



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD OREGON CITY, OR 97045

February 14, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-010  
Annexation to Tri-City County Service District

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
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**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
 Assistants

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**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 18-010 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 West Linn Tidings; 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. Additionally, the City of West Linn has approved this petition as required by statute (ORS 198.720(1)).

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 eastern part of the District. The territory contains 2.36 acres, 1 single family dwelling and is valued at \$785,643.

## **REASON FOR ANNEXATION**

The property owners desire sewer service to permit development consistent with the R-7 zoning.

## **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 West Linn 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 party<sup>1</sup>; 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:

---

<sup>1</sup> 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 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; and
  - (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.

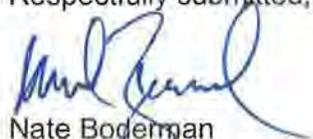
There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

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 18-010, annexation to Tri-City County Service District.

Respectfully submitted,



Nate Bodeman  
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 18-010



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 February 14, 2019 and that a decision of approval was made on February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-010 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 February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

## FINDINGS

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

1. The territory to be annexed contains 2.36 acres, 1 single family dwelling and is valued at \$785,643.
2. The property owners desire sewer service to permit residential development consistent with the R-7 zoning.
3. 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 West Linn 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.

4. 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 party<sup>1</sup>; 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 is immediately upon adoption.

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

To approve a boundary change the County must:

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<sup>1</sup> A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (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; and
  - (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 7 and 8 below. 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.

6. 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.

7. The PUBLIC FACILITIES AND SERVICES Element of the County 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.

8. The territory is designated Low Density Residential on the City Comprehensive Plan and is zoned R-7 (7,000 square foot minimum lot size).

According to Section 1 of the Public Services and facilities Chapter of the West Linn Comprehensive Plan:

*The Water Environment Services Department of Clackamas County is responsible for providing wastewater treatment services for the cities of West Linn, Oregon City and Gladstone.*

9. 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.
10. The City has an 8-inch sewer line in Satter Street on the east edge of the site. WES, as the service provider for the District, will provide major transmission and treatment of the sewerage.
11. The City has an 8-inch water line in Weatherhill Road on the north edge of the territory to be annexed.
12. The area receives police service from the City of West Linn.
13. The City is provided fire protection by Tualatin Valley Fire & Rescue.

14. The area to be annexed receives parks and recreation service from the City of West Linn.

### **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 & 9 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 West Linn 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. 10. 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.

EXHIBIT 'B'



**SECTION 1: LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED**

A TRACT OF LAND IN THE NORTH 1/2 OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING SITUATED IN LOTS 22 AND 23, "BLAND ACRES", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN STATUTORY WARRANTY DEED TO HSIAO CHUN CHIANG RECORDED AS DOCUMENT NUMBER 2017-082194, CLACKAMAS COUNTY DEED RECORDS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, "WEATHERHILL ESTATES", A PLAT RECORDED IN BOOK 147, PAGE 009, CLACKAMAS COUNTY PLAT RECORDS; THENCE ALONG THE WEST LINE OF SAID "WEATHERHILL ESTATES" SOUTH 01°47'40" WEST 476.53 FEET TO THE SOUTHWEST CORNER OF LOT 6, "WEATHERHILL ESTATES"; THENCE ALONG THE NORTH LINE OF LOT 12, "FLORENDO'S HIDEAWAY", A PLAT RECORDED IN BOOK 124, PAGE 022, CLACKAMAS COUNTY PLAT RECORDS, SOUTH 84°55'10" WEST 35.46 FEET TO THE MOST WESTERLY CORNER OF SAID LOT 12; THENCE ALONG THE NORTH LINE OF "SUNBREAK", A PLAT RECORDED IN BOOK 144, PAGE 019, CLACKAMAS COUNTY PLAT RECORDS, SOUTH 84°58'45" WEST 214.55 FEET TO THE SOUTHWEST CORNER OF LOT 22, "BLAND ACRES"; THENCE ALONG THE WESTERLY LINE OF SAID LOT 22, NORTH 27°54'54" EAST 63.86 FEET TO THE MOST EASTERLY CORNER OF LOT 83, "RIDGE VIEW ESTATES PHASE 2", A PLAT RECORDED IN BOOK 114, PAGE 21, CLACKAMAS COUNTY PLAT RECORDS; THENCE ALONG THE EASTERLY LINE OF LOT 83 AND LOT 82, "RIDGE VIEW ESTATES PHASE 2" NORTH 63°03'41" WEST 85.00 FEET TO AN ANGLE POINT IN THE EASTERLY LINE OF SAID LOT 82; THENCE ALONG THE NORTHWESTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN PARCEL II OF THE AFOREMENTIONED TRACT OF LAND DESCRIBED IN STATUTORY WARRANTY DEED TO HSIAO CHUN CHIANG RECORDED AS DOCUMENT NUMBER 2017-082194, CLACKAMAS COUNTY DEED RECORDS, NORTH 27°54'54" EAST 500.00 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF WEATHERHILL ROAD (BLAND CIRCLE); THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 63°02'00" EAST 85.00 FEET TO THE POINT OF BEGINNING.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

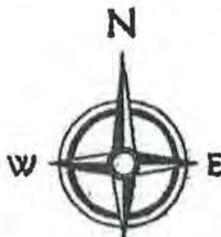
  
OREGON  
JULY 14, 1978  
DON DEVLAE MINCK  
1634

DATE OF SIGNATURE: 8/7/18  
EXPIRES 12/31/2019

BASIS OF BEARINGS: SN 2015-064.

TD 8/7/18

EXHIBIT 'C'



Scale: 1" = 80'



POINT OF BEGINNING  
NORTHWEST CORNER OF LOT 1,  
"WEATHERHILL ESTATES"

NORTHWESTERLY LINE OF  
PARCEL II AS DESCRIBED  
IN DOC NO. 2017-082194

TAX LOT  
401 & 403  
2 1E 35B  
(DOC. NO.  
2017-082194)

TAX LOT 405  
2 1E 35B

LOT 23 "BLAND ACRES"  
LOT 22 "BLAND ACRES"

TAX LOT 8500,  
2 1E 35AB  
(DOC. 2017-082194)

ANGLE POINT IN  
EASTERLY LINE OF  
LOT 82, "RIDGE VIEW  
ESTATES PHASE 2"

N63°03'41"W  
85.00'

THIS PORTION OF TAX  
LOT 403 WAS PREVIOUSLY  
ANNEXED INTO THE CITY  
OF WEST LINN

81

82

83

84

"RIDGE VIEW ESTATES PHASE 2"

SOUTHWEST CORNER OF  
LOT 22, "BLAND ACRES"

9

10

11

"SUNBREAK"

12

11

"FLORENDO'S HIDEAWAY"

S84°55'10"W  
35.48'

S84°58'45"W 214.55'

SATTER STREET

SOUTHWEST CORNER OF  
LOT 6, "WEATHERHILL  
ESTATES"

6

7

S01°47'40"W 476.53'

"WEATHERHILL ESTATES"

2

3

5

4

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 14, 1978  
DON DEVLAMINCK  
1834

DATE OF SIGNATURE: 6/14/18  
EXPIRES 12/31/2019

8005 Exh.dwg

ANNEXATION EXHIBIT MAP

COMPASS Land Surveyors  
4103 SW International Way, Suite 200

NORTH 1/2 OF SECTION 35, T. 2 S., R. 1 E., W.M.



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD OREGON CITY, OR 97045

February 14, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-015  
Annexation to Tri-City County Service District

**Stephen L. Madkour**  
 County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
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**Sarah Foreman**  
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<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**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 18-015 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 West Linn Tidings; 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. Additionally, the City of West Linn has approved this petition as required by statute (ORS 198.720(1)).

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 eastern part of the District. The territory contains 2.57 acres, 1 single family dwelling and is valued at \$706,000.

### **REASON FOR ANNEXATION**

The property owners desire sewer service to permit development consistent with the R-7 zoning.

### **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 West Linn 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 party<sup>1</sup>; 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:

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<sup>1</sup> 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 County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
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  - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
  - (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 18-015, 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 18-015



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 February 14, 2019 and that a decision of approval was made on February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-015 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 February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

## FINDINGS

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

1. The territory to be annexed contains 2.57 acres, 1 single family dwelling and is valued at \$706,000.
2. The property owners desire sewer service to permit residential development consistent with the R-7 zoning.
3. 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 West Linn 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.

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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 is immediately upon adoption.

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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.

6. 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.

7. The PUBLIC FACILITIES AND SERVICES Element of the County 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.

8. The territory is designated Low Density Residential on the City Comprehensive Plan and is zoned R-7 (7,000 square foot minimum lot size).

According to Section 1 of the Public Services and facilities Chapter of the West Linn Comprehensive Plan:

*The Water Environment Services Department of Clackamas County is responsible for providing wastewater treatment services for the cities of West Linn, Oregon City and Gladstone.*

9. 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.
10. The City has an 8-inch sewer line in Crestview Drive just to the south of the site. WES, as the service provider for the District, will provide major transmission and treatment of the sewerage.
11. The City has an 8-inch water line in Weatherhill Road on the north edge of the territory to be annexed.
12. The area receives police service from the City of West Linn.
13. The City is provided fire protection by Tualatin Valley Fire & Rescue.

14. The area to be annexed receives parks and recreation service from the City of West Linn.

### **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 & 9 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 West Linn 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. 10. 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.

JOB NO. 463-003  
WEATHERHILL ROAD

APRIL 3, 2018

**EXHIBIT B: LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED**

A TRACT OF LAND SITUATED IN THE N.W. 1/4 OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, AND BEING A PORTION OF LOT 23, "BLAND ACRES", A PLAT OF RECORD IN CLACKAMAS COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

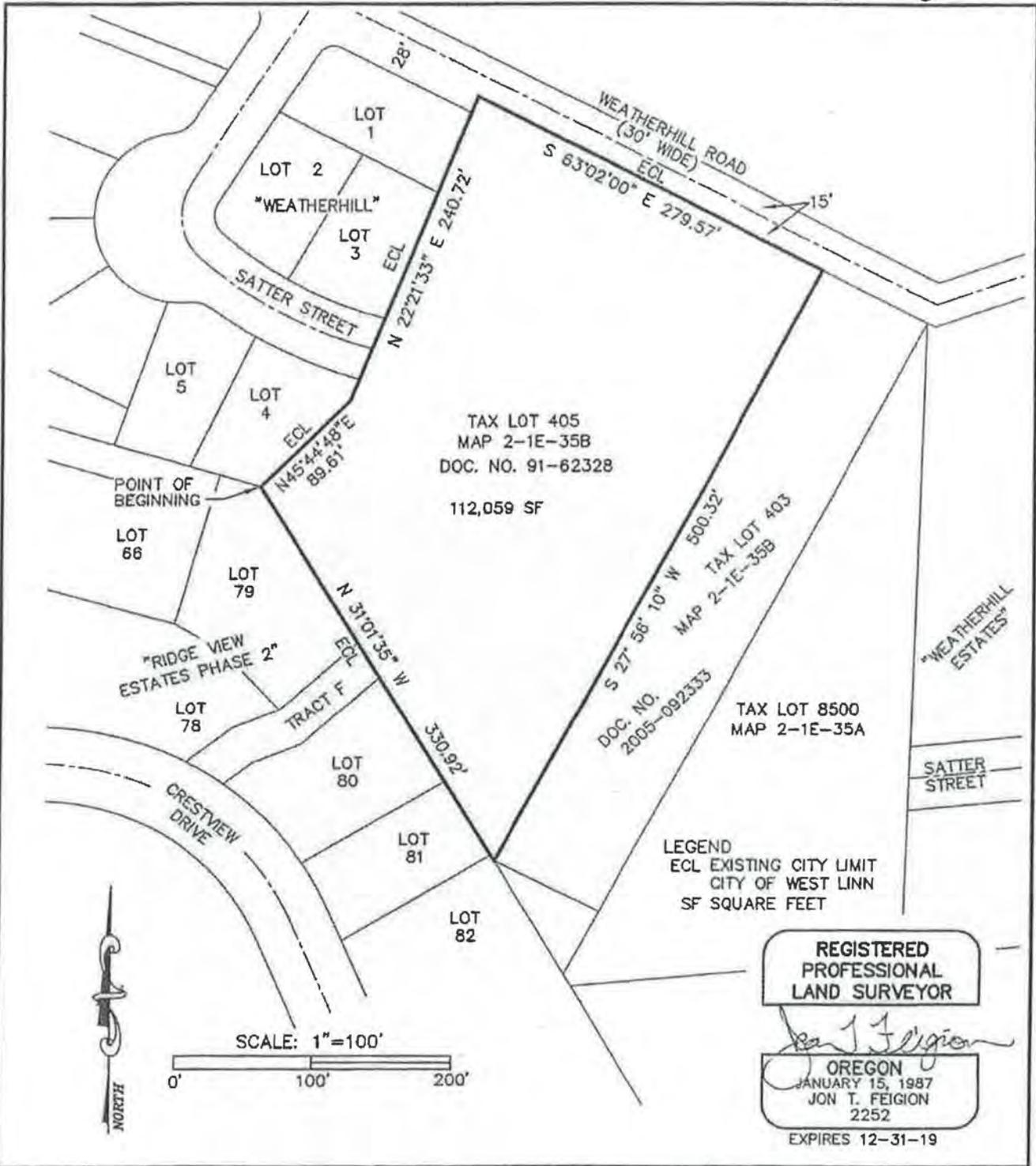
BEGINNING AT THE SOUTHEAST CORNER OF LOT 4, "WEATHERHILL", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON, BEING ON THE EXISTING CITY LIMIT OF THE CITY OF WEST LINN; THENCE ALONG SAID CITY LIMIT AND THE EASTERLY LINE OF SAID PLAT OF "WEATHERHILL", NORTH 45°44'48" EAST, 89.61 FEET TO AN ANGLE POINT ON SAID EASTERLY PLAT LINE, THENCE CONTINUING ALONG SAID EASTERLY PLAT LINE AND SAID EXISTING CITY LIMIT, NORTH 22° 21'33" EAST, 240.72 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEATHERHILL ROAD (COUNTY ROAD 1637, 15.0' FROM CENTERLINE); THENCE CONTINUING ON SAID EXISTING CITY LIMIT AND SAID SOUTHERLY RIGHT OF WAY LINE, SOUTH 63°02'00" EAST, 279.57 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO LI WEI AND LI LI WEI BY DEED RECORDED AS DOCUMENT NO. 2005-092333, CLACKAMAS COUNTY DEED RECORDS; THENCE LEAVING SAID CITY LIMIT, ALONG THE WESTERLY LINE OF SAID WEI TRACT, SOUTH 27°56'10" WEST, 500.32 FEET TO SAID EXISTING CITY LIMIT ON THE NORTHEASTERLY LINE OF THE PLAT OF "RIDGE VIEW ESTATES PHASE 2", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON, THENCE ALONG SAID EXISTING CITY LIMIT ON SAID NORTHEASTERLY PLAT LINE, NORTH 31°01'35" WEST, 330.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 112,059 SQUARE FEET, MORE OR LESS.



*Jon T. Feigion*  
OREGON  
JANUARY 15, 1987  
JON T. FEIGION  
2252

EXPIRES 12-31-19



DRAWN BY: JTF
SCALE: 1" = 100'
DATE: 4-3-18
463-003 ANNEX.DWG

ANNEXATION EXHIBIT MAP

N.W. 1/4 SECTION 35, T.2S., R.1E., W.M.  
CLACKAMAS COUNTY, OREGON

**EMERIO**  
*Design*

6445 SW FALLBROOK PLACE, STE. 100  
BEAVERTON, OREGON 97008  
TEL: (503) 746-8812  
FAX: (503) 639-9592  
www.emeriodesign.com



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD OREGON CITY, OR 97045

February 14, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-016  
Annexation to Clackamas County Service District No. 1

**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

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**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 Clackamas County Service District No. 1 is such a district.

Proposal No. CL 18-016 is a proposed annexation to Clackamas County Service District No. 1 ("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. Additionally, the City of Happy Valley has approved this petition as required by statute (ORS 198.720(1)).

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 central part of the District. The territory contains 8.88 acres, two single family dwellings and is valued at \$556,644.

### **REASON FOR ANNEXATION**

The property owners desire sewer service for a 39-lot Planned Unit Development 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."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District 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 would be served by WES under such agreement.

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 party<sup>1</sup>; 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

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

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; and
  - (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.

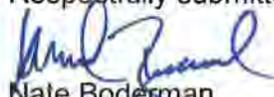
There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

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 by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District 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-18-016, annexation to Clackamas County Service District No. 1.

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 18-016



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 Clackamas County Service District No. 1; 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 February 14, 2019 and that a decision of approval was made February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-016 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 Clackamas County Service District No. 1 as of February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

## FINDINGS

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

1. The territory to be annexed contains 8.88 acres, two single family dwellings and is valued at \$556,644.
2. The property owners desire sewer service for a 39-lot Planned Unit Development (PUD) which has been approved by the City of Happy Valley.
3. 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."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District 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 would be served by WES under such agreement.

4. 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 party<sup>1</sup>; 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 is immediately upon adoption.

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

To approve a boundary change the County must:

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

- (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; and
  - (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 Findings 7 and 8 below. 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.

6. 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.

7. The PUBLIC FACILITIES AND SERVICES Element of the County 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.

8. The territory is inside the City of Happy Valley and has a zoning designation of R-5 and R-7. The property owner has received City approval for a 39-lot PUD for the site.
9. 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.
10. WES, as the service provider for the District, has a sewer line SE 172<sup>nd</sup> Avenue which can be extended onto the site.
11. The Sunrise Water Authority has a water line in SE 172<sup>nd</sup> which will be available to serve the property once the property has been annexed into the Authority. Annexation to the Authority is being processed (CL-18-017) at the same time as this current annexation to CCSD # 1.
12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
13. 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.
14. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

## 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 & 9 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 original public facility plan for this area does call for sewer service by the District.
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 Happy Valley 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. 10. 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.

## EXHIBIT B

### Clackamas County Service District No. 1 (CCSD#1) Annexation Description

A tract of land and a portion of right-of-way, located in the Southeast One-Quarter of Section 30 and the Northeast One-Quarter of Section 31, Township 1 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the north one-quarter corner of said Section 31, also being the intersection of SE 172nd Avenue and SE Hemrich Road; thence along the north line of said Section 31, South 88°57'05" East 30.00 feet to the CCSD#1 line and the Point of Beginning; thence along said CCSD#1 line, North 01°22'52" East 30.00 feet to the intersection of the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the northerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence leaving said CCSD#1 line along said northerly right-of-way line, South 88°57'05" East 436.74 feet to the northerly extension of the easterly line of Document Number 98-054398; thence along said northerly extension and the easterly line of said deed and the easterly line of Document Number 2008-018538, South 01°38'04" West 886.05 feet to the southeasterly corner of said Document Number 2008-018538; thence along the southerly line of said deed, North 88°59'43" West 436.07 feet to the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the CCSD#1 line; thence along said easterly right-of-way line and said CCSD#1 line, North 01°35'53" East 856.38 feet to the Point of Beginning.

The above described tract of land contains 8.88 acres, more or less.

9/5/2018

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



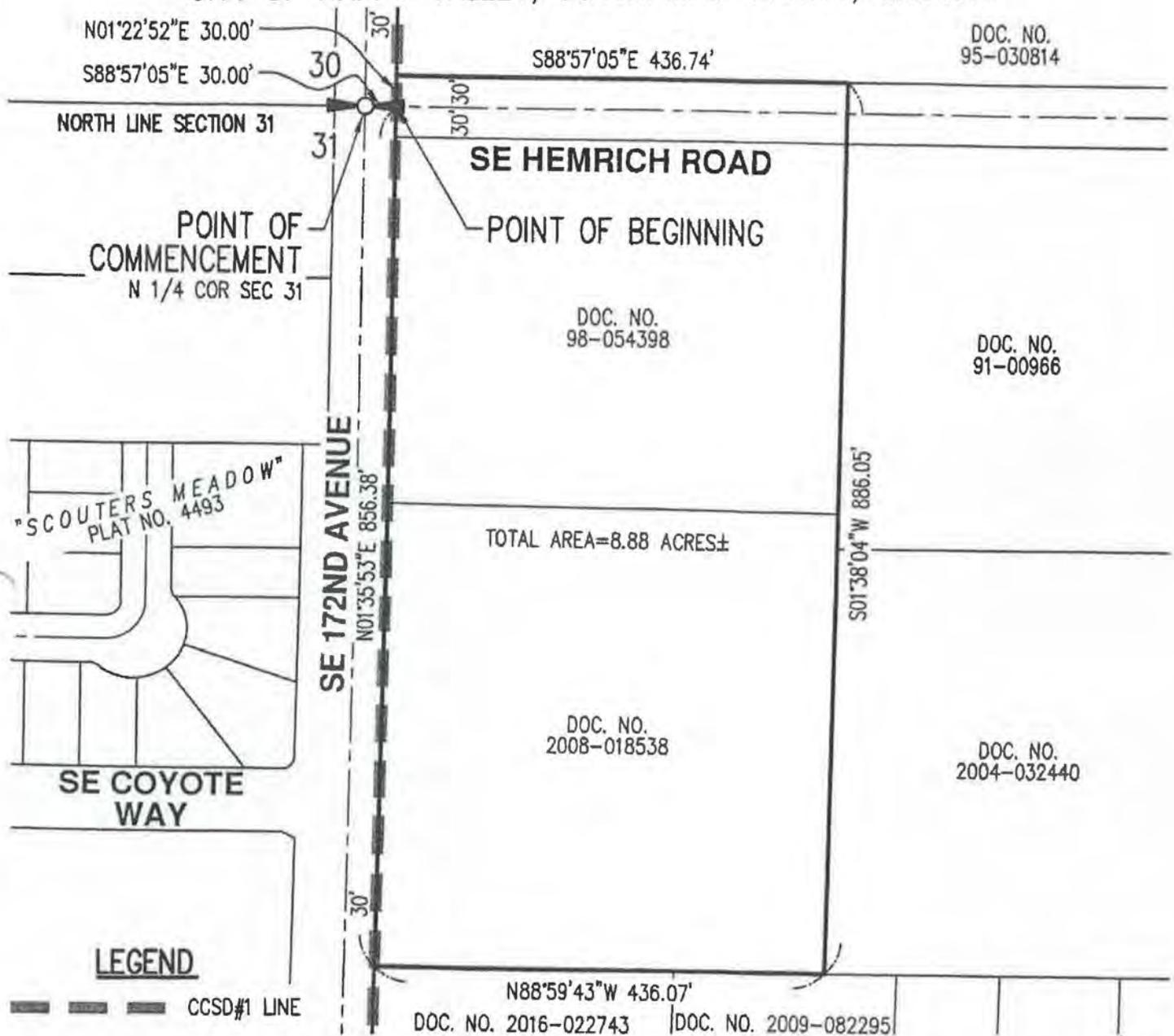
OREGON  
JANUARY 11, 2005  
ROBERT D. RETTIG  
60124LS

RENEWS: 12/31/18



# EXHIBIT C

A TRACT OF LAND AND A PORTION OF RIGHT-OF-WAY, LOCATED IN THE SOUTHEAST 1/4 OF SECTION 30 AND THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



### LEGEND

--- CCSD#1 LINE

9/5/2018

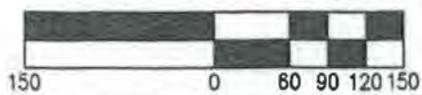
**REGISTERED PROFESSIONAL LAND SURVEYOR**

*Robert D. Rettig*  
**OREGON**  
 JANUARY 11, 2005  
**ROBERT D. RETTIG**  
 60124LS  
 RENEWS: 12/31/18

### PREPARED FOR

STONECREEK DEVELOPMENT, LLC  
 P. O. BOX 88  
 WEST LINN, OR 97068

SCALE: 1" = 150 FEET



CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 (CCSD#1)  
 ANNEXATION MAP

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  
**B**  
 DRWN: WCE  
 CHKD: RDR  
 AKS JOB:  
 6095



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD OREGON CITY, OR 97045

February 14, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-017  
Annexation to Sunrise Water Authority

**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

<b>Purpose/Outcomes</b>	Conduct Public Hearing/Approve Order
<b>Dollar Amount and Fiscal Impact</b>	None
<b>Funding Source</b>	Not Applicable
<b>Duration</b>	Permanent
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
<b>Contact Person</b>	Ken Martin, Boundary Change Consultant – 503-222-0955 Nate Boderman, Assistant County Counsel
<b>Contract No.</b>	Not Applicable

**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 18-017 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. Additionally, the City of Happy Valley has approved this petition as required by statute (ORS 198.720(1)).

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 8.88 acres, two single family dwellings and is valued at \$556,644.

### **REASON FOR ANNEXATION**

The property owners desire water service for a 39-lot Planned Unit Development 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 party<sup>1</sup>; 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;

---

<sup>1</sup> 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; and
  - (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-18-017, annexation to Sunrise Water Authority.

Respectfully submitted,



Nate Bodeman  
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 18-017



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 February 14, 2019 and that a decision of approval was made on February 14, 2019;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 18-017 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 February 14, 2019.

**DATED** this 14<sup>th</sup> day of February, 2019.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

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

## FINDINGS

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

1. Proposal No. CL 18-017 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 8.88 acres, two single family dwellings, a population of 4 and is valued at \$556,664.
4. The property owners desire water service for a 39-unit Planned Unit Development (PUD) 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."
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 party<sup>1</sup>; 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.

7. 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

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

- 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; and
  - (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 Findings 9 and 10 below. 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.

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

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.
10. The territory is inside the City of Happy Valley and has zoning designations of R-5 and R-7. The City has approved a 39-lot PUD for the site.
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 water service in this area of Clackamas County.
12. This property is being concurrently annexed to Clackamas County Service District # 1 (CL-18-016). WES, as the service provider for that district, has a sewer line in SE 172<sup>nd</sup> Avenue which can be extended onto the site.
13. The Sunrise Water Authority has a water line in SE 172<sup>nd</sup> Avenue which will be available to serve the property once the site has been annexed to the Authority.
14. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
15. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the Water Authority.
16. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

## 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 7 & 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 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 plan (Clackamas County's Comprehensive Plan) and concludes this proposal complies with it. 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. 13. 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.



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AKS Job #6095

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

## EXHIBIT B

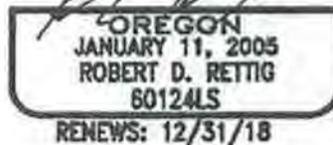
### Sunrise Water Authority (SWA) Annexation Description

A tract of land and a portion of right-of-way, located in the Southeast One-Quarter of Section 30 and the Northeast One-Quarter of Section 31, Township 1 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the north one-quarter corner of said Section 31, also being the intersection of SE 172nd Avenue and SE Hemrich Road; thence along the north line of said Section 31, South 88°57'05" East 30.00 feet to the SWA line and the Point of Beginning; thence along said SWA line, North 01°22'52" East 30.00 feet to the intersection of the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the northerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence leaving said SWA line along said northerly right-of-way line, South 88°57'05" East 436.74 feet to the northerly extension of the easterly line of Document Number 98-054398; thence along said northerly extension and the easterly line of said deed and the easterly line of Document Number 2008-018538, South 01°38'04" West 886.05 feet to the southeasterly corner of said Document Number 2008-018538; thence along the southerly line of said deed, North 88°59'43" West 436.07 feet to the easterly right-of-way line of SE 172nd Avenue (30.00 feet from centerline) and the SWA line; thence along said easterly right-of-way line and said SWA line, North 01°35'53" East 856.38 feet to the Point of Beginning.

The above described tract of land contains 8.88 acres, more or less.

9/5/2018



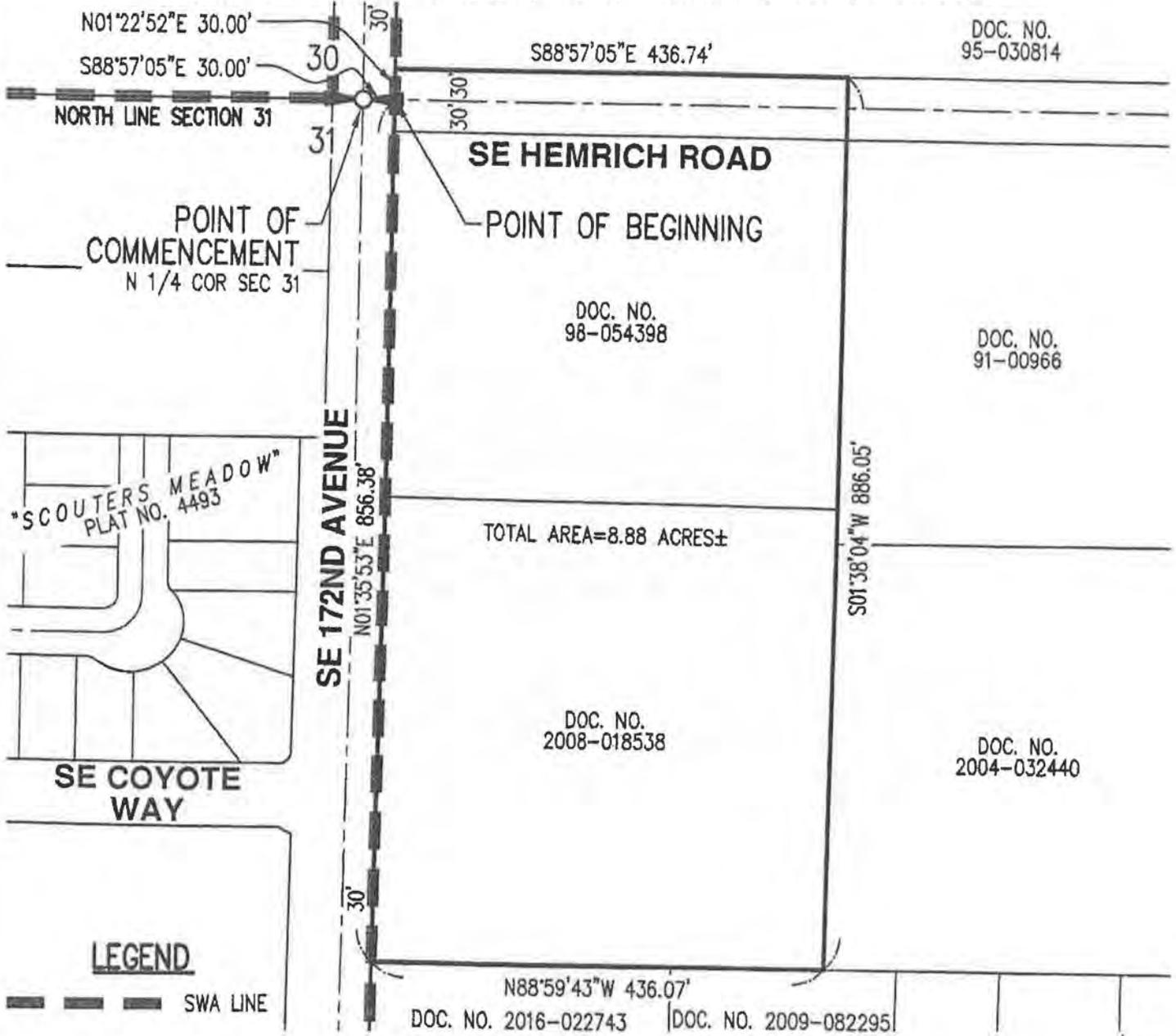
MN

10.03.18



# EXHIBIT C

A TRACT OF LAND AND A PORTION OF RIGHT-OF-WAY, LOCATED IN THE SOUTHEAST 1/4 OF SECTION 30 AND THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



9/5/2018

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*[Signature]*

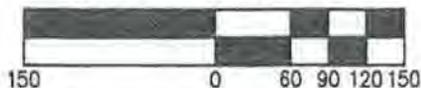
OREGON  
JANUARY 11, 2005  
ROBERT D. RETTIG  
60124LS

RENEWS: 12/31/18

## PREPARED FOR

STONECREEK DEVELOPMENT, LLC  
P. O. BOX 88  
WEST LINN, OR 97068

SCALE: 1" = 150 FEET



SUNRISE WATER AUTHORITY (SWA)  
ANNEXATION MAP

EXHIBIT  
**B**

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**AKS**

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