  
- **Examination of Title:**
  1. Metro must satisfy itself that the property is the seller's to sell, that Metro understands what rights will be conveyed, that all parties necessary for the conveyance are involved, and that any rights that are not a part of the transaction will not defeat the purpose of the acquisition.
  
  2. *Due diligence* requires the review and inspection of the title report and related documents, including the deed to the current owner, recorded easements and other encumbrances, water rights, access rights, taxes, liens, etc.
  
  3. Other documents that need to be inspected include unrecorded leases with existing tenants or farmers, management agreements, records pertaining to personal property included in the sale, surveys, and agreements the seller may have entered into that may not be of record.
  
- **Inspection of the Property:**
  1. Location of Boundaries. *Due diligence* requires the review of any existing survey of the property. Absent a recent survey, Metro should identify the known or assumed property boundaries on site. If such boundary identification is not apparent, a new survey will be conducted unless deemed unnecessary or uneconomical by the Due Diligence Team.



Additionally, Metro must identify that both legal and physical access to the property exist and are usable. Legal and physical access by the public will be secured unless the nature of the property is such that access restrictions are acceptable for that property.

2. **Physical Inspection.** Metro or its contractors and agents must physically inspect the property for environmental assessment purposes and to identify possible hazards, unrecorded easements and trespassers, and to make a preliminary evaluation of the condition of any structures and improvements (roads, fences, utilities, etc.), which shall be further evaluated during the stabilization period (see section regarding *Stabilization and Land Stewardship, supra*). Any encroachments, potential property boundary disputes, or unrecorded use of the property identified either during property inspection or in title search will be resolved prior to closure unless deemed impractical by the Due Diligence Team and the Natural Areas Manager has authorized closing notwithstanding such circumstances(s).

3. **Environmental Review.** Metro shall contract with an environmental professional to conduct a Phase I Environmental Assessment in accord with the requirements of the federal All Appropriate Inquiries standards set forth in 40 CFR Part 312, ASTM Standard E1527-05, as that standard may be revised and updated, and in accord with applicable state of Oregon law and regulation, for the purpose of establishing the Innocent Landowner Defense pursuant to CERCLA section 101(35) and 107(b)(3). If the Phase I Environmental Assessment identifies environmental conditions indicative of releases or threatened releases of hazardous substances, pollutants, contaminants, petroleum and petroleum products and controlled substances, Metro shall contract with an Environmental Professional to conduct a Phase II Environmental Investigation, which may include soil and groundwater sampling and testing, in accord with ASTM Standards. The Chief Operating Officer may authorize the expenditure of Natural Area Program bond funds to remediate environmental contamination identified on a property by a Phase II Environmental Assessment provided that the Chief Operating Officer has concluded that (a) such expenditure is reasonable in relation to the purchase price and appraised value of such property, and (b) such expenditure will result in receipt of a "No Further Action" letter, or a substantial equivalent, from the Oregon Department of Environmental Quality or will substantially eliminate the probability of future environmental liability to Metro, based on information provided in the Phase II Environmental Assessment. If such expenditure successfully remediates an environmental condition identified in a Phase II Environmental Assessment then such condition shall no longer be considered an "unusual circumstance," as described in the following paragraph of this work plan.

- **Unusual Circumstances.** If, in the course of *due diligence*, the Due Diligence Team discovers any unusual deed or title restrictions, encumbrances, or environmental conditions that may prohibit or unduly restrict Metro's ability to use the property as a natural area or for a trail or that may create a liability to Metro, such restrictions, encumbrances, or conditions shall be considered "unusual circumstances." As provided in the section of this Work Plan regarding *acquisition parameters*, the Chief Operating Officer and his/her designees may not complete the purchase of a property with such unusual circumstances without obtaining the Metro Council's specific approval prior to such acquisition.
- **Document Retention.** Documents related to acquisitions shall be retained as determined appropriate by the Metro Attorney.

**DUE DILIGENCE AND CLOSING CHECKLIST**

Target Area: File No. \_\_\_\_\_

Seller:

Seller's Attorney/Representative:

Property address and/or tax lot designation:

County:

Refinement designation:

Real Estate Negotiator:

Acres:

Purchase Price:

Escrow Deposit: \$\_\_\_\_\_ ; Delivered to Escrow Co. on \_\_\_\_\_

Option or Purchase and Sale Agreement?

Effective Date:

Closing Date:

If Option:

Option Exercise Date:

Option Payment:

Funding Source:

Metro Partner:

Date IGA Executed:

Date City/County Resolution Signed:

Date Metro Resolution Signed:

**or** Exhibit B Letter sent:

Right of First Refusal Letter

date sent:

recipient:

Title Co./Escrow Holder & Address:

Phone no:

Fax no:

Email address:

Appraiser:

Surveyor:

Environmental Review:

Internal:

District Councilor:

## **I. DUE DILIGENCE REVIEW AND/ OR PREPARING TO EXERCISE THE OPTION**

### **A. Title Review**

Title Company:

Effective date of Preliminary Title Report:

Reviewed:

Notice of objections to Seller (permitted exceptions letter) due: \_\_\_\_\_ sent: \_\_\_\_\_

Title Policy to be subject only to:

### **B. Appraisal/Appraisal Review**

Appraiser:

Effective Date of Appraisal:

Appraisal ordered by:

Reviewed by:

Date reviewed:

Value confirmed?

Revision/correction required?

Appraisal approved as revised?

### **C. Environmental/Hazardous Materials Review**

Phase I Environmental inspection by:

Received:

Stabilization Mgr review and signoff:

Underground storage tank?

Additional action/recommendations:

### **D. Survey Review**

#### **1. ALTA Survey**

Certified to Metro and title company

Confirm acreage

Any title problems noted?

#### **2. Filed Surveys**

Available?

Date surveyed:

Surveyor:

Date reviewed:

Confirm acreage:

Any title problems noted?

3. Site visit boundary review  
Date conducted:  
Conducted by:  
Any boundary, trespass, or other issues noted?

**E. Planning Department/Land Use Actions**

- a. Planning Jurisdiction:  
b. Planning information reviewed by: \_\_\_\_\_  
c. Zoning Designation:  
d. Does planning file exist on this property? \_\_\_\_\_ Contents?

**F. Council Action**

- a. Council Target Area Resolution: Res No. \_\_\_\_\_, adopted: \_\_\_\_\_  
b. Additional Council Resolution, if any: Res No. \_\_\_\_\_, adopted: \_\_\_\_\_

**G. Access, Easements, Permits and Licenses**

- a. Property description:  
b. Access (if on State Highway confirm with ODOT):  
Easements and licenses:  
Legal confirmed by:  
Actual confirmed by:  
c. Mineral rights reserved?  
d. Leases/Permits  
Farm lease:  
Residential lease:  
e. Reforestation:  
f.. Other:

**H. Financial Issues**

- a. Deferred taxes?  
b. Broker?  
c. 1031; bargain sale?  
d. Other:

**I. Additional Agreements/Terms in Option or Purchase and Sale Agreement**

- a. Possession at closing  
b. Subdivision/ Covenants, Conditions & Restrictions (CC&Rs):  
c. Holdback  
d. Leaseback  
e. Easements  
f. Other

**J. Buildings and other Improvements**

- a. Description:  
b. Other improvements:  
c. Possession at closing:  
d. Specific property, debris, unsightly material to be removed:  
e. If residential:  
Availability of utilities, water, sewage, etc.:  
Inspection conducted by:  
Date completed:

Additional action/recommendations:

**K. Personal Property or Fixtures?**

- a. Farm/ ranch equipment, age and condition:
- b. Inventory prepared by:
- c. Review title:
- d. Perform UCC-3 lien search if important personal property:

**L. Known off-record Title Problems**

- a. Boundary/fences?
- b. Tenants?
- c. Evidence of potential adverse possession / prescriptive easement/trespassers?

**M. Water**

- a. Water rights:
- b. Review all water certificates, permits, applications:
- c. Confirm title with state water engineer's office/water master:
- d. Confirm irrigation district rights/annual assessment
- e. Confirm not subject to mortgages or other liens:
- f. Confirm eligibility/percentage active rights:
- g. Confirm requirements for transfer or assignment:
- h. Upon closing, file any appropriate documents:
- i. Cost of water use:
- j. Well log(s): copy in file - yes \_\_\_\_ not available \_\_\_\_

**II. EXERCISING THE OPTION**

**A. Option Exercise Letter**

Date sent to Seller: \_\_\_\_\_

Closing Date: \_\_\_\_\_

Subject to conditions?

(Caution: may be deemed a counter offer giving Seller right to terminate)

**III. CLOSING**

**A. Closing documents and other items to be prepared or obtained**

- 1. Closing memo to Chief Operating Officer initialed by paralegal, attorney and parks
- 2. Deed (statutory warranty deed)
- 3. Escrow Instructions
- 4. Buyer's settlement statement prepared by title company
  - a. real property tax prorations
  - b. closing costs
- 5. FIRPTA Affidavit
- 6. 1031 Assignment document, if applicable
- 7. Water rights assignment, if app.
- 8. Assignment of Leases and right to receive revenue, if app.
- 9. Assignment of intangible property (permits, trade names, etc), if app.

- 10. Bill of sale (if personal property included)
- 11. Other documents:
- B. Confirm all closing conditions met
  - 1. Review Agreement:
    - a. Any special conditions?
- C. Send closing documents to title company
- D. Arrange for transfer of funds.

**IV. POST-CLOSING MATTERS**

- A. Obtain any keys to the property (info re utilities to parks property manager).
- B. Notify Parks Management of Closing.
- C. Notify Property Manager re: Insurance for improvements.
- D. Insurance for personal property.
- E. Review title policy to make sure it conforms to escrow instructions.
- F. Documents:                      Received:                      Reviewed:
- Closing Statement:            \_\_\_\_\_                      \_\_\_\_\_
- Deed:                                    \_\_\_\_\_                      \_\_\_\_\_
- Title policy:                            \_\_\_\_\_                      \_\_\_\_\_
- G. Send originals of all permanent record documents to Metro Accounting Manager.

Date sent: \_\_\_\_\_

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 07-3766 AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY WITH ACCEPTED ACQUISITION GUIDELINES AS OUTLINED IN THE NATURAL AREAS IMPLEMENTATION WORK PLAN

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Date: March 1, 2007

Prepared by: Jim Desmond  
Hillary Wilton

## BACKGROUND

On Nov. 7, 2006, voters in the metro region approved a \$227.4 million bond measure directing Metro to purchase natural areas, parks and streams. The 2006 Natural Areas Bond Measure is modeled after the \$135.6 million bond measure approved by the region's voters in 1995 ("Open Spaces, Parks and Streams Bond Measure").

The Open Spaces Implementation Work plan was developed to support the Open Spaces, Parks and Streams Bond Measure and has been updated to support the 2006 Natural Areas Bond Measure as the "Natural Areas Implementation Work Plan".

## OPEN SPACE IMPLEMENTATION WORK PLAN BACKGROUND

The original Open Space Implementation Work Plan, was developed by the collaborative efforts of staff, a committee of real estate experts representing public, private and non-profit organizations, legal counsel, executive staff and Councilors in 1995. The Open Spaces Work Plan was based on the following:

- The amount of land potentially available in each regional target area and trail project exceeds the dollars available for purchase.
- It is imperative that implementation efforts complement the 2040 Concept Plan.
- There is a need to prioritize acquisition efforts in each target area to achieve pre-determined objectives (hereafter referred to as "*Refinement*").
- Local governments, citizens and other stakeholders should be afforded the opportunity to help determine objectives (and thereby land acquisition priorities) for each target area.
- Metro acquisitions should protect regional scale open space and natural areas consistent with the Metropolitan Greenspaces Master Plan.
- The properties within many of the target areas and trail corridors are subject to intense development pressure and cost inflation. Consequently, there is a need to begin *Refinement* and acquisition in all the areas as soon as possible.
- It is essential that acquisition be done in an efficient and timely manner. To facilitate this process, the Metro Council should adopt *Acquisition Parameters*, which authorize the Chief Operating Officer to close land transactions without Council approval when specific conditions are met.
- Metro employees possess many unique skills and abilities. The program should make every effort to utilize the specialized skills of certain staff from other departments when feasible.

- Unique land acquisition opportunities may present themselves prior to the adoption of the target area *Refinement* plans. The policies set forth herein shall govern such early land acquisition opportunities to ensure that if properties considered critical to a target area come on the market, Metro has the ability to evaluate the situation and move in a timely manner, if appropriate.
- The measure sets aside funds for local government greenspace projects. Many of these projects are ready to implement immediately. In order to allow this to occur as soon as possible, Intergovernmental Agreements (also referred to as IGAs) between Metro and the local governments should be processed as soon as possible. Local governments will be reimbursed for project expenditures as they occur.
- Metro should provide the appropriate staff to negotiate and process land acquisitions in all the target areas in a cost effective and business-like manner. Metro should seek to utilize the assistance of non-profit organizations to complement staff acquisition efforts.

**These findings remain current for the 2006 Natural Areas Bond Measure, and are further complemented by Metro's experience.**

## NATURAL AREAS IMPLEMENTATION WORK PLAN BACKGROUND

The following describe the salient modifications to the Open Spaces Work Plan to create the Natural Areas Implementation Work Plan (as presented to Council in work session November 11, 2006):

### *Acquisition Parameters*

- No early *acquisition parameters* have been identified in the updated plan, each acquisition opportunity which arises before adoption of target area specific refinement plans, if any, shall be taken to Metro Council for individual consideration.
- Extraordinary assumptions made in appraisals shall be considered an unusual circumstance and brought forth to Council as provided in the Work Plan.
- Appraisal requirements are adjusted for property valued at \$250,000 or less (previously \$100,000).
- Authority for property 10% or up to \$100,000 over appraised value (previously \$50,000) provided other stated conditions are satisfied.

### *Due Diligence Guidelines*

- A specific requirement for boundary management in *due diligence* will reduce unresolved encroachments, easements and boundaries.
- A more detailed requirement regarding environmental review will ensure that Metro does not obtain any properties that could create environmental liabilities to Metro and grants the Chief Operating Officer discretion to authorize funds to be expended to clean up identified environmental contamination after considering the cost of such remediation and the likelihood that it will be successful.

Staff proposes Metro Council adoption of the *Acquisition Parameters* and *Due Diligence Guidelines*, part of the Natural Areas Implementation Work Plan, and shall return to Council, for adoption of other elements of the plan as authority is required.

## ANALYSIS/INFORMATION

### 1. Known Opposition



None known.

## **2. Legal Antecedents**

Resolution No. 95-2228A, adopted on November 2, 1995, “For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Open Spaces Implementation Work Plan”

Resolution No. 96-2424, adopted January 9, 1997, “For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan”

Resolution No. 01-3106, adopted September 27, 2001, ”For the Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties that Satisfy Specific Identified Criteria

Resolution No. 05-3612, “For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program”, adopted on September 29, 2005.

Resolution No. 06-3672B, adopted March 9, 2006, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection.”

## **3. Anticipated Effects**

Authority has been previously provided to the Chief Operating Officer to purchase real property with accepted guidelines of the Open Spaces Implementation Work Plan. Guidelines of the Natural Areas Implementation Work Plan are very similar, such that the anticipated effects of this action shall mostly involve minor adjustments in staff action but shall not represent a substantial change in procedure.

Staff shall continue to present individual opportunities to Metro Council before refinement plans are adopted for each target area.

## **4. Budget Impacts**

All acquisition will be completed using Natural Areas Bond Measure funds.

## **RECOMMENDED ACTION**

Staff recommends the adoption of Resolution No. 07-3766.