

1-26-96

Jerry -

This is a copy of the
bond which was
required as part of
the deferred improvement
agreement condition
for DCI. Greg asked
me to send you this.
Call if you have
questions.

Thanks,

Barb
Joelt
NO 1474

3/1/96

1475
Peggy

PCYED
Plet 3132
in Spln

Quare
Also make a copy
for archival use

RECEIVED
1/26/96

PERFORMANCE BOND NO. 83696



INSURANCE COMPANY

ROCK HILL, NEW YORK 12775-8000
(A Stock Company)

KNOW ALL MEN BY THESE PRESENTS:

That DENTAL COMPONENTS, INC.

(hereinafter called Principal), as Principal, and the FRONTIER INSURANCE COMPANY, a corporation of the State of New York, with its Executive Office in Rock Hill, New York, (hereinafter called Surety), as Surety, are held and firmly bound unto CITY OF NEWBERG (hereinafter called Obligee), in the full and just sum

of Fifty-One Thousand, Eight Hundred & no/100ths----- Dollars (\$51,800.00-----). To the payment of which sum, well and truly to be made, the Principal and Surety bind themselves, their and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated this 17th day of January, 19 96.

WHEREAS, the Principal has entered into a certain written contract, dated the _____ day of _____, A.D. 19 _____, with the Obligee for

DCI ADDITION - DR-11-95

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That, if the Principal shall indemnify the Obligee against any and all loss or damage directly arising by reason of the failure of the Principal to faithfully perform said contract, then this obligation shall be void; otherwise to remain in full force and effect.

This bond is executed and accepted upon the following express conditions precedent

1. That the Obligee shall faithfully and punctually perform all the terms and conditions of said contract to be performed by the Obligee.
2. That if the Principal shall abandon said contract or be lawfully compelled by reason of a default to cease operations thereunder, the Surety shall have the right at its option to complete said contract or to sublet the completion thereof.
3. That the Obligee shall notify the Surety by registered letter, addressed and mailed to it at its Executive Office, of any breach of said contract within a reasonable time after such breach shall have come to the knowledge of the Obligee, or the Architect, or Engineer.
4. That the Surety shall not be liable for any provisions of the contract or specifications respecting guarantees of efficiency or wearing qualities, or for maintenance or repairs, nor is the Surety obligated to furnish any other bond covering such provisions of the contract or specifications.
5. All suits at law or proceedings in equity to recover on this bond must be instituted within twelve months after the completion of said contract, and in any event within twelve months from the date fixed in said contract for its completion.

DENTAL COMPONENTS, INC.

PRINCIPAL

WITNESS

By

[Signature] (Seal)
Title

FRONTIER INSURANCE COMPANY

WITNESS

By

[Signature]
JERILYN WIBBENS Attorney-in-fact

POWER OF ATTORNEY

Know All Men By These Presents: That FRONTIER INSURANCE COMPANY, a New York Corporation, having its principal office in Rock Hill, New York, pursuant to the following resolution, adopted by the Board of Directors of the Corporation on the 4th day of November, 1985:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

This Power of Attorney is signed and sealed in facsimile under and by the authority of the above Resolution.

DOES HEREBY MAKE, CONSTITUTE AND APPOINT: **Gordon Wibbens** **Jerilyn Wibbens**

of **Seattle**, in the State of **Washington**,
its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred in its name, place and stead to sign, execute, acknowledge and deliver in its behalf, and as its act and deed, without power of redelegation, as follows:

Bonds guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies; and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law allowed; IN AN AMOUNT NOT TO EXCEED THREE MILLION FIVE HUNDRED THOUSAND (\$3,500,000.00) DOLLARS; and to bind FRONTIER INSURANCE COMPANY thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of FRONTIER INSURANCE COMPANY, and all the acts of said Attorney(s)-in-Fact pursuant to the authority herein given are hereby ratified and confirmed.

In Witness Whereof, FRONTIER INSURANCE COMPANY of Rock Hill, New York, has caused this Power of Attorney to be signed by its President and its Corporate seal to be affixed this **16th** day of **May**, 19 **94**.

FRONTIER INSURANCE COMPANY

State of New York
County of Sullivan ss.:
16th

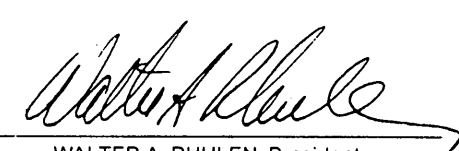
May

94

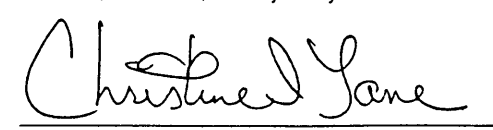
On this **16th** day of **May**, 19 **94**, before the subscriber, a Notary Public of the State of New York in and for the County of Sullivan, duly commissioned and qualified, came WALTER A. RHULEN of FRONTIER INSURANCE COMPANY to me personally known to be the individual and officer described herein, and who executed the preceding instrument, and acknowledged the execution of the same, and being by me duly sworn, deposed and said, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of the Company, and the Corporate Seal and signature as an officer were duly affixed and subscribed to the said instrument by the authority and direction of the Corporation, and that the resolution of the Company, referred to in the preceding instrument, is now in force.

In Testimony Whereof, I have hereunto set my hand, and affixed my official seal at Rock Hill, New York, the day and year above written.



BY: 
WALTER A. RHULEN, President





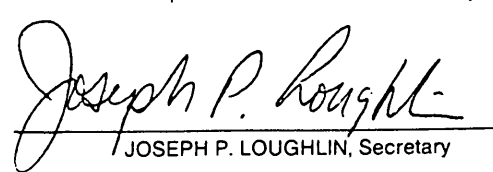
CHRISTINE I. LANE
Notary Public State of New York
Sullivan County Clerk's No. 1996
Commission Expires May 2, 1996

CERTIFICATION

I, JOSEPH P. LOUGHLIN, Secretary of FRONTIER INSURANCE COMPANY of Rock Hill, New York, do hereby certify that the foregoing Resolution adopted by the Board of Directors of this Corporation and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolution and the Powers of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the facsimile seal of the corporation this **17th** day of **January**, 19 **96**




JOSEPH P. LOUGHLIN, Secretary

DEFERRED IMPROVEMENT AGREEMENT

- Key
1. PARTIES. KNOW ALL MEN BY THESE PRESENTS, that the City of Newberg, a municipal corporation of the State of Oregon, hereinafter known as "City", and John W. and Janelle L. Spencer, husband and wife, the owner(s) of the real property herein described, hereinafter referred to as "Owner(s)", mutually agree and promise as follows:
 2. PURPOSE. Owner desires to develop the property he owns as described in Exhibit "A" attached hereto and wishes to defer construction of permanent improvements, and City agrees to such deferment if Owner constructs improvements as herein promised.
 3. AGREEMENT BINDING ON SUCCESSORS IN INTEREST. This agreement is an instrument affecting the title or possession of the real property described in Exhibit "A". All the terms, covenants and conditions herein imposed are for the benefit of City and the real property or interest therein which constitutes the street and utility system and shall be binding upon and inure to the benefit of the land described in Exhibit "A" and the successors in interest of Owner. Upon sale or division of the property described in Exhibit "A", the terms of this agreement shall apply separately to each parcel, and the owner of each parcel shall succeed to the obligations imposed on Owner by this agreement.
 4.
 - A. The improvements set forth in this section may be deferred by Owner and shall be constructed when required in the manner set forth in this agreement. The deferred improvements required by City are generally described on Exhibit "B" attached hereto. Each of said improvements relate to the use, repair, maintenance or improvement of, or payment of taxes, special assessments or fees on, the property described in Exhibit "A".
 - B. When the City determines that there is no further reason to defer construction of the improvements because their construction is necessary for the public health, welfare and safety and/or is necessary to the orderly development of the surrounding area, City shall notify Owner in writing to commence their installation and construction. The notice shall be mailed to the current owner or owners of the property as shown on the latest adopted County assessment roll. The notice shall describe the work to be done by Owner, the time within which the work shall commence and the time within which the work shall be completed. All or any portion of said improvements may be required at a specified time. Each Owner shall participate on a pro rata basis in the cost of the improvements to be installed. If Owner is obligated to pay a pro rata share of a cost of a facility provided by others, the notice shall include the amount to be paid and the time when payments must be made.
 5. PERFORMANCE OF THE WORK. Owner shall perform the work and make the payments required by City as set forth herein. Owner shall cause plans and specifications for the improvements to be prepared by competent persons legally qualified to do the work and to submit said improvement plans and specifications for approval prior to commencement of the work described in the notice and to pay City

Grantor:

John W. & Janelle L. Spencer
% DCI
PO Box 228
Newberg, OR 97132

Grantee:

City of Newberg
414 E. First Street
Newberg OR 97132

Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK



40.00

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improvement plan review and inspection fee. The work shall be done in accordance with City standards in effect at the time improvement plans are submitted for approval. Owner agrees to commence and complete the work within the time specified in the notice given by the City and to notify the City at least 48 hours prior to start of work. In the event Owner or his successor(s) in interest fails to construct any of the improvements required under this agreement, City may, at its option, do the work. A lien is hereby created on all property described in Exhibit "A" for the cost of such work. If City sues to compel performance of this agreement, to recover the cost of completing the improvements or to enforce the aforementioned lien, Owner shall pay all reasonable attorney's fees, costs of suit and all other expenses of litigation incurred by City in connection therewith, and said attorney's fees, costs and other expenses shall also become a lien on the property described in Exhibit "A". If the property described in Exhibit "A" is subdivided at the time said liens are imposed, the amount of said liens shall be divided proportionately among the various parcels. Permission to enter onto the property of Owner is granted to City or its contractor as may be necessary to construct the improvements covered by this agreement.

6. JOINT COOPERATIVE PLAN. Upon notice by City, Owner agrees to cooperate with other property owners, the City, and other public agencies to provide the improvements set forth herein under a joint cooperative plan including the formation of a local improvement district, if this method is feasible to secure the installation and construction of the improvements.
7. REVIEW OF REQUIREMENTS. If Owner disagrees with the requirements set forth in any notice to commence installation of improvements, he shall, within 30 days of the date of the notice was mailed, request a review of the requirements by City Council. The decision of the City Council shall be binding upon both City and Owner.
8. ACCEPTANCE OF IMPROVEMENTS. City agrees to accept those improvements specified in Exhibit "B" which are constructed and completed in accordance with City standards and requirements and are installed within rights of way or easements dedicated and accepted by resolution of the City. Owner agrees to provide any necessary temporary drainage facilities, access road or other required improvements, to assume responsibility for the proper functioning thereof, to submit plans to the appropriate City agency for review, if required, tend to maintain said improvements and facilities in a manner which will preclude any hazard to life or health or damage to adjoining property.
9. BONDS. Prior to City approval of improvement plans, Owner may be required to execute and deliver to the City a faithful performance bond and a payment bond in an amount and form acceptable to City to be released by the City in whole or in part upon completion of the work, required and payment of all persons furnishing labor and materials in the performance of the work.
10. INSURANCE Owner shall maintain, or shall require any contractor engaged to perform the work to maintain, at all times during the performance of the work called for herein a separate policy of insurance in a form and amount acceptable to City.

11. **INDEMNITY.** The Owner shall defend, indemnify and save harmless the City, it's officers, agents and employees, from every expense, liability or payment by reason of injury (including death) to persons or damage to property suffered through any act or omission, including passive negligence or act of negligence, or both, of Owner, his developer, contractors, subcontractors, employees, agents, or anyone directly or indirectly employed by any of them, or arising in any way from work called for by this agreement, on any part of the premises, including those matters arising out of the deferment of permanent drainage facilities or the adequacy, safety, use or non-use of temporary drainage facilities, or the performance or nonperformance of the work. This provision shall not be deemed to require the Owner to indemnify the City against the liability for damage arising from the sole negligence or wilful misconduct of the City or its agents, servants, or independent contractors who are directly responsible to the City.

THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT HERETO:

IN WITNESS WHEREOF, I/we have executed said document on this 15th day of Dec, 1995.

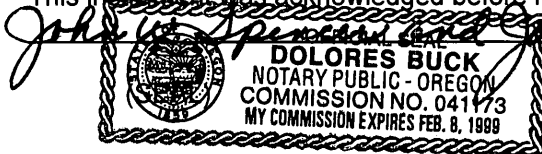
OWNER(S):

By: [Signature]
John W. Spencer

By: [Signature]
Janelle L. Spencer

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

This instrument was acknowledged before me on December 15, 1995, by



[Signature]
Notary Public for Oregon
My Commission Expires: 2/8/99

CITY OF NEWBERG

By: [Signature]
Duane R. Cole
City Manager

ACCEPTED AS TO FORM:

By: [Signature]
Terrence D. Mahr
City Attorney

Grantor: John W. & Janelle L. Spencer
% DCI
PO Box 228
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: P-5-95

E X H I B I T A

LEGAL DESCRIPTION

Parcel II of Partition Plat No. 93-57 in Yamhill County, State of Oregon, more particularly described as follows:

A parcel of land lying in the North half of the Richard Everest Donation Land Claim No. 52 situated in the Northwest quarter of Section 21, Township 3 South, Range 2 West, Willamette Meridian, Yamhill County, Oregon described as follows:

BEGINNING at a point on the East claim line which said point bears North 82.84 feet from the Southeast corner of the North half of said claim; thence South 89°56'38" West, parallel with the division line of said Claim 525.68 feet to the West line of a 17.13 acre tract conveyed by Warren R. Haynes and wife to W.A. Davenport and wife by deed recorded November 22, 1939, in Book 116, Page 116, said point also located on the East line of the tract conveyed to Portland General Electric Company by Warranty Deed recorded September 20, 1955, in Book 178, Page 349; thence South 0°06'00" West, 82.84 feet to the Southeast corner of said Portland General Electric Company tract, which said corner is also located on the division line of said claim; thence South 89°56'38" West, along said division line 105.14 feet to the Southwest corner of said Portland General Electric Company tract; thence North 0°06'00" East, along the West line of said tract 608.09 feet; thence leaving said tract line South 89° 54'11" East 272.04 feet; thence South 26°22'01" East, 151.00 feet; thence South 54°12'16" East 36.00 feet; thence North 89°54'04" East, 261.60 feet to the said East claim line; thence South 368.27 feet more or less to the said point of beginning.

EXCEPT the South 30 feet of that property described in Volume 178, Page 349 of Yamhill County Deed Records, Yamhill County, Oregon.

Situs address as disclosed by the Yamhill County Tax Roll:
305 N. Springbrook Rd, Newberg, Oregon 97132

Yamhill County Tax Account Number: R3221 1001.

EXHIBIT 'B'

IMPROVEMENTS

Improvements required by the City of Newberg and the Newberg Development Code as a condition of approval for the above-referenced development as described in Exhibit "A";

SPRINGBROOK ROAD

1. Approximately 370 linear feet of collector street improvements, 23 foot half-width. Including but not limited to engineering, curb, sidewalk, road base and paving, street lights, street signs storm drainage and landscaping.
Approximate cost per frontage foot based on the Transportation System Plan = \$140.00 per foot
2. Submit improvement plans to the Community Development Department, Engineering Division, for review; pay an inspection and plan review fee and any other applicable fees.

HANCOCK STREET

1. Approximately 102 feet of collector street improvements, 23 foot half-width. Including but not limited to engineering, curb, sidewalk, road base and paving, street lights, street signs, landscaping, water main, sewer main and storm sewer lines.
Approximate cost per foot based on the Transportation System Plan = \$220.00 per foot
2. Submit improvement plans to the Community Development Department, Engineering Division, for review; pay an inspection and plan review fee and any other applicable fees.

Relocation of utilities, if necessary, shall be the responsibility of the owner his agent or the utility company where applicable.

The construction of the above deferred improvements shall begin as outlined in Item 4B of the agreement or when either of the following occurs:

1. Springbrook Road and/or Hancock St. is constructed to its ultimate planned width by the City or by an assessment district.
2. Frontage improvements are constructed adjacent to the subject property.

It is the intent at this time that the "pro rata basis" of costs, as specified in Item 4B of the agreement, shall mean that the owners of each parcel shall pay 100% of the costs of their frontage improvement on Springbrook Road.