

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING INTO THE) ORDINANCE NO. 04-1034
METRO DISTRICT BOUNDARY)
APPROXIMATELY 202.9 ACRES AT)
EVERGREEN AND SHUTE ROADS IN THE)
CITY OF HILLSBORO AND DECLARING AN) Introduced by Councilor McLain
EMERGENCY)

WHEREAS, Metro has received a petition from property owners and registered electors to annex approximately 202.9 acres of land in the vicinity of the intersection of Evergreen and Shute Roads in the City of Hillsboro to the Metro district boundary; and

WHEREAS, this annexation involves territory that was added to the urban growth boundary by Ordinance No. 02-983B (“For The Purpose Of Amending The Metro Urban Growth Boundary To Add Land For A Specific Type Of Industry Near Specialized Facilities North Of Hillsboro”) on December 5, 2002, and acknowledged by the Land Conservation and Development Commission on June 2, 2003; and

WHEREAS, the annexation has been initiated by the owners of the property in the territory and involves territory contiguous to the district boundary; and

WHEREAS, notification of this proposed annexation was published on January 23, 2004, as required by Metro Code 3.09.030; and

WHEREAS, Metro has received written consent from a majority of the owners of the land and a majority of the electors in the territory; and

WHEREAS, no necessary party has contested the annexation; and

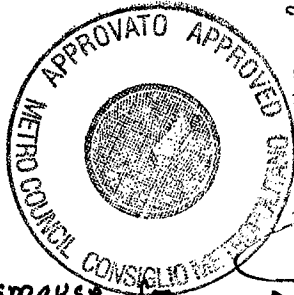
WHEREAS, the Metro Council held a hearing on the proposed annexation on March 4, 2004 to consider a report on the petition and to consider testimony; now, therefore,

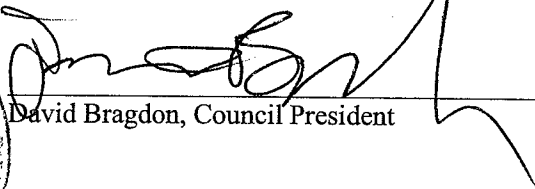
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The territory described in Exhibit A, attached and incorporated into this ordinance, is hereby annexed to the Metro district boundary.
2. Approval of this annexation is based upon the findings of fact and conclusions of law set forth in Exhibit B, attached and incorporated into this ordinance.
3. Pursuant to Metro Code 3.09.050(f), this annexation is effective immediately upon adoption of this ordinance.

4. This ordinance is necessary for the immediate preservation of public health, safety and welfare because annexation to the district is a pre-requisite to urbanization of this territory, added to the urban growth boundary to satisfy a short-term need for a particular type of industrial land. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this 4 day of March 2004.




David Bragdon, Council President

ATTEST:

Approved as to Form:


Rebecca Shaemaker, Recording Secretary

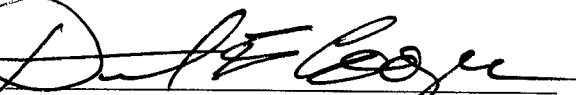

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance 04-1034
Annexation AN-1014
Legal description

A tract of land in Section 21 and Section 22, Township 1 North, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Commencing at the southeast corner of the Constable Donation Land Claim No. 71;

thence North $89^{\circ} 31'$ West, along the south boundary of said claim, a distance of 290.0 feet;

thence North $0^{\circ} 29'$ East, a distance of 45.0 feet to a point on the north right-of-way line of NW Evergreen Road and the TRUE POINT OF BEGINNING;

thence North $89^{\circ} 31'$ West, along said right-of-way line, a distance of 1030.09 feet to an angle point in said right-of-way being on the east boundary of Lot 17, Five Oaks, a duly recorded subdivision in said county

thence South $0^{\circ} 29' 00''$ West, along said east boundary and right-of-way line, a distance of 25.0 feet to an angle point therein;

thence North $89^{\circ} 31' 00''$ West, along said right-of-way line, a distance of 401.33 feet to a point on the east boundary of that tract of land conveyed to Robert A. Nicholas and Dona L. Garriott by deed recorded June 8, 1995 as Document No. 95039176 in Deed Records of said county;

thence North $89^{\circ} 31' 00''$ West, continuing along said right-of-way line, a distance of 195.00 feet to the west boundary of said tract;

thence North $89^{\circ} 31' 00''$ West, along said north right of way line, a distance of 778.74 feet;

thence North $0^{\circ} 29'$ East, a distance of 25.0 feet;

thence South $89^{\circ} 31' 00''$ East, parallel with the centerline of Evergreen Road, a distance of 30.07 feet;

thence along a 25 foot radius curve, to the left, with a central angle $90^{\circ} 09' 17''$, an arc distance of 39.34 to a point on the west right-of-way line of Northwest 253rd Avenue;

thence North $0^{\circ} 19' 43''$ East, along said west right of way line, a distance of 1249.93 feet to an angle point in said right-of-way line, also being a point on the north boundary of Lot 15, Five Oaks;

thence South $89^{\circ} 40' 17''$ East, along said boundary, a distance of 5.0 feet to a point on the west right of way line of said Northwest 253rd Avenue (C.R. 1054);

thence North $0^{\circ}19'43''$ East, along said west right of way line, a distance of 1413.26 feet to a point on the north right-of-way line of an unnamed road, abutting Lots 3 and 4 as shown on the plat of Five Oaks;

thence South $89^{\circ}29'20''$ East, along said right of way line, a distance of 319.10 feet to an angle point therein and a point on the west boundary of Lot 2, Five Oaks;

thence South $0^{\circ}30'40''$ West, along said right-of-way line, a distance of 20.0 feet to the southwest corner of Lot 2, Five Oaks;

thence South $89^{\circ}29'20''$ East, along the south boundary of said lot, a distance of 716.76 feet to the southeast corner thereof;

thence North $0^{\circ}43'$ East, along the east boundary of said lot, a distance of 1218.5 feet to the northwest corner of that tract of land described in deed to Keith A. and Rebecca Lee Berger, recorded 12/30/1992 as document number 92093488;

thence South $89^{\circ}32'00''$ East, along the north boundary of said tract, a distance of 1563.20 feet to a point on the west right-of-way line of Shute Road, being 45.0 feet from the centerline thereof;

thence South $0^{\circ}35'50''$ West, along said right-of-way line, a distance of 2568.16 feet to an angle point therein;

thence North $89^{\circ}24'10''$ West, along said right-of-way line, a distance of 25.0 feet to an angle point therein.

thence South $0^{\circ}35'50''$ West, along said right-of-way line, a distance of 1148.57 feet to a point of curvature therein;

thence along the arc of a 220.0 foot radius curve to the right, through a central angle of $90^{\circ}06'50''$, an arc distance of 346.01 feet more or less to the TRUE POINT OF BEGINNING.

Proposal No. AN-0104

1N2W21

Annexation to the Metro Jurisdictional Boundary

Washington Co.






R E G I O N A L L A N D I N F O R M A T I O N S Y S T E M



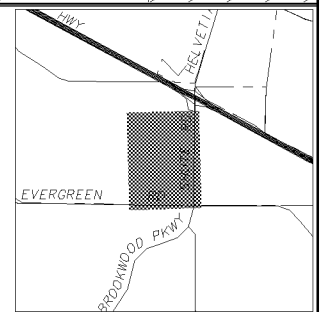
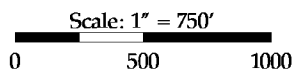
600 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1909
Email drc@metro-region.org

METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

-  Metro boundary
-  Annexation boundary
-  Area to be annexed

Proposal No. AN-0104
METRO JURISDICTIONAL BOUNDARY
Figure 1



Annexation AN-0104

K M C

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

Annexation to the Metro Jurisdictional Boundary
 Washington Co.
 1N2W21



Annexation AN-0104
 Metro Jurisdictional Boundary
 Figure 2

Exhibit B to Ordinance No. 04-1034

FINDINGS

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

1. The territory to be annexed contains 202.93 acres and 4 single family dwellings.
2. The annexation is being sought in order to meet the requirement of the City of Hillsboro's Concept Plan that this area be annexed to the District. 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. Hillsboro annexed the territory and therefore is the entity responsible for the Concept Plan which includes the requirement that the property be annexed to Metro.
3. The map and legal description submitted with this annexation proposal erroneously left out one property which had petitioned for inclusion. That property, Tax Lot 2801, should be included in this annexation. The Council has the authority to modify the proposal to include this property. A new map and legal description have been prepared and the proposed ordinance reflects this modification.
4. Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

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

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195 [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but few are currently in place. Annexation plans are timelines for annexation which can only be done after all required 195 agreements are in place and which must have been voted on by the District residents and the residents of the area to be annexed.]
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. [A necessary party is governmental entity which is providing or might provide an urban service to the area to be annexed.]
3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional framework or any functional plan.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. The territory lies within the Urban Growth Boundary.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party so these additional criteria need not be addressed.

The applicants, with the help of the City of Hillsboro, prepared a detailed response to each of the 7 criteria listed above. These responses are shown below.

Metro Code Section 3.09.050(d)

Metro Code Section 3.09.050(d) identifies seven (7) review criteria applicable to this Shute Road Site Annexation Petition. How the Petition satisfies each criterion is described in the following findings:

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

Finding: Approval of the Annexation 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 entire *Hillsboro Urban Service Agreement*. Specifically, it fulfills Sections IV.A and IV.B of the Agreement which generally declare that areas west of the Beaverton/Hillsboro Urban Service Boundary and shown on Map Exhibit C-1 to the Agreement (Map of the Shute Road Site) would become part of the City of Hillsboro Urban Service Area upon its addition to the UGB. 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 in the *Hillsboro Urban Service Agreement*:

Section I.B. Hillsboro is “designated as the appropriate provider of services to the citizens residing within (its) boundaries as specified in this Agreement” (emphasis added)

Section I.D. Washington County recognizes the cities and special service districts as the ultimate municipal service providers as specified in this Agreement, and recognizes cities as the “ultimate local governance provider in urban areas. The County also recognizes cities as the ultimate governance provider to the urban area”.

Section I.G.1. Consistent with Sections 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”.

Section I.I. Pursuant to ORS 195.205, the City of Hillsboro “reserve the right and may, subsequent to the enactment of this Agreement, develop an annexation plan or plans in reliance upon this Agreement in accordance with ORS 195.205 to 220”.

Currently, the Site is protected by the Tualatin Valley Fire & Rescue District (TVFR) and the Washington County Fire District No. 2 (Dist. No. 2) which have primary fire protection responsibility for much of rural, unincorporated Washington County. Under the *Hillsboro Urban*

Services Agreement, however, TVFR and Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Under the Agreement, the transition of services from TVFR to the City shall be consistent with an existing Intergovernmental Agreement (*Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory*) between the parties. (See Exhibit “A” to the Agreement).

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 TVFR and Dist. No. 2 to the City as contemplated by Exhibit “A”. Pursuant to ORS 222.524 the City of Hillsboro determines that upon its annexation to the City withdrawal of the Site from the TVFR and 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.

Currently, the Site is unincorporated rural property within the jurisdiction of, and served by Washington County. Under the *Hillsboro Urban Services Agreement*, the County and City agreed that, before a City annexation plan has been formed, “any single or multiple annexations totaling twenty or more acres” of properties inside the Hillsboro Urban Service Area and west of Cornelius Pass Road do *not* need to identify and explain how County services for such properties would be transferred to the City pursuant to Exhibit “H” of the Agreement. The terms of Exhibit “H” expressly excludes the annexation of the Shute Road Site from its requirements.

Approval of this annexation Petition nevertheless would be consistent with Exhibit “H” 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 Exhibit “H”. Pursuant to ORS 222.524 the City of Hillsboro determines 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.

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.**

Finding: Approval of this Annexation Petition would be consistent with the recent completion by Hillsboro of Concept Planning for the Site in accordance with requirements applicable to the Site in Title 11 of the Metro Code pursuant to a City-Washington County Memorandum of Understanding (MOU) which delegated that work to the City of Hillsboro. Annexation Petition approval by Metro, together with the recent annexation of the Site to Hillsboro, would bring the Site fully under Hillsboro’s planning and land use regulatory jurisdiction. In turn, this would allow the City to implement explicit Hillsboro Comprehensive Plan and Zoning Ordinance provisions applicable to the Site that implement a UGB Shute Road Site Concept Plan approved by Metro as in compliance with its Title 11 Concept Plan requirements. This Plan was jointly

prepared by the City and the owners of the Site pursuant to the MOU.

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

Finding: Approval of this Annexation Petition to add the Site to the Metro District would be consistent with the execution by the City of the following Hillsboro Comprehensive Plan (HCP) policies and implementation measures:

Section 2: Urbanization Policy (IV)(J): Annexation of the Site will enable the City to adopt industrial land use plan and zoning designations with the knowledge that the Site can be adequately served by the public facilities needed to support its high tech industrial use. Therefore, Site annexation would be consistent with the intent and objective of this HCP policy that requires the City to assure that urban development of undeveloped or newly annexed areas will be adequately serviced the necessary public facilities.

Section 2. Urban Implementation Measure (IV)(F): 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. Annexation of the Site will assure the its industrial development will occur subject to these City land use policies and regulations.

Section 10. Economy (III)(B): Annexation of the Site will enable the City to fulfill this HCP policy which directs the City to designate “sufficient industrial land” to provide for “different types of industrial development” and “develop a diverse industrial base”.

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

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

Finding: According to Policy 7.3, Chapter 7 of the Metro Regional Framework Plan (RFP), the Plan’s policies “shall not apply directly to site-specific land use actions, including amendments of the UGB”. The RFP policies do not apply to local government comprehensive plans, except as they may be incorporated or implemented by provisions in the *Metro Urban Growth Management Functional Plan* .(Functional Plan). Chapters 1-6 of the RFP apply only to Metro functional plans and the management and periodic review of the Metro UGB. There are no “specific, directly applicable standards and criteria for (annexation) boundary changes” in the RFP.

Only Title 11 of the Functional Plan expressly concerns “new urban areas”. Its stated purpose is “to require and guide planning for conversion from rural to urban use of areas brought into the UGB”. Its stated intent is that “development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept”. It is expressly directed toward planning and guiding the *development* of newly added land to the UGB rather than the orderly transition of such land from rural jurisdictions and public services to urban/municipal jurisdictions and services.

The 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.

Approval of this annexation Petition will assure, under the provisions of the *Hillsboro Urban Services Agreement*, that the Shute Road Site will be serviced by all the public facilities and services required for its industrial development. The Agreement identifies the public agencies that would be responsible for providing such facilities and services to the Site once it has been included in the UGB.

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

Finding: Currently, the Site is protected by the Tualatin Valley Fire & Rescue District (TVFR) and the Washington County Fire District No. 2 (Dist. No. 2) which have primary fire protection responsibility for much of rural, unincorporated Washington County. Under the *Hillsboro Urban Services Agreement*, however, TVRF and Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Under the Agreement, the transition of services from TVFR to the City shall be consistent with an existing Intergovernmental Agreement (*Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory*) between the parties.

All other necessary public facilities and services needed to support high technology industrial development of the Site are readily available and accessible to the Site. This fact is documented before the Metro Council in a Report entitled *Alternative Sites Analysis for the “Shute Road Site” Urban Growth Boundary Amendments* (Johnson Gardner & City of Hillsboro, October, 2002).

The Report describes the Site's access to such facilities and services as follows:

- 6200 feet roadway frontage; 300 feet from Shute Road-Hwy 26 Interchange.
- Adjacent to 2 water supply lines including 66-inch water main within the Site.
- 660 feet from nearest sewer line stub outs; 3 in Shute Road and 2 at nearby Komatsu property line.
- Access to power: 2000 feet travel distance from PGE Sunset Substation.
- Access to special fire protection: 2400 feet from Hillsboro Fire Station No.
- Metro Water serviceability rating: easy to serve.
- Metro Sewer serviceability rating: easy to serve.
- Metro Storm water serviceability rating: moderately difficult to serve.

The necessary public services and facilities can be provided to the Site without interrupting or interfering with existing the provision of such services to other nearby industrial sites as confirmed by a *Shute Road Site Conceptual Public Facilities Plan* (Group MacKenzie, Inc, 2003) which is also incorporated by reference as a part of the Findings in support of this annexation Petition.

6. The Territory lies within the Urban Growth Boundary; and

Finding: On December 5, 2002, Metro approved Ordinance 02-983B which added approximately 203 acres to the Urban Growth Boundary to meet a special identified regional need to provide large lots (50+ acres) for high technology industrial uses.

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

Finding: Annexation Petitions to Metro and local governments are permitted by ORS 222.111(2) and governed generally by ORS 222.111 et seq. While ORS 222.111(5) generally requires annexations to be submitted to the electors, ORS 222.125 permits the Metro and the City:

“ . . . 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 landing that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation”.

Approval of this 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 the written consent of 100% of the owners and electors residing on the properties to be annexed to the Metro District

5. The site is basically flat. Most of the large parcels within the site (totaling approximately 197.7 acres) have been in dry field crop cultivation and production for decades. Approximately 155 acres of the 197.7 acres are leased by the owners to a corporate farming operation while the remaining 42 acres are owned and farmed by the same farming operation. The smaller remaining parcels within the site average around 2 acres in size and are occupied by rural dwelling and related accessory structures.

The northwest portion of the site contains a forested area of approximately 13.5 acres. A BPA power line crosses the site east to west below the Waible Creek tributary which is located on the northern portion of the site. The site is adjacent to existing high tech companies, and business that supply materials or energy to these companies, across NW Shute Road to the east and NW Evergreen Road to the south.

NW Shute Road and NW Evergreen Road, adjacent to the site on the east and south, respectively, are both identified as Arterial Streets in the City of Hillsboro Transportation System Plan (TSP) and Washington County Transportation System Plan.

Because the site was outside the City Limits at the time it was adopted, the Hillsboro Goal 5 Natural Resource Program does not identify the Waible Creek Tributary and 13.5-acre forested area as “significant” Goal 5 resources. However, the adopted Concept Plan for the site (which was incorporated into the City’s Comprehensive Plan by Ordinance No. 5330) commits the City to apply City “Level – 1” Goal 5 Program protections of the tributary and 13.5-acre forested area should development within the site affect or impact these natural resources.

A portion of the 29.97-acres parcel of land (Tax Map 1N-2-21, Lot 2800) situated at the intersection of NW Evergreen Road and NW 253rd Street contains evidence of once containing small wetlands areas. These areas are subject to wetland regulations of the Oregon Division of State Lands. The southern two-thirds of the Site is within the 250-foot area of potential impact on the Clean Water Services Sensitive Areas Pre-Screen Map.

The surrounding area is characterized in the table below.

Table 1. Surrounding Land Uses

Area	Plan	Zoning	Land Uses
North	County – Outside UGB	County EFU – Exclusive Farm Use District	SFR – Large Lot Farmland
East	IN – Industrial FP – Floodplain	M-P (PUD) M-P	Farmland Industrial Park
South	IN - Industrial	M-P (PUD) M-P	Farmland Industrial Buildings
West	County – Outside UGB	County EFU – Exclusive Farm Use District	Farmland

- This territory abuts the Metro jurisdictional boundary on the east along NW Shute Road and on the south along NW Evergreen Road.

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

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

The Urban Growth Management Functional Plan contains only one provision in it (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. 02-983B). The rationale for that addition was to meet a special identified need to provide large lots (50+ acres) for high technology industrial uses.

7. On November 18, 2003, approximately 201 acres within the site was annexed to the City of Hillsboro with full consent of all owners of the parcels annexed. (Hillsboro Ordinance No. 5325). Owners of tax lot 1N-2-21, Lot 2801 (1.91 acres) within the site elected not to annex to the City of Hillsboro although they have given their consent to annexing the 1.91 acres to the Metro District.

The territory was also added to the City's Comprehensive Plan as "Industrial" land (Hillsboro Ordinance No. 5330) and rezoned by the City from County exclusive farm use zone to City M-P, Industrial Park and SSID, Shute Road Site Special Industrial District (Hillsboro Ordinance No. 5331) on December 2, 2003.

8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements.

The Site is located within the Hillsboro Urban Service Area identified in the *Hillsboro Urban Service Agreement* (April, 2003) between and among the City of Hillsboro, Washington County, the City of Beaverton, Metro and several special service districts. Upon annexation to the City of Hillsboro, under the provisions of the *Hillsboro Urban Services Agreement*, the Shute Road Site will be serviced by all the public facilities and services required for its industrial development. The Agreement identifies the public agencies that would be responsible for providing such facilities and services to the Site once it has been included in the UGB and the City of Hillsboro.

Before its annexation to the City, the Site lay within the existing service areas of Washington County (for law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services), and the Tualatin Valley Fire & Rescue District (TVFD) and Washington County Fire District No. 2 (for fire protection and emergency services) and these parties to the Hillsboro Urban Service Agreement have agreed that these services would ultimately be provided by the City of Hillsboro. Under the *Hillsboro Urban Services Agreement*, however, TVFD and Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Transition of services from TVFD to the City shall be consistent with an existing Intergovernmental Agreement (*Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory*) between the parties.

Water, sanitary sewer and storm drainage services are available as noted below.

Table 2. Available Public Facility Services

Service	Provider	Size	Location	Distance from Site
Water	City	16" to 18"	NW Shute Road	Adjacent
	CWS	66"	NW Evergreen Road	Adjacent
Sanitary	City	15"	Intersection Shute/Evergreen	Adjacent–Southeast
Sewer	City	24"	NW Huffman Street	Adjacent–East
Storm	City	12" to 30"	NW Shute Road	Adjacent
Drain	City	21"	NW Evergreen Road	Adjacent
	City	8" to 12"	NW Evergreen Road	Adjacent

All other necessary public facilities and services needed to support high technology industrial development of the site are readily available from the City and accessible and can be provided without interrupting or interfering with nearby service users.

ORS 195 also provides for a new method of annexation based on an annexation plan which has been voted on by the residents of a governmental entity and the residents of the area the entity intends to annex. No such plans cover this area.

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

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

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

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Metro Code at 3.09.050 (d) (3) calls for consistency between the Council decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ." 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. 9 Metro has no relevant service agreements.
3. Metro Code 3.09.050 (d) (1) requires the Council to address the consistency between its decision and any directly applicable provisions of any urban service agreement or annexation plan under ORS 195.065. The Council finds that approval of the proposal to annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of the entire *Hillsboro Urban Service Agreement*. Specifically, it fulfills Sections IV.A and IV.B of the Agreement which generally declare that areas west of the Beaverton/Hillsboro Urban Service Boundary and shown on Map Exhibit C-1 to the Agreement (Map of the Shute Road Site) would become part of the City of Hillsboro Urban Service Area upon its addition to the UGB.
4. The Metro Code calls for consideration of any directly applicable standards or criteria to be found in urban planning area agreements between the affected entity (Metro) and a necessary party. There are no urban planning area agreements between Metro and any necessary party.
5. The Metro Code at 3.09.050 (d) (4) calls for consistency between the Council decision and any "specific directly applicable standards or criteria for boundary changes contained in . . . regional framework and functional plans . . ." As noted in Finding No. 6 there are no directly applicable criteria in Metro's regional framework plan or in the adopted Regional Transportation Plan. Within the Urban Growth Management Functional Plan is found the requirement that the entity adopting comprehensive planning designations for lands brought into the urban growth boundary needs to also require annexation to the Metro jurisdictional boundary. The Council finds this annexation proposal consistent with that criteria.
6. Metro Code 3.09.050 (e) (5) states that another criteria to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services." The Council finds that the provision of public facilities and services to this area has already been addressed within the Hillsboro Urban Services Agreement and by virtue of the fact that the City of Hillsboro either directly or through agreements can provide all necessary services.

7. Metro Code 3.09.050 (d) (6) establishes inclusion of the territory within the Urban Growth Boundary as one criteria for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 6. Therefore the Council finds this proposed annexation to be consistent with that criteria.
8. The final criteria to be considered under the Metro Code 3.09.050 (d) (7) is consistency with other applicable criteria under state and local law. The applicable criteria under state law were covered in Reasons No. 1 & 2 above. No other local laws applying to this annexation were found to exist.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1034 FOR THE PURPOSE OF ANNEXING INTO THE METRO DISTRICT BOUNDARY APPROXIMATELY 202.9 ACRES AT EVERGREEN AND SHUTE ROADS IN THE CITY OF HILLSBORO AND DECLARING AN EMERGENCY

Date: February 4, 2004

Prepared by: Ken Martin, Annexation Staff

SECTION I: APPLICATION SUMMARY

CASE: AN-0104, Annexation To Metro Jurisdictional Boundary

APPLICANT: 100% Owners/Voters of Eleven 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 bulk of the property in November, 2003.

LOCATION: The territory is located on the northwest edge of the District on the west edge of NW Shute Road and the north edge of NW Evergreen Road. (See Figure 1).

PLAN/ZONING Industrial/M-P, Industrial Park and SSID, Shute Road Site Special Industrial District

APPLICABLE REVIEW CRITERIA: ORS Chapter 198, Metro Code 3.09

SECTION II: STAFF RECOMMENDATION

Staff recommends adoption of Ordinance No. 04-1034 approving Annexation Proposal No. AN-0104, annexation to the Metro district boundary.

SECTION III: BACKGROUND INFORMATION

Initiation: Proposal No. AN-0104 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 northwest edge of the District on the west edge of NW Shute Road and the north edge of NW Evergreen Road. The territory contains 202.93 acres and 4 single family dwellings.

REASON FOR ANNEXATION

The annexation is being sought in order to meet the requirement of the City of Hillsboro's Concept Plan that this area be annexed to the District. 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. Hillsboro annexed the territory and therefore is the entity responsible for the Concept Plan which includes the requirement that the property be annexed to Metro.

PROPOSED MODIFICATION

The map and legal description submitted with this annexation proposal erroneously left out one property which had petitioned for inclusion. That property, Tax Lot 2801, should be included in this annexation. The Council has the authority to modify the proposal to include this property. A new map and legal description have been prepared and the proposed ordinance reflects this modification.

CRITERIA

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

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

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195 [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but few are currently in place. Annexation plans are timelines for annexation which can only be done after all required 195 agreements are in place and which must have been voted on by the District residents and the residents of the area to be annexed.]
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. [A necessary party is governmental entity which is providing or might provide an urban service to the area to be annexed.]
3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional framework or any functional plan.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. The territory lies within the Urban Growth Boundary.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party so these additional criteria need not be addressed.

The applicants, with the help of the City of Hillsboro, have prepared a detailed response to each of the 7 criteria listed above. These responses are attached as Attachment 1.

LAND USE PLANNING

SITE CHARACTERISTICS

The site is basically flat. Most of the large parcels within the Site (totaling approximately 197.7 acres) have been in dry field crop cultivation and production for decades. Approximately 155 acres of the 197.7 acres are leased by the owners to a corporate farming operation while the remaining 42 acres are owned and farmed by the same farming operation. The smaller remaining parcels within the Site average around 2 acres in size and are occupied by rural dwelling and related accessory structures.

The northwest portion of the Site contains a forested area of approximately 13.5 acres. A BPA power line crosses the Site east to west below the Waible Creek tributary which is located on the northern portion of the Site. The Site is adjacent to existing high tech companies, and business that supply materials or energy to these companies, across NW Shute Road to the east and NW Evergreen Road to the south.

NW Shute Road and NW Evergreen Road, adjacent to the Site on the east and south, respectively, are both identified as Arterial Streets in the City of Hillsboro Transportation System Plan (TSP) and Washington County Transportation System Plan.

Because the Site was outside the City Limits at the time it was adopted, the Hillsboro Goal 5 Natural Resource Program does not identify the Waible Creek Tributary and 13.5-acre forested area as “significant” Goal 5 resources. However, the adopted Concept Plan for the Site (which was incorporated into the City’s Comprehensive Plan by Ordinance No. 5330) commits the City to apply City “Level – 1” Goal 5 Program protections of the Tributary and 13.5-acre forested area should development within the Site affect or impact these natural resources.

A portion of the 29.97-acres parcel of land (Tax Map 1N-2-21, Lot 2800) situated at the intersection of NW Evergreen Road and NW 253rd Street contains evidence of once containing small wetlands areas. These areas are subject to wetland regulations of the Oregon Division of State Lands. The southern two-thirds of the Site is within the 250-foot area of potential impact on the Clean Water Services Sensitive Areas Pre-Screen Map.

The surrounding area is characterized in the table below.

Table 1. Surrounding Land Uses

Area	Plan	Zoning	Land Uses
North	County – Outside UGB	County EFU – Exclusive Farm Use District	SFR – Large Lot Farmland
East	IN – Industrial FP – Floodplain	M-P (PUD) M-P	Farmland Industrial Park
South	IN - Industrial	M-P (PUD) M-P	Farmland Industrial Buildings
West	County – Outside UGB	County EFU – Exclusive Farm Use District	Farmland

REGIONAL PLANNING

This territory abuts the Metro jurisdictional boundary on the east along NW Shute Road and on the south along NW Evergreen Road.

Regional Framework Plan

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

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

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

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

Urban Growth Boundary Change

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-983B). The rationale for that addition was to meet a special identified need to provide large lots (50+ acres) for high technology industrial uses.

CITY PLANNING

On November 18, 2003, approximately 201 acres within the site was annexed to the City of Hillsboro with full consent of all owners of the parcels annexed to the City via a City-initiated annexation. (Hillsboro Ordinance No. 5325). Owners of tax lot 1N-2-21, Lot 2801 (1.91 acres) within the site elected not to annex to the City of Hillsboro although they have given their consent to annexing the 1.91 acres to the Metro District.

The territory was also added to the City's Comprehensive Plan as "Industrial" land (Hillsboro Ordinance No. 5330) and rezoned by the City from County exclusive farm use zone to City M-P, Industrial Park and SSID, Shute Road Site Special Industrial District (Hillsboro Ordinance No. 5331) on December 2, 2003.

FACILITIES AND SERVICES

ORS 195 Agreements. This statute requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements.

The Site is located within the Hillsboro Urban Service Area identified in the *Hillsboro Urban Service Agreement* (April, 2003) between and among the City of Hillsboro, Washington County, the City of Beaverton, Metro and several special service districts. Upon annexation to the City of Hillsboro, under the provisions of the *Hillsboro Urban Services Agreement*, the Shute Road Site will be serviced by all the public facilities and services required for its industrial development. The Agreement identifies the public agencies that would be responsible for providing such facilities and services to the Site once it has been included in the UGB and the City of Hillsboro.

Before its annexation to the City, the Site lay within the existing service areas of Washington County (for law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services), and the Tualatin Valley Fire & Rescue District (TVFD) and Washington County Fire District No. 2 (for fire protection and emergency services) and these parties to the Hillsboro Urban Service Agreement have agreed that these services would ultimately be provided by the City of Hillsboro. Under the *Hillsboro Urban Services Agreement*, however, TVFD and Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Transition of services from TVFD to the City shall be consistent with an existing Intergovernmental Agreement (*Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory*) between the parties.

Water, sanitary sewer and storm drainage services are available as noted below.

Table 2. Available Public Facility Services

Service	Provider	Size	Location	Distance from Site
Water	City	16" to 18"	NW Shute Road	Adjacent
	CWS	66"	NW Evergreen Road	Adjacent
Sanitary Sewer	City	15"	Intersection Shute/Evergreen	Adjacent–Southeast
Storm Drain	City	24"	NW Huffman Street	Adjacent–East
Storm Drain	City	12" to 30"	NW Shute Road	Adjacent
	City	21"	NW Evergreen Road	Adjacent
	City	8" to 12"	NW Evergreen Road	Adjacent

All other necessary public facilities and services needed to support high technology industrial development of the site are readily available from the City and accessible and can be provided without interrupting or interfering with nearby service users.

ORS 195 also provides for a new method of annexation based on an annexation plan which has been voted on by the residents of a governmental entity and the residents of the area the entity intends to annex. No such plans cover this area.

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. There was no opposition to the UGB change.
2. **Legal Antecedents** - This annexation is a follow-up to the UGB change passed by the Council as Ordinance 02-983B. 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 202.93 acres of land into the Metro district boundary in order to meet the requirement of the City of Hillsboro's Concept Plan that this area be annexed to the District. Based on the study above and the proposed Findings and Reasons For Decision found in Exhibit B, the staff recommends that Ordinance No. 04-1034 be approved.

ATTACHMENT 1 TO STAFF REPORT FOR ORDINANCE 04-1034

APPLICANT'S PROPOSED FINDINGS

Metro Code Section 3.09.050(d)

Metro Code Section 3.09.050(d) identifies seven (7) review criteria applicable to this Shute Road Site Annexation Petition. How the Petition satisfies each criterion is described in the following findings:

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

Finding: Approval of the Annexation 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 entire *Hillsboro Urban Service Agreement*. Specifically, it fulfills Sections IV.A and IV.B of the Agreement which generally declare that areas west of the Beaverton/Hillsboro Urban Service Boundary and shown on Map Exhibit C-1 to the Agreement (Map of the Shute Road Site) would become part of the City of Hillsboro Urban Service Area upon its addition to the UGB. 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 in the *Hillsboro Urban Service Agreement*:

Section I.B. Hillsboro is “designated as the appropriate provider of services to the citizens *residing within (its) boundaries as specified in this Agreement*” (emphasis added)

Section I.D. Washington County recognizes the cities and special service districts as the ultimate municipal service providers as specified in this Agreement, and recognizes cities as the “ultimate local governance provider in urban areas. The County also recognizes cities as the ultimate governance provider to the urban area”.

Section I.G.1. Consistent with Sections 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”.

Section I.I. Pursuant to ORS 195.205, the City of Hillsboro “reserve the right and may, subsequent to the enactment of this Agreement, develop an annexation plan or plans in reliance upon this Agreement in accordance with ORS 195.205 to 220”.

Currently, the Site is protected by the Tualatin Valley Fire & Rescue District (TVFR) and the Washington County Fire District No. 2 (Dist. No. 2) which have primary fire protection responsibility for much of rural, unincorporated Washington County. Under the *Hillsboro Urban Services Agreement*, however, TVFR and Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Under the Agreement, the transition of services from TVFR to the City shall be consistent with an existing Intergovernmental Agreement (*Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory*) between the parties. (See Exhibit “A” to the Agreement).

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 TVFR and Dist. No. 2 to the City as contemplated by Exhibit “A”. Pursuant to ORS 222.524 the City of Hillsboro determines that upon its annexation to the City withdrawal of the Site from the TVFR and 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.

Currently, the Site is unincorporated rural property within the jurisdiction of, and served by Washington County. Under the *Hillsboro Urban Services Agreement*, the County and City agreed that, before a City annexation plan has been formed, “any single or multiple annexations totaling twenty or more acres” of properties inside the

Hillsboro Urban Service Area and west of Cornelius Pass Road do *not* need to identify and explain how County services¹ for such properties would be transferred to the City pursuant to Exhibit “H” of the Agreement. The terms of Exhibit “H” expressly excludes the annexation of the Shute Road Site from its requirements.

Approval of this annexation Petition nevertheless would be consistent with Exhibit “H” 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 Exhibit “H”. Pursuant to ORS 222.524 the City of Hillsboro determines 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.

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.

Finding: Approval of this Annexation Petition would be consistent with the recent completion by Hillsboro of Concept Planning for the Site in accordance with requirements applicable to the Site in Title 11 of the Metro Code pursuant to a City-Washington County Memorandum of Understanding (MOU) which delegated that work to the City of Hillsboro. Annexation Petition approval by Metro, together with the recent annexation of the Site to Hillsboro, would bring the Site fully under Hillsboro’s planning and land use regulatory jurisdiction. In turn, this would allow the City to implement explicit Hillsboro Comprehensive Plan and Zoning Ordinance provisions applicable to the Site that implement a UGB Shute Road Site Concept Plan approved by Metro as in compliance with its Title 11 Concept Plan requirements. This Plan was jointly prepared by the City and the owners of the Site pursuant to the MOU.

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

Finding: Approval of this Annexation Petition to add the Site to the Metro District would be consistent with the execution by the City of the following Hillsboro Comprehensive Plan (HCP) policies and implementation measures:

Section 2: Urbanization Policy (IV)(J): Annexation of the Site will enable the City to adopt industrial land use plan and zoning designations with the knowledge that the Site can be adequately served by the public facilities needed to support its high tech industrial use. Therefore, Site annexation would be consistent with the intent and objective of this HCP policy that requires the City to assure that urban development of undeveloped or newly annexed areas will be adequately serviced the necessary public facilities.

Section 2. Urban Implementation Measure (IV)(F): 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. Annexation of the Site will assure the its industrial development will occur subject to these City land use policies and regulations.

Section 10. Economy (III)(B): Annexation of the Site will enable the City to fulfill this HCP policy which directs the City to designate “sufficient industrial land” to provide for “different types of industrial development” and “develop a diverse industrial base”.

¹ Exhibit “H” lists law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services as the County duties subject to its provisions.

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

4. Consistency with specific directly applicable standards and criteria for boundary changes contained in the Regional Framework Plan or any functional plan.

Finding: According to Policy 7.3, Chapter 7 of the Metro Regional Framework Plan (RFP), the Plan’s policies “shall not apply directly to site-specific land use actions, including amendments of the UGB”. The RFP policies do not apply to local government comprehensive plans, except as they may be incorporated or implemented by provisions in the *Metro Urban Growth Management Functional Plan* (Functional Plan). Chapters 1-6 of the RFP apply only to Metro functional plans and the management and periodic review of the Metro UGB. There are no “specific, directly applicable standards and criteria for (annexation) boundary changes” in the RFP.

Only Title 11 of the Functional Plan expressly concerns “new urban areas”. Its stated purpose is “to require and guide planning for conversion from rural to urban use of areas brought into the UGB”. Its stated intent is that “development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept”. It is expressly directed toward planning and guiding the *development* of newly added land to the UGB rather than the orderly transition of such land from rural jurisdictions and public services to urban/municipal jurisdictions and services.

The 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.

Approval of this annexation Petition will assure, under the provisions of the *Hillsboro Urban Services Agreement*, that the Shute Road Site will be serviced by all the public facilities and services required for its industrial development. The Agreement identifies the public agencies that would be responsible for providing such facilities and services to the Site once it has been included in the UGB.

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

Finding: Currently, the Site is protected by the Tualatin Valley Fire & Rescue District (TVFR) and the Washington County Fire District No. 2 (Dist. No. 2) which have primary fire protection responsibility for much of rural, unincorporated Washington County. Under the *Hillsboro Urban Services Agreement*, however, TVFR and Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Under the Agreement, the transition of services from TVFR to the City shall be consistent with an existing Intergovernmental Agreement (*Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory*) between the parties.

All other necessary public facilities and services needed to support high technology industrial development of the Site are readily available and accessible to the Site. This fact is documented before the Metro Council in a Report entitled *Alternative Sites Analysis for the "Shute Road Site" Urban Growth Boundary Amendments* (Johnson Gardner & City of Hillsboro, October, 2002) which is incorporated by reference as a part of the Findings in support of this annexation Petition. The Report describes the Site's access to such facilities and services as follows:

- 6200 feet roadway frontage; 300 feet from Shute Road-Hwy 26 Interchange.
- Adjacent to 2 water supply lines including 66-inch water main within the Site.
- 660 feet from nearest sewer line stub outs; 3 in Shute Road and 2 at nearby Komatsu property line.
- Access to power: 2000 feet travel distance from PGE Sunset Substation.
- Access to special fire protection: 2400 feet from Hillsboro Fire Station No.
- Metro Water serviceability rating: easy to serve.
- Metro Sewer serviceability rating: easy to serve.
- Metro Storm water serviceability rating: moderately difficult to serve.

The necessary public services and facilities can be provided to the Site without interrupting or interfering with existing the provision of such services to other nearby industrial sites as confirmed by a *Shute Road Site Conceptual Public Facilities Plan* (Group MacKenzie, Inc, 2003) which is also incorporated by reference as a part of the Findings in support of this annexation Petition.

6. The Territory lies within the Urban Growth Boundary; and

Finding: On December 5, 2002, Metro approved Ordinance 02-983B which added approximately 203 acres to the Urban Growth Boundary to meet a special identified regional need to provide large lots (50+ acres) for high technology industrial uses.

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

Finding: Annexation Petitions to Metro and local governments are permitted by ORS 222.111(2) and governed generally by ORS 222.111 et seq. While ORS 222.111(5) generally requires annexations to be submitted to the electors, ORS 222.125 permits the Metro and the City:

"... 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 landing that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation".

Approval of this 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 the written consent of 100% of the owners and electors residing on the properties to be annexed to the Metro District. (See attached Annexation Consent Forms)