



Scanned Document Cover Sheet

**Title:** 2016\_Joseph O'Halloran\_Consent to Annex

**Year:** 2016

**Description:** Consent to Annex Parcels to City for Water Service (14495 NE Cullen Rd.)

**Scanning Date:** 2/27/2024

**Page Count:** 33

**Format Single Sided:** ☐

**Format Double Sided:** ☒



## RESOLUTION No. 2016-3245

### A RESOLUTION AUTHORIZING A HARDSHIP REQUEST FOR WATER SERVICE TO 14495 NE CULLEN ROAD

COPY

#### RECITALS:

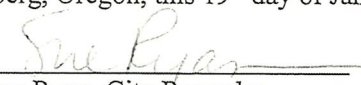
1. On November 25, 2015, Michael Gelardi representing the property owner of 14495 NE Cullen Road submitted a written request, attached as Exhibit "A", to transfer an existing water connection for water service from the City of Newberg for an existing residential home.
2. Chapter 13.15 of the Newberg Municipal Code (NMC) authorizes the Newberg City Council to approve hardship connections to the City's water system provided certain criteria are met. The applicant prepared written findings relative to the criteria, which are attached as Exhibit "A". City staff has reviewed the written findings and concur with the applicant that the aforementioned property meets the hardship request criteria as outlined in NMC 13.15.
3. The request will transfer an existing water connection from a parcel (tax lot 1300) where the house will be demolished to an existing house (tax lot 1400) nearby. The new owners are Edward M. and Laura A. Pietrok.
4. The granting of the hardship request has no significant financial impact on the City of Newberg.
5. Upon approval of the hardship request the City Attorney, in coordination with the City Engineer and City Manager Pro Tem, will prepare a written contract for signing and recording by the property owner. A draft copy of the city standard written contract is attached as Exhibit "C".

#### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

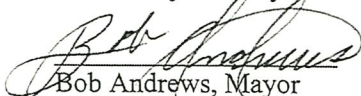
1. The City Council hereby approves the water hardship petition request in Exhibit "A" to the property and based on the applicant's written findings. A recorded written contract shall be required for the aforementioned property, similar to Exhibit "C".
2. Per NMC 13.15.120 (D)(1) the owner of the property shall pay the full cost of extending services to the parcel with all services meeting city standards and including all water connection fees and water system development charges.
3. The City Manager Pro Tem is authorized to execute all necessary documents related to granting the water hardship request. All documents shall be approved as to form and content by the City Attorney.

➤ EFFECTIVE DATE of this resolution is the day after the adoption date, which is: January 20th, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 19<sup>th</sup> day of January, 2016.

  
Sue Ryan, City Recorder

ATTEST by the Mayor this 26th day of January, 2016.

  
Bob Andrews, Mayor



Suite 2300  
1300 SW Fifth Avenue  
Portland, OR 97201-5630

Michael J. Gelardi  
(503) 778-5337 tel  
503.778.5299 fax

michaelgelardi@dwt.com

November 25, 2015

**Via Certified Mail and Email** ([sue.ryan@newbergoregon.gov](mailto:sue.ryan@newbergoregon.gov)),  
([Truman.Stone@newbergoregon.gov](mailto:Truman.Stone@newbergoregon.gov))

City Council  
City of Newberg  
404 East First St.  
Newberg, OR 97132

Re: Application for water connection transfer (14495 NE Cullen Road Newberg, Oregon 97132)

Dear Councilors:

This law firm represents Joseph O'Halloran in connection with the management of his property near the City of Newberg. Mr. O'Halloran requests approval to transfer a city water connection between two parcels of this property. Enclosed, please find the following documents:

1. Water connection transfer application
2. Exhibit A: Vicinity map including Section 12, Lot 1300 and former Lot 1400
3. Exhibit B: 1996 deed for Section 12, Lot 1300.
4. Exhibit C: 2015 deeds and maps showing new property configuration

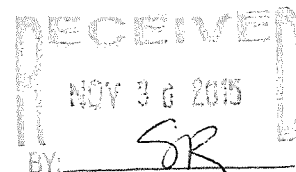
Sincerely,

Davis Wright Tremaine LLP

A handwritten signature in dark ink, appearing to read 'M. J. Gelardi'.

Michael J. Gelardi

cc: Truman Stone, City legal counsel



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Resolution 2016-3245  
Exhibit A

*November 25, 2015*

City Council  
City of Newberg  
404 East First St.  
Newberg, OR 97132

Re: Application for water connection transfer (14495 NE Cullen Road Newberg, Oregon 97132)

Dear Councilors:

Joseph O'Halloran owns several parcels of land west of the City of Newberg in Township 3W, Range 3S, Sections 12 and 13. Mr. O'Halloran is in the process of reorganizing these parcels and redeveloping some of the land to improve its value and usefulness.

One of Mr. O'Halloran's parcels, Section 12, Lot 1300, contains a dwelling that is served by city water. Mr. O'Halloran plans to remove this dwelling and requests approval to transfer the city water connection to the dwelling on former Section 12, Lot 1400, which is adjacent to Lot 1300 to the east (see maps in Exhibit A and C).<sup>1</sup>

Mr. O'Halloran has been discussing this proposal with City staff for some time. The City's Public Works Director has indicated that the reconfiguration of the water line is technically feasible and could be accomplished at a reasonable cost to Mr. O'Halloran.

The City staff however, indicated to us this summer that the city was not inclined to process this application due to the ongoing negotiations to transfer control of the City's water system outside of the city to a new water district authority. The staff encouraged Mr. O'Halloran to instead bring his proposal to the district.

We then discussed Mr. O'Halloran's situation with the district and were told that the district would not consider this request until the system transfer was finalized. We understand from both the district and the City staff that the parties continue to negotiate the transfer and the situation may not be fully resolved for some time. Moreover, assuming the transfer is eventually finalized, it is unclear how much additional time the district would need to respond to our request and whether the district would support the request.

The delay and continued uncertainty created by this situation is interfering with Mr. O'Halloran's ability to plan his affairs and manage his property. For this reason, we request that the City Council consider Mr. O'Halloran's transfer request at this time. We believe that the City Council may approve this request and that the transfer can be practically accomplished without burden to the City.

The remainder of this application contains proposed findings demonstrating compliance with the legal criteria that apply to the water connection transfer request.

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<sup>1</sup> Exhibit A outlines the overall tract of land that is relevant to this Application. The survey map on page 4 of Exhibit C identifies the specific parcels discussed in this Application.

**Proposed Findings: O'Halloran Water Connection Transfer**

*TITLE 13 PUBLIC UTILITIES AND SERVICES*

*13.15.110 Additional users outside city.*

*A. Notwithstanding the provisions of this chapter relative to water service to users outside the city limits, no new or additional water connection for the purpose of providing water to a user situated outside the corporate limits of the city shall be permitted, save and except the connections as are in use or are ready for use on or before the last-mentioned date.*

Response: NMC 13.15.120 allows exceptions to this general rule. Mr. O'Halloran's compliance with the exception criteria are discussed below.

*B. No new water users shall be connected to group customer lines, and no new single residential users shall be connected after the last-mentioned date, it being the intention of this amendment that the city shall not serve or supply water to any additional users outside the city limits save and except those then in service or ready for service.*

Response: Mr. O'Halloran requests an exception to this section under section 13.15.120.

*C. The words "ready for use" and ready for service, as used in this section, shall be taken to mean that the building or structure wherein the water is to be used shall have been constructed up to the point that all framing and roofing and all exterior siding, windows and exterior doors are completed, and all plumbing is roughed in and ready for installation of plumbing fixtures.*

Response: This section does not apply as the structure is already in existence.

*D. The city recorder is directed to require the individual, firm or organization in charge of each group customer line outside the corporate limits of the city to file with the recorder a sworn statement setting forth the name and address of each water user served through their respective group customer lines and presently connected therewith.*

Response: Mr. O'Halloran agrees to provide all necessary information to the City Recorder.

*E. The recorder may require such additional information as the recorder shall see fit to be furnished in connection with the reports. The city recorder shall report to the city council all group customer lines and all responsible individuals who shall not furnish such a statement and report within the time hereinabove required.*

Response: Mr. O'Halloran agrees to provide all necessary information to the City Recorder.

*F. All additional connections to the group customers' lines after the effective date of the ordinance codified in this chapter, whether or not in service, shall be promptly reported to the recorder when ready for service. [Ord. 1398, 5-17-65. Code 2001 § 52. 11.]*

Resolution 2016-3245  
Exhibit A

Response: Mr. O'Halloran agrees to provide all necessary information to the City Recorder.

*13.15.120 Exceptions due to hardships.*

*An exception to NMC 13.15.100 may be granted by the city council in cases of hardship. The following process shall be used in determining whether the exception shall be granted, and the criteria shall be strictly applied with the burden of proof upon the applicant:*

*A. Eligibility. The applicant must meet the following criteria:*

*1. The new or additional water connection can be used only to supply water to an existing structure and will not be used to allow any new development.*

Response: No new development is proposed. Mr. O'Halloran proposes to remove the dwelling on Lot 1300 that is currently served by city water, and transfer this connection to the dwelling on former Lot 1400. The two acres surrounding the dwelling on former Lot 1400 were recently separated from the larger Lot 1400 parcel pursuant to a lot line adjustment approved by Yamhill County. Mr. O'Halloran then sold the dwelling and the two acres. See Exhibit C. We refer to the new two acre parcel in this application as the "New Parcel." The request therefore complies with this criterion.

*2. Annexation of the property upon which the structure is located is not immediately practical.*

*The recorded agreements described in 13.15.120.D.5 below will set forth terms for annexation of the property into the city.*

Response: Annexation of the New Parcel and Mr. O'Halloran's surrounding land into the city is not possible at this time as the property is located outside of the urban growth boundary. See Exhibit A, Vicinity Map, for the location of the property. The request therefore complies with this criterion.

*B. Hardship Determination. A request for a new or additional water connection due to hardship shall be accompanied by evidence of the following:*

*1. A genuine hardship exists due to quality and/or quantity of water for domestic consumption.*

Response: The dwelling on the New Parcel is currently served by groundwater from wells on lots 703 and 1400. The quantity of local groundwater is not adequate to serve all uses on the overall local tract owned by Mr. O'Halloran. Although the dwelling on the New Parcel is currently served by groundwater, both wells, a reservoir, and water treatment are needed to provide consistent, quality water to this dwelling. This infrastructure is cumbersome, requires easements across Lots 703 and 1400, and impedes Mr. O'Halloran's ability to use groundwater on lots 703 and 1400.

Given the location of the wells on the tract and the proximity of the existing city water connection on Lot 1300, the dwelling on the New Lot is better served by City water. Because Mr. O'Halloran plans to remove the dwelling on Lot 1300 and disconnect that parcel from the City's water system, Mr. O'Halloran is not proposing any net additional connection to the City's

water supply. The request is simply to transfer the city water connection from one parcel to another.

Finally, as demonstrated by the deed in Exhibit B, lots 1300 and 1400 were historically understood to share a right to city water service. Given the expectation created by this history, the inability to use City water on the New Parcel creates a hardship. Furthermore, this application offers an opportunity to eliminate the confusion created by the historic property records.

For the above reasons, the request complies with this criterion.

2. All other alternatives have been investigated and are not economically feasible.

Response: Drilling additional wells is not economically feasible and may not result in a practical increase in the local groundwater supply. The City's water line runs very close to the New Parcel and offers an economical solution. The request therefore complies with this criterion.

3. The dwelling to be served is in close proximity to existing services, either private or public, and the granting of the additional connection would not overburden existing lines, either private or public, or public, or overburden the city's water supply.

Response: As described above, the New Parcel is in close proximity to the City's existing water line. Because Mr. O'Halloran simply proposes a transfer of the water connection from one property to another, the new connection will not overburden the water line or the City's overall water supply. The request therefore complies with this criterion.

C. Application for Hardship. A request in letter form for a hardship exception to NMC 13.15.100 shall be made to the city council. The request shall be accompanied by a statement and evidence to be used in the determination. The request shall be reviewed and a recommendation made to the city council by the public works department prior to the city council's consideration of the matter. A granting of the request for an exception can be made by the city council, provided that all the conditions stated in subsection (B) of this section do exist.

Response: This letter explains O'Halloran's compliance with the hardship criteria. See Exhibits A-C for additional evidence supporting the application. The request therefore complies with this criterion.

D. Conditions of Hardship. Any exception granted shall be subject to the following conditions:

1. The owner of the property shall agree to pay the full cost of extending services to the parcel with all services meeting city standards and including all water connection fees and water system development charges.
2. The owner of the subject property agrees to annex to the city at such time as annexation is legally possible and is requested by the city. At the time of annexation, the property owner shall pay all system development charges then in effect, except wastewater, which shall be assessed in accordance with Chapter 13.10 NMC.

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Exhibit A

3. *Water shall be for domestic purposes only and no water granted under this exception shall be permitted for agricultural use.*

4. *A written agreement as to the conditions under which the exception was granted shall be recorded on the Yamhill County deed records with the applicant paying all fees.*

5. *The city council may waive all or any portion of the city system development charges as it feels is in the best interest of the city. [Ord. 2666, 3-6-07; Ord. 1912, 7-3-78. Code 2001§ 52.12.]*

Response: Mr. O'Halloran agrees to the above conditions. The request therefore complies with this criterion.

*13.15.130 Water service for public entities inside urban areas and boundaries.*

*The city council shall have sole authority to grant water service to public entities including, but not limited to, School District 29Jt and Chehalem park and recreation district, for property which is located within the urban growth boundary and/or the urban reserve area of the city. Property to receive service shall be for the public's use and enjoyment. The city council shall have the authority to require the public entity receiving utility service to comply with any conditions the city council may deem appropriate at the time the water service is granted.*

Response: This criterion is not applicable because Mr. O'Halloran and the owner of the New Parcel are not public agencies and the property is not within the urban growth boundary nor in an urban reserve.

*13.15.140 Water connections outside city.*

*A. Additional water connections are allowed to residents outside the city that meet the following conditions:*

*1. They were in existence as of January 1, 1988, or the properly owner had requested a water connection to the property for the purposes of a residence before January 1, 1988, and desires the water connection for the purposes of establishing a residence; and*

Response: This criterion is not applicable because Mr. O'Halloran is not requesting a net additional water connection and is seeking an exception to the prohibition on changes to water connections under the hardship rules discussed above.

*2. They will be served through a water district; and*

Response: The connection will be served and billed monthly though the City owned water system until such time as the system is transferred to a new water district. The request therefore complies with this criterion.

*3. A new agreement between the water district and the city will be established; and*



Resolution 2016-3245  
Exhibit A

Response: Mr. O'Halloran is not a water district, but he will establish a new agreement for the property.

*4. The properties upon which the residences are located agree to annex to the city at the appropriate time and at the request of the city; and*

Response: Mr. O'Halloran and the owner of the New Parcel agree to allow the New Parcel to be annexed by the city at such time that annexation is feasible. The request therefore complies with this criterion.

*5. The water to be used is for domestic purposes only; and*

Response: Mr. O'Halloran and the owner of the New Parcel agree that the water will be used for domestic purposes. The water will serve the existing dwelling on the New Parcel. The request therefore complies with this criterion.

*6. The water district makes a joint application with the property owner on which the residence is located for the new water connection.*

Response: Mr. O'Halloran is not a water district, but hereby submits an application to transfer the water connection as described in this document. The request therefore complies with this criterion.

*B. Each water district that desires any new connections will enter into an appropriate agreement between the water district and the city governing the use, connections and maintenance of the water system. The agreement, among other things, may provide for an engineering study for the water district system to assure that the system complies with OAR Chapter 333, concerning public water systems.*

Response: Mr. O'Halloran is not a water district, but he and the owner of the New Parcel agree to enter into an agreement with the City governing the use of the City's water system. The request therefore complies with this criterion.

*C. All system development charges and other charges as provided for in the ordinances of the city shall be applicable to the new connections; provided, however, that the city manager has authority to waive, reduce, or otherwise change the systems development charge to the water district pursuant to the agreement between the water district and the city; and provided further, that in no event will the agreement provide for service development charges less than the charge for in-city connections.*

Response: Mr. O'Halloran agrees to pay for any meter installations associated with this water connection at the time of installations. The request therefore complies with this criterion.

*D. This policy shall be in effect regardless of any conflicting provisions of NMC 13.15.010 through 13.15.130. The purpose of this policy is to facilitate the establishment of proper agreements and policing of connections within the water districts. Any provision of NMC 13.15.010 through 13.15.130 that is in conflict with the water policy shall be deemed to have been repealed. Any provision of the sections which can be read to not be in conflict with the*

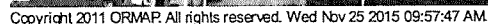
Resolution 2016-3245  
Exhibit A

*water policy shall be enforced. The city wishes that this policy act as an interim policy to facilitate reaching agreement with the water districts it serves. This matter shall be brought back before the city council within six months of the date of passage for review. [Ord. 2264, 6-20-89; Ord. 2247, 10-3-88. Code 2001 § 52.14.]*

Response: As described above, Mr. O'Halloran and the owner of the New Parcel will into the required agreements regarding use of the City's water system. The request therefore complies with this criterion.

## New Directions

Resolution 2016-3245  
Exhibit A



Resolution 2016-3245  
Exhibit A and  
Water right into

Attachment  
(B)

BARGAIN AND SALE DEED--STATUTORY FORM  
Individual Grantor

TWILA (GILLIS) SPRINGER, CAROL (GILLIS) ZETTERBERG, DAVID GILLIS, DIANN (GILLIS) MACRAE, GARY SCHORZMAN, CONNIE (SCHORZMAN) ULRICH, and NORMAN SCHORZMAN, by and through their duly appointed attorney-in-fact, VINCENT L. GILLIS, and VINCENT L. GILLIS, individually, Grantors, convey to TWILA (GILLIS) SPRINGER, CAROL (GILLIS) ZETTERBERG, DAVID GILLIS, DIANN (GILLIS) MACRAE, GARY SCHORZMAN, CONNIE (SCHORZMAN) ULRICH, and NORMAN SCHORZMAN, to hold as tenants-in-common, Grantees, the following real property situated in Yamhill County, Oregon, to wit:

The East Half of the following described tract:

Beginning at a point marked with an iron pipe 65.71 chains South of the NE corner of the William Jones & wife DLC #44 in Township 3 South, Range 3 West of the Willamette Meridian in Yamhill County, Oregon; thence South 8.49 chains to a point marked with a glass bottle; thence West 18.03 chains to a point marked with an iron pipe; thence North 8.49 chains to a iron pipe; and thence East 18.03 chains to the place of beginning.

Together with easement for road purposes along a strip of land 20 feet in width off the South side of the West 1/2 of the tract above described.

Together with 1/2 of the water-right now belonging to the entire 15 acre tract.

Subject to Right of Way & Water Agreement contained in Deed to the City of Newberg, recorded in Book 85, Page 285 Deed Records.

The true and actual consideration for this conveyance is other real property.

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

AFTER RECORDING, RETURN TO AND  
SEND TAX STATEMENTS TO:  
VINCENT L. GILLIS  
505 Spring Hill Road  
Petaluma, California 94952

Recorded in Official Yamhill County Records  
CHARLES STERN, COUNTY CLERK



45.00

199618913 4:56pm 11/15/96

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1 0 D00 3 15.00 10.00 20.00 0.00 0.00 0.00

Page 1 - BARGAIN AND SALE DEED

Webb & Martin's  
ATTORNEYS AT LAW  
1510 SWELFISH ST. SE  
SALIDA, OREGON 97137  
TEL: (503) 325-2000

Y3

11-18-96

Resolution 2016-3245  
Exhibit A

APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED  
USES.

Dated this \_\_\_\_\_ day of November, 1996.

*Twila Gillis*  
TWILA (GILLIS) SPRINGER

*Carol Zetterberg*  
CAROL (GILLIS) ZETTERBERG

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
her attorney-in-fact

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
her attorney-in-fact

*David Gillis*  
DAVID GILLIS

*Diann Macrae*  
DIANN (GILLIS) MACRAE

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
his attorney-in-fact

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
her attorney-in-fact

*Gary Schorzman*  
GARY SCHORZMAN

*Connie Ulrich*  
CONNIE (SCHORZMAN) ULRICH

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
his attorney-in-fact

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
her attorney-in-fact

*Norman Schorzman*  
NORMAN SCHORZMAN

*Vincent L. Gillis*  
VINCENT L. GILLIS

By *Vincent L. Gillis*  
VINCENT L. GILLIS  
his attorney-in-fact

STATE OF OREGON        )  
County of Marion        ) ss

On this 15<sup>th</sup> day of November, 1996, personally appeared  
before me the above-named VINCENT L. GILLIS, who, being sworn,

Page 2 - BARGAIN AND SALE DEED

*W. E. Martin*  
ATTORNEY AT LAW  
1111 TWELFTH ST  
SALEM, OREGON 97301  
503-586-0000

2/3

11-18-96

Resolution 2016-3245  
Exhibit A

stated that he is the attorney-in-fact for TWILA (GILLIS) SPRINGER, CAROL (GILLIS) ZETTERBERG, DAVID GILLIS, DIANN (GILLIS) MACRAE, GARY SCHOREMAN, CONNIE (SCHOREMAN) ULRICH, and NORMAN SCHOREMAN, and executed the foregoing instrument by authority of and in behalf of said principles; that he acknowledged that said instrument to be their act.

Carol A. White  
Notary Public for Oregon

STATE OF OREGON        )  
County of Yamhill    ) ss

On this 15<sup>th</sup> day of November, 1996, personally appeared before me the above-named VINCENT L. GILLIS, and acknowledged the foregoing instrument to be his voluntary act and deed.

Carol A. White  
Notary Public for Oregon



Page 3 - BARGAIN AND SALE DEED

*Webb E. Martin*  
ATTORNEY AT LAW  
1514 SW 22<sup>ND</sup> AVE. #2  
SALEM, OREGON 97302-3819  
TEL: 503-461-2424

3/3

11-18-96

Resolution 2016-3245  
Exhibit A

GRANTOR: Joseph O'Halloran and Jamie O'Halloran

GRANTEE: Joseph O'Halloran and Jamie O'Halloran

SEND TAX STATEMENTS TO:  
No Change

AFTER RECORDING RETURN TO:  
Joseph O'Halloran and Jamie O'Halloran  
14495 NE Cullen Road  
Newberg, OR 97132

Escrow No: 471815041432-TTMIDWIL16

Yamhill County Official Records	<b>201512720</b>
DMR-DDMR	
Str=5 HOLLANDK	08/12/2015 11:12:32 AM
4Pgs \$20.00 \$11.00 \$5.00 \$20.00	<b>\$56.00</b>
I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Brian Van Bergen - County Clerk	

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**BARGAIN AND SALE DEED - STATUTORY FORM**  
(INDIVIDUAL or CORPORATION)

Joseph O'Halloran, also appearing of record as Joe O'Halloran and Jamie O'Halloran, as tenants by the entirety, Grantor, conveys to Joseph O'Halloran and Jamie O'Halloran, as tenants by the entirety, Grantee, the following described real property, situated in the County of Yamhill, State of Oregon,

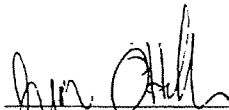
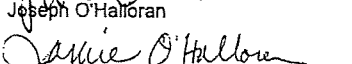
See Legal Description Attached hereto as Exhibit "A" and further depicted on Exhibit "B"

The true consideration for this conveyance is \$0.00.

This conveyance is made solely as an adjustment between adjoining properties, and does not create a separate parcel that can be conveyed independently of adjacent land, pursuant to Yamhill County Planning Docket L-21-15. (See ORS 93.030).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated: 7/31/2015

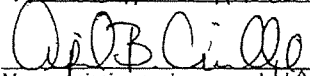
  
Joseph O'Halloran  
  
Jamie O'Halloran

State of OREGON

COUNTY of YAMHILL

This instrument was acknowledged before me on July 31, 2015

by JOSEPH O'HALLORAN

  
Notary Public - State of Oregon  
My commission expires: 1/10/2016

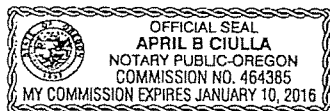
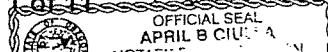


Exhibit C  
Page 1 of 11

471815041432-TTMIDWIL16  
Deed (Bargain and Sale - Statutory Form)



TICOR TITLE 471815041432

Resolution 2016-3245  
Exhibit A



State of OREGON

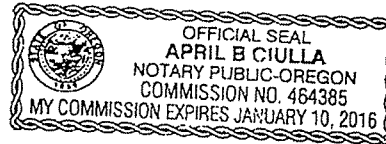
County of YAMHILL

This instrument was acknowledged before me on August 6, 20 15 by

JAMIE O'HALLORAN

April B Ciulla

Notary Public - State of Oregon





**EXHIBIT "A"**

LEGAL DESCRIPTION  
PROPERTY LINE ADJUSTMENT  
RESULTANT 20.768 ACRE PARCEL  
JULY 24, 2015

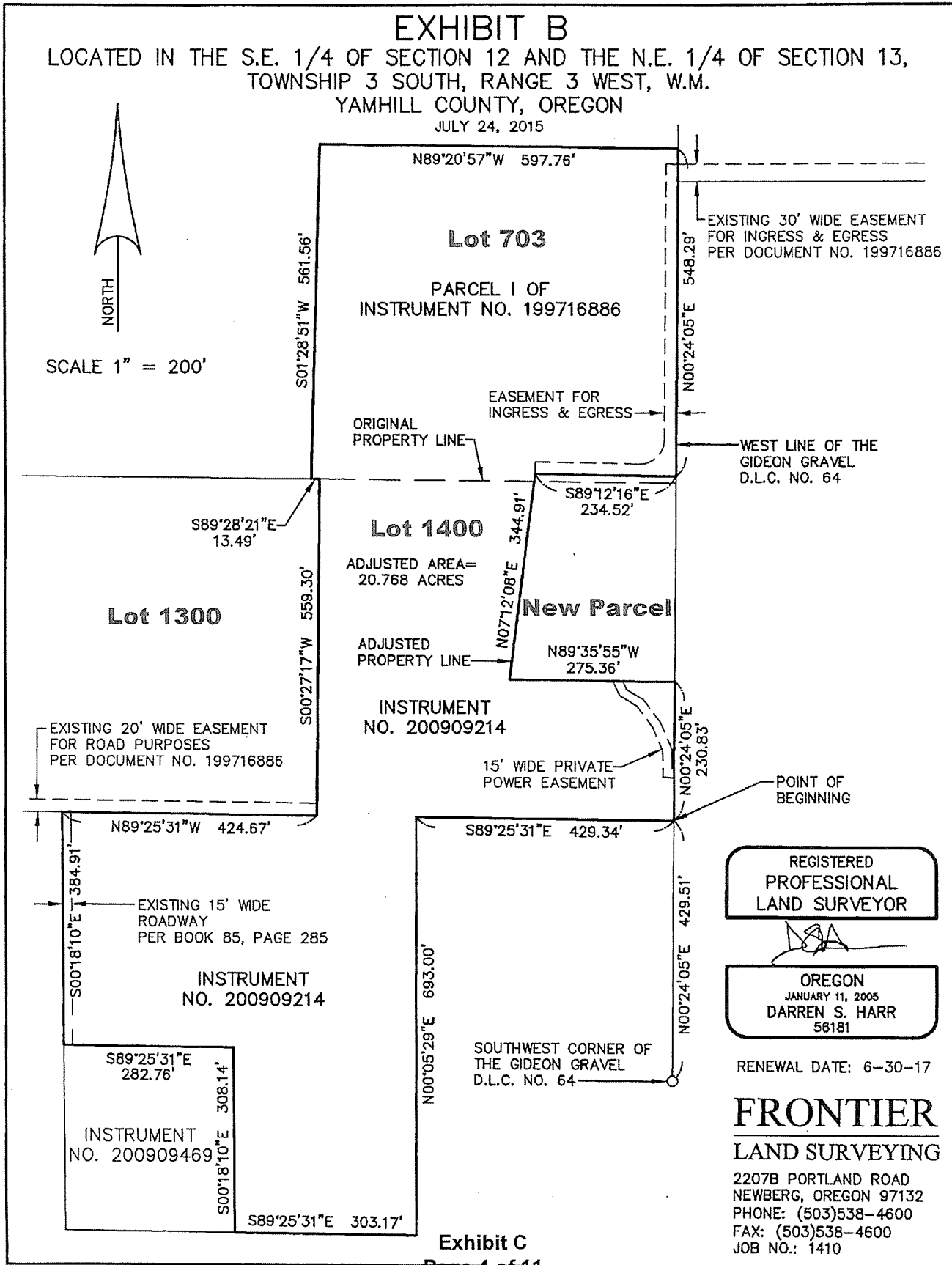
A PORTION OF THAT TRACT OF LAND DESCRIBED AS PARCEL I OF INSTRUMENT NUMBER 199716886 AND A PORTION OF THAT TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 200909214, YAMHILL COUNTY DEED RECORDS, LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 12 AND THE NORTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, YAMHILL COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE WEST LINE OF THE GIDEON GRAVEL D.L.C. NO. 64, SAID POINT BEARS NORTH 00°24'05" EAST, 429.51 FEET FROM A 1" IRON PIPE MARKING THE SOUTHWEST CORNER OF SAID D.L.C. NO. 64; THENCE ALONG SAID WEST LINE OF D.L.C. NO. 64 NORTH 00°24'05" EAST, 230.83 FEET; THENCE LEAVING SAID WEST LINE NORTH 89°35'55" WEST, 275.36 FEET; THENCE NORTH 07°12'08" EAST, 344.91 FEET; THENCE SOUTH 89°12'16" EAST, 234.52 FEET TO SAID WEST LINE OF THE GIDEON GRAVEL D.L.C. NO. 64; THENCE ALONG SAID WEST LINE NORTH 00°24'05" EAST, 548.29 FEET TO THE NORTHEAST CORNER OF SAID PARCEL I OF INSTRUMENT NUMBER 199716886; THENCE LEAVING SAID WEST LINE, ALONG THE NORTHERLY LINE OF SAID PARCEL I NORTH 89°20'57" WEST, 597.76 FEET TO THE NORTHWEST CORNER OF SAID PARCEL I; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL I SOUTH 01°28'51" WEST, 561.56 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL I; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL I SOUTH 89°28'21" EAST, 13.49 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN SAID INSTRUMENT NUMBER 200909214; THENCE ALONG THE WESTERLY LINE OF SAID TRACT SOUTH 00°27'17" WEST, 559.30 FEET; THENCE NORTH 89°25'31" WEST, 424.67 FEET; THENCE SOUTH 00°18'10" EAST, 384.91 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 200909469, YAMHILL COUNTY DEED RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID TRACT OF LAND SOUTH 89°25'31" EAST, 282.76 FEET TO THE NORTHEAST CORNER OF SAID TRACT OF LAND; THENCE ALONG THE EASTERLY LINE OF SAID TRACT OF LAND SOUTH 00°18'10" EAST, 308.14 FEET TO THE SOUTHEAST CORNER OF SAID TRACT OF LAND; THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 200909214 SOUTH 89°25'31" EAST, 303.17 FEET TO THE SOUTHEAST CORNER OF SAID TRACT OF LAND; THENCE ALONG THE EASTERLY LINE OF SAID TRACT OF LAND NORTH 00°05'29" EAST, 693.00 FEET; THENCE SOUTH 89°25'31" EAST, 429.34 FEET TO THE **POINT OF BEGINNING**.

CONTAINS 20.768 ACRES, MORE OR LESS

TOGETHER WITH AN EASEMENT FOR ROAD PURPOSES AS DESCRIBED IN INSTRUMENT NUMBER 199716886.

ALSO TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AS DESCRIBED IN INSTRUMENT NUMBER 199716886.



Resolution 2016-3245  
Exhibit A

GRANTOR: Joseph O'Halloran and Jamie  
O'Halloran

GRANTEE: Joseph O'Halloran and Jamie  
O'Halloran

SEND TAX STATEMENTS TO:  
No Change

AFTER RECORDING RETURN TO:  
Joseph O'Halloran and Jamie O'Halloran  
14495 NE Cullen Road  
Newberg, OR 97132

Escrow No: 471815041432-TTMIDWIL16

Yamhill County Official Records	201512721
DMR-DDMR	
Stn=5 HOLLANDK	08/12/2015 11:12:32 AM
4Pgs \$20.00 \$11.00 \$5.00 \$20.00	\$56.00
I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Brian Van Bergen - County Clerk	

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**BARGAIN AND SALE DEED - STATUTORY FORM**  
(INDIVIDUAL or CORPORATION)

Joseph O'Halloran, also appearing of record as Joe O'Halloran and Jamie O'Halloran, as tenants by the  
entirety, Grantor, conveys to Joseph O'Halloran and Jamie O'Halloran, as tenants by the entirety,  
Grantee, the following described real property, situated in the County of Yamhill, State of Oregon,

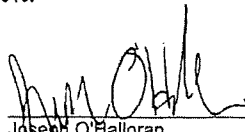
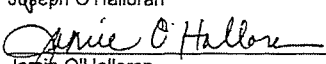
See Legal Description Attached hereto as Exhibit "A" and further depicted on Exhibit "B"

The true consideration for this conveyance is \$0.00.

This conveyance is made solely as an adjustment between adjoining properties, and does not  
create a separate parcel that can be conveyed independently of adjacent land, pursuant to Yamhill  
County Planning Docket L-21-15. (See ORS 93.030).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD  
INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336  
AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855,  
OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES  
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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY  
ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES  
OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST  
PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING  
PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO  
11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009,  
AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated: 7/31/2015

  
Joseph O'Halloran  
  
Jamie O'Halloran

State of OREGON

COUNTY of YAMHILL

This instrument was acknowledged before me on July 31, 2015

by Joe O'Halloran and Jamie O'Halloran

  
Notary Public - State of Oregon

My commission expires: 1/10/2016

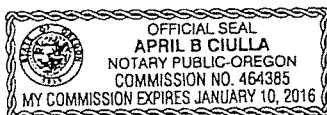
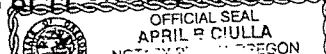


Exhibit C  
Page 5 of 11 Deed (Bargain and Sale - Statutory Form)



TICOR TITLE 471815041432

Resolution 2016-3245  
Exhibit A



State of OREGON

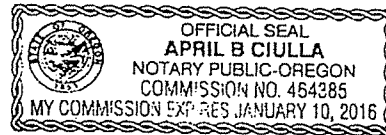
County of YAMHILL

This instrument was acknowledged before me on AUGUST 6, 20 15 by

JAMIE O'HALLORAN

April B. Ciulla

Notary Public - State of Oregon



**EXHIBIT "A"**

LEGAL DESCRIPTION

PROPERTY LINE ADJUSTMENT  
RESULTANT 2.000 ACRE PARCEL  
JULY 24, 2015

A PORTION OF THAT TRACT OF LAND DESCRIBED AS PARCEL I OF INSTRUMENT NUMBER 199716886 AND A PORTION OF THAT TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 200909214, YAMHILL COUNTY DEED RECORDS, LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 12 AND THE NORTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, YAMHILL COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE WEST LINE OF THE GIDEON GRAVEL D.L.C. NO. 64, SAID POINT BEARS NORTH 00°24'05" EAST, 660.34 FEET FROM A 1" IRON PIPE MARKING THE SOUTHWEST CORNER OF SAID D.L.C. NO. 64; THENCE ALONG SAID WEST LINE OF D.L.C. NO. 64 NORTH 00°24'05" EAST, 340.87 FEET; THENCE LEAVING SAID WEST LINE NORTH 89°12'16" WEST, 234.52 FEET; THENCE SOUTH 07°12'08" WEST, 344.91 FEET; THENCE SOUTH 89°35'55" EAST, 275.36 FEET TO THE **POINT OF BEGINNING**.

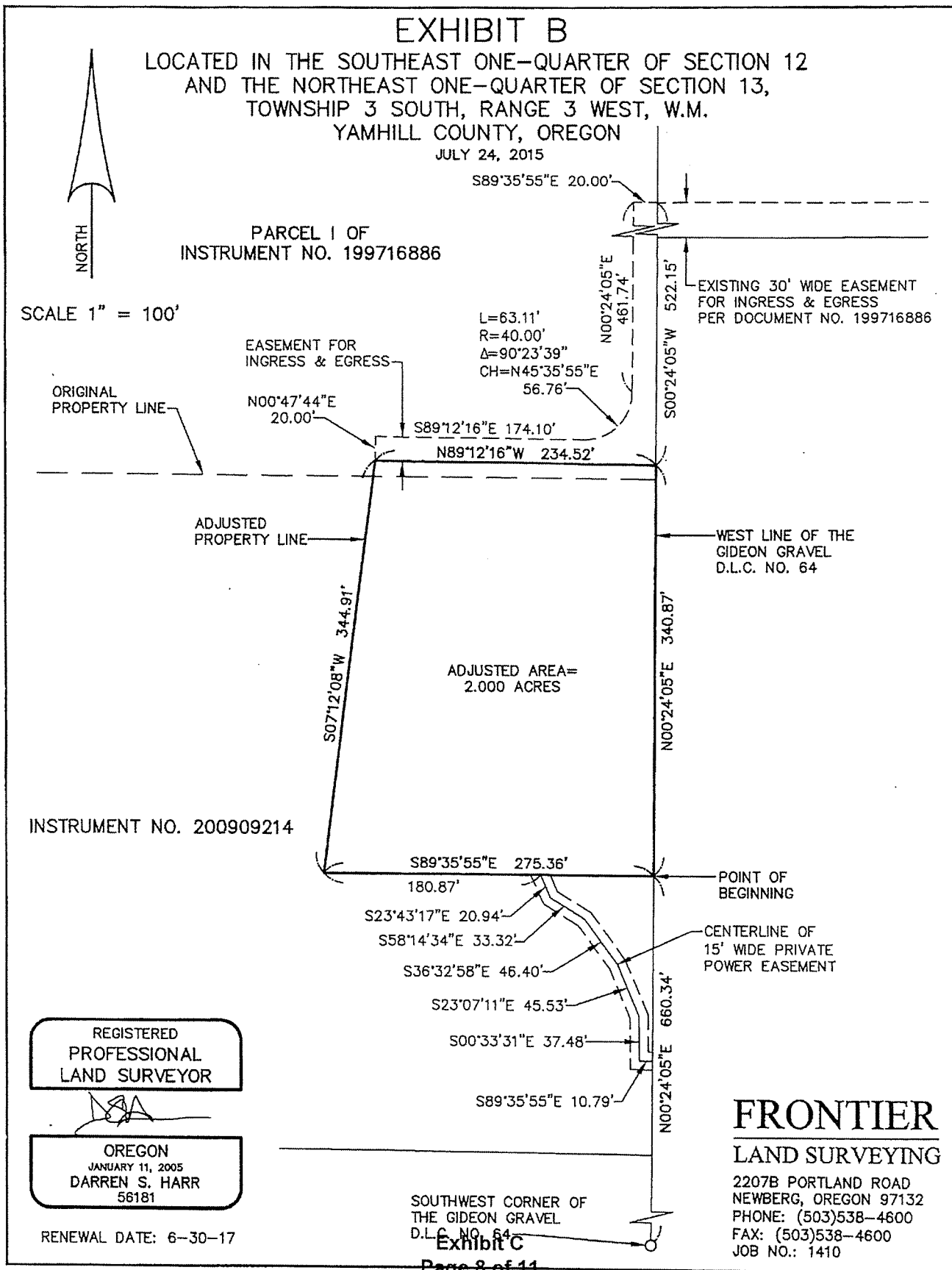
CONTAINS 2.000 ACRES, MORE OR LESS

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF THE ABOVE-DESCRIBED TRACT OF LAND; THENCE NORTH 00°47'44" EAST, 20.00 FEET; THENCE ALONG A LINE 20.00 FEET NORTHERLY OF AND PARALLEL WITH THE NORTH LINE OF THE ABOVE-DESCRIBED TRACT OF LAND SOUTH 89°12'16" EAST, 174.10 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 40.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, THROUGH A CENTRAL ANGLE OF 90°23'39" (THE LONG CHORD BEARS NORTH 45°35'55" EAST, 56.76 FEET), AN ARC DISTANCE OF 63.11 FEET TO A POINT OF TANGENCY; THENCE ALONG A LINE 20.00 FEET WESTERLY OF AND PARALLEL WITH THE EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED AS PARCEL I OF INSTRUMENT NUMBER 199716886 NORTH 00°24'05" EAST, 461.74 FEET; THENCE SOUTH 89°35'55" EAST, 20.00 FEET TO THE WEST LINE OF AFOREMENTIONED D.L.C. NO. 64; THENCE ALONG SAID WEST LINE OF D.L.C. NO. 64 SOUTH 00°24'05" WEST, 522.15 FEET TO THE NORTHEAST CORNER OF THE ABOVE-DESCRIBED TRACT OF LAND; THENCE ALONG THE NORTHERLY LINE OF THE ABOVE-DESCRIBED TRACT OF LAND NORTH 89°12'16" WEST, 234.52 FEET TO THE **POINT OF BEGINNING**.

ALSO TOGETHER WITH A 15.00 FOOT WIDE PRIVATE POWER EASEMENT, BEING 7.50 FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

**BEGINNING** AT A POINT ON THE SOUTHERLY LINE OF THE ABOVE-DESCRIBED TRACT OF LAND, SAID POINT BEARS SOUTH 89°35'55" EAST, 180.87 FEET FROM THE SOUTHWEST CORNER OF SAID ABOVE-DESCRIBED TRACT OF LAND; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 23°43'17" EAST, 20.94 FEET; THENCE SOUTH 58°14'34" EAST, 33.32 FEET; THENCE SOUTH 36°32'58" EAST, 46.40 FEET; THENCE SOUTH 23°07'11" EAST, 45.53 FEET; THENCE SOUTH 00°33'31" EAST, 37.48 FEET; THENCE SOUTH 89°35'55" EAST, 10.79 FEET TO THE WEST LINE OF THE GIDEON GRAVEL D.L.C. NO. 64 AND THE **POINT OF TERMINUS**.



Resolution 2016-3245  
Exhibit A

GRANTOR: Joseph O'Halloran and Jamie O'Halloran

GRANTEE: Edward M Pietrok and Laura A Pietrok

SEND TAX STATEMENTS TO:  
Edward M Pietrok and Laura A Pietrok  
14495 NE Cullen Road  
Newberg, OR 97132

AFTER RECORDING RETURN TO:  
Edward M Pietrok and Laura A Pietrok  
14495 NE Cullen Road  
Newberg, OR 97132  
Escrow No: 471815041432-TTMIDWIL16

Yamhill County Official Records **201512722**  
DMR-DDMR  
SIn=5 HOLLANDK 08/12/2015 11:12:32 AM  
3Pgs \$15.00 \$11.00 \$5.00 \$20.00 **\$51.00**

I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Brian Van Bergen - County Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Joseph O'Halloran and Jamie O'Halloran, as tenants by the entirety, Grantor, conveys and warrants to ~~Edward M Pietrok and Laura A Pietrok~~ \*Laura Ann Pietrok and Edward Mark Pietrok, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Yamhill, State of Oregon:

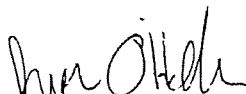
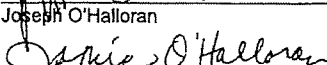
See Legal Description Attached hereto as Exhibit "A"

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$649,900.00. (See ORS 93.030)

Subject to and excepting: CCRs, reservations, set back lines, power of special districts and easements of record. 2015/2016 Taxes a lien, but not yet payable.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

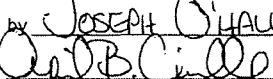
DATED: 7/31/2015

  
Joseph O'Halloran  
  
Jamie O'Halloran

State of OREGON

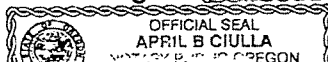
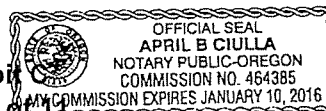
COUNTY of Yamhill

This instrument was acknowledged before me on July 31, 2015

by JOSEPH O'HALLORAN  
  
Notary Public - State of Oregon

My commission expires: 7/10/2016  
471815041432-TTMIDWIL16  
Deed (Warranty-Statutory)

Exhibit  
Page 9 of 11



TICOR TITLE 471815041432

Resolution 2016-3245  
Exhibit A



State of OREGON

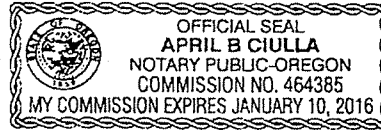
County of YAMHILL

This instrument was acknowledged before me on August 16, 20 15 by

JAMIE O'HALLORAN

April B Ciulla

Notary Public - State of Oregon





## EXHIBIT "A"

### LEGAL DESCRIPTION

PROPERTY LINE ADJUSTMENT  
RESULTANT 2.000 ACRE PARCEL  
JULY 24, 2015

A PORTION OF THAT TRACT OF LAND DESCRIBED AS PARCEL I OF INSTRUMENT NUMBER 199716886 AND A PORTION OF THAT TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 200909214, YAMHILL COUNTY DEED RECORDS, LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 12 AND THE NORTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 3 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, YAMHILL COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE WEST LINE OF THE GIDEON GRAVEL D.L.C. NO. 64, SAID POINT BEARS NORTH 00°24'05" EAST, 660.34 FEET FROM A 1" IRON PIPE MARKING THE SOUTHWEST CORNER OF SAID D.L.C. NO. 64; THENCE ALONG SAID WEST LINE OF D.L.C. NO. 64 NORTH 00°24'05" EAST, 340.87 FEET; THENCE LEAVING SAID WEST LINE NORTH 89°12'16" WEST, 234.52 FEET; THENCE SOUTH 07°12'08" WEST, 344.91 FEET; THENCE SOUTH 89°35'55" EAST, 275.36 FEET TO THE **POINT OF BEGINNING**.

CONTAINS 2.000 ACRES, MORE OR LESS

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF THE ABOVE-DESCRIBED TRACT OF LAND; THENCE NORTH 00°47'44" EAST, 20.00 FEET; THENCE ALONG A LINE 20.00 FEET NORTHERLY OF AND PARALLEL WITH THE NORTH LINE OF THE ABOVE-DESCRIBED TRACT OF LAND SOUTH 89°12'16" EAST, 174.10 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 40.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, THROUGH A CENTRAL ANGLE OF 90°23'39" (THE LONG CHORD BEARS NORTH 45°35'55" EAST, 56.76 FEET), AN ARC DISTANCE OF 63.11 FEET TO A POINT OF TANGENCY; THENCE ALONG A LINE 20.00 FEET WESTERLY OF AND PARALLEL WITH THE EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED AS PARCEL I OF INSTRUMENT NUMBER 199716886 NORTH 00°24'05" EAST, 461.74 FEET; THENCE SOUTH 89°35'55" EAST, 20.00 FEET TO THE WEST LINE OF AFOREMENTIONED D.L.C. NO. 64; THENCE ALONG SAID WEST LINE OF D.L.C. NO. 64 SOUTH 00°24'05" WEST, 522.15 FEET TO THE NORTHEAST CORNER OF THE ABOVE-DESCRIBED TRACT OF LAND; THENCE ALONG THE NORTHERLY LINE OF THE ABOVE-DESCRIBED TRACT OF LAND NORTH 89°12'16" WEST, 234.52 FEET TO THE **POINT OF BEGINNING**.

ALSO TOGETHER WITH A 15.00 FOOT WIDE PRIVATE POWER EASEMENT, BEING 7.50 FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

**BEGINNING** AT A POINT ON THE SOUTHERLY LINE OF THE ABOVE-DESCRIBED TRACT OF LAND, SAID POINT BEARS SOUTH 89°35'55" EAST, 180.87 FEET FROM THE SOUTHWEST CORNER OF SAID ABOVE-DESCRIBED TRACT OF LAND; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 23°43'17" EAST, 20.94 FEET; THENCE SOUTH 58°14'34" EAST, 33.32 FEET; THENCE SOUTH 36°32'58" EAST, 46.40 FEET; THENCE SOUTH 23°07'11" EAST, 45.53 FEET; THENCE SOUTH 00°33'31" EAST, 37.48 FEET; THENCE SOUTH 89°35'55" EAST, 10.79 FEET TO THE WEST LINE OF THE GIDEON GRAVEL D.L.C. NO. 64 AND THE **POINT OF TERMINUS**.

THIS SPACE RESERVED FOR RECORDERS USE

**AFTER RECORDING RETURN TO:**

City of Newberg  
Engineering Services Department  
PO Box 970 - 414 East First Street  
Newberg, OR 97132  
503.537.1273

**CONTRACT FOR EXTRA-TERRITORIAL PROVISION  
OF WATER SERVICE and CONSENT TO ANNEXATION  
(water service outside the City through the City water system)**

**With Agreement entitled:  
WAIVER OF ONE-YEAR PERIOD AND  
PRESCRIBING THE PERIOD OF TIME  
THAT THE CONSENT OF ANNEX  
SHALL BE EFFECTIVE  
(ORS 222.173)**

**Attached**

City Water System  
(ORS 222.115)

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_ 2016 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called Exhibit "**City**" and owner(s) of the real property, hereinafter described as "**real property**", hereinafter called "**Owner**". This is the accepted agreement.

**RECITALS**

1. **Owner and Real Property.** The **Owner** who is requesting service from the **City** and the **real property**, which is the subject of this connection, are hereinafter described as follows:

- a. **Owner(s) Name:** Edward and Laura Pietrok  
**Owner(s) Address:** 14495 NE Cullen Road  
Newberg Oregon 97132

**REAL PROPERTY:**

- c. **Property Address:** 14495 NE Cullen Road  
Newberg, Oregon 97132
- d. **Legal Description:** Document number 201512722, recorded in Yamhill County Records on August 12, 2015, is hereby referenced and by this reference fully incorporated.

2. **Water System.** The water system to which the real property is to be connected to provide the water service is Newberg Municipal Water System hereinafter called **water system**.
3. **Request.** The **Owner** of the **real property** has requested water service from the **City** and permission to connect to the water system, which will supply **City** water to the **real property** located outside the City limits of the City of Newberg.
4. **Hardship Exceptions.** The City Code at Title V, Chapter 52, provides for water connections outside the City limits under certain hardship conditions.
5. **City Council Approval.** Under certain hardship conditions, the City Council has approved this connection by City Resolution No. 2016-3245. The Resolution with attached hardships condition is hereby referenced and by this reference fully incorporated and is on file at the City of Newberg.
6. **Intent to Annex.** The parties agree that the intent is that the property will be annexed into the City as soon as legally possible subject to the time limitations set forth herein.

NOW THEREFORE, The **City** and **Owner** for mutual consideration hereby agree as follows:

1. **Recitals.** The parties agree to the above recitals.
2. **City Obligations.**
  - A. The **City** does hereby agree to supply water to the **Owner** through the **water system** in accordance with the City Code.
  - B. The **City** consents to the **Owner** connecting to the **water system**.
3. **Owner Obligations.**
  - A. The **Owner** hereby agrees to pay the full cost of extending service to the parcel with all services meeting **City** standards.
  - B. The **Owner** hereby agrees to pay all required systems development charges prior to connecting.
  - C. The **Owner** hereby agrees to pay all water usage charges assessed by the **City** or the **water system**, which are normally assessed on a monthly basis, in accordance with the City Code for water users outside of City limits.
  - D. The **Owner** shall abide by all requirements of the City Code.
  - E. **Owner** shall take all necessary action to have the property annexed into the City of Newberg upon request by the **City**. All necessary action includes but not limited to the following: filing of application for annexation; payment of fees for annexation including application fees; and support of annexation application in process before **City**.
4. **Request to Annex.** The **City** shall not request the **Owner** to annex the property until one of the following events occur:

- A. Current resident no longer resides there.
  - B. There is a change of ownership of the property.
  - C. The property is developed for another use other than single family.
- Upon any one of the above events occurring, the **City** may request the **Owner** to annex the property.

5. **Consent to Annex.** The **Owner** hereby consents to the annexation of **real property** to the City of Newberg, Oregon. **Owner** hereby agrees to perform all acts required by the City Code of property owners requesting annexation, when annexation is legally possible and is requested by **City** pursuant to agreements. The **Owner** wishes the consent to annexation be considered in any annexation procedure.
6. **Waiver of One-Year period for Consent and Prescribing New Period.** The parties have entered into a separate agreement concerning the time period that the consent to annex will be effective and that agreement is attached as "**Exhibit A**" and by this reference is incorporated. In this agreement, the **Owner** waives the one-year period provided for in ORS 222.273 within which the consent to annex is effective and agrees to a new time period which is as long as the property is receiving extra-territorial services
7. **Limitations on Water Connection.**
  - A. The **Owner** hereby agrees that the water shall be used for domestic purposes only and no water granted under this exception shall be permitted for agriculture use. The water connection can be used only to supply water to a single family residence constructed on the **real property** and will not be placed until the residence is built.
  - B. This water connection is not transferable to any other parcel. If the **real property** is partitioned or subdivided, the water connection shall only be allowed on the parcel containing the original structure.
8. **Covenant and Restriction Running with the Land.**
  - A. This agreement shall be recorded in the Yamhill County Deed Records with **Owner** paying all recording costs and fees.
  - B. All of the terms, covenants, and conditions herein and imposed are for the benefit of the **City** and the **real property** of interest therein.
  - C. This agreement shall be binding upon the **real property** and the successors of interest of the **Owner** and shall act as a covenant and restriction running with the land.
9. **Termination of Agreement.** This agreement shall cease when the **real property** is annexed into the City of Newberg.

IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_ day of \_\_\_\_  
\_\_\_\_\_ 2016.

STATE OF OREGON                    )  
  )s.s.  
County of Yamhill                    )

**OWNER**

\_\_\_\_\_  
Name

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2016 by

\_\_\_\_\_  
Name

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

STATE OF OREGON                    )  
  )s.s.  
County of Yamhill                    )

**OWNER**

\_\_\_\_\_  
Name

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2016, by

\_\_\_\_\_  
Name

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

**CITY OF NEWBERG**

**APPROVED AS TO FORM**

\_\_\_\_\_  
Sue Ryan, City Recorder

\_\_\_\_\_  
Truman A. Stone, City Attorney

**AFTER RECORDING RETURN TO:**  
City of Newberg  
Engineering Services Department  
PO Box 970 - 414 East First Street  
Newberg, OR 97132

503.537.1273

**'Exhibit A'**  
**To Contract**

**WAIVER OF ONE-YEAR PERIOD AND  
PRESCRIBING THE PERIOD OF TIME  
THAT THE CONSENT OF ANNEX  
SHALL BE EFFECTIVE (ORS 222.173)**

City Water System  
(ORS 222.115)

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_ 2016 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called "**City**" and owner(s) of the real property, hereinafter described as "**real property**", hereinafter called "**Owner**".

**RECITALS**

1. **Owner and Real Property.** The **Owner** who is requesting service from the **City** and the **real property**, which is the subject of this connection, are hereinafter described as follows:
  - a. **Owner(s) Name:** Edward and Laura Pietrok  
**Owner(s) Address:** 14495 NE Cullen Drive  
Newberg Oregon 97132

**REAL PROPERTY:**

  - c. **Property Address:** 14495 NE Cullen Drive  
Newberg, Oregon 97132
  - d. **Legal Description:** Document number 201512722, recorded in Yamhill County Records on August 15, 2015, is hereby referenced and by this reference fully incorporated.
2. **Contract.** The **City** and **Owner** have entered into CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE and CONSENT TO ANNEXATION (water service outside the City through the City water system) hereinafter called "**contract**" dated \_\_\_\_\_ 2016 and recorded in Yamhill County records.
3. **Consent To Annex.** The contract contains consent to annex by the owners and the owners wish to waive the one-year period that the consent will be effective and prescribe another period of time for the consent to be effective.

NOW THEREFORE, The **City** and **Owner** for mutual consideration hereby agree as

Resolution 2016-3245  
Exhibit C

follows:

1. **Waiver.** The owner hereby waives the one-year period provided in ORS 222.173 within which the consent to annex contained in the contract will be effective.
2. **Time Period.** The **Owner** agrees that the time period that the consent to annex shall be effective is for as long as the property is receiving extra-territorial services.
3. **Recording.** This waiver shall be recorded on the Yamhill County records and shall be a covenant and restriction running with the land.

IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_ day of \_\_\_\_  
\_\_\_\_\_ 16.

STATE OF OREGON                    )  
  )s.s.  
County of Yamhill                 )

**OWNER**

\_\_\_\_\_  
Name

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2016, by

\_\_\_\_\_  
Name

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

STATE OF OREGON                    )  
  )s.s.  
County of Yamhill                 )

**OWNER**

\_\_\_\_\_  
Name

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2016, by

\_\_\_\_\_  
Name

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

**CITY OF NEWBERG**

**APPROVED AS TO FORM &  
CONTENT**

\_\_\_\_\_  
Stephen Rhodes, City Manager Pro-Tem

\_\_\_\_\_  
Truman A. Stone, City Attorney



# REQUEST FOR COUNCIL ACTION

COPY

DATE ACTION REQUESTED: January 19, 2016

Order \_\_\_\_ Ordinance \_\_\_\_ Resolution 2016-3245 Motion \_\_\_\_ Information \_\_\_\_  
No. No. No.

**SUBJECT: A hardship request for water service to  
14495 NE Cullen Road**

**Contact Person (Preparer) for this  
Motion: Kaaren Hofmann, City Engineer  
Dept.: Engineering Services Department  
File No.:**

**HEARING TYPE: ADMINISTRATIVE**

## RECOMMENDATION:

Staff recommends approval of Resolution No. 2016-3245 approving the water hardship request by the property owner of 14495 NE Cullen Road.

## EXECUTIVE SUMMARY:

On November 25, 2015, City staff reviewed the hardship application submitted to the city by Michael Gelardi representing the former property owner of 14495 NE Cullen Road, to discuss the water service hardship request to connect the existing residential home on the subject property to the city springs water system. This is not a new connection as the applicant is proposing to transfer a connection that already exists to this parcel. The written hardship request is attached as Exhibit "A".

Chapter 13.15 of the Newberg Municipal Code (NMC) authorizes the Newberg City Council to approve hardship connections to the City's water system provided certain criteria are met. The applicant prepared written findings relative to the criteria, and those findings are attached in the request. City staff has reviewed the written findings and concur with the applicant that the aforementioned property meets the hardship request criteria as outlined in NMC 13.15.

This parcel is within the Springs System that the City Council transferred to the Chehalem Water Association on December 7, 2015. As a part of that transfer resolution, the Association has approval authority over any additional connections until the transfer is complete. The Association has reviewed the request and approves the connection. Their comments are attached as Exhibit "B".

Upon approval of the hardship request the City Attorney, in coordination with the City Engineer and City Manager, will prepare a written contract for signing and recording by the property owner. A draft copy of the city standard written contract is attached as Exhibit "C".

## FISCAL IMPACT:

The property owners will pay for all costs associated with this hardship request, including but not limited to the installation of new meter, any necessary repairs and/or extension of the existing mainline, and expenses related to granting public waterline easements, as needed. The new water customer will be charged monthly billing rates under the Spring Customer Class.

**STRATEGIC ASSESSMENT:**

14495 Corrected address by  
Council motion, Sue Ryan  
City Recorder 1/26/16

The existing domestic well at ~~19445~~ 14495 NE Cullen Road is not adequate to serve all of the uses on the tract. There is an existing water connection that will be transferred to this location. This request nets no additional connection to the springs water system. The connection to the city owned springs water system will provide a significant health and safety benefit to the subject property. If Council determines a hardship case exists, it would not set a precedent or impair the Council's ability to judge future hardship requests.