ORDINANCE NO. 2026

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING TWO TRACTS OF LAND IDENTIFIED AS 5715 SE MAPLE STREET AND 5951 SE MAPLE STREET INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACTS FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. **(FILE #A-11-01).**

WHEREAS, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

WHEREAS, the requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land in the territory proposed for annexation; and

WHEREAS, the territory proposed for annexation lies within the territory of Clackamas County Service District No. 5 for Street Lights and Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS, Table 19.1504.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

WHEREAS, the City conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tracts of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

Section 2. The tracts of land described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

Section 3. The tracts of land annexed by this ordinance and described in Section 2 are hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

Section 4. The tracts of land annexed by this ordinance and described in Section 2 are hereby assigned a Comprehensive Plan land use designation of Low Density Residential and a Municipal Code zoning designation of Residential Zone R-10.

Section 5. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on 3/15/11, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 3/15/11.

Signed by the Mayor on 3/15/11.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney

Document1 (Last revised 09/18/07)

Exhibit A

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 5715 SE Maple Street and 5951 SE Maple Street ("Annexation Properties"), the Milwaukie City Council finds:

1. The Annexation Properties consist of two tax lots comprising 0.27 acres (Tax Map 1S2E30DA Tax Lots 08100 and 08300). They are contiguous to the existing city limits via the eastern border of 5715 SE Maple Street, Hollywood Avenue, and Maple Street. The Annexation Properties are also within the City's urban growth management area (UGMA).

   Both properties are developed with a single-family dwelling unit. The surrounding area consists primarily of single family-dwellings.

2. The property owner seeks annexation to the City to access City services, namely sewer service, to eliminate the use of failing septic systems on the properties.

3. The annexation petition was initiated by Consent of All Owners of Land on January 20, 2011. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.1.

4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1504.

5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1504.

6. The expedited annexation process provides for automatic application of City land use and zoning designations to the Annexation Properties based on their existing zoning designation in the County, which is Residential R10. Pursuant to MMC Table 19.1504.1.E, the automatic City zoning and Comprehensive Plan land use designations for the Annexation Properties are Residential Zone R-10 and Low Density Residential, respectively.

7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1502.3. They are listed below with findings in italics.

   A. The subject site must be located within the City's urban growth management area (UGMA);

      The Annexation Properties are within the City's UGMA.

   B. The subject site must be contiguous to the existing city limits;

The Annexation Properties are contiguous to the existing city limits along the eastern border of 5715 SE Maple Street, Hollywood Avenue, and the Maple Street right of way.

C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

Both of the Annexation Properties are owned by John Saban, Trustee of the John S. Saban and Marion L. Saban Revocable Living Trust, who has initiated the annexation petition. There are no registered voters in residence at either property. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors residing at the Annexation Properties.

D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;

Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: (1) delivery of City services to annexing areas where the City has adequate services, and (2) requiring annexation in order to receive a City service. The proposed annexation is in anticipation of the requirement for properties to annex to the City in order to connect to the City's new sewer line. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

E. The proposal must comply with the criteria of Metro code Sections 3.09.050 (d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as described below.

8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045 of the Metro Code. They are listed below with findings in italics.

A. Find that the change is consistent with expressly applicable provisions in:

1) Any applicable urban service agreement adopted pursuant to ORS 195.205;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City is in the

process of extending City sewer service to this area. The proposed annexation is in anticipation of the requirement for properties to annex to the City in order to connect to the City's new sewer line.

2) Any applicable annexation plan adopted pursuant to ORS 195.205;

   There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

   There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

   Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:

   - *Sanitary Sewerage Services*
   - *Storm Drainage*
   - *Transportation Element*
   - *Water Systems*

   The proposed annexation is consistent with the four elements of this plan as follows:

   <u>Sewer:</u> The City is the identified sewer service provider in the area of the proposed annexation and is in the process of constructing a public sewer system that can adequately serve the Annexation Properties.

   <u>Storm Drainage:</u> The City will require on-site management of storm water runoff at the time of development.

   <u>Transportation:</u> The City will require public street improvements along the frontage of each Annexation Property at the time of development.

   <u>Water:</u> Clackamas River Water (CRW) is the identified water service provider in this plan. However, the City's more recent UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City is in the process of developing a water service master plan for all of the territory within its UGMA and discussing possible service provision changes with CRW. In the meantime, CRW will continue to provide water

service to the Annexation Properties.

5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described in the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of Maple Street and Hollywood Avenue, which are adjacent to the Annexation Properties.

B. Consider whether the boundary change would:

1) Promote the timely, orderly and economic provision of public facilities and services;

The City is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to the Annexation Properties.

The area currently contains a public sewer system. The proposed annexation is in anticipation of the requirement for properties to annex to the City in order to connect to the City's new sewer system.

The area is currently served by CRW, and the City does not propose to duplicate CRW's water system in order to serve the Annexation Properties.

2) Affect the quality and quantity of urban services; and

Annexation of the Annexation Properties, two tax lots developed with single family dwellings, is not expected to affect the quality or quantity of urban services in this area given the surrounding level of urban development and the existing level of urban service provision in this area.

3) Eliminate or avoid unnecessary duplication of facilities and services.

The Annexation Properties will be served by the Milwaukie Police Department upon annexation. In order to avoid duplication of law enforcement services, the Annexation Properties will be withdrawn

from the Clackamas County Service District for Enhanced Law Enforcement.

CRW is the current water service provider in the area of the proposed annexation. Until such time as the existing IGA between the City and CRW is renegotiated, the City does not intend to duplicate CRW's existing water supply system or withdraw private properties being served by CRW from the CRW district. CRW will continue to be the water service provider in this area.

9. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.

   Wastewater: The Annexation Properties are within the City's sewer service area and will be served by the City's new sewer lines in the northeast sewer extension area.

   Water: The Annexation Properties are currently served by CRW through a CRW water line. Pursuant to the City's IGA with CRW, the Annexation Properties should not be withdrawn from this district at this time.

   Storm: The Annexation Properties are not currently developed or connected to a public storm water system. Treatment and management of on-site storm water will be required at the time of development.

   Fire: The Annexation Properties are currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation since the entire City is within this district.

   Police: The Annexation Properties are currently served by the Clackamas County Sheriff's Department and are within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the sites. In order to avoid duplication of services, the Annexation Properties should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

   Street Lights: The Annexation Properties are currently within Clackamas County Service District No. 5 for Street Lights (the "District"). There is a street light on Hollywood Avenue near the northeast corner of Tax Lot 8100 that is operated by the District; there are no street lights on Maple Street. The Annexation Property should be withdrawn from the District upon annexation to the City, as the City provides street lighting for properties within the city as part of its package of city

services. The District supports the City's removal of the Annexation Property from the District with the understanding that a future IGA will resolve the transference of street lights and street light payments in this area to the City.

Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the Annexation Properties upon annexation. The Annexation Properties will continue to receive services and remain within the boundaries of certain regional and county service providers, such as Tri-Met, North Clackamas School District, Vector Control District, etc.

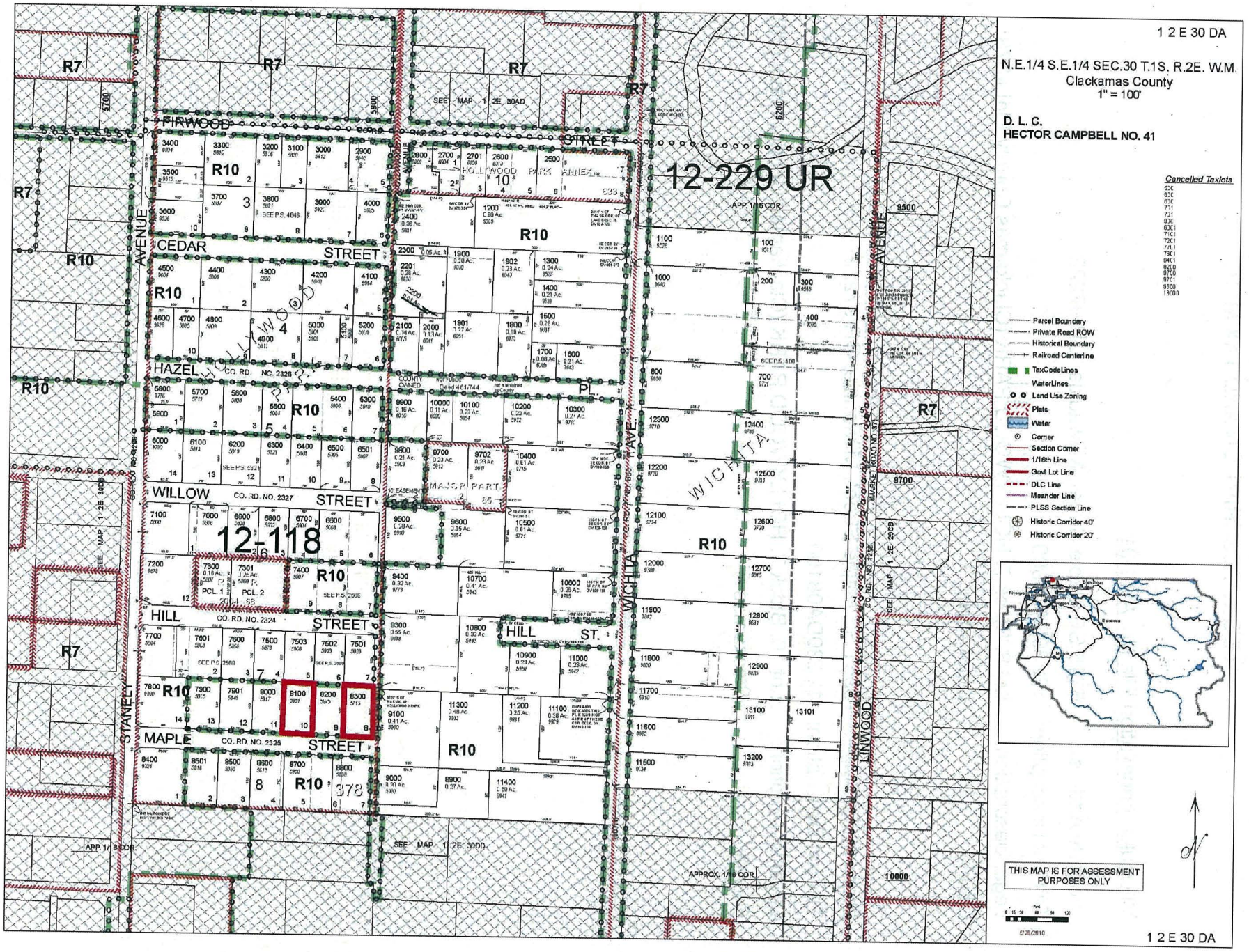
Exhibit B

LEGAL DESCRIPTION AND TAX MAP

Milwaukie Annexation File No. A-11-01

Property Address:	5715 SE Maple Street, Milwaukie, OR 97222
Tax Lot Description:	12E30DA08300
Legal Description:	Lot 8, Block 7, HOLLYWOOD PARK (Clackamas County Plat #378)
County:	Clackamas

Property Address:	5951 SE Maple Street, Milwaukie, OR 97222
Tax Lot Description:	12E30DA08100
Legal Description:	Lot 10, Block 7, HOLLYWOOD PARK (Clackamas County Plat #378)
County:	Clackamas


1 2 E 30 DA
N.E.1/4 S.E.1/4 SEC.30 T.1S. R.2E. W.M.
Clackamas County
1" = 100'
D. L. C.
HECTOR CAMPBELL NO. 41
Cancelled Taxlots
Parcel Boundary
Private Road ROW
Historical Boundary
Railroad Centerline
TaxCodeLines
WaterLines
Land Use Zoning
Plats
Water
Corner
Section Corner
1/16th Line
Govt Lot Line
DLC Line
Meander Line
PLSS Section Line
Historic Corridor 40'
Historic Corridor 20'
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY
12-229 UR
12-118
FIRWOOD STREET
CEDAR STREET
HAZEL PL.
WILLOW STREET
HILL STREET
MAPLE STREET
HILL ST.
STANLEY AVENUE
WICHITA AVE.
LINWOOD AVENUE
HOLLYWOOD PARK ANNEX
MAJOR PART
R7
R10
SEE MAP 1 2E 30AD
SEE MAP 1 2E 30DD
APP. 1/16 COR.
APPROX. 1/16 COR.
1 2 E 30 DA