

RESOLUTION No. 2013-3036

A RESOLUTION ACCEPTING THE ENGINEER'S REPORT AND SETTING A PUBLIC HEARING FOR MAY 6, 2013, TO CONSIDER THE FORMATION OF THE COLLEGE STREET LOCAL IMPROVEMENT DISTRICT

RECITALS:

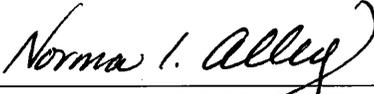
1. The City and Oregon Department of Transportation (ODOT) have an existing intergovernmental agreement to complete the College Street Transportation Enhancement Project. ODOT grant funds will pay for the majority of the project. The City's expense is estimated at \$194,197.00.
2. On November 5, 2012, an informational report was presented to City Council for a potential College Street Local Improvement District (LID) along the west side of N. College Street from Illinois Street to Aldercrest Drive. The report explained the significance of the existing waivers of remonstrance agreements and provided methodologies for three potential LID scenarios.
3. On December 17, 2012, staff presented City Council with several scenarios for their consideration. Staff also discussed the approximate compensation from ODOT to property owners for future potential right-of-way acquisitions. Council expressed their preference to recoup 100 percent of the City's expense and directed staff to present an Engineer's Report for the LID, which is attached as Exhibit "A" and by this reference incorporated.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

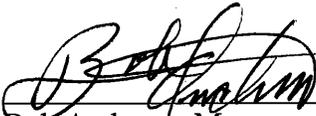
The City Council accepts the Engineer's Report attached as Exhibit "A", which is hereby adopted and by this reference incorporated, and sets a public hearing for May 6, 2013, to consider the formation of the College Street Local Improvement District.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 20, 2013.

ADOPTED by the City Council of the City of Newberg, Oregon, this 19th day of February, 2013.


Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 21st day of February, 2013.


Bob Andrews, Mayor



**Newberg Public Works Department
Engineering Division**

January 23, 2013

**COLLEGE STREET LOCAL IMPROVEMENT DISTRICT
ENGINEER'S REPORT**

EXECUTIVE SUMMARY

On December 17, 2012, the Newberg City Council adopted Resolution No. 2012-3020 directing the engineering division staff to prepare an Engineer's Report for the consideration of the formation of the College Street Local Improvement District (LID) along the west side of N. College Street from Illinois Street to Aldercrest Drive. The process for the formation of the LID follows the policies established in the Newberg Municipal Code Sections 3.15.010 through 3.15.170.

In 2011, the City entered into an intergovernmental agreement (IGA) with the Oregon Department of Transportation (ODOT) to receive a State Transportation Enhancement (TE) grant to improve N. College Street (also known as Highway 219) from Vermillion Street to Aldercrest Drive. The grant provides over \$800,000.00 for right-of-way acquisition, survey, design, and construction of curb and gutter, sidewalk, and storm drain on the west side of the highway, and bicycle lanes on both sides. The City agreed to provide a grant match and to complete the southern portion of the improvements along N. College Street from Vermillion Street to Illinois Street including the sidewalk on the west side of the highway for railroad crossing. This southern portion of the improvements was completed on July 6, 2012. Conceptual design for the remaining improvements from Illinois Street to Aldercrest Drive was completed in 2012 and the final design is planned for 2013. Construction will occur in 2014. The City's cost for the remaining work is estimated to be \$194,197.00.

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A preliminary report that offered various assessment methodologies was presented to City Council on December 17, 2012 following an initial presentation on June 4, 2012. The estimated construction costs for the proposed (a) curbs and sidewalks, and (b) storm drainage, are in the range of \$120,000 and \$260,000 respectively. Council indicated their preference to recoup 100% of the City's cost of the project. While many properties along this highway are encumbered by waiver of remonstrance agreements for street improvements, Council has directed that the costs be apportioned to all west side property owners regardless of whether they have waiver in place. The cost for each property owner will be substantially reduced due to ODOT's grant contribution. Property owners will be compensated by ODOT separately if additional right-of-way is acquired for the improvements.

The participation and support of benefitting property owners for the LID will place the City in a competitive and improved financial position to leverage future state funding for the next phases of improvements from Aldercrest Drive to Foothills Drive.

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1. Project Background

The City has an interest in improving N. College Street to enhance the safety of pedestrian and bicycling travel (see [Figure 1](#)). There is discontinuity in the sidewalk system along N. College Street which forces pedestrians to walk in the travel lane or behind the roadside ditch. Bicyclists use the travel lanes because there are no bike lanes and the existing shoulders are inadequate. N. College Street is classified as a minor arterial street per the Newberg Transportation System Plan.

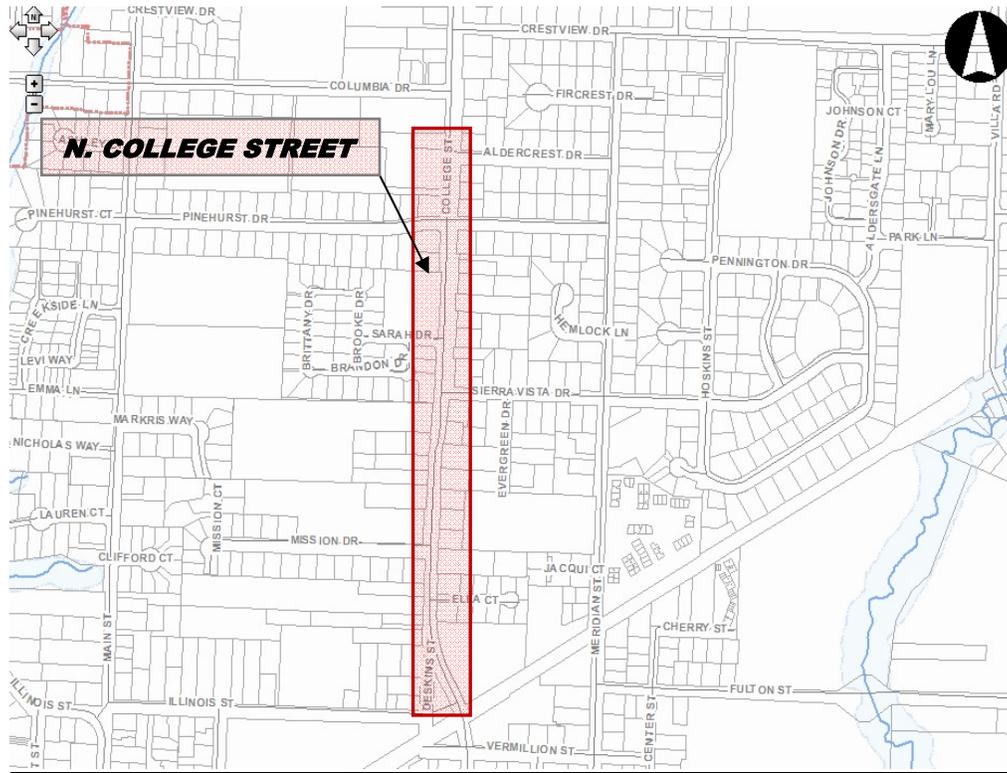


FIGURE 1: VICINITY MAP

On June 8, 2011, the Oregon Department of Transportation (ODOT) and the City entered into an agreement that ODOT would provide \$600,000 towards funding the pedestrian and bike lane improvements to N. College Street (Highway 219). On August 22, 2011, both parties signed an amendment that ODOT would provide an additional \$200,000 towards the project. In return, the City has agreed to contribute "matching funds" at 10.27% for the first \$660,000 and 50% for any portion above \$660,000 plus an additional \$24,000 and any non-participating costs. The City also agreed to improve the southern portion of the improvements from Vermillion Street to Illinois Street that included the pedestrian crossings at the railroad.

In June 2012, the City completed the southern portion of the improvements in collaboration with Portland and Western Railroad Company and the ODOT Rail Division. The remainder of the improvements from Illinois Street to Aldercrest Drive is in the final design and right-of-way solicitation phase with bid solicitation planned for March 2014, and construction in summer 2014. The City's cost for the remaining work is estimated at \$194,197.00. The City has an opportunity to recoup this cost by initiating a Local Improvement District (LID) in this area. The LID process is outlined in the next section.

2. Local Improvement District Process

The Newberg Municipal Code Chapter 3.15 (see [Appendix A](#)) provides the criteria for creating a Local Improvement District and establishes the public process (refer to [Appendix B](#)) that must be followed in order to assess the benefitting property owners with the costs of constructing certain public improvements. An LID may be created for a capital improvement project that provides special benefits to specific properties, or to rectify an existing problem such as a substandard improvement and assess the identified properties for the costs to complete the improvements.

In the past, some developments were approved that purposely delayed public improvements until the formation of a future LID. The City required documents from the applicants that would waive their right to file a written objection to construct public improvements through an LID in the future. This document known as a waiver of remonstrance agreement is similar to an easement as it remains as an encumbrance on the property, or any portion of the original property through land divisions, regardless of changes of property ownership or land divisions, until the improvement is completed. If a property is encumbered with a waiver of remonstrance agreement, the property owner is legally obligated to participate in an LID through the provisions outlined in the Municipal Code. The waivers of remonstrance do not take away the property owners' right to object to costs or the methodologies used in calculating the assessments for the improvements.

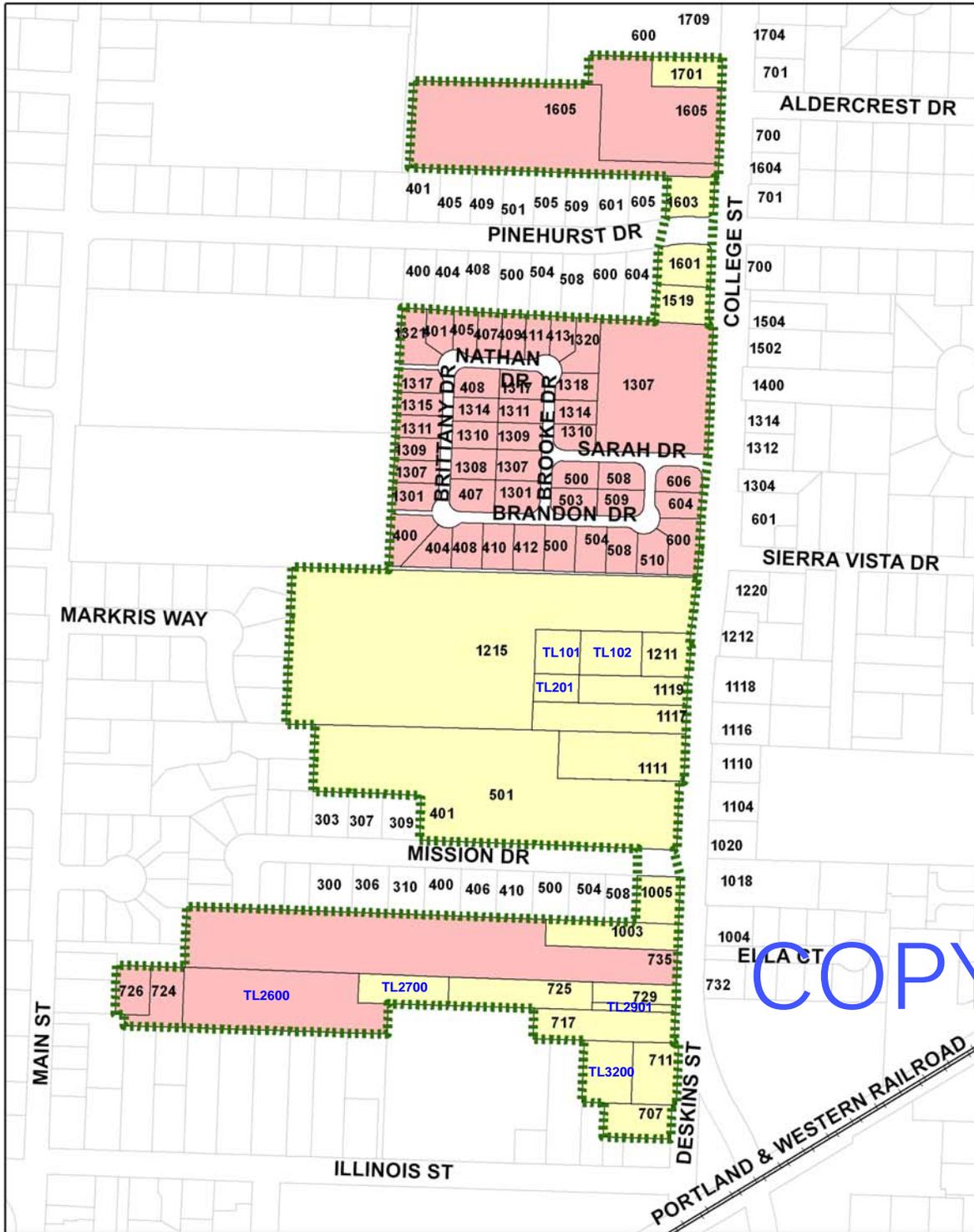
Should the City Council determine that the formation of an LID is warranted, the Municipal Code directs the Council to consider the objections made, and to adopt or modify the proposed assessments in proportion to the benefits to each property in the LID. The Municipal Code requires the use of a fair and reasonable method for determining an LID boundary and the apportioning of the costs among the benefited properties. The Municipal Code also prescribes that if written objection, or remonstrance, is filed against the proposed LID from persons representing 60 percent or more of the proposed assessment within the district, or from owners of at least 60 percent of the properties within the district, the LID proceedings must be halted for at least six (6) months. Several exceptions to the 6 month waiting period exist for sidewalks or an emergency declared by City Council.

3. College Street Waiver of Remonstrance Agreements

When an LID is created, a typical boundary would include all properties with frontages along the improvement area, which are considered the benefitting properties. The College Street improvement area is rather unique in that it has a relatively large number of properties with existing waivers of remonstrance to the improvements (see [Appendix C](#)). Essentially many property owners have already waived their rights to object to the creation of this LID, even though some properties do not directly front N. College Street (see [Figure 2](#)).

The relationship of waivers of remonstrance to actual street frontages is important in defining the LID boundary. There are a total of 73 properties along the west side of N. College Street from Illinois Street to Aldercrest Drive, excluding the NW corner lot at Illinois Street/Deskens Road and the SW corner lot at Columbia Drive/College Street which already have full frontage improvements. Of those 73 properties, 24 have direct frontage on College Street and 49 do not.

FIGURE 2: WAIVERS OF REMONSTRANCE MAP



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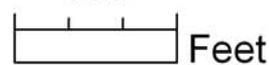
Date Saved: 10/16/2012 11:34:50 AM

Path: P:\GIS_Eng\Potential College Street LID\potential_college_st_LID.mxd

Legend

- LID Boundary
- Without Waiver
- With Waiver

300



Numbers shown are house addresses.
Properties without addresses are shown with tax lot (TL) numbers.

In terms of waivers, 50 properties have waivers of remonstrance agreements and 23 do not. Of those 50 with waivers, only 7 properties have frontages on N. College Street while 43 of them do not (see Table 1).

**TABLE 1: PROPERTIES WITH & WITHOUT
WAIVERS AND/OR FRONTAGES**

	Direct Frontage	No Frontage	Total ↓
Waivers	7	43	50
No Waivers	17	6	23
Total →	24	49	

The proposed LID includes all 73 properties with a project length of 2,166.93 feet and 35.67% or 773.03 feet of the properties have signed waivers to the creation of an LID. The remaining properties without waivers represent 64.33% or 1,393.90 feet of the proposed LID, could object and potentially halt the LID (see Table 2).

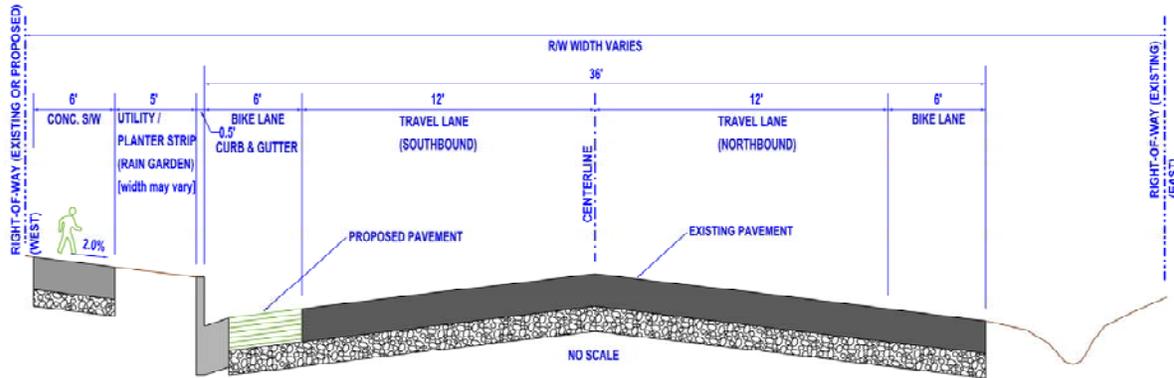
**TABLE 2: PROPOSED LID PROPERTY PERCENTAGE
WITH & WITHOUT WAIVERS OF REMONSTRANCE**

TOTAL PROJECT FRONTAGE (FT) =	2,166.93	PERCENTAGE
FRONTAGE WITH WAIVERS (FT) =	773.03	35.67%
FRONTAGE WITHOUT WAIVERS (FT)=	1,393.90	64.33%

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4. Improvement Description and Costs

The proposed College Street improvements with its limits described and shown in Section 3 above includes nearly 2,200 feet of half-street improvements to a minor arterial street standard that includes a bike lane, sidewalk, concrete curb and gutter, and a planter strip where feasible, on the west side of N. College Street from Illinois Street to Aldercrest Drive. The existing pavement in this area is in fair condition and does not require an overlay or reconstruction. Sidewalks, curb and gutter will not be constructed on the east side of N. College Street. The existing paved shoulder on the east side will be utilized and restriped to provide a bike lane. Since improvements are not proposed on the east side of N. College Street, the east side properties are not included in the proposed LID. The pavement width on the west side of College Street will be extended to accommodate the new bike lane. The improvements will meet design standards for a 36-foot roadway section as shown in Figure 3.



**FIGURE 3: COLLEGE STREET TYPICAL CROSS SECTION
(MINOR ARTERIAL FULL WIDTH STANDARD)**

Improvements to water or wastewater systems on College Street are not needed at this time. However, the waterline does need to be relocated (using a separate City's water fund) due to its shallow depth. Stormwater conveyance, water quality and quantity improvements will be provided to meet ODOT and City standards.

During the preliminary design phase, the total construction cost for the proposed improvements from Illinois Street to Aldercrest Drive was estimated to be \$762,000.00. The majority of this cost is funded by state and federal grants. The City's cost for the grant match and internal project administration is estimated at \$194,197.00. The estimated construction costs for the proposed (a) curbs and sidewalks, and (b) storm drainage, are in the range of \$120,000 and \$260,000 respectively. The City Council has indicated their preference to recoup 100% of the City's estimated cost of \$194,197.00 which is significantly less than the actual cost of design and construction for the sidewalk, curb and gutter, and the associated storm drainage improvements. The LID assessment for each property owner is therefore, substantially reduced because of ODOT's grant contribution.

Property owners will be compensated separately by ODOT if additional right-of-way is needed to accommodate the improvements. ODOT will be working directly with the property owners to acquire any additional rights-of-way and easements needed for the project. Compensation offered to the property owners will be fair, equitable and negotiable per state and federal guidelines. Compensation for right-of-way purchases will be treated separately to avoid mixing of funds with the LID assessments.

5. Recommended Assessment Methodology and Proposed Assessments

Staff recommends that the City's estimated costs (\$194,197) be assessed to property owners based on a cost per a lineal frontage foot. Based on that recommendation, Table 3 shows a list of properties within the proposed LID boundary and the proposed assessments. These assessments have been calculated at \$89.62 per frontage foot. In cases where there are interior lots, all properties divided from each parent parcel share the total frontage costs equally.

Staff recognizes a property with a street address, 501 Mission Drive, has an existing sidewalk (a partial frontage improvement already completed). This property will see a reduced LID assessment. Another property at 703 Deskins Street (at the corner of Illinois) has a complete frontage improvement and is excluded from the LID.

TABLE 3: PROPERTY IDENTIFICATION & PROPOSED ASSESSMENTS

Property with Waiver (covering 773.03 LF of frontage)		Address	Abutting Frontage Length (feet)	*Distributed Frontage Length (feet)	Estimated Assessment Costs	*Distributed Frontage Explanation	
Open Bible Church	3218 AD 7100	1605 N COLLEGE ST	162.72	162.72	\$14,582.72	Jaquith Park Estates: Per Cypress Ventures Waiver of Rights to Remonstrance for Street Improvements, all 43 lots of Jaquith Park Estates (JPE) shall share the total frontage improvement cost equally. Lot 1 has 32.41'; Lot 2 has 57.75'; and Lot 3 has 125.62'. Total Frontage Length (TFL) for JPE = 32.41'+57.75'+125.62' = 215.78'. Distributed Frontage Length (DFL) for JPE = 215.78' / 43 = 5.0181'	
	3218 AD 7000	1605 N COLLEGE ST	30	30	\$2,688.55		
Willow Place ALF	3218 AD 7401	1307 N COLLEGE ST	287.23	287.23	\$25,741.12		
Jaquith Park Estates (43 lots)							
Lot 1	3218 AD 7621	606 BRANDON DR	32.41	5.01814	\$449.72		
Lot 2	3218 AD 7633	604 BRANDON DR	57.75	5.01814	\$449.72		
Lot 3	3218 AD 7634	600 BRANDON DR	125.62	5.01814	\$449.72		
Lot 4	3218 AD 7635	510 BRANDON DR	0	5.01814	\$449.72		
Lot 5	3218 AD 7636	508 BRANDON DR	0	5.01814	\$449.72		
Lot 6	3218 AD 7637	504 BRANDON DR	0	5.01814	\$449.72		
Lot 7	3218 AD 7638	500 BRANDON DR	0	5.01814	\$449.72		
Lot 8	3218 AD 7639	412 BRANDON DR	0	5.01814	\$449.72		
Lot 9	3218 AD 7640	410 BRANDON DR	0	5.01814	\$449.72		
Lot 10	3218 AD 7641	408 BRANDON DR	0	5.01814	\$449.72		
Lot 11	3218 AD 7642	404 BRANDON DR	0	5.01814	\$449.72		
Lot 12	3218 AD 7643	400 BRANDON DR	0	5.01814	\$449.72		
Lot 13	3218 AD 7628	1301 BRITTANY DR	0	5.01814	\$449.72		
Lot 14	3218 AD 7627	1307 BRITTANY DR	0	5.01814	\$449.72		
Lot 15	3218 AD 7626	1309 BRITTANY DR	0	5.01814	\$449.72		
Lot 16	3218 AD 7617	1311 BRITTANY DR	0	5.01814	\$449.72		
Lot 17	3218 AD 7616	1315 BRITTANY DR	0	5.01814	\$449.72		
Lot 18	3218 AD 7609	1317 BRITTANY DR	0	5.01814	\$449.72		
Lot 19	3218 AD 7608	1321 BRITTANY DR	0	5.01814	\$449.72		
Lot 20	3218 AD 7607	401 NATHAN DR	0	5.01814	\$449.72		
Lot 21	3218 AD 7606	405 NATHAN DR	0	5.01814	\$449.72		
Lot 22	3218 AD 7605	407 NATHAN DR	0	5.01814	\$449.72		
Lot 23	3218 AD 7604	409 NATHAN DR	0	5.01814	\$449.72		
Lot 24	3218 AD 7603	411 NATHAN DR	0	5.01814	\$449.72		
Lot 25	3218 AD 7602	413 NATHAN DR	0	5.01814	\$449.72		
Lot 26	3218 AD 7601	1320 BROOKE DR	0	5.01814	\$449.72		
Lot 27	3218 AD 7612	1318 BROOKE DR	0	5.01814	\$449.72		
Lot 28	3218 AD 7613	1314 BROOKE DR	0	5.01814	\$449.72		
Lot 29	3218 AD 7620	1310 BROOKE DR	0	5.01814	\$449.72		
Lot 30	3218 AD 7623	500 SARAH DR	0	5.01814	\$449.72		
Lot 31	3218 AD 7622	508 SARAH DR	0	5.01814	\$449.72		
Lot 32	3218 AD 7632	509 BRANDON DR	0	5.01814	\$449.72		
Lot 33	3218 AD 7631	503 BRANDON DR	0	5.01814	\$449.72		
Lot 34	3218 AD 7630	1301 BROOKE DR	0	5.01814	\$449.72		
Lot 35	3218 AD 7629	407 BRANDON DR	0	5.01814	\$449.72		
Lot 36	3218 AD 7625	1308 BRITTANY DR	0	5.01814	\$449.72		
Lot 37	3218 AD 7618	1310 BRITTANY DR	0	5.01814	\$449.72		
Lot 38	3218 AD 7615	1314 BRITTANY DR	0	5.01814	\$449.72		
Lot 39	3218 AD 7610	408 NATHAN DR	0	5.01814	\$449.72		
Lot 40	3218 AD 7611	1317 BROOKE DR	0	5.01814	\$449.72		
Lot 41	3218 AD 7614	1311 BROOKE DR	0	5.01814	\$449.72		
Lot 42	3218 AD 7619	1309 BROOKE DR	0	5.01814	\$449.72		
Lot 43	3218 AD 7624	1307 BROOKE DR	0	5.01814	\$449.72		
Partition Plat P95-89 (4 tax lots)							
(Parcel 3)	3218 DB 2403	724 N MAIN ST	77.3	3.865	\$346.38	Total ESF units = 1+1+6+12 = 20. DFL for each ESF unit = 77.3' / 20 = 3.865' TL's 3218 DB 100, 101, 102: These 3 lots shall share the total frontage improvement cost equally as each one has about the size of a single family lot. TFL = 98.0' DFL = 98.0' / 3 = 32.67' TL's 3218 DB 200, 201: These 2 lots shall share the total frontage improvement cost TL200 has twice the area of TL201; so 2/3 for TL200 & 1/3 for TL201. TFL = 62.25' DFL for TL200 = 62.25' x (2/3) = 41.50' DFL for TL201 = 62.25' x (1/3) = 20.75' TL's 3218 DB 2900, 2901, 2800, 2700: These 4 lots shall share the total frontage improvement cost. TFL = 67.65' (TL2900 & 2901) The DFL is based on the percentage of the total 4 lot areas. TL2900 & 2901 have frontages; TL2800 & 2700 don't; (TL2700 is the farthest from College.) TL2900 is 19.67%; DFL = 67.65' x 19.67% = 13.31' TL2901 is 6.60%; DFL = 67.65' x 6.60% = 4.47' TL2800 has 45.10%; DFL = 67.65' x 45.10% = 30.51' TL2700 has 28.63%; DFL = 67.65' x 28.63% = 19.37' TL's 3218 DB 3201, 3200: These 2 lots shall share the total frontage improvement cost equally as they are similar in size. TFL = 123.0' DFL = 123.0' x (1/2) = 61.50'	
(Parcel 2)	3218 DB 2402	726 N MAIN ST	0	3.865	\$346.38		
	3218 DB 2600	No Address	0	23.19	\$2,078.25		
	3218 DB 2300	735 N COLLEGE ST	0	46.38	\$4,156.51		
Subtotal =			773.03	773.03	\$69,277.78		
Property without Waiver (covering 1,393.9 LF of frontage)		Address	Abutting Frontage Length (feet)	*Distributed Frontage Length (feet)	Estimated Assessment Costs		
	3218 AD 6900	1701 N COLLEGE ST	66	66	\$5,914.82		
	3218 AD 7200	1603 N COLLEGE ST	74.11	74.11	\$6,641.63		
	3218 AD 7300	1601 N COLLEGE ST	79.89	79.89	\$7,159.62		
	3218 AD 7309	1519 N COLLEGE ST	83.01	83.01	\$7,439.23		
	3218 DB 0400	1215 N COLLEGE ST	124	124	\$11,112.69		
(3 Tax Lots share frontage)	3218 DB 0100	1211 N COLLEGE ST	98	32.66667	\$2,927.54		
	3218 DB 0101	No Address	0	32.66667	\$2,927.54		
	3218 DB 0102	No Address	0	32.66667	\$2,927.54		
(2 Tax Lots share frontage)	3218 DB 0200	1119 N COLLEGE ST	62.25	41.5	\$3,719.17		
	3218 DB 0201	No Address	0	20.75	\$1,859.58		
	3218 DB 0300	1117 N COLLEGE ST	62.25	62.25	\$5,578.75		
	3218 DB 0900	1111 N COLLEGE ST	105	105	\$9,409.94		
	3218 DB 0800	501 MISSION DR ***	142.59	142.59	\$9,142.70		
	3218 DB 2101	1005 N COLLEGE ST	105	105	\$9,409.94		
	3218 DB 2200	1003 N COLLEGE ST	58	58	\$5,197.87		
	3218 DB 2900	729 N COLLEGE ST	50.65	13.30804	\$1,192.65		
(4 Tax Lots share frontage)	3218 DB 2901	No Address	17	4.46667	\$400.30		
	3218 DB 2800	725 N COLLEGE ST	0	30.50882	\$2,734.15		
	3218 DB 2700	No Address	0	19.36647	\$1,735.59		
	3218 DB 3100	717 N COLLEGE ST	67.65	67.65	\$6,062.69		
(2 Tax Lots share frontage)	3218 DB 3201	711 DESKINS ST	123	61.5	\$5,511.54		
	3218 DB 3200	No Address	0	61.5	\$5,511.54		
	3218 DB 3400	707 DESKINS ST	75.5	75.5	\$6,766.20		
*** Assessment reduced for 501 Mission Dr. (City's responsibility for replacing existing sidewalk) =					\$3,636.00		
Subtotal =			1393.9	1393.9	\$124,919.22		
GRAND TOTAL =			2166.93	2166.93	\$194,197.00		
LID Costs Summary:							
City's project budget for matching the grant & to cover staff time =					\$194,197.00		
Total project length (in feet) =					2166.93		
Estimated assessment cost per foot of total project length =					\$89.62		
Total Recouped Costs (over total project length) =					\$194,197.00		

6. Assessment Timing and Financing

Assessments are due and payable in full upon completion of the LID improvements, which is anticipated near the end of 2014, and after notification of acceptance by City Council of the final assessments. The Newberg Municipal Code provides an option for the owners of assessed properties to finance the assessments. The term of loan is for 10 years and payments are made every 6 months. The City can generally offer interest rates that are lower than the average market rates. Table 4 provides a general idea of what the owners of assessed properties of the College Street LID would pay every six months if they chose to finance their assessments through the City assuming a 3.25% fixed rate were available. Actual rates will be determined when the properties are assessed. Property owners may also choose to obtain financing through an outside lending institution or pay the assessment in cash.

TABLE 4: BI-ANNUAL PAYMENTS ON 10-YEAR LOAN AT 3.25% INTEREST

Principal	Bi-annual Payment
\$5,000	\$331.25
\$10,000	\$662.50
\$15,000	\$993.75
\$20,000	\$1,325.00
\$25,000	\$1,656.25
\$30,000	\$1,987.50

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APPENDICES

- A. Newberg Municipal Code Chapter 3.15
- B. The LID Public Process
- C. N. College Street Improvements Waiver of Remonstrance Agreements

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APPENDIX A
Newberg Municipal Code Chapter 3.15

LOCAL IMPROVEMENT DISTRICTS

Sections:

- [3.15.010](#) Title.
- [3.15.020](#) Definitions.
- [3.15.030](#) Plans and specifications.
- [3.15.040](#) Assessing.
- [3.15.050](#) Resolution.
- [3.15.060](#) Notices to property owners.
- [3.15.070](#) Public hearing and remonstrances.
- [3.15.080](#) Ordinance creating local improvement district.
- [3.15.090](#) Call for bids.
- [3.15.100](#) Assessment ordinance procedures.
- [3.15.110](#) Lien recording – Payments over time or by cash.
- [3.15.120](#) Errors in assessment calculations.
- [3.15.130](#) Authority of city to make reassessment.
- [3.15.140](#) Consent or waiving requirement of notice.
- [3.15.150](#) Assessment of public property benefited by improvements.
- [3.15.160](#) Abandonment of proceedings.
- [3.15.170](#) Curative provision.

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3.15.010 Title.

This chapter shall be known as the local improvement district ordinance. [Ord. [2444](#), 6-3-96. Code 2001 § 36.40.]

3.15.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Actual cost” means all direct or indirect costs incurred by the city in order to undertake and complete a capital construction project. “Actual cost” includes, but is not limited to, the costs of labor, materials, supplies, equipment rental, property acquisition, permits, engineering, financing (bond issuance costs), reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

“Assessment for local improvement” means any fee, charge, or assessment that does not exceed the actual cost of a local improvement incurred by the city.

“Bonded indebtedness” means any formally executed written agreement representing a promise by the city to pay to another specified sum of money, at a specified date(s) at least one year in the future.

“Capital construction” means the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, which is expected to have a useful life of more than one year, and includes, but is not limited to:

1. Acquisition of land, or a legal interest in land, in conjunction with a capital construction of a structure.
2. Acquisition, installation of machinery or equipment, furnishings or materials which will become an integral part of a structure.
3. Activities related to the capital construction, such as planning design, acquisition of interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or services connected with the construction.
4. Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

“Capital improvement” means land, structures, or facilities, as that term is defined in the Oregon Revised Statutes, machinery, equipment or furnishings having a useful life longer than one year.

“City engineer” means the duly appointed official or, if such official does not exist, a designated engineer or firm of engineers, charged with engineering responsibilities.

COPY

“Estimated assessment” means:

1. With respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the city estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the estimated cost of the local improvement and the proposed formula for apportioning the actual cost to the property.
2. Estimated assessment shall be determined by:
 - a. Excluding the estimated financing costs associated with any bonds issued to accommodate the payment of the assessment in installments; and

b. Including the estimated financing costs associated with interim financing of the local improvement.

“Final assessment” means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual cost of the local improvement and the formula for apportioning the actual cost to the property.

“Financing” means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement.

1. The costs of financing may include the salaries, wages and benefits payable to employees to the extent the same are reasonably allocable to the work or services performed by the employees in connection with the financing of a local improvement or any part of a local improvement. However, as a condition to including of any salaries, wages or benefits payable to employees of the city as financing costs of a local improvement or any part of a local improvement, the city shall establish a record-keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

2. Financing costs that are to be incurred after the levy of a final assessment may be included, whether directly in the final assessment or in the interest rate charged on installment payments, based on the city’s reasonable estimate of the financing costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

“Local improvement” means a capital construction project, or part of a capital construction project, undertaken by the city pursuant to the procedure to be followed in making local assessments for the benefits from a local improvement upon the lots which have been benefited by all or part of the improvement:

1. Which provides a special benefit only to specific properties or rectifies a problem caused by specific properties; and

2. The costs of which are assessed against those properties in a single assessment upon the completion of the project; and

3. For which the payment of the assessment plus appropriate interest may be spread over a period of at least 10 years by the property owner; and

4. For which the total of all assessments for the local improvement shall not exceed the actual cost incurred by the city in completing the project; and

5. For which the status of a capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the specific benefit.

“Lot” means lot, block, or parcel of land.

“Manager” means the city manager of the City of Newberg.

“Owner” means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the Yamhill County assessor.

COPY

“Property benefited” means all property specially benefited by the improvement, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the actual cost of the improvement between the properties determined to be specially benefited.

1. Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries, or by lots, blocks and additional names, or by giving the boundaries of the property by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or by designation of a tax lot number, or in any other manner as to cause the description to be capable of being made certain.
2. If the owner of any land is unknown, the land may be assessed to “unknown owner(s).” If the property is correctly described, no final assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of the name other than that of the true owner. Where the name of the true owner, or the owner of record, of any parcel of real property is given, the final assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description, a court of equity would hold it to be good and sufficient.
3. Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment relating or leading to a final assessment for a local improvement foreclosure and sale of delinquent assessments, and in any other proceedings related to or connected with levying, collecting and enforcing final assessments for special benefits to the property.

“Remonstrance” means a written objection to the formation of a local improvement district.

“Single assessment” means the complete assessment process, including preassessment, assessment or reassessment, for any authorized local improvement which provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots which have been benefited by all or part of the improvement.

“Special benefit only to specific properties” means the same meaning as “special and peculiar benefit” as that term is used in Oregon law.

“Structure” means any temporary or permanent building or improvement to real property of any kind, which is constructed on or attached to real property, whether above, on or beneath the surface. [Ord. [2444](#), 6-3-96. Code 2001 § 36.41.]

Cross-reference: See ORS [223.389](#) as found in ORS [310.140](#)(14).

3.15.030 Plans and specifications.

Whenever the city council shall determine to proceed to make a local improvement to be paid for in full or in part by the property benefited, the city council shall, by motion, direct the city engineer to have a report prepared containing the following information:

- A. A description of the local improvement.

- B. Preliminary plans and outline specifications for the local improvement.
- C. A description of the boundaries of the local improvement.
- D. A just and reasonable method of apportioning the actual cost of the local improvement to the properties benefited.
- E. A list of properties benefited by the local improvement, including the name and address of each owner; the assessed value of each property, adjusted in accordance with Oregon law; and a statement of the amount of outstanding assessments against any property proposed to be assessed by the improvements.
- F. The estimated cost of the improvement, including any legal, administrative and engineering costs attributable to the project.
- G. The estimated share of the estimated cost of the local improvement to be assessed to each property.
- H. The estimated share of the estimated cost of the local improvement to be paid by the city, if any. [Ord. [2444](#), 6-3-96. Code 2001 § 36.42.]

Cross-reference: See ORS [223.389](#) as found in ORS [310.140](#)(14).

3.15.040 Assessing.

The city council shall do the following in assessing the cost of the improvement:

- A. Use a fair and reasonable method for determining the extent of the district boundaries.
- B. Use a fair and reasonable method for apportioning the actual cost or estimated cost of the local improvement among the benefited properties.
- C. Consider payment by the city of all or part of the actual cost or estimated cost of the improvement when, in the opinion of the city council, on account of topographical, physical or other characteristics of the local improvement or expected unusual or excessive use by the general public, payment by the city would be appropriate or when the city council otherwise believes it would be just and reasonable for the city to pay all or part of the cost.
- D. Consider other available means of financing the improvement. In the event other means of financing are used, the city council may, subject to the constraints of the Oregon Constitution and Oregon laws, in its discretion, levy assessments to cover any part of the actual cost of the local improvement not covered by the alternative means of finance. The use of any available alternative means of financing lies solely within the discretion of the city council.
- E. Not give credits for corner lots.
- F. Assess unimproved property subject to a maximum depth of 200 feet. [Ord. [2444](#), 6-3-96. Code 2001 § 36.43.]

Cross-reference: See ORS [223.389](#) as found in ORS [310.140](#)(14).

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3.15.050 Resolution.

A. After the engineer's report has been filed with the city manager, after the city council has examined the report and found the same to be satisfactory and having found the estimated costs and apportionment to be reasonable and just, and after having found the boundaries of the improvement district to be properly determined, the city council may, by resolution, propose to make the improvement, and to create a local improvement district.

B. The resolution shall state:

1. The boundaries of the local improvement district.
2. The proposed method for apportioning the estimated cost of the local improvement among the benefited properties.
3. The portion of the estimated cost, if any, which the city will pay.
4. That the portion of the estimated cost which is assessed to the properties benefited shall be a charge and lien upon those properties.
5. The time and place for a public hearing before the city council to hear objections and receive remonstrances.
6. Directions to the city engineer to provide a notice of public hearing to the owners of the properties benefited which contains the following:
 - a. A brief and general description of the proposed local improvement and a statement that a more detailed description is set forth in a report on file in the city engineer's office and city manager's office.
 - b. That the city council proposes to create a local improvement district and will be holding a public hearing to hear objectives and receive remonstrances to the local improvement.
 - c. The date, time and place of the public hearing.
 - d. A description of the properties to be benefited, the owners of the properties, the estimated cost of the improvement and the estimated assessment for each property benefited.
 - e. A statement that if, at or before the public hearing, written remonstrances against the local improvement are filed with the city engineer by the owners of at least 60 percent of the property to be assessed, action on the local improvement shall be suspended for at least six months. [Ord. [2444](#), 6-3-96. Code 2001 § 36.44.]

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3.15.060 Notices to property owners.

A. Form of Notice. Any notice required hereunder shall be sent by registered or certified mail or by personal delivery to the owner of each property proposed to be assessed, and shall include the estimated assessment proposed for that property, the date by which time objections shall be filed with the city engineer, and that such objection shall state the grounds for the objection.

B. Delivery of Notice. Whenever a notice is required to be sent to the owner of a lot affected by a proposed assessment, the notice shall be addressed to the owner or the owner's agent. If the address of the owner or the owner's agent is unknown to the city, the notice shall be addressed to the owner or the owner's agent at the city where the property is located. Any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the city. [Ord. [2444](#), 6-3-96. Code 2001 § 36.45.]

3.15.070 Public hearing and remonstrances.

A public hearing before the city council shall be held at the scheduled date and time and the city council shall hear and consider objections and receive remonstrances to the local improvement. If those persons representing 60 percent or more of the proposed assessment within the district file with the city engineer a written objection or remonstrance against the proposed improvement, the remonstrance shall be a bar to any further proceedings in the making of such improvement for a period of six months, except for a sidewalk or improvement unanimously declared by the city council to be needed at once because of an emergency. [Ord. [2444](#), 6-3-96. Code 2001 § 36.46.]

3.15.080 Ordinance creating local improvement district.

A. Public Hearing. After the public hearing, the city council may create a local improvement district by ordinance. The ordinance shall describe the improvement(s) to be made, the boundary of the district, the estimated assessments against the properties benefited, and shall state that the assessment shall be charges and liens against the properties. The city may enforce collection of the assessments as provided in Oregon law.

B. Adoption Process. In creating the local improvement by ordinance, the city council shall consider the objections or remonstrances made and reasons stated for them. The city council may adopt, correct, modify or revise the proposed assessments or estimated assessments and shall determine the amount or estimated assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement and shall by ordinance spread the assessments. The estimated assessment lien shall continue until the time the estimated assessment becomes a final assessment.

C. Plans. The ordinance shall also direct the city engineer to have detailed plans and specifications of the local improvement prepared and that, when appropriate, the city shall invite bids for construction of the local improvement. [Ord. [2444](#), 6-3-96. Code 2001 § 36.47.]

Cross-reference: See ORS [223.866](#).

3.15.090 Call for bids.

A. Work to Be Done. The construction work may be done in whole or in part by the city, by a contractor, or by any other governmental agency, or by any combination of the city, a contractor, or a governmental agency.

B. Low Bids. If all or part of the improvement is to be constructed by a contractor, the city shall call for bids for making the local improvement and award the bid to the lowest responsible bidder.

C. Separate Bids. In the event that more than one local improvement shall be advertised for bids at the same time, all local improvement districts shall be bid separately.

D. Aggregate Bid. The city council shall have the authority to accept the lowest responsible aggregate bid which is in the best interest of the city for all of the local improvement districts bid at the same time, and allocate the proper amount of the total cost to each district separately.

E. City Council Discretion. The city council may reject any or all bids.

F. Rebidding. If no bids are received, or if all bids are rejected, the city council may call for other bids, change the manner in which the local improvement shall be constructed, or abandon the local improvement.

G. Excessive Bids. If the lowest responsible bid exceeds the estimated cost of the local improvement, and if accepted would cause any estimated assessment to increase by more than 20 percent, and if the city council wants to proceed with the local improvement, before proceeding the city council shall revise the estimated assessments, hold another public hearing, after notice to the owners of the benefited properties of the new estimated assessment, and shall proceed as if that was the original public hearing except that new bids need not be solicited.

H. Bond Required. The city council shall require bonding of all contractors for the faithful performance of the contract. All bidders shall be required to submit a certified check or bid bond in an amount equal to five percent of their bid, and the contractor to whom the award is made shall submit a performance bond in the amount of the awarded bid at the time the contract is awarded. All bonds shall be with bonding companies doing business in Oregon and given under Oregon law. Bonds shall incorporate the term of the plans and specifications and must be approved by the city attorney as to form. [Ord. [2444](#), 6-3-96. Code 2001 § 36.48.]

Cross-reference: See ORS [279.380](#).

3.15.100 Assessment ordinance procedures.

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A. Initial Assessments. If the city council determines that the local improvement district shall be created, the city council shall provide for the assessment or estimated assessment of the benefited properties, and for the apportionment of the assessment or estimated assessment to the properties benefited by ordinance by one of the following methods:

1. Actual cost of the local improvement; or
2. The estimated cost of the improvement.

B. Notice. The city engineer shall prepare the assessment or estimated assessment for the properties benefited and file it with the appropriate city office. Notice of such assessment or estimated assessment shall be given to each owner of the properties benefited. The notice shall state the amount of the assessment or estimated assessment proposed for that property and set forth the date, time and place for a public hearing before the city council to hear objections to the proposed assessments.

C. Consideration of Proposed Assessment. The city council shall consider objections to the proposed assessments and may correct, modify, or revise the proposed assessments. After determining that the assessments meet the requirements of this chapter, the city council shall by ordinance spread the assessments.

D. Actual Cost. In determining the assessment or estimated assessment for the local improvement the city council shall use the actual cost.

E. Lien. The assessment ordinance shall provide that the assessments or estimated assessments against the benefited properties shall be a lien against the assessed properties and that the city may enforce collection of such assessments as provided by Oregon law.

F. Estimated Cost. If the initial assessment has been made on the basis of estimated assessment, and upon the completion of work the actual cost is found to be greater or less than the estimated cost, the city council shall make an assessment for the actual cost. Proposed revised assessments shall be made; notice to the owners shall be sent; a public hearing for receiving and considering objections shall be held; determination of the assessment against each property benefited shall be made as in the case of the initial assessment; and the revised assessments shall be spread by ordinance. In the event that an estimated assessment which was greater than a revised assessment has been paid, the payor or the payor's assigns or legal representative shall be refunded the difference. [Ord. [2444](#), 6-3-96. Code 2001 § 36.49.]

Cross-reference: See ORS [223.866](#).

3.15.110 Lien recording – Payments over time or by cash.

A. Docket. After the passage of the assessment ordinance, the city manager shall direct to have entered in the docket of city liens a statement of the amount assessed upon each property benefited, together with a description of the improvement, the name of the owner(s) and the date of the assessment ordinance. Upon entry in the lien docket, the amount entered shall become a lien and charge upon the respective lots, parcel of land or portions of the lots or parcels of land which have been assessed. All assessment liens of the city shall be superior and prior to all other liens or encumbrances on the property insofar as the laws of the State of Oregon permit.

B. Foreclosure. After the expiration of 30 days from the date the assessment ordinance was adopted, the city may proceed to foreclose or enforce collection of the assessment liens in any manner provided for by the laws of the State of Oregon. The city may, at its option, enter a bid for any property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem the property.

C. Final Assessment. After the final assessment has been adopted by the city council, the city shall publish the final assessments once in a newspaper of general circulation within the city and also send a copy by certified mail or deliver it personally to the owners of the properties to be assessed within 10 days after the adoption of the ordinance. The notice shall identify the local improvement for which the assessment is to be made, each lot to be assessed, and the final assessment for each lot. In addition, the notice shall state that the owner shall have the right to apply to the city for payment of the final assessment in installments as provided by this chapter.

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D. Time Payments. Within 10 days after notice of final assessment is mailed, the owner of any property to be assessed, at any time, may file a written application at the finance department to pay:

1. The whole of the final assessment in installments; or
2. If part of the final or estimated assessment has been paid, the unpaid balance of the final assessment in installments. Failure to apply for installment payments within 10 days will require full payment of the assessment within 30 days from the date of the entry of the lien in the city docket.

E. Filing Deadline. At the option of the city, an installment application may be filed not more than 10 days after the notice of the final assessment is first published.

F. Waiver. The installment application shall state that the applicant does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings, including the apportionment of the cost of the improvement.

G. Period of Payments. The application shall provide that the applicant agrees to pay the assessment in installments over a period of not less than 10 years nor more than 30 years and according to such terms as the city may provide. The city may provide that the owner of the assessed property may elect to have the final assessment payable over a period of less than 10 years and according to terms determined by the city.

H. Interest. The application shall also provide that the applicant acknowledges and agrees to pay interest at the rate provided by the city. The interest shall be set at an interim rate which shall be applied to the unpaid balance until improvement bonds are sold to finance assessment bonds. Upon sale of bonds, the finance director shall adjust the interest rate to the rate received by the city on the bond issue (expressed as true interest cost). All subsequent payments will be made at the new adjusted rate.

I. Loan Fees. To recover the costs for administering the bond assessment program, applicants will be charged a loan origination fee and billing fee as set by resolution and reviewed periodically by the finance committee of the city council. Those who initially choose to pay the assessment in full will not be charged these fees.

J. Description of Property. The application shall also contain a description, by lots or blocks, or other convenient description, of the property of the application assessed for the local improvement.

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K. Payment Dates. The amount and due date of each installment shall be determined by the city and shall be set forth in the installment application. The first installment, plus accrued interest and fees, shall be due and payable on the date determined by the city and subsequent installments plus accrued interest and fees shall be due and payable on subsequent periodic dates as determined by the city.

L. Delinquent Payments. If the installment payments or the interest or any portion of the interest are not paid within one year of their due date, then the city may pass a resolution:

1. Giving the name of the owner in default;
2. Stating the sum due, both principal and interest, and any unpaid late payment penalties or charges;
3. Containing a description of the property subject to the assessment; and

4. Declaring the whole sum, both principal and interest, immediately due and payable.

M. Collection. The city may then immediately proceed to collect all unpaid amounts owing and enforce collection by any method authorized by law for the collection of delinquent municipal liens. [Ord. [2444](#), 6-3-96. Code 2001 § 36.50.]

Cross-reference: See ORS [311.711](#) for assessment and collection of liens. See also ORS Chapter [319](#) for tax liens in general.

3.15.120 Errors in assessment calculations.

Claimed errors in the calculation of final assessments shall be called to the attention of the city manager prior to any payments on the account. The city manager shall check the calculation and report the findings to the city council. If an error has been made, the city council shall amend the final assessment ordinance to correct the error. Upon the enactment of the amendment, the city manager shall make the necessary correction in the lien docket and shall send by registered or certified mail to the owner a corrected notice of the assessment. [Ord. [2444](#), 6-3-96. Code 2001 § 36.51.]

3.15.130 Authority of city to make reassessment.

Whenever all or part of any assessment for a local improvement was or is declared void or set aside for any reason or its enforcement refused by any court by reason of jurisdictional or other defects in procedure, whether directly or by virtue of any court decision or when the city council is in doubt as to the validity of all or part of any such assessment by reason of such defects in procedure, the city council may by ordinance make a new assessment or reassessment upon the lots which have been benefited by all or part of the improvement to the extent of their respective and proportionate shares of the full value of such benefit. [Ord. [2444](#), 6-3-96. Code 2001 § 36.52.]

3.15.140 Consent or waiving requirement of notice.

The provisions of NMC [3.15.050](#)(B)(6), insofar as it requires notice to the owners of the properties benefited, shall not apply if the owners of all assessable property within the proposed local improvement district have consented in writing to the local improvement and have waived the requirement for notice in the initial public hearing. [Ord. [2444](#), 6-3-96. Code 2001 § 36.53.]

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3.15.150 Assessment of public property benefited by improvements.

A. Whenever all or any part of the cost of a local improvement is to be assessed to the property benefited, benefited property owned by the city, county, school district, park district, state and any other political subdivision shall be assessed in the same manner as private property and the amounts of the assessment shall be paid by the city, school district, county, park district, or state, as the case may be.

B. In the case of property owned by the state, the amount of the assessment shall be certified by the city finance director and filed with the executive department as a claim for reference to the Legislative Assembly in the manner provided by Oregon law unless funds for the payment of the assessment have been otherwise provided by law. [Ord. [2444](#), 6-3-96. Code 2001 § 36.54.]

Cross-reference: See Section 1c of Article IX of the Oregon Constitution pertaining to financing for redevelopment and urban renewal projects.

3.15.160 Abandonment of proceedings.

The city council shall have full authority to abandon and rescind proceedings for a local improvement at any time prior to the final consummation of the proceedings. If liens have been assessed upon any property, they shall be cancelled, and any payments received shall be refunded to the payor, the payor's assigns or legal representatives. [Ord. [2444](#), 6-3-96. Code 2001 § 36.55.]

3.15.170 Curative provision.

No local improvement assessment shall be invalid by reason of a failure to give, in any report, on the proposed assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot or other parcel of land, or part of any lot or other parcel of land, or the name of any person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings hereinabove specified, unless it appears that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the city council shall have power and authority to remedy and correct all such matters by suitable actions and proceedings. [Ord. [2444](#), 6-3-96. Code 2001 § 36.56.]

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APPENDIX B The LID Public Process

LID Public Process

- A. **Council** decides whether to direct the City Engineer to prepare an Engineer's Report on the proposed LID improvements. The engineer's report will include a project cost estimate, recommended assessment methodology, and estimated individual assessments.
- B. After reviewing the Engineer's Report, **Council** decides whether to propose the formation of an LID at a Public Hearing. If Council decides to propose the LID, a Public Hearing date is set.
- C. **Council** holds a Public Hearing and then decides whether to form the LID.
- D. City Engineering Division completes site survey and construction plans and calls for contractor bids.
- E. Individual assessments are recalculated based on the low bid amount. **Council** holds another meeting to approve the bid. However, if the new assessments are 20% higher, or more, than the assessments estimated in the Engineer's Report, Council will set a date for another Public Hearing.
- F. Improvements are constructed
- G. Final assessments are prepared based on the final total cost of the project. **Council** holds a Public Hearing and sets the final assessments. Within 10 days, the final assessments are published in the newspaper and certified notice is sent to LID participants. If LID participants wish to finance the assessment through the City, they must, within 10 days of notice, make application to the City, or pay assessments within 30 days of notice.

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APPENDIX C
Waiver of Remonstrance Agreements

OPEN BIBLE CHURCH
Tax Lots 3218AD-7000, -7100

E313P0600

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1360

WAIVER OF RIGHTS TO REMONSTRANCE
FOR PUBLIC IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS, that the City of Newberg, a municipal corporation of the State of Oregon, hereinafter known as "City", and Newberg Open Bible Church, an Oregon Corporation, by James A. Ringseth, President and Garry J. White, Vice-Chair, on behalf of the corporation, the owners of the real property herein described, hereinafter referred to as "Owners", make the following agreement. The real property located in the City of Newberg, Yamhill County, Oregon is more fully described as follows:

See Attached Exhibit A

That the said real property is held upon the condition that in the event N. College Street, future streets, or public utilities, or any part thereof abutting upon said lots are constructed or improved in accordance with certain practices of the City upon petition of the property owners or upon resolution by the Council, no remonstrance to said proposed street or municipal utility improvements shall be made and such remonstrance is hereby waived.

This agreement shall be binding upon the undersigned, who are the legal owners of the real property described above, and shall binding upon their heirs, assigns, and legal representatives.

IN WITNESS WHEREOF, we have executed said document on this 18th day of July, 1994.

OWNERS: NEWBERG OPEN BIBLE CHURCH

By: James A. Ringseth
James A. Ringseth
President

By: Garry J. White
Garry J. White
Vice-Chair

STATE OF OREGON)
City of Newberg) ss.
COUNTY OF YAMHILL)

This instrument was acknowledged before me this 19th day of July, 1994, by James A. Ringseth, President and Garry J. White, Vice-Chair, of Newberg Open Bible Church, an Oregon corporation, on behalf of the corporation.



Terrence D. Mahr
Notary Public for Oregon
My Commission Expires: 10-18-99

COPY

CITY OF NEWBERG

ACCEPTED AS TO FORM:

By: Duane R. Cole
Duane R. Cole - City Manager

By: Terrence D. Mahr
Terrence D. Mahr - City Attorney

Grantor: James A. Ringseth/Garry J. White
1605 N. College
Newberg OR 97132
Grantee: City of Newberg
414 E. First Street
Newberg OR 97132

Return to Grantee after recording c/o Newberg City Attorney, File No: V-3-93,DR-13-93

APPENDIX C
Waiver of Remonstrance Agreements

OPEN BIBLE CHURCH
Tax Lots 3218AD-7000, -7100

EXHIBIT A
NEWBERG OPEN BIBLE CHURCH

Original 3 Acres

-----The North 192.72 feet of the following described tract of land:
Part of the Oliver J. Walker Donation Land Claim #53, Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, described as follows:

Beginning at an iron pipe set in center of County Road and on the West line of County Survey #2379 at a point 401.34 feet North and 726 feet West of the Quarter post between Sections 17 and 18, said Township and Range; thence North along the center of said County Road 339.40 feet to an iron pipe at Southeast corner of tract conveyed to Peter Hilbert and wife by Deed recorded May 27, 1920 in Book 81, Page 90, Deed Records; thence South 89°28' West along South line of said Peter Hilbert tract 715.35 feet to iron pipe and Southwest corner of said Peter Hilbert tract; thence South 00°31' West 322.90 feet; thence South 89°13' East 718.50 feet to the place of beginning, also being Lot #2 of County Survey NO. 2516½ of County Survey Records of Yamhill County, Oregon.

EXCEPTING therefrom any portion lying within the State Highway.

1 (one) acre Divided from Original 3 acres

Description of 1 acre tract surveyed for Newberg Open Bible Church.

Part of the Oliver J. Walker Donation Land Claim #53 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, described as follows:

Beginning at the Northeast corner of Lot #2 of County Survey 2516½ of County Survey Records, being a point in the center of State Highway No. 219, and 740.74 feet North and 726 feet West of the Quarter post between Sections 17 and 18 of said Township and Range; thence S 89°28' W 35 feet to a point on the West margin of said highway, being the true point of beginning, herein; thence S 89°28' W 267.7 feet to an iron rod; thence S 00°19' W 162.72 feet to an iron rod; thence N 89°28' E 267.7 feet to an iron rod on the West margin of said highway; thence N 00°19' E 162.72 feet to said true point of beginning. -----

COPY

Addition to 1-acre parcel

THE WEST 145 FEET OF THE FOLLOWING DESCRIBED PROPERTY, TO-WIT:

Situate, lying and being in Yamhill County, State of Oregon, and being a part of the Donation Land Claim of Oliver J. Walker, Claim No. 53, Notification No. 1706, in Yamhill County, State of Oregon, and the part of said claim herein conveyed being particularly described as follows, to-wit: Beginning at the Southeast corner of that certain tract of land conveyed by True French and Emma C. French, his wife, to Peter Hilbert and Clara Hilbert, his wife, by Deed dated May 25, 1920, and which Deed is now recorded in the Office of the Recorder of Conveyances for Yamhill County, State of Oregon, in Book of Deeds Volume 81, at Page 90; and running thence West along the South line of said tract; so conveyed by True French and wife, to Peter Hilbert and wife, 20 rods; thence North 4 rods; thence East parallel with the South line of the premises herein conveyed, 20 rods; thence South 4 rods to the place of beginning, in Section 18, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon.

APPENDIX C
Waiver of Remonstrance Agreements

WILLOW PLACE ASSISTED LIVING FACILITY
Tax Lot 3218AD-7401

WAIVER OF RIGHTS TO REMONSTRANCE
STREETS, FUTURE STREETS, OR PUBLIC UTILITIES
INCLUDING STORM SEWER, SANITARY SEWER AND WATER LINES
CITY OF NEWBERG
CITY RECORDER INDEX NO. 1297

KNOW ALL MEN BY THESE PRESENTS, that the City of Newberg, a municipal corporation of the State of Oregon, hereinafter known as "City", and Assisted Living Facilities, Inc., the owners of the real property herein described, hereinafter referred to as "Owners", make the following agreement. The real property located in the City of Newberg, Yamhill County, Oregon is more fully described as follows:

See Exhibit A attached hereto.

That the said real property is held upon the condition that in the event any streets, future streets, or public utilities, or any part thereof abutting upon said lots are constructed or improved in accordance with certain practices of the City upon petition of the property owners or upon resolution by the Council, no remonstrance to said proposed street or municipal utility improvements shall be made and such remonstrance is hereby waived.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

This Agreement shall constitute a covenant and restriction running with the land and shall be binding upon the undersigned, who are the legal owners of the real property, and shall bind their heirs, assigns and legal representatives.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 14 day of December, 1992.

By: [Signature]
Donald E. Nielsen, President
Assisted Living Facilities, Inc.

STATE OF OREGON)
City of Newberg) ss.
COUNTY OF YAMHILL)

This instrument was acknowledged before me on the 14 day of December, 1992, by Donald E. Nielsen.



[Signature]
Notary Public for Oregon
My Commission Expires: 10-16-95

COPY
016116

CITY OF NEWBERG

ACCEPTED AS TO FORM:

By: [Signature]
Duane R. Cole - City Manager

By: [Signature]
Terrence D. Mahr - City Attorney

Grantor: Assisted Living Facilities, Inc.
Donald E. Nielsen, President
208 SW Stark Suite 400
Portland OR 97204
Grantee: Ret City of Newberg
414 E. First
Newberg OR 97132

Return to Grantee after recording c/o Newberg City Attorney, File No: DR-6-91

STATE OF OREGON)
COUNTY OF YAMHILL) ss.

I hereby certify that this instrument was received and duly recorded by me in Yamhill County records.

Instrument # _____
[Signature]
CHARLES STERN,
COUNTY CLERK

1992 DEC 23 PM 1:20
F 279P 2299

APPENDIX C
Waiver of Remonstrance Agreements

WILLOW PLACE ASSISTED LIVING FACILITY
Tax Lot 3218AD-7401

EXHIBIT A

LEGAL DESCRIPTION

Being a tract of land located in the Oliver Walker Donation Land Claim in the East 1/2 of Section 18, Township 3 South, Range 2 West, Willamette Meridian in Yamhill County, Oregon, and being more particularly described as follows:

COMMENCING from a 5/8 inch iron rod on the South line of said Walker Donation Land Claim that is North 89°17'58" East 726.72 from a 5/8 inch iron rod at the Southwest corner of said Walker Donation Land Claim; thence North 89°17'58" East 687.94 feet to a 5/8 inch iron rod on the West right-of-way line of Hillsboro - Silverton Highway (O.S.H. 219) being 35.00 feet Westerly of the centerline and the beginning of a non-tangent 1874.86 foot radius curve to the left having a central angle 3°08'56", a chord bearing of North 01°34'28" East, and a chord distance of 103.02 feet; thence along said non-tangent curve to the left and West right-of-way line of Hillsboro - Silverton Highway (O.S.H. 219) 103.04 feet to a 5/8 inch iron rod; thence continuing along said right-of-way line North 00°00'00" East 166.06 feet to a 5/8 inch iron rod being the point of beginning of this described tract; thence leaving said right-of-way line South 89°17'58" West 245.00 feet to a 5/8 inch iron rod; thence North 00°00'00" East, parallel to the West line of said O.S.H. 219 right-of-way, 293.46 feet to 5/8 inch iron rod; thence South 89°14'40" East 245.00 feet to a 1 inch iron pipe in the West right-of-way line of said O.S.H. 219; thence South 00°00'00" West 287.23 feet to the point of beginning.

1997 DEC 23 PM 1:20

F 27 9P 2308

COPY

APPENDIX C
Waiver of Remonstrance Agreements

JAQUITH PARK ESTATES
Tax Lots 3218AD-7621, -7633, -7634

1991 OCT -4 PM 1:46 F 260P0542

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1264

WAIVER OF RIGHTS TO REMONSTRANCE
FOR STREET IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS, that the City of Newberg, a municipal corporation of the State of Oregon, hereinafter known as "City", and Cypress Ventures, Inc the owners of the real property herein described, hereinafter referred to as "Owners", make the following agreement. The real property located in the City of Newberg, Yamhill County, Oregon is more fully described as follows:

Description of real property as in Exhibit "A" which is hereby attached and by this reference incorporated.

The City and Owners agree that the above-described real property is held and shall be transferred, sold, and conveyed upon the condition that in the event any street or future street, or any part thereof abutting upon said property or lots created therefrom, or improved and/or paved in accordance with the practices and procedures of the City, no remonstrances to said proposed improvements shall be made and such right to remonstrate is hereby waived.

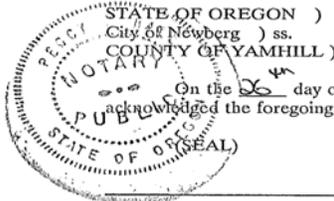
THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

This agreement shall be binding upon the undersigned, who are the legal owners of the real property described above, and shall binding upon their heirs, assigns, and legal representatives.

IN WITNESS WHEREOF, we have executed said document on this 4th day of September 1991

OWNERS:
By: Cypress Ventures Inc.
By: Low N. Morse, President

CITY OF NEWBERG:
By: Thomas R. Cole
City Manager



On the 26th day of September, 1991, personally appeared the above-named individual(s) and acknowledged the foregoing instrument to be his/their voluntary act and deed.

Peggy W. Notary
Notary Public for Oregon
My Commission Expires: 11-21-92

COPY

Grantor: Cypress Ventures, Inc.
9781 Blue Larkspur Lane Suite 3
Monterey CA 93940
Grantee: City of Newberg
414 E. First Street
Newberg OR 97132

Return to Grantee after recording
c/o Newberg City Attorney
File No: CPA-3-91

STATE OF OREGON
COUNTY OF Clackamas } SS.
September 04, 19 91

Personally appeared Lowell W. Morse and who being duly sworn, did say that the former is the President of the Cypress Ventures, Inc. a corporation, and that said instrument was signed in behalf of said corporation by authority of its board of directors; and each of then acknowledged said instrument to be its voluntary act and deed.

Before me: Jennelle N. Zornado
JENNELLE N. ZORNADO
NOTARY PUBLIC OREGON
My Commission Expires 6-21-94

ORL-359 (7-81)
Staple

APPENDIX C
Waiver of Remonstrance Agreements

GRAHN PARTITION PLAT P 95-89
Tax Lots 3218DB-2300, -2600

3218DB - 2300

WAIVER OF RIGHTS TO REMONSTRANCE
TO LAND USE

KNOW ALL MEN BY THESE PRESENTS, that R. P. Grahn, Inc., an Oregon corporation, and Roger P. Grahn, the owners of the real property herein described and hereinafter referred to as "Owners", make the following agreement. The real property which is located in Yamhill County, Oregon is more fully described as follows:

Parcels 2 & 3 of Partition Plat 95-89
Record of Plats for Yamhill Co., Oregon
AND

Tax Lots 2300 & 2600, 3218DB
(aka 735 N College, Newberg, OR)
~~(See XXXX-XXXX-XXXX-XXXX-XXXX-XXXX-XXXX-XXXX-XXXX-XXXX)~~

The Owners agree that the above-described real property is held and shall be transferred, sold, and conveyed upon the condition that no remonstrance may be made against the other owner to any land use action undertaken by either party with respect to zoning, land use or construction of improvements.

This agreement shall be effective for 20 years from date of recording, and shall be binding upon all heirs or assigns.

Each Owner shall be individually and solely responsible for any costs incurred as a result of any action undertaken.

In Witness hereof we have executed this document on this 28th day of June, 1996.

by *R. P. Grahn, Inc.*
R. P. GRAHN, INC.

by *Roger P. Grahn*
ROGER P. GRAHN

COPY

STATE OF OREGON
County of Yamhill

This instrument was acknowledged before me on this 28th day of June, 1996, by R. P. Grahn, Inc. and Roger P. Grahn.

*Roger P. Grahn as President of

Janet L. Winder
Notary Public for Oregon
My Commission Expires: 5/6/97



R. P. Grahn
23287 LaSalle Lane
Sherwood, OR 97140

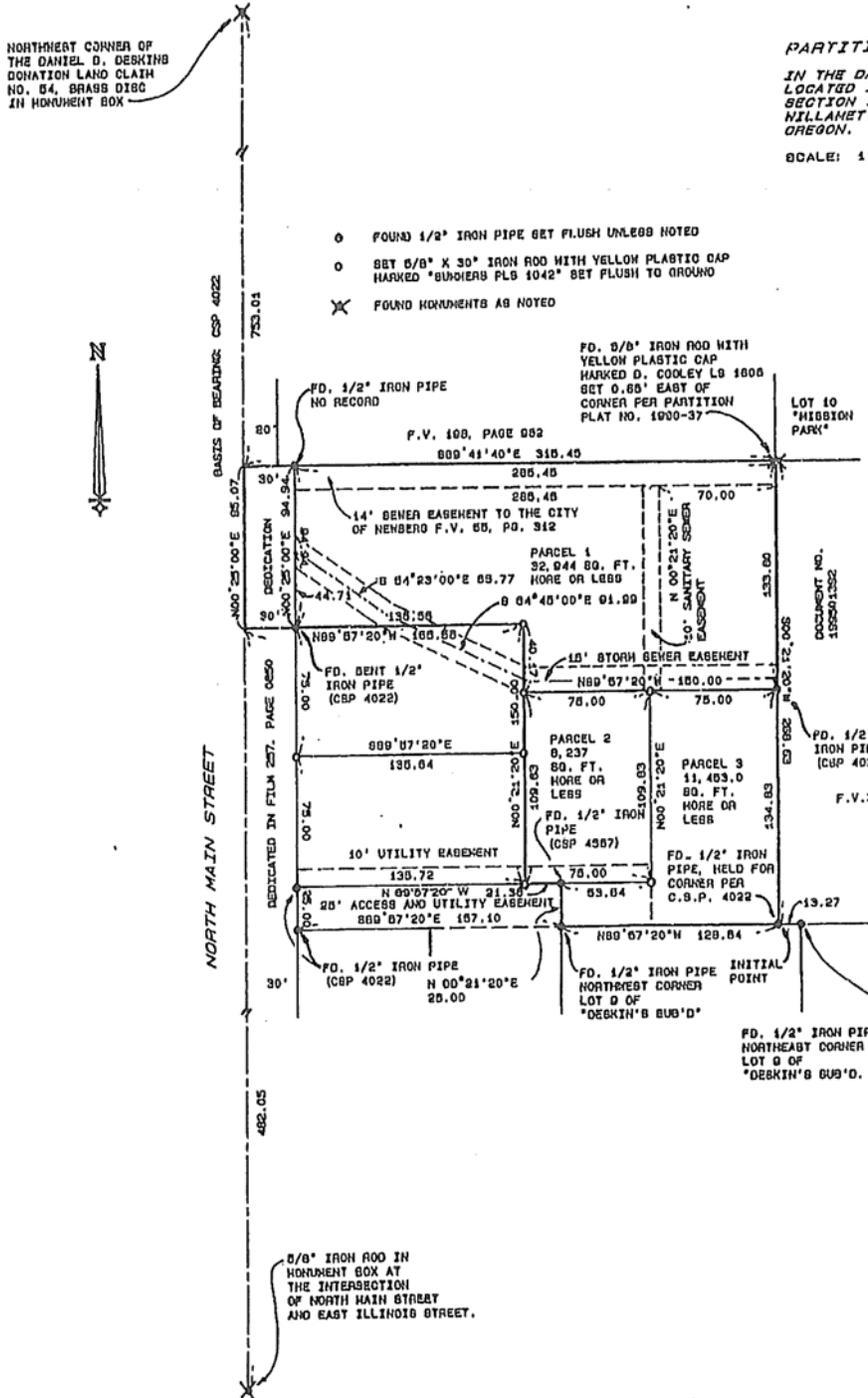
Recorded in Yamhill County, Oregon
CHARLES STERN, COUNTY CLERK
15.00

199610627 11:45am 07/03/96

001 032216 09 06 000200
1 0 035 1 5.00 10.00 0.00 0.00 0.00 0.00

APPENDIX C
Waiver of Remonstrance Agreements

GRAHN PARTITION PLAT P 95-89
Tax Lots 3218DB-2402, -2403 (Parcels 2 & 3)



PARTITION PLAT NO. 95-89
IN THE DANIEL D. DESKINS DONATION LAND CLAIM NO. 84, LOCATED IN THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 3 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, CITY OF MENLO, YAMHILL COUNTY, OREGON.
SCALE: 1"=50'
6 NOVEMBER 1998

DECLARATION:

KNOW ALL MEN BY THESE PRESENTS, THAT CLIFFORD G. WILHELMSON IS THE OWNER OF THE LANDS DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND DEPICTED ON THE ANNEXED MAP AND THAT HE HAS CAUSED THE SAME TO BE PARTITIONED AND PLATTED INTO PARCELS AS DEPICTED ON THE ANNEXED MAP. HE ALSO DEDICATES 30 FEET FROM THE CENTERLINE OF NORTH MAIN STREET FOR ROADWAY PURPOSES AND ALL EASEMENTS SHOWN TO THE PUBLIC FOR PUBLIC USE. THERE ARE NO WATER RIGHTS APPURTENANT TO THIS PROPERTY.

Clifford G. Wilhelmson
CLIFFORD G. WILHELMSON

ACKNOWLEDGEMENT:

STATE OF OREGON)
COUNTY OF YAMHILL) S.D.

THIS IS TO CERTIFY THAT ON THIS 10th DAY OF Nov., 1998 BEFORE ME APPEARED CLIFFORD G. WILHELMSON WHO AFTER BEING DULY SWORN DID SAY THAT HE IS THE IDENTICAL PERSON NAMED IN THE FOREGOING INSTRUMENT AND THAT SAID INSTRUMENT WAS EXECUTED FREELY AND VOLUNTARILY.

Carol A. Summers



APPROVALS:

APPROVED THIS 20th DAY OF Dec., 1998.
CITY OF MENLO, OREGON CITY DEVELOPMENT DIRECTOR

BY: *[Signature]*
APPROVED THIS 12th DAY OF Dec., 1998.
CITY OF MENLO SURVEYOR

BY: *[Signature]*
APPROVED THIS 12th DAY OF Dec., 1998.
CITY OF MENLO RECORDER

BY: *[Signature]*

PERSUANT TO O.R.S. 22.080, TAXES HAVE BEEN PAID OR BOND POSTED TO THE DATE OF June 29, 1998

Julia Stinson, Eileen Staker 12-26-98
YAMHILL COUNTY TAX COLLECTOR DATE

