



**METRO**

**Agenda**

MEETING: METRO COUNCIL  
DATE: May 8, 2008  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Oregon Zoo – Skyline Room

**CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATIONS**

**3. STOP OREGON LITTER AND VANDALISM (SOLV) PRESENTATION**

McGowen

**4. CONSENT AGENDA**

4.1 Consideration of Minutes for the May 1, 2008 Metro Council Regular Meeting.

4.2 **Resolution No. 08-3930**, Amending the FY 2007-2008 Capital Improvement Plan and Approving the Addition of the Streaked Horned Lark Project.

4.3 **Resolution No. 08-3932**, For the Purpose of Confirming the Appointment Of Warren Shoemaker to the Regional Solid Waste Advisory Committee (SWAC)

**5. ORDINANCES – FIRST READING**

5.1 **Ordinance No. 08-1185**, For the Purpose of Annexing Lands on the West Side of SW 229th Avenue South of Tualatin Valley Highway to the Metro Jurisdictional Boundary.

5.2 **Ordinance No. 08-1186**, For the Purpose of Amending Metro Code Chapter 5.02 to Establish Metro’s Solid Waste Disposal Charges and System Fees for Fiscal Year 2008-09.

5.3 **Ordinance No. 08-1187**, For the Purpose of Amending Metro Code Chapter 7.01 Relating to Excise Tax, Regarding Exemptions and Calculations.

**6. RESOLUTIONS**

- 6.1 **Resolution No. 08-3944**, For the Purpose of Approving Funding for 2008-09 Park Nature in Neighborhoods Grants. Park
- 6.2 **Resolution No. 08-3927**, For the Purpose of Approving the Year 19 Metro And Local Government Annual Waste Reduction Plan (Fiscal Year 2008-09). Bragdon
- 6.3 **Resolution No. 08-3945**, For the Purpose of Submitting to the Metro Area Voters a General Obligation Bond indebtedness in the Amount of \$125 million to Fund Oregon Zoo Capital Projects to Protect Animal Health and Safety, Conserve and Recycle Water, and Improve Access to Conservation Education; and Setting Forth The Official Intent of the Metro Council to Reimburse Certain Expenditures out of the Proceeds of Said Bonds Upon Issuance. Liberty

**7. CHIEF OPERATING OFFICER COMMUNICATION**

**8. COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for May 8, 2008 Metro Council meeting**

<p><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, replay May 1, 2008</p>	<p><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, May 11          2 p.m. Monday, May 12</p>
<p><b>Gresham</b>          Channel 30 -- MCTV  <a href="http://www.mctv.org">www.mctv.org</a> -- (503) 491-7636          2 p.m. Monday, May 12</p>	<p><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, May 17          11 p.m. Sunday, May 18          6 a.m. Tuesday, May 20          4 p.m. Wednesday, May 21</p>
<p><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.</p>	<p><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.</p>

**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).

Consideration of Minutes of May 1, 2008 Metro Council Regular Meeting.

***Consent Agenda***

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

**Resolution No. 08-3930**, Amending the FY 2007-08 Capital Improvement Plan and Approving the Addition of the Streaked Horned Lark Project

*Consent Agenda*

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE CAPITAL ) RESOLUTION NO. 08-3930  
BUDGET FOR FISCAL YEARS 2007-08 THROUGH )  
2011-12 ADDING THE STREAKED HORNED LARK ) Introduced by  
HABITAT PROJECT ) David Bragdon, Council President

WHEREAS, Metro recognizes the need to prepare a long-range plan estimating the timing, scale and cost of its major capital projects & equipment purchases;

WHEREAS, Metro departments have inventoried existing major capital assets, prepared status reports on current capital projects and assessed future capital needs;

WHEREAS, Metro's Council President has directed the preparation of a Capital Budget for fiscal years 2007-08 through 2011-12 that projects Metro's major capital spending needs over the next five years, assesses the impact of capital projects on the forecasted financial condition of Metro funds, and assesses the impact on operating costs;

WHEREAS, the Metro Council has reviewed the FY 2007-08 through FY 2011-12 Capital Budget; and

WHEREAS, the Metro Council has conducted a public hearing on the FY 2007-08 through FY 2011-12 Capital Budget and authorized the FY 2007-08 through FY 2011 Capital Budget;

WHEREAS, the Capital Budget priorities have altered and the following changes are necessary; now, therefore:

BE IT RESOLVED that the Metro Council hereby authorizes that the Streaked Horned Lark Habitat Project be added to the FY 2007-08 through FY 2011-12 Capital Budget.

ADOPTED by the Metro Council this \_\_\_\_\_ day of May, 2008.

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

Approved as to Form:

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

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 08-3930, AMENDING THE FY 2007-08 CAPITAL IMPROVEMENT PLAN AND APPROVING THE ADDITION OF THE STREAKED HORNED LARK HABITAT PROJECT

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Date: May 8, 2008

Prepared by: Paul Vandenberg

## BACKGROUND

A stated objective of the *Natural Resources Management Plan for Smith and Bybee Lakes* (Plan) is to integrate management of the St. Johns Landfill with management of the Smith and Bybee Wetlands Natural Area. As such, the landfill is managed not only to control buried waste and its by-products, consistent with regulations, but also to restore and diversify vegetation and habitat, and to provide associated public education opportunities, consistent with the Plan. Staff of Metro's departments of Solid Waste & Recycling and Parks & Greenspaces coordinate in these efforts.

In 2006, communications between Metro and Port of Portland staff revealed an opportunity to create nesting and foraging habitat at the landfill for the streaked horned lark (*Eremophila alpestris strigata*) and western meadowlark (*Sturnella neglecta*), both of which have been listed by the Oregon Department of Fish and Wildlife as Critically Sensitive species. The streaked horned lark is also listed as a Candidate species under the federal Endangered Species Act. The Port was planning to develop a dredge spoils field in the Rivergate Industrial District that was supporting the only remaining known breeding population of these two species in Multnomah County; and the landfill - due to its physical features and protected status - offered an appealing alternative site with the potential to partially compensate for the loss of habitat in Rivergate. In addition, it was recognized that public education and research opportunities associated with this effort were potentially significant.

Construction at the Rivergate site began in spring 2007, and logistics for creating habitat at the landfill were discussed among Metro, Port of Portland, and Oregon State University Department of Fisheries and Wildlife staff. It was concluded that the targeted lark species were more likely to use suitable habitat at the landfill while they were still using the Rivergate field, rather than after they vacated Rivergate altogether; as such, implementing the project in fall 2007 was desirable. Metro and the Port signed an intergovernmental agreement in September 2007 under which some 7,200 cubic yards of sand donated by the Port were hauled from West Hayden Island to the landfill, and spread over 5-acres of the landfill surface. Metro field staff subsequently seeded the area with native grasses and forbs to establish sparse growth, thereby providing a suitable foraging and nesting landscape for the larks, and have started routine monitoring of the area for bird activity.

In addition to donating the sand at a value of \$60,000, the Port expended \$67,332 for equipment, materials and labor associated with loading trucks provided by Metro under a hauling contract. The charge to Metro for hauling services was \$78,578. Oregon State University provided in-kind consulting services regarding habitat design and monitoring.

Because the lark habitat construction project was ultimately a capital project, and was planned and implemented relatively quickly in fall 2007, in order to increase the prospect for success, it was not included in the Fiscal Year 2007-2008 Capital Improvement Plan (CIP). For this reason, staff is asking Council for a resolution to formally add the project to the FY 2007-2008 CIP. Approval of this resolution

would add the Streaked Horned Lark Habitat Project to the FY 2007-2008 CIP, in the amount of \$205,910, as detailed in the attached Capital Project Request, Project Detail (Attachment 1).

#### **ANALYSIS/INFORMATION**

- 1. Known Opposition:** None known.
- 2. Legal Antecedents:** Resolution No. 07-3795, For the Purpose of Adopting the Capital Budget for Fiscal Years 2007-08 through 2011-12, established the current CIP, and recognizing the donated improvement on Metro's official accounting records.
- 3. Anticipated Effects:** Approval of this resolution would add the Streaked Horned Lark Habitat Project to the FY 2007-2008 through 2011-12 CIP, and recognizing the restoration project on Metro's asset listings.
- 4. Budget Impacts:** The new project would be added to Capital Budget in the amount of \$205,910. Sufficient appropriation exists to recognize the Port of Portland's contribution from the under-expenditure of other St. Johns Landfill projects in FY 2007-2008.

#### **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Resolution 08-3930

**Capital Project Request - Project Detail**

**Project Title:** 
**Fund:**

**Project Status:** 
**Funding Status:** 
**FY First Authorized:** 
**Department:**

**Project Number:** 
**Active:** 
**Dept. Priority:** 
**Facility:** 
**Division:**

**Source Of Estimat:** 
**Source:** 
**Start Date:** 
**Date:** 
**Cost Type:**

**Type of Project:** 
**Request Type:** 
**Completion Date:** 
**Prepared By:**

Project Estimates	Actual	Budget/Est	Prior							
Capital Cost:	Expend	2007-2008	Years	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	Total	
Restoration	\$0	\$205,910	\$205,910	\$0	\$0	\$0	\$0	\$0	\$205,910	
<b>Total:</b>	\$0	\$205,910	\$205,910	\$0	\$0	\$0	\$0	\$0	\$205,910	

**Funding Source:**

Port of Portland	\$0	\$127,332	\$127,332	\$0	\$0	\$0	\$0	\$0	\$127,332
Fund Balance - Landfill Closure	\$0	\$78,578	\$78,578	\$0	\$0	\$0	\$0	\$0	\$78,578
<b>Total:</b>	\$0	\$205,910	\$205,910	\$0	\$0	\$0	\$0	\$0	\$205,910

**Annual Operating Budget Impact**

**Project Description / Justification:** \_\_\_\_\_
 **Estimated Useful Life (yrs):** 
**First Full Fiscal Year of Operation:**

The purpose of this project is to create nesting habitat for the streaked horned lark at St. Johns Landfill. It is part of Metro's overall restoration program for the site, which includes vegetation and habitat diversification on the landfill surface, consistent with goals of the Natural Resources Management Plan for Smith and Bybee Wetlands. Considered a critically sensitive species by the Oregon Department of Fish and Wildlife, the streaked horned lark is a rare subspecies that was added to the state's Endangered Species Act Candidate List in 2001.



Agenda Item Number 4.3

**Resolution No. 08-3932**, For the Purpose of Confirming the Appointment of Warren Shoemaker to the Regional Solid Waste Advisory Committee (SWAC)

*Consent Agenda*

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE ) RESOLUTION NO. 08-3932  
APPOINTMENT OF WARREN SHOEMAKER TO )  
THE REGIONAL SOLID WASTE ADVISORY ) Introduced by David Bragdon,  
COMMITTEE (SWAC) ) Council President

WHEREAS, Metro Code Chapter 2.19.130 established the Regional Solid Waste Advisory Committee (SWAC) to evaluate policy recommendations to the Metro Council regarding regional solid waste management and planning;

WHEREAS, Metro Code Chapter 2.19.030 states that all members and alternate members of all Metro Advisory Committees shall be appointed by the Council President subject to confirmation by the Council;

WHEREAS, Metro Code Chapter 2.19.130 authorizes representatives and alternates for the SWAC;

WHEREAS, vacancies have occurred in the SWAC membership;

WHEREAS, the Council President has appointed Warren Shoemaker, a citizen of Clackamas County, for a two-year limited term as a member representing Clackamas County rate-payers, subject to confirmation by the Metro Council; now therefore,

BE IT RESOLVED, that the Metro Council confirms the appointment of Mr. Shoemaker to Metro's SWAC.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

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

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 08-3932 FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF WARREN SHOEMAKER TO THE REGIONAL SOLID WASTE ADVISORY COMMITTEE (SWAC)**

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Date: May 8, 2008

Prepared by: Susan Moore

#### **BACKGROUND**

The 25-member Regional Solid Waste Advisory Committee (SWAC), representing recyclers, the hauling industry, disposal sites, ratepayers and local governments, evaluates policy options and presents recommendations to the Metro Council regarding regional solid waste management and planning.

Warren Shoemaker, a citizen of Clackamas County, has been recommended to serve for a two-year limited term as a member representing Clackamas County rate-payers. (See Attachment 1.)

#### **ANALYSIS/INFORMATION**

**1. Known Opposition**

There is no known opposition.

**2. Legal Antecedents**

ORS 192.610 "Governing Public Meetings," Metro Code Chapter 2.19.030, "Membership of the Advisory Committees" and 2.19.130, "Metro Solid Waste Advisory Committee," are the relevant legal documents related to these appointments.

**3. Anticipated Effects**

This resolution is intended to appoint the following individual for two-year term-limited service on the SWAC: Warren Shoemaker.

**4. Budget Impacts**

None.

#### **RECOMMENDED ACTION**

The Council President has reviewed the qualifications of Mr. Shoemaker and finds him qualified to advise Metro in the matters of solid waste management and planning. Therefore, Council confirmation of this appointment by adoption of Resolution No. 08-3932 is recommended.

**Warren Shoemaker**  
16000 South Gerber Rd  
Oregon City, OR 97045

Warren@ccwebster.net  
Hm: 503.631.4222  
Cell: 503.333.4811

March 25, 2008

Re: Application to Metro Solid Waste Advisory Committee

To whom it may concern,

Please consider me for the open position for a Clackamas County resident on the SWAC.

I have lived in the Portland area most of my life: born in the west hills, graduated from Lincoln High School, studied and lived elsewhere for many years, then lived in NE Portland, and finally settled near the Clackamas River.

I would contribute a few valuable viewpoints to the Advisory Committee's work on regional waste and sustainability issues. In my personal life, I live on the rural edge of the metro area, just beyond the UGB; I spend considerable time hiking our local treasures; my wife is a Master Recycler; and I grew up in Portland. Professionally, I have been involved in renewable energy development since early 2006. In that role I have become familiar with next generation biofuel and bioenergy technologies that will enable conversion of solid waste to energy.

My background is strong in marketing and business development, both in small and corporate environments. I am passionately committed to the transformative opportunities of sustainable development which is now gaining momentum. Our waste streams have great potential value waiting to be tapped.

Regards,

Warren Shoemaker

Warren Shoemaker

Warren Shoemaker  
16000 South Gerber Rd  
Oregon City, OR 97045

Warren@ccwebster.net  
Hm: 503.631.4222  
Cell: 503.333.4811

## Highlights

- MBA with entrepreneurial and corporate experience
- Currently working in renewable energy project development

## Experience

May 2006 to present Pacific Ethanol Inc.  
Project Developer (Consultant status 5/06 – 6/07, employee since 7/07)  
Portland

- Coordinated projects that add value to co-products: corn oil extraction, CO-2 plant co-location. Included writing business plans, negotiating contracts, coordinating across departments and companies.
- Researched next generation biofuel technologies and developed business relationships: cellulosic ethanol, thermochemical pathways, renewable diesel.
- Assisted in writing a grant to the US Dept of Energy which won a \$24 million grant for a cellulosic ethanol demonstration project at Boardman, OR
- Qualified potential ethanol plant sites in Washington, and as Project Developer for a selected site, coordinated permit applications and relations with vendors, agencies, and partner companies.

Feb 2006 to June 2007 Consultant for clean energy projects

- NEBC and Environmental Strategies, LLC (May – June 2007)  
Researched status of biofuel and biomass development in Oregon and wrote part of the report funded by the Bioeconomy and Sustainable Technology Center (BEST Center, attached to OSU under the interim direction of Prof. Ken Williamson)
- Abundant Renewable Energy, Newberg, Oregon (Jan – Feb. 2007)  
Helped write a marketing plan for manufacturer of small wind turbines
- Brelsford Engineering Inc. Bozeman, Montana (March – Oct 2006)  
Prospected for clients and developed business relationships for inventor of a cellulosic ethanol process
- Sustainable Systems Unlimited, Portland, Oregon (July – Oct 2006)  
Developed business and test marketed the restaurant and hospitality sector for an energy efficiency and renewable energy consultant.

Oct 2004 – July 2005 viaLanguage  
Business Development  
Portland

Sales of translation services, focused on government agencies for 7 months, then on corporate clients (translation of product literature, websites and multi-lingual packaging).

June 2001 – July 2004 Care Medical Staffing

Warren Shoemaker

President

Clackamas, Oregon and Vancouver, BC

Founded a nurse recruitment business that helps foreign nurses qualify for US employment. based at the Care Nursing Study Center in Vancouver, BC: recruited and advised students, organized courses and curriculum, sold our service to healthcare employers, organized hiring events, arranged job placement

Jan 2000 – June 2001 Stat Medical Services  
Marketing Manager  
Portland & Seattle

Marketing Manager, responsible for projects in recruitment and client relations for a fast-growing nurse recruitment and staffing business

- Started out-of-state recruitment program and organized the travel nursing business
- Conceived marketing campaigns and materials
- Negotiated contracts with current and new clients
- Conducted market research including interviews with hospital managers, hospital cost analysis, and implementation proposals

1997 – 1999 Aztech Signs & Graphics  
Marketing and Business Development  
Portland

Facilitated a successful merger and won the business of the acquired customers. Continued in sales during a fast growth and expansion phase.

1994 – 1997 Oocha Brew / TeaPilz Inc  
Co-founder, Vice President Sales & Marketing  
Portland

Responsible for business planning, marketing and sales for a natural beverage start-up.

- Defined the marketing strategy, wrote the business plan and financing proposals
- Produced marketing communications, coordinated with ad agency and vendors
- Won accounts with major natural foods stores in Oregon, Washington and California, and signed distributors and brokers in these and other western states
- Orchestrated the California launch, with successful trade show and in-store promotions

1990 – 1994 Honeywell Inc. – German business units

1991 – 1994: Head of Marketing Department at Honeywell Braukmann, Mosbach, Germany (Honeywell Europe's Water Controls Business Unit, selling valves for heating and plumbing control through channels)

1990 – 1991: Marketing Staff at Honeywell Centra, Schoenaich, Germany  
(Heating control systems)

Responsible for Marketing Dept. staff of 12, product marketing, business development with sales affiliates in Europe, implementing corporate initiatives.

Daily use of English and German, frequent use of French.

- Motivated the sales force and distributors in many countries
- Improved multi-lingual technical literature, sales brochures, POS and other materials
- Changed attitudes of traditional German company to more customer oriented, internationally aware culture aligned with the corporate parent
- Pursued new opportunities in central and eastern Europe
- Helped manage cross-border channel conflicts and improve distribution supply chain

## Associations

Feb. 2006 Co-founder of the Northwest Biofuels Association

## Education

High School, 1977 A. Lincoln H.S., Portland, Oregon

MBA, 1990 University of Washington, Seattle, Washington  
International Business and Finance, with Honors

BA, 1981 Middlebury College, Middlebury, Vermont  
Political Science and German

6/81 to 8/81 French Language School, Middlebury College, Vermont  
9/83 to 4/84 European Studies, I.U.E.E., Geneva, Switzerland  
6/84 to 8/84 Japanese Studies, Portland State University, Oregon  
9/84 to 2/85 Japanese travel and language learning, Japan  
10/88 to 12/88 Business School exchange program, Paris, France  
1/89 to 6/89 Business School internship with Honeywell Europe, Frankfurt

## Personal

Born in Portland, married, two children  
Recreation focused on hiking, mountain climbing, skiing,  
Also enjoy gardening and outdoor work

**Ordinance No. 08-1185**, For the Purpose of Annexing Lands on the West Side of SW 229<sup>th</sup> Avenue South of Tualatin Valley Highway to the Metro Jurisdictional Boundary.

*First Reading*

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING	)	ORDINANCE NO. 08-1185
LANDS ON THE WEST SIDE OF SW	)	
229 <sup>th</sup> AVE. SOUTH OF TUALATIN	)	
VALLEY HIGHWAY 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. 02-969B, For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022 adopted on December 5, 2002 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 \_\_\_\_\_ 2008.

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

ATTEST:

Approved as to Form

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

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

**ANNEXATION CERTIFIED**

BY Paul A. Koff  
FEB 01 2008

MAY 1 - 2008

Ordinance No. 08-1185  
Exhibit A  
Legal/Territorial Description of Property

WASHINGTON COUNTY A & T  
CARTOGRAPHY

A tract of land in the southeast quarter of Section 10, Township 1 South, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Lot 65 of Witch Hazel Little Farms, a duly recorded subdivision in said county;

thence South 74°21'30" East, along the southeasterly projection of the north line of said lot, a distance of 41.34 feet to a point on the east right of way line of Southwest 229<sup>th</sup> Avenue;

thence South 1°00' West, along said right of way line, a distance of 1135.01 feet to the intersection of said right of way line and the easterly projection of the south line of that tract of land conveyed to Robert E. Strauss and Deanna M. Strauss by deed recorded June 20, 2007 as Document No. 2007-068327 in Deed Records of said county;

thence North 89°00' West, along said projection and said south line, a distance of 822.0 feet to the southwest corner of said Strauss Tract;

thence North 1°00' East, along the west line of Lots 68, 67, and 66 of Witch Hazel Little Farms, a distance of 881.70 feet to the northwest corner of said Lot 66;

thence South 89°00' East, along the north line of said lot, a distance of 782.0 feet to the northeast corner thereof;

thence North 1°00' East, along the west right of way line of Southwest 229<sup>th</sup> Avenue, a distance of 263.76 feet to the point of beginning.

EXCEPTING THEREFROM the following described property:

Beginning at the southeast corner of Lot 67 of Witch Hazel Little Farms;

thence North 89°00' West, along the south line of said lot, a distance of 250.0 feet to the southwest corner of that tract of land conveyed to Gregory W. Homdrom by deed recorded April 30, 2004 as Document No. 2004-048014 in Deed Records of said county;

thence North 1°00' East, along the west line of said tract and the west line of that tract of land conveyed to Brad R. Smith and Kimberly A. Smith by deed recorded May 13, 1999

as Document No. 99-58504 in Deed Records of said county, a distance of 273.85 feet to the northwest corner of said Smith Tract;

thence South  $89^{\circ}00'$  East, along the north line of said tract, a distance of 250.0 feet to the northeast corner thereof;

thence South  $1^{\circ}00'$  West, along the west right of way line of Southwest 229<sup>th</sup> Avenue, a distance of 273.85 feet to the point of beginning.

Ordinance No. 08-1185  
Exhibit B  
FINDINGS

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

1. The territory is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. The territory contains 14.26 acres and 2 vacant 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 Hillsboro. 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. The Hillsboro School District plans to construct an elementary school on approximately 9 acres. The remaining 5+ acres would be utilized for low density residential uses but there are no current development plans in place.
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:

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:

1. The affected territory lies within the UGB;
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; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

- (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
- (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (3) The proposed effective date of the boundary change."

The applicants have prepared a detailed response to each of the criteria listed above:

**Oregon Revised Statute 198.850 (2)**

**(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings. However, when determining whether to approve an annexation petition filed under this section, the county board, in lieu of the criteria prescribed by ORS 198.805 (1) and 199.462, shall consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.**

This ORS section makes it clear that the service agreement between the City of Hillsboro, Metro and Washington County and other local governments is the primary document to rely upon for these types of decisions, in lieu of other economic, demographic and sociological trends and projections, past or prospective physical development of land, and other criteria that might be pertinent if a service agreement was not in effect.

The directly applicable criteria for annexation to the Metro district include Chapter 3.09.050(b) and (d) of the Metro Code. Responses to each criterion are listed below, which can be considered findings of fact and conclusions from those findings.

**(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 boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties;**

**RESPONSE:** The properties have been considered for eventual urbanization for a number of years. The South Hillsboro Concept Plan that was completed in 1998, though never officially adopted, included the subject properties.

~~UGB Amendment.~~ Metro brought the area into the Metro Urban Growth Boundary in December 2002, via Ordinance #02-969B, as part of Study Area #71. At that time, the findings adopted by Metro included the following statements, found on Page 5 of Exhibit P to Ordinance No. 02-969B.

~~K. Westside Area, Study Areas 62 (partial), 63, 64, 67, 69 (partial), 71 and 0~~

*These non-contiguous study areas lie west of and adjacent to the UGB as it existed prior to this expansion. The portions included are all exception lands and designated Inner Neighborhood on the 2040 Growth Concept Map (Exhibit N). Part of the included portion of Study Area 62 will be used by the City of King City as a park and storm-water retention area. The cities of Tigard, Beaverton and Hillsboro will use the other portions of the Westside Area to provide housing.*

*Study Areas 63, 64, 67, 69 (partial), 71 and 0 rate "easy" to "difficult" for sewer, water, storm-water and transportation services. The cities of Tigard, Beaverton and Hillsboro, Clean Water Services and the Tualatin Valley Water District will be the service providers; all have expressed a willingness to provide the services. These areas are adjacent to the UGB as it existed prior to this expansion; services can be extended in an orderly manner.*

*Adverse economic, energy, environmental and social consequences of urbanization in these areas will be relatively low. Compliance with Title 3 of the UGMFP will reduce the consequences to water quality and the few wetlands, streams, floodplains and riparian areas present.*

*Urbanization of the areas will bring urban development near agricultural activities to the west and south of the UGB. However, most of the areas are already developed in a rural residential pattern. Application of General Condition 5 in Exhibit M will reduce incompatibility with farm practices.*

The Council included these exception lands to provide opportunities for a wide range of housing types in a part of the region that was relatively "housing-poor."

Metro Planning Requirements. A "concept plan" for areas brought into the UGB is required prior to development. Metro's Urban Growth Management Plan (UGM) Functional Plan requires that all land annexed into the UGB "shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular Title 11"<sup>1</sup>. The applicable provisions of Title 11 include the following statements:

*B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities, which conform to the*

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<sup>1</sup> Metro Code, UGM Functional Plan, Section 3.07.1120  
Ordinance Findings, Page 3 of 13

*2040 Growth Concept Plan design type designation for the area.*

*1. A concept school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.*

Witch Hazel Village Community Plan. The City of Hillsboro completed a concept plan for a portion of Area #71, which was completed in February 2004. That plan, called the "Witch Hazel Village Community Plan", did not include the subject site in the Witch Hazel Village Planning Area boundary. That is, the concept plan, which was adopted into the Hillsboro Comprehensive Plan, excluded any land use planning designations for that portion of Area 71 south and east of Gordon Creek. (It did include 10 acres in Area 71 north of Gordon Creek).

South Hillsboro Planning Process. The City intended to begin the concept planning process for the majority of Area 71 in 2003. That process was delayed by a few years, but commenced in earnest in January 2007, and is currently nearing completion. The subject site is included in the current land use planning process, which is called the "South Hillsboro Community Plan". Although earlier scenarios of this plan designated the site as "Single Family Neighborhood"<sup>2</sup> then as "School"<sup>3</sup>, the latest draft shows it as a combination of Civic/Institutional (labeled "School" on the map) and Recreational/Open Space (labeled "Park" on the map)<sup>4</sup>.

Comprehensive Plan Amendment application. The applicants applied for an amendment to the City of Hillsboro Comprehensive Plan, changing the designations of these properties from the Washington County "Future Development – 20 acre minimum" (FD-20) district to the City of Hillsboro "Public Facilities" (PF) for the 9 acres owned by the School District, and "Residential Low" Density (RL) district for the remaining 5+ acres. That application is pending, and is tentatively scheduled for a Planning Commission hearing on March 12, 2008.

Zone Change. The applicants are applying for a zone change to R-7 (residential, 7000 square foot minimum lot size). The City does not have a corresponding zone district for the Open Space or Public Facilities

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<sup>2</sup> Scenarios "A" and "B", South Hillsboro News newsletter, Volume 1, Issue 3, July 2007

<sup>3</sup> Hybrid Scenario, South Hillsboro New newsletter, Volume 1, Issue 4, September 2007

<sup>4</sup> Final Concept map, Figure 7, December 14, 2007

Comprehensive Plan districts, but schools and parks are permitted in the R-7 zone. The corresponding zone for the RL Comprehensive Plan District is R-7.

R-7 is also an appropriate implementing zone for the City's "Open Space" and "Public Facilities" Comprehensive Plan districts.

~~Transportation System Plan.~~ The proposed annexation is consistent with the City's Transportation System Plan. SW 229<sup>th</sup> Avenue is a collector street in this location. It has an existing, 40'-wide right-of-way. The property owners will dedicate additional right-of-way and improve the west side of the street to collector standards with the development of those properties.

~~Natural Resources.~~ The site does not contain any streams, wetlands, open water, flood areas, or steep slopes. A Clean Water Services Sensitive Area Pre-screening Site Assessment was completed in July 5, 2007. CWS noted that sensitive areas potentially exist on site or within 200 feet of the site. A jurisdictional wetland determination and delineation report on the property was completed by Schott & Associates, dated July 17, 2007. The report found no wetlands present on the site.

The site was included in the Tualatin Basin Partners for Natural Places report, and is included on Metro's Interactive web site. These maps do not show any streams, wetlands or open water, or any flood areas or steep slopes. One map shows a portion of the property as "Class A Wildlife". However, most of the site is shown on the "Metro Council's recommendation on habitat protection" map as "not affected". The remaining portion of the site is shown as "allow development".

The City of Hillsboro's website shows a portion of tax lot 1S210DC00600 as "Natural Resource Protection – Level 3". But the Significant Natural Resources Overlay District map also shows the site as "unincorporated – not regulated by SNRO [Significant Natural Resource Overlay] unless annexed". Therefore, the City SNRO regulations did not apply prior until the properties were annexed to the City.

There is a relatively small grouping of about 21 trees, mostly Douglas Firs, on the south portion of the site, basically all on or adjacent to tax lot 1S210DC00600. Some of the Douglas Fir trees were removed by the School District prior to annexation to the City, based on the preliminary site plans and the District's concern about potential risks to the public and to the school facilities from falling trees. An arborist report noted that none of these on-site Douglas Fir trees were in an "equilibrium environment", or appropriate for long term preservation. However, the report noted that there are 14 trees (a



mix of Douglas Fir, Incense Cedar, Silver Birch, and Garry Oak) along the south and west property lines that are viable, and which should be protected as the site is developed. The arborist report specifies how these trees should be protected during the development process.

The proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties, and therefore meets Criterion #3.

**(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:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. The annexation is consistent with the applicable provisions of the Agreement, specifically Section 1, Roles and Responsibilities, subsections C. and G.

Approval of the Petition to Annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of, the Hillsboro Urban Service Agreement. The subject properties are included in that document and marked as "Future Urban" (Map C-2). Section III.C makes it clear that the agreement applies to properties identified on Map C-2. In fact, Section IX.E.2 automatically amends the boundary of the Hillsboro Urban Service Agreement (HUSA) to include the properties shown on Map C-2 "once the final action has been taken by Metro and the Department of Land Conservation and Development (DLCD) and appeals have been finalized".

Specifically, this annexation complies with that agreement as follows:

It fulfills Sections I.C., which designates the City of Hillsboro as the appropriate provider of services to citizens residing within the boundaries shown on Maps A-1 to A-6, which include the area shown on Map C-2.

Approval of this Annexation Petition will enable the City of Hillsboro to exercise full municipal governance of the site consistent with the following relevant provisions of the Hillsboro Urban Service Agreement.

Section I.C. Hillsboro is "designated as the appropriate provider of services to citizens residing within its boundaries and to unincorporated areas...as shown on Maps A-1 to A-6." (As noted above, Section III.C. added the properties identified on Map C-2 to Maps A-1 to A-6 when those properties were added to the UGB.)

Section I.D. Washington County recognizes the cities and special services districts as the ultimate municipal service providers as specified in this agreement, and recognizes cities as the "ultimate local governance provider to the urban area".

Section I.G.1. Consistent with Section I.C., I.D., and I.E, the County, City and Special Districts agree to develop a program for "the eventual annexation of all urban unincorporated properties into the cities". Further, Section I.G.2. states that the program will include the transfer of Washington County responsibilities, programs, equipment and personnel to the City for urban municipal services, including "law enforcement; road maintenance; engineering and construction; land use and transportation planning; land development; and building."

Approval of this annexation petition would be consistent with I.G of the Hillsboro Urban Services Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services as contemplated by Section I.G. Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the site would be in the best interest of the City.

Currently, the site is protected by the Washington County Fire District No. 2 (Dist. No. 2), which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro have agreed that the City will ultimately be the sole provider of fire protection services to the site. Approval of this annexation petition would be consistent with Exhibit 'A' of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the site from Dist. No. 2 to the City, as contemplated

by Exhibit 'A'.

Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, withdrawal of the site from the Dist. No. 2 service area and subsequent City provision of fire protection services to the site would be in the best interest of the City.

Exhibit 'B' states that TriMet is currently the sole provider of public mass transit in the HUSD. Annexation to the Metro District would not alter that provision of the Agreement.

Exhibit 'C' states that the City will assume law enforcement services as annexations occur within the HUSA, and the area will be withdrawn from the Enhanced Sheriff's Patrol District. The subject properties are not in the Enhanced Sheriff's Patrol District, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'D' states that the City, rather than the Tualatin Hills Park and Recreation District (THPRD), will be the designated provider of park, recreation and open spaces services to the HUSD. The subject properties are not within the THPRD boundary, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'E' states that the County will continue to retain jurisdiction over the network of arterials and collectors within the HUSD, and that the City will accept responsibility for "public streets, local streets, neighborhood routes and collectors and other streets and roads that are not part of the County-wide road system" upon annexation. The City intends to accept responsibility for that portion of SW 229<sup>th</sup> Avenue that is within its city limits. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'F' states that Clean Water Services (CWS) is responsible for sanitary sewage and storm water management within the City and the urban unincorporated area. Further, the City performs a portion of the local sanitary sewer and storm water management programs as defined in an operating agreement between the City and CWS. Annexation to the Metro district will not impact the agreement between the City and CWS, and is consistent with this provision of the Agreement.

Exhibit 'G' states that the City will be the designated water provider to

properties in the HUSA west of Cornelius Pass Road between Sunset Highway and TV Highway, and the Tualatin Valley Water District will provide services north of Sunset Highway, east of Cornelius Pass Road between Sunset Highway and TV Highway, and east of SW 209<sup>th</sup> Avenue. The subject site will be served with City water services. Annexation to the Metro district will not impact the agreement between the City and TVWD, and is consistent with this provision of the Agreement.

The proposed boundary change complies with the urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties, and therefore, meets Criterion #2.

**(6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval;**

**RESPONSE:** The property was brought into the Urban Growth Boundary in December 2002, under Metro Council Ordinance #02-969B. Therefore, the proposed boundary change meets Criterion #6.

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

**RESPONSE:** No extraterritorial extensions of service are necessary. The property has been annexed into the City of Hillsboro, which will supply water and sanitary sewer services. Currently, there are no public utilities within SW 229<sup>th</sup> Ave south of SE Alexander Street. Utilities will be extended within SW 229<sup>th</sup> Avenue as needed.

The City of Hillsboro currently is in the process of extending their sanitary sewer main from SE River Road to SW 229<sup>th</sup> Ave, along SE Davis Road and Gordon Creek. Once that is complete, the applicants can extend the gravity system from this point to the subject properties. (However, if this sewer has not been constructed at the time of occupancy of the new elementary school, the Hillsboro School District will construct a private sanitary sewer pump station to pump the sanitary sewer to a manhole at the intersection of SE Alexander Street and SW 229<sup>th</sup> Avenue).

Storm water services will be provided by Clean Water Services and the City of Hillsboro. Storm water runoff will be routed through approved water quality

facilities and will be piped along the west boundary line of the neighboring tax lot (1S210DC00100) to Gordon Creek, once an easement has been procured.

Street maintenance for local streets will be provided by the City of Hillsboro. SW 229<sup>th</sup> Avenue will continue to be maintained by Washington County until the City and the County both agree to transfer that responsibility to the City.

Police, Fire and Parks services will be provided by the City of Hillsboro.

All private utilities will be extended as required by the utility companies as well.

In addition to local services, Metro provides a variety of services that will be available to this site. These include regional land use planning, solid waste disposal, the Oregon Zoo and other regional facilities, and regional park and greenspaces acquisition. Similarly, Washington County provides services to this site, including the County Sheriff's services, the County court system, the County health services, and several other general services available to all properties within the County. The annexation of the properties to the Metro district will not impact the Metro or County services.

All necessary urban services are presently available to serve the affected territory, and therefore the proposed boundary change meets Criterion #1.

**(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 annexation to the Metro boundary will not result in the withdrawal of the affected territory from the legal boundary of any necessary party. However, annexation to the City of Hillsboro resulted in a withdrawal from Washington County Rural Fire Protection District No. 2.

Therefore, the proposed boundary change is meets Criterion #4.

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

**RESPONSE:** The proposed effective date is July 1, 2008.

4. The site consists of level ground mostly cleared of vegetation with trees along the west and south edges.

To the east (across SW 229<sup>th</sup>) lies farmland. To the north, west and south of the property are rural residential properties.

5. This territory abuts the Metro jurisdictional boundary on the north, east and south.

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to 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. 02-969B).

6. The territory was recently annexed to the City of Hillsboro. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of a Concept Plan and rezoning in compliance with that plan. The area is covered by an Urban Services Agreement which identifies Hillsboro as the appropriate provider of urban services. The subject site is included in a currently underway Concept Plan (South Hillsboro Planning Process). The applicants have applied for an amendment to the City Comprehensive Plan from Washington County’s Future Development – 20 acre minimum to Public Facilities (for the 9 acres owned by the Hillsboro School District) and Residential Low for the remaining 5+ acres. A corresponding zone change to R-7 has also been applied for.

7. All major public Services are available from the City of Hillsboro.
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.

## 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 Hillsboro 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. 3 Metro is a party to an Urban Service Agreement which identifies Hillsboro as the appropriate provider of urban services for this area.
3. Metro Code 3.09.070 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criterion for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 5. 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 Hillsboro 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. 08- 1185 FOR THE PURPOSE OF ANNEXING LANDS ON THE WEST SIDE OF SW 229<sup>th</sup> AVE. SOUTH OF TUALATIN VALLEY HIGHWAY TO THE METRO JURISDICTIONAL BOUNDARY

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Date: May 15, 2008

Prepared by: Ken Martin, Annexation Staff

**SECTION I: APPLICATION SUMMARY**

CASE: AN-0108, Annexation To Metro Jurisdictional Boundary

APPLICANT: 100% 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 Hillsboro's annexation of the property in January, 2008.

LOCATION: The territory is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. (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. 08-1185 approving Boundary Change Proposal No. AN-0108, annexation to Metro.

**SECTION III: BACKGROUND INFORMATION**

**Initiation:** Proposal No. AN-0108 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 on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. The territory contains 14.26 acres and 2 vacant 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 Hillsboro. 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. The Hillsboro School District plans to construct an elementary school on approximately 9 acres. The remaining 5+ acres would be utilized for low density residential uses but there are no current development plans in place.

## **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:

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:

1. The affected territory lies within the UGB;
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; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

- (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
- (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (3) The proposed effective date of the boundary change.”

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

## **LAND USE PLANNING**

### *SITE CHARACTERISTICS*

The site consists of level ground mostly cleared of vegetation with trees along the west and south edges.

To the east (across SW 229<sup>th</sup>) lies farmland. To the north, west and south of the property are rural residential properties.

## REGIONAL PLANNING

This territory abuts the Metro jurisdictional boundary on the north, east and south.

### Regional Framework Plan

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to 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. 02-969B).

## CITY PLANNING

The territory was recently annexed to the City of Hillsboro. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of a Concept Plan and rezoning in compliance with that plan. As explained in Greater detail in Attachment 1, the area is covered by an Urban Services Agreement, which identifies Hillsboro as the appropriate provider of urban services. The subject site is included in a currently underway Concept Plan (South Hillsboro Planning Process). The applicants have applied for an amendment to the City Comprehensive Plan from Washington County’s Future Development – 20 acre minimum to Public Facilities (for the 9 acres owned by the Hillsboro School District) and Residential Low for the remaining 5+ acres. A corresponding zone change to R-7 has also been applied for.

## **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 02-969B. 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 Hillsboro and as anticipated by the Metro UGB expansion.
4. **Budget Impacts** - None

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

This petition seeks to annex approximately 14.268 acres of land into the Metro Jurisdictional boundary in order to provide for construction of an elementary school and eventual residential development within the City of Hillsboro. 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-0108 be *approved*. This approval should be implemented by adoption of Ordinance No. 08-1185 (attached).

Ordinance No. 08-1185  
ATTACHMENT 1

Proposal No. AN-01-08

**V. RESPONSE TO CRITERIA FOR ANNEXATION**

**Oregon Revised Statute 198.850 (2)**

**(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings. However, when determining whether to approve an annexation petition filed under this section, the county board, in lieu of the criteria prescribed by ORS 198.805 (1) and 199.462, shall consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.**

This ORS section makes it clear that the service agreement between the City of Hillsboro, Metro and Washington County and other local governments is the primary document to rely upon for these types of decisions, in lieu of other economic, demographic and sociological trends and projections, past or prospective physical development of land, and other criteria that might be pertinent if a service agreement was not in effect.

The directly applicable criteria for annexation to the Metro district include Chapter 3.09.050(b) and (d) of the Metro Code. Responses to each criterion are listed below, which can be considered findings of fact and conclusions from those findings.

**METRO CODE, SECTION 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:** No extraterritorial extensions of service are necessary. The property has been annexed into the City of Hillsboro, which will supply water and sanitary sewer services. Currently, there are no public utilities within SW 229<sup>th</sup> Ave south of SE Alexander Street. Utilities will be extended within SW 229<sup>th</sup> Avenue as needed.

The City of Hillsboro currently is in the process of extending their sanitary sewer main from SE River Road to SW 229<sup>th</sup> Ave, along SE Davis Road and Gordon Creek. Once that is complete, the applicants can extend the gravity system from this point to the subject properties. (However, if this sewer has not been constructed at the time of occupancy of the new elementary school, the Hillsboro School District will

construct a private sanitary sewer pump station to pump the sanitary sewer to a manhole at the intersection of SE Alexander Street and SW 229<sup>th</sup> Avenue).

Storm water services will be provided by Clean Water Services and the City of Hillsboro. Storm water runoff will be routed through approved water quality facilities and will be piped along the west boundary line of the neighboring tax lot (1S210DC00100) to Gordon Creek, once an easement has been procured.

Street maintenance for local streets will be provided by the City of Hillsboro. SW 229<sup>th</sup> Avenue will continue to be maintained by Washington County until the City and the County both agree to transfer that responsibility to the City.

Police, Fire and Parks services will be provided by the City of Hillsboro.

All private utilities will be extended as required by the utility companies as well.

In addition to local services, Metro provides a variety of services that will be available to this site. These include regional land use planning, solid waste disposal, the Oregon Zoo and other regional facilities, and regional park and greenspaces acquisition. Similarly, Washington County provides services to this site, including the County Sheriff's services, the County court system, the County health services, and several other general services available to all properties within the County. The annexation of the properties to the Metro district will not impact the Metro or County services.

All necessary urban services are presently available to serve the affected territory, and therefore the proposed boundary change meets Criterion #1.

**(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:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. The annexation is consistent with the applicable provisions of the Agreement, specifically Section 1, Roles and Responsibilities, subsections C. and G.

Approval of the Petition to Annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of, the Hillsboro Urban Service Agreement. The subject properties are included in that document and marked as "Future Urban" (Map C-2). Section III.C makes it clear that the agreement applies to properties identified on Map C-2. In fact, Section IX.E.2

automatically amends the boundary of the Hillsboro Urban Service Agreement (HUSA) to include the properties shown on Map C-2 "once the final action has been taken by Metro and the Department of Land Conservation and Development (DLCD) and appeals have been finalized".

Specifically, this annexation complies with that agreement as follows:

It fulfills Sections I.C., which designates the City of Hillsboro as the appropriate provider of services to citizens residing within the boundaries shown on Maps A-1 to A-6, which include the area shown on Map C-2.

Approval of this Annexation Petition will enable the City of Hillsboro to exercise full municipal governance of the site consistent with the following relevant provisions of the Hillsboro Urban Service Agreement.

Section I.C. Hillsboro is "designated as the appropriate provider of services to citizens residing within its boundaries and to unincorporated areas...as shown on Maps A-1 to A-6." (As noted above, Section III.C. added the properties identified on Map C-2 to Maps A-1 to A-6 when those properties were added to the UGB.)

Section I.D. Washington County recognizes the cities and special services districts as the ultimate municipal service providers as specified in this agreement, and recognizes cities as the "ultimate local governance provider to the urban area".

Section I.G.1. Consistent with Section I.C., I.D., and I.E, the County, City and Special Districts agree to develop a program for "the eventual annexation of all urban unincorporated properties into the cities". Further, Section I.G.2. states that the program will include the transfer of Washington County responsibilities, programs, equipment and personnel to the City for urban municipal services, including "law enforcement; road maintenance; engineering and construction; land use and transportation planning; land development; and building."

Approval of this annexation petition would be consistent with I.G of the Hillsboro Urban Services Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering an construction, land use and transportation planning, land development and building services as contemplated by Section I.G. Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the site would be in the best interest of the City.

Currently, the site is protected by the Washington County Fire District No. 2 (Dist. No. 2), which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro have agreed that the City will ultimately be the

sole provider of fire protection services to the site. Approval of this annexation petition would be consistent with Exhibit 'A' of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the site from Dist. No. 2 to the City, as contemplated by Exhibit 'A'.

Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, withdrawal of the site from the Dist. No. 2 service area and subsequent City provision of fire protection services to the site would be in the best interest of the City.

Exhibit 'B' states that TriMet is currently the sole provider of public mass transit in the HUSD. Annexation to the Metro District would not alter that provision of the Agreement.

Exhibit 'C' states that the City will assume law enforcement services as annexations occur within the HUSA, and the area will be withdrawn from the Enhanced Sheriff's Patrol District. The subject properties are not in the Enhanced Sheriff's Patrol District, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'D' states that the City, rather than the Tualatin Hills Park and Recreation District (THPRD), will be the designated provider of park, recreation and open spaces services to the HUSD. The subject properties are not within the THPRD boundary, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'E' states that the County will continue to retain jurisdiction over the network of arterials and collectors within the HUSD, and that the City will accept responsibility for "public streets, local streets, neighborhood routes and collectors and other streets and roads that are not part of the County-wide road system" upon annexation. The City intends to accept responsibility for that portion of SW 229<sup>th</sup> Avenue that is within its city limits. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'F' states that Clean Water Services (CWS) is responsible for sanitary sewage and storm water management within the City and the urban unincorporated area. Further, the City performs a portion of the local sanitary sewer and storm water management programs as defined in an operating agreement between the City and CWS. Annexation to the Metro district will not impact the agreement between the City and CWS, and is consistent with this provision of the Agreement.

Exhibit 'G' states that the City will be the designated water provider to properties in the HUSA west of Cornelius Pass Road between Sunset Highway and TV Highway, and the Tualatin Valley Water District will provide services north of Sunset Highway, east of Cornelius Pass Road between Sunset Highway and TV Highway, and east of SW 209<sup>th</sup> Avenue. The subject site will be served with City water services.



Annexation to the Metro district will not impact the agreement between the City and TVWD, and is consistent with this provision of the Agreement.

The proposed boundary change complies with the urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties, and therefore, meets Criterion #2.

**(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 boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties;**

**RESPONSE:** The properties have been considered for eventual urbanization for a number of years. The South Hillsboro Concept Plan that was completed in 1998, though never officially adopted, included the subject properties.

UGB Amendment. Metro brought the area into the Metro Urban Growth Boundary in December 2002, via Ordinance #02-969B, as part of Study Area #71. At that time, the findings adopted by Metro included the following statements, found on Page 5 of Exhibit P to Ordinance No. 02-969B.

*K. Westside Area, Study Areas 62 (partial), 63, 64, 67, 69 (partial), 71 and 0*

*These non-contiguous study areas lie west of and adjacent to the UGB as it existed prior to this expansion. The portions included are all exception lands and designated Inner Neighborhood on the 2040 Growth Concept Map (Exhibit N). Part of the included portion of Study Area 62 will be used by the City of King City as a park and storm-water retention area. The cities of Tigard, Beaverton and Hillsboro will use the other portions of the Westside Area to provide housing.*

*Study Areas 63, 64, 67, 69 (partial), 71 and 0 rate "easy" to "difficult" for sewer, water, storm-water and transportation services. The cities of Tigard, Beaverton and Hillsboro, Clean Water Services and the Tualatin Valley Water District will be the service providers; all have expressed a willingness to provide the services. These areas are adjacent to the UGB as it existed prior to this expansion; services can be extended in an orderly manner.*

*Adverse economic, energy, environmental and social consequences of urbanization in these areas will be relatively low. Compliance with Title 3 of the UGMFP will reduce the consequences to water quality and the few wetlands, streams, floodplains and riparian areas present.*

*Urbanization of the areas will bring urban development near agricultural activities to the west and south of the UGB. However, most of the areas are already developed*

*in a rural residential pattern. Application of General Condition 5 in Exhibit M will reduce incompatibility with farm practices.*

The Council included these exception lands to provide opportunities for a wide range of housing types in a part of the region that was relatively "housing-poor."

Metro Planning Requirements. A "concept plan" for areas brought into the UGB is required prior to development. Metro's Urban Growth Management Plan (UGM) Functional Plan requires that all land annexed into the UGB "shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular Title 11"<sup>1</sup>. The applicable provisions of Title 11 include the following statements:

*B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities, which conform to the 2040 Growth Concept Plan design type designation for the area.*

*I. A concept school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.*

Witch Hazel Village Community Plan. The City of Hillsboro completed a concept plan for a portion of Area #71, which was completed in February 2004. That plan, called the "Witch Hazel Village Community Plan", did not include the subject site in the Witch Hazel Village Planning Area boundary. That is, the concept plan, which was adopted into the Hillsboro Comprehensive Plan, excluded any land use planning designations for that portion of Area 71 south and east of Gordon Creek. (It did include 10 acres in Area 71 north of Gordon Creek).

South Hillsboro Planning Process. The City intended to begin the concept planning process for the majority of Area 71 in 2003. That process was delayed by a few years, but commenced in earnest in January 2007, and is currently nearing completion. The subject site is included in the current land use planning process, which is called the "South Hillsboro Community Plan". Although earlier scenarios of this plan designated the site as "Single Family Neighborhood"<sup>2</sup> then as "School"<sup>3</sup>, the latest draft shows it as a combination of Civic/Institutional (labeled "School" on the map) and Recreational/Open Space (labeled "Park" on the map)<sup>4</sup>.

Comprehensive Plan Amendment application. The applicants applied for an amendment to the City of Hillsboro Comprehensive Plan, changing the designations

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<sup>1</sup> Metro Code, UGM Functional Plan, Section 3.07.1120

<sup>2</sup> Scenarios "A" and "B", South Hillsboro News newsletter, Volume 1, Issue 3, July 2007

<sup>3</sup> Hybrid Scenario, South Hillsboro New newsletter, Volume 1, Issue 4, September 2007

<sup>4</sup> Final Concept map, Figure 7, December 14, 2007

of these properties from the Washington County "Future Development – 20 acre minimum" (FD-20) district to the City of Hillsboro "Public Facilities" (PF) for the 9 acres owned by the School District, and "Residential Low" Density (RL) district for the remaining 5+ acres. That application is pending, and is tentatively scheduled for a Planning Commission hearing on March 12, 2008.

Zone Change. The applicants are applying for a zone change to R-7 (residential, 7000 square foot minimum lot size). The City does not have a corresponding zone district for the Open Space or Public Facilities Comprehensive Plan districts, but schools and parks are permitted in the R-7 zone. The corresponding zone for the RL Comprehensive Plan District is R-7. R-7 is also an appropriate implementing zone for the City's "Open Space" and "Public Facilities" Comprehensive Plan districts.

Transportation System Plan. The proposed annexation is consistent with the City's Transportation System Plan. SW 229<sup>th</sup> Avenue is a collector street in this location. It has an existing, 40'-wide right-of-way. The property owners will dedicate additional right-of-way and improve the west side of the street to collector standards with the development of those properties.

Natural Resources. The site does not contain any streams, wetlands, open water, flood areas, or steep slopes. A Clean Water Services Sensitive Area Pre-screening Site Assessment was completed in July 5, 2007. CWS noted that sensitive areas potentially exist on site or within 200 feet of the site. A jurisdictional wetland determination and delineation report on the property was completed by Schott & Associates, dated July 17, 2007. The report found no wetlands present on the site.

The site was included in the Tualatin Basin Partners for Natural Places report, and is included on Metro's Interactive web site. These maps do not show any streams, wetlands or open water, or any flood areas or steep slopes. One map shows a portion of the property as "Class A Wildlife". However, most of the site is shown on the "Metro Council's recommendation on habitat protection" map as "not affected". The remaining portion of the site is shown as "allow development".

The City of Hillsboro's website shows a portion of tax lot 1S210DC00600 as "Natural Resource Protection – Level 3". But the Significant Natural Resources Overlay District map also shows the site as "unincorporated – not regulated by SNRO [Significant Natural Resource Overlay] unless annexed". Therefore, the City SNRO regulations did not apply prior until the properties were annexed to the City.

There is a relatively small grouping of about 21 trees, mostly Douglas Firs, on the south portion of the site, basically all on or adjacent to tax lot 1S210DC00600. Some of the Douglas Fir trees were removed by the School District prior to annexation to the City, based on the preliminary site plans and the District's concern about potential risks to the public and to the school facilities from falling trees. An arborist report noted that none of these on-site Douglas Fir trees were in an "equilibrium environment", or appropriate for long term preservation. However, the

report noted that there are 14 trees (a mix of Douglas Fir, Incense Cedar, Silver Birch, and Garry Oak) along the south and west property lines that are viable, and which should be protected as the site is developed. The arborist report specifies how these trees should be protected during the development process.

The proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties, and therefore meets Criterion #3.

**(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 annexation to the Metro boundary will not result in the withdrawal of the affected territory from the legal boundary of any necessary party. However, annexation to the City of Hillsboro resulted in a withdrawal from Washington County Rural Fire Protection District No. 2.

Therefore, the proposed boundary change is meets Criterion #4.

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

**RESPONSE:** The proposed effective date is July 1, 2008.

**METRO CODE, SECTION 3.09.050(D)**

**(1) Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065;**

**RESPONSE:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. As noted in the previous section, the annexation is consistent with the applicable provisions of the Agreement.

This criterion is similar to Metro Section 3.09.050(B)(2). See the response to that criterion, above, for a more complete explanation of how the annexation to the Metro district is consistent with the provisions of the urban service provider agreement.

Annexation to the Metro district is consistent with directly applicable provisions in the urban service provider agreement, and therefore the proposed boundary change meets Criterion #1.

**(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;**

**RESPONSE:** There are no other applicable urban planning or other agreements between Metro and any other necessary party.

The City-County Urban Planning Area Agreement (UPAA), adopted as an element of the County Comprehensive Plan, outlines the planning responsibilities for areas outside the City limits that are expected to eventually annex to the City. The subject site (and the rest of Area 71) was not included in the UPAA, so the UPAA is not applicable in this case. Therefore, the City and County entered into a separate Memorandum of Understanding (MOU).

That MOU was executed in 2002, and expired in 2006. However, the City of Hillsboro and Washington County expect to enter into a new MOU soon which will formally assign concept planning responsibility for the "South Hillsboro Community Plan" area, which contains approximately 2,330 acres - including Area 71, which includes the subject site. The City of Hillsboro would then have the authority and responsibility to conduct and complete a concept plan as may be required by OAR 660 of the State Land Conservation and Development Commission (DLCD) rules and Section 3.07, Title 11, of Metro.

A draft concept plan for the South Hillsboro Community Plan area has been substantially completed by the City Planning Department, but not yet officially adopted by the City Council. Approval of the annexation to the Metro district, together with the recent annexation of the site to Hillsboro, would bring the site fully under Hillsboro's planning and land use regulatory jurisdiction. This would allow the City to implement Hillsboro Comprehensive Plan and Zoning provisions applicable to the site that would implement the concept plan, once it is adopted and approved by Metro in compliance with its Title 11 concept plan requirements.

The draft concept plan designates the subject site partly for "new civic/institutional", which would accommodate the proposed elementary school, and partly for "recreation/open space", which would accommodate a public park, if the City acquires the property, or a residential development, if the City does not acquire the property. The applicants applied for a Comprehensive Plan designation of "Public Facilities" on the portion of the site owned by the Hillsboro School District, and "Residential Low" density on the remainder of the site. An alternative designation for the 5.25-acre balance of the site is "Open Space". The decision on the Comprehensive Plan designation has not yet been made at this time, nor has a decision on the Concept Plan.

Annexation to the Metro district is consistent with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party, and therefore, the proposed boundary change meets Criterion #2.

**(3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans;**

**RESPONSE:** The annexation is consistent with directly applicable standards or criteria for boundary changes are found in the City of Hillsboro Comprehensive Plan. Applicable policies and implementation measures include the following:

*Section 2. Urbanization Policy (III)(A). Urbanization within the planning area shall be consistent with the goals and policies of this Plan. Development shall occur according to the availability of urban services and within the context of the Urban Planning Area Agreement. The City and other government agencies shall encourage property owners to maintain the present rural use and character of undeveloped or underdeveloped lands within the Hillsboro Planning Area until such land is required and proposed for urban use and the necessary urban services are available.*

*Section 2. Urbanization Implementation Measure (IV)(A). Urban development shall occur only where urban services exist or are available. It is the intent of this Plan to encourage development in those areas where such services are currently available or can be readily provided in a logical manner.*

*Section 2. Urbanization Implementation Measure (IV)(G). All land in the Hillsboro Planning Area is assumed to be available for annexation and/or development, consistent with the Comprehensive Plan, zoning, subdivision regulations, and the Urban Planning Area Agreement.*

*Section 12. Public Facilities and Services, Goal (A). Provide public facilities and services in an orderly and efficient manner consistent with the expansion of urbanization into rural areas.*

*Section 12. Public Facilities and Services, Goal (D). Public facilities and services shall be provided at a level sufficient to create and maintain an adequate supply of housing and serve an increasing level of commercial and industrial activity.*

*Section 12. Public Facilities and Services, Goal (G). The location of schools should be used as a tool in directing future growth within the planning areas.*

*Section 12. Public Facilities and Services, Goal (K). Utilization of schools and other public facilities as multi-purpose facilities should be encouraged to help meet the education, recreation and civic needs of the community.*

*Section 12. Public Services Implementation Measure (C)(2). The City shall require properties to annex to the City prior to the provision of sanitary sewer service.*

*Section 12. Public Services Implementation Measure (I)(2). The City shall require properties in the urban area to annex to the City prior to the provision of water service.*

*Section 12. Public Services Implementation Measure (J)(1). Public Facilities planning and projections shall be maintained in five year increments and shall be coordinated with the joint City/County urbanization studies.*

*Section 12. Public Services Implementation Measure (J)(2). The City shall coordinate with the school districts located in the Urban Area to help assure an adequate level of educational services. Areas of coordination shall include:*

- (a) Location of school site;*
- (b) Reservation of potential school sites during the development approval process;*
- (c) Provision of adequate pedestrian, bicycle and bus access from residential districts to school sites;*
- (d) Consideration of school capacities, school population, and district assessed value during the development approval process; and*
- (e) Provision of population projections.*

The proposed annexation to the Metro district is consistent with these policies and implementation measures. Development will occur when all urban services currently available or can be readily provided in a logical, orderly and efficient manner. The elementary school will be located in an area in which the City of Hillsboro expects to grow, and will become a vital part of a new residential neighborhood. The school will help meet the educational, recreational needs of the community. The parcels have already been annexed to the City, which will provide sewer and water services. The School District has coordinated with the City of Hillsboro about potential locations for schools in the south Hillsboro planning area, including this particular site.

In addition to the policies and implementation measures noted above, there are goals, policies and implementation measures more directly related to the residential component of this application in Section 3 of the Hillsboro Comprehensive Plan. Some of these are quoted below, in whole or in part:

*Section 3. Housing. (1) Goal: To provide for the housing needs of the citizens of Hillsboro and surrounding community by encouraging the construction, maintenance, development and availability of a variety of housing types, in sufficient number and at price ranges and rent levels which are commensurate with the financial capabilities of the community's residents.*

*Section 3. Housing. Policies:*

*(A). Buildable land sufficient to meet the community's project population growth and resulting housing needs shall be designated within the planning area. The development of housing shall be coordinated with the extension of public facilities and services necessary to assure safe, healthy, and convenient living conditions.*

*(B). A variety of housing units shall be encouraged throughout the planning area for households of all incomes, ages and living patterns.*

*(C) Housing in the planning area shall be designed and constructed in a manner that assures safe, healthy and convenient living conditions for the community's citizens. Residential projects shall be designed to promote a diverse, pedestrian-scale environment; respect surrounding context and enhance community character; consider security and privacy; and provide usable open spaces.*

*(D) The provision of housing of various types and prices/rents and developments which provide for an efficient and compatible mix of housing types shall be encouraged. This will increase the choice of housing and will act to disperse housing types throughout the planning area in developments of design and construction consistent with policy (C) of this Section.*

*(L) New residential areas shall have water, sewers, storm drainage, street lights and underground utilities. In addition, new residential areas shall have paved streets, curbs, and pedestrianways; and where site conditions are favorable to stormwater infiltration, the use of vegetated stormwater management facilities, pervious pavement and similar "green streets" elements is encouraged where technically feasible and appropriate.*

*(Y) Residential land shall develop within the density range designated by the Comprehensive Plan unless higher densities are approved by the City under the Planned Unit Development process. Density reductions and transfers may also be allowed within the Significant Natural Resource Overlay (SNRO) District and within Habitat Benefit Areas that fall outside of the SNRO District.*

Annexation to the Metro district is consistent with all of the policies cited above. The policies basically require the City to assure that proposed new housing developments in undeveloped or newly annexed areas will be adequately serviced by necessary public facilities and services. The subject properties can be served by all necessary public facilities and services. This site is very appropriate for residential development because of its location adjacent to the proposed elementary school. Children and their parents will be able to walk to the school, and use the school open space/recreational facilities during non-school hours.

Lower density residential development is an ideal use next to an elementary school, as it will attract families with elementary school-age children, help maintain security for the school, encourage pedestrian activity, provide useable open spaces, and help build a sense of neighborhood identity and character.



The proposed R-7 zone is within the density range of the Low-Residential (LD) Comprehensive Plan designation, which the applicants have requested.

Annexation to the Metro district is consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans, and therefore the proposed boundary change meets Criterion #3.

**(4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;**

**RESPONSE:** The annexation is consistent with directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan and functional plans. Specifically, site will be developed as an elementary school and a residential development appropriate with the appropriate density for an "Inner Neighborhood". Some or all of the property could also be developed as a park, if the city acquires it for such purposes.

The Metro Urban Growth Management Functional Plan has applicable policies.

Section 3.07.170 of the Metro Urban Growth Management Functional Plan defines Metro's 2040 Growth Concept design types. For "Inner Neighborhoods", which applies to this site, Metro recommends an average housing density of 14 persons per acre. If there are an average of 2.5 persons per house, that would come out to 5.6 houses per acre. If "acre" in this case means gross acre, that comes out the same density as 7 units per net acre, or the higher end of the Hillsboro R-7 zone. (The R-7 zone, which is the zone the property owners are requesting, allows 5 units per net acre.)

Section 3.07.920.B, Title 9: Performance measures, mentions the provision of schools and other community resources as part of what creates vibrant places to live and work.

The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) does not contain any directly applicable standards and criteria for boundary changes.

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 plans to ensure that land added to the UGB will include "provides for annexation to the (Metro) district and to a city or any necessary service district prior to

urbanization of the territory...to provide all necessary services.” Because the City of Hillsboro requires annexation of the subject site to the Metro district and to the Clean Water Services district prior to its development for urban uses, and because the City provides all other basic urban-level services itself (water, sanitary sewer, fire protection, police protection, parks and recreation, street maintenance, etc.), this provision of Title 11 is met.

The Regional Transportation Plan does not contain any directly applicable standards and criteria for boundary changes.

Annexation to the Metro district is consistent with directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan, and therefore the proposed boundary change meets Criterion #4.

**(5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;**

**RESPONSE:** The proposed change will promote the timely, orderly and economic provisions of public facilities and services. Water service is available to the properties from a 10-inch City water line located in SE Alexander Street right-of-way. Sanitary sewer service is available from a 10-inch City sewer line located in SE Alexander Street right-of-way. Fire and police protection will be provided by the City of Hillsboro.

Annexation to the Metro district promotes and does not interfere with the timely, orderly and economic provisions of public facilities and services, and is therefore the proposed boundary change meets criterion #5.

**(6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval;**

**RESPONSE:** The property was brought into the Urban Growth Boundary in December 2002, under Metro Council Ordinance #02-969B. Therefore, the proposed boundary change meets Criterion #6.

**(7) Consistency with other applicable criteria for the boundary change in question under state and local law.**

**RESPONSE:** There are no other state or local laws containing applicable criteria.

Annexation petitions to Metro and local governments are permitted by ORS 222.111(2) and governed generally by ORS 222.111 et. seq. ORS 222.125 permits the City and Metro not to call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing on the annexation otherwise required by ORS 222.120 “...when all of the owners of land in that territory and not

less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body." Approval of the annexation petition would be consistent with the applicable provisions in ORS 222.111. In accordance with Metro Code Section 3.09.045(a) and ORS 222.125, this annexation petition is supported by written consent of 100% of the owners residing on the properties to be annexed to the Metro District. There are not electors living on any of the properties. (See attached Annexation Consent Forms).

Annexation to the Metro district is consistent with other applicable criteria for the boundary change in question under state and local law, and therefore the proposed boundary change meets Criterion #7.

Ordinance No. 08-1185 Attachment 2  
FINDINGS

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

1. The territory is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. The territory contains 14.26 acres and 2 vacant 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 Hillsboro. 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. The Hillsboro School District plans to construct an elementary school on approximately 9 acres. The remaining 5+ acres would be utilized for low density residential uses but there are no current development plans in place.
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:

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:

1. The affected territory lies within the UGB;
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; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

- (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
- (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (3) The proposed effective date of the boundary change."

The applicants have prepared a detailed response to each of the criteria listed above:

**Oregon Revised Statute 198.850 (2)**

**(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings. However, when determining whether to approve an annexation petition filed under this section, the county board, in lieu of the criteria prescribed by ORS 198.805 (1) and 199.462, shall consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.**

This ORS section makes it clear that the service agreement between the City of Hillsboro, Metro and Washington County and other local governments is the primary document to rely upon for these types of decisions, in lieu of other economic, demographic and sociological trends and projections, past or prospective physical development of land, and other criteria that might be pertinent if a service agreement was not in effect.

The directly applicable criteria for annexation to the Metro district include Chapter 3.09.050(b) and (d) of the Metro Code. Responses to each criterion are listed below, which can be considered findings of fact and conclusions from those findings.

**(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 boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties;**

**RESPONSE:** The properties have been considered for eventual urbanization for a number of years. The South Hillsboro Concept Plan that was completed in 1998, though never officially adopted, included the subject properties.

UGB Amendment. Metro brought the area into the Metro Urban Growth Boundary in December 2002, via Ordinance #02-969B, as part of Study Area #71. At that time, the findings adopted by Metro included the following statements, found on Page 5 of Exhibit P to Ordinance No. 02-969B.

*K. Westside Area, Study Areas 62 (partial), 63, 64, 67, 69 (partial), 71 and 0*

*These non-contiguous study areas lie west of and adjacent to the UGB as it existed prior to this expansion. The portions included are all exception lands and designated Inner Neighborhood on the 2040 Growth Concept Map (Exhibit N). Part of the included portion of Study Area 62 will be used by the City of King City as a park and storm-water retention area. The cities of Tigard, Beaverton and Hillsboro will use the other portions of the Westside Area to provide housing.*

*Study Areas 63, 64, 67, 69 (partial), 71 and 0 rate "easy" to "difficult" for sewer, water, storm-water and transportation services. The cities of Tigard, Beaverton and Hillsboro, Clean Water Services and the Tualatin Valley Water District will be the service providers; all have expressed a willingness to provide the services. These areas are adjacent to the UGB as it existed prior to this expansion; services can be extended in an orderly manner.*

*Adverse economic, energy, environmental and social consequences of urbanization in these areas will be relatively low. Compliance with Title 3 of the UGMFP will reduce the consequences to water quality and the few wetlands, streams, floodplains and riparian areas present.*

*Urbanization of the areas will bring urban development near agricultural activities to the west and south of the UGB. However, most of the areas are already developed in a rural residential pattern. Application of General Condition 5 in Exhibit M will reduce incompatibility with farm practices.*

The Council included these exception lands to provide opportunities for a wide range of housing types in a part of the region that was relatively "housing-poor."

Metro Planning Requirements. A "concept plan" for areas brought into the UGB is required prior to development. Metro's Urban Growth Management Plan (UGM) Functional Plan requires that all land annexed into the UGB "shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular Title 11"<sup>1</sup>. The applicable provisions of Title 11 include the following statements:

*B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities, which conform to the 2040 Growth Concept Plan design type designation for the area.*

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<sup>1</sup> Metro Code, UGM Functional Plan, Section 3.07.1120  
Findings, Page 3 of 13

*1. A concept school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.*

Witch Hazel Village Community Plan. The City of Hillsboro completed a concept plan for a portion of Area #71, which was completed in February 2004. That plan, called the "Witch Hazel Village Community Plan", did not include the subject site in the Witch Hazel Village Planning Area boundary. That is, the concept plan, which was adopted into the Hillsboro Comprehensive Plan, excluded any land use planning designations for that portion of Area 71 south and east of Gordon Creek. (It did include 10 acres in Area 71 north of Gordon Creek).

South Hillsboro Planning Process. The City intended to begin the concept planning process for the majority of Area 71 in 2003. That process was delayed by a few years, but commenced in earnest in January 2007, and is currently nearing completion. The subject site is included in the current land use planning process, which is called the "South Hillsboro Community Plan". Although earlier scenarios of this plan designated the site as "Single Family Neighborhood"<sup>2</sup> then as "School"<sup>3</sup>, the latest draft shows it as a combination of Civic/Institutional (labeled "School" on the map) and Recreational/Open Space (labeled "Park" on the map)<sup>4</sup>.

Comprehensive Plan Amendment application. The applicants applied for an amendment to the City of Hillsboro Comprehensive Plan, changing the designations of these properties from the Washington County "Future Development – 20 acre minimum" (FD-20) district to the City of Hillsboro "Public Facilities" (PF) for the 9 acres owned by the School District, and "Residential Low" Density (RL) district for the remaining 5+ acres. That application is pending, and is tentatively scheduled for a Planning Commission hearing on March 12, 2008.

Zone Change. The applicants are applying for a zone change to R-7 (residential, 7000 square foot minimum lot size). The City does not have a corresponding zone district for the Open Space or Public Facilities Comprehensive Plan districts, but schools and parks are permitted in the R-7

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<sup>2</sup> Scenarios "A" and "B", South Hillsboro News newsletter, Volume 1, Issue 3, July 2007

<sup>3</sup> Hybrid Scenario, South Hillsboro New newsletter, Volume 1, Issue 4, September 2007

<sup>4</sup> Final Concept map, Figure 7, December 14, 2007

zone. The corresponding zone for the RL Comprehensive Plan District is R-7. R-7 is also an appropriate implementing zone for the City's "Open Space" and "Public Facilities" Comprehensive Plan districts.

Transportation System Plan. The proposed annexation is consistent with the City's Transportation System Plan. SW 229<sup>th</sup> Avenue is a collector street in this location. It has an existing, 40'-wide right-of-way. The property owners will dedicate additional right-of-way and improve the west side of the street to collector standards with the development of those properties.

Natural Resources. The site does not contain any streams, wetlands, open water, flood areas, or steep slopes. A Clean Water Services Sensitive Area Pre-screening Site Assessment was completed in July 5, 2007. CWS noted that sensitive areas potentially exist on site or within 200 feet of the site. A jurisdictional wetland determination and delineation report on the property was completed by Schott & Associates, dated July 17, 2007. The report found no wetlands present on the site.

The site was included in the Tualatin Basin Partners for Natural Places report, and is included on Metro's Interactive web site. These maps do not show any streams, wetlands or open water, or any flood areas or steep slopes. One map shows a portion of the property as "Class A Wildlife". However, most of the site is shown on the "Metro Council's recommendation on habitat protection" map as "not affected". The remaining portion of the site is shown as "allow development".

The City of Hillsboro's website shows a portion of tax lot 1S210DC00600 as "Natural Resource Protection – Level 3". But the Significant Natural Resources Overlay District map also shows the site as "unincorporated – not regulated by SNRO [Significant Natural Resource Overlay] unless annexed". Therefore, the City SNRO regulations did not apply prior until the properties were annexed to the City.

There is a relatively small grouping of about 21 trees, mostly Douglas Firs, on the south portion of the site, basically all on or adjacent to tax lot 1S210DC00600. Some of the Douglas Fir trees were removed by the School District prior to annexation to the City, based on the preliminary site plans and the District's concern about potential risks to the public and to the school facilities from falling trees. An arborist report noted that none of these on-site Douglas Fir trees were in an "equilibrium environment", or appropriate for long term preservation. However, the report noted that there are 14 trees (a mix of Douglas Fir, Incense Cedar, Silver Birch, and Garry Oak) along the



south and west property lines that are viable, and which should be protected as the site is developed. The arborist report specifies how these trees should be protected during the development process.

The proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties, and therefore meets Criterion #3.

**(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:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. The annexation is consistent with the applicable provisions of the Agreement, specifically Section 1, Roles and Responsibilities, subsections C. and G.

Approval of the Petition to Annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of, the Hillsboro Urban Service Agreement. The subject properties are included in that document and marked as "Future Urban" (Map C-2). Section III.C makes it clear that the agreement applies to properties identified on Map C-2. In fact, Section IX.E.2 automatically amends the boundary of the Hillsboro Urban Service Agreement (HUSA) to include the properties shown on Map C-2 "once the final action has been taken by Metro and the Department of Land Conservation and Development (DLCD) and appeals have been finalized".

Specifically, this annexation complies with that agreement as follows:

It fulfills Sections I.C., which designates the City of Hillsboro as the appropriate provider of services to citizens residing within the boundaries shown on Maps A-1 to A-6, which include the area shown on Map C-2.

Approval of this Annexation Petition will enable the City of Hillsboro to

exercise full municipal governance of the site consistent with the following relevant provisions of the Hillsboro Urban Service Agreement.

Section I.C. Hillsboro is "designated as the appropriate provider of services to citizens residing within its boundaries and to unincorporated areas...as shown on Maps A-1 to A-6." (As noted above, Section III.C. added the properties identified on Map C-2 to Maps A-1 to A-6 when those properties were added to the UGB.)

Section I.D. Washington County recognizes the cities and special services districts as the ultimate municipal service providers as specified in this agreement, and recognizes cities as the "ultimate local governance provider to the urban area".

Section I.G.1. Consistent with Section I.C., I.D., and I.E, the County, City and Special Districts agree to develop a program for "the eventual annexation of all urban unincorporated properties into the cities". Further, Section I.G.2. states that the program will include the transfer of Washington County responsibilities, programs, equipment and personnel to the City for urban municipal services, including "law enforcement; road maintenance; engineering and construction; land use and transportation planning; land development; and building."

Approval of this annexation petition would be consistent with I.G of the Hillsboro Urban Services Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering an construction, land use and transportation planning, land development and building services as contemplated by Section I.G. Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the site would be in the best interest of the City.

Currently, the site is protected by the Washington County Fire District No. 2 (Dist. No. 2), which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro have agreed that the City will ultimately be the sole provider of fire protection services to the site. Approval of this annexation petition would be consistent with Exhibit 'A' of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the site from Dist. No. 2 to the City, as contemplated by Exhibit 'A'.

Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, withdrawal of the site from the Dist. No. 2 service area and subsequent City provision of fire protection services to the site would be in the best interest of the City.

Exhibit 'B' states that TriMet is currently the sole provider of public mass transit in the HUSD. Annexation to the Metro District would not alter that provision of the Agreement.

Exhibit 'C' states that the City will assume law enforcement services as annexations occur within the HUSA, and the area will be withdrawn from the Enhanced Sheriff's Patrol District. The subject properties are not in the Enhanced Sheriff's Patrol District, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'D' states that the City, rather than the Tualatin Hills Park and Recreation District (THPRD), will be the designated provider of park, recreation and open spaces services to the HUSD. The subject properties are not within the THPRD boundary, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'E' states that the County will continue to retain jurisdiction over the network of arterials and collectors within the HUSD, and that the City will accept responsibility for "public streets, local streets, neighborhood routes and collectors and other streets and roads that are not part of the County-wide road system" upon annexation. The City intends to accept responsibility for that portion of SW 229<sup>th</sup> Avenue that is within its city limits. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'F' states that Clean Water Services (CWS) is responsible for sanitary sewage and storm water management within the City and the urban unincorporated area. Further, the City performs a portion of the local sanitary sewer and storm water management programs as defined in an operating agreement between the City and CWS. Annexation to the Metro district will not impact the agreement between the City and CWS, and is consistent with this provision of the Agreement.

Exhibit 'G' states that the City will be the designated water provider to properties in the HUSA west of Cornelius Pass Road between Sunset Highway

and TV Highway, and the Tualatin Valley Water District will provide services north of Sunset Highway, east of Cornelius Pass Road between Sunset Highway and TV Highway, and east of SW 209<sup>th</sup> Avenue. The subject site will be served with City water services. Annexation to the Metro district will not impact the agreement between the City and TVWD, and is consistent with this provision of the Agreement.

The proposed boundary change complies with the urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties, and therefore, meets Criterion #2.

**(6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval;**

**RESPONSE:** The property was brought into the Urban Growth Boundary in December 2002, under Metro Council Ordinance #02-969B. Therefore, the proposed boundary change meets Criterion #6.

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

**RESPONSE:** No extraterritorial extensions of service are necessary. The property has been annexed into the City of Hillsboro, which will supply water and sanitary sewer services. Currently, there are no public utilities within SW 229<sup>th</sup> Ave south of SE Alexander Street. Utilities will be extended within SW 229<sup>th</sup> Avenue as needed.

The City of Hillsboro currently is in the process of extending their sanitary sewer main from SE River Road to SW 229<sup>th</sup> Ave, along SE Davis Road and Gordon Creek. Once that is complete, the applicants can extend the gravity system from this point to the subject properties. (However, if this sewer has not been constructed at the time of occupancy of the new elementary school, the Hillsboro School District will construct a private sanitary sewer pump station to pump the sanitary sewer to a manhole at the intersection of SE Alexander Street and SW 229<sup>th</sup> Avenue).

Storm water services will be provided by Clean Water Services and the City of Hillsboro. Storm water runoff will be routed through approved water quality facilities and will be piped along the west boundary line of the neighboring tax

lot (1S210DC00100) to Gordon Creek, once an easement has been procured.

Street maintenance for local streets will be provided by the City of Hillsboro. SW 229<sup>th</sup> Avenue will continue to be maintained by Washington County until the City and the County both agree to transfer that responsibility to the City.

Police, Fire and Parks services will be provided by the City of Hillsboro.

All private utilities will be extended as required by the utility companies as well.

In addition to local services, Metro provides a variety of services that will be available to this site. These include regional land use planning, solid waste disposal, the Oregon Zoo and other regional facilities, and regional park and greenspaces acquisition. Similarly, Washington County provides services to this site, including the County Sheriff's services, the County court system, the County health services, and several other general services available to all properties within the County. The annexation of the properties to the Metro district will not impact the Metro or County services.

All necessary urban services are presently available to serve the affected territory, and therefore the proposed boundary change meets Criterion #1.

**(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 annexation to the Metro boundary will not result in the withdrawal of the affected territory from the legal boundary of any necessary party. However, annexation to the City of Hillsboro resulted in a withdrawal from Washington County Rural Fire Protection District No. 2.

Therefore, the proposed boundary change is meets Criterion #4.

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

**RESPONSE:** The proposed effective date is July 1, 2008.

4. The site consists of level ground mostly cleared of vegetation with trees along the west and south edges.

To the east (across SW 229<sup>th</sup>) lies farmland. To the north, west and south of the property are rural residential properties.

5. This territory abuts the Metro jurisdictional boundary on the north, east and south.

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to 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. 02-969B).

6. The territory was recently annexed to the City of Hillsboro. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of a Concept Plan and rezoning in compliance with that plan. The area is covered by an Urban Services Agreement which identifies Hillsboro as the appropriate provider of urban services. The subject site is included in a currently underway Concept Plan (South Hillsboro Planning Process). The applicants have applied for an amendment to the City Comprehensive Plan from Washington County’s Future Development – 20 acre minimum to Public Facilities (for the 9 acres owned by the Hillsboro School District) and Residential Low for the remaining 5+ acres. A corresponding zone change to R-7 has also been applied for.

7. All major public Services are available from the City of Hillsboro.
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.

## 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 Hillsboro 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. 3 Metro is a party to an Urban Service Agreement which identifies Hillsboro as the appropriate provider of urban services for this area.
3. Metro Code 3.09.070 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criterion for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 5. 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 Hillsboro and as stated in Finding 3 the City has necessary urban services available. The Council concludes this criterion is met.



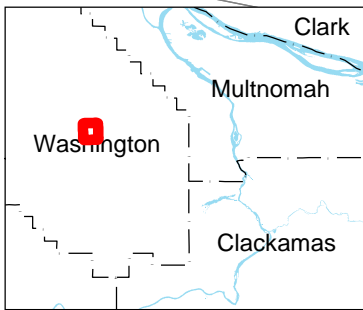
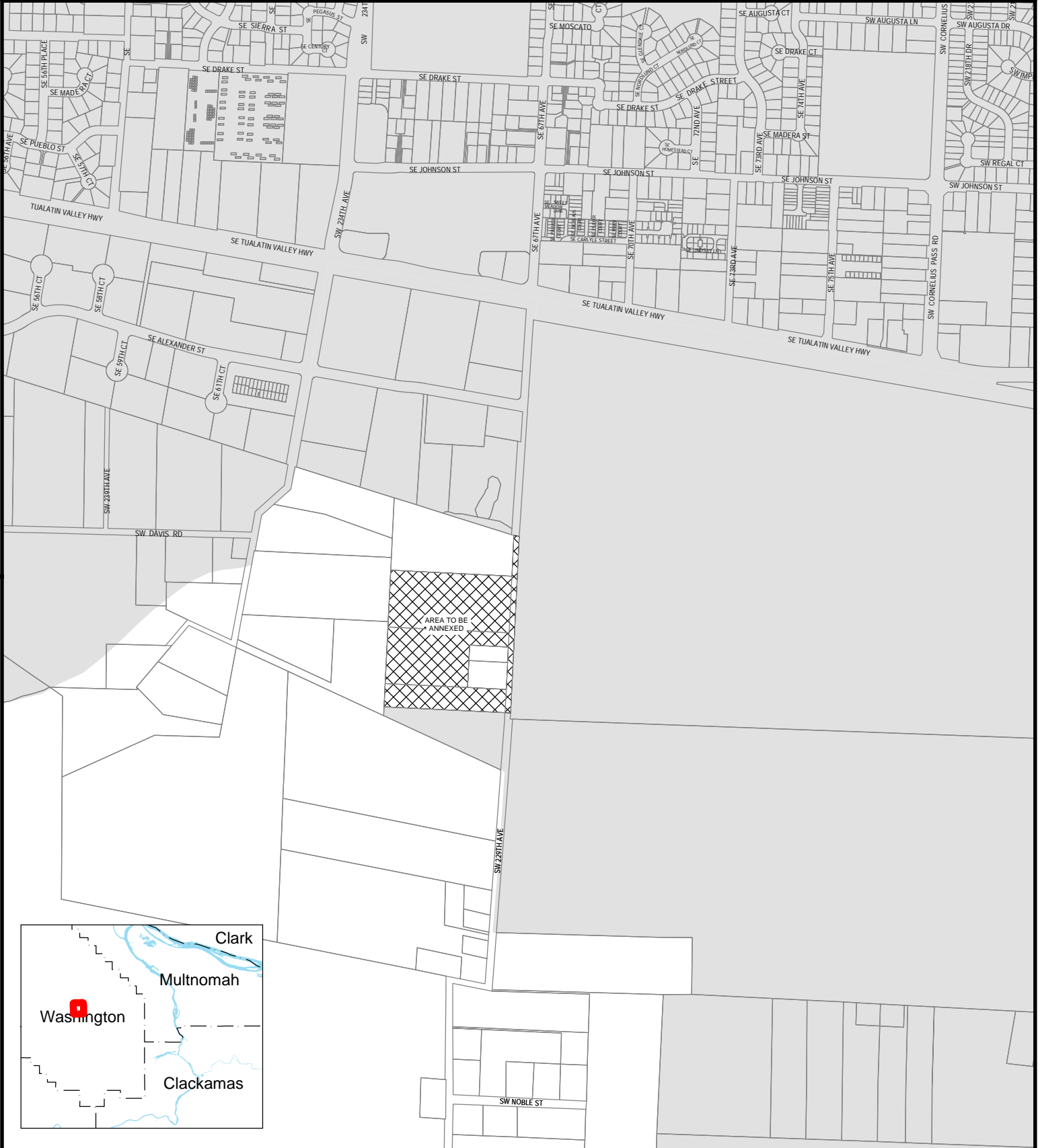
# AN-1-08

Ordinance No. 08-1185  
Attachment 3

1S2W10

## Annexation to Metro Boundary

WASHINGTON COUNTY



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

- Area to be annexed
- Metro Boundary

WA0908

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



1:10,000

Agenda Item Number 5.2

**Ordinance No. 08-1186**, For the Purpose of Amending Metro Code Chapter 5.02 to Establish Metro's Solid Waste Disposal Charges and System Fees for Fiscal Year 2008-09.

*First Reading*

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING ) ORDINANCE NO. 08-1186  
METRO CODE CHAPTER 5.02 )  
TO ESTABLISH METRO'S SOLID WASTE ) Introduced by: Michael Jordan, Chief Operating  
DISPOSAL CHARGES AND SYSTEM FEES ) Officer, with the concurrence of David Bragdon,  
FOR FISCAL YEAR 2008-09 ) Council President

WHEREAS, Metro Code Chapter 5.02 establishes charges for disposal of solid waste at Metro South and Metro Central transfer stations;

WHEREAS, Metro Code Chapter 5.02 establishes fees assessed on solid waste generated within the District or delivered to solid waste facilities regulated by or contracting with Metro;

WHEREAS, Metro's costs for solid waste services and programs have changed;

WHEREAS, pursuant to its charge under Metro Code section 2.19.170, the Solid Waste Rate Review Committee has reviewed the Solid Waste & Recycling department's proposed FY 2008-09 budget, rate methodology and cost allocations;

WHEREAS, Solid Waste Rate Review Committee recommends that the Metro Council adopt the rates set forth in this ordinance; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

(1) The following charges for each ton of solid waste delivered for disposal:

(A) A tonnage charge of \$~~47.09~~49.00 per ton,

(B) The Regional System Fee as provided in Section 5.02.045,

(C) An enhancement fee of \$.50 per ton, and

(D) DEQ fees totaling \$1.24 per ton;

(2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and

(3) The following Transaction Charge for each Solid Waste Disposal Transaction:

(A) For each Solid Waste Disposal Transaction completed at staffed scales, the Transaction Charge shall be \$8.50.

(B) For each Solid Waste Disposal Transaction that is completed at the automated scales, the Transaction Charge shall be \$3.00.

(C) Notwithstanding the provisions of subsection (A), the Solid Waste Disposal Transaction Charge shall be \$3.00 in the event that a transaction that is otherwise capable of being completed at the automated scales must be completed at the staffed scales due to a physical site limitation, a limit or restriction of the computer operating system for the automated scales, or due to a malfunction of the automated scales.

(b) Notwithstanding subsection (a) of this section,

(1) There shall be a minimum solid waste disposal charge at the Metro South Station and at the Metro Central Station for loads of solid waste weighing ~~240-440~~ pounds or less of ~~\$1725~~, which shall consist of a minimum Tonnage Charge of ~~\$8.50~~~~16.50~~ plus a Transaction Charge of \$8.50 per Transaction.

(2) The Chief Operating Officer may waive collection of the Regional System Fee on solid waste that is generated outside the District, and collected by a hauler that is regulated by a local government unit, and accepted at Metro South Station or Metro Central Station.

(c) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(d) The Director of the Solid Waste & Recycling Department may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

Section 2. Metro Code Section 5.02.045 is amended to read:

#### 5.02.045 System Fees

(a) The Regional System Fee shall be ~~\$14.08~~~~15.04~~ per ton of solid waste, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay Regional System Fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a Designated Facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a Designated Facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the Designated Facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

(c) Designated Facility operators shall collect and pay to Metro the Regional System Fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150.

(d) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the Regional System Fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

(e) System fees described in this Section 5.02.045 shall not apply to exemptions listed in Section 5.01.150(b) of this Code.

Section 3. Metro Code Section 5.02.047 is amended to read:

5.02.047 Regional System Fee Credits

System Fee Credit Schedule

Facility Recovery Rate		
From Above	Up To & Including	System Fee Credit of no more than
0%	30%	0.00
30%	35%	9.92
35%	40%	11.46
40%	45%	13.28
45%	100%	14.00

(b) The Chief Operating Officer:

(1) Shall establish administrative procedures to implement subsections (b) and (c) of Metro Code Section 5.02.046; and

(2) May establish additional administrative procedures regarding the Regional System Fee Credits, including, but not limited to establishing eligibility requirements for such credits and establishing incremental System Fee Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (a) of this section.

(c) Any person delivering Cleanup Material Contaminated By Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System

Facility authorized to accept such substances shall be allowed a credit in the amount of \$~~11,5812.54~~ against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.

(d) During any Fiscal Year, the total aggregate amount of credits granted under the Regional System Fee credit program shall not exceed the dollar amount budget without the prior review and authorization of the Metro Council.

(e) The Director of the Solid Waste and Recycling Department shall make a semi-annual report to the Council on the status of the credit program. The report shall include that aggregate amount of all credits paid during the preceding six months and the amount paid to each facility eligible for the credit program. The report shall also project whether the appropriation for the credit program will be sufficient to meet anticipated credit payment requests and maintain existing contingency funding.

Section 4. Effective Date

The provisions of this ordinance shall become effective on September 1, 2008, or 90 days after adoption by Metro Council, whichever is later.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

ATTEST:

Approved as to Form:

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

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

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 08-1186 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO ESTABLISH METRO'S SOLID WASTE DISPOSAL CHARGES AND SYSTEM FEES FOR FISCAL YEAR 2008-09

Date: May 8, 2008

Prepared by: Douglas Anderson

## EXECUTIVE SUMMARY

Adoption of the FY 2008-09 Solid Waste Rate Ordinance would implement the rates shown in boldface in the following table. As a result, on September 1, 2008, the Metro tip fee would rise by \$3.61 per ton to \$74.75 and the Regional System Fee collected from privately-owned disposal sites would rise 96¢ to \$15.04 per ton.

#### Solid Waste Disposal Charges Effective September 1, 2008 through August 31, 2009

Solid Waste Rates	Current Rates	This Ordinance	Change
<u>Transaction Fees</u>			
Scalehouse users	\$8.50	\$8.50	- 0 -
Automated scale users	\$3.00	\$3.00	- 0 -
<u>Per-ton rates:</u>			
<b>Tonnage charge</b>	\$47.09	<b>\$49.00</b>	\$1.91
<b>Regional System Fee</b>	\$14.08	<b>\$15.04</b>	\$0.96
Excise tax	\$8.23	\$8.97	\$0.74
DEQ & host fees	\$1.74	\$1.74	- 0 -
Metro Tip Fee	\$71.14	\$74.75	\$3.61
Minimum charge	\$17	<b>\$25</b>	\$8.00

#### Notes

Boldface type indicates the rates that are amended by this ordinance.  
See Background section for more on the recommended minimum charge.

The rates recover the net solid waste operating costs of the FY 2008-09 Proposed Budget released April 3, 2008. The rates also meet the other requirements of law: (a) they meet the Rate Covenant of the Solid Waste Revenue Bonds relating to the debt service coverage; (b) they comply with the requirement that charges for goods or services may not exceed the costs of providing the goods or services [Metro Charter, Section 15]; and comply with the state statute limiting the use of Metro's disposal fee revenue to solid waste uses [Oregon Revised Statutes section 459.335].

## BACKGROUND

### Solid Waste Rates

The proposed FY 2008-09 solid waste rates are based on the same rate policies and methodology as have been used for the past several fiscal years. All differences between the FY 2007-08 adopted rates and the FY 2008-09 proposed rates are due to changes in costs and tonnage flows.

### Minimum Load Charge

The Rate Review Committee recommends increasing the minimum load charge from the current rate of \$17 for loads weighing up to 240 pounds, to \$25 for loads weighing up to 440 pounds. The proposed minimum charge consists of the \$8.50 transaction fee plus \$16.50 for the 440 pounds (.22 tons) of waste at the proposed tip fee of \$74.75 per ton.

The increase in the minimum charge is intended to provide an economic signal to self-haulers to consolidate loads; and thereby reduce traffic, queuing and delays at the transfer stations. A higher minimum charge is but one of a number of self-haul demand management options that have emerged from the recommendations of the Rate Policy Subcommittee of SWAC (2005-06), and the April 1, 2008 report of the department's self-haul study to Council.

## INFORMATION/ANALYSIS

- 1. Known Opposition.** There is no known opposition.
- 2. Legal Antecedents.** Metro's solid waste rates are set in Metro Code Chapter 5.02. Any change in these rates requires an ordinance amending Chapter 5.02. Metro Council reviews solid waste rates annually, and has amended Chapter 5.02 when changes are warranted.
- 3. Anticipated Effects:** The proposed increase of \$3.61 in the tip fee (from \$71.14 to \$74.75 per ton) is similar to the \$3.78 change between FY 2003-04 and FY 2004-05, when the rate rose from \$67.18 to \$70.96 per ton. No significant effects were observed from this earlier change. Accordingly, staff anticipates no significant effects stemming from adoption of Ordinance No. 08-1186.
- 4. Budget Impacts.** These rates are designed to recover the department's net operating costs for FY 2008-09 as set forth in the Chief Operating Officer's Proposed Budget released on April 3, 2008.

## RECOMMENDATION

The Chief Operating Officer recommends adoption of Ordinance No. 08-1186.



Agenda Item 5.3

**Ordinance No. 08-1187**, For the Purpose of Amending Metro Code Chapter 7.01 Relating to Excise Tax, Regarding Exemptions and Calculations

*First Reading*

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO ) ORDINANCE NO. 08- 1187  
CODE CHAPTER 7.01 RELATING TO EXCISE )  
TAX, REGARDING EXEMPTIONS AND ) Introduced by Chief Operating Officer  
CALCULATIONS. ) Michael Jordan with the concurrence of  
 ) Council President David Bragdon

WHEREAS, the Metro solid waste excise tax is a component of the Metro solid waste tip fee and an ambiguity regulating its calculations should be clarified; and

WHEREAS, the Metro Council finds is appropriate to eliminate the excise tax on the Oregon Zoo since the zoo is now a component of the Metro General Fund; and

WHEREAS, the Metro Council finds that policies for establishing appropriate reserves should be adopted as budget policies; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 7.01.020 Tax Imposed and the amendments there to adopted by Ordinance 07-1147B are amended as follows:

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements owned, operated, licensed, franchised, or provided by Metro, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. In addition, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of

this Code to deliver putrescible waste directly to Metro’s contractor for disposal of putrescible waste shall also pay the additional tax in the amount set forth under Section 7.01.023 for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2002, the tax rate imposed and calculated under subsections (c) through (g) of this section shall be sufficient to generate net excise tax revenue of \$6,050,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro’s excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2006-07, and each fiscal year thereafter, the rate determined by this subsection shall be effective as of September 1st unless another effective date is adopted by the Metro Council.

(2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:

(1) For the twelve (12) month period ending the previous December 31, the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and

(2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
2005	56%
2006	56.5%
2007	57%
2008	57.5%
2009	58%

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(g) (1) A solid waste facility which is licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each twelve (12) month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be no greater than as provided on the following table:

Excise Tax Credit Schedule

Facility Recovery Rate	Excise Tax	
From Above	Up To & Including	Credit of no more than
0%	30%	0.00
30%	35%	1.92
35%	40%	2.75
40%	100%	3.51

(2) During any Fiscal Year, the total aggregate amount of excise tax credits granted under the provisions of this subsection shall not exceed the dollar amount budgeted for such purpose without the prior review and authorization of the Metro Council.

(3) The Chief Operating Officer may establish procedures for administering the Excise Tax Credits set forth in subsection (g)(1), including, but not limited to, establishing eligibility requirements for such credits and establishing incremental Excise Tax Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (g)(1).

Section 2: Metro Code Section 7.01.023 Additional Excise Tax is amended as follows:

7.01.023 ~~Amount of~~ Additional Excise Tax; ~~Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs and Tourism Opportunity and Competitiveness Account~~

Commencing September 1, 2006, the additional excise tax authorized in Section 7.01.020(c) shall be \$3.14 per ton. For each fiscal year following fiscal year 2006-07, the additional excise tax shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate, and shall be effective as of September 1st each year unless another effective date is adopted by the Metro Council.

Section 3: ~~Metro Code 7.01.028 Budgeting of Excess Revenues is repealed and the amendments there to that would have gone into effect on July 1, 2009 are also repealed.~~

Section 4: Metro Code Section 7.01.050 Exemptions is amended as follows:

(a) The following persons, users and operators are exempt from the requirements of this chapter:

- (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the state of Oregon.
- (2) Persons who are users and operators of the Portland Center for the Performing Arts.
  - (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
  - (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
  - (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metropolitan Exposition and Recreation Commission (Metro ERC) facility, or use of the Oregon Zoo.
  - (6) Users of the following facilities:
    - (A) Facilities that are licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a);
    - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
    - (C) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro for the following purposes:
  - (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
  - (B) Payments for advertising at Metro facilities and Metro ERC facilities.

(C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;

(D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

(E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;

(F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

~~(G) Payments collected with admission to the Oregon Zoo in the form of a Conservation Admission Surcharge;~~

~~(H) Notwithstanding the provisions of subsections (C) through (G) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.~~

(8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.

(9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.

(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(11) Persons making the following payments:

- (A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
- (B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
- (C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.
- (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.

(12) Persons making the following payments:

- (A) Payments to a person or entity other than Metro that entitle a person to admission to an event that is held at a Metro regional park; and
- (B) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food or beverages at an event being held at a Metro regional park pursuant to the terms of a special use permit issued by Metro; and
- (C) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food, or beverages at an event that is being sponsored and conducted by Metro at a Metro regional park.
- (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to an operator authorized by Metro to sell goods, food or beverages or to provide services at a Metro regional park shall be subject to tax.

(13) Persons, users or operators making payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall not be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

\_\_\_\_(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

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

Attest:

Approved as to Form:

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

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



## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 08-1187, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.01 RELATING TO EXCISE TAX, REGARDING EXEMPTIONS AND CALCULATIONS

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Date: April 24, 2008

Prepared by: Dan Cooper/Karen Feher

#### BACKGROUND

One of the main purposes of this legislation is to continue aligning the Metro Excise Tax Code with Metro Financial Policies and the intent of the consolidation of the General Fund. By way of background on these issues, the FY 2005-06 budget introduced changes in both process and presentation in order to provide greater transparency, provide stronger adherence to Financial Policies and dovetail with the Council's strategic planning process. This action is a continuation of those changes as well as accomplishing necessary housekeeping changes to Metro Code Chapter 7.01.

Over the years, Metro's growth has involved taking on unique activities that are deemed regional in nature. During that process Metro tacked on each of those activities budgetarily by creating separate budget funds for each activity. This was partially done to meet funding restrictions for those new activities or allow for time to decide or formalize permanent acceptance of the activities. Effective July 1, 2005 Metro combined all discretionary budgetary funds into one fund in order to more effectively accomplish the following:

- Provide fiscal and budgetary transparency.
- Emphasize agency programs rather than department budgetary funds.
- Relate programs to Council objectives.
- Enable flexibility in setting of priorities for the overall agency as well as funding those priorities.

This was the first step in changing Metro's operational culture of separate department activities by setting Council priorities and constructing programs that meet those priorities.

An ongoing review of the excise tax code demonstrated inconsistencies with Metro's financial policies and constraints on the Metro Council's flexibility to meet the changing needs of Metro's programs. When the Oregon Zoo became a Metro responsibility, as was the practice, a separate fund was established to record all financial transactions of the zoo. As enterprise revenues generated by the zoo contained the excise tax for the use of the zoo facilities, this excise tax was recorded separately as General Fund revenue. Now that the zoo revenues are recorded directly into the General Fund, a separate recording of excise tax is unnecessary. In addition the zoo's "Future Vision" master plan report, presented to Council last year, recommended eliminating excise tax on zoo activities. Therefore this ordinance presents, for your consideration, amending section 7.01.050 to exempt the users of the Oregon Zoo from excise tax effective September 1, 2008. In the coming year Metro will evaluate exempting other general fund functions from excise tax.

## Staff Report for Ordinance 08-1187

In addition to the above, several needed housekeeping changes to code are as follows:

- Clarifies section 7.01.02(d). This section is ambiguous leading the reader to possibly interpret it as applying not only to the per ton tax calculation but also to the “7.5%” tax calculation in section 7.01.02(a). To resolve this, the code is amended specifying the sections these criteria apply to.
- Repeals Metro Code Section 7.01.028, that sets a “Recovery Rate Stabilization Reserve” as establishing reserves are more properly a Council budget responsibility rather than a code provision. The following is the deleted section:

7.01.028 Budgeting of Excess Revenue

Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020(e) exceed the net excise tax revenue amount set forth in Section 7.01.020(d) as adjusted by Section 7.01.022, such additional revenue shall be apportioned as follows:

- (a) Such excess net excise tax revenue shall first be placed in a Recovery Rate Stabilization Reserve established in the Metro General fund. The amount of excess net excise tax revenues in such account shall not exceed an amount equal to 10 percent of the total amount of excise tax collected under Metro Code Chapter 7.01 during the period of the two (2) most recent Metro fiscal years. The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.
- (b) If at the end of any fiscal year the maximum permitted balance for the Recovery Rate Stabilization Account has been reached, during the following fiscal year any additional excess net excise tax revenues shall be used to increase the tax credit provided under Metro Code Section 7.01.020(g) for any solid waste facility that has achieved a Facility Recovery Rate greater than 45%. Such excess revenue shall be used on a dollar-for-dollar basis to reduce the tax liability of all such qualifying facilities. The amount of the additional tax credit shall not exceed the total excise tax otherwise due from the facility under this chapter.
- (c) Any remaining excess revenue over the amounts apportioned in subsections (a) and (b) of this section shall be placed in the account established in subsection (a).

(Ordinance No. 00-857B, Secs. 5-6. Amended by Ordinance No. 06-1116, Sec. 3; Ordinance 07-1147B, Sec. 13.)

*Note: The amendments to Metro Code Section 7.01.028 pursuant to Section 13 of Ordinance No. 07-1147B become operative July 1, 2009, and are set forth as follows:*

Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020(e) exceed the net excise tax revenue amount set forth in Section 7.01.020(d) as adjusted by Section 7.01.022, such excess net excise tax revenue shall be placed in a Recovery Rate Stabilization Reserve established in the Metro General fund. The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.”

- A previous ordinance (Ordinance 06-1116: For the Purpose of Amending Metro Code Chapter 7.01 Relating to the Metro Solid Waste Excise Tax. Adoption: March 30, 2006) removed code dedications of the “other” excise tax to specific departments amended 7.01.23 of the code. That amendment did not change the title of the section consistent with the changes to the code and it still calls out specific department dedications for the “other tax”. The new title will be “7.01.012 Calculation of Amount of Additional Excise Tax”

## Staff Report for Ordinance 08-1187

### ANALYSIS/INFORMATION

1. Known Opposition: None known
2. Legal Antecedents: This amends the Metro Code Chapter 7.01.
3. Anticipated Effects.
  - a. Provides consistency with Financial Policies
  - b. Maintains Council flexibility in budgeting and strategic planning
  - c. Accomplishes housekeeping changes for consistency with other portions of the Metro Code
4. Budget Impacts. Allows ease in calculation of anticipated and actual expenditure of Excise Tax in any given year. The Proposed Budget is consistent with the proposed changes to code.

Agenda Item Number 6.1

**Resolution No. 08-3944**, For the Purpose of Approving Funding for  
2008-09 Nature in Neighborhoods Grants.

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

EXHIBIT B  
RESOLUTION NO. 08-3944

[example of the individual contract agreement to be inserted here]

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THIRD ) RESOLUTION NO. 08-3944  
ROUND FUNDING FOR NATURE IN )  
NEIGHBORHOOD GRANTS ) Introduced by: Michael Jordan, Chief  
Operating Officer, with the concurrence of  
David Bragdon, Council President

WHEREAS, Metro has established a regional fish and wildlife protection, restoration and greenspaces initiative named "Nature in Neighborhoods", as provided in Resolution No. 05-3574A Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative called Nature in Neighborhoods adopted May 12, 2005; and

WHEREAS, Metro has established a grants program funded by \$1,250,000 of the Recovery Rate Stabilization Reserve fund, as provided in Resolution No. 05-3580A Transferring \$1,250,000 from Balance of FY 2004-05 Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods Restoration Projects adopted June 9, 2005; and

WHEREAS, Metro adopted Ordinance 07-1160B on September 27, 2007 Amending the FY 2007-08 Budget and Appropriation Schedule to Implement Council Projects; and Declaring an Emergency transferring \$250,000 from the Recovery Rate Stabilization Reserve fund for an additional round of Nature in Neighborhoods grants in Spring 2008; and

WHEREAS, Metro has solicited and received applications for this grants program and selected the projects which best meet the criteria for the grants program and the Nature in Neighborhoods initiative; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watershed that follow the natural contours of the landscape, while political and organizational boundaries frequently split watersheds and divide the natural landscapes; and

WHEREAS, by protecting natural areas from illegal dumping and restoring and enhancing our natural areas, that is, by protecting nature in neighborhoods, the region can thereby enjoy the benefits of nature in neighborhoods for years to come, protecting our region's clean water and the health and vitality of our watersheds; and

WHEREAS, illegal dumping frequently occurs in natural areas near or in streams and rivers, posing a particular threat to our region's clean water, to the health of our watersheds, and to healthy functioning fish and wildlife habitat; and

WHEREAS, it will take concerted and sustained efforts to restore and protect the region's wildlife habitat areas and this challenge provides new and unique opportunities for the solid waste community, habitat restoration organizations, education community, building trades firms and organizations, industry groups, environmental groups, business people and property owners to create new partnerships to protect and restore the region's natural areas; and

WHEREAS, attached as Exhibit A and B to this resolution is the listing of grant award recipients and respective funding amounts and an example of the individual contract agreement; and therefore

BE IT RESOLVED that the Metro Council hereby approves the second round funding for the Nature in Neighborhoods grants to those recipients listed in Exhibit A and for the amounts listed for each individual award.

ADOPTED by the Metro Council this 8 day of May, 2008

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

EXHIBIT A  
RESOLUTION NO. 08-3944  
NATURE IN NEIGHBORHOOD GRANT AWARD RECIPIENTS AND AMOUNTS

<b>Ed Kerns (SE Uplift)</b>	
Lents Springwater Habitat Restoration Project	\$17,010.00
<b>City of Gresham</b>	
Gresham Riparian Enhancement Program – Streamside Outreach and Restoration	\$47,000.00
<b>Columbia Slough Watershed Council</b>	
Slough School Education Program	\$35,500.00
<b>Willamette Riverkeeper</b>	
Rinearson Creek Project	\$22,840.00
<b>Tryon Creek Watershed Council (SWNI)</b>	
Tryon Creek Watershed Restoration and Education Project	\$18,320.00
<b>Johnson Creek Watershed Council</b>	
Rehabilitation Program – Phase II	\$14,300.00
Youth Engaged Year 2	\$11,500.00
<b>SOLV</b>	
Team Up – Carter Creek	\$21,060.00
<b>Audubon Society of Portland</b>	
Restoring, Enhancing and Protecting Avian And Terrestrial Habitat	\$46,500.00
<b>City of Lake Oswego</b>	
Healthy Forest Demonstration Site – George Rogers Park	\$10,702.00
<b>Northwest Coalition for Alternatives to Pesticides (NCAP)</b>	
Pesticide-free Parks	\$ 4,950.00



EXHIBIT B  
RESOLUTION NO. 08-3944

[example of the individual contract agreement to be inserted here]

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 08-3944, FOR THE PURPOSE OF APPROVING THIRD ROUND FUNDING FOR NATURE IN NEIGHBORHOOD GRANTS

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Date: May 8, 2008

Prepared by: Janelle Geddes

#### BACKGROUND

In June 2005, Council adopted Resolution 05-3580A which transferred monies from the FY 2004-05 Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods. Of the monies transferred, \$1,000,000 was provided for a two-year grants program for use in restoration projects. To date, Metro Council has awarded approximately \$981,000 in grants throughout the region. In September 2007, Council approved Ordinance 07-1160B, transferring an additional \$250,000 for another cycle of grants to be awarded in Spring 2008.

The third round of funding was announced in the Fall of 2007 and 35 pre-applications were received. Of these proposals, 21 were invited to participate in the final grant application process.

In April 2008, 18 final applications were received by the Nature in Neighborhoods team. An interdisciplinary, interdepartmental team of 9 individuals reviewed these applications and recommended those projects which best met the criteria and intent of the Nature in Neighborhoods grant program.

Of the 18 final grant applications received, 11 are recommended for either full or partial funding. The projects recommended for funding best met the criteria for funding and are located throughout the region. The recommended projects represent innovative partnerships, the education community, the solid waste community, groups, organizations and individuals doing on-the-ground restoration work, hands-on education and curriculum development and community/partnership building.

The total for the third round of funding is \$249,682.00. These projects will begin after July 1, 2008. Projects are from one to three years in length.

#### ANALYSIS/INFORMATION

- 1. Known Opposition:**  
None.
- 2. Legal Antecedents:** Resolution 05-3551, Metro Council Project Proposal titled "Nature in Neighborhoods"; Resolution 05-3574A Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative called Nature in Neighborhoods; Resolution 05-3580A Transferring \$1,250,000 from the Balance of the FY 2004-05 Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods Restoration Projects (2 year grant program 06-07; 07-08); Ordinance 07-1160B Transferring \$250,000 from the Recovery Rate Stabilization Reserve for Nature in Neighborhoods Restoration Projects (1 year grant program 08-09).
- 3. Anticipated Effects:** This Resolution approves the third round funding and award for Nature in Neighborhood grants and begins the individual contract award process for the selected grant applicants with an anticipated start project date on or after July 1, 2008. Projects are from one to three years in length.
- 4. Budget Impacts:** No budget impacts.

#### RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 08-3944.

Agenda Item Number 6.2

**Resolution No. 08-3927**, For the Purpose of Approving the  
Year 19 Metro and Local Government Annual Waste Reduction Plan  
(Fiscal Year 2008-09)

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE	)	RESOLUTION NO. 08-3927
YEAR 19 METRO AND LOCAL	)	
GOVERNMENT ANNUAL WASTE	)	Introduced by Michael Jordan, Chief
REDUCTION PLAN (FISCAL YEAR 2008-09)	)	Operating Officer, with the concurrence of
	)	David Bragdon, Council President

WHEREAS, the Metro and Local Government Annual Waste Reduction Plan has been a significant part of the Region’s waste reduction and recycling programs for the past 18 years in order to attain state-mandated regional recovery goals (OAR 340-90-050);

WHEREAS, the Annual Waste Reduction Plan serves as an implementation tool for the Regional Solid Waste Management Plan;

WHEREAS, the Annual Waste Reduction Plan, in its 19<sup>th</sup> year, continues to be one of the primary mechanisms for Metro and local governments to establish, maintain and improve recycling and waste reduction efforts throughout the Region;

WHEREAS, the means of implementing these waste reduction tasks is through the Annual Waste Reduction Plan, which is adopted by Metro and local governments and defines the work to be completed in the region;

WHEREAS, a cooperative process for formulating the Year 19 Waste Reduction Plan was used by Metro and local governments and ensures a coordinated regional effort to reduce waste;

WHEREAS, the Waste Reduction Plan funding distribution to local governments for the maintenance section programs is a revenue-sharing program that is tied to adherence to the plan and satisfactory completion of work plan elements;

WHEREAS, the Waste Reduction Plan grants are funded in the 2008-09 budget;

WHEREAS, the Year 19 Waste Reduction Plan has been reviewed by the Solid Waste Advisory Committee; and

WHEREAS, the resolution was submitted to the Council President for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED, that the Metro Council approves the Year 19 Metro and Local Government Annual Waste Reduction Plan (attached hereto as Exhibit “A”) and supports increased efforts to reduce waste in the Metro region.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

Approved as to Form:

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

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3927, FOR THE PURPOSE OF APPROVING THE YEAR 19 METRO AND LOCAL GOVERNMENT ANNUAL WASTE REDUCTION PLAN (FISCAL YEAR 2008-09)

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Date: May 8, 2008

Prepared by: Jennifer Erickson

### BACKGROUND

Since 1990, Metro and its local government partners have developed cooperative plans to implement the region's waste reduction and recycling programs. These plans are key implementation tools for the Regional Solid Waste Management Plan (RSWMP).

The Annual Waste Reduction Plan is the primary means by which Metro and local governments plan for waste reduction and recycling programs, projects and activities. Plans are developed on an annual basis by regional work groups and reviewed by stakeholder groups and policy makers.

The Annual Plan is divided into two areas:

- Regional Program Focus Areas
- Maintenance of Existing Programs

The Regional Program Focus Areas are regionally coordinated work plans that address specific sectors of the region (e.g., Multi-family Residential, Business, Building Industry, and Commercial Organics). These plans are designed to address the individual needs, barriers and particular circumstances affecting each sector. These program area work plans provide specific action steps, staffing and budgets for achieving the larger objectives within the RSWMP. This annual planning process allows for a flexible and more rapid response to changing conditions, enables the region to quickly phase out those tasks that prove less effective, and allows for shifting efforts and resources between areas as need arises.

Maintenance of Existing Programs focuses on supporting existing and established local and regional waste reduction and recycling programs through per capita grants to local governments. Significant progress in waste reduction and recycling has been made over past years through these existing programs. In order to maintain these successes, established programs must continue to be funded, staffed and maintained at the same time that new initiatives are introduced. The funding assistance provided to local jurisdictions to maintain existing programs is allocated on a per-capita basis. Each jurisdiction receives an allocation based upon its percent of the region's total population.

The Regional Program Areas and Maintenance of Existing Programs sections of the annual plan each have independent progress measurement and reporting scenarios tied to the specific tasks involved. These performance measures, combined with the annual Department of Environmental Quality Material Recovery Survey Report, are used to assess progress.

Solid Waste Advisory Committee (SWAC) Review: The plan has been referred to Metro Council at the April 24, 2008 meeting.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition.

### **2. Legal Antecedents**

ORS 459A "Opportunity to Recycle Act" requires "that the city, county or metropolitan service district responsible for solid waste management" provide recycling services, public education programs, and contribute to the statewide solid waste recovery goals. OAR 340-90-040 sets forth the administrative requirements for such programs. In response to state requirements and more aggressive regional goals, Metro developed a Regional Solid Waste Management Plan adopted by Council via Ordinance 95-624, "For the Purpose of Adopting the Regional Solid Waste Management Plan" and subsequently an Interim Waste Reduction Plan, adopted by Council via Resolution No. 06-3722, "For the Purpose of Adopting the Interim Waste Reduction Plan to Provide Direction for Regional Waste Reduction Programs Pending the Completion of the Regional Solid Waste Management Plan." The Annual Waste Reduction Plan, adopted by resolution, is a key implementation tool to fulfill the objectives of the Regional Solid Waste Management Plan.

### **3. Anticipated Effects**

This resolution will approve the format and framework for the Metro and Local Government Annual Waste Reduction Plan. This enables local jurisdictions to complete their portion of the plan and for Metro and local jurisdictions to begin the annual waste reduction program implementation process.

### **4. Budget Impacts**

A total of \$2,675,851 has been proposed in the FY 2008-09 proposed budget for this program:

\$695,851 for Maintenance of Existing Programs  
\$1,980,000 for the Waste Reduction Initiatives (\$230,000 Multi-family, \$293,000 Building Industry, \$1,312,000 Business, and \$145,000 Commercial Organics programs.)

## **RECOMMENDED ACTION**

Staff recommends the Chief Operating Officer approve Resolution No. 08-3927.

**2008-2009 (Year 19)  
Metro and Local Government  
Annual Waste Reduction Work Plan**

April 9, 2008

**I. Introduction**

Since 1990, Metro and its local government partners have developed cooperative plans to implement the region's waste reduction and recycling programs. These plans serve as one of the implementation tools for the Regional Solid Waste Management Plan (RSWMP) that provides direction for waste reduction programs for the metropolitan region.

The Annual Waste Reduction Work Plan is the primary means by which Metro and local governments plan for waste reduction and recycling programs, projects and activities. Plans are developed on an annual basis by regional work groups and reviewed by stakeholder groups and policy makers.

**II. Plan Structure & Format**

The Annual Work Plan is divided into two areas:

- Regional Program Focus Areas
- Maintenance of Existing Programs

A. The **Regional Program Focus Areas** are regionally coordinated work plans that address specific sectors of the region (Multi-Family Residential, Business, Construction & Demolition, and Commercial Organics). These plans are designed to address the individual needs, barriers and the particular circumstances affecting each sector. The focus area work plans provide specific action steps, staffing and budgets for achieving the larger objectives within the RSWMP. This annual planning process allows for a flexible and more rapid response to changing conditions, enables the region to quickly phase out those tasks that prove less effective, and allows for shifting efforts and resources between areas as need arises.

These focus areas form the core of the work and activities to be implemented in the region. Each of the programs was identified as needing intensive, focused planning and implementation efforts over the next few years.

B. The second area of the Annual Work Plan focuses on **Maintenance of Existing Programs** and established local and regional waste reduction and recycling programs through per capita grants to local governments. Significant progress in waste reduction and recycling has been made over past years through these existing programs. In order to maintain these successes, established programs must continue to be funded, staffed and

maintained at the same time that new initiatives are introduced. The funding assistance provided to local jurisdictions to maintain existing programs is allocated on a per capita basis. Each jurisdiction receives an allocation based upon its percent of the region's total population.

The objectives of the maintenance section are to maintain and increase recovery through existing local government waste reduction and recycling programs; to provide an incentive for local governments to participate in regional waste reduction planning activities; and to continue to ensure compliance with the RSWMP and state program elements for waste reduction and recycling programs.

The maintenance program format is intentionally simple and straightforward. Local governments will submit an overview of existing programs in place; detailing the outreach, education and collection programs currently implemented and the efforts they will engage in to maintain these programs. This will provide a comprehensive regional picture of existing programs in place as well as demonstrate compliance with the RSWMP and state law. The plan format outline is presented in Appendix B.

For jurisdictions receiving \$100,000 or more in funding allocations, an additional reporting element and a different disbursement method is used. Funding is released in two allotments; the first half upon signature of the Intergovernmental Agreement, and the second after receipt of a satisfactory interim progress report is received and approved by Metro. The intent is to more closely monitor the funds and to provide a greater degree of accountability for large allocations.

### **III. Compliance with the Regional Solid Waste Management Plan and State Law**

All local jurisdictions are required to comply with the provisions set forth in the RSWMP and State Law (OAR 340-090-0040 and ORS 459A). Metro has been designated by the State as the reporting agency for the region's three-county area and local jurisdictions are to provide data to Metro to assist with this annual reporting responsibility. Metro will review Annual Reports for compliance with the RSWMP and state law.

### **IV. Monitoring and Evaluation**

The Regional Program Focus Areas and Maintenance of Existing Programs sections of the annual plan each have independent progress measurement and reporting scenarios tied to the specific tasks involved. These performance measures, combined with the annual Department of Environmental Quality Material Recovery Survey Report, are used to assess progress.



### Regional Program Focus Areas

Monitoring and evaluation methods have been developed for each focus area and are incorporated into the individual plans.

### Maintenance of Existing Programs

Annual reports documenting efforts completed by local governments during FY 2008-09 are submitted to Metro no later than August 1, 2009. These annual reports serve as the basis for monitoring the status of existing programs and progress with regard to the RSWMP and required annual reporting to the Oregon Department of Environmental Quality.

The maintenance efforts will also be reviewed based upon the following:

- Local governments will identify and undertake a specific curbside recycling outreach activity for an existing local government program.
- Local government representatives will participate in at least one regional waste reduction planning group (larger jurisdictions will tend to participate in more than one group).
- Local governments will provide jurisdictional solid waste and recycling budget information to Metro.
- Maintain or increase curbside recovery levels (total tons and per capita tons recovered and disposed).

Metro publishes a complete Performance Measures Report in the spring following the Annual Work Plan completion and data gathering.

**APPENDIX A-1**  
**Year 19 Roles and Responsibilities**

	<b>Local GOVERNMENT role</b>	<b>metro role</b>	<b>Desired outcomes 08-09</b>	<b>Budgeted amount</b>
Single Family Residential	Primary responsibility for implementation	Oversight; coordinate work groups	Maintenance of existing programs. Local government transition to roll carts; contamination levels limited	\$695,851
Multi-family residential	Primary responsibility for implementation	Assist in education and outreach; coordinate work group	Convert to two-sort collection; improve tenant and property manager education	\$230,000
Building Industry	Participate in work group	Primary responsibility for new program development and outreach; coordinate work group	Implement regional dry waste program; conduct regional outreach and education	\$293,000
Business	Provide technical assistance to businesses	Primary responsibility for new program development and outreach; coordinate work group	Enact enhanced business recovery program; conduct regional outreach and education	\$1,312,000
Organics	Primary responsibility for collection program implementation	Locate site; administer processing contracts; administer grants; assist in education and outreach; coordinate work group.	Increased food waste composting collection in local jurisdictions. Locate site for regional composting facility; provide reload services at Metro facilities; provide grants to businesses	\$145,000

**APPENDIX A-2**  
**2006 Recovery Performance**

	<u>Recovered</u> (tons)	Increase over 2005	<u>Progress toward 2006</u> <u>target</u>	<u>Notes</u>
Organics	12,008	7,187	-1,358	A food waste composting facility was not sited in the region.
Building industry	283,943	17,677	-2,756	An expanded dry waste recovery program was not implemented.
Business (paper and containers)	343,885	47,218	15,885	Recovery from materials targeted by regional business programs increased by 16 percent over 2005.
Residential curbside	219,375	2,328	-5,410	Weekly roll cart collection programs have not been implemented as quickly as assumed.
Multi-family	13,176	-721	-2,246	A stepped-up focus on multi-family recovery began in 2007.
Other (includes Bottle Bill, drop-off, other business recyclables)	463,026	-139,685	-158,401	Decreased recovery of scrap metal and Bottle Bill containers.
Overall regional recovery	1,335,413	-65,996	-160,393	

## **APPENDIX B MAINTENANCE OF EXISTING PROGRAMS**

### **1. Program Overview Narrative**

This section of the plan is intended to provide a more descriptive and encompassing overview of the range of local government waste reduction and recycling programs being implemented throughout the region and the principles behind them. This section also includes a description of local government participation in regional planning efforts and provides narrative information demonstrating compliance with state law.

### **2. Budget Information**

Local governments provide information about their total solid waste budget and what portion of the budget comes from the per-capita maintenance funds.

### **3. Maintenance Program Tasks**

The third section of the Annual Work Plan consists of tables listing specific tasks, outreach or other efforts planned for completion in each program area during the fiscal year.

- **Single-family Residential** (including home composting)
- **Multi-family Residential**
- **Commercial**
- **Construction & Demolition**
- **Commercial Organics**
- **School Outreach and Education**
- **Toxicity Reduction**
- **Other/Special Events**

Each program area task also includes a status notation that identifies whether this particular program or activity is primarily ongoing (minor administrative updates and changes only), revised (major program policy or implementation adjustments) or new (brand new program, or substantially revised or reconstituted). This notation is to assist Metro in collecting data for annual reporting to the Department of Environmental Quality on the region's activities.

The completed Maintenance Program Plan is due to Metro no later than June 1, 2008. Funding is contingent upon the receipt of a complete and detailed plan as well as a satisfactory Annual Report of the previous year's activities due on August 1, 2008.

**YEAR 19 (FY 2008-09) LOCAL GOVERNMENT ANNUAL WORK PLAN TEMPLATE**

Jurisdiction: \_\_\_\_\_

Contact: \_\_\_\_\_

**I. Program Overview Narrative**

Please provide a narrative overview of programs, services and focus areas for FY 2008-09 including your jurisdiction's participation with regional planning efforts and demonstration of compliance with state law. In addition, the following elements are required as part of the Annual Plan:

- Identify and undertake a specific curbside recycling outreach activity for an existing local government program.
- Participate in at least one regional waste reduction planning group.
- Maintain or increase curbside recovery levels (total tons and per capita tons recovered and disposed).

**II. Budget Information**

Provide overall solid waste and recycling budget and percentage of Metro per-capita maintenance funds contributing to these efforts.

**III. Annual Program Tasks**

Complete the following tables listing specific efforts planned for completion during this fiscal year. Identify if the particular program or activity is primarily ongoing (O), revised (R) or new (N).

Status Key:

- O = Ongoing (minor administrative updates and changes only).
- R = Revised (major program policy or implementation adjustments).
- N = New (brand new program, or substantially revised or reconstituted).

Single-family Residential (Include home composting programs)	
Tasks	Status
<b>1. Required: Curbside recycling outreach activity for an existing program:</b>	
2.	
3.	
4.	
5.	

Multi-family Residential	
Tasks	Status
1.	
2.	
3.	
4.	
5.	

Status Key:

- O = Ongoing (minor administrative updates and changes only).
- R = Revised (major program policy or implementation adjustments).
- N = New (brand new program, or substantially revised or reconstituted).

Business	
<i>(NOTE: Local jurisdictions that submit Recycle at Work plans and receive associated funding need only list tasks implemented outside of the Recycle at Work program.)</i>	
Tasks	Status
1.	
2.	
3.	
4.	
5.	

Construction & Demolition	
Tasks	Status
1.	
2.	
3.	
4.	
5.	

Status Key:

- O = Ongoing (minor administrative updates and changes only).
- R = Revised (major program policy or implementation adjustments).
- N = New (brand new program, or substantially revised or reconstituted).

Commercial Organics	
Tasks	Status
1.	
2.	
3.	
4.	
5.	

School Outreach & Education	
Tasks	Status
1.	
2.	
3.	
4.	
5.	



Status Key:

- O = Ongoing (minor administrative updates and changes only).
- R = Revised (major program policy or implementation adjustments).
- N = New (brand new program, or substantially revised or reconstituted).

Toxicity Reduction	
Tasks	Status
1.	
2.	
3.	
4.	
5.	

Other/Special Events	
Tasks	Status
<b>1. Required: Participate in at least one regional waste reduction planning group. (please provide details)</b>	O
<b>2. Required: Maintain or increase curbside recovery levels (total tons and per capita tons recovered and disposed).</b>	O
3.	
4.	
5.	

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3927, FOR THE PURPOSE OF APPROVING THE YEAR 19 METRO AND LOCAL GOVERNMENT ANNUAL WASTE REDUCTION PLAN (FISCAL YEAR 2008-09)

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Date: May 8, 2008

Prepared by: Jennifer Erickson

### BACKGROUND

Since 1990, Metro and its local government partners have developed cooperative plans to implement the region's waste reduction and recycling programs. These plans are key implementation tools for the Regional Solid Waste Management Plan (RSWMP).

The Annual Waste Reduction Plan is the primary means by which Metro and local governments plan for waste reduction and recycling programs, projects and activities. Plans are developed on an annual basis by regional work groups and reviewed by stakeholder groups and policy makers.

The Annual Plan is divided into two areas:

- Regional Program Focus Areas
- Maintenance of Existing Programs

The Regional Program Focus Areas are regionally coordinated work plans that address specific sectors of the region (e.g., Multi-family Residential, Business, Building Industry, and Commercial Organics). These plans are designed to address the individual needs, barriers and particular circumstances affecting each sector. These program area work plans provide specific action steps, staffing and budgets for achieving the larger objectives within the RSWMP. This annual planning process allows for a flexible and more rapid response to changing conditions, enables the region to quickly phase out those tasks that prove less effective, and allows for shifting efforts and resources between areas as need arises.

Maintenance of Existing Programs focuses on supporting existing and established local and regional waste reduction and recycling programs through per capita grants to local governments. Significant progress in waste reduction and recycling has been made over past years through these existing programs. In order to maintain these successes, established programs must continue to be funded, staffed and maintained at the same time that new initiatives are introduced. The funding assistance provided to local jurisdictions to maintain existing programs is allocated on a per-capita basis. Each jurisdiction receives an allocation based upon its percent of the region's total population.

The Regional Program Areas and Maintenance of Existing Programs sections of the annual plan each have independent progress measurement and reporting scenarios tied to the specific tasks involved. These performance measures, combined with the annual Department of Environmental Quality Material Recovery Survey Report, are used to assess progress.

Solid Waste Advisory Committee (SWAC) Review: The plan has been referred to Metro Council at the April 24, 2008 meeting.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition.

### **2. Legal Antecedents**

ORS 459A “Opportunity to Recycle Act” requires “that the city, county or metropolitan service district responsible for solid waste management” provide recycling services, public education programs, and contribute to the statewide solid waste recovery goals. OAR 340-90-040 sets forth the administrative requirements for such programs. In response to state requirements and more aggressive regional goals, Metro developed a Regional Solid Waste Management Plan adopted by Council via Ordinance 95-624, “For the Purpose of Adopting the Regional Solid Waste Management Plan” and subsequently an Interim Waste Reduction Plan, adopted by Council via Resolution No. 06-3722, “For the Purpose of Adopting the Interim Waste Reduction Plan to Provide Direction for Regional Waste Reduction Programs Pending the Completion of the Regional Solid Waste Management Plan.” The Annual Waste Reduction Plan, adopted by resolution, is a key implementation tool to fulfill the objectives of the Regional Solid Waste Management Plan.

### **3. Anticipated Effects**

This resolution will approve the format and framework for the Metro and Local Government Annual Waste Reduction Plan. This enables local jurisdictions to complete their portion of the plan and for Metro and local jurisdictions to begin the annual waste reduction program implementation process.

### **4. Budget Impacts**

A total of \$2,675,851 has been proposed in the FY 2008-09 proposed budget for this program:

\$695,851 for Maintenance of Existing Programs  
\$1,980,000 for the Waste Reduction Initiatives (\$230,000 Multi-family, \$293,000 Building Industry, \$1,312,000 Business, and \$145,000 Commercial Organics programs.)

## **RECOMMENDED ACTION**

Staff recommends the Chief Operating Officer approve Resolution No. 08-3927.

**Resolution No. 08-3945**, For the Purpose of Submitting to the Metro Area Voters a General Obligation Bond Indebtedness in the Amount of \$125 million to fund Oregon Zoo Capital Projects to Protect Animal Health and Safety, Conserve and Recycle Water, and Improve Access to Conservation Education; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures out of the Proceeds of said Bonds Upon Issuance

Metro Council Meeting  
Thursday, May 8, 2008  
Oregon Zoo – Skyline Room

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUBMITTING TO THE METRO	)	RESOLUTION NO. 08-3945
AREA VOTERS A GENERAL OBLIGATION BOND	)	
INDEBTEDNESS IN THE AMOUNT OF \$125 MILLION TO	)	
FUND OREGON ZOO CAPITAL PROJECTS TO PROTECT	)	Introduced by the Metro Council
ANIMAL HEALTH AND SAFETY, CONSERVE AND	)	
RECYCLE WATER, AND IMPROVE ACCESS TO	)	
CONSERVATION EDUCATION; AND SETTING FORTH	)	
THE OFFICIAL INTENT OF THE METRO COUNCIL TO	)	
REIMBURSE CERTAIN EXPENDITURES OUT OF THE	)	
PROCEEDS OF SAID BONDS UPON ISSUANCE	)	

WHEREAS, on April 13, 2006, the Metro Council adopted Resolution 06-3659, “For the Purpose of Establishing the Oregon Zoo Future Vision Committee,” which established the Oregon Zoo Future Vision Committee to recommend updates to the Oregon Zoo’s master plan, changes to the Oregon Zoo’s conservation and environmental education programs, and operating reforms to address the Oregon Zoo’s systemic fiscal challenges; and

WHEREAS, the Oregon Zoo Future Vision Committee returned its reports to the Metro Council on October 4, 2007, with recommendations including updating the Oregon Zoo’s master plan and enhancing the Oregon Zoo’s infrastructure, and recommending strengthening the Oregon Zoo’s leadership role in wildlife conservation and environmental education; and

WHEREAS, the Metro Council directed The Oregon Zoo Foundation to perform additional research, narrow down options, and put forth infrastructure improvement recommendations for a potential November 2008 ballot measure for a bond to fund capital improvements at the Oregon Zoo; and

WHEREAS, The Oregon Zoo Foundation, working with Oregon Zoo staff, researched infrastructure improvements and reported this information to the Metro Council on April 29, 2008, with recommendations to the Metro Council for specific capital projects and the size of a capital bond; and

WHEREAS, the Metro Council now wishes to accept the capital improvement project recommendations of The Oregon Zoo Foundation (hereafter, the “Project”) and affirm the desirability of providing the long-term financing to fund them; and

WHEREAS, the Metro Council is authorized under the laws of the State of Oregon and the Metro Charter to issue bonds and other obligations payable from ad valorem property taxes upon voter approval, for the purpose of providing long-term financing for Oregon Zoo capital improvement projects; and

WHEREAS, pending the issuance and availability of the proceeds from the sale of such bonds, some expenditures will be made in connection with the Project that have been and will be paid on an advance basis, with the expectation and intent that Metro will be reimbursed for all such advances out of the bond proceeds as and when the same are issued; and

WHEREAS, United States Treasury Regulation 1.150-2 requires issuers of tax-exempt bonds to declare their intention if the issuers intend to use bond proceeds to reimburse expenditures that are initially funded from other sources; now therefore

BE IT RESOLVED:

1. That the Metro Council hereby submits to the qualified voters of the Metro Area the question of contracting a General Obligation Bond Indebtedness in the maximum principal amount of \$125 million, to fund a series of capital improvement projects at the Oregon Zoo to protect animal health and safety, conserve and recycle water, and improve access to conservation education as generally described in Exhibit A attached hereto. The bonds shall mature over a period of not more than 21 years; and
2. That the Metro Council hereby certifies the Ballot Title attached as Exhibit B for the placement of the Bond Measure on the ballot for the November 4, 2008 General Election; and
3. That the Metro Council authorizes and directs the Metro Chief Operating Officer to submit this Resolution and the Ballot Title to the Elections Officers for Clackamas, Multnomah and Washington Counties, the Secretary of State, and the Tax Supervising and Conservation Commission in a timely manner as required by law; and
4. That the Metro Council authorizes and directs the Metro Chief Operating Officer to submit the Bond Measure, the Ballot Title, and a Explanatory Statement prepared by the Metro Attorney pursuant to Metro Code Section 9.02.045 to the County Elections Officers for inclusion into the Clackamas, Multnomah and Washington County voters' pamphlets for the November 4, 2008 General Election.

ADOPTED by the Metro Council this 8<sup>th</sup> day of May 2008.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

## **Metro Council Resolution 08-3945**

### **Exhibit A**

#### **2008 ZOO BOND MEASURE**

##### **History**

Over the last two years, the Metro Council, Zoo leadership, the Oregon Zoo Foundation Board, Zoo staff and community leaders have been working together to develop a plan and vision for the future of the Oregon Zoo. Along the way, it has become apparent that the Oregon Zoo is a local community treasure and an educational and economic asset to the region. The Oregon Zoo attracts over 1.4 million visitors annually, employs 152 full-time equivalent regular staff, and 140 full-time equivalent temporary and seasonal staff. Meanwhile, hundreds of Zoo volunteers donate tens of thousands of hours of free time annually in support of Zoo programs. While receiving national awards for its success in protecting threatened and endangered species, the Zoo has also provided generations of adults and families with invaluable hands-on-learning about animals and conservation and rich one-of-a kind recreational experiences. However, during all that time, key parts of the Zoo have aged, become out of date and even worn out. The Zoo was built in 1958 and has a limited 50-acre footprint that is challenged by geography. During the course of planning for the future, it has become more and more evident that portions of the Zoo need updating, mending, and replacing. In order to preserve the Zoo's legacy of quality, and to continue to deliver the kind of experience that the public deserves and expects, investments must be made promptly in some key areas of need.

##### **Purpose and Intent**

On March 3, 2008, after two years of study, the collaborative effort of all the participants led the Oregon Zoo Foundation Board to recommend a request to the Metro Council to refer a Zoo bond measure to the voters. The bond measure is primarily intended to raise money to pay for Zoo capital improvement projects that will: provide more humane care for Zoo animals, protect animal health and safety, increase access to conservation education, conserve water and harvest storm water for reuse, and improve water quality.

##### **Community Involvement**

Metro recognized the importance of involving outside experts, federal state and private partners, science and zoological partners in planning for and establishing the Zoo's needed capital investments. The bond measure referral represents the culmination of nearly two years of planning, with significant input provided by community members. The Zoo Future Vision Committee included several Oregon Zoo Foundation board members, as well as several independent citizens. As part of the process, the Committee interviewed community stakeholders, ranging from neighboring non-profit organizations (Oregon Children's Museum, Hoyt Arboretum) to the City of Portland Parks Commissioner. After the Future Vision Committee provided its report out to the Metro Council, the Oregon Zoo Bond Committee then vetted the recommendations from the Master Plan and ultimately put forth a package of recommendations which form the basis for the referral.

## **Projects**

To the extent feasible, all of the projects detailed below will be designed and built using the appropriate sustainable building practices.

### **1. MORE HUMANE CONDITIONS FOR ELEPHANTS:**

Providing more indoor and outdoor space.

#### **Need:**

There are growing concerns from zookeepers and the public about the Zoo's indoor and outdoor elephant facilities and spaces. The zoo's elephant barn, built to house elephants in 1959, is small and filled to capacity. The indoor on-exhibit and off-exhibit spaces are limited -- providing little space for the elephants to walk or exercise. Depending on weather conditions, elephants can spend long hours in the inside spaces. The outdoor elephant space is un-natural and restricts the range of activities for elephants, particularly the opportunity to move about and explore. The current elephant spaces restrict exercise options and provide limited outside access.

Although zookeepers provide daily doses of exercise and stimulation, elephants have complex needs that include frequent activity and the stimulation of exploring and interacting with their environment. For all the quality care provided by zookeepers, the fact remains that the elephants' space is limited. Lack of space, lack of exercise and lack of stimulation, may contribute to health problems like arthritis and foot problems.

The zoo is home to six elephants living on about 1.5 acres. Many zoos with a comparable number of elephants are improving and expanding their elephant space and facilities. Expanded spaces and upgraded facilities will improve elephant health and welfare by providing more options for extending outside access, increasing exercise opportunities, and offering a more natural and stimulating environment for elephants.

#### **Description:**

This project will provide better conditions for elephants short-term and long-term. Space for elephants will increase from 1.5 acres to 6 acres. The space will be naturalized to include watering holes, shade structures, large trees and boulders, with a thicket of bamboo as a backdrop. The zoo is exploring the feasibility of providing an off-site area for elephants. Funds are set aside for potential capital needs of off-site space. The 49 year old elephant barn will be replaced with a larger building featuring two communal rooms, several other rooms and upgraded conditions for elephants.

If the Oregon Zoo is to continue to be a national leader in Asian elephant protection and conservation education, it must provide more space and better conditions for elephants. More space and better facilities will provide more humane conditions for the elephants.



## **2. PROTECTING ANIMAL HEALTH AND SAFETY:**

Replacing the zoo's 45 year old animal hospital and quarantine facilities.

### **Need:**

The zoo's veterinarians are top-notch, but they are working in outdated, substandard facilities which failed to meet the standards of the Association of Zoos and Aquariums.

The AZA has deemed the zoo's animal quarantine facility substandard. Built forty-five years ago, it has inadequate lighting, heating, ventilation and drainage. It has been noted for its rusty and crumbling walls and doors. Some surfaces are difficult to sanitize because of degradation and may provide foreign objects subject to ingestion by animals. It has a floor that can damage the hooves of some animals.

The veterinary facility is deficient. Current clinical spaces are very small and cramped. They have poor lighting and drainage, and lack controls for minimizing disease transmission. Moving large animals in and out is difficult. It has been retrofitted several times to accommodate more modern equipment, but has reached a point where more retrofitting is not feasible.

Failure to bring these facilities up to standard could jeopardize the zoo's national accreditation and seriously affect both the zoo's reputation in the community and its ability to participate in critical breeding and species conservation programs. These conditions create a poor environment for maintaining and providing animal healthcare and safety.

### **Description:**

Improvements will occur in animal holding. Specific holdings will be designed to accommodate aquatic birds and mammals, primates and large carnivores, hoof stock as large as zebra and large antelope. Climate controlled spaces will meet the needs of reptiles and sick birds. Enclosure substrates will be improved to increase safety and comfort for animals and will include heated flooring and in some cases, rubberized flooring.

Hospital enclosures will be designed for ease of cleaning and disinfection as well as reducing stress for hospitalized and quarantined animals, improving options for environmental enrichment as well as providing safe and efficient means to handle animals for medical treatments. The air from the animal holding areas will be isolated from other areas so we can safely quarantine and hold sick animals while reducing the risk of transmitting diseases to other animals and hospital personnel.

The facilities will provide an efficient floor plan for medical treatments, surgeries and other procedures and provide safe space for confining or holding animals, controlling communicable diseases.

Animal health and safety will be improved by replacing the zoo's aging and substandard veterinary and animal quarantine buildings with facilities that meet standards set by the Association of Zoos and Aquariums.

### **3. PROTECTING THE HEALTH OF POLAR BEARS:**

Replacing concrete with pools, more space and more humane conditions.

#### **Need:**

The current exhibit is almost entirely concrete and the expanses of concrete generate a very high heat load in the summer. Last summer surface heat readings were confirmed at over 100 degrees. This exhibit is basically the same footprint of the original facilities from 1959. Although renovated in 1980, the entire exhibit needs improvements to provide more humane conditions for polar bears. Renovations over the years have completely enclosed the bears, creating visual barriers and preventing any 'long views' for the animals. The current space, both land and pools, do not meet the Manitoba Protocols established for zoo polar bears.

Zookeepers have done a good job of providing enrichment for the bears, but stereotypy (a pattern of persistent, fixed and repeated meaningless movements, e.g. pacing) has been observed with these bears.

Current behind-the-scenes areas make routine animal-management activities, such as separations, training, introductions, and long-term denning, challenging for zookeepers and the animals. It is difficult to provide medical procedures on-site due to cramped conditions and poor lighting. All of the polar bear holding areas need increased ventilation and improved lighting to protect polar bear health and safety.

#### **Description:**

As the world's largest land predators, polar bears need space, and the proposed rebuild will offer them not only more room, but also a safer and more natural habitat to explore. Natural substrate, interesting views, scratching logs, and enrichment infrastructure can reduce the incidents of stereotypy according to a multi-zoo study. Adding complexity to the pools, such as islands, could encourage natural behaviors.

The remodel is needed to increase access to natural substrate; renovate and increase the efficiency of the water-filtration system; reduce temperatures; chill the pool water; and increase both land and pool space. Remodeled holding areas would have better lighting and ventilation, allowing better care for the animals. Space requirements, water quality, and housing conditions will meet or exceed the Manitoba Protocols established for zoo polar bears.

#### **4. MORE HUMANE ENCLOSURES FOR APES & MONKEYS:**

Replace plain and sterile areas with trees, rocks, and water.

##### **Need:**

Of all the animals at the zoo, primates are the most intelligent and the most in need of large complex spaces. Presently, the zoo's primates reside in small and out-dated facilities that were built when the zoo opened on its current site in 1959. The building has undergone cosmetic improvements over the years, but it is time to improve conditions for chimpanzees, mandrills and other monkeys and rework the aging structure. The primate's current space is plain, sterile and cage-like with no running water, no forest canopy and no interactions with species they would live with in the wild.

Behind-the-scenes primate spaces are small and mechanically failing. The holding areas are too small for the animals. These spaces also lack adequate ventilation and air circulation. The plumbing system is challenged and drains are constantly plugged. The holding spaces are insufficient for long-term holding of animals during new animal introductions or following medical exams.

##### **Description:**

The rebuilt exhibit would provide expanded homes for primates and allow for the addition of smaller mammals and birds. Enlarged indoor and outdoor areas would give chimpanzees, mandrills and other monkeys and apes a sustainable and enriching environment.

A chimpanzee's lifespan is no more than 50 years, and the chimps at the zoo are all over 34. The new exhibit will be able to add new, younger chimps to its group. Possibly allowing them to breed. Larger, more natural habitats for the chimpanzees make it possible to support baby chimpanzees.

Zookeepers will be able to separate the animals as necessary in the reworked exhibit without denying them an enriching environment. New holding spaces would allow keepers to address the monkeys and apes needs on a daily basis, provide better health care and generally improve conditions for the animals.

## **5. IMPROVING CONSERVATION EDUCATION**

Add dedicated space for conservation education

### **Need:**

Every day at the Oregon Zoo, kids and adults can take advantage of presentations about rare and threatened species. They touch and interact with animals, learn through play how animals live in their natural environments and watch science in action. These activities are fun, educational and provide memories for generations. The zoo provides hands on learning, group presentations and summer camp to over 100,000 kids and adults a year.

These programs are filled to capacity every year, even though they are provided in limited and inadequate space -- two 12 year old modular trailers, a former storage space, a basement and leased off-site space are used for group presentations. Camps get bumped all summer for competing uses and the basement space is shared with catering. The quality of the programs exceeds the limitations of the space.

### **Description:**

Dedicated space for programming in a new Conservation Discovery Zone would increase both the quality and quantity of conservation education opportunities at the zoo. It would provide spaces for classes, camps, exhibits, presentations and hands-on learning for children, families and adults. There would be space for traveling and temporary exhibits. An Insect Zoo and Butterfly Lab would provide hands-on learning. Access to facilitate safe arrival and departure of groups and camp kids, as well as bathrooms, also would be included in the project.

## **6. UPGRADING ZOO FACILITIES TO SAVE WATER AND ENERGY:**

Updating and installing energy and water saving measures, increase recycling and improve water quality.

### **Need:**

Most of the zoo's infrastructure dates back to the 1950s and '60s. Pipes, plumbing and irrigation systems are outdated, leaking and well past their useful lives. Although the zoo has successfully implemented water conservation programs they have been small, scattered and limited in their success because of the aging system. The most expensive utility cost at the zoo is water, and leaking pipes, run-off, inadequate filtration systems, and lack of water storage all contribute to wasting water and increasing costs. The 55-acre zoo is serviced by a 1950's water system that currently discharges storm water into the sanitary system. This not only wastes water and increases costs, but also contributes to downstream water degradation.

To maintain and improve water quality, and as a measure of sustainable operations, the City of Portland requires that any new development must separate storm water from the sanitary sewer systems. Complying will require a substantial separation installation of new pipelines that connect to the City of Portland's recently installed "Big Pipe" along Highway 26.

Today, traditional energy sources are used for cooling buildings, heating water, and providing power at the zoo. New technologies for on-site energy generation could reduce energy consumption and the zoo's carbon footprint.

### **Description:**

#### Storm Water & Waste Water

Literally millions of gallons of water per year and thousands of dollars would be saved through a major rebuilding of the zoo's water distribution system. Central plant piping systems would be installed. Leaking pipes would be replaced and drainage systems would be re-plumbed. On-site wastewater-management and water-storage tanks would allow re-use of water and harvesting of nutrients from wastewater through a biologically and technically diverse system. City requirements for separation of storm water would be met, allowing for the permitting of other zoo projects. The new system should be serviceable for the next 50 years.

#### Energy

A combination of solar panels, microturbines and absorption processes will generate energy on-site. A central plant approach would serve building operations. Buildings will be designed to capture solar warmth, natural light and natural ventilation. Trees will cool buildings in summer. The goal will be to produce substantial energy on-site.

## **7. VIEWING THE THREATENED CONDOR:**

Providing space to fly.

### **Need:**

The condor, a Pacific Northwest native bird, is an endangered species and was last sighted in Oregon more than 100 years ago. Known as Thunderbird by many Northwest tribes, condors can weigh up to 31 pounds with wingspans of nearly 10 feet.

In 2003, the zoo began a breeding program to preserve the rare bird at an off-site facility, one of only four breeding facilities in the country. The program has been successful, and several Oregon-bred condor chicks have been reared and released into the wild. Some birds however fail to thrive in the wild and could be shared with the public.

Because of the zoo's its success in breeding condors, the US Fish and Wildlife Service has asked for its assistance in broadening national awareness and understanding of these birds and their needs for survival.

### **Description:**

The public has been able to read about and see photos of condors from the zoo's breeding facility, but a new exhibit at the zoo would allow them to see the birds themselves. After successfully breeding and releasing endangered condors, the zoo can now share these rare birds (those birds that cannot be released in the wild) with the public. This project would create a new exhibit with room for the birds to fly.

The zoo is a national leader in broadening awareness and understanding of condors and their survival needs. This exhibit will provide the public with a rare opportunity to see the threatened Northwest native bird and contribute to increasing the awareness of the needs to protect this endangered species.

## **8. MORE EFFICIENT AND BETTER HABITAT FOR HIPPOS:**

Saving millions of gallons of water with upgrades and improving hippo habitat.

### **Need:**

The zoo dumps and refills its 36,000-gallon hippo exhibit pool and two holding pools on nearly a daily basis. Because hippos defecate in water, zookeepers must drain, clean and disinfect the pools regularly to protect the animals from harmful bacteria. Each year this uses nearly 6 million gallons of water. In addition to water inefficiencies, the current exhibit provides the hippos with minimal access to natural substrate and is too small to create a natural habitat that allows interactions with other species.

### **Description:**

A modern water filtration system would be installed, cutting water usage by 80 percent and saving 4.8 million of gallons of water while ensuring the hippos' health and welfare. Filtered water will be recycled and prepared for another use on the zoo grounds. Waste materials filtered from the water would be repurposed and used as compost. Adding passive heating will heat the hippo pools. A new exhibit design would increase natural substrate spaces for hippos as well as adding additional compatible African species. The remodeled hippo exhibit would be more efficient and provide better conditions for the hippos.

## **9. SAVING WATER & COSTS AT THE PENGUIN EXHIBIT**

Installing a modern filtration system.

### **Need:**

The Oregon Zoo's penguinarium, built in 1959, is outdated and in need of a remodel to take advantage of energy-efficient, water-conserving technology. Because penguins have oily feathers, a constant source of running water is needed to keep the exhibit pool water clean, reduce surface scum, and protect penguins from harmful bacteria. This system uses 25,000 gallons of water every day, seven days a week. And because penguins defecate in the exhibit pool, the entire pool needs to be dumped every other week. Nine million gallons of water are used in the penguin exhibit annually. The original design of the penguinarium has limited the zoo's ability to install new water conservation and filtration technology.

### **Description:**

Installing a modern filtration system that filters and recycles water for the 25,000-gallon penguin pool would reduce water usage by 80 percent, saving more than 7 million gallons of water per year.

### **Bond Project Costs and Bond Funding**

The capital facility needs that are to be funded under the proposed bond measure are estimated to cost \$125 million. This figure is based on conservative individual project cost estimates, as well as financing analyses that include project cost inflation and unspent bond earnings assumptions. Funds remaining in excess of actual total combined project costs, if any, will be spent on further capital facility needs identified in the Oregon Zoo master plan and recommended by the citizens oversight committee, set forth below.

Allowed expenditures from the bond issue include capital improvement project costs, bond issuing costs, and reimbursable bond preparation expenses relating to preliminary planning, design and cost estimates. Bonds will be issued in multiple tranches. The maturity date of each bond issue will be determined such that the overall cost to taxpayers will be less than nine cents per \$1,000 of assessed value per year, but in no event will the bonds mature more than 21 years from their issue date. The estimated property tax to Metro area home owners is \$1.38 per month, or \$16.56 annually.

### **Public Accountability Plan**

A citizen's oversight committee will be appointed by the Metro Council and convened periodically to review progress on the project improvements and monitor spending. The committee will also consider and recommend project modifications if inflationary increases in construction costs exceed current budget estimates. An independent public accounting firm will perform an annual financial audit of bond spending. The results of the annual audit will be published in the local newspaper of record.



**Exhibit B  
Ballot Title**

“Caption: Bonds to protect animal health and safety; conserve, recycle water.”

“Question: Shall Zoo protect animal health and safety; conserve, recycle water; issue \$125 million in general obligation bonds; require independent audits? If the bonds are approved, they will be payable from taxes on property or property ownership that are not subject to the limits of Sections 11 and 11b, Article XI of the Oregon Constitution.”

“Summary: Measure will:

- **Provide more humane care for animals:** update four outdated and undersized enclosures with larger, more natural and safer spaces.
- Protect animal health and safety: modernize Zoo’s substandard 45 year old animal clinic determined deficient by the American Zoo Association.
- **Increase access to conservation education:** provide more space for summer camps, classes and hands-on learning for kids, adults, and families.
- **Improve water quality:** replace the Zoo’s 1950’s sewer system, reducing pollution by separating sewage from storm water, harvesting runoff for reuse.
- **Conserve, reuse water:** install water recycling filtration systems; replace leaking, worn-out plumbing, irrigation systems, saving 11,000,000 gallons of water annually.

Improvements will meet sustainability standards.

**Accountability requirements include:**

- **Internal audits**
- **Annual independent financial audit published in newspaper**
- **Citizens’ oversight committee to monitor spending and recommend project modifications if needed**

Bond cost estimate less than 9 cents per \$1,000 assessed value per year. The average home owner in the region pays \$1.40 a month. Bonds mature in 21 years or less.”

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