



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

May 2, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

Approval of a Board Order for Boundary Change Proposal CL 19-001
Annexation to Tri-City County Service District

Purpose/Outcome	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City County Service District is such a district.

Proposal No. CL 19-001 is a proposed annexation to Tri-City County Service District (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute [ORS 198.720(1)] the City of Oregon City has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which

specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the southern part of the District. The territory contains 1.3 acres, 1 single family dwelling, a population of 4 and is valued at \$374,368.

REASON FOR ANNEXATION

The property owners desire sewer service to facilitate development of two additional single family lots.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

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 territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-19-001, annexation to Tri-City County Service District.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving
Boundary Change Proposal No.
CL 19-001



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Tri-City County Service District; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, it further appearing that this matter came before the Board for public hearing on May 2, 2019 and that a decision of approval was made on May 2, 2019;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 19-001 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City County Service District as of May 2, 2019

DATED this 2nd day of May, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. Proposal No. CL 19-001 is a proposed annexation to Tri-City County Service District ("District").
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains 1.3 acres, 1 single family dwelling, a population of 4 and is valued at \$374,368.
4. The property owners desire sewer service to facilitate development of two additional single family lots.
5. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider of sewerage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement.

6. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
 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 territory from the legal boundary of any necessary party¹; and
 3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding No. 2.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Finding 8. No concept plans cover this area.

7. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
8. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

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 chapter 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 Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

9. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

10. Upon annexation to the City of Oregon City the property owner applied for a land division to allow for the additional two lots. This was approved by the City Planning Commission on November 26, 2018.
11. 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. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
12. The City of Oregon City has an 8-inch sewer line in Clearwater Place adjacent to the east edge of the property. WES, as the service provider for the District, will provide major transmission and treatment of sewerage.
13. The City has a 12-inch water line in Clearwater Place adjacent to the east edge of the site.
14. The area receives police service from the City of Oregon City.

15. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
16. The area to be annexed receives parks and recreation service from the City of Oregon City.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 6 & 11 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City and the District have agreed which entity will provide which aspects of sewer service to the area.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Oregon City Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 12. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #3062

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT B

Annexation Description

A portion of Lot 2, Block A of the vacated plat "Westover Acres", Plat No. 396, Clackamas County Plat Records, and a portion of right-of-way, located in the Southeast One-Quarter of Section 4, Township 3 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the northwest corner of said Lot 2, also being on the southerly right-of-way line of Maplelane Road (30.00 feet from centerline) and on the City of Oregon City city limits line; thence leaving said southerly right-of-way line along said city limits line, North 22°49'00" West 60.00 feet to the northerly right-of-way line of Maplelane Road (30.00 feet from centerline); thence leaving said city limits line along said northerly right-of-way line, North 67°11'00" East 175.00 feet to the City of Oregon City city limits line; thence leaving said northerly right-of-way line along said city limits line, South 22°49'00" East 60.00 feet to the northeast corner of Document Number 2016-013090, Clackamas County Deed Records, also being the intersection of the southerly right-of-way line of Maplelane Road (30.00 feet from centerline) and the westerly right-of-way line of Clearwater Place (variable width from centerline); thence along said westerly right-of-way line and continuing along said city limits line, South 00°58'00" East 236.07 feet to the southeast corner of said deed; thence along the south line of said deed and continuing along said city limits line, South 89°02'00" West 162.43 feet to the southwest corner of said deed; thence along the west line of said deed and continuing along said city limits line, North 00°58'00" West 170.93 feet to the Point of Beginning.

The above described tract of land contains 1.00 acre, more or less.

2/14/2019

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Nick White

OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

EXHIBIT C

A PORTION OF LOT 2, BLOCK A OF THE VACATED PLAT "WESTOVER ACRES",
 PLAT NO. 396, AND A PORTION OF RIGHT-OF-WAY, LOCATED IN THE
 SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 2 EAST,
 WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON



2/14/2019

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Nick White

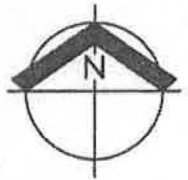
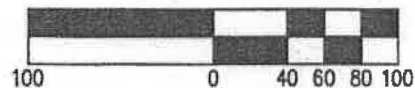
OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

PREPARED FOR

CITY OF OREGON CITY
 221 MOLALLA AVENUE, SUITE 200
 OREGON CITY, OR 97045

SCALE: 1" = 100 FEET



CITY OF OREGON CITY ANNEXATION
 (ORD. #18-1031 AN-18-0002)

AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT
A

DRWN: WCB
 CHKD: NSW
 AKS JOB:
 3062



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

May 2, 2019

Board of County Commissioners
 Clackamas County

Members of the Board:

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
 Assistants

Approval of a Board Order for Boundary Change Proposal CL 19-002
Annexation to Sunrise Water Authority

Purpose/Outcome	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a water authority and Sunrise Water Authority is such a district.

Proposal No. CL 19-002 is a proposed annexation to Sunrise Water Authority (“District”).

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute [ORS 198.720(1)] the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of the owners of all the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750

(section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the central part of the District. The territory contains 8.16 acres, is vacant and is valued at \$229,900.

REASON FOR ANNEXATION

The property owners desire water service to facilitate construction of a new elementary school which has been approved for the site by the City of Happy Valley.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

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 territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-19-002, annexation to Sunrise Water Authority.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving
Boundary Change Proposal No.
CL 19-002



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Sunrise Water Authority; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, it further appearing that this matter came before the Board for public hearing on May 2, 2019 and that a decision of approval was made on May 2, 2019;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 19-002 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of May 2, 2019

DATED this 2nd day of May, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. Proposal No. CL 19-002 is a proposed annexation to Sunrise Water Authority.
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains 8.16 acres, is vacant and is valued at \$229,900.
4. The property owners desire water service to facilitate construction of a new elementary school which has been approved for the site by the City of Happy Valley.
5. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

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 territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted in Finding 2.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Finding 8. No concept plans cover this area.

6. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
7. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

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 chapter 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 Functional Plan and the Regional Transportation Plan, which were examined and found

not to contain any directly applicable standards and criteria for boundary changes.

8. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Water

* * *

- 15.0 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.
9. The territory is inside the City of Happy Valley and has a zoning designation of RRFF-5. As noted above in Finding 4 the City has approved the elementary school for this site.
 10. 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. There are no urban service agreements under ORS 195 relative to water service in this area of Clackamas County.
 11. This property is within Clackamas County Service District # 1. WES, as the service provider for that district is constructing a 10-inch sewer line in Vogel Road to serve the site.
 12. The Sunrise Water Authority is upgrading the existing line in Vogel Road to a 12-inch line to serve the site.
 13. The area receives police service from the Clackamas County Sheriff's Department.
 14. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the Water Authority.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 5 & 10 there

are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.

2. The Metro Code calls for consistency between the Board decision and any “applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services.” The area is served by the Sunrise Water Authority and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County’s Comprehensive Plan and the Happy Valley Comprehensive Plan under which the City has approved the school) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 12. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herrman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #5839

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT B

Sunrise Water Authority Annexation Description

A tract of land and a portion of right-of-way, located in the Northeast One-Quarter of Section 6, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the northeast corner of said Section 6; thence along the east line of said Section 6, South 00°39'18" West 1347.78 feet to the southerly right-of-way line of SE Vogel Road (20.00 feet from centerline) and the Sunrise Water Authority limits line; thence along said southerly right-of-way line and said Sunrise Water Authority limits line, North 89°08'10" West 377.99 feet to the southerly extension of the easterly line of Document Number 2017-084462, Clackamas County Deed Records and the Point of Beginning; thence continuing along said southerly right-of-way line and said Sunrise Water Authority limits line, North 89°08'10" West 279.89 feet to the southerly extension of the westerly line of said deed; thence along said southerly extension and the westerly line of said deed and said Sunrise Water Authority limits line, North 00°34'01" East 1018.65 feet to the northwesterly corner of said deed; thence leaving said Sunrise Water Authority limits line along the northerly line of said deed, South 89°05'02" East 405.57 feet to the northeasterly corner of said deed; thence along the easterly line of said deed, South 00°36'40" West 560.00 feet; thence continuing along said easterly line, North 89°06'37" West 124.98 feet; thence continuing along said easterly line and the southerly extension thereof, South 00°35'59" West 458.34 feet to the Point of Beginning.

The above described tract of land contains 8.16 acres, more or less.

9/6/2018

REGISTERED
PROFESSIONAL
LAND SURVEYOR

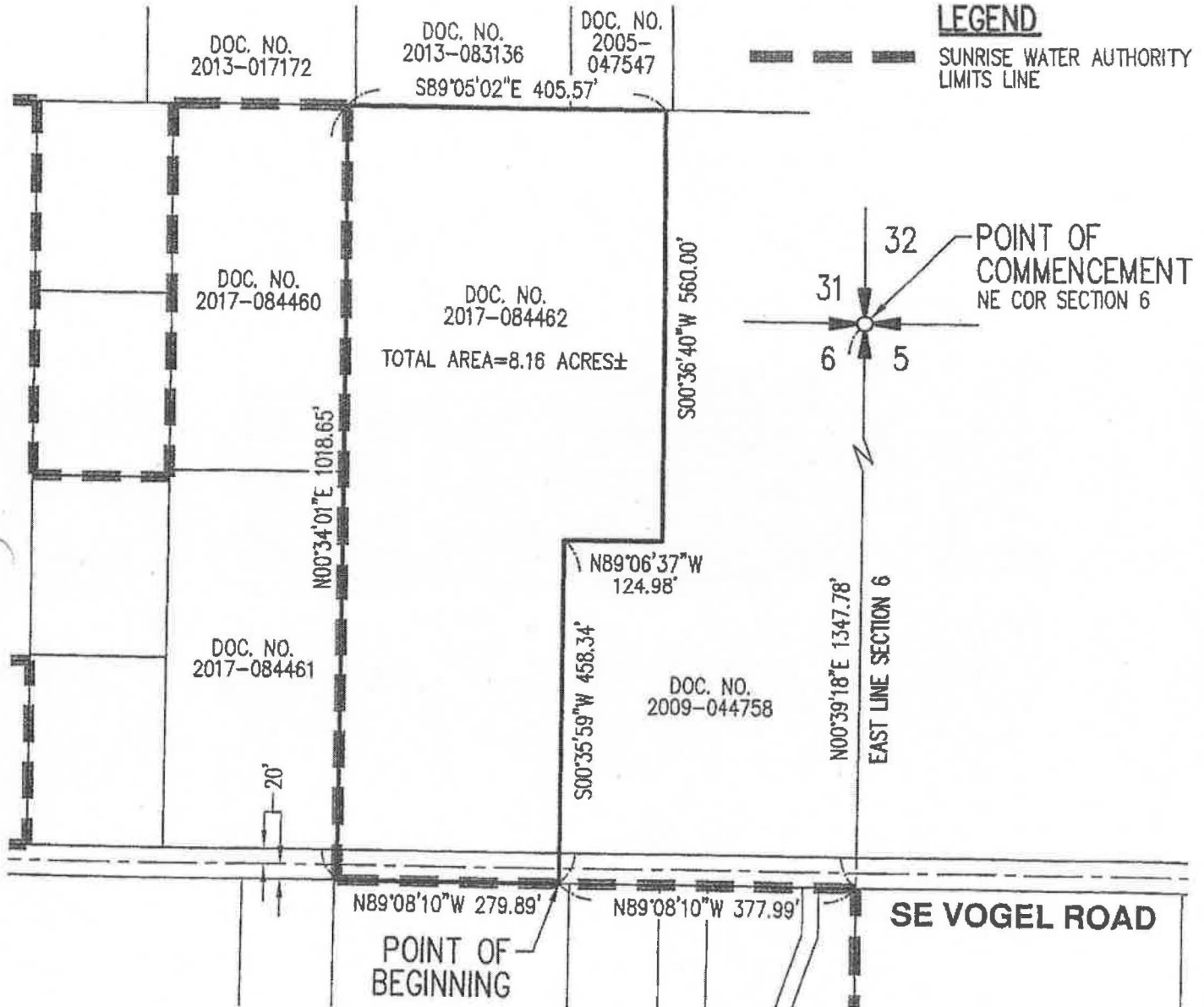
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/20



EXHIBIT C

A TRACT OF LAND AND A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 6,
 TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,
 CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



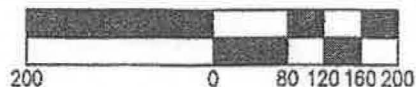
9/5/2018

REGISTERED PROFESSIONAL LAND SURVEYOR

Nick White
 OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS
 RENEWS: 6/30/20

123456789
 PREPARED FOR
 NORTH CLACKAMAS SCHOOL DISTRICT
 12400 SE FREEMAN WAY
 MILWAUKIE, OR 97222
 FEB 2015
 RECEIVED CLACKAMAS COUNTY ASSESSOR

SCALE: 1" = 200 FEET



SUNRISE WATER AUTHORITY (SWA)
 ANNEXATION MAP

EXHIBIT
B

AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 P: 503.563.6151 F: 503.563.6152 aks-eng.com



DRWN: WCB
 CHKD: NSW
 AKS JOB:
 5839



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

May 2, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

A Board Order setting the final assessments for the Starview Lane LID

Purpose/Outcomes	A public hearing to set the final assessments for the Starview Lane LID.
Dollar Amount and Fiscal Impact	Final construction cost is \$69,549.57. LID will reimburse \$65,549.57. DTD will contribute \$4,000.00
Funding Source	LID Construction Fund, paid for by a special assessment against the benefitting properties, with reimbursement from property owners through lump sum payment or financing over 10 years. Road Fund contribution.
Duration	Construction is complete. Reimbursement of LID cost through assessment financing payments may occur for up to 10 years.
Previous Board Contact	4/11/19 BCC Business Meeting – Order No. 2019-40 accepting the final report and setting a public hearing for May 2, 2019, and ordering the DTD Director to send written notice of the hearing.
Strategic Plan Alignment	-Build a strong infrastructure.
Counsel Review	Reviewed and approved by County Counsel on 04/23/19
Contact Person	Kenneth Kent, DTD Engineering, Senior Planner 503-742-4673

BACKGROUND:

On April 11, 2019, the Board accepted the Final Report for the Starview Lane LID and set the hearing date to hear objections to final assessments for May 2, 2019. The Board ordered the Department of Transportation and Development to send written notice of the hearing of objections, the amount of the completed costs of the improvement, and the final assessment based on the completed improvements for all properties benefited by the Starview Lane LID.

Subsequent to this Order all property owners were notified of the hearing and of their proposed final assessment. After hearing objections, if any, from the benefitting owners, the board is asked to approve the attached Order accepting the final assessments for the improvements within the Starview Lane LID.

This Order further instructs staff to mail letters to the property owners advising them of the final assessment and offering payment options including long term financing. The costs of the LID are the responsibility of the benefited property owners. The cost of the project will be reimbursed by assessments against benefitting property owners as set forth in the attached Board Order.

Costs of these improvements will be reimbursed by a special assessment against the properties benefited as set forth in the attached Board Order and Report.

RECOMMENDATION:

It is recommended that the Board approve and sign this Order imposing final assessments for the Starview Lane Local Improvement District.

Respectfully submitted,

Kenneth Kent,
Senior Planner

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Completed Street and Storm
Drainage Improvement for Starview Lane,
Road Number P2431, Located in Sections
12B and 12C, T3, R3E, W.M., Clackamas
County, Oregon



Order No. _____
Page 1 of 2

This matter coming before the Clackamas County Board of Commissioners at the regularly scheduled public meeting on May 2, 2019, that by Order No. 2016-70, in accordance with ORS 371.635, the Board of County Commissioners did order that the public road, Starview Lane, located in Sections 12B and 12C, T3, R3E, W.M., Clackamas County, Oregon, be improved by contract; and

WHEREAS, these improvements have been completed and the Director of the Department of Transportation and Development has ascertained the amount of the assessment proposed against each parcel of land benefiting from the improvement, as required by ORS 371.645 and has reported the same to the Board of County Commissioners; and

WHEREAS, that on April 11, 2019, the Board of Commissioners by Order No. 2019-40 accepted the final report for this project and set the time and place of the hearing of objections to the assessments, and the Board of Commissioners directed that letters be mailed to the owners of each parcel of land proposed to be assessed, containing written notice of the time and place for the hearing of objections and the amounts of the proposed assessments against the owners' land; and

WHEREAS, in considering written objections and evidence submitted at the public hearing, that the assessments proposed to be charged against benefited property are all properly included and that each of the proposed assessments is justified by special benefit to the property to be assessed.

NOW, THEREFORE, the Clackamas County Board of Commissioners do hereby order: that the amounts shown on the attached Exhibit A are hereby assessed against properties shown in the attached Exhibit A pursuant to the applicable provisions of ORS Chapter 223, ORS 371.605 to 371.660 and the County's assessment ordinance, and the Clackamas County Board of Commissioners hereby certifies Exhibit A pursuant to ORS 371.650.

IT IS FURTHER ORDERED, that within 30 days of written notice, each assessment levied hereby must be paid in full or proper application must be made under ORS 223.210 to pay any assessment in installments over a ten (10) year period, including interest thereon; and

IT IS FURTHER ORDERED, that the Department of Transportation and Development shall notify each property owner or reputed owner of the assessment and provide additional information necessary to apply for installment payments; and

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Completed Street and Storm
Drainage Improvement for Starview Lane,
Road Number P2431, Located in Sections
12B and 12C, T3, R3E, W.M., Clackamas
County, Oregon



Order No. _____
Page 2 of 2

IT IS FURTHER ORDERED, that this instrument be recorded with the County Clerk, who shall endorse thereon the date of the filing thereof and record and index it in the Assessment Lien Docket of Clackamas County in the office of the County Clerk and in the real property records of Clackamas County.

DATED this _____ day of _____, 2019.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

**EXHIBIT A
STARVIEW LANE
LOCAL IMPROVEMENT DISTRICT
FINAL ASSESSMENTS
May 2019**

NUMBER OF SHARES	19
COST/SHARE Section A (one share)	\$2,064.81
COST/SHARE Section A+B (two shares)	\$2,943.18
COST/SHARE Section A+B+C (sixteen shares)	\$3,599.90

PROPERTY OWNER	TAX LOT	ASSESSABLE SHARE	TOTAL ASSESSMENT
ANDERSON ARNOLD W & SANDRA J 19623 S CREEK ROAD OREGON CITY, OREGON 97045	32E12C 01700	A	\$2,064.81
CARTER LAURIE 19496 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 02702	A+B	\$2,943.18
MELLIS JAMES 19505 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12C 01801	A+B	\$2,943.18
SORENSEN PAUL J & SUSAN M 19300 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 03501	A+B+C	\$3,599.90
GARFIELD SCOTT D CO-TRUSTEE 19322 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 03400	A+B+C	\$3,599.90
WILLIAMSON DALE A 19333 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 03301	A+B+C	\$3,599.90
SPEASL JUSTIN A & TABITHA B 19344 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 03300	A+B+C	\$3,599.90
CHESS JILL 19388 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 02902	A+B+C	\$3,599.90
ANDERSON LEONARD J & DEBBIE 19440 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 02700	A+B+C	\$3,599.90
BOYCE NICHOLAS G & KIMBERLY M 19464 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 03003	A+B+C	\$3,599.90
LAWRENCE RUSSELL A & CAROL A 19478 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 02703	A+B+C	\$3,599.90

TRACY PENNY M 19416 S STARVIEW LANE OREGON CITY, OREGON 97045	32E12B 02902	A+B+C	\$3,599.90
SMITH CASEY LEE & JULIE LEE 17001 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12B 03502	A+B+C	\$3,599.90
GALLAGHER JOHN & KIM H 17041 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12C 01902	A+B+C	\$3,599.90
PAULSON LON & CHARLENE 17100 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12C 01900	A+B+C	\$3,599.90
HAMBERG KURTIS & JOY 17105 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12C 01903	A+B+C	\$3,599.90
SIMMONS KEITH 17171 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12C 01904	A+B+C	\$3,599.90
KUYKENDALL DALE A & DIANNE M 17200 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12C 01905	A+B+C	\$3,599.90
MARCHISIO DARREN & SUSAN 17223 S WINTERVIEW LANE OREGON CITY, OREGON 97045	32E12C 01901	A+B+C	\$3,599.90



GEORGE MARLTON, JD
PROCUREMENT DIVISION DIRECTOR

PROCUREMENT DIVISION
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

May 2, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Public Hearing for the Adoption of Findings and a Resolution Establishing an Exemption for a Class of Public Improvement Contracts for Contemporaneous Development

Purpose / Outcome	Public hearing for the approval of Findings and a Resolution establishing an exemption for a class of public improvement contracts.
Dollar Amount and Fiscal Impact	N/A
Funding Source	No County General Funds involved.
Duration	Indefinite.
Previous Board Action/Review	None
Strategic Plan Alignment	1. Build a strong infrastructure. 2. Build public trust through good government.
Contact Person	George Marlton, Procurement Division Director x5442

BACKGROUND:

Various Clackamas County departments have encountered situations where an entity is engaging in or planning to engage in a construction project and the County would benefit from being able to contract directly with the entity or their contractor to construct additional public improvements on or in close proximity to the site being developed. In those instances where the entity agrees to make the improvements, the County needs to be able to directly contract with them in order to realize the benefits of resources already being available and mobilized on the nearby property.

Example situations:

1. Water Environment Services (“WES”) requires a developer building a subdivision to construct on-site public sanitary sewer or storm systems, and WES requests the installation of the service connection laterals to each of the adjacent properties for future connections.
2. A developer of a subdivision is required to install an eight-inch sanitary sewer or storm pipe to serve the property, but WES would like a twelve-inch pipe installed in anticipation of future demand.
3. The Department of Transportation and Development has required a developer to install sidewalks and curbing along with paving for half of the road, and it would be beneficial to have the other side of the street upgraded with sidewalks, curbing and new paving at the same time.

4. A developer is required to install new curb ramps adjacent to its property to comply with requirements under the Americans with Disabilities Act, and it would be beneficial for connecting curb ramp facilities located offsite to be constructed at the same time.

EXEMPTION PROCESS:

ORS 279C.335 and LCRB C-049-0600 allow the Board to grant an exemption for a class of public improvement projects. ORS 279C.335 requires the local contract review board to approve a definition of the class of contracts to be exempt and two main findings: (1) that the exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition; and (2) awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency or public.

In making findings to support an exemption for a class of public improvement contracts, the agency shall clearly identify the class using the class's defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency's overall construction program.

The Contemporaneous Development Exemption will be applicable to Clackamas County, Water Environment Services, the Development Agency of Clackamas County, the Housing Authority of Clackamas County, North Clackamas Parks and Recreation District and any other district or agency governed by the Board of County Commissioners and using the Clackamas County Local Contract Review Board rules.

PROPOSED EXEMPTION:

Staff submits the attached Resolution, Findings in Support of an Exemption for a Class of Public Improvement Contracts for Contemporaneous Development in Exhibit A, and the Identification of Class and Requirements for Use for Contemporaneous Development in Exhibit B.

PROCUREMENT PROCESS:

In accordance with ORS 279C.335 and LCRB C-049-0600, Procurement published a notice in the Daily Journal of Commerce on April 17, 2019 notifying the public of a public hearing on May 2, 2019 to discuss the draft findings for the exemption. Procurement also published the draft Findings on the County Procurement website on April 17, 2019.

RECOMMENDATION:

Staff recommends the Board take the following actions:

1. Hold a public hearing to provide the opportunity for members of the public to provide statements related to the request for an exemption.
2. Direct staff to make any changes necessary to the proposed exemption as a result of the Board's consideration of any testimony received.
3. Barring the need for significant revisions to the exemption findings, proceed with approval of the Resolution adopting the Findings and establishing the Contemporaneous Development Exemption.

Respectfully submitted,



George Marlton, Division Director
Procurement & Contract Services

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

A Resolution Adopting
Findings and Establishing a
Procurement Class Exemption
for Contemporaneous
Development Projects



Resolution No. _____

WHEREAS, various Clackamas County (“County”) departments have encountered situations where an entity is engaging in or planning to engage in a construction project and the County would benefit from being able to contract directly with the entity’s existing contractor to construct additional public improvements on or in close proximity to the site being developed (“Contemporaneous Development”);

WHEREAS, Oregon law requires contracts for public improvements to be based on competitive bids unless the local contract review board grants an exemption under ORS 279C.335;

WHEREAS, ORS 279C.335 requires the local contract review board to approve a definition of the class of contracts to be exempt and make certain findings that 1) the exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition, and 2) awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the agency or public;

WHEREAS, draft findings, attached hereto as Exhibit A and incorporated herein (“Findings”), addressing the considerations above were available 14 days in advance of the public hearing on this Resolution;

WHEREAS, the Board has reviewed the Findings and is satisfied with the supporting information and materials that has been provided to justify the approval of the Contemporaneous Development Exemption;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

1. The Board adopts the Findings as set forth in Exhibit A to this Resolution, attached hereto and incorporated herein, which conclude the following:
 - a. The exemption from competitive bidding is unlikely to encourage favoritism or substantially diminish favoritism; and
 - b. The exemption from competitive bidding is likely to result in substantial cost savings and other substantial benefits.
2. The Board adopts the Identification of Class and Requirements for Use as set forth in Exhibit B attached hereto and incorporated herein.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

3. The Board authorizes staff of Clackamas County, Water Environment Services, the Development Agency of Clackamas County, the Housing Authority of Clackamas County, North Clackamas Parks and Recreation District, and any other district or agency governed by the Board of County Commissioners and utilizing the Clackamas County Local Contract Review Board rules, to utilize the Contemporaneous Development Exemption immediately upon adoption of this Resolution.
4. The Board directs County staff to incorporate this Contemporaneous Development Exemption into the next update of the County's Local Contract Review Board rules.

ADOPTED this ___ day of _____, 2019.

CLACKAMAS COUNTY:

Chair

Recording Secretary

EXHIBIT A

CONTEMPORANEOUS DEVELOPMENT

FINDINGS IN SUPPORT OF AN EXEMPTION FOR A CLASS OF PUBLIC IMPROVEMENT CONTRACTS

The Clackamas County Board of County Commissioners makes these findings to establish an exemption for a class of public improvement contracts (the “Contemporaneous Development Exemption”). The Contemporaneous Development Exemption will be applicable to Clackamas County, Water Environment Services, the Development Agency of Clackamas County, the Housing Authority of Clackamas County, North Clackamas Parks and Recreation District and any other district or agency governed by the Board of County Commissioners.

The Contemporaneous Development Exemption will permit a County department, district, or other agency to contract directly with a Person, defined below, to perform certain construction work, including public improvements, minor alterations or repairs (“Construction”), provided the conditions of the exemption are satisfied.

A. Alternative Contracting Exemption under Oregon Law

Oregon law requires all contracts for public improvement projects to be based on competitive bids unless the local contract review board grants an exemption under ORS 279C.335, which is also reflected in Clackamas County’s Local Contract Review Board (“LCRB”) rule C-049-0600. ORS 279C.335 requires the local contract review board to approve a definition of the class of contracts to be exempt and two main findings: (1) that the exemption is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition; and (2) awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency or public.

In making findings to support an exemption for a class of public improvement contracts, the agency shall clearly identify the class using the class’s defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency’s overall construction program.

B. Background Information

When a Person, defined below, is engaged in a development or construction project, they typically need to make improvements to comply with land use or other permitting requirements. A Person is defined in the LCRB rules as an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity (“Person”). While the Person is already mobilizing resources to make those improvements, the County could benefit by contracting directly with that Person or their contractor to make additional improvements to infrastructure owned or managed by the County. In those instances where the Person agrees to make the improvements, the County needs to be able to directly contract with the Person or their contractor in order to realize the benefits of resources already being available and mobilized on the nearby property.

Example situations:

1. Water Environment Services (“WES”) requires a developer building a subdivision to construct on-site public sanitary sewer or storm systems, and WES requests the installation of the service connection laterals to each of the adjacent properties for future connections.
2. A developer of a subdivision is required to install an eight-inch sanitary sewer or storm pipe to serve the property, but WES would like a twelve-inch pipe installed in anticipation of future demand.

3. The Department of Transportation and Development has required a developer to install sidewalks and curbing along with paving for half of the road, and it would be beneficial to have the other side of the street upgraded with sidewalks, curbing and new paving at the same time.
4. A developer is required to install new curb ramps adjacent to its property to comply with requirements under the Americans with Disabilities Act, and it would be beneficial for connecting curb ramp facilities located offsite to be constructed at the same time.

C. Findings

1. Class Defining Characteristics.

The Contemporaneous Development Exemption permits the direct procurement of construction services without competitive bids or proposals when a Person* is engaged, or is planning to engage, in a development or construction project within Clackamas County and adjacent to an area where a Contracting Agency* desires to perform certain construction work, including Public Improvement*, minor alterations or repairs (“Construction”). In order for a Construction project to qualify for this exemption, the department director of the Contracting Agency (“Department Director”) must show, in writing, that the following requirements are met:

1. The Construction work would occur adjacent to, or within close proximity of, the Person’s existing or planned project;
2. Contracting Agency has identified the Construction work through one of the following methods:
 - i. Identified in an adopted capital improvement plan or other inventory list of infrastructure needs; or
 - ii. Upon a recommendation by the Director of the Department;
3. The Person engaged, or planning to engage, in the development project is willing and able to perform the Construction work;
4. Contracting Agency has sufficient funds to complete the Construction work;
5. The use of this class exemption will result in cost savings and efficiencies as a result of the Person’s equipment or other resources, including engineering or other personal services, being present or utilized for project work adjacent to, or within close proximity of, where Contracting Agency desires the Construction work to take place; and
6. The use of this exemption is in the public’s best interest.

2. No favoritism or diminished competition.

The use of this exemption will not encourage favoritism or diminish competition as the Person, not the County, selects the contractor who will perform the work. Further, the kinds of projects contemplated by this exemption are effectively projects of opportunity wherein the County receives a benefit from already mobilized resources on nearby property. That, by its very nature, is unlikely to encourage favoritism because the County typically would not know the details of a project, let alone who the contractor performing the work would be, until the permitting phase. The opportunity to contract with the County is open to anyone who is engaging in development within proximity of an area the County has determined is in need of improvements. In addition, the proposed exemption has multiple safeguards and review processes that are intended to prevent over-application of this exemption to projects not intended to be covered. Only a narrow category of projects would qualify for the exemption, with all others following standard competitive bidding procurement procedures.

* As defined in the Clackamas County Local Contract Review Board Rules.

These factors all support a finding that the exemption would not encourage favoritism or diminish competition.

3. Substantial cost savings or other benefits.

Approval of the exemption will result in significant savings for the County for the following reasons: there will not be a need to produce a separate full set of plans and specifications, or a need to obtain separate permits; construction mobilization costs will typically be lower as they are absorbed by the existing project; unit material costs are typically lower when purchased in larger quantities as a part of a larger project; and indirect and overhead costs are typically lower for public improvements that are added to existing development projects. Other substantial benefits include reduced traffic delay for the public; improved road safety where there is an urgent condition or situation; fewer instances of mismatched improvements where portions of the same roadway section are upgraded in separate pieces; more streamlined traffic control with a single contractor responsible for scheduling the work and the finished work product; greater access to public services such as sewer; and potential access to resources or specialized equipment that allow the contractor to complete the work more quickly and efficiently. Being able to take advantage of these resources when available enables the County to make long-term infrastructure updates and other enhancements that might not otherwise occur, ultimately benefiting the public using those improvements.

In making the finding of substantial cost savings or other substantial benefits, the Board must consider the following factors to the extent applicable to the particular class of public improvement contracts:

- a. *How many persons are available to bid.* Typically 3-5 companies will bid on small scale projects like the ones contemplated by this exemption.
- b. *The construction budget and the projected operating costs for the completed public improvement.* Each project will have its unique specifications and associated costs. While most projects will likely be under \$50,000, some projects may be significantly more based on the project circumstances. The operating costs of the completed improvements will typically not be significant due to the smaller scale of the projects and will typically be a small part of a larger inventory already being operated and maintained by the County or other affiliated entity.
- c. *Public benefits that may result from granting the exemption.* See discussion above.
- d. *Whether value engineering techniques may decrease the cost of the public improvement.* Value engineering techniques are typically not employed on small public improvements like short sewer line extensions or sewer line lateral installations; however, those techniques may be employed by the construction team as a part of the larger project.
- e. *The cost and availability of specialized expertise that is necessary for the public improvement.* The County will have access to the specialized expertise that the Person engaged in development has obtained and mobilized for their project.
- f. *Any likely increases in public safety.* The County will benefit from reductions in road closures, traffic adjustments, and trenching; improved road safety where there is an urgent situation; decreases in public health risks if a public improvement addresses a failing septic system; and other benefits that necessarily flow from consolidating multiple projects into a single effort.
- g. *Whether granting the exemption may reduce risks to the agency that are related to the public improvement.* There will potentially be a lower financial risk and a lower safety risk to County staff who would otherwise be required to design and construct the improvement as a standalone project.

- h. Whether granting the exemption will affect the sources of funding for the public improvement.* No, the use of the exemption would not impact the source of funding. Further, any department utilizing the exemption must have resources available in its current budget to cover the cost of the project, so additional funding from other sources not included in a department's budget are not contemplated by this exemption.
- i. Whether granting the exemption will better enable the agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement.* The use of this exemption will expedite the time it would take to contract for and construct the improvements. In terms of market conditions, the expedited time table would allow the County to take advantage of the best pricing for materials and services in the current market, instead of allowing prices to potentially inflate over a longer period of time.
- j. Whether granting the exemption will better enable the agency to address the size and technical complexity of the public improvement.* The ability to add a public improvement project onto a larger ongoing project results in less technical complexity for the County, as it would not be required to directly manage the design and construction contracts.
- k. Whether the public improvement involves new construction or renovates or remodels an existing structure.* Typically the public improvement would involve new construction, but it could also involve redevelopment situations.
- l. Whether the public improvement will be occupied or unoccupied during construction.* Not applicable to the types of public improvements currently contemplated under this exemption.
- m. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.* The public improvements will typically be constructed in a single phase that is managed by the entity responsible for the initial project.
- n. Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.* County staff have sufficient experience in working with public improvement projects to negotiate, administer and enforce the terms of the resulting contract, which will be substantially similar to the County's standard public improvement or personal service contracts.

D. Reservation of Rights

ORS 279C.335(6) provides that the representations in and the accuracy of these findings are the bases for the class exemption if adopted by a Board resolution. These findings also describe, to some extent, anticipated features of the resulting public improvement contracts, but the final parameters of those contracts are those characteristics that will be negotiated between the department and the Person, and the Board specifically reserves all of its rights in this regard.

EXHIBIT B

Contemporaneous Development Exemption:

Identification of Class and Requirements for Use

The Contemporaneous Development Exemption permits the direct procurement of construction services without competitive bids or proposals when a Person* is engaged, or is planning to engage, in a development or construction project within Clackamas County and adjacent to an area where a Contracting Agency* desires to perform certain construction work, including Public Improvement*, minor alterations or repairs ("Construction"). In order for a Construction project to qualify for this exemption, the department director of the Contracting Agency ("Department Director") must show, in writing, that the following requirements are met:

1. The Construction work would occur adjacent to, or within close proximity of, the Person's existing or planned project;
2. Contracting Agency has identified the Construction work through one of the following methods:
 - a. Indicated in an adopted capital improvement plan or other inventory list of infrastructure needs; or
 - b. Upon a recommendation by the Director of the Department;
3. The Person engaged, or planning to engage, in the development project is willing and able to perform the Construction work;
4. Contracting Agency has sufficient funds to complete the Construction work;
5. The use of this class exemption will result in cost savings and efficiencies as a result of the Person's equipment or other resources, including engineering or other personal services, being present or utilized for project work adjacent to, or within close proximity of, where Contracting Agency desires the Construction work to take place; and
6. The use of this exemption is in the public's best interest.

The Department Director will provide a written memorandum summarizing the above information to County Procurement and Contract Services ("Procurement"), who will review for consistency with applicable requirements and obtain any other necessary approvals. For Construction projects over \$100,000, the Department Director or County Procurement must obtain the prior written approval of the County Administrator. Clackamas County Counsel must approve any agreement entered into pursuant to this exemption regardless of dollar value. The Board will be notified prior to the use of this exemption at any dollar amount.

Upon completion of Construction projects over \$100,000 utilizing this class exemption, the Department Director will submit to the Board an evaluation in compliance with ORS 279C.355 detailing the following:

- (a) The actual project cost as compared with original project estimates;
- (b) The amount of any guaranteed maximum price;
- (c) The number of project change orders issued by the contracting agency;
- (d) A narrative description of successes and failures during the design, engineering and construction of the project; and
- (e) An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.335 that established the class exemption.

* As defined in the Clackamas County Local Contract Review Board Rules.