

RESOLUTION NO. 811-R

A RESOLUTION AUTHORIZING THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT FOR PUBLIC FACILITIES FOR A 16 LOT SUBDIVISION (KRISTIN SUBDIVISION).

WHEREAS, the City of Troutdale has processes and procedures for the formation of local improvement districts as set forth in Ordinance No. 159, 267, 269, 427 and 428; and

WHEREAS, the City's attorney has prepared a non-remonstration agreement that expedites the process and reduces the requirements for full ordinance compliance; and

WHEREAS, a non-remonstration agreement has been prepared outlining the specific methods, procedures, responsibilities, expectations, et cetera, for both the City and requesting party; and

WHEREAS, the City has been requested by the property owner(s) to construct public facilities via the LID method; and

WHEREAS, this project meets the development, planning and public facilities goals of the community.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:

1. The City waive the specific requirements of the ordinance and substitute a non-remonstration agreement.
2. The Mayor be authorized to execute the non-remonstration agreement.
3. That staff be authorized to negotiate an engineering contract.
4. The City Council award all construction bids and review for consideration a final ordinance spreading the assessment.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS
8TH DAY OF MAY, 1990.

YEAS 5

NAYS 0

ABSTAINED 0

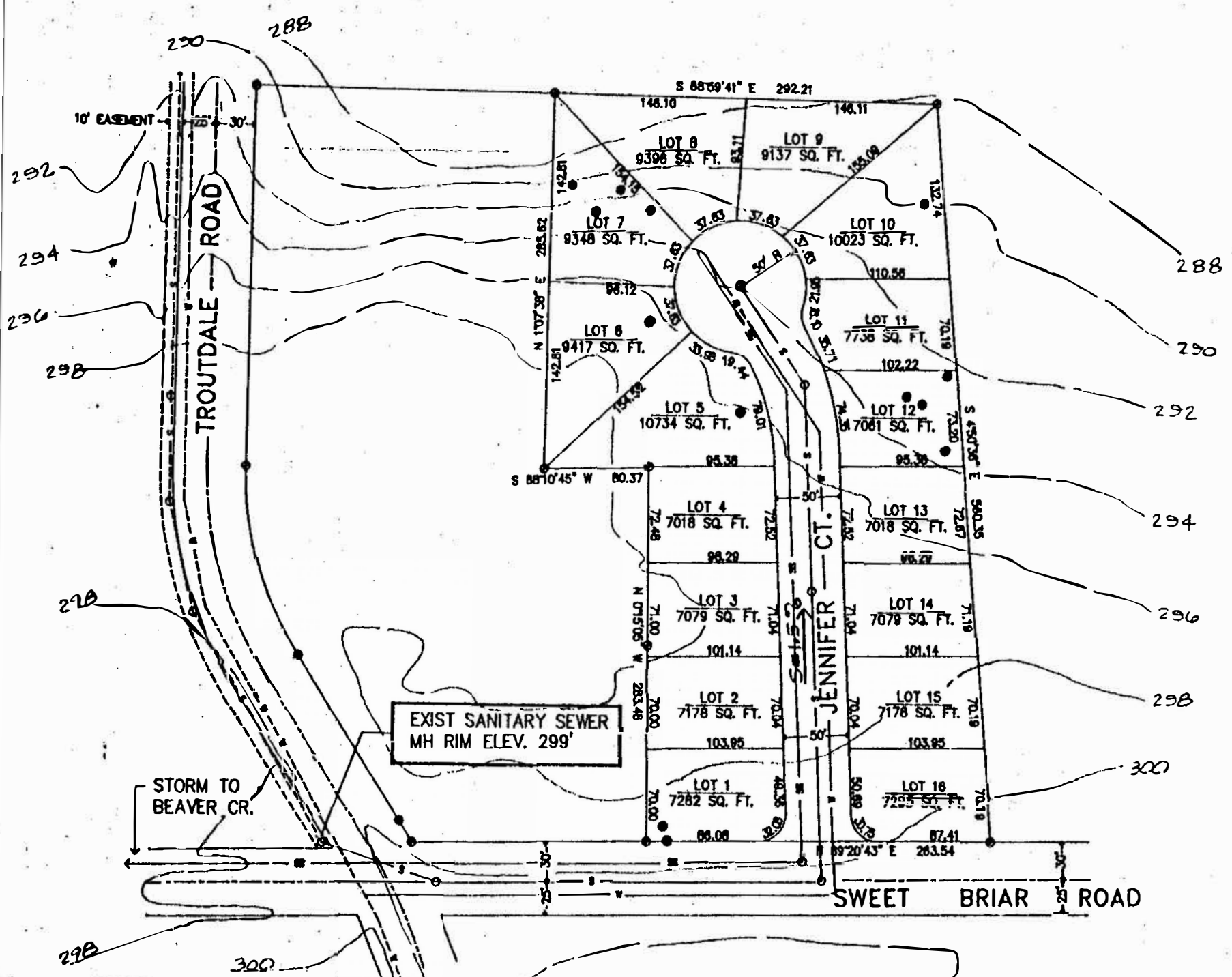
Sam K Cox
Sam K. Cox, Mayor

Date Signed May 10, 1990

ATTEST:

Valerie J. Raglione
Valerie J. Raglione
City Recorder

PW88:33



290

288

10' EASEMENT

TROUTDALE ROAD

S 88°59'41" E 292.21

148.10

148.11

LOT 8
9398 SQ. FT.

LOT 9
9137 SQ. FT.

LOT 7
9348 SQ. FT.

LOT 10
10023 SQ. FT.

LOT 6
9417 SQ. FT.

LOT 11
7735 SQ. FT.

LOT 5
10734 SQ. FT.

LOT 12
847081 SQ. FT.

S 88°10'45" W 80.37

LOT 4
7018 SQ. FT.

LOT 13
7018 SQ. FT.

LOT 3
7079 SQ. FT.

LOT 14
7079 SQ. FT.

EXIST SANITARY SEWER
MH RIM ELEV. 299'

LOT 2
7178 SQ. FT.

LOT 15
7178 SQ. FT.

LOT 1
7282 SQ. FT.

LOT 16
7295 SQ. FT.

STORM TO
BEAVER CR.

JENNIFER CT.

SWEET BRIAR ROAD

S 89°20'43" E 283.54

292

294

296

298

290

288

290

292

294

296

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300

298

300

AGREEMENT FOR DEVELOPMENT

WAIVER OF RIGHT OF REMONSTRANCE

PARTIES: The parties to this Agreement are the City of Troutdale ("City"), and Dan DeClerck, Susan DeClerck, Donald P. Nelson and Thomas E. Gies.

PURPOSE: DeClerck, Nelson & Gies waives all rights of remonstrance, and the City will form a local improvement district (LID) for construction of City sewerlines, waterlines, storm sewers, fire hydrants and roadways, along with other applicable facilities and appurtenances.

AGREEMENTS:

Section (1): The City shall form an LID for property encompassing a 3.61 acre parcel on Sweetbriar Road found in the S.W. 1/4 of Section 1, T 1S, R 3E, W.M., City of Troutdale, Multnomah County.

Section (2): This LID shall be for construction of roadway, curb, sanitary and storm sewer, waterline, electric trenching and street lighting necessary for the subdivision.

The LID may also include other approved public facilities and appurtenances. The specified feet required and scope of project are estimates only, and variations are expected and will not affect this Agreement's validity.

Section (3): The City will have total control over selection and supervision of the engineers, contractors, inspectors and all other work necessary to complete this LID. The City will have sole authority to request, open and award construction bids commensurate with engineering estimates and to thereafter encumber through the LID process.

Section (4): The construction and development costs are to be divided among the properties in an approved allocation method. Any property dedicated to or acquired by the City shall not be assessed and any distribution of assessments shall assign all costs on City property to the remaining properties.

Section (5): The City will prepare, issue and sell Bancroft Bonds, pursuant to Oregon law, for the full cost of development, plus such costs as are incurred in the Bancroft bonding processing, including but not limited to attorney's fees, financial advisor and bond rating fees, publication costs, and printing costs.

Section (6): DeClerck, Nelson & Gies agrees to pay to the City, as each parcel of land (lot) is sold, that parcel's assessed share of all costs for development and bonding. In the event the sales of parcels do not provide enough funds to pay the quarterly or semi-annual bond payments when due, DeClerck, Nelson & Gies agrees to pay the difference between lot sale revenues due the City and bond retirement payments.

Section (7): In consideration of the above Agreement and other considerations recited herein, the undersigned hereby waives rights to remonstrate against the formation of a local improvement district(s) for the construction of the above described improvements.

Section (8): In reliance upon this waiver, the City shall proceed to study the feasibility of constructing the local improvement.

Section (9): The waiver shall continue and be binding upon the undersigned and the above described property for a period of ten (10) years or until superseded by the formation of a local improvement district.

Section (10): This waiver is made on the basis that the total cost of the improvement shall be determined at the time the preliminary assessment roll is prepared and shall be apportioned to all land parcels (lots) and that the benefit to the property must equal or exceed the cost of those benefits (improvements).

Section (11): The undersigned agrees that this waiver shall be binding upon successors, heirs and assigns including any subsequent purchaser or owner of the above described property. The undersigned also agrees to inform any purchaser of the property of this waiver so long as this waiver remains in effect.

Section (12): The City specifically obligates itself under this agreement to, but not limited by, the following:

- A. Select a professional engineer, engineering company with surveying capability, qualified to provide technical assistance in contract/bid document preparation including quantity take offs and technical specifications. Selection process and criteria is at the sole discretion of the City. Said engineer shall further provide construction staking services and general inspection supervision.
- B. Perform construction inspection services as determined to be necessary by the City to verify compliance with plans and specifications. Any prepaid inspection charges will be credited to this project and will not be duplicated.
- C. Select a general contractor, through a public bid solicitation and opening process. Award the contract to the lowest responsible bidder. City and developer recognize that contractor must pay "minimum prevailing wages".

- D. Provide, after construction, "As Built" measurements and records for sanitary sewer and water service locations.
- E. Solicit bids or negotiate for construction warrants and for Bancroft Bonds and award the same according to lowest submitted interest bid therefore.
- F. At project completion, prepare a final assessment roll, adding together all project costs which include, but are not limited to the following:
 - 1. Pre-design costs including attorney fees and staff time to prepare the agreement.
 - 2. Fees charged by the consulting engineer/surveyor.
 - 3. Construction costs for the following items:
 - a. Sanitary sewers with manholes and services.
 - b. Water mains with gate valves, services and fire hydrants.
 - c. Storm drains with manholes and catch basins.
 - d. Streets including excavation, subgrade shaping, base rock placement, curb placement, asphaltic concrete placement, and sidewalk as required.
 - e. Casing crossings of the public streets for power, telephone and TV cable conduits as specified by the respective utilities.
 - 4. Costs incurred by the City of Troutdale for the following items:
 - a. Construction inspection and system testing (operational and TV sewer inspection less any prepaid credits, charges or fees categorically identified).
 - b. Contract and bid administration.
 - c. "As Built" measurements and plan revision.
 - d. Staff time for Bancroft Bond payment notices.
 - 5. City Attorney fees for any special resolutions, ordinances agreements and opinions.
 - 6. Bond Attorney fees (legal opinion(s)).
 - 7. Bond printing costs.
 - 8. Public notice costs.
 - 9. Warrant interest.

10. Assessment roll preparation.
11. Any other expenditures specifically required due to City involvement in the project.

Section (13): DeClerck, Nelson & Gies specifically obligates itself under this agreement to, but not limited by, the following:

- A. Provide access to the public streets, lots and all other areas of the site necessary to construct the items proposed in the local improvement district.
- B. Provide general guidance to preferred location for "on-site" spoils disposal (street core out excess soils and trench excavated soils not used in backfill). Provide permission for on-site spoils disposal and waiver of all recourse therefore.
- C. Obtain title rights to the subdivision plat name of "Kristin".
- D. Engage and pay for professional surveyor, licensed in the State of Oregon, to accomplish the following tasks:
 1. Prepare and draw the subdivision final plat so as to conform to the current Oregon Revised Statutes and Multnomah County Surveyor's requirements.
 2. Prior to construction, place lot corner iron rods, and show them as part of the re-drafting of the plat, along the back lot lines of all lots on the plat lot exterior.
 3. Immediately after construction, verify that the exterior lot corners remain or replace to same to the proper location.
 4. Immediately after construction set all front property corners and street centerline points shown on the plat (interior monumentation) and all lot corners not set prior to construction.
 5. Provide, as part of the routing to the County Surveyor for approval, a letter to the County indicating the cost of interior monumentation.
 6. Prepare a plan as required by the County Surveyor during his review.
 7. Reproduce the final subdivision plat sheets creating at least the 7 mil mylar "original" plat sheet(s), one 4 mil mylar reproduction sheet(s) for the County Surveyor, and one 4 mil mylar reproduction sheet(s) for the City of Troutdale.

8. Provide the City with coordinate geometry (COGO) computer data files compatible with autoCAD REL 10.DEFX or other approved file format on IBM compatible disk(s).
- F. Process the final subdivision plat and reproductions for approvals through the City of Troutdale, Multnomah County surveyor, Multnomah County Board of County Commissioners, County Tax Assessor and recording with the County Recorder.
- G. Provide to the City of Troutdale a land title insurance policy indicating that they have clear title with no encumbering liens to all portions of the plat.
- H. Pay all costs, as required, to process the final subdivision plat to recordation including but not limited to:
 1. Multnomah County survey plat check fee.
 2. Bond cost or cash deposit for interior monumentation completion.
 3. Multnomah County Recorder's fee.
 4. Current taxes and any pre-payment of taxes as required by the Multnomah County Assessor.
- I. Record the final subdivision plat with the Multnomah County Recorder's office prior to commencement of construction.
- J. Obtain a valuation statement from the County Assessor establishing individual lot values for the approved plat. Statement should consider values with all public improvements in place.
- K. Provide, prior to curb construction, if known, the driveway locations for each lot.
- L. Deed to the City of Troutdale and Tract(s) of land required as a condition of development approvals.
- M. Sign a blank Bancroft Bond Application form with the agreement.
- N. Engage a contractor to excavate and backfill all trenches required by the power, telephone, and TV cable companies including providing and placing power vaults.
- O. Paying, as required by the City, for all street light poles and luminaries.
- P. Paying all capital costs as required by the power company for initial investment for underground cable (primary and secondary, transformers and appurtenances). Some or all of these costs are reimbursed from the power company to the developer upon permanent power service request for each lot.

- Q. Coordinate all other utility installations (power, telephone, TV cable and gas) such that no damage occurs to public improvements, installations are timely and consecutive. Power, Telephone and TV cable will probably be placed in a common trench.

Section (14): DeClerck, Nelson & Gies represent and warrant as follows:

1. DeClerck, Nelson & Gies now a joint venture organized, validly existing and in good standing under the laws of the State of Oregon. DeClerck, Nelson & Gies has all requisite power and authority to own and develop property for residential sale, and to carry on its business as now being conducted.
2. The execution, delivery and performance of this Agreement has been duly authorized and approved by the Board of Directors, Stockholders or other company official of joint venture empowered with such authority.
3. DeClerck, Nelson & Gies warrants it holds title to such property as described and that such title is unencumbered by other liens, pledges or changes.

Section (15): DeClerck, Nelson & Gies agrees to deposit, on execution of this Agreement a sum equal to the anticipated costs beginning the LID (not less than \$15,000) including preliminary engineering costs, legal costs, and administrative costs. Said deposit may be in cash, approved bond or letter of credit. Whichever method used shall empower the City with unrestricted control and access to said funds. IN THE EVENT DeClerck, Nelson & Gies is unable to secure clear title to the subject property or IN THE EVENT that the LID proposed cannot be formed, such sums deposited shall be paid to the City as reimbursement for their costs incurred as described, and the remainder over costs to be refunded to DeClerck, Nelson & Gies. Upon formation of the LID, such funds deposited will be released.

Section (16): City represents as follows:

1. It is a municipal corporation duly authorized and organized under the laws of the State of Oregon.
2. Its City Council, by Charter, is authorized to enter into such an Agreement, as approved by Resolution No. 811 of which is attached as Exhibit (A).

Section (17): DeClerck, Nelson & Gies agrees to indemnify and hold City harmless from:

1. Any and all claims, liabilities or obligations of any description arising out of ownership of said property.

2. Any and all damage arising from material misrepresentations, breach of contract or non-fulfillment of any agreement in regard to this property.

Section (18): This Agreement may be terminated by mutual consent of both parties at any time.

1. This Agreement may be terminated by either party by notice to the other of:

The terminating party discovers a material error, misstatement or omission in the representations made by the other which shall not have been cured within 30 days after written notice to such other party specifying in detail the asserted, error, misstatement, or omission.

Section (19): IN THE EVENT either party defaults under this Agreement, the defaulting party shall reimburse all reasonable costs and attorney's fees incurred by the non-defaulting party in connection with the default. IN THE EVENT there is any litigation between the parties to enforce any provision of this Agreement, the prevailing party in addition to any other damages shall be entitled to its costs and reasonable attorney's fees incurred in such litigation, in both trial and all appellate courts.

Section (20): This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

Sam K Cox

By:
For the City of Troutdale
Dated: 5/30/90

Thomas E. Gies

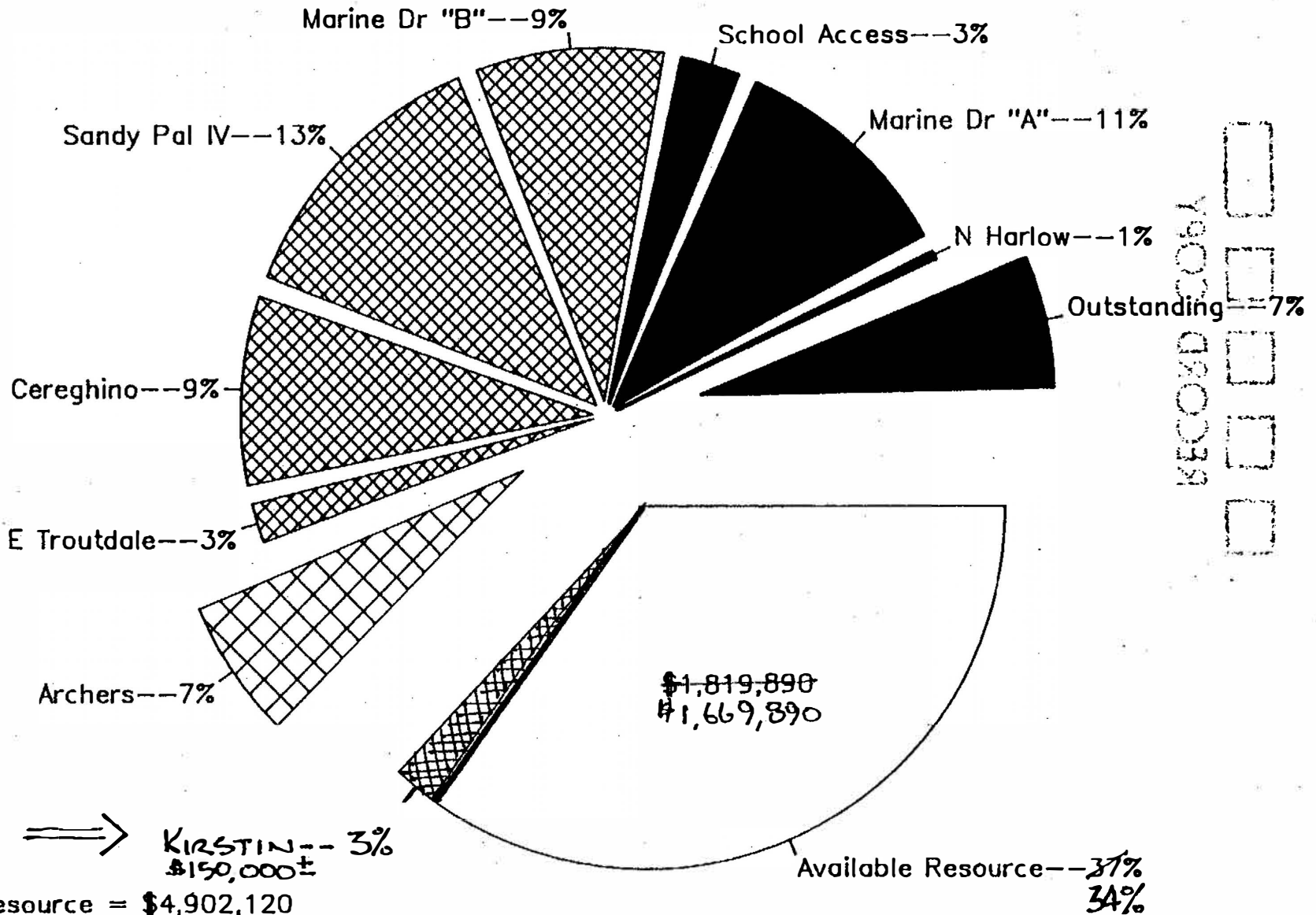
By: Thomas E. Gies
For DeClerck, Nelson & Gies

Dated: 5/30/90

City of Troutdale

L.I.D. Funding Status - April, 1990

Dept of Public Works



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