

## RESOLUTION NO. 12-03

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### **A RESOLUTION ADOPTING FINDINGS REGARDING ANNEXATION PROPOSAL NO. AN 11-01 AND REFERRING TO THE LEGAL VOTERS OF OREGON CITY THE QUESTION OF APPROVING ANNEXATION PROPOSAL NO. AN 11-01.**

**WHEREAS**, The owner and registered voter of certain real property adjacent to the City of Oregon City, more fully identified in the legal description attached hereto as Exhibit 'B' to this Resolution, proposed in Annexation Proposal No. AN 11-01 that their property be annexed to the City to connect properties to city services and allow future development; and

**WHEREAS**, the City of Oregon City, Oregon, reviewed the proposal and found that it can comply with all applicable legal requirements, as detailed in the findings attached hereto and made a part of this Resolution as **Exhibit 'C'**; and

**WHEREAS**, Chapter I, section 3 of the Oregon City Charter of 1982, as amended, requires voter approval of annexations such as the one proposed; and

**WHEREAS**, the identified property is currently in Clackamas County Fire Protection District # 1 (CCFD#1); and

**WHEREAS**, if annexation is approved by the legal voters of Oregon City, CCFD#1 will continue to provide fire protection service to the identified property; and

**WHEREAS**, the identified property is currently within the Clackamas County Service District for Enhanced Law Enforcement; and

**WHEREAS**, the identified property is not currently within the Tri-City Service District and must petition for annexation into said District with the concurrence of the City; and

**WHEREAS**, the property will be served by the City of Oregon City water distribution system; and

**WHEREAS**, the City Commission accepts the Owners' Annexation Agreement for supplementing police services in the area (**Exhibit 'A'**); and

**WHEREAS**, if annexation is approved by the legal voters of Oregon City, the Oregon City Police Department will be responsible for police services to the identified property; and

**WHEREAS**, the City Commission desires to defer the question of compliance with the Oregon Transportation Planning Rule until the decision of approval of this annexation is made by the voters of the City;

**NOW, THEREFORE, BE IT RESOLVED** by the City Commission of Oregon City as follows:

That the annexation proposal, AN 11-01, should be sent to the voters for decision and that, should the legal voters of Oregon City approve the measure submitted to them below, the property described in **Exhibit 'B'** should be annexed to the City of Oregon City. In so finding,

the City Commission, having considered the record herein, hereby adopts the **Findings, Reasons for Decision and Conclusions** attached hereto as **Exhibit 'C'**.

An election is called in and for the City of Oregon City, to be held **May 15<sup>th</sup>, 2012**, in the manner designated by the Clackamas County Clerk, who shall conduct the election. At that election, the following question shall be submitted to the electors:

Shall 6.5 acres northeast of the City be annexed into the Oregon City city limits while deferring rezoning?

The City Commission adopts the following ballot title to describe the measure to be placed before the voters at the Tuesday, May 15<sup>th</sup>, 2012 election:

**MEASURE No. \_\_\_\_\_**

**CAPTION:** Expands Oregon City boundaries to include additional land.

**QUESTION:** Shall 6.5 acres northeast of the City be annexed into the Oregon City city limits while deferring rezoning?

**SUMMARY:** This measure would expand the City's boundaries by approximately 6.5 acres. The property is located on the south side of Holcomb Boulevard and north of Redland Road and is identified as Tax Lot 180 on Clackamas County Map 2-2E-28D.

The property is located within the larger Park Place Concept Plan area, which was brought into Portland metropolitan urban growth boundary ("UGB") in 2002 to accommodate growth.

The property is currently designated Medium Density Residential on the Oregon City Comprehensive Plan and zoned County FU-10 ("Future Urbanizable"). Approval of the annexation would allow connection to city services for existing and future development. No further development of the parcel could occur until a re-zoning and development application has been approved by the City of Oregon City and the parcel would remain zoned County FU-10 in the interim.

The City Charter requires voter approval of annexations. A map showing the parcels is included.

The Notice of Ballot Title, as set forth in **Exhibit 'D'** is hereby approved and the City Recorder is hereby authorized and directed to take all measures necessary for the holding of the election on the measure described in this resolution.

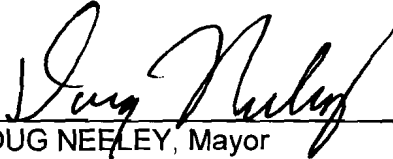
If the legal voters of Oregon City approve the annexation, the identified territory shall be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement on the date the annexation becomes effective.

If the legal voters of Oregon City approve the annexation, the City Commission will concur with Tri-City Service District's annexation of the subject properties into their district in the enacting City ordinance accepting the City voter's approval.


If the legal voters of Oregon City approve the annexation, the Commission, having agreed with the consenting property owners' proposal for annexation agreement to supplement the police services for the area, will direct the City Manager to sign these agreements and record them.

Notwithstanding City Code Section 17.68.025, if the legal voters of Oregon City approve the annexation, the Commission shall not rezone the subject site unless and until it approves a report showing compliance with the Oregon Transportation Planning Rule, OAR 660, Division 12.

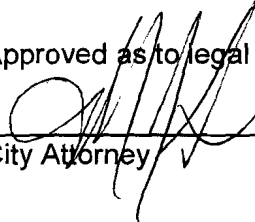
Adopted, signed and approved this 1<sup>st</sup> day of February 2012.

  
DOUG NEELEY, Mayor

Attested to this 1<sup>st</sup> day of February 2012,

  
Nancy Ide, City Recorder

Approved as to legal sufficiency,

  
City Attorney

AFTER RECORDING RETURN TO:

City Recorder  
City of Oregon City  
P. O. Box 3040  
Oregon City, Oregon 97045-0304

Map No.: \_\_\_\_\_

Tax Lot No.: \_\_\_\_\_

Planning No.: AN 11-01

Grantor(s): \_\_\_\_\_

## ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement") is entered into by and between \_\_\_\_\_ ("Petitioner") and the CITY OF OREGON CITY ("City"), an Oregon municipal corporation on this \_\_\_\_ day of \_\_\_\_\_ 2011.

### RECITALS

WHEREAS, Petitioner is the record owner of TL \_\_\_\_\_ (Sec. \_\_\_\_, Twp. \_\_S, Range \_\_E, W.M.), approximately \_\_\_\_\_ acres in size, with a street address of \_\_\_\_\_ (the "Property"), located in unincorporated Clackamas County and within the City's Urban Growth Boundary (UGB); and described as follows, to wit:

See attached EXHIBIT "A" Legal description and attached EXHIBIT "B" Sketch for Legal Description; and

WHEREAS, Petitioner has submitted an application to City to annex the Property into the City's corporate limits (City File No. AN 11-01), and the City has accepted and is considering that application; and

WHEREAS, one factor in the City's consideration of Planning File No. AN 11-01 annexation application is whether the City has the capacity or financial resources to provide necessary public services to the Property, most notably law enforcement; and

WHEREAS, City's ability to provide adequate levels of law enforcement to serve the Property is largely dependant upon the availability of funding to pay the cost of these urban services; and

WHEREAS Petitioner recognizes that it is incumbent upon new development to pay the cost of providing urban services and facilities, at sufficient levels, to serve new development, and both parties desire to identify a means by which Petitioner funds the cost of providing law enforcement to the Property if the City consents to annex the Property.

**NOW THEREFORE**, based on the foregoing Recitals, the mutual covenants provided for in this Agreement, and for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. The City agrees to review, process and consider Planning File No. AN 11-01 annexation application in the normal course and apply the customary criteria in that process. Execution of this Agreement by the City shall not be construed in any way to be a promise or guarantee that

the annexation, or any other land use approval, will be granted by the City.

2. Petitioner agrees that, in the event that the City gives final approval to annex the Property, Petitioner will pay to City a one-time amount of \$3,500.00 for each new dwelling permitted by City to be constructed on the Property to be used for the provision of law enforcement services. The amount provided for in this paragraph shall be due and payable by Petitioner to the City at the time City issues a building permit for each new dwelling on the Property.

3. The City agrees to use any amount paid to it by Petitioner for law enforcement services as provided in Paragraph 2. The funds provided pursuant to this Agreement are intended as a supplement to the City's current funding of its law enforcement and are not intended to serve as replacement for those funds.

4. The parties agree that this Agreement is not, is not intended to be and shall not be construed as, a "development agreement" under ORS 94.504 to 94.528. In the event any form of legal challenge is brought by any entity not a party to this Agreement challenging the Agreement, the City is under no obligation whatsoever to defend the Agreement.

5. Term, extension and modification: If the Property is not annexed to the City by December 31, 2011, this Agreement shall expire on January 1, 2012 and be of no further force or effect. If the Property is annexed to the City by December 31, 2011, the Agreement shall be valid, binding and enforceable until January 1, 2022, after which it shall expire and be of no further force or effect. This Agreement may be extended or modified at any time prior to expiration upon the mutual written consent of the parties.

6. Agreement runs with the land. The rights and obligations set forth in this Agreement shall be recorded with the title to the Property, and, except as provided in Paragraph 5, shall run with the land and be binding upon the parties to this Agreement, their heirs, successors and assigns.

7. No third party beneficiaries. This Agreement is strictly and solely between the parties signed below, and it shall not create any obligation on the part of either party to perform or pay anything to or on behalf of anyone not a party to this Agreement. This Agreement does not create any rights in favor of or for any person or entity that is not a party to this Agreement.

**IT IS SO AGREED:**

The City of Oregon City:

\_\_\_\_\_:

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

////

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STATE OF OREGON            )  
                                      ) ss.  
County of Clackamas        )

          This instrument was personally acknowledged before me on the \_\_\_\_ day of  
\_\_\_\_ 200\_\_ by \_\_\_\_\_, the \_\_\_\_\_ of Oregon City,  
who swore or affirmed that he/she was authorized to execute the foregoing Annexation  
Agreement on behalf of the City of Oregon City.

\_\_\_\_\_  
Notary Public for Oregon,  
My Commission Expires

STATE OF OREGON            )  
                                      ) ss.  
County of Clackamas        )

          This instrument was personally acknowledged before me on the \_\_\_\_ day of  
\_\_\_\_ 200\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon,  
My Commission Expires

**Schedule A**  
Police Funding Fees  
AN 11-01

<u>LAND USE</u>	<u>SERVICE RATING</u>	<u>FEE</u>
Industrial / Employment	Low	\$0.10 / sq. ft.
Commercial / Office	Low	\$0.10 / sq. ft.
Urgent Care Clinics, Senior Living Facilities, Apartment Buildings, Hotels	High	\$0.20 / sq. ft.
Residential	High	\$3,500 / unit



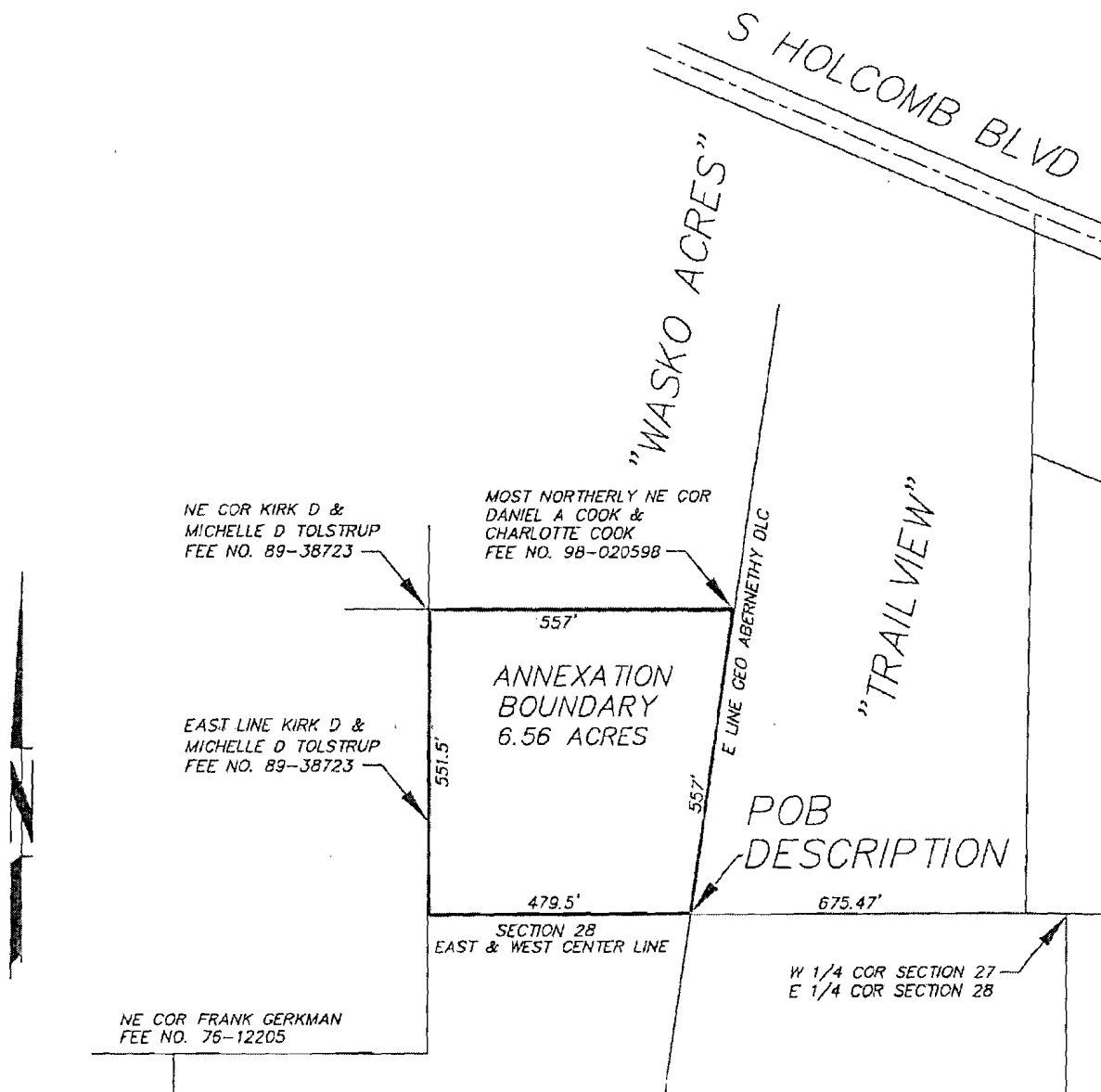
## CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the property included within the attached petition (located on Assessor's Map 2-ZE-28D) has been checked by me and it is a true and exact description of the property under consideration, and the description corresponds to the attached map indicating the property under consideration.

NAME Ben Blessing  
TITLE ~~As~~ GIS cartographer II  
DEPARTMENT Assessment & TAX  
COUNTY OF Clackamas  
DATE 4/5/2011



NORTHEAST QUARTER SECTION  
28, TOWNSHIP 2 SOUTH, RANGE  
2 EAST, WILLAMETTE MERIDIAN,  
CLACKAMAS COUNTY, OREGON



14671 S. Liveoak Rd.  
Oregon City, Oregon 97045  
(503) 655-4500  
FAX (503) 655-4510



**BUCKEL ASSOCIATES, INC.**  
LAND SURVEY & CIVIL ENGINEER CONSULTANTS

ANNEXATION AREA  
A PART OF TAX LOT 180  
TAX MAP 2 2E 28D

PREPARED FOR:

KENT ZIEGLER  
OREGON CITY, OR

Project:	G3003
Designed:	
Drawn:	R.F.B.
Scale:	NO SCALE
Date:	MAR 30, 2010
Sheet:	1 of 1

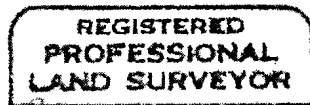
DESCRIPTION OF A PART OF TAX LOT 180 TAX MAP 2 2L 28D

Being a tract of land situated in the northeast quarter of Section 28, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon. Said Tract being described as follows:

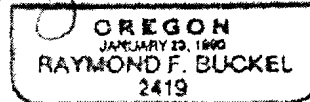
Commencing at the east quarter corner of said Section 28; thence westerly along the east-west center line of said Section 28 to the east line of the George Abernethy Donation Land Claim No. 58, being the southwest corner of that certain Plat entitled "Trailview", recorded as Plat No. 3757, Clackamas County Plat Records and the **Point of Beginning** of the herein described tract; thence continuing westerly along said east-west center line of said Section 28 to the east line that tract of land conveyed to Kirk D & Michelle D Tolstrup recorded on August 31, 1989 in Document No. 89-38723, Clackamas County Deed Records; thence North along said east line of said Tolstrup tract to the northeast corner of said Tolstrup tract and the most northerly northwest corner of that certain land described in deed to Daniel A. Cook and Charlotte Cook, recorded in Fee No. 98-020598, Clackamas County Deed Records, thence east along the most northerly line of said Cook tract to said east line of the George Abernethy Donation Land Claim No. 58, also being in the west line of said "Trailview"; thence southerly along the west line of said "Trailview" a distance of 557.0 feet to the **Point of Beginning** of the herein described Tract;

Containing an area of 6.56 acres of land, more or less.

This description was prepared by Buckel Associates, Inc. on March 25, 2011.



*Raymond F. Buckel*





# OREGON CITY

## Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045

Ph (503) 722-3789 | Fax (503) 722-3880

### AN 11-01 (EXHIBIT C)

#### FINDINGS, REASONS FOR DECISION, AND CONCLUSIONS

Based on the Findings in the Staff Report for AN 11-01, the Commission determines:

1. The Metro Code calls for consistency of the annexation with the Regional Framework Plan or any functional plan. The Commission concludes the annexation is not inconsistent with this criterion because there were no directly applicable criteria for boundary changes found in the Regional Framework Plan, the Urban Growth Management Function Plan, or the Regional Transportation Plan.
2. Metro Code 3.09.050(d)(1) requires the Commission's findings to address consistency with applicable provisions of urban service agreements or annexation plans adopted pursuant to ORS 195. The Commission finds that there are no inconsistencies between these plans/agreements and this annexation.
3. The Metro Code, at 3.09.050(d)(3), requires the City's decision to be consistent with any "directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans." The County Plan also says annexation which converts *Future Urbanizable* lands to *Immediate Urban* lands should ensure the "orderly, economic provision of public facilities and services." The property owner has demonstrated that the City can provide all necessary urban services. Nothing in the County Plan speaks directly to criteria for annexation. Therefore the Commission finds this proposal is consistent with the applicable plan as required Metro Code 3.09.050 (d)(3).
4. The Commission concludes that the annexation is consistent with the City Comprehensive Plan that calls for a full range of urban services to be available to accommodate new development as noted in the Findings above. The City operates and provides a full range of urban services. Specifically with regard to water, storm and sewer service, the City has both of these services available to serve the subject site from existing improvements in Holcomb Boulevard, Redland Road, Journey Drive, Shartner Drive and Cattle Drive.
5. The Commission notes that the Metro Code also calls for consistency of the annexation with urban planning area agreements. As stated in the Findings, the Oregon City-Clackamas County Urban Growth Management Agreement specifically provides for annexations by the City.
6. Metro Code 3.09.050(d)(5) states that another criterion to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly, and economic provision of public facilities and services." Based on the evidence in the Findings, the Commission concludes that the annexation will not interfere with the timely, orderly, and economic provision of services.
7. The Oregon City Code contains provisions on annexation processing. Section 6 of the ordinance requires that the City Commission consider seven factors if they are relevant. These factors are covered in the Findings and on balance the Commission believes they are adequately addressed to justify approval of this annexation.

8. The City Commission concurs with Tri-City Service District's annexation of the subject property in the enacting City ordinance upon voter approval of the city annexation. Prior to the City approving a final zoning designation for the property, the applicant shall provide documentation that the property has been annexed into the Tri-City Service District.
9. The Commission determines that the property should be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement as allowed by statute since the City will provide police services upon annexation.
10. The City Commission recognizes that the applicant has offered a financial solution to the police funding shortcomings for future new homes and businesses.
11. The City Commission recognizes that the applicant is only requesting an annexation at this time. Any zone change request, which will address compliance with the Oregon Statewide Transportation Planning Rule OAR 660-012-0060, will come at a later date if the annexation is successful.
12. The City Commission recognizes that the applicant will need to apply for a land division of the 6.5 acre territory from the remainder of the legal lot of record prior to approval of any zoning application for the property.
13. The applicant shall prepare and provide all necessary legal descriptions of the property to meet the Oregon Department of Revenue's requirements for final processing of the annexation property.

# **NOTICE OF BALLOT TITLE – REFERRAL BY CITY COMMISSION**

NOTICE IS HEREBY GIVEN that the City Recorder of Oregon City has received a proposal from the Oregon City Commission to expand the City's boundaries by approximately 6.5 acres generally located south of Holcomb Boulevard and north of Redland Road. The City Recorder has determined that the proposal contains only one subject, as required by section 1(2)(d), Article IV of the Oregon Constitution.

NOTICE IS FURTHER GIVEN that any elector of the City who believes the proposed measure contains more than one subject or who believes the ballot title is insufficient, not concise, or unfair may file a petition for judicial review with the Circuit Court for Clackamas County no later than \_\_\_\_\_, which is seven business days after this notice.

NOTICE IS FURTHER GIVEN that the Oregon City Commission has submitted the following ballot title for the proposal:

## **BALLOT TITLE**

**MEASURE No. \_\_\_\_\_**

**CAPTION:** Expands Oregon City boundaries to include additional land.

**QUESTION:** Shall 6.5 acres northeast of the City be annexed into the Oregon City city limits while deferring rezoning?

**SUMMARY:** This measure would expand the City's boundaries by approximately 6.5 acres. The property is located on the south side of Holcomb Boulevard and north of Redland Road and is identified as Tax Lot 180 on Clackamas County Map 2-2E-28D.

The property is located within the larger Park Place Concept Plan area, which was brought into Portland metropolitan urban growth boundary ("UGB") in 2002 to accommodate growth.

The property is currently designated Medium Density Residential on the Oregon City Comprehensive Plan and zoned County FU-10 ("Future Urbanizable"). Approval of the annexation would allow connection to city services for existing and future development. No further development of the parcel could occur until a re-zoning and development application has been approved by the City of Oregon City and the parcel would remain zoned County FU-10 in the interim.

The City Charter requires voter approval of annexations. A map showing the parcels is included.

NANCY IDE, City Recorder

