

## EXHIBIT A

## TRACT 5

A tract of land being a portion of that property described in that certain deed from the State of Oregon, by and through its State Highway Commission, recorded in Book 1989, Page 400 of Multnomah County Deed Records and also being part of Lot 3 and Tract A, The Highlands Plat #1 situated in the S.W.  $\frac{1}{4}$  of Section 5, Township 1 South, Range 1 East of the Willamette Meridian in the City of Portland, County of Multnomah, State of Oregon, being more particularly described as follows:

Beginning at the southwest corner of Lot 3 of said The Highlands Plat #1; thence North  $25^{\circ}50'58''$  East along the west line of said Lot 3 a distance of 22.95 feet; thence South  $64^{\circ}09'02''$  East a distance of 147.33 feet; thence South  $22^{\circ}58'33''$  West a distance of 93.55 feet to a point on the north right of way line of S.W. Canyon Road (Sunset Highway – U.S. Hwy 26); thence North  $63^{\circ}10'26''$  West along said right of way line a distance of 93.01 feet to a  $\frac{1}{2}''$  iron pipe; thence North  $14^{\circ}44'07''$  West a distance of 90.72 feet to the POINT OF BEGINNING.

## TRACT 6

A tract of land being a portion of that property described in that certain deed from the State of Oregon, by and through its State Highway Commission, recorded in Book 1989, Page 400 of Multnomah County Deed Records and also being Lot 3 and Tract A of The Highlands Plat #1 situated in the S.W.  $\frac{1}{4}$  of Section 5, Township 1 South, Range 1 East of the Willamette Meridian in the City of Portland, County of Multnomah, State of Oregon, being more particularly described as follows:

Commencing at the southwest corner of Lot 3 of said The Highlands Plat 31; thence North  $25^{\circ}50'58''$  East along the west line of said Lot 3 a distance of 22.95 feet to the POINT OF BEGINNING; thence South  $64^{\circ}09'02''$  East a distance of 147.33 feet; thence North  $22^{\circ}58'33''$  East a distance of 147.54 feet to a point on the south right of way of S.W. Highland Road and the northeast corner of said Lot 3; thence, on said right of way along a curve to the right through a radius of 162.47 feet and a central angle of  $39^{\circ}59'05''$  with an arc length of 113.38 feet (the chord bears North  $68^{\circ}46'32''$  West 111.10 feet) to a point of tangency; thence North  $48^{\circ}47'01''$  West, along said right of way a distance of 30.28 feet to the northwest corner of said Lot 3; thence South  $25^{\circ}50'58''$  West along the west line of said Lot 3 a distance of 146.43 feet to the POINT OF BEGINNING.

Attachment 1, Findings to Staff Report  
Proposal No. A-2-13

**PROPOSED FINDINGS AND REASONS FOR DECISION**

Based on the staff study and the public hearing the City Council found:

1. The territory to be annexed contains 0.72 acres, is vacant and has an assessed value of \$318,160.
2. The owner wants city sewer service to facilitate residential development.
3. The only criterion for deciding city boundary changes within the statutes is the territory must be contiguous to the City. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

To approve a boundary change through an expedited process, the City 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

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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 noted in Finding 5 & 7 below.

4. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . 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." Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

5. The territory is designated Low Density Residential by Multnomah County and is zoned R-10. The R-10 zone permits residential development with a minimum lot size of 10,000 square feet. In 2001 the Multnomah County Board adopted the City's comprehensive plan and implementing regulations as the County's plan and zoning for this area. By intergovernmental agreement signed in January, 2002 the City took over implementation and administration of planning and zoning for this area.
6. The property to be annexed falls within the City's Urban Services Boundary.
7. The City Comprehensive Plan contains the following Goals and Policies & Objectives:

**METROPOLITAN COORDINATION**

. . .

## **1.2 Urban Planning Area Boundary**

Identify and adopt an Urban Planning Area Boundary outside the current city limits. Land use within the boundary will be maintained by the City in cooperation with other local jurisdictions. Proposals for annexation to the city will be considered within the Urban Planning Area Boundary if consistent with the Urban Growth Boundary. The City will conclude agreements with abutting jurisdictions to coordinate and monitor land use.

As noted in Finding No. 5 the City and the County have an agreement on planning covering the territory to be annexed.

## **URBAN DEVELOPMENT**

### **2.3 Annexation**

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban services, establishes logical city boundaries and promotes coordinated capital improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

## **PUBLIC FACILITIES**

### **GOAL:**

11. A Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

#### **11.2 Orderly Land Development**

Urban development should occur only where urban public facilities and services exist or can be reasonably made available.

#### **11.3 Orderly Service Extension**

The improvement and expansion of one urban public facility or service should not stimulate development that significantly precedes the City's, or other appropriate jurisdiction's, ability to provide all other necessary urban public facilities and services at uniform levels.

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As discussed in Findings 9-14, urban services are readily available to the site from the City.

The City's adopted Urban Services Policy (ENB-1.01) found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

The City has public facility plans adopted pursuant to the statewide planning goal on public facilities and services. Generally speaking these plans do not cover areas outside of the City or contain provisions applicable to annexation proceedings.

8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.
9. The City has sanitary sewer service available to this property from an 8 inch line in SW Highland Road.
10. The City of Portland already serves this area via a 10 inch water line in SW Highland Road.
11. The area is currently served by the Multnomah County Sheriff's Department which normally has one patrol car covering the west side [of the Willamette River] from Sauvie Island to Dunthorpe. Following annexation police service will be provided by the City at the same level as currently provided to other City residents.
12. The territory currently receives fire protection from the Tualatin Valley Fire & Rescue. Following annexation the City would be responsible for providing fire service.  
  
ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation.
13. The territory is within the boundary of Multnomah County Service District No. 14 for street lights. The District's function is primarily administrative, to collect the revenues to pay PGE for lighting services. The district charges a flat annual fee for street lighting services. Portland has a property tax levy to finance street lights.
14. Access to the site is provided by SW Highland Road which is almost entirely within the City and maintained by the City.

**CONCLUSIONS AND REASONS FOR DECISION**

Based on the Findings, the City Council determined:

1. The Metro Code at 3.09.045(d)(1) (A) seeks consistency with expressly applicable provisions in an applicable urban service agreement adopted pursuant to ORS 195.065. There are no such agreements in this area.
2. The Metro Code at 3.09.045(d)(1) (B) seeks consistency with expressly applicable provisions in an applicable annexation plan adopted pursuant to ORS 195.205. There are no such annexation plans in this area.
3. The Metro Code at 3.09.045(d)(1) (C) seeks consistency with expressly applicable provisions in any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the City and a necessary party. There are no such agreements in this area.
4. The Metro Code at 3.09.045(d)(1) (D) seeks consistency with expressly applicable provisions in any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services. Determination that the area be included in the City's urban service area was made through adoption of an Urban Services Policy adopted as an element of the City's Comprehensive Plan. The annexation is consistent with the public facility plan as noted in Finding No. 7.
5. The Metro Code at 3.09.045(d)(1) (E) seeks consistency with expressly applicable provisions in any applicable comprehensive plan. The Council has reviewed the City Comprehensive Plan and the County Comprehensive Plan. The County plan contains no criteria that are directly applicable to annexation decisions.

Policy 11.1 of the Portland Comprehensive Plan contains criteria related to annexation. It says that the city shall "acknowledge its role as the principal provider of urban services" within the City's urban services boundary and "coordinate closely" with other service providers in the area. The City serves adjacent areas within the City and coordinates with Tualatin Valley Fire & Rescue which serves non-city adjacent areas.

The Council concludes that the annexation is consistent with Policy 11.1.

Policy 11.2 says urban development is appropriate when urban services are available and they are in this case. Therefore the Council finds the annexation consistent with Policy 11.2

Policy 11.3 cautions against allowing one urban service to dictate premature extension of other public services. In this case the other public services are readily available. The Council concludes the annexation is consistent with Policy 11.3.

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Proposal No. A-2-13

6. Metro Code 3.09.045(d)(2)(A) calls for consideration of whether the boundary change would "promote the timely, orderly and economic provision of public facilities and services." The Council concludes that the City's adequate services can be provided to serve this area, based on Findings 9 through 14. Therefore the proposed change promotes the timely, orderly and economic provision of services.
7. Metro Code 3.09.045(d)(2)(B) calls for consideration of whether the boundary change would affect the "quality and quantity of urban services." Given the size of this annexation the Council concludes this annexation will have no impact on the overall quality and quantity of services available in the area.
8. In accordance with Metro Code 3.09.045(d)(2)(C) Council considered whether this annexation would "eliminate or avoid unnecessary duplication of services" and concludes the annexation will neither negatively nor positively relate to this criterion.
9. The City may specify in its annexation Ordinance that the territory will be simultaneously withdrawn from Tualatin Valley Fire & Rescue and Multnomah County Service District # 14 for street lights. To prevent confusion about which units of government are responsible for providing services, the territory should be simultaneously withdrawn from these districts.

**EXHIBIT B**

September 18, 2013 Meeting

**PROPOSAL NO. A-2-13 - CITY OF PORTLAND - Annexation**

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Petitioner: William Maginnis

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Proposal No. A-2-13 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 222.170(2) (double majority annexation law) and Metro Code 3.09.040(a) (Metro's minimum requirements for a petition).

The territory to be annexed is located generally in the southwest part of the City on the south edge of SW Highland Road and the north edge of SW Canyon Court. The territory contains 0.72 acres, is vacant and has an assessed value of \$318,160.

**REASON FOR ANNEXATION**

The owner wants city sewer service to facilitate residential development.

**CRITERIA FOR DECISION-MAKING**

The only criterion for deciding city boundary changes within the statutes is the territory must be contiguous to the City. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

To approve a boundary change through an expedited process, the City 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;
  - (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 section below.

## LAND USE PLANNING

Regional Planning. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.

Regional Framework Plan. The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . 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." Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan. The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

Multnomah County Planning. The territory is designated Low Density Residential by Multnomah County and is zoned R-10. The R-10 zone permits residential development with a minimum lot size of 10,000 square feet. In 2001 the Multnomah County Board adopted the City's comprehensive plan and implementing regulations as the County's plan and zoning for this area. By intergovernmental agreement signed in January, 2002 the City took over implementation and administration of planning and zoning for this area.

Portland/Multnomah County Urban Services Agreement.

The property to be annexed falls within the City's Urban Services Boundary.

City of Portland Planning. The City Comprehensive Plan contains the following Goals and Policies & Objectives:

## **METROPOLITAN COORDINATION**

. . .

### **1.2 Urban Planning Area Boundary**

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As noted above under "Multnomah County Planning" the City and the County have an agreement on planning covering the territory to be annexed.

## **URBAN DEVELOPMENT**

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### **2.3 Annexation**

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban services, establishes logical city boundaries and promotes coordinated capital improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

## **PUBLIC FACILITIES**

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As discussed in the Section below, urban services are readily available to the site from the City.

The City's adopted Urban Services Policy (ENB-1.01) found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

The City has public facility plans adopted pursuant to the statewide planning goal on public facilities and services. Generally speaking these plans do not cover areas outside of the City or contain provisions applicable to annexation proceedings.

## **FACILITIES AND SERVICES**

ORS 195 Agreements. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.

Sanitary Sewer Service. The City has sanitary sewer service available to this property from an 8 inch line in SW Highland Road.

Water Service. The City of Portland already serves this area via a 10 inch water line in SW Highland Road.

Police Service. The area is currently served by the Multnomah County Sheriff's Department which normally has one patrol car covering the west side [of the Willamette River] from Sauvie Island to Dunthorpe. Following annexation police service will be provided by the City at the same level as currently provided to other City residents.

Fire. The territory currently receives fire protection from the Tualatin Valley Fire & Rescue. Following annexation the City would be responsible for providing fire service.

ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation.

Street Lights. The territory is within the boundary of Multnomah County Service District No. 14 for street lights. The District's function is primarily administrative, to collect the revenues to pay PGE for lighting services. The district charges a flat annual fee for street lighting services. Portland has a property tax levy to finance street lights.

ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a county service district. The effective date of a withdrawal from a county service district is the effective date of the annexation.

Transportation. Access to the site is provided by SW Highland Road which is almost entirely within the City and maintained by the City.

## POTENTIAL ISLAND CREATION

Annexation of this property will create an island (an area completely surrounded by the City) of a number of properties to the north along SW Highland Road. Under Oregon Revised Statute 222, island areas can be annexed by cities without the consent of the islanded property owners.

The City of Portland has not utilized that statute since the end of its aggressive mid-Multnomah County annexation program in the mid-1980's. The City did attempt to annex this Highland Road area in 1996. The Boundary Commission (which then had final say over annexations) chose not to create the island (an option not available in the present instance.)

## RECOMMENDATION

Based on the Study and the proposed Findings and Reasons for Decision found in Exhibit A, the staff recommends that Proposal No. A-2-13 be **approved**. It is also recommended that the territory be withdrawn from the Tualatin Valley Fire & Rescue and Multnomah County Service District #14 (street lights).

## A-2-13

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City of Portland

Multnomah County



Data Resource Center  
 600 NE Grand Ave  
 Portland, OR 97232-2736  
<http://www.oregonmetro.gov/drc>

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- City of Portland
- Area to be annexed

A-2-13

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