



**City Council**  
**July 3, 2024**  
**Newberg Public Safety Building 401 E. Third Street**  
**Denise Bacon Community Room**  
**Hybrid Meeting**  
Hybrid: <https://us06web.zoom.us/j/89536547180>  
Public Comment Registration: <https://bit.ly/nbgcomment>

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**1. CALL TO ORDER**

**2. ROLL CALL**

**3. PLEDGE OF ALLEGIANCE**

**4. COUNCIL BUSINESS**

**4.1. [District 3 Councilor Glenn Cloyd Oath of Office](#)** Pg. 3

**4.2. Councilor Glenn Cloyd Introductions**

**4.3. [Planning Commission Ex-Officio Assignment](#)** Pg. 4

A motion to appoint a City Council member to serve as the Ex-Officio of the Planning Commission.

**5. [CITY MANAGER'S REPORT](#)** Pg. 5

Report on events of June 2024.

**6. CONSENT CALENDAR**

**6.1. [Wynooski Stormwater Bid](#)** Pg. 29

A resolution authorizing the City Manager to enter into a construction contract with Pihl, Inc., for the Wynooski Stormwater Outfall Project in the amount of \$257,730.00.

**6.2. [AFSCME CBA Approval](#)** Pg. 35

Adopt Resolution 2024-3939 ratifying the AFSCME Council 75 Collective Bargaining Agreement effective July 1, 2024 – June 30, 2027

## **7. PUBLIC COMMENTS**

## **8. NEW BUSINESS**

### **8.1. [Review and Authorization of Funding for Applications to the 2023-2024](#)**

Pg. 83

#### **Notice of Funding Availability for the Newberg Affordable Housing Trust Fund**

Grant to Newberg Area Habitat for Humanity in the amount of \$28,580

### **8.2. [901 S McKern Court Water Hardship Exemption](#)**

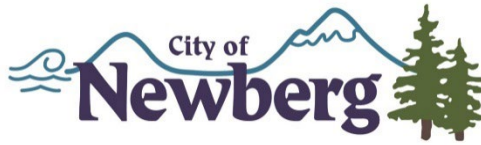
Pg. 102

Hardship exception for extraterritorial water service at 901 S McKern Court  
(Community Development File GEN2-0010)

## **9. ADJOURNMENT**

### **ADA STATEMENT**

Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email [cityrecorder@newbergoregon.gov](mailto:cityrecorder@newbergoregon.gov). For TTY services please dial 711.



**OATH OF OFFICE**  
**CITY COUNCILOR Glenn Cloyd**  
**District 3 Term: July 3, 2024**  
**to December 31, 2024**

*State of Oregon*

*County of Yamhill*

*I, Glenn Cloyd, do solemnly swear that: I will support the Constitution and laws of the United States; I will support the Constitution and the laws of the State of Oregon; I will support the Charter and the Ordinances of the City of Newberg; and I will to the best of my ability faithfully perform the duties of a City Council member of the City of Newberg, so help me God.*

---

*Glenn Cloyd*

*Subscribed and sworn before me this 3<sup>rd</sup> day of July, 2024, by Glenn Cloyd.*

---

*Rachel Catherine Thomas*  
*City Recorder/Notary Public*

# REQUEST FOR COUNCIL ACTION



**Date Action Requested:** June 17, 2024

Order <input type="checkbox"/>	Ordinance <input type="checkbox"/>	Resolution <input type="checkbox"/>	Motion <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Proclamation <input type="checkbox"/>
Subject: A motion to assign a City Council member to the Planning Commission as Ex-Officio				Staff: Melissa Morris Department: Administration	
Business Session				Order On Agenda: 4.2	

**Is this item state mandated?** Yes ☐ No ☒

**If yes, please cite the state house bill or order that necessitated this action:**

**Recommendation:** Staff recommends City Council appoint \_\_\_\_\_, member of council to serve as Ex-Officio of the Planning Commission

**Executive Summary:** Council needs to discuss and appoint a member of council to serve as the Ex-Officio of the Planning Commission to fill the vacancy left by councilor Olson's resignation.

**Fiscal Impact:** No fiscal impact expected.

**Council Goals:** This falls in line with Council Goal 5: Create and maintain a high level of transparency with our residents in order to build trust.



# REQUEST FOR COUNCIL ACTION



**Date Action Requested: (July 3, 2024)**

Order <input type="checkbox"/>	Ordinance <input type="checkbox"/>	Resolution <input type="checkbox"/>	Motion <input type="checkbox"/>	Information <input checked="" type="checkbox"/>	Proclamation <input type="checkbox"/>
Subject: CM narrative for June 2024 events				Staff: Will Worthey CM Department: Administration	
Work Session <input type="checkbox"/> Business Session <input checked="" type="checkbox"/>				Order On Agenda: CM report	

**Is this item state mandated?** Yes ☐ No ☒

**If yes, please cite the state house bill or order that necessitated this action:** NA

**Recommendation:** NA

**Executive Summary:** The summary of events conducted by city departments in June of 2024.

**Fiscal Impact:** All were conventionally budgeted items.

## **Council Goals:**

Goal 5: Create and maintain a high level of transparency with our residents in order to build trust.

Effective CM reporting assists with Objective 1:

Expand communication outreach in regard to regular city events and additional involvement with city businesses.

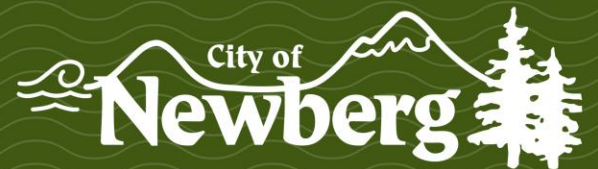
**CM Report for July 3, 2024  
Information**

**Attachment 1: CM report presentation**



# Newberg CM report

Monthly Events for June 2024



## **Administration – strategic moves for the new FY.**

In many cases these are connected to council requests (for example simplifying / improving the rates process), and staff will be requesting a shift to two-year budget cycles for a variety of efficiency reasons.

We will be starting several new efforts in the new financial year that will bring fresh data to council soon:

- Reexamining the rates building / review process.
- Scoping a shift to two-year budget cycles.
- Integrating with the Capital Improvement Program (CIP).





January to June

July to December

x

Committee work

\*

New SDC rates

	FY 24 - 25		FY 25-26		FY 26-27		FY 27-28		FY 28-29		FY 29-30		FY 30-31		FY 31-32		FY 32-33	
Process	2024	2025	2025	2026	2026	2027	2027	2028	2028	2029	2029	2030	2030	2031	2031	2032	2032	2033
CIP plan 2025 to 2029	x																	
CIP plan 2027 to 2031					x													
CIP plan 2029 to 2033									x									
	FY 24 - 25		FY 25-26		FY 26-27		FY 27-28		FY 28-29		FY 29-30		FY 30-31		FY 31-32		FY 32-33	
Current rates model						bridge												
2nd rates model				x														
3rd rates model								x										
4th rates model											x							
	FY 24 - 25		FY 25-26		FY 26-27		FY 27-28		FY 28-29		FY 29-30		FY 30-31		FY 31-32		FY 32-33	
Biannium 25-27		x																
Biannium 27-29						x												
Biannium 29-31									x									
Biannium 31-33													x					
	FY 24 - 25		FY 25-26		FY 26-27		FY 27-28		FY 28-29		FY 29-30		FY 30-31		FY 31-32		FY 32-33	
SDCs				x	*			x	*			x	*			x	*	

## **CDD Happenings**

New applications for June:

4 design reviews at different locations in town;

2 partitions to subdivide existing lots;

2 minor modifications of prior approvals;

1 historic landmark review of a residence;

2 applications for the City's Enterprise Zone program;

1 code adjustment to setback distances; and 2 applications for new vacation rental homes.

Staff is continuing to review and issue building permits, and Building Department's activity in Lafayette and Dayton is exceeding revenue expectations.

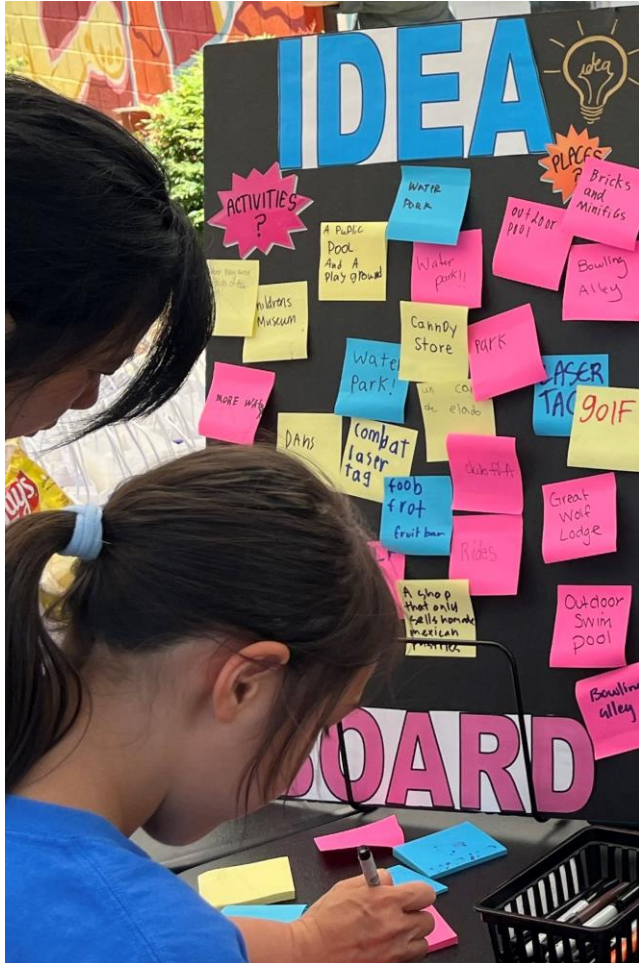
Staff facilitated two pre-application meetings including a proposal to redevelop a commercial site to construct new restaurant and retail buildings, and for the start-up of a “Cat Café” in the downtown area.

CDD presented Enterprise Zone redesignation information to Newberg School Board.

CDD participated in Public Works Day including administrative staff and the City’s Student Planning Commissioner.



Public Works Day attendees  
add their recommendations  
to Idea Board



Fe (CDD Administrative Assistant) and Abbey  
(Student Planning Commissioner) at Public  
Works Day





## **NDPD News/Accomplishments June 2024**

- Officer McDonough recovered a yellow wagon that was stolen from a local resident. The resident was very happy to have it returned to her!
- One of our K9 Officers and K9 Ike are in training.
- An all-department staff photo was taken - the last one was over 17 years ago.
- The department is fully staffed with our newest officer's now in solo status.

## Officer McDonough returning a stolen wagon



## K9 officer Rapet with his partner Ike →







2024 NDPD photo



## IT

Worked with Engineering to upgrade our GIS (mapping) to a recent version, this was a multi-step upgrade that required several stages to move to a stable version that we will be able to run longer-term. Working with Police Dispatch, we initiated the upgrade process for our 911/Dispatch systems, which will take several weeks to fully complete.

We also evaluated and purchased a new security tool that will help provide more insight for the city's internal networks, especially for industrial control systems, like the water and wastewater treatment plants, and the HVAC controllers.

Other IT updates that were completed are enhancements to our Citrix Desktop environment, bringing us up to the latest recommended long-term version, and upgrading our thin clients to more recent versions.

With the end of the fiscal year, we also completed several purchases and projects for other departments, including additional cameras and door readers for Public Works Maintenance and the Library.

## **Library Land:**

On June 1st the Summer Reading Program began for all ages- babies to grown-ups! Author and poet Bethany Lee was our first library event of the summer.

This was followed by many events like our Summer Reading Party, Public Works Day, Oregon Coast Aquarium's Tidepool Tango, a special storytime with Mr. Will, as well as our regular book clubs, technology classes for Seniors, and storytimes.

As you know, on Wednesday, June 5th the library was vandalized when a BB was shot at one of the Carnegie windows where the Pride flag hangs in June.

One pane of glass shattered, while the original 1912 window remained intact. The juvenile responsible was quickly apprehended by the Newberg-Dundee Police department. The city is asking for restitution for the nearly \$5,000 cost of the window.

Thank you NDPD, the Public Works Department, Human Resources, and of the course the Mayor and City Manager. Everyone moved swiftly, working together to handle this matter.

## **Engineering Matters**

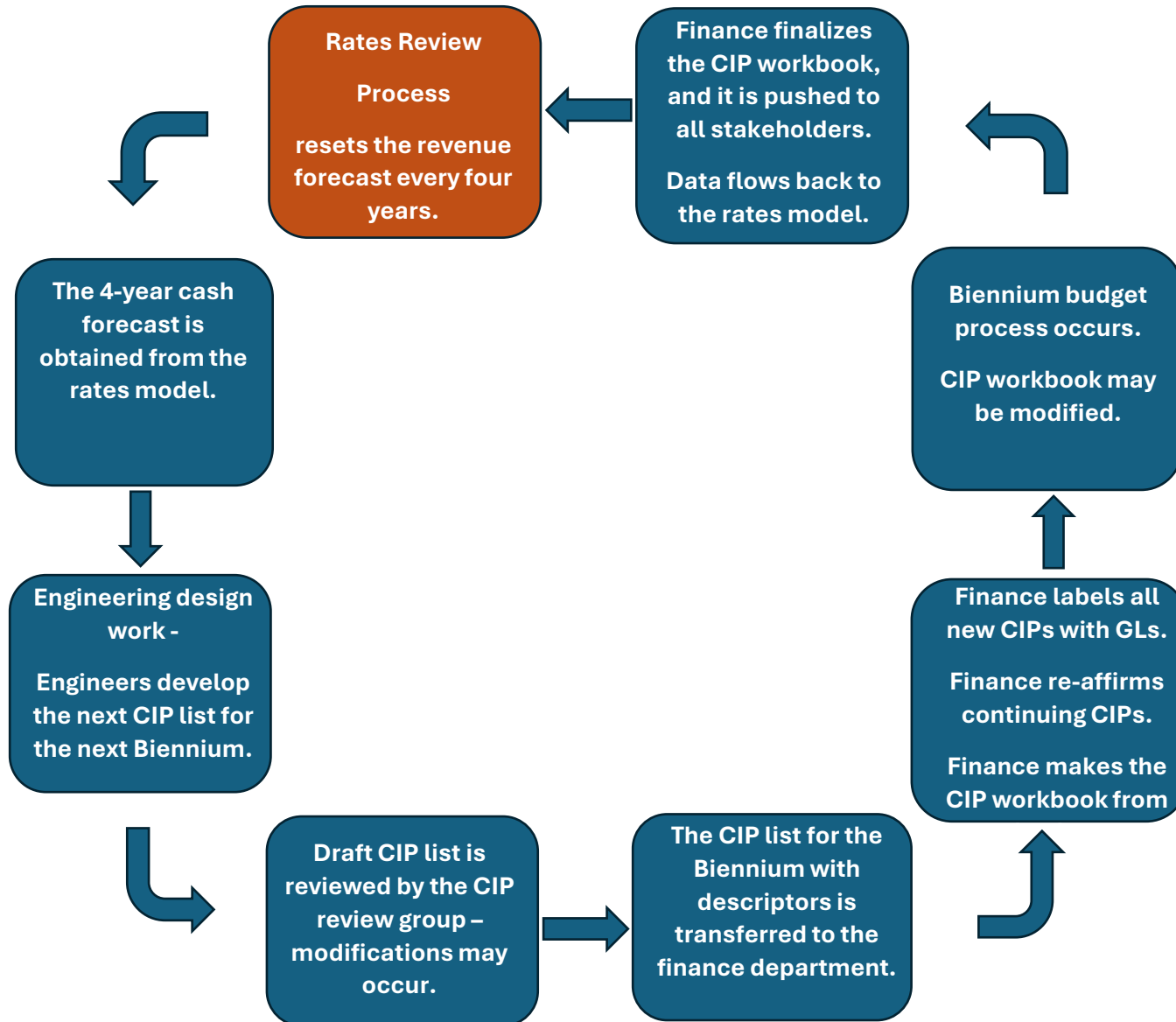
As of June 25th, the city is in final negotiations with winning bidder Keller Engineering who will be providing us with engineering services as part of our re-structuring work.

The City Engineer will be known very soon and when this has occurred, they will be introduced to council so the public can become familiar with the contract staff member.

Additionally, staff have been working on the new CIP process and the results from the worst streets survey. A worst streets report will be coming to council soon.



The new CIP process will probably run something like this:



## Recent PW maintenance actions:

Water Meter Service– 107  
(Connects - 54, Disconnects - 41,  
Leak Checks – 12)

Water Meter Maintenance – 21  
Water Meter MXU's Replaced – 4  
New Meters Installed – 8  
Sweeping Debris – 34 yds  
Sewer Main Clean - 900 ft



**72" Manholes Being Set by Crew for  
decant at PW maintenance yard**



**Some of the challenges working on the manhole behind the air park. We had to pull the fully loaded Vactor up a hill.**







## Cleaning up the roundabout at Brutcher and Hayes

## **City Recorder:**

In June the City Recorder's office managed an application and appointment process for the District 3 vacancy, opened election filings for the upcoming general election, and provided records training to several employees.

We also developed a new process for council agendas and managed the closure of a contract for our agenda management software. In addition, the City Recorder spent a week at in intensive training for Municipal Recorders.



**Human Resources** focused a good deal of its attention on recruitments this month. We utilized **ATTRACT** recruitment software as well as the usual postings on social media and governmentjobs.com and managed to get some promising candidates to the interview stages.

At the start of June, we were able to wrap up the second of two collective bargaining agreements with the City for the next three years. At the end of the month, HR attended the Employer Benefit Renewal meeting for 2025.

Recent job openings included:

Project Coordinator and Grant Writer,  
Entry-Level Communications Officer/911 Dispatch,  
Lateral Communications Officer/911 Dispatch,  
Concrete Crew Chief,  
Concrete Finisher II, and Concrete Finisher I

# So that's it for sunny June events!

As you can see our residents tax dollars have  
been hard at work as usual.

Questions?



# REQUEST FOR COUNCIL ACTION



**Date Action Requested: (July 3, 2024)**

Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Information <input type="checkbox"/> Proclamation <input type="checkbox"/>	
No. 2024-3936	
Subject: A resolution authorizing the City Manager to enter into a construction contract with Pihl, Inc., for the Wynooski Stormwater Outfall Project in the amount of \$257,730.00.	Staff: Fatin Abdullah, Engineering Project Coordinator Department: Public Works - Engineering
Business Session	Order On Agenda: Consent
Hearing Type: NA	

**Is this item state mandated?** Yes ☐ No ☒

**If yes, please cite the state house bill or order that necessitated this action:**

**Recommendation:** Adopt Resolution No. 2024-3936.

## Executive Summary:

The current pipe and outfall for the Wynooski Street Stormwater System has been severely eroded to a point that it is critical to reconstruct and relocate it. This project will extend the existing storm outfall further down the slope with a riprap flow energy dissipater. Native vegetation will be fully restored within the Stream Corridor Overlay (see Exhibit A) and this work will reduce erosion around the slopes of Hess Creek on the east side of Wynooski Street near 730 and 740 S Wynooski Street.

The project scope, including the implementation of erosion control measures, entails excavation, pipe laying, work on manholes and inlet boxes. Work request has been permitted through the Joint Permit Application (JPA) process that the stream channel impacts will be mitigated onsite or within the City limits of the City of Newberg, as opposed to purchasing stream mitigation credits.

Vendors for the design of this project are noted below:

- HBH Consulting Engineers, Inc., for providing design, bid, and construction management.
- Pacific Habitat Services, Inc., for providing natural resource consultation and securing JPA and DEQ permits process.
- Leland MacDonald and Associates, LLC., for providing survey and easement acquisition services.

On May 6, 2024, staff advertised the project for bid. The Engineer's estimate was in the range of \$280,000.00 to \$320,000.00.

On June 4, 2024, the City received and opened three (3) qualified bids:

- |                           |              |
|---------------------------|--------------|
| 1- Pihl, Inc.             | \$257,730.00 |
| 2- Lawson Corp.           | \$329,945.00 |
| 3- The Saunders Co., Inc. | \$333,498.00 |

All the above qualified bids included a 10% contingency. City intends to award the bid to the lowest responsive bidder for the project Pihl, Inc., with a grand total bid amount of \$257,730.00. The bid was slightly less than the Engineer’s estimate and it was responsive to the City’s bid request.

Construction is planned to begin in July-August 2024 and the final Completion no later than September 30, 2024.

**Fiscal Impact:** The qualified bid/proposed construction contract includes a 10% contingency requiring City Manager’s authorization prior to its use. This project is budgeted with adequate funding in the current fiscal year and the proposed fiscal year 2024-2025 budget amount \$350,00.00 under account number: CIP #717738 (04-5150-717738 - 800 Block Wyooski).

**Council Goals:** In 2023, the Newberg City Council created a new list of goals and objectives to better reflect their intent as a council. This project meets the Council goals to have stormwater infrastructure in good repairs and functions with emergency management for the Newberg community.

# RESOLUTION NO. 2024-3936

**A Resolution authorizing the City Manager to enter into a Construction Contract with Pihl Excavating Contractors, for the Wynooski Stormwater Outfall Project in the amount of \$257,730.00.**

## Recitals:

1. The current pipe and outfall for the Wynooski Street Stormwater System has been severely eroded and this project will extend the existing storm outfall further down the slope with a riprap flow energy dissipater. Native vegetation will be fully restored within the Stream Corridor Overlay (see Exhibit A) and this work will reduce erosion around the slopes of Hess Creek on the east side of Wynooski Street near 730 and 740 S Wynooski Street.
2. Work request has been permitted through the Joint Permit Application (JPA) process that the stream channel impacts will be mitigated onsite or within the City limits of the City of Newberg, as opposed to purchasing stream mitigation credits.
3. On May 6, 2024, staff advertised the project for bid. The Engineer's estimate was in the range of \$280,000.00 to \$320,000.00.
4. On June 4, 2024, the City received and opened three (3) qualified bids:
  - 1) Pihl, Inc. \$257,730.00
  - 2) Lawson Corp. \$329,945.00
  - 3) The Saunders Co., Inc. \$333,498.00
5. All the above qualified bids included a 10% contingency. The City intends to award the bid to the lowest responsive bidder, Pihl, Inc. for a grand total bid amount of \$257,730.00, which was slightly less than the Engineer's estimate.
6. Construction is planned to begin in July 2024 with final completion no later than September 30, 2024.

## The City of Newberg Resolves as Follows:

1. The City Council, acting as contract review board for the City, does hereby authorize the City Manager to execute a construction contract with Pihl, Inc. for the Wynooski Stormwater Outfall Project in the amount of \$257,730.00. which includes 10% contingency that would require City managers' authority prior to its use.
2. The City Attorney will review and approve all contracts as to form and content.
3. The City Manager is authorized to negotiate and approve any needed construction change orders not to exceed 10 percent of the original contract amount.

**Effective Date** of this resolution is the day after the adoption date, which is: July 4, 2024.

**Adopted** by the City Council of Newberg, Oregon, this \_\_\_\_\_ day of July 2024.

\_\_\_\_\_  
Rachel Thomas, City Recorder

**Attest** by the Mayor this \_\_\_\_\_ day of July 2024.

\_\_\_\_\_  
Bill Rosacker, Mayor

## Wynooski Stormwater Outfall Project

### EXHIBIT A

#### Project location & Existing Condition



The project is in Newberg, Oregon on Wyooski Street, south of East 7th Street.



**City of Newberg • RESOLUTION NO. 2024-3936 • Page | 4**



- EXISTING CONDITION



View of Site from Wynooski Street Facing East



Figure 2 the existing railroad ties will need to be removed at 740 Wynooski St and the existing 40% slope will need to be filled in to about a 20% accessible slope



Figure 4 The current pipe and outfall



Figure 3 The Project goal is to reduce erosion into Hess Creek, stabilize the slope to avoid private property impacts, enhance the natural qualities of the impacted area, and improve the existing stormwater outfall in a way that reduces the overall facility maintenance.

# REQUEST FOR COUNCIL ACTION



**Date Action Requested: July 3, 2024**

Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Information <input type="checkbox"/> Proclamation <input type="checkbox"/>	
No. 2024-	
Subject: AFSCME CBA APPROVAL	Staff: Mike Fischer, President AFSCME Council 75 Alison Seiler, Interim Human Resources Manager Will Worthey, City Manager Department:
Business Session 7p.m	Order On Agenda:
Hearing Type: Administrative	

**Is this item state mandated?** Yes ☐ No ☒

**If yes, please cite the state house bill or order that necessitated this action:**

**Recommendation:** Adopt Resolution 2024-3939 ratifying the AFSCME Council 75 Collective Bargaining Agreement effective July 1, 2024 – June 30, 2027.

**Executive Summary:** After successfully completing nine bargaining sessions, held between February and June 2024, the city was notified on July 2, 2024, that the AFSCME union accepts and has ratified the proposed agreement. The city engaged Miller Nash to guide the bargaining and the union was represented by two Oregon AFSCME, as well as local AFSCME representatives. The effective date for this agreement is July 1, 2024.

AFSCME union members will receive a 3% COLA in 2024, a 3% COLA in 2025 and a 4% COLA in 2026. Holiday pay was increased to 10 hours from 8 hours per holiday to be consistent with both non-represented and police employees and also to be in line with many 4/10 schedules. Juneteenth was added to the holiday schedule since it is a federal holiday

**Fiscal Impact:** The total fiscal impact of COLA for the next three fiscal years is approximately \$1.2 million dollars and includes increases to wages, taxes and benefits including retirement that are affected directly by COLA. There are no other significant fiscal impacts.

**Council Goals:** The first Council goal is to create and maintain a high level of customer service. Goal 3 aims to keep Newberg's infrastructure in good repair and supply. Both of these goals are served by public works employees who sweep our streets, pave and repair our streets, provide our water and process our wastewater. This is critical infrastructure for Newberg residents. IT allows all of us to conduct city business in a protected environment.





# RESOLUTION No. 2024-3939

## A Resolution

### Recitals:

1. The City team of Kady Strode, Preston Langeliers, Craig Pack, Alison Seiler, Sydney Kosmicki and Jeff Chicoine of Miller Nash have been negotiating with the AFSCME 75 union (the Union) team of Mike Fischer, Bryan Jones, Brian Kershaw, Jason Dorrell and Oregon AFSCME representatives Casey Jennett and Frank Vehafic for the new contract period July 1, 2024, through June 30, 2027.
2. The AFSCME Council 75 union ratified the proposed agreement on July 2, 2024.
3. **Recommendation:** Adopt Resolution 2024-3939 ratifying the AFSCME Council 75 Collective Bargaining Agreement effective July 1, 2024-June 30, 2027.

### The City of Newberg Resolves as Follows:

1. The City approves the Agreement between the City and the AFSCME Council 75 union, which is attached hereto as Exhibit “A” and by this reference incorporated.
2. The City Manager is authorized to execute the Agreement with the AFSCME Council 75 on behalf of the City. The City Manager is further delegated to approve minor amendments to the Agreement; interpret language to the Agreement on behalf of the City; enter memoranda of understanding concerning the interpretation and disputes arising under the Agreement, and negotiate settlements of disputes concerning interpretation of the Agreement.

**Effective Date** of this resolution is the day after the adoption date, which is: July 4, 2024.

**Adopted** by the City Council of Newberg, Oregon, this 3rd day of July 2024.

\_\_\_\_\_  
Rachel Thomas, City Recorder

**Attest** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Bill Rosacker, Mayor



**AFSCME CBA APPROVAL**

**Exhibit A**

**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN  
CITY OF NEWBERG  
AND  
AFSCME COUNCIL 75  
JULY 1, 2024 – JUNE 30, 2027**

**COLLECTIVE BARGAINING  
AGREEMENT**

**between**

**CITY OF NEWBERG**

**and**

**AFSCME COUNCIL 75**

**July 1, 2024 – June 30, 2027**

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## **ARTICLE 1: UNION RECOGNITION**

### **1.1 Recognition of Union**

The City recognizes the American Federation of State, County, and Municipal Employees, AFSCME Council 75, as the sole and exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all employees in the Public Works Department, Information Technology (IT) Division and Engineering Department, excluding supervisory and confidential employees.

### **1.2 Disputes Concerning Newly Created and Existing Classifications or Clarifications**

#### **1.2.1 Written Notice**

Any challenges regarding the inclusion, exclusion, or clarification of classifications or positions shall be referred to the Oregon Employment Relations Board (ERB) for determination. To minimize the possibility of such disputes, when a new Public Works/Engineering/Information Technology non-bargaining unit classification is created, or when a new position is exempted from a classification otherwise represented by the Union, written notice will be sent to the Union to include the reason for exemption. Both parties will make a good faith effort to resolve the dispute before filing the case with the ERB.

#### **1.2.2 Notification of New Class and Wage Scale**

New classes may be developed within the bargaining unit by the City and a wage scale assigned thereto. The City will forward notice of the new class and wage scale to the Union by email. The wage scale so assigned may be negotiated upon request by the Union within fourteen (14) days after receipt of notice from the City. If the Union fails to request bargaining with the City within fourteen (14) days of receipt of notice of the new class, the interim wage scale will become final.

### **1.3 Certification of Union Officers**

The Union shall, on an annual basis or as changes dictate, provide the City with a written list of the current Union officers and stewards, or designated representatives responsible for contract administration.

## **ARTICLE 2: MANAGEMENT RIGHTS**

### **2.1 Recognition of Management Rights**

It is recognized that areas of responsibility must be reserved to the employer if the City is to effectively serve the public. Except to the extent expressly abridged by a specific provision of this Agreement, it is recognized that the responsibilities of management are exclusively functions to be exercised by the City. By way of illustration and not of limitation, the following are listed as such management functions:

### **2.1.1 Determination of Services**

The determination of the services to be rendered to the citizens served by the City.

### **2.1.2 Determination of City's Operations**

The determination of the employer's financial, budgetary, accounting and organization policies and procedures.

### **2.1.3 City's Rules and Provisions**

The continuous overseeing of personnel policies, procedures, and programs promulgated under any resolution, ordinance or administrative order of the City, including the establishment of personnel rules and regulations not inconsistent with any other term of this Agreement.

### **2.1.4 Management and Human Resources**

The management and direction of the workforce including, but not limited to, the right to determine the methods, processes and manner of performing work; the determination of the duties and qualifications of job classifications; the right to hire, promote, train, demote, assign duties, transfer and retain employees; the right to discipline or discharge for just cause; the right to lay off for lack of work or funds; the right to abolish positions or reorganize the departments or divisions; the right to determine schedules of work; the right to purchase, dispose and assign equipment or supplies; and the decision to contract or sub-contract any work (within the limits set by Section 2.2 of this agreement), or other rights as provided by ORS 243.650(7) (g).

### **2.1.5 Discretionary Practices**

Both parties acknowledge that certain discretionary practices exist within the employer/employee relationship, which do not have a material effect on the conditions of employment, such as staff recognition celebrations. The parties agree that such practices shall continue to exist at the sole discretion of the City.

## **2.2 Contracting Out**

**2.2.1** The City and the Union agree to negotiate in good faith the impacts of any decision to contract or subcontract out exclusive bargaining unit work pursuant to ORS 243.698. Further, the City agrees to meet and discuss any decision to contract or subcontract work currently performed by bargaining unit members, providing the union an opportunity to present alternative proposals. But the decision as to whether work is ultimately contracted out shall be at the sole discretion of the City. There shall be no obligation to bargain over the decision to subcontract or impact over subcontracting where the subcontracting is consistent

with past or existing practices or for seasonal work where no bargaining unit members are displaced.

**2.2.2** No decision shall be implemented until the City has fulfilled its obligation to bargain the impacts, concluding ninety (90) days from the date of the original notice to the Union.

**2.2.3 Process**

The City will give notice of any requests for proposals (RFPs) that will trigger a bargaining obligation under Section 2.2.1. Notice of RFP shall constitute notification under ORS 243.698. The cost of any mediator used as a part of this process shall be split between the parties.

**ARTICLE 3: UNION SECURITY AND RIGHTS OF BARGAINING UNIT EMPLOYEES**

**3.1 Rights of Employees to Participate in Union Activities**

Employees shall have the right to self-organize, to form, join or assist labor organizations or to refrain therefrom, to bargain collectively through representatives of their own choosing, and there shall be no discrimination exercised against any employee covered by this Agreement because of his/her membership or Union activities.

**3.2 Employment Classifications**

Employee status is categorized to make distinctions in benefits and other employment conditions and to aid in a better understanding of employment relationships within the City of Newberg. Employees may be considered as probationary, regular full-time, regular part-time, limited part-time, volunteers, temporary, management or contract. The following definitions apply:

**Lead Worker/Crew Chief:** This position involves limited oversight and administrative duties, which may routinely include assigning and ensuring completion of daily tasks by other employees, ensuring compliance by other employees with work rules, procedures, attendance, and training of other employees, which are deemed not to warrant a full supervisory classification. Lead Workers/Crew Chiefs will not be responsible for recommending hiring and/or firing, or imposing discipline but may choose to participate in these processes.

**Probationary Status:** Newly hired or promoted employees within the probationary period.

**Regular Full-time:** An employee who has successfully passed the probationary period and is regularly scheduled to work forty (40) hours or more per week. This classification is eligible for benefits.

**Regular Part-time:** An employee who is regularly scheduled to work at least twenty (20) but less



than thirty-six (36) hours per week. This classification is eligible for vacation, sick leave, holiday benefits on a pro-rata basis, and cost-of-living adjustment (COLA).

**Limited Part-time:** An employee who is regularly scheduled to work less than twenty (20) hours per week, or who may not have a set schedule and works only when called upon. These classifications are not eligible for benefits, however will be eligible for COLAs.

**Temporary:** An employee who is hired for a specified period of time, or for the duration of a specific project or group of assignments. This classification is not eligible for benefits other than those mandated by applicable law and will not be eligible for COLAs.

### **3.3 Authorization and Certification of Dues**

#### **3.3.1 Amount Deducted Each Payroll Period**

The City agrees to deduct each payroll period from the pay of employees covered by this Agreement as applicable. The Union shall notify the City of the current rate of dues and other authorized deductions by the tenth (10<sup>th</sup>) of each month, which will enable the City to make the necessary payroll deductions as specified for that payroll period. If the payroll processing date changes due to changes in operations or software, the City shall notify the Union of the expected change.

#### **3.3.2 Union Dues**

Monthly Union membership dues will be deducted for those Union members who individually request and authorize such deductions in writing on the form provided by the Union. The City agrees to direct inquiries from employees regarding union membership and payroll deductions to the Union.

#### **3.3.3 Holder of Record**

During the life of this Agreement, the Union will notify the City of individuals who have authorized, or discontinued authorizations for deductions to the Union. An electronic file listing new authorizations or changes in authorizations for employee union deductions will be submitted by the Union to the City electronically by close of business on the business day immediately preceding the tenth (10<sup>th</sup>) of each month. The City agrees that payroll deduction authorizations submitted within the timelines above shall be deducted from the next issued paycheck for the previous applicable pay period.

#### **3.3.4 Limits.**

Employees whose employment begins or ends after working less than ten (10) working days in any calendar month will not be subject to dues or a like amount in lieu of a dues deduction.

### **3.3.5 Appointment to Excluded Positions**

Union dues shall cease beginning with the pay period following an employee's regular appointment to a position which is excluded from the bargaining unit.

### **3.3.6 AFSCME PEOPLE Deductions**

To the extent allowable by law, employees may authorize payroll deductions for the voluntary AFSCME PEOPLE (Public Employees Organized to Promote Legislative Equality) by submitting the form provided by the Union.

### **3.3.7 Defense and Indemnification of the City**

The Union agrees that it will indemnify, defend and hold the City harmless from all suits, actions, proceedings or claims against the City or persons acting on behalf of the City, whether for damages, compensation, reinstatement or any combination thereof, arising out of application of this Article, in the event any decision is rendered by the highest court having jurisdiction that any portion of this Article is invalid and/or that reimbursements must be made to any employees affected, the Union shall be solely responsible for such reimbursements.

## **3.4 Union Representation and Contract Negotiations**

### **3.4.1 Union Negotiating Team**

The Union's Negotiating Team shall consist of not more than five (5) members, four (4) of whom may be employees. City employees participating in such negotiations will be allowed to do so without loss of pay. The Union and City may mutually agree to a different number of negotiating team members, appointing an equal number of representatives from labor and management.

### **3.4.2 Union Negotiating Team Preparation**

City employees who are on the Union's Negotiating Team shall be permitted up to two (2) hours per negotiation session to prepare for negotiations with the City. The Union agrees to strive to minimize operational impact of Union negotiation preparation, and the City agrees to notify the Union of adverse operational impact.

### **3.4.3 Ground Rules**

Prior to negotiations, representatives of the City's and the Union's Negotiating Teams will jointly discuss general negotiating ground rules, such as the number of observers, resource people, meeting times, etc.

## **3.5 Grievances and Contract Administration**

The American Federation of State, County, and Municipal Employees (AFSCME) Council 75 is the exclusive representative of bargaining unit employees with respect to conditions of employment governed by this Agreement under the State of Oregon Public Employees Collective Bargaining Act.

### **3.6 Access**

City employees serving as the Union's designated representatives shall have reasonable time to engage in union-related duties without loss of compensation as provided by ORS 243.798. Such designated representatives, or non-employee AFSCME representatives, will have reasonable access to the City's worksites or facilities to meet with employees to the extent that such meetings do not interfere with the work or operations of the City. To minimize such interference, notice should be provided to, and arrangements made beforehand with supervisors before arrival on site unless it is during scheduled breaks.

The Union may use the City's facilities to conduct such meetings.

### **3.7 Communication with Bargaining Unit Members**

#### **3.7.1 Bulletin boards**

The City agrees to furnish and maintain suitable bulletin boards in convenient places in each work area to be used by the Union. The Union shall limit its postings of notices and bulletins to such bulletin boards. All postings of notices and bulletins by the Union shall be factual in nature and should be signed and dated by the individual doing the posting.

#### **3.7.2 Email**

The City's electronic mail (email) system may be used by the Union for Union related communications including, but not limited to, communications related to collective bargaining, grievance or other dispute investigations, and governance of the Union. The content of any and all communications using the City computer system is not privileged and may be subject to City review and public records requests.

#### **3.7.3 Interoffice Mail**

The Union is authorized to use the City's interoffice mail system for distribution to its members. The City shall not be responsible for the delays in delivery (if they occur) for such materials, and this authorization for the Union to use the mail system shall be permitted only if no postage or supplies are used.

### **3.8 Collective Bargaining Agreement Prevails**

All matters not prescribed by the language of this Agreement may be administered for its duration by the City in accordance with the City Personnel Rules and Regulations. In the event of a conflict between Personnel Rules and this Agreement, the provisions of this Agreement shall prevail.



## **ARTICLE 4: NON-DISCRIMINATION**

### **4.1 Non-discrimination and Compliance with Applicable Laws**

The City and the Union agree that each will fully comply with all applicable laws and regulations regarding discrimination against any employee or applicant for employment because of such person's race, religion, color, national origin, citizenship, gender identity or expression, mental or physical disability, sex, age, genetic information, marital status, veteran status, domestic violence victim status, union affiliation or other status protected by state or federal law. Any references to gender in the Agreement include all genders.

The parties agree that nothing in this agreement will interfere with or restrict the City in its obligation to accommodate individuals with disabilities under federal and state law. Any disputes regarding this article may be resolved through the grievance procedure, but will not be subject to the arbitration process.

## **ARTICLE 5: HOURS OF WORK**

### **5.1 Regular Hours**

The regular hours of each work day shall typically be consecutive with interruptions for lunch periods.

### **5.2 Work Week**

Work week shall consist of a seven (7) day work schedule with five (5) consecutive eight (8) hour days with two (2) consecutive days off or four (4) consecutive ten (10) hour days with three (3) consecutive days off or any other type of alternative work schedule agreed to in writing by the Union, the employee(s) and the City.

Management will endeavor to develop schedules that are the most effective for staff within each team, while taking into account city surveys and the desires of the individual employees. Management will engage in open dialogue with their teams to discuss schedules, staffing levels, customer service levels, and individual employee scheduling requirements. Management reserves the right to adopt schedules that, in its judgment, best satisfy the City's operational needs and provides optimal customer service. Superintendents or above are responsible for setting the schedule for their team consistent with notice changes in 5.3.1.

### **5.3 Schedule Changes**

#### **5.3.1 Notice of Changes**

Other than unforeseen events or situations, notice of change in an employee's work schedule shall be given to the affected employees in writing, not less than fourteen (14) calendar days prior to the effective date of the change. The City may also grant a reasonable request for a temporary change to the work schedule of an employee on a case-by-case basis. The City may provide less than fourteen (14) calendar days' notice in case of unforeseen events or situations for affected employees such as unpredicted inclement weather,

natural or man-made disasters, emergency shutdowns or closures, or by mutual agreement in writing.

### **5.3.2 Flexible Work Schedules**

By mutual written agreement, at any time, the work schedule can be flexed, meaning different start and stop times or different days during the week, without the payment of overtime unless the request exceeds forty (40) hours in a work week. This does not allow for flexing of schedules to avoid the use of sick leave, which must be reported accurately.

## **5.4 Rest Periods**

### **5.4.1 Definition**

Rest periods will be provided for in accordance with federal and state law. All employees shall have a fifteen (15) minute rest period during each one-half (1/2) shift which shall be scheduled as near the middle of each one-half (1/2) shift as is feasible. Rest periods may not be accumulated, nor shall rest periods have any monetary value.

### **5.4.2 Extreme Weather Conditions**

Employees working in extreme weather conditions may be given extra breaks according to standards set by OSHA.

## **5.5 Meal Periods**

Meal periods will be provided for in accordance with federal and state law. All employees will be granted a thirty (30) minute or a sixty (60) minute, duty free, unpaid meal period during each work shift, which shall be scheduled as near the middle of each shift as is feasible. Employees on a four (4)/ten (10) schedule may take a later meal period but shall not begin later than six hours after the beginning of their shift. Employees assigned to a task as a team or to meet task safety requirements, shall take their meal period at the same time.

The current length of meal periods may be changed by mutual written agreement between the employee and supervisor. Employees shall not be permitted to work through a meal period unless approval from a supervisor is obtained before the break period. If an employee works through their meal period, the meal period shall be recorded as paid time.

## **5.6 Call-Back Time**

### **5.6.1 Definition**

Any employee who has left their worksite and is called to report outside of their regularly scheduled shift shall be paid for a minimum of three (3) hours at the rate of one and one-half (1.5) times the employee's regular compensation

rate. Multiple call-backs within the same three-hour period will be considered one call-back for the purposes of this Section.

If the call-back work assignment and the employee's regular shift overlap, the employee shall be paid the 1.5 call-back rate until the employee completes three (3) hours work. The employee shall then be paid for the balance of the regular work shift at the regular rate.

This section does not apply to scheduled time at the beginning of the work shift or workday or at the end of the work shift or workday provided forty-eight (48) hour notice has been given and the additional time is consecutive with the shift hours or work. (For example, if an employee is given forty-eight (48) hour notice to change the start time from 6:30 a.m. to 5:00 a.m., the entire shift will be at regular hours, unless they work more than forty (40) hours for the week.)

#### **5.6.2 Not Returning to Work Site**

An employee who receives a call and can resolve the issue by phone or by computer without having to come to work shall be paid one (1) hour of call-back (1.5) rate if the employee can resolve the problem within thirty (30) minutes. If the issue requires more than thirty (30) minutes or the employee must leave their home, the employee shall receive a minimum of three (3) hours of call-back (1.5) rate.

### **5.7 Overtime**

#### **5.7.1 Definition**

When employees are required to work overtime, the employee may, at their discretion, choose either compensatory time off or pay at the rate of one and one-half (1.5) times the employee's regular rate of compensation, provided that the employee is not exceeding the compensatory time cap. Overtime is defined as any hours worked more than forty (40) hours in one work week. Unless there is an unanticipated incident or event which requires immediate attention, management must approve any overtime hours in advance. Unauthorized overtime shall be paid in accordance with FLSA. However, employees working unauthorized overtime may be subject to discipline.

#### **5.7.2 Accumulation and Use of Compensatory Accrual**

Compensatory time accumulation shall not exceed ninety-six (96) hours. All hours over ninety-six (96) will be automatically paid as overtime. Employees already over the cap will not be penalized or forced to use comp time but will not be allowed to accrue more comp time until they are under the ninety-six (96) hour cap. Employees may request to take compensatory time off and shall be permitted by the City to use such time within a reasonable period after



making the request if the use of the compensatory time does not unduly disrupt the operations of the City.

## **5.8 Stand-by Pay/On-Call Pay**

### **5.8.1 Time and Pay**

When the City officially places an employee on stand-by/on-call and requires an employee to carry an emergency communication device and to provide response to incidents and calls generally within forty-five (45) minutes, the City shall pay the employee thirty-five dollars (\$35) per calendar day. To be eligible for the stand-by/on-call roster, the employee must be able to respond to a request for a call out within forty-five (45) minutes, and forty-five (45) minutes of travel time each way is considered part of paid time.

### **5.8.2 Enumerated Holiday Time and Pay**

Employees on stand-by/on-call shall receive thirty-five dollars (\$35) or seventy dollars (\$70) per day for City recognized holidays enumerated in Article 9.1.1.

An employee that is in stand-by status for seven (7) consecutive days may elect to take ten (10) hours of compensatory time, in-lieu of pay described in 5.8.1 and 5.8.2.

## **5.9 Reporting Time**

### **5.9.1 Minimum Requirement**

An employee who is scheduled to report for work and who presents themselves for work as scheduled shall be assigned to at least three (3) hours of work.

### **5.9.2 Applicable Pay Rate**

If work within the bargaining unit is not available, the employee shall be excused from duty and paid for three (3) hours work at the appropriate rate, straight time or overtime, whichever is applicable.

### **5.9.3 Excused from Duty**

If an employee reports for and starts to work as scheduled and is excused from duty before completing three (3) hours work, the employee shall be paid for three (3) hours work at the appropriate rate, straight time or overtime, whichever is applicable.

## **ARTICLE 6: WAGES**

## **6.1 Rate of Pay**

Each employee shall be compensated in accordance with the wage schedule attached to this agreement in Appendix A.

### **6.1.1 Effective Date**

Effective July 1, 2024, wages shall increase by three percent (3%).

Effective July 1, 2025, wages shall increase by three percent (3%).

Effective July 1, 2026, wages shall increase by four percent (4%).

### **6.2 Salary Step Increases**

Employees shall be eligible for salary step increase consideration as follows:

Annually on January 1<sup>st</sup> of each year until the employee reaches the top of the range.

### **6.3 Salary on Promotion**

Upon promotion, an employee shall be paid at least the minimum of the salary for the new job and shall receive roughly a five percent (5%) increase (occasionally step distance may vary slightly).

### **6.4 Salary on Return from Layoff**

When the City recalls an employee previously laid off, he/she shall be placed at the step most closely aligned to the employee's rate of pay at the time of the layoff. Future step increase eligibility shall be the prior date, adjusted for the time away, just as if the employee had taken a leave of absence.

### **6.5 Pay Day**

Employees are paid monthly. Paydays are on the last working day of each month.

### **6.6 Out of Class Pay**

Employees assigned by a supervisor in writing to perform the duties of a higher paid position for more than a total of five (5) consecutive working days shall be paid for all such work, retroactively to the first day of the assignment, five percent (5%) of the employee's base salary.

### **6.7 Beginning Salary**

**6.7.1** Normally an employee will be appointed at the first step of the range established for his/her classification. The City may make an appointment above the first step at the sole discretion of the City.

## **ARTICLE 7: RETIREMENT**

### **7.1 Retirement Plan**

The City provides a City Retirement Plan for all regular full-time employees. Employees hired before January 1, 2018 are enrolled in the NERPS (Newberg Employees Retirement Plan). Eligible employees hired on or after January 1, 2018 are enrolled in the Oregon Public

Employees Retirement System (PERS). The employees contribute to their retirement by paying the six percent (6%) employee contribution, directly out of their paychecks into the retirement plan (as a pre-tax contribution per IRS Code 414 (h)).

## **7.2 Deferred Compensation Plan**

The City agrees to provide opportunities for employees to participate in Internal Revenue Code Section 457 Deferred Compensation Plans. Contributions may be made by employees in any amount up to the annual limit set forth by the IRS.

## **7.3 Longevity Salary Program**

Longevity-based payments will be paid as salary at the following rates:

### Five (5) Years:

After five (5) years of employment, beginning the first full month after the five (5) year anniversary date, sixty dollars (\$60) a month, seven hundred twenty dollars (\$720) per year.

### Ten (10) Years:

After ten (10) years of employment, beginning the first full month after the ten (10) year anniversary date, one hundred twenty dollars (\$120) a month, one thousand four hundred forty dollars (\$1,440) per year.

### Fifteen (15) Years:

After fifteen (15) years of employment, beginning the first full month after the fifteen (15) year anniversary date, two hundred dollars (\$200) a month, two thousand four hundred dollars (\$2,400) per year.

### Twenty (20) Years:

After twenty (20) years of employment, beginning the first full month after the twenty (20) year anniversary date, three hundred dollars (\$300) a month, three thousand six hundred dollars (\$3,600) per year.

### Twenty-five (25) Years:

After twenty-five (25) years of employment, four hundred dollars (\$400) a month, four thousand eight hundred dollars (\$4,800) per year.

## **7.4 Retirement Medical Insurance**

Retiring employees may qualify to purchase, through the City, Retirement Medical Insurance, pursuant to the provision of Oregon Revised Statute 243.303.

### **7.4.1 Mutual Agreement**

Both parties must mutually agree to any changes in the retirement plan.

### **7.4.2 Annual Statements and Plan Books**

The City will provide employees annual statements on retirement plans. A Plan summary for NERPS participants is available through Human Resources.



Employees covered under the PERS Plan will receive annual statements from PERS unless they have signed up for electronic statements.

#### **7.4.3 Meeting with Representative**

The City will allow an employee who is within five (5) years of retirement one (1) sixty (60) minute meeting with the retirement plan representative. The City will allow an employee who is within twelve (12) months of retirement one (1) ninety (90) minute meeting with the retirement plan representative.

### **7.5 Retirement and Recall Pursuant to Accrued Sick Leave**

#### **7.5.1 Accrued Sick Leave with Retirement Calculation**

Application of accrued sick leave and its application to retirement calculation is governed by Plan provisions and calculated by Plan administrators.

## **ARTICLE 8: HEALTH & WELFARE**

### **8.1 Carrier and Coverage Changes**

The City retains the exclusive right to select the plans and carriers (or to develop and implement a self-insurance plan) for medical, dental, vision, life and other insurance plans provided that the successor plan(s) provide substantially comparable coverage to the existing plans.

#### **8.1.1 Notification**

If a change in carriers and/or coverage becomes necessary, the City agrees to notify the Union in writing of the change at least thirty (30) days prior to its effective date to allow the Union to provide input on the change. Nothing in this Article is intended to limit or waive the Union's rights under the Public Employee Collective Bargaining Act.

### **8.2 Plans Offered**

The City currently provides full family medical through City County Insurance Services (CIS). Medical; Vision; Dental with Ortho; and Alternative Care Rider- Chiropractic and Acupuncture to eligible employees as defined by Federal and/or State laws, including but not limited to the Affordable Care Act (ACA). Employee contribution toward the monthly health care premium is through payroll deduction.

### **8.3 Premium Contribution**

The City will endeavor to contribute one hundred percent (100%) of the cost of the eligible regular employee's monthly health care premium, including dependent coverage, subject to the following conditions.

#### **8.3.1 Management retains the right to reinstate the previous ninety percent (90)/ten percent (10%) health care premium split should the City enter a period of extreme financial difficulty, so as to reduce the risk of layoffs.**

**8.3.2** A period of extreme difficulty shall be indicated by a projected reduction of property tax revenue of five percent (5%) or more over the previous financial period.

**8.3.3** Should such a period of revenue loss occur the City shall notify the Union with at least three months' notice prior to the change that it is facing extreme financial difficulties and as a result will need to return to the original premium share arrangement.

#### **8.4 Additional Insurance**

The City shall provide Long Term Disability, Accidental Death and Dismemberment, and Life Insurance to eligible employees without cost to the employees.

#### **8.5 Insurance Eligibility**

Insurance plan coverage begins on the first day of the month following date of hire. If an eligible employee does not enroll during the eligibility period the eligible employee is required to wait for an "open enrollment" period to be insured.

#### **8.6 Continued Eligibility Coverage**

The City will pay its contribution for the insurance premium for employees who work or authorized paid leave for at least the first forty (40) working hours of the month. Eligibility for unpaid, unprotected leave is governed by CIS and the insurance carriers.

#### **8.7 Qualified Family Status Changes (Qualifying Event)**

The addition or deletion of dependents as a result of a qualifying event will be provided in accordance with federal or state laws and CIS Policy. Enrollment changes must be made online by the employee with applicable documentation within sixty (60) calendar days for newborns or children placed with the employee for adoption, or a new spouse or domestic partner. Changes shall be effective the first of the month following the date of the qualifying event; except in the case of newborns, adoptions or marriage, coverage is effective on the date of the birth, placement in the home or date of marriage. For newly eligible dependents not enrolled within sixty (60) calendar days, coverage cannot be obtained until the next open enrollment with coverage effective January 1 of the following year.

#### **8.8 Flexible Spending Accounts (FSA)**

The City shall make available the FSA Section 125 plan for health care expense reimbursement and dependent care expense reimbursement. The employee signs up for this plan at the time of open enrollment each year. The amount specified by the employee is deducted from their monthly paycheck. If allowed by the FSA plan administrator, debit cards shall be made available to participants.

#### **8.9 Employee Assistance Program**

The City agrees to make available an employee assistance program providing confidential counseling services to employees and their eligible dependents. For information regarding this plan please contact the Human Resources Department.

## **8.10 HRA VEBA**

AFSCME may elect as a group to join the City of Newberg's existing VEBA account if all members commit to an equal payroll deduction of the same amount. The City will not match or contribute to a VEBA account for employees as long as the City is paying one hundred percent (100%) for medical, dental and vision premiums.

## **ARTICLE 9: HOLIDAYS**

### **9.1 Regular Holidays**

The following days (each a twenty-four (24) hour period from midnight to midnight) shall be recognized and observed as holidays on the days specified.

#### **9.1.1 Recognized Holidays**

The City of Newberg observes the following holidays each year, and offices are officially closed on these days:

New Year's Day	Labor Day
Martin Luther King Jr.'s Day	Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Juneteenth	Fourth of July
Christmas Eve	Christmas Day

#### **9.1.2 Floating Holiday**

Full time employees may selection one (1) additional day (ten (10) hours) off with pay (known as a "floating holiday") during a calendar year. Part-time employees, who are eligible for benefits, will receive pro-rated time for their floating holiday, based on their FTE. A floating holiday for an employee working a ten (10) hour schedule must be taken all on one (1) day and cannot be broken down into increments to use on several days. Someone working an eight (8) hour scheduled must take eight (8) hours on one (1) day and two (2) hour on another day in the same work week (Sunday to Saturday). If the two (2) hour are not taken in the same week they are forfeited. Part-time employees must take the floating holiday all on one (1) day. Employees must coordinate requests for the use of the floating holiday with their supervisor. If your first day of employment is after March 1<sup>st</sup> you will not be eligible for a floating holiday until the following calendar year. A floating holiday not used by December 31<sup>st</sup> of a given year shall expire and be removed from the accrual bank.

#### **9.1.3 Hours Paid for Holidays**

Holidays are paid at the rate of ten (10) hours per holiday except if an eight (8) hour per day employee forfeits two (2) hours by not using it in the same work week.

#### **9.1.4 Observation of Holiday**

If any holiday falls on a Saturday, the preceding Friday will be observed, unless that Friday is also a holiday, in which case the following Monday will be observed. If any of the above holidays falls on a Sunday, the following Monday will be observed, unless that Monday is also a holiday, in which case the preceding Friday will be observed. If the actual holiday, rather than the observed holiday, falls on a Saturday or Sunday an employee who works on the actual holiday shall be paid at the rate of time and one half. This is only for employees working regular hours.

#### **9.1.5 Schedule for Holidays**

The City recognizes twelve (12) holidays each year, which are designated at ten (10) hours each. Part-time employees will receive holiday time according to their pro-rated FTE and must take it on one (1) whole day.

For employees working a four (4)/ten (10) schedule, if the holiday falls on a day when the staff member is not scheduled to work, they shall take the holiday on another day with the same work week (Sunday-Saturday) as the city recognized holiday.

For employees working on a five (5)/eight (8) schedule, they take the holiday on the designated holiday pay, plus they can take two (2) hours of holiday on another day within the same work week as the city recognized holiday.

Additionally for full-time or part-time employees who do not usually work on the holiday or whose fixed schedule does not include holiday days, they should take the holiday on another day within the same work week as the city recognized holiday in the amount of their full-time or part-time FTE.

Management may for operational reasons, choose to allow any employee to earn straight compensation time instead of the method listed above. Earning comp time should only be used when the employee is unable to take the holiday due to designated work requirements with the same pay week. It is the employer's choice, not the employee's choice to designate comp time and this cannot cause the employee to exceed the compensatory time cap outlined in Article 5, Section 5.7.2 of this Agreement. If the employee does not take an alternative holiday in the same work week (Sunday-Saturday), the holiday is forfeited, and no comp time will be earned in its place.

Upon submitting a resignation notice the City requires an employee to work on the day before or after the holiday in order to receive holiday pay. Temporary workers and contract employees are not eligible for paid holidays.



## ARTICLE 10: VACATION

### 10.1 Vacation Eligibility

All full-time and regular part-time employees are eligible for vacation based on the schedule below. All accruals are pro-rated the first month of employment.

### 10.2 Vacation Accrual Schedule

Vacation benefits are earned for each full calendar month worked according to the following schedule:

Length of Service as of Anniversary Date	Vacation Award	Maximum Vacation Accrual Allowed
Up to 5 years	8 hours per month for a total of 96 hours, 12 days or 2.4 weeks/year	192
5 years, less than 10 years	10 hours per month for a total of 120 hours, 15 days or 3.0 weeks/year	240
10 years, less than 15 years	12 hours per month for a total of 144 hours, 18 days or 3.6 weeks/year	288
15 years, less than 20 years	13.33 hours per month for a total of 160 hours, 20 days or 4.0 weeks/year	320
20 years or more	14.66 hours per month for a total of 176 hours, 22 days or 4.4 weeks/year	352
25 years or more	16 hours per month for a total of 192 hours, 24 days or 4.8 weeks/year	384

### 10.3 Pro-rata Accruals

Accrual for regular part-time employees is on a pro-rated basis calculated on the established budgeted FTE. Continuous service will be calculated from the first of the month nearest your date of hire.

### 10.4 Vacation Purpose

Vacation is provided so that employees can enjoy periods of time away from work. Vacation is intended for rest and recreation.

### 10.5 Maximum Accrual

Accruals cannot exceed two (2) times an employee's annual accrual rate. Vacation benefits will stop accruing when the maximum allowed has been reached. The benefit will begin accruing again when the total accrued is less than the allowed maximum.

### **10.6 Vacation Use and Approval Process**

Employees who want to use vacation time should request time off with at least one (1) business day of notice for approval so that arrangements for coverage can be made. Requests for vacation time are to be made through the City's time management software and submitted to the immediate supervisor. Supervisors will evaluate the leave request and provide a clear reason for any denied requests. The City will try to grant each request, but cannot guarantee requests will be approved. In the event of competing requests for times submitted concurrently, consideration will be given to the employee with the longest tenure, or seniority as defined in Article 14. Approval of special requests may be done at the discretion of the department head in accordance with departmental rules.

### **10.7 Vacation Payout**

Upon termination, retirement, or death of an employee, employees shall be compensated for accrued vacation in cash at the employee's current rate of pay.

### **10.8 Vacation Sell Back**

An employee with at least one year of service may elect to sell back up to eighty (80) hours of vacation. The employee must have a remaining balance of forty (40) hours after the sell back. Notification must be made to the City's payroll by June 15<sup>th</sup> of each fiscal year. The payment will be made in the June payroll as part of the regular paycheck. Accrual balances will be adjusted accordingly.

## **ARTICLE 11: SICKNESS AND INJURY LEAVE**

### **11.1 Maximum Accrual**

Sick leave will accrue at the rate of eight (8) hours of sick leave per month up to a maximum of one thousand (1,000) hours for full-time employees and at the prorated equivalent based on budgeted FTE for part-time regular employees.

### **11.2 Use of Sick Leave**

#### **11.2.1 Allowable Reason**

Employees may use their allowance of sick leave when unable to perform their work duties by reason of illness or injury, parental and family leave, necessity for medical or dental care, exposure to contagious disease under circumstances by which the health of the employees with whom associated, or member of the public necessarily dealt with would be endangered by the attendance of the employee, or by serious health condition in their immediate families, requiring the presence of the employee, in compliance with and Oregon or Federal law. Employees may also use sick leave to cover time lost for non-emergency medical appointments for themselves, providing the proper authorization has been granted by management prior to the time being taken off.

### **11.2.2 Return to Work**

In order to ensure employees are fully able to return to work, all absences of forty (40) hours or more may require the employee to submit to human resources a verification of illness or injury, at employer expense, to return to work, signed by a licensed health care provider, unless otherwise agreed to as part of an approved leave.

### **11.2.3 Emergencies**

Emergency situations will be evaluated on a case-by-case basis.

### **11.2.4 Sick Leave Use**

Sick leave is to be used for the purposes outlined in this Article and will not be granted to cover other leave requests made by employees.

### **11.2.5 Legal Requirements**

The City agrees to abide by all State and Federal laws and regulations regarding FMLA, OFLA, Parental Leave Act(s), ADA, Paid Leave Oregon, or similar laws providing rights to employees in their use of sick leave, and other accrued leave banks.

### **11.2.6 Ineligible Employees**

Employees are not eligible for sick leave if continuing to work at another job during the time for which sick leave is requested.

### **11.2.7 Restriction**

Sick leave hours may be used in the pay period in which they are accrued to the employee accrued leave bank.

## **11.3 Family Sick Leave**

### **11.3.1 Eligible Employees**

In the case of a serious health condition of a member of the employee's immediate family, a FMLA/Paid Leave Oregon eligible employee, upon proper notice and approval, may use sick leave to cover time lost.

### **11.3.2 Immediate Family Definition**

Immediate family for the purpose of this section will be defined as spouse, mother, mother-in-law, father, father-in-law, sister, brother, child or ward,

stepmother, stepfather, stepchildren, grandparents, or grandchildren, same sex partner or others as provided for by the law governing such leave.

### **11.3.3 Deduction from Sick Leave Accrual**

Family sick leave will be deducted from the existing sick leave balance of the employee.

### **11.3.4 Use for Child**

Sick leave is also available to care for a sick child who does not have a serious health condition but requires home care (sick child leave consistent with the law governing such leave.

## **ARTICLE 12: OTHER LEAVES**

### **12.1 Union Release Time**

Union officers, stewards and other employee representatives of the Union who are designated by the Union to represent it in activities may be granted up to ten (10) days leave Union Release Time without loss of status, seniority or other benefits. Such leave may be granted upon the written request of AFSCME Council 75, made to the City's human resources manager, not less than ten (10) City business days in advance of the commencement of the requested leave. The City may object if the leave causes undo operational impacts to the organization. The number of Union representatives absent on Union leave shall not exceed two (2) at any one time.

**12.1.1** Authorized Union Representatives granted such Union Release Time as provided in Article to conduct labor organization business shall be maintained on the payroll with full accrual of wages and benefits. The Union shall reimburse the City for the fully burdened costs for each Authorized Union Representative taking such Union Release Time. The Union agrees to reimburse the City for all such costs of Union Release Time for each Authorized Union Representative monthly, for the previous month, upon receipt from City of an itemized summary of the costs including any compensation that is paid to the employee during that month, including but not limited to, the cost of wages, benefits, workers' compensation insurance and any employer contributions made toward any employee benefits, including but not limited to, benefits under ORS Chapter 238A, and other administrative costs not to exceed five percent (5%) of the Authorized Union Representatives' total compensation package.

**12.1.2** The Union will defend, indemnify, and hold harmless the City for any and all costs including attorney's fees, damages, settlements, judgments, or other costs, obligations and liabilities the City incurs as a result of any actions taken by the Authorized Union Representative on behalf of the Union during the period of Union Release Time.



## **12.1 Jury Duty**

The City of Newberg will grant employees paid time off for mandatory jury duty and/or jury duty orientation. A copy of the court notice must be submitted to Newberg Payroll to verify the need for such leave. Any payments offered as part of jury duty would be declined by the employee. If they cannot be declined, they should be submitted to the City. If this duty continues beyond three (3) weeks, the employee will need to report back to the HR department on the progress of the proceeding and seek a continuance of this special pay. If jury duty does not take the entire work day, employees shall be afforded reasonable paid time in order to travel to work or the employee may choose to use appropriate leave for the remainder of the shift if pre-approved.

## **12.2 Bereavement Leave**

### **12.2.1 Definition**

Each regular employee covered by this contract will be entitled to up to forty (40) hours (prorated based upon FTE) of bereavement leave with pay per qualifying occurrence. Leave days may be non-consecutive, with approval from the department head or designee when the situation applies. For example, the employee takes three (3) ten (10) hour days (thirty (30) hours) off when the death occurs and later in the month takes a single ten (10) hour day off for the service. The City reserves the right to require verification for the use of this leave.

Employees shall be allowed any additional leave as permitted under OFLA.

### **12.2.2 Use**

Such bereavement leave will apply to a death in the immediate family as defined under OFLA guidelines.

### **12.2.3 Not Accruable**

Bereavement leave will not be accruable from year-to-year, nor will it have any monetary value if unused, and is not available for cash-out.

### **12.2.4 Additional Time Off**

Employees wishing to take time for the loss of a family friend, pet, or other loss not specifically declared in this article, may request to take time off but will need to utilize accumulated vacation or compensatory time. Management will consider such requests and in the interest of supporting the employee at their time of loss, approve when staffing levels permit.

## **12.3 Educational Leave With or Without Pay**

### **12.3.1 Definition**

Special consideration may be granted to employees wishing leave for purposes of pursuing educational training at any accredited school when the course of study is directly related to the requesting employee's work. Such leave will be without compensation.

### **12.3.2 Certifications and Training**

The City will pay for the maintenance of all job related certifications obtained while in the employ of the City, as well as all training, fees and materials for employer-required certifications within each department to include up to three (3) testing fees for a given job related certification. The City may also at each department head's discretion, pay for training, fees and materials for certifications required for advancement to the next certification level or advancement to a higher classification. (e.g., Operator I to Operator II requires a higher certification).

## **12.4 Government Leave**

The City will provide leaves for military service and other public service areas as required by state and federal law. Grievance action taken under this section will not include binding arbitration unless mutually agreed to by the parties.

## **12.5 Family Medical Leaves**

Employees shall be eligible to take Family Medical Leave(s) in accordance with relevant Federal and/or Oregon law. Necessary requests and documentation will be filed with the human resources department or Department of Employment for Paid Leave Oregon. Human resources will process the requests, notify the supervisor and department head of the approval and maintain the appropriate private and separate medical files as required by Federal regulations.

## **ARTICLE 13: PROBATION**

### **13.1 Probationary Period**

#### **13.1.1 Original Appointment Probationary Period**

All original appointments shall be tentative and subject to a probationary period of twelve (12) months of service. A written review of the employee's adjustment to work tasks, conduct and other work rules, attendance, and job responsibilities will be conducted at or around the six (6) month from date of hire. Upon written agreement by the City and the Union, probation may be extended. Time spent on extended leave (leave greater than two (2) consecutive weeks) by the employee does not count towards the months of service required to complete the probationary period. Probation shall end only upon receipt of a satisfactory performance review which shall not be delayed unreasonably. A

probationary employee who has not received a written review by the end of their twelve (12) month probationary period, shall notify human resources in writing, who will respond within fourteen (14) calendar days with a scheduled date for the review. If no response is received within that time frame, the employee will be deemed to have completed probation.

#### **13.1.2 Regular Employment Status**

Upon satisfactory completion of the probationary period as judged by the City in a written performance review, the employee shall be considered as having demonstrated qualifications for the position, shall gain regular status, and shall be so informed through the supervisor.

#### **13.1.3 Termination During Probationary Period**

During the initial probationary period, a probationary employee may be terminated at any time without appeal or recourse to the grievance procedure of this Agreement. Probationary employees may use the grievance procedure for other, non-termination provisions of the contract.

#### **13.1.4 Promotional Probationary Period**

Upon promotion within the bargaining unit, an employee will undergo a promotional probationary period of six (6) months. If more time is necessary to evaluate a promoted employee, the City may extend the promotional probationary period up to three (3) months. During the promotional probationary period, an employee may be returned to the employee's former position for any reason without appeal or recourse to the grievance procedure of this Agreement. During the promotional probationary period the employee may elect to return to their previous position at any time within the first thirty (30) days in their new position.

### **ARTICLE 14: LAYOFF/SENIORITY**

#### **14.1 Seniority**

##### **14.1.1 Seniority Definition**

For purposes of this contract, "seniority" means length of continuous service in a bargaining unit position, computed from the date of the employee's original hire. Such date shall be known as the employee's "continuous service date." Where two employees have the same continuous service date, the employee whose application was first filed shall be deemed the senior employee. Where continuous service dates and application dates are the same, seniority shall be determined by lot.

##### **14.1.2 Continuous Service Definition**

As used in this section, "continuous service" includes all authorized paid and unpaid leaves of absence, but does not include any period between an

employee's layoff and recall. In the event of layoff and recall, the employee's continuous service date shall be adjusted to reflect a total length of continuous service.

## **14.2 Order of Layoff- Definition of Reduction in Force.**

Reduction of force is defined as a reduction in hours from full-time to part-time and from full-time or part-time to separation from employment.

### **14.2.1 Reduction in Force**

In the event of a reduction in force in a department or division, the City will first ask for volunteers in that job. If there are no volunteers, or the number of volunteers is insufficient, layoffs will be made in the inverse order of seniority. The City will provide sixty (60) days written notice in person to the affected employees and by email to the union. Affected employees shall be informed of the layoff as soon as practicable. The laid off employee may, at the employee's discretion, bump a less senior regular full-time employee in a lower job description, if the laid off employee is qualified for that position. "Qualified" shall be defined as meeting the posted minimum qualifications in the job description at the time of bumping, including required certifications. Exceptions to certification may be made at the City's discretion in jobs where the law does not require certification for the position and the employee has the necessary skills and can obtain the certification within ninety (90) days.

### **14.2.2 Layoff Status**

While on layoff status, regular employees may apply for seasonal work. If an employee is laid off from a regular job and later accepts a seasonal position, this would not change any of the provisions in this Article. Employees who bump to a seasonal position will be subject to recall under Articles 14.3 and 14.4.

### **14.2.3 Pay Status**

Employees who bump to a seasonal position will be paid at the existing hourly rate as paid to other seasonal positions.

## **14.3 Layoff Status**

### **14.3.1 Definition**

For a period of twelve (12) months following the date of layoff, or reduction in hours from full-time to part-time, an employee shall be classified as on "layoff status," and the employee's name maintained on a recall eligible list. The order of names on the recall list shall be *in inverse order of layoff, by job description*. At the end of the twelve (12) month period, or sooner if the employee so requests, the employee's name shall be removed from the list.

#### **14.3.2 Entitlements**

An employee on full layoff status shall not be entitled to any pay, status, benefits, or employment rights other than those specifically provided herein. Employees who are changed from full-time to part-time status will be eligible for all provisions, status, benefits or employment rights as a regular part-time employee.

#### **14.3.3 Notification of Change of Address**

An employee on layoff status shall promptly inform the Human Resources Manager of any change of address and shall be deemed terminated if a letter mailed to the last address recorded with the City is returned unclaimed.

#### **14.3.4 Accrual Payout**

An employee being laid off shall be paid for the total accrued vacation, holiday (if any) and compensatory time existing at the time of the layoff date.

### **14.4 Order of Recall**

#### **14.4.1 Definition**

An employee on the recall list shall be offered a seasonal position, if available, if the employee is qualified for the position.

#### **14.4.2 Order**

Employees will be recalled based upon their job classification and seniority date at the time of layoff with the most senior employee being recalled first.

#### **14.4.3 Eligibility**

Regular employees who are on a recall list (as defined by Article 14.3) will be eligible for employment in a vacant seasonal position. Regular employees who accept seasonal work shall be retained on the recall list. Failure to accept seasonal work will not affect the employee's standing on the recall list.

#### **14.4.4 Termination**

An employee shall be deemed terminated if the employee does not report for work within ten (10) City business days of written notice of recall via registered mail for a regular position. Except as provided in this section, no person shall be hired to fill any position from which an employee was laid off as long as there is an employee within that job description on the layoff eligible list.

#### **14.4.5 Restoration of Accrued Sick Leave**

Upon recall, the employee shall have restored for authorized use all accrued sick leave hours as recorded by the City at the time of the layoff (this shall be the adjusted amount after fifty percent (50%) is provided for retirement per Article 7.5). This does apply to cases where the laid off employee returns to



City work by being hired as a replacement as provided in Article 14.5.2 below. Time served in a seasonal appointment will not be credited towards the recalled employee's continuous service date for the regular position.

#### **14.4.6 Acceptance of Regular Position**

If an employee accepts a regular position, that employee will not be placed on the recall list and shall have no rights to recall, with the exception of 14.5.2.

### **14.5 Replacement Employment**

#### **14.5.1 General Applicant**

An employee on layoff status may apply for a position with the City in a job other than the one from which the employee was laid off.

#### **14.5.2 Retaining Eligibility**

Acceptance of employment in a lower level job with a lower pay scale other than the employee's former job shall not be cause to remove the employee's name from the layoff eligible list. Rejection of replacement employment shall not be grounds for removal.

## **ARTICLE 15: PROMOTION AND VACANCIES**

### **15.1 Promotions**

Promotion is the change of position for an employee from a position in one class designation to a position in a class assigned to a higher salary range.

### **15.2 Filling Job Vacancies**

Any job vacancy may be filled by promoting qualified employees within the City service or by hiring an external candidate. The City will fill employment vacancies with the most qualified applicant, whether it is from an internal or external source.

### **15.3 Appointment to Filling Vacancies**

The appointment to fill a vacancy shall be made on a competitive basis utilizing criteria established by the City.

### **15.4 Recruiting and Hiring Process**

External recruiting may be initiated concurrently with the internal posting process, but no hiring commitment or decision will be made until the position has been posted internally for a minimum of five (5) working days. Any internal applicant from the bargaining unit for a bargaining unit position within the City will automatically have an initial interview.

Existing employees denied a promotion or their application to fill a vacant position may request a preview with the hiring manager to better prepare the employee for future opportunities.

To be eligible to promote or otherwise fill a vacancy to a different job, the employee shall not be in the process of any disciplinary action during the recruitment process. New probationary periods will begin at the time of an approval promotion or filling of a vacancy.

### **15.5 Probation in New Position**

Employees who are promoted or otherwise fill a vacancy shall serve a six (6) month probationary period in that different position unless they have not completed their initial probation. When an employee is promoted or otherwise fills a vacancy or transferred during their initial probationary period the six (6) months probationary period will be served concurrently with any unserved initial probationary period, however, the employee will continue to be “at-will” until they have passed the initial twelve (12) months.

The City may extend the six (6) month promotional period for up to three (3) additional consecutive months. The employee shall be covered by all terms and conditions of this contract except that the City’s standards for successful completion of the probationary period and its application to the employee may not be grieved.

### **15.6 Right of Return**

Any regular status employee who is promoted shall have a thirty (30) calendar day period from the date of appointment during which the employee shall be allowed to return to the employee's former position. This thirty (30) calendar day period of time may be extended by the City if it has not made an offer of employment for the career employee's former position. In the event that an employee fails to pass the employee's six (6) month promotional probationary period due to an inability to meet performance standards, the employee will be returned to his/her previous position.

## **ARTICLE 16: PERSONNEL RECORDS**

### **16.1 Files**

Employees may inspect the contents of their personnel file, in the presence of an authorized City representative. The official files will be kept in a secure location. Any duplicate or subsequent notes or records kept by a supervisor shall be for reference only and will not be considered part of the official file. Employees shall have the right to challenge any records that should have been purged per section 16.3. If found to be incorrectly in the file, the document will be destroyed.

### **16.2 Signature Requirement**

No information reflecting critically upon employees will be placed in their personnel files without the employees being given the opportunity to review and sign the information. Employees will be required to sign such material to be placed in their personnel file with the understanding that their signature does not indicate agreement. If the employee refuses to sign the document, the supervisor will make a note that the employee has refused to sign and will place the information in the file. Signature sections shall not be on a separate page from the document. They shall be on a front to back or two-sided document to show that the signature was placed on the original document and not on a document later amended post-signature. Original signed documents shall be kept in the official personnel file at human resources.

### **16.3 File Purging**

Documentation of an oral reprimand will be removed from the employee's personnel files after eighteen (18) months. Upon written request of the employee, written reprimands may be removed from their personnel files after eighteen (18) months at the discretion of the division manager and as long as no discipline occurred within that time period. Upon written request, written reprimands shall be removed from the employee's personnel files after thirty-six (36) months if no discipline has occurred during that time period. This shall include copies in any subsequent "supervisory" files kept outside of human resources.

## **ARTICLE 17: EMPLOYEE EVALUATION**

### **17.1 Evaluations**

As part of the City's personnel system each employee shall be subject to a performance preview or review according to the City's performance review process upon completion of the probationary period.

### **17.2 Furnished Copies**

An employee shall receive a copy of any performance preview or review.

### **17.3 Supplemental Letter**

An employee may write a supplemental letter and have it put in his or her personnel file along with any preview/review placed in the employee's personnel file.

### **17.4 Definition**

Performance previews/reviews are not considered disciplinary action, and shall not be used as such.

## **ARTICLE 18: DISCIPLINE AND DISCHARGE**

### **18.1 Disciplinary Action**

#### **18.1.1 Definition**

Disciplinary action may be imposed upon a non-probationary employee following the principles of just cause. Disciplinary action imposed on any non-probationary employee may be processed through the regular grievance procedure in this agreement. A grievance of an employee discharged shall be filed at Step 2 (19.6) and must comply with all the requirements of Step 1. Oral reprimands shall be limited up to Step 2 of the grievance process.

#### **18.1.2 Progressive Discipline and Serious Misconduct**

Disciplinary action shall be timely. The City will use progressive discipline unless the misconduct is of a serious nature that merits a higher level of discipline. Examples of serious misconduct may include, but are not limited to, violence or threats in the workplace, being intoxicated or otherwise impaired

while working, and sexual harassment. Except in cases of serious misconduct, discipline shall be corrective and not punitive. Discipline may include but is not limited to, oral reprimand, written reprimand, suspension without pay or in lieu of suspension final/last chance warning, and discharge.

#### **18.1.3 Consequences**

Serious violations, as determined by the City, may be dealt with by any of the above measures on the first offense or subsequent offenses.

#### **18.1.4 Reprimand and Discipline**

If the City has reason to reprimand or discipline an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

#### **18.1.5 Stewards' Rights**

A steward shall have the right to discuss any disciplinary action imposed or recommended by a supervisor with that supervisor at the affected employee's request, with or without the employee's presence.

#### **18.1.6 Employees' Rights**

In addition to the provisions of 18.1.5 above, an employee has the right to have a steward present at an interview with a supervisor when the employee has a reasonable belief that the interview is part of an investigation which could result in disciplinary action of the interviewee. The interview may not be unduly delayed awaiting a particular unavailable steward when other stewards may be available.

#### **18.1.7 Due Process**

Due Process procedures which normally will be followed when an employee may be subject to discipline greater than a oral reprimand are as follows:

##### **18.1.7.1 Notification of Charges or Allegations**

The employee will be notified of the charges or allegations which may subject them to discipline.

##### **18.1.7.2 Notification of Disciplinary Sanctions**

The employee will be notified of the disciplinary sanctions being considered.

##### **18.1.7.3 Employees' Opportunity to Refute Charges or Allegations**

The employee will be given an opportunity to refute the charges or allegations either in writing or orally in an informal hearing.

#### **18.1.7.4 Accompaniment by Employee**

At their request, the employee will be entitled to be accompanied by a fellow employee or a representative of the Union at the informal hearing.

### **18.2 Right to Grieve Discipline**

Any discipline imposed on a non-probationary employee may be grieved through the provisions of Article 19. If an arbitrator determines that an employee has been issued discipline that does not comply with the just cause or other provisions of this Article, the arbitrator will have the authority to fashion an appropriate remedy that may include reinstatement with full restoration of rights and conditions of employment, compensation for lost wages or other benefits, or a reduction of the level of discipline issued.

### **18.3 Plans of Correction and Improvement**

Management may counsel employees about areas in which improvement can be attained, when in the supervisor's assessment the employee could benefit from the additional coaching. The City may also provide counseling during the employee's performance preview and when appropriate the City and employee may develop a plan of action for improving performance.

The goal of this counseling is to help the employee understand the supervisor's expectations and provide a time frame during which the employee and the supervisor will work closely together to reach the required performance or behavioral improvements contained within the plan. So called "teachable moments" are not disciplinary in nature. These plans are not an extended probation, nor are they intended to be discipline. The purpose behind these policies is to provide a tool which allows for the documentation of improvements that must be made by an employee in meeting either the performance or behavioral expectations of the supervisor.

## **ARTICLE 19: DISPUTE SETTLEMENT**

### **19.1 Grievance Definition**

As used in this contract, the term "grievance" means any claim by or on behalf of a particular employee or party to this contract that such claimant's rights, benefits, privileges, or interests under this contract have been violated or that this contract has been misapplied to such claimant in a particular case.

### **19.2 Exclusive Remedy**

Grievances shall be initiated and processed in the manner provided for herein, which procedure the parties mutually acknowledge to be the exclusive and binding process for the resolution of disputes constituting grievances.

### **19.3 Time Limits and Procedures**

Any or all time limits specified in the grievance procedure may be waived by mutual consent of the parties. Any such waiver must be reduced to writing by the party requesting it and agreed to in writing by the other party (exchanged emails shall be sufficient to meet this



requirement). Failure of the aggrieved party to submit or prosecute a grievance in accordance with these time limits shall constitute abandonment of the grievance. The City shall respond to the grievance within the stated time limits unless an extension has been mutually agreed upon. Upon failure of the City to respond to a grievance within the specified time limits, the Union will be permitted to advance the grievance to the next step.

## **19.4 Grievances**

### **19.4.1 Outline of Written Grievance**

The written grievance shall include:

#### **19.4.1.1 Name and Position**

The name and position of the employee by or on whose behalf the grievance is brought.

#### **19.4.1.2 Dates**

The date of the circumstances giving rise to the grievance, and the date of the employee's first knowledge thereof, if later.

#### **19.4.1.3 Statement**

A clear and concise statement of the grievance, including the relevant facts necessary to a full and objective understanding of the employee's position.

#### **19.4.1.4 Provisions**

The specific provision or provisions of the contract allegedly violated by the City.

#### **19.4.1.5 Remedy**

The remedy or relief sought by the employee.

#### **19.4.1.6 Signature(s)**

The signature of the employee and/or the shop steward submitting the grievance, and such person's name and position.

## **19.5 Grievances at Step 1**

The union has fifteen (15) calendar days after the incident that led to a grievance, to file with the employee's immediate supervisor. The supervisor has fifteen (15) days of receipt of the grievance to provide a written response. If the grievance is not resolved at Step 1, the union has ten (10) calendar days to advance the grievance to Step 2.

## **19.6 Grievances at Step 2**

The grievance, along with all pertinent written information will be submitted to the city manager or their designee. The city manager or designee shall meet with the employee and/or the Union representative and will render a decision within fifteen (15) calendar days of receipt

of the grievance. If the city manager's decision does not resolve the grievance, the Union may advance the grievance to Step 3.

## **19.7 Grievances at Step 3**

### **19.7.1 Process**

If the Union chooses to advance the grievance to Step 3, the Union must provide notice to the city manager and request a list of arbitrators from the Employment Relations Board within fifteen (15) calendar days of the City's response in Step 2, unless mediation has been requested. If the parties do not agree to mediation, the Union must request a list of arbitrators within fifteen (15) calendar days of the refusal to mediate. Grievances shall be submitted to a single arbitrator chosen in the following manner from a list of seven (7) names submitted by the State Conciliator of the Employment Relations Board or from any other agency on which the parties agree. Within fifteen (15) calendar days following the Union's receipt of the list of arbitrators, the City and the Union representatives shall flip a coin to determine who shall exercise the first opportunity of striking a name, with the loser of the coin toss striking first. Strikes shall be exercised alternately until each party has exercised three (3) strikes and only one (1) name remains, who shall be the arbitrator. Within fifteen (15) calendar days from the date the arbitrator is selected, the Union, on behalf of both parties, shall inform the arbitrator of selection, and the arbitrator shall schedule a hearing.

### **19.7.2 Mutual Agreement**

The parties may, by mutual agreement in a particular case, provide for any amendment, waiver, modification, or addition to the rules and procedures herein set forth in this Article, which agreement shall not affect subsequent cases.

### **19.7.3 Mediation**

Within fifteen (15) calendar days of receipt of the City's response in Step 2, either party to the labor contract may request mediation. Both parties must agree to mediation. If agreed to by both parties, the Union will contact the State Conciliator of the Employment Relations Board and a mediation session will be held with an assigned mediator. If mediation is not successful, a request shall be made within ten (10) calendar days from the conclusion of mediation, for a list of arbitrators. Mediation shall be concluded when (1) the parties mutually agree in writing that the grievance is resolved; and (2) the Union provides written notice that the grievance is withdrawn; or (3) either party notifies the other party and the mediator in writing that it wishes to conclude mediation, but only after at least one mediation session has been held.

#### **19.7.4 Arbitration Rules**

Except as expressly provided herein, arbitration of grievances shall be conducted according to the applicable rules of the organization that supplied the parties with a list of arbitrators.

#### **19.7.5 Arbitration Process**

When, after the initiation of a grievance at Step 3 but before the arbitration hearing, new factual information or evidence directly relevant to the issues first comes to the knowledge of a party, which was not previously known to the party, notice of such information shall be served immediately on the other party's representative. Such information may be introduced in arbitration, if otherwise admissible according to usual evidentiary standards in arbitration.

#### **19.7.6 Arbitration**

The powers of the arbitrator shall be limited to determination of issues of fact and the application and interpretation of the provisions of this contract. The arbitrator shall have no power or authority to alter, abridge, modify, vacate, or attend any of the terms of this contract; nor to substitute the arbitrator's judgment for that of the City as to any matter within the City's discretion under this contract, as long as the City did not exercise its discretionary authority unreasonably, arbitrarily, capriciously or discriminatorily; nor to consider, decide, or act upon any condition or circumstance not treated in this contract.

#### **19.7.7 Arbitrator's Decision and Costs**

The arbitrator shall render a decision within thirty (30) days of the close of the hearing. Any necessary expenses for the services of the arbitrator shall be split equally between the parties. If either party desires an official verbatim record of an arbitration proceeding, it may cause such a record to be made, providing it pays for the record and makes copies available without charge to the other party and to the arbitrator. Each party shall be responsible for compensating its own representatives or witnesses, subject to changes in relevant case law and in accordance with Article 25 Savings Clause. The names of any witnesses to be used in arbitration by either party shall be made known to the other at least seventy-two (72) hours prior to the arbitration hearing.

#### **19.7.8 Arbitrator's Decision**

The decision of the arbitrator, if arrived at pursuant to the provisions of this contract, shall be final and binding upon the parties.

### **19.8 Informal Discussion Permitted**

Nothing in this article is intended to preclude or prohibit informal discussion of a potential grievance between an employee and the immediate supervisor, provided that the time limits set forth herein are adhered to.

## **19.9 Confidentiality**

All proceedings, meetings, and discussions related to grievances shall be limited in attendance to the parties and their designated representatives. All documents and information relative to the grievance and resolution are exempt from public disclosure to the extent allowed under the public records law, until the conclusion of the final proceeding.

## **19.10 Absence from Work Station**

Except for the provisions of Article 19.7.7, union stewards representing employees or the Union at the meetings and hearings provided for in this article shall be permitted, after notice to the immediate supervisor, to leave their assigned work areas without loss of pay during their attendance at such meetings or hearings.

# **ARTICLE 20: NO STRIKE OR LOCKOUT**

## **20.1 Strike Prohibited**

During the life of this Agreement, the Union and its members, as individuals or as a group, will not initiate, cause, permit, participate in or join any strike, work stoppage, slow down, picketing or any other restriction of work. Employees in the bargaining unit, given the opportunity to confer with a supervisor while acting in the course of their employment, shall not honor any picket line when called upon to cross such picket line in the line of duty. Disciplinary action, including discharge, may be taken by the City against any employee or employees engaging in a violation of this article.

## **20.2 Union's Duty**

In the event of a strike, work stoppage, slow down, picketing, observation of a picket line or other restriction of work in any form, either on the basis of individual choice or collective employee conduct, the Union will immediately upon notification make reasonable attempts to secure an immediate and orderly return to work.

# **ARTICLE 21: OUTSIDE EMPLOYMENT**

## **21.1 Approval to Engage in Outside Employment**

Bargaining unit employees may not engage in outside employment that conflicts with the nature of the City's mission, conducts business with the City of Newberg, or otherwise interferes with the employee's ability to perform according to established standards of performance and work rules. An employee also may not conduct business connected to outside employment during scheduled hours of work at the City of Newberg.

An employee must receive authorization prior to engaging in outside employment. Any employee who wishes to engage in outside employment must submit a completed "Outside Employment" form to the employee's supervisor followed by review and approval of the City Manager. If the City, in its discretion, determines that the outside employment does not create a conflict, it will approve authorization of the request and place the Outside Employment form in the employee's Personnel File. If the City does not approve an outside employment request, the

Union reserves the right to meet and discuss the rationale for the City's decision. The City has the final say and the decision is not grievable.

## **ARTICLE 22: WORKING CONDITIONS AND SAFETY**

### **22.1 Safety**

The City and employees agree to abide by federal and state safety regulations per the Oregon Administrative Rules. Unsafe practices and conditions shall be immediately called to the attention of the employee's immediate supervisor and/or available supervisor. Once substantiated by the City, the unsafe condition shall be remedied as fully as possible. The City shall not discipline or in any manner discriminate against any employee who in good faith and for cause reports the existence of an unsafe condition or practice to the City. If an employee refuses to work due to a good faith belief and for cause evidence of unsafe working conditions after following the proper reporting of unsafe conditions as outlined above, the City agrees to not subject the employee to discipline. If the City fails to remedy the situation in a reasonable amount of time, the employee will not be penalized for reporting the unsafe condition. However, if the City examines the condition and deems it safe, the City can require the employee to perform the work.

### **22.2 Uniforms and Protective Clothing**

#### **22.2.1 Provided Uniform Items**

The City shall provide uniform items required for the position, including but not limited to, shirts, jackets, vests, coveralls, gloves, safety glasses, rain gear, ANSI approved safety toed boots/shoes, if required, ANSI approved rubber boots, hats and replacement items as authorized by the Superintendent or designee.

Employees shall have the right to choose their preferred brand, fit, and style of provided boots within reason.

#### **22.2.2 Employee Choices**

Employees should have choice in fit of apparel, i.e. correct sizes. Every AFSCME union employee shall be paid a taxable one hundred fifty dollars (\$150) clothing allowance annually in the July payroll each year.

### **22.3 Clean Up Time**

Whenever it is essential for employees to clean up or change clothes to be presentable upon leaving work, the employee shall be granted adequate personal cleanup time prior to the end of each work shift. The City shall provide the required facilities for the employee's cleanup time. Work schedules shall be arranged so that the employees may take advantage of this provision where it is applicable. Neither party to this contract shall construe "clean up time" to mean "quitting early time," "leave early time" or come in early from the field.



## **22.4 Tools and Equipment**

Providing safety equipment and personal protective equipment is the City's responsibility. The City shall provide tools, except in Fleet Services where employees may elect to use pre-authorized personally owned tools.

## **22.5 Travel**

Employees shall make every effort to travel as economically as practical. The City shall use a reasonableness test to evaluate whether employee proposed travel expenses are economical under the circumstances. Distances more than seventy (70) miles from Newberg, shall be considered for hotel stays, either on the night before or after a required class or training. The City has discretion to provide a City-owned vehicle for the travel, or to authorize the employee to use a personal vehicle. If, by mutual agreement, the employee uses a personal vehicle, the City shall reimburse the employee at the rate determined by the Internal Revenue Service. If the City requests that the employee use a City-owned vehicle, but the employee chooses to drive a personal vehicle, the City will not reimburse for travel. Drive time to required classes is paid roundtrip.

## **22.6 Bargaining Agreement and Personnel Rules and Regulations**

The City will make a copy of this collective bargaining agreement electronically available within sixty (60) days of full execution of this contract.

The City will also provide electronic access to the City's Employee Handbook, any employee personal rules and regulations and any amendments of such rules.

The City will furnish each new employee information on how to access this agreement and the City's Employee Handbook and any personnel rules and regulations on the City website at the time of appointment.

## **22.7 Vehicle Safety**

The parties recognize that possession of a valid Commercial Driver's License (CDL) or driver's license is an essential job function for a number of City positions. If an employee holds a position in a classification that requires a valid driver's license, and his/her license is non-renewed, suspended or revoked, that person will be subject to termination due to failure to maintain or report a change in the minimum qualifications. An exception to this is if the employee temporarily loses his/ her driver's license for a traffic violation, or their CDL lapses, the employee can apply accrued leave and other compensatory time, or if the City, without creating an operational disturbance can find alternative work duties, the City and the employee will bridge the gap, up to sixty (60) days. Employees are obligated to notify their employer immediately if their license is invalid or suspended.

### **22.7.1 Global Positioning Systems (GPS)**

The City will provide at least ten (10) days advance notice to the Union and affected employees of any plans the City may adopt the installation of a GPS system in any vehicles that are operated by members of the bargaining unit.

The City intends to use the vehicle GPS system to improve operation efficiencies, achieve cost savings through preventative maintenance, and improve employee safety. Information or data gathered through the GPS system may not be the sole evidence for disciplinary action.

#### **22.7.2 Policy for Firearms**

Employees that commute to work in personally owned vehicles and park in City owned parking areas, but do not use their personal vehicle for the performance of work duties may carry legally owned firearms in their personal vehicles on City property in accordance with ORS 166.370. Firearms must be in a locked vehicle out of public display and if a firearm is in the vehicle, the employee may not transport another employee, vendor or member of the public during working time.

#### **22.8 City to Bear Cost of Commercial Driver's License Requirement**

The City shall bear any additional costs associated with a required commercial driver's license (CDL). Should an employee allow their CDL to expire or it is revoked, any re-instatement fee shall be the responsibility of the employee.

#### **22.9 Impairing Medications**

If an employee is taking any medication that has a warning label indicating it may cause impairments when driving or operating equipment and the employee's job duties include driving or operating equipment, the employee shall notify the human resource office before reporting to work. Failure to provide such notice may result in discipline depending on the severity and circumstances of the incident.

#### **22.10 Inclement Weather**

**22.10.1** Essential personnel is defined as employees who are required to respond to work even during a City declared inclement weather or emergency situation as their duties are essential for basic City functions. Essential personnel will be notified annually by their supervisor that the position they hold is so designated.

**22.10.2** Inclement weather will be defined and declared by the city manager or their designee. Once an inclement weather day has been declared, notice will be given to all City employees via public media, by phone, or other notification system as determined by management.

**22.10.3** In the event that the City decides to close operations due to inclement weather or hazardous conditions, non-essential employees will not be required to report to a City facility. Non-essential employees will, at minimum, be paid their base rate for a full shift that day. Non-essential employees who have reported to their assigned shift at a City facility prior to the city manager closing the City shall receive the one and a half (1.5) rate or compensatory time for the actual hours worked.

**22.10.4** Essential personnel required to report to work in inclement weather when the city manager has closed the City shall receive pay at time and one half (1.5) for actual hours worked that day.

**22.10.5** Employees who attempt to get to work on time but are unavoidably delayed due to inclement weather when their worksite is open for regular business hours may arrive up to two (2) hours late for their scheduled shift without penalty. If an employee is more than two (2) hours late for their scheduled shift, the employee will use vacation time, saved holiday, compensatory time or leave without pay in fifteen (15) minute increments for time into their scheduled shift in excess of two (2) hours.

**22.10.6** In the absence of a work site closure, an employee who determines that they cannot safely reach their assigned work location, or that they must leave early due to inclement weather, will charge time missed from their scheduled shift to vacation time, saved holiday, or compensatory time.

**22.10.7** In the event of a natural disaster (earthquake, floods, major inclement weather) the City will take necessary action and make every effort to inform all employees of the procedures that should be followed. Should lines of communication become unavailable, employees must make every effort to report to their work locations as soon as is reasonably possible during work hours.

## **22.11 Hazardous Air Quality**

### **22.11.1 Hazardous Air Quality Defined**

For purposes of this Article, air quality will be considered unsafe due to inclement conditions if an air quality index (AQI) measurement within one (1) mile of an employee's work location has been found to be "very unhealthy" or worse, as defined by the United States Environmental Protection Agency.

**22.11.2** When DEQ and OHA declare an air quality issue in the Portland or Salem regions, a supervisor will check the local AQI readings regularly and report them to the department head. The City will apply Oregon OSHA's air quality for outdoor workers guidance accordingly.

**22.11.3** Concern that the building or outdoor area where work has been assigned is unsafe due to air conditions is a valid reason to report an unsafe work assignment to the supervisor. In such cases, the employee shall report the concern to their supervisor, who may choose to mitigate the safety concern through proper PPE, engineered controls, or reassign the employee to an alternative work assignment, including telework if appropriate. From the time that the employee raises the concern, to the point the concerns are mitigated, the employee shall not suffer any loss of pay.

**22.11.4** When the City establishes a late opening due to elevated AQI, employees will report to work at the modified open time without loss of pay.

## **ARTICLE 23: JOINT LABOR MANAGEMENT COMMITTEE**

### **23.1 Membership**

A Joint Labor Management Committee is hereby established to serve as a mechanism for dialogue between the parties and as a vehicle to discuss issues of mutual concern to the parties. The parties agree to meet at least two times per calendar year. The parties have the authority to create additional subcommittees underneath the auspices of the Joint Labor Management Committee, as the parties may deem appropriate. The Joint Labor Management Committee shall be composed of eight (8) members, with four (4) members appointed by the Union and four (4) members appointed by the City's human resource manager. Permanent or temporary membership of the Committee may be expanded by mutual agreement of the Union and City. Should the Joint Labor Management Committee meet during normal work hours, no bargaining union member of the Committee shall suffer any loss of pay as a result thereof.

### **23.2 Issues**

The parties agree that the Joint Labor Management Committee and its subcommittees, as appropriate, will thoroughly examine and discuss the issues that have been jointly identified and any new issues that later are identified by the parties. It is intended that each issue will be thoroughly explored so that the ramification and impacts of each issue are understood by the committee members. The Joint Labor Management Committee shall have no authority to review the merits or adjust specific employee grievances. Subject to the deliberation of the subcommittees, or the Joint Labor Management Committee itself, recommendations may be issued to the Union's leadership or membership, as appropriate, and to the city manager or city council as appropriate.

## **ARTICLE 24: SAVINGS CLAUSE**

### **24.1 Remainder of Contract Enforceable and Duty to Bargain Replacement Language**

Should any article, section, provision, or portion thereof of this Agreement be held unlawful or unenforceable by any court of competent jurisdiction or become unlawful through a change in applicable state or federal law, only the specific article, section, provision, or portion thereof will be invalidated. The remainder of the Agreement will still be given full force and effect and remain binding on the parties. The parties agree to meet promptly in order to bargain replacement language for any part of this Agreement that is held to be unlawful.

## **ARTICLE 25: COMPLETE AGREEMENT/PAST PRACTICES/SEVERABILITY**

**25.1** In the event the City desires to amend or modify or change the status quo concerning an issue that it believes is a mandatory subject of bargaining or that has a mandatory impact, the City will provide the Union with written notice of the proposed change. The Union will have fourteen (14) days to object in writing and orally to the person proposing the change or their designee. The Union's written objection will specify the nature of the objection. Failure of the

Union to object in writing to the proposed change within fourteen (14) days of the notice provided for above will serve as a waiver of the Union's right to bargain. Thereafter, the parties will bargain in good faith over said changes for a period not to exceed thirty (30) days. If after the passage of thirty (30) days, the parties have not reached agreement; the parties will follow the provisions outlined in Oregon Revised Statutes for Public Employee Rights and Benefits (ORS 243.650 through 243.795).

## **ARTICLE 26: DURATION**

### **26.1 Term**

This Agreement shall be effective July 1, 2024 and will remain in effect through June 30, 2027. To negotiate a successor agreement, either party must give written notice by January 1, 2027 to the other party of their intent to open the contract.

This Agreement will automatically be renewed from year to year thereafter unless by January 1 either party gives written notice to the other of their intent to negotiate a successor agreement.

Negotiations shall commence not later than forty-five (45) days after the giving of said notice.

## APPENDIX A

### City of Newberg Salary Pay Schedule FY 2024-2025 AFSCME Represented Employees

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	
Facilities Maintenance/Groundskeeper	Grade 6	25.85	26.50	27.16	27.84	28.54	29.25	29.98	30.73	31.50	32.29	33.09	Hourly
Operator I		4,481.87	4,593.92	4,708.76	4,826.48	4,947.14	5,070.82	5,197.59	5,327.53	5,460.72	5,597.24	5,737.17	Monthly
Utility Technician I		53,782.44	55,127.04	56,505.12	57,917.76	59,365.68	60,849.84	62,371.08	63,930.36	65,528.64	67,166.88	68,846.04	Annual
Facilities Maintenance Tech-Lead	Grade 7	29.18	29.91	30.66	31.42	32.21	33.01	33.84	34.69	35.55	36.44	37.35	Hourly
Fleet Mechanic		5,058.62	5,185.08	5,314.71	5,447.58	5,583.77	5,723.36	5,866.44	6,013.10	6,163.43	6,317.52	6,475.46	Monthly
Engineering GIS Technician		60,703.44	62,220.96	63,776.52	65,370.96	67,005.24	68,680.32	70,397.28	72,157.20	73,961.16	75,810.24	77,705.52	Annual
Information Technician I													
IT Administrative Assistant													
Administrative Support Coordinator													
Operator II													
Plant Mechanic													
Utility Technician II													
Asset Management Specialist	Grade 8	32.51	33.32	34.15	35.01	35.88	36.78	37.70	38.64	39.61	40.60	41.61	Hourly
PW Conveyance Specialist		5,635.36	5,776.25	5,920.65	6,068.67	6,220.39	6,375.90	6,535.29	6,698.68	6,866.14	7,037.80	7,213.74	Monthly
Engineering Project Coordinator		67,624.32	69,315.00	71,047.80	72,824.04	74,644.68	76,510.80	78,423.48	80,384.16	82,393.68	84,453.60	86,564.88	Annual
Engineering Technician II													
Fleet Maintenance Lead/Crew Chief													
GIS Analyst													
Operator III													
PWM Lead/Crew Chief	Grade 9	35.83	36.73	37.65	38.59	39.55	40.54	41.56	42.60	43.66	44.75	45.87	Hourly
Senior Plant Mechanic		6,212.11	6,367.41	6,526.60	6,689.76	6,857.01	7,028.43	7,204.14	7,384.25	7,568.85	7,758.07	7,952.03	Monthly
Engineering Technician III		74,545.32	76,408.92	78,319.20	80,277.12	82,284.12	84,341.16	86,449.68	88,611.00	90,826.20	93,096.84	95,424.36	Annual
Operator IV - Regulatory Compliance	Grade 10	39.16	40.14	41.14	42.17	43.23	44.31	45.42	46.55	47.72	48.91	50.13	Hourly
IT Systems Administrator		6,788.86	6,958.58	7,132.54	7,310.85	7,493.63	7,680.97	7,872.99	8,069.82	8,271.56	8,478.35	8,690.31	Monthly
		81,466.32	83,502.96	85,590.48	87,730.20	89,923.56	92,171.64	94,475.88	96,837.84	99,258.72	101,740.20	104,283.72	Annual
Network Engineer	Grade 11	42.49	43.55	44.64	45.76	46.90	48.07	49.27	50.51	51.77	53.06	54.39	Hourly
		7,365.60	7,549.74	7,738.49	7,931.95	8,130.25	8,333.50	8,541.84	8,755.39	8,974.27	9,198.63	9,428.59	Monthly
		88,387.20	90,596.88	92,861.88	95,183.40	97,563.00	100,002.00	102,502.08	105,064.68	107,691.24	110,383.56	113,143.08	Annual



IN WITNESS WHEREOF the parties hereto have set their hand at the date indicated by their signature. This Agreement shall be deemed fully executed when all signatures have been obtained.

**AFSCME Council 75  
Newberg Local**

**City of Newberg**

\_\_\_\_\_  
John Michael Fischer (Mike Fischer), President

Date:\_\_\_\_\_

\_\_\_\_\_  
Will Worthey, City Manager

Date:\_\_\_\_\_

\_\_\_\_\_  
Bryan Jones, Fleet Maintenance Lead Crew Chief

Date:\_\_\_\_\_

\_\_\_\_\_  
Kady Strode, Director of Finance

Date:\_\_\_\_\_

\_\_\_\_\_  
Jason Dorrell, IT Systems Administrator

Date:\_\_\_\_\_

\_\_\_\_\_  
Preston Langeliers, Public Works Maintenance

Date:\_\_\_\_\_

\_\_\_\_\_  
Brian Kershaw, Engineering Technician III

Date:\_\_\_\_\_

\_\_\_\_\_  
Craig Pack, Wastewater Treatment Plant  
Superintendent

Date:\_\_\_\_\_

\_\_\_\_\_  
Casey Jennett, AFSCME Council Representative

Date:\_\_\_\_\_

\_\_\_\_\_  
Alison Seiler, Interim Human Resources Manager

Date:\_\_\_\_\_

\_\_\_\_\_  
Sydney Kosmicki, HR Generalist

Date:\_\_\_\_\_

4889-6271-8149.5

City of Newberg Salary Pay Schedule FY 2024-2025  
AFSCME Represented Employees

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		88,387.20	90,596.88	92,861.88	95,183.40	97,563.00	100,002.00	102,502.08	105,064.68	107,691.24	110,383.56	113,143.08	Annual

# REQUEST FOR COUNCIL ACTION



**Date Action Requested: July 3, 2024**

Order ☐ Ordinance ☐ Resolution ☒ Motion ☐ Information ☐

No. 2023-3901

Subject: A Resolution awarding Newberg Affordable Housing Trust Funds for a Time Sensitive Grant to Newberg Area Habitat for Humanity in the amount of \$28,580

Staff: Leanne Wagener, Assistant Planner  
File No. GRNT24-0001

Business Session

Order On Agenda: New Business

Hearing Type: Public Hearing

**Is this item state mandated?** Yes ☐ No ☒

**If yes, please cite the state house bill or order that necessitated this action:**

## **Recommendation:**

Adopt Resolution No. 2024-3940 awarding \$28,580 to the Newberg Area Habitat for Humanity from the Newberg Affordable Housing Trust's Time Sensitive Grant Program.

## **Executive Summary:**

In response to the City's 2023-2024 Notice of Funding Availability for the Newberg Affordable Housing Trust Fund, it is recommended that an amount of \$28,580 from the Time Sensitive Grant is awarded to Newberg Area Habitat for Humanity.

## **Background:**

The Newberg Affordable Housing Trust Fund (NAHTF) is a financial resource intended to support the development, preservation, and rehabilitation of housing that is affordable to the citizens of Newberg. The primary purpose of the NAHTF is to encourage the development, preservation, and rehabilitation of housing for homeownership or rent, at a cost that will enable very low, low-and-moderate income families to afford quality housing while paying no more than thirty percent of gross household income on housing. To promote the rehabilitation, preservation and production of quality, well-designed rental and ownership housing, the NAHTF will award funds to community development partners that are furthering the NAHTF mission. It is expected that the local contributions made through Newberg's Affordable Housing Trust Fund will maximize the leveraging of state and federal funds, as well as encourage private sector investment in affordable housing.

The City of Newberg defines affordable housing as residential housing primarily for households or persons earning less than 80% of the Median Family Income (MFI) and where housing and/or rental costs

do not constitute more than 30% of a household's income. For 2023, the Median Family Income (for a family of 4) in the City of Newberg was \$114,400.

Available 23-24 Funding:

- **Competitive Loan Program:** At least \$14,190 is available for this program. This program provides loans for projects that create, acquire, or retain affordable housing in the city.
- **Rehabilitation Loan Program:** Up to \$14,190 is available for this program. This program provides loans to landlords so they can rehabilitate dwellings and make them safe and decent for rental to low or very low income families. Loans are available in amounts ranging between \$2,000 and \$15,000, and may be increased up to \$25,000 if recommended by the Newberg Affordable Housing Commission (NAHC) and approved by the City Council. The standard loan term is five years. The standard interest rate is 2% below the prime rate. Applicants seeking funding assistance must be willing to enter into a contractual agreement with the city to ensure the future affordability of the project units for a specific period of time. Applications will be accepted at any time during the fiscal year.
- **Time Sensitive Loan Program:** Up to \$14,190 is available for this program. This program offers loans for projects that create, acquire, or retain affordable housing in the community that have particular needs that are opportunity driven and time sensitive. The standard loan term is two years. The standard interest rate is 2% below the prime rate. Security shall be demonstrated based upon 80% loan to value ratio based on the most current County Assessor records. These funds are available on a first come/first served basis, subject to approval.
- **The Time Sensitive Grant Program:** Up to \$28,580 is available for this program. This program offers grants for projects that create, acquire, or retain affordable housing in the community that have particular needs that are opportunity driven and time sensitive. These funds are available on a first come/first served basis, subject to approval.
- **Manufactured Home Rehabilitation and Repair Program:** Up to \$14,190 is available for this program. This program is intended to grant NAHTF monies to local non-profit organizations so they can rehabilitate and repair dwellings and make them safe and decent for rental or ownership by low or very low-income families. Applications for this program may be submitted at any time and need not be considered under the competitive awards program. Applicants seeking funding assistance must be willing to enter into a grant agreement with the city.

Submitted Applications:

Notice went out about the 2023-2024 Affordable Housing Trust Fund Availability on January 11, 2024. The application period closed on March 13, 2024, and one application was submitted. The submitted project details were:

1. Project: Newberg Area Habitat for Humanity College Street Homes (Attachment 1)  
Applicant: Newberg Area Habitat for Humanity  
Funding Request: \$28,580  
Form of Funding Requested: Time Sensitive Grant  
Project Description: Three new single-family homes to be sold at affordable prices to first-time homebuyers located on N College Street, Newberg.

**Review and Discussion:**

The Affordable Housing Commission convened to review and discuss the submitted application. It was deemed that the Applicant, Newberg Area Habitat for Humanity, put forward a complete and robust application for the Time Sensitive Grant consistent with staff assessment. The Commission unanimously agreed to recommend to City Council the full allocation requested for their project.

**AFFORDABLE HOUSING COMMISSION RECOMMENDATION**

The Affordable Housing Commission recommended on April 23, 2024, that:

1. Newberg Area Habitat for Humanity be awarded the amount of \$28,580 from the Time Sensitive Grant program.

**Fiscal Impact:**

Funds are available in Fund 14 Economic Development Fund 14-9130-603000 in the amount of \$14,838 for the Housing Trust Fund Grants. For FY 23/24 the funding amount available was \$14,838. Funds that were unspent in FY 23/24 will require a Supplemental Budget to reconcile funds available in FY 24/25.

Funds are available in Fund 14 Economic Development Fund 14-9130-602000 in the amount of \$35,613 for Housing Authority Loans. For FY 23/24 the funding amount available was \$35,613. Funds unspent in FY 23/24 will require a Supplemental Budget to reconcile funds available in FY 24/25.

**Council Goals:**

N/A

**Attachments:**

1. Newberg Area Habitat for Humanity Application

# RESOLUTION No. 2024-3940

**A RESOLUTION AWARDING FY 23-24 AFFORDABLE HOUSING TRUST FUNDS FOR A TIME SENSITIVE GRANT TO NEWBERG AREA HABITAT FOR HUMANITY OF \$28,580**

## **Recitals:**

1. On January 11, 2024, the City of Newberg published a Notice of Funding Availability (NOFA) that closed on March 13, 2024. One application was submitted for the FY 2023-2024 Time Sensitive Grant Program.
2. The City of Newberg received an application from Newberg Area Habitat for Humanity with a project request allocation for \$28,580.
3. On April 23, 2024, the Newberg Affordable Housing Commission reviewed and discussed the application against the applicable criteria and recommended approval by a vote of 5-0 of a grant for \$28,580 to Newberg Area Habitat for Humanity.

## **The City of Newberg Resolves as Follows:**

1. Newberg Area Habitat for Humanity project is awarded \$28,580 from the Time Sensitive Grant program.
2. The City Manager, in consultation with the City Attorney, shall finalize the City of Newberg Affordable Housing Trust Fund Time Sensitive Grant Contract.

**Effective Date** of this resolution is the day after the adoption date, which is: July 4, 2024.

**Adopted** by the City Council of Newberg, Oregon, this 3rd day of July 2024

\_\_\_\_\_  
City Recorder

**Attest** by the Mayor this 3rd day of July, 2024.

\_\_\_\_\_  
Bill Rosacker, Mayor



**ATTACHMENT 1**  
**Newberg Area Habitat for Humanity Application**



# Newberg Affordable Housing Trust Fund Funding Request Application

## FY 2023-24 Competitive Awards Loan Program

**NOTE: The first round of applications are due March 13, 2024 at 4:30 p.m.**

Applications are to be submitted to Leanne Wagener by email at [leanne.wagener@newbergoregon.gov](mailto:leanne.wagener@newbergoregon.gov) or by postal mail via City of Newberg, PO Box 970, Newberg, Oregon, 97132 or by hand delivery to City Hall, 414 E First Street.

### CONTACT INFORMATION:

Project Name: College Street Homes	
Organization Name: Newberg Area Habitat for Humanity	<input type="checkbox"/> For-profit <input checked="" type="checkbox"/> Non-profit
Contact Name/Title: Shannon Selah, Executive Director	
Mailing Address: PO Box 118	State/Zip: Newberg, OR 97132
Phone: 503-537-9938	Email: shannon@newberghabitat.org

### PROJECT INFORMATION:

Total project cost: \$416,400
Requested amount of funding: \$28,580 (Time Sensitive Grant Program) <i>Please specify the amount of loans or grants being requested</i>
Amount and description of matching funds being contributed to the project: \$115,000 per home (\$345,000) is supported by Oregon Housing and Community Services Local Innovation and Fast Track Homeownership (LIFT) program. Additional sources contributing to the remaining budget include proceeds from the Newberg Area Habitat for Humanity (NAHFH) ReStore, individual donations, and in-kind donations of materials and labor.

### Project Partners and their Contributions to the Project:

To provide financial and homeownership education, NAHFH partners with the Housing Authority of Yamhill County. NAHFH receives support for a variety of funders. Most notably, this project is utilizing funds from Oregon Housing and Community Services' LIFT. Locally, NAHFH is financially supported by Yamhill Community Care and Oregon Realtors HOME Foundation, among others.

Estimated project beginning date: June 2023	Completion date: November 2024
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COMMUNITY DEVELOPMENT  
PLANNING DIVISION  
(503) 537-1240  
[planning@newbergoregon.gov](mailto:planning@newbergoregon.gov)

Please see next page

**Please briefly describe the affordable housing problem this project is trying to solve and how it helps in solving that challenge:**

This project addresses the lack of affordable homes for sale in Newberg, Oregon. To solve the issue, this project will create three new single-family homes to be sold at affordable prices to first-time homebuyers. Another affordable housing problem is an inadequate stock of permanently affordable homeownership. The homes built by this project will be sold using the community land trust model to ensure the homes remain in the affordable housing market in perpetuity. To create lasting homeownership for the first-time homebuyers partnered with Newberg Area Habitat for Humanity (NAHFH), the NAHFH homeownership program includes financial and homeowner education courses prior to the sale of the home. Additionally, NAHFH helps to serve those who are most underrepresented in homeownership. Currently, Fourteen of the nineteen households currently holding Habitat mortgages in Newberg are led by Black, Indigenous, Latinx, and people of color.

**Please attach additional information that describes how this project will address the Competitive Awards Selection Criteria described in “Attachment A” of this form, including additional documentation/evidence as needed.**

☒ Information that addresses Competitive Selection Criteria, attached (please select)

**Briefly describe what is attached:**

Attached is a narrative describing Newberg Area Habitat for Humanity affordable home development project. Additionally, we included the construction budget for a single home — this project will build three homes.

**ATTACHMENT A****Newberg Affordable Housing Trust Fund  
FY 2023-24 Competitive Awards Program Selection Criteria**

<b>Minimum Threshold Criteria</b>	<b>Potential Points</b>
1. The project is considered an eligible use or activity under Section 3, and benefits households earning less than 80% of the median family income (threshold verification)*.	NA
2. If the project is related to the provision of technical assistance to affordable housing providers, the use of Newberg Affordable Housing Trust Funds functions to increase the capacity of the organization to specifically address the mission of the NAHTF (threshold verification).	NA
3. The project is ready for implementation.	NA
4. If the project includes the acquisition of property, the identified property is currently available for acquisition and the applicant has secured either a purchase option or letter of interest from the seller. If the applicant is also applying for federal funding (i.e. Community Development Block Grants or HOME) they should carefully review procurement requirements and limitations before obtaining a purchase option.	NA
5. That relocation of existing residents will be minimized, and when necessary, the applicant has included accurate relocation assistance costs as part of the project pro forma.	NA
6. The proposal demonstrates that the Newberg Affordable Housing Trust Funds are the most appropriate funding source for the project.	NA
<b>Scored Application Criteria</b>	
7. The project provides new affordable housing, or new affordability, through retention or rehabilitation of existing housing, within the city.	Up to 10 points
8. The project retains the affordable housing units as affordable. The longer period of time the units remain affordable, the higher ranking the project shall be given.	Up to 15 points
9. The project provides deeply affordable housing for households earning less than 30% of the median family income.	Up to 5 points
10. The project addresses energy conservation through the integration of green building technologies in new construction, or achieves greater energy efficiency and cost savings to tenants through rehabilitation of existing housing.	Up to 5 points
11. The project maximizes partnerships in the community (volunteers, in-kind contributions, cash contributions, multiple organization involved, etc.) and demonstrates alliance building that directly benefits community members in need, such as helping build household wealth.	Up to 5 points
12. The project utilizes already existing resources in effective and innovative ways. The project shall not duplicate services provided by another organization.	Up to 10 points
13. The agency submitting the proposal has the capacity to carry out the project and has had demonstrated successes completing projects of similar scope. Higher points to projects that demonstrate engagement and contracting with D/M/W/ESB/SDVBE businesses in the last 10+ years.	Up to 10 points
14. The budget and timeline are thorough and realistic (evidence of construction and/ or service costs required with application).	Up to 10 points
<b>Total Potential Points</b>	<b>70</b>

**\*FOR 2023, the Median Family Income for the City of Newberg was \$114,400.**

**DEFINITIONS:**

**“D/M/W/ESB/SDVBE”** means a business that is Disadvantaged, Minority-Owned, Women-Owned, Emerging Small Businesses, and/or Service Disabled Veterans Business Enterprises.

**“Gross Income” (GI)** is income before taxes for all members of one family in the previous twelve months. Income can be derived from salaries, investments, self-employment, farming, and other sources. Assets such as a house or a farm are not income. For people who have wages, gross income means the figure that they would have received in their paychecks if there were no taxes. Gross income before taxes when applied to farm income means the figure that results when farm expenses are subtracted from farm sales. Gross income also includes unemployment and disability compensation, worker's compensation and severance pay; and welfare assistance payments.

**“Family”** means all persons living in the same household who are related by birth, marriage or adoption.

**“Median Family Income” (MFI)** includes the income of the householder and all other individuals 15 years old and over in the household, whether they are related to the householder or not. Because many households consist of only one person, average household income is usually less than average family income. Although the household income statistics cover the past 12 months, the characteristics of individuals and the composition of households refer to the time of application. Thus, the income of the household does not include amounts received by individuals who were members of the household during all or part of the past 12 months if these individuals no longer resided in the household at the time of application. Similarly, income amounts reported by individuals who did not reside in the household during the past 12 months but who were members of the household at the time of application are included. However, the composition of most households was the same during the past 12 months as at the time of application, as defined by the U.S. Census.



## Newberg Area Habitat for Humanity College Street Homes

**The project provides new affordable housing, or new affordability, through retention or rehabilitation of existing housing, within the city.**

This project will build three new single-family homes to be sold at affordable prices to first-time homebuyers. The project is located on N. College Street in Newberg, near many resources and amenities. The two-story homes will each have three bedrooms, an open plan area combining the living, dining and kitchen areas, a washer and dryer, and water heater.

Presently, site work is nearly complete and vertical construction is set to begin this month. Homes in this project have an anticipated completion date of November 2024. Funding will directly support construction costs, including materials and labor. This funding is critical to helping the project on track with the determined timeline.

Once the homes are complete, they will be sold using a community land trust model to ensure permanent affordability. New homebuyers are typically partnered with Habitat for up to a year before the homes are sold. During this time, families and individuals partnered with Newberg Area Habitat for Humanity (NAHFH) for homeownership build their homes alongside staff and volunteers, and participate in pre-mortgage financial and homebuyer education to create lasting homeownership.

**The project retains the affordable housing units as affordable. The longer period of time the units remain affordable, the higher ranking the project shall be given.**

NAHFH uses the community land trust model to ensure permanent affordability. At time of sale, the land will be leased to homebuyers for a renewable term of 99 years. Written into the sales agreement is that NAFH has the right of first refusal if the homeowner sells prior to paying off their first mortgage. If the owner has paid off their mortgage by the time they resell, there is a deed restriction protecting the home from being sold to buyers who earn above 80%. The deed restriction ensures the home remains in the affordable housing market beyond the life of the mortgage.

**The project provides deeply affordable housing for households earning less than 30% of the median family income.**

NAHFH serves homebuyers who earn between 25 and 60% AMI. NAFH utilizes supplementary mortgage products to help the homes we sell be more affordable to our buyers. For example, NAFH partners with Habitat for Humanity of Oregon (Habitat



Oregon) to access down payment assistance. NAHFH applies to Habitat Oregon on behalf of homebuyers to receive down payment assistance of up to \$60,000. NAHFH also utilizes the First Federal Savings and Loan Down Payment Assistance Program for up to \$15,000 per homebuyer. Individual Development Account (IDA) funds are also a source available to NAHFH homebuyers through our partnership with Habitat Oregon. The matched savings can be spent on down payments and closing costs.

**The project addresses energy conservation through the integration of green building technologies in new construction, or achieves greater energy efficiency and cost savings to tenants through rehabilitation of existing housing.**

Habitat homes are built using high quality materials and state-of-the-art energy-efficient designs that exceed industry standards with the aim of reducing waste and increasing efficiency. Construction efficiency is maintained by selecting materials with low embodied energy, such as recycled and locally produced materials, that reduces cost as well as Habitat's carbon footprint. NAHFH constructs homes to a certification standard greater than Oregon building code, Energy Start Certification at minimum. The homes will be constructed with all electric appliances. Additionally, Landscaping features will predominantly feature plants native to Oregon.

NAHFH also operates a home improvement resale store in Newberg, the ReStore, that collects community donations of home goods and building materials. NAHFH sells the donated goods at a discounted price, helping community members to access home improvement materials at affordable prices. This helps to keep usable goods out of landfills and proceeds help to support home construction.

**The project maximizes partnerships in the community (volunteers, in-kind contributions, cash contributions, multiple organization involved, etc.) and demonstrates alliance building that directly benefits community members in need, such as helping build household wealth.**

NAHFH has served Newberg and surrounding communities with affordable homeownership opportunities since 1994. In our 30 years of service, we have developed strong relationships within our community that help us improve our programs and reach more community members. Through targeted outreach and ongoing collaborations with schools, churches, community organizations, and other local partners, NAHFH has established a pipeline of prospective homebuyers seeking housing assistance. Key community partners we utilize to reach our community include Yamhill Community Action Partnership and CASA of Oregon.

To solicit applications, we directly reach out to the following organizations: Chehalem Valley Chamber of Commerce, Housing Authority of Yamhill County, Yamhill Community Action Partnership, the Newberg School District, the Newberg Area Ministerial Association, the Newberg Downtown Coalition, Unidos Bridging Community, and CASA of Oregon. For example, NAHFH partners with the Welcome Center at Newberg School District to reach families of color who might be interested in a Habitat homeowner program. This

relationship has effectively supported English learners and migrant families to access our resources and learn about the benefits of homeownership.

Typically, Homebuyers are partnered with NAHFH for one year prior to purchasing their home. During this time, homebuyers help to build their homes alongside Habitat staff and volunteers, and they participate in homebuyer and financial education courses. These practices help to create lasting homeownership. To provide financial and homeownership education, NAHFH partners with the Housing Authority of Yamhill County.

This project also creates community through volunteer opportunities. NAHFH utilizes volunteers on the construction site, in planning, and for events that benefit the project. NAHFH's Volunteer Program has a reputation of being a safe place for local communities of color and connects community members for a common cause: advancing affordable homeownership.

NAHFH receives support for a variety of funders. Most notably, this project is utilizing funds from Oregon Housing and Community Services' Local Innovation and Fast Track Homeownership Fund. Locally, NAHFH is financially supported by Yamhill Community Care and Oregon Realtors HOME Foundation, among others.

**The project utilizes already existing resources in effective and innovative ways. The project shall not duplicate services provided by another organization.**

NAHFH is an independent nonprofit organization that is part of the Habitat for Humanity network. There are 24 independent Habitat for Humanity affiliates in the Oregon network, with 20 serving rural communities. No two Habitat affiliate service areas overlap, to not duplicate resources. Habitat affiliates consistently share best practices and resources with the cumulative goal of increasing affordable housing availability for underserved populations. Over the decades of affordable home development in Oregon, financing the development, streamlining the development process, and replicating designs has increased our organization's efficiency.

**The agency submitting the proposal has the capacity to carry out the project and has had demonstrated successes completing projects of similar scope. Higher points to projects that demonstrate engagement and contracting with D/M/W/ESB/SDVBE businesses in the last 10+ years.**

Since 1995, NAHFH has built, rehabilitated, moved or recycled 30 homes for low-income first-time homebuyers. Since NAHFH began a home repair program in 2010, we have completed 104 repair projects and successfully referred 66 more projects to the appropriate contractor, helping low-income homeowners to continue living in their homes. Families and individuals partnered with NAHFH for homeownership build their homes alongside staff and volunteers, and participate in pre-mortgage financial and homebuyer education to create lasting homeownership.

To ensure competitive pricing and to prevent delays, Habitat works with several contractors and vendors for any given product. Through these parameters, Habitat has had a long history of working with minority and women-owned businesses. As funds and building resources are raised locally, these are small businesses operating in rural areas where Habitat homes are built. We encourage minority owned companies to submit bids through advertising to our culturally responsive partners. This practice is how NAHFH builds relationships with MWESB firms in Newberg and surrounding communities. NAHFH has utilized several COBID-certified firms for work on multiple Home Repair Program projects.

**The budget and timeline are thorough and realistic (evidence of construction and/ or service costs required with application).**

The project budget is based off NAHFH's extensive experience in planning and estimating the development costs of homes in Newberg. NAHFH owns the College Street project site. The budget for development and construction costs was developed based on actual costs of comparable homes completed and sold in their service area during recent years. Once site work is complete, we estimate that the homes will take eight months to complete. We budgeted for labor and equipment accordingly.



## CONSTRUCTION BUDGET 2024

ITEM	3-BR/2 BA BUDGET
Appliances	3,200.00
Cabinets	4,500.00
Deck/Porch	2,500.00
Doors	7,000.00
Driveway	1,800.00
Drywall	7,500.00
Electrical	8,500.00
Electricity	800.00
Flooring	8,800.00
Foundation	10,000.00
Framing	15,000.00
Garage	1,800.00
Gutters	900.00
Heating/Ducting	6,500.00
Insulation	6,200.00
Landscape	900.00
Painting	2,200.00
Plumbing	10,900.00
Roof	8,000.00
Roof Truss	6,500.00
Sanitation	1400.00
Siding	5,900.00
Site Prep	7,000.00
Trim	2,900.00
Water/Sewer	3900
Windows	4,200.00

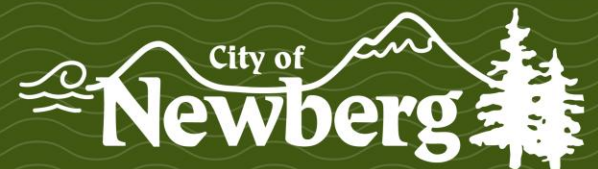
TOTAL: 138,800.00  
 \$ per SF 1200 \$ 115.67



# Affordable Housing Trust Fund Award Recommendation

Newberg Area Habitat for Humanity

City Council July 3, 2024



The Newberg Affordable Housing Trust Fund (NAHTF) is a financial resource intended to support the development, preservation, and rehabilitation of housing that is affordable to the citizens of Newberg.

## Available Funding for 2023/2024:

- Competitive Loan Program
- Rehabilitation Loan Program
- Time Sensitive Loan Program
- **Time Sensitive Grant Program**
- Mobile Home Rehabilitation and Repair Program





# Submitted Applications

**Project:** Newberg Area Habitat for Humanity College Street Homes

**Applicant:** Newberg Area Habitat for Humanity

**Funding Request:** \$28,580

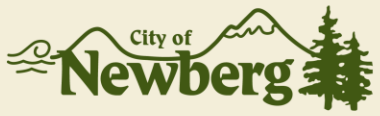
**Form of Funding Requested:** Time Sensitive Grant

**Project Description:** Three new single-family homes to be sold at affordable prices to first-time homebuyers located on N College Street, Newberg.

# Application Process

AHTF NOFA APPLICATIONS LOG 2024

	Applicant	Date Received	Staff Review	AHC Review	CC Review	Award Status
Competitive Loan Program						
Rehabilitation Loan Program						
Time Sensitive Loan Program						
Time Sensitive Grant	Newberg Area Habitat for Humanity	3/13/2024	3/14/2024 - Complete App.	4/24/2024	7/3/2024	
Mobile Home Rehab and Repair						



# AHC Recommendation

The Affordable Housing Commission recommended on April 23, 2024, that:

Newberg Area Habitat for Humanity be awarded the amount of \$28,580 from the Time Sensitive Grant program.

# REQUEST FOR COUNCIL ACTION



**Date Action Requested:** June 19, 2024

Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Information <input type="checkbox"/> Proclamation <input type="checkbox"/>	
Subject: Hardship exception for extraterritorial water service at 901 S Mckern Court (Community Development File GEN2-0010)	Staff: Scot Siegel, Director Department: Community Development
Work Session <input type="checkbox"/> Business Session <input checked="" type="checkbox"/>	Order On Agenda:

**Is this item state mandated?** Yes ☐ No ☒

**Recommendation:** Review the applicant's request (attached) for approval of an extraterritorial water service extension for 901 S Mckern Court due to reasons of hardship and determine whether it meets the criteria in NMC 13.15.120. City Council should also respond to the owners' request that the City waive system development charges associated with establishing a new water service.

If Council finds the criteria for hardship are met, *Move to direct staff to prepare a resolution and contract for extraterritorial water service and consent to annexation for 901 S McKern Court.* The contract would replace the existing extraterritorial water service and annexation agreement approved in 2007 by City Council Resolution 2007-2700.

**Executive Summary:** The subject property, 901 S Mckern Court (Tax Lot R3221 01901) contains a single-family dwelling on 0.68 acres. It is in unincorporated Yamhill County within the City of Newberg Urban Growth Boundary, and it abuts the City limits. The Comprehensive Plan designation is Industrial. The property receives city water service and is subject to existing extraterritorial water service and annexation agreement approved in 2007 by City Council Resolution 2007-2700. See Attachment A.

The applicant is requesting approval of a new extraterritorial water service extension for 901 S Mckern Court ("Lot 1901") due to reasons of hardship. (See Attachment B) The lot currently receives city water from a 3/4-inch water meter on the abutting lot to the north that is under different ownership ("Lot 1900") and a 3/4-inch service lateral that traverses Lot 1900. (See Attachment B-2). The applicant would like to have their own separate water service. They also request that the City not require them to annex at this time due to the property being in probate and for other reasons discussed in the application.

The previous owner of Lot 1901, Monte Bowlin, is now deceased, and his heirs wish to sell Lot 1901 but believe it is unduly encumbered by the existing water service arrangement (across a neighbor's lot) and the agreement Mr. Bowlin entered with the City in 2007. They believe these circumstances present a hardship and are asking the City Council to rescind Resolution 2007-2700 and approve a new hardship exception and water service agreement with different terms. Specifically, they would like a new or separate water service for Lot 1901 without being required to annex. They are also asking the City to waive system development charges, which are estimated to be \$7,846.12 for a new 3/4-inch water meter under the City's SDC Model. Their request is detailed in Attachment B.

Newberg Municipal Code (NMC) 13.15.110 prohibits extraterritorial water services but provides for exceptions in cases of hardship when the criteria under NMC 13.15.120 are met. For Lot 1901 to have its own water service, it must have its own meter and service lateral installed from the public water main to the new meter. The applicable criteria are NMC 13.15.030-13.15.070 and 13.15.110-13.15.120.

**Background:** The history of water service issues with Lot 1901, and the relationship between Lot 1901 and its neighbors to the north and west, respectively, Lot 1900 and Lot 1800, goes back many years. The applicant has provided extensive background documentation in Attachment B that staff will not duplicate here. Some of the relevant administrative history follows:

- The City approved water service to Lot 1901 in 2007 with Resolution 2007-2700 (Attachment A) following decommissioning of a water well that previously supplied potable water to the lot.
- On February 6, 2007, the City and then-owner of Lot 1901, Monte Bowlin, agreed to the existing Contract for Extraterritorial Water Service and Consent to Annexation (See Attachment B-4). This was around the time Lot 1901 and Lot 1900 (abuts Lot 1901 to the north), and neighboring Lot 1800 to the west, were part of a right-of-way settlement agreement with the Oregon Department of Transportation for the Newberg-Dundee Bypass.
- Lot 1900 and Lot 1901 originally were one lot but partitioned during this timeframe. They were also significantly diminished in size due to ODOT's right-of-way acquisition. (Attachment B-3)
- The City annexed Lot 1900 and Lot 1800 (abuts Lot 1901 to the west) in 2007; Lot 1901 was originally part of the request but subsequently withdrew and remains outside the city limits today.
- The existing Contract for Extraterritorial Water Service and Consent to Annexation was intended to address the hardship imposed by the right-of-way acquisition by allowing a water connection and deferring annexation.

The existing agreement between Monte Bowlin (and successors) and the City (Attachment B-4) provides for one water meter only, and that meter according to the agreement had to be placed within the city limits. However, the existing meter serves both lots, 1900 and 1901. The agreement does not provide for a second meter, as requested by the owner of Lot 1901. The agreement also allows the City to compel annexation of Lot 1901 upon Mr. Bowlin no longer residing on the property, a change in ownership, or the property being developed with another use. Newberg Municipal Code (NMC) 13.15.110 prohibits extraterritorial water services but provides for exceptions in cases of hardship when the criteria under NMC 13.15.120 are met. Mr. Bowlin is now deceased, and his heirs wish to sell Lot 1901.

**Analysis:** The 2007 Contract for Extraterritorial Water Service and Consent to Annexation, Sections 2, 3, and 4, contains the following terms:

2. *City Obligations*

- A. *The City does hereby agree to supply water to the Owner in accordance with the City Code.*
- B. *The City consents to the Owner connecting to the City 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 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.*
4. *Consent to Annex. The Owner hereby consents to the eventual 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. The Owner agrees that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. The Owner wishes the consent to annexation be considered in any annexation procedure and waives the one-year time period provided for in ORS 222.173 within which the consent shall be effective for consideration and requests that this consent be valid as long as the property is receiving the extra-territorial services. \*\*\**

The circumstances affecting Lot 1901 are complicated. Lot 1901 is outside the city limits, and it was substantially reduced in size by ODOT's acquisition of right-of-way for the bypass. It contains a single-family residence that receives water service from a meter and lateral on the neighboring Lot 1900 (DMR Concrete Company). The consent to annex is complicated by the fact that the current Yamhill County zoning of Lot 1901 allows residential use. However, upon annexation to the City of Newberg, Lot 1901 would be zoned M-2 Light Industrial in accordance with the city's Comprehensive Plan, like Lot 1900 and other surrounding properties, but the M-2 zone does not allow residential uses. The applicant believes that presents an additional hardship. See Attachment B-12, the applicant's Realtor Analysis of Zoning and Property Values of Light Industrial versus Residential.

**Staff Findings:** The Community Development Director in consultation with Public Works-Engineering Division reviewed the application and find it meets the applicable hardship criteria, as detailed below. Applicable code is in *italics*, with staff findings below.

### ***13.15.120 Exceptions due to hardships.***

An exception to NMC 13.15.110 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.*

**Staff Finding:** The applicant requests water service for an existing residence at 901 S Mckern Court (Lot 1901). This would be a new water service to replace an existing service that is provided by a 3/4-inch meter on the neighboring property to the north, Lot 1900, that serves Lots 1900 and 1901. If a hardship exception is granted, staff recommends that it be conditioned on execution of a new Contract for Extraterritorial Water and Service and Consent to Annexation, and that the contract



permit only one new water service to serve only the existing dwelling on Lot 1901. Annexation shall be required at the time of development, redevelopment, or change of use on Lot 1901. As conditioned, this criterion is met.

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

Staff Finding: Staff concur with the applicant that annexation is not immediately practical or timely due to the property being in probate, which complicates the distribution or sale of assets. In addition, as discussed above, annexation would require application of City M-2 zoning, which does not allow the current residential use and would potentially reduce the property's value at a time when the owners are trying to liquidate the asset. This criterion is met.

*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.*

Staff Finding: Lot 1901 already receives city water service, but the service is substandard as it is provided from a 3/4-inch meter serving Lot 1901 and Lot 1900. A 1-inch meter is standard for two connections. Adequate water quantity for domestic consumption could be at risk, for example, if the concrete company on Lot 1900 were to expand or the lot were to redevelop with uses demanding additional domestic water. Groundwater is not a viable water source for Lot 1901 due to the existing surrounding urban development, small lot sizes, and potential water quality concerns. If water service to Lot 1901 were discontinued, the lot would have no other source of potable water. This criterion is met.

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

Staff Finding: The alternative to granting the hardship exemption is to deny the application and compel the owners to annex before creating a new or additional water service connection. For the reasons discussed in Criterion A.2, annexation is not immediately practical or economically feasible. This criterion is met.

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

Staff Finding: According to the City's Public Works-Engineering Division, water service can be provided from an existing 14-inch water main in Springbrook Road. Granting the additional connection would not overburden existing lines provided the new service is constructed in accordance with City standards. This criterion is met.

*C. Application for Hardship. A request in letter form for a hardship exception to NMC 13.15.110 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.*

Staff Finding: The applicant has met the burden of proof by submitting a letter and evidence. The request is before City Council. This criterion is met.

*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.*
- 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.*

Staff Finding: Staff recommends approval of the hardship exception. Upon City Council approval, staff would return with an adopting resolution and extraterritorial water service contract that incorporates the above standard conditions.

**Conclusion:** Based on the foregoing analysis, staff finds the application meets the criteria for Water Service Hardship Exception. Staff do not find that the criteria for waiver of System Development Charges are met. If Council agrees, it should make a motion directing staff to prepare a resolution rescinding and replacing Resolution 2007-2700 and authorizing a new Contract for Extraterritorial Water Service and Consent to Annexation. The new agreement would incorporate the standard conditions under Criterion 13.15.120(D). Staff would return with a draft resolution and contract for action on or after August 4, 2024.

**Fiscal Impact:** If the requested water service hardship exception is approved and Lot 1901 remains outside the city limits, the City will forego property tax revenue that it would receive with annexation. City property taxes are estimated to be \$623.64, based on 2023 assessed value of \$211,723 and the current City property tax rate of \$2.8983 per \$1,000 assessed value. If the City Council were to waive Water System Development Charges (SDCs) for a new 3/4-inch meter, as requested by the applicant, the City would forgo \$7,846.12 under the City's SDC Model.

**Council Goals:** A Council goal is to, “Identify industrial land and attract employers to encourage family wage jobs.” A related objective is to, “Identify land other than the Mill site to zone for Light Manufacturing.” Lot 1901 is currently in residential use with one single family dwelling on it. As presented by the applicant, annexation and rezoning to Light Industrial is not immediately practical.

**Attachments**

- A. Existing Contract for Extraterritorial Water Service and Consent to Annexation; and Resolution 2007-2700, February 6, 2007
- B. Application Letter for Water Service Hardship Exemption for 901 S Mckern Court, June 17, 2024  
*Exhibits B-1 through B-13 are labeled to correspond to order of Applicant’s unlabeled submittal.*

Exhibit A

**AFTER RECORDING RETURN TO:**

City of Newberg – Public Works Department  
PO Box 970 – 414 East First Street  
Newberg, OR 97132  
(503) 537-1273

OFFICIAL YAMHILL COUNTY RECORDS  
REBEKAH STERN DOLL, COUNTY CLERK

201001821



\$91.00

00342415201000018210110118

02/08/2010 03:20:10 PM

DMR-CONDMR Cnt=1 Stn=2 ANITA

\$55.00 \$10.00 \$11.00 \$15.00

**CONTRACT FOR EXTRA-TERRITORIAL PROVISION  
OF WATER SERVICE and CONSENT TO ANNEXATION**  
**(water service outside the City)**  
(ORS 221.115)

THIS AGREEMENT is entered into this 6 day of Feb 2007 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**". 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:** Monte Bowlin
- b. **Owner(s) Address:** 901 S. Springbrook Rd.  
Newberg, Oregon 97132

**REAL PROPERTY:**

- c. **Property Address:** 901 S. Springbrook Rd.  
Newberg, Oregon 97132
- d. **Tax Lot No.:** 3221-1901
- e. Legal Description recorded in Yamhill County Records, Instrument Number 199713551 on 08/12/97, is hereby referenced and by this reference fully incorporated.

2. **Request.** The **Owner** of the **real property** has requested water service from the **City** which will supply **City** water to the **real property** located outside the City limits of the City of Newberg.

91-

3. **Hardship Exceptions.** The City Code at Title V, Chapter 52, provides for water connections outside the City limits under certain hardship conditions.
4. **City Council Approval.** Under certain hardship conditions, the City Council has approved this connection by City Resolution No. 2007-2700. The Resolution with attached hardship conditions is hereby referenced and by this reference fully incorporated.
5. **Intent to Annex.** The parties agree that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use.

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** in accordance with the City Code.
  - B. The **City** consents to the **Owner** connecting to the City 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** 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.
4. **Consent to Annex.** The **Owner** hereby consents to the eventual 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. The **Owner** agrees that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. The **Owner** wishes the consent to annexation be considered in any annexation procedure and waives the one-year time period provided for in ORS 222.173 within which the consent shall be effective for consideration and requests that this consent be valid as long as the property is receiving the extra-territorial services.
5. **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 an existing structure and will not be used to allow any new development.
  - 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.
6. **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.

2/10

- 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.

7. **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 6 day of Feb 2007.

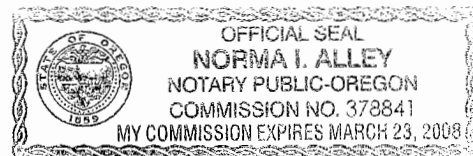
STATE OF OREGON)  
County of Washington) s.s.

**OWNER**

Monte Bowlin  
Monte Bowlin

This instrument was acknowledged before me this 10 day of February 2007 by Monte Bowlin.

Norma I. Alley  
Notary Public for Oregon  
My Commission Expires: March 23, 2008



**CITY OF NEWBERG**

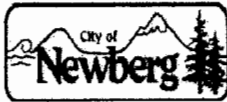
Daniel Danicic  
Daniel Danicic, City Recorder

**APPROVED AS TO FORM**

Terrence D. Mahr  
Terrence D. Mahr, City Attorney

3/4





## **RESOLUTION No. 2007-2700**

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### **A RESOLUTION GRANTING A HARDSHIP WATER CONNECTION FOR SERVICE OUTSIDE OF THE CITY LIMITS FOR MONTE BOWLIN AT 901 S. SPRINGBROOK ROAD**

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#### **RECITALS:**

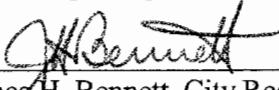
1. Monte Bowlin resides and owns property at 901 S. Springbrook Road (Tax Lot No. 3221-1901). The property is located outside the Newberg City Limits, but is within the Urban Growth Boundary and the Newberg Urban Reserve Area. Refer to **Exhibit A** for a vicinity map.
2. The house at 901 S. Springbrook Road was built in 1948 and receives water service from an off-site well that had been owned by his neighbour Roger Grahm. That well and land has been transferred to ODOT for construction of a new approach to Highway 219 for Wilsonville Road.
3. ODOT has notified Mr. Bowlin that they plan on decommissioning the well as of February 23, 2007. That will leave Mr. Bowlin without any potable water service to his property.
4. On December 20, 2006, Mr. Grahm and Mr. Bowlin submitted a written request for a hardship connection to City water based on the fact that the existing well will be closed down by ODOT. The letter is attached as **Exhibit B**.
5. The City of Newberg has an existing 14" water service line in Springbrook Road that runs along the east boundary of Mr. Bowlin's property. The City can provide a standard 3/4" water meter from that service line to the property. Cost to install the meter and SDC's are estimated to be \$5,000.
6. In January 2007, City staff visited the site and confirmed that the primary use of the property is for a single family residence. Mr. Bowlin does own and operate a small concrete finishing company (DMR Concrete) at this location; however this is an incidental use of the property.
7. Municipal Code of Ordinances Title V Chapter 52 authorizes the Newberg City Council to approve hardship connections to the City's water system provided the criteria contained in Section 52.12 is met. Staff has prepared findings relative to Section 52.12 (**Exhibit C**).

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

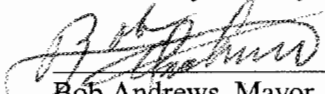
1. The City Council hereby approves the request to provide a hardship connection to the City water system for property located at 901 S. Springbrook Road based on the criteria, findings and testimony presented in the hearing on February 5, 2007.
2. The City Council hereby approves the condition that the City will not request annexation until such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use whichever occurs first. The expense for the annexation process shall be the responsibility of the applicant.
3. The City Council affirms that this approval does not bind this Council or future Councils, to hear, consider, or grant additional requests for water service outside the City limits, and that this decision is not a precedent for future decisions.
4. The City Council adopts **Exhibit C** as the findings of fact for granting the hardship and incorporates **Exhibit C** as part of this resolution.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is February 6, 2007.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 5<sup>th</sup> day of February 2007.

  
\_\_\_\_\_  
James H. Bennett, City Recorder

**ATTEST** by the Mayor this 8<sup>th</sup> day of February 2007

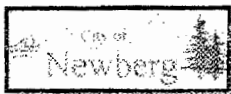
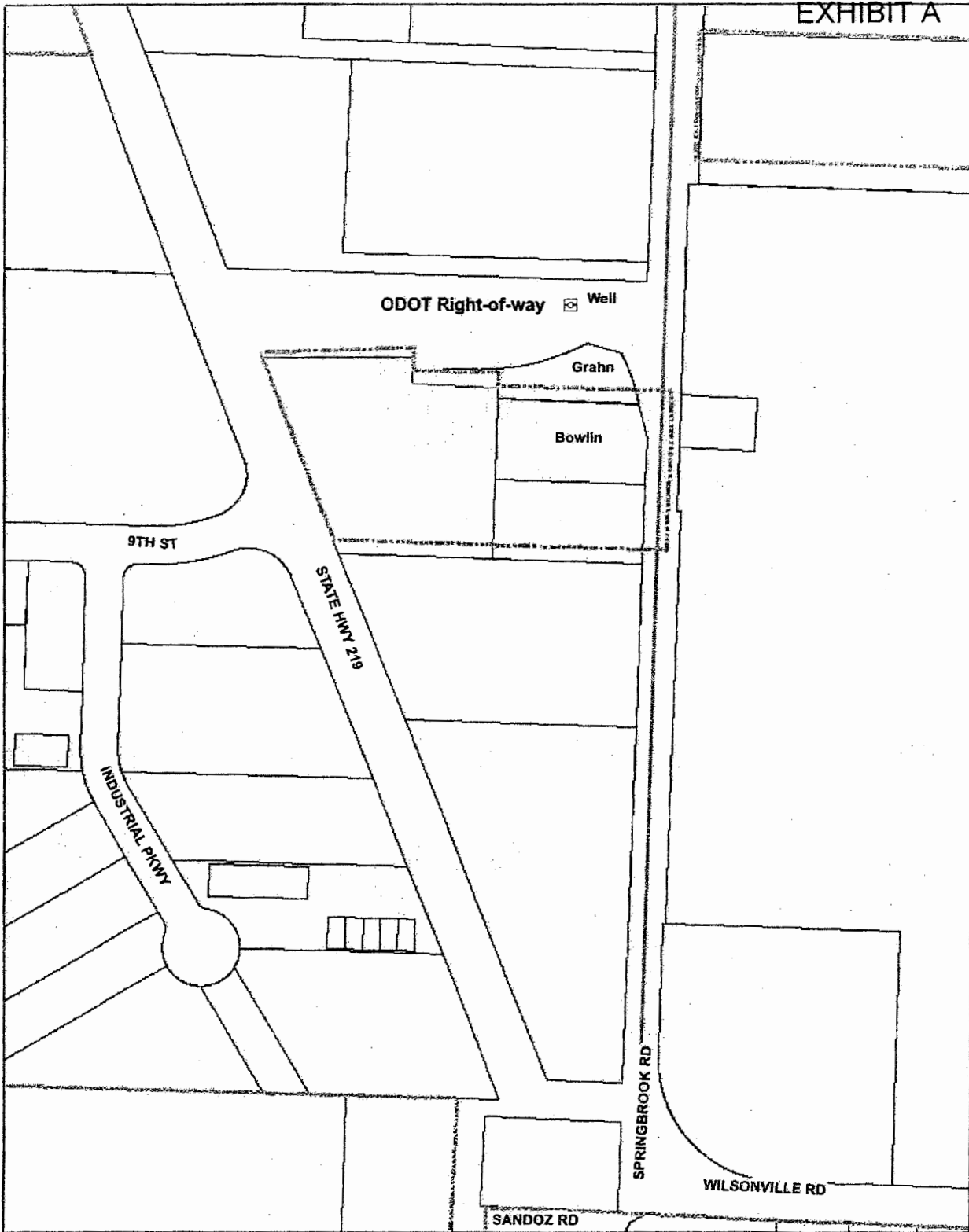
  
\_\_\_\_\_  
Bob Andrews, Mayor

**LEGISLATIVE HISTORY**

By and through \_\_\_\_\_ Committee at \_\_\_\_ / \_\_\_\_ /2007 meeting. Or, X None.

5/12

EXHIBIT A



Legend

City of Newberg water system line

Newberg City Limits

200

Feet

6/14

EXHIBIT B

Roger P Grahn  
23287 Lasalle Lane  
Sherwood, OR 97140  
(503)625-4552

December 20, 2006

Dab Danicic, Director Public Works Dept.  
City of Newberg  
414 E First Street  
PO Box 970  
Newberg OR 97132

Dear Mr. Danicic:

Re: Water Service Installation at Tax Lot 3221-901 (Monte Bowlin).

This is a modified hardship request for a water service on behalf of Monte Bowlin at 901 S. Springbrook.

To Summarize the facts; Mr. Bowlin's property at 901 S. Springbrook is adjacent to the south of the property we lost to condemnation by ODOT. By a legal easement documenting our agreement, Mr. Bowlin has for several years, used the well located on the property taken by ODOT. The well on his own property goes dry intermittently and is unfit for consumption without the poor flow. The well currently in use has good flow, but is also of unsafe water quality. It is not used for consumption but rather only for washing clothes, bathing and irrigation. Drinking and cooking is done with bottled water. Because of this fact, our discussions with Arrow Drilling and the neighbors, we feel there is a very small likelihood of successfully drilling a new well with safe drinking water and satisfactory flow.

Accordingly, we respectfully request on behalf of Mr. Bowlin, that the city agree to install a 3/4" service on a hardship basis, but on property within the cities boundary (Tax Lot 3221-901), the small piece left over from ODOT's condemnation. It is our intent for us to convey this piece to DMR Concrete, Mr. Bowlin's concrete company and this water service would serve not only the needs of his company and its' equipment, but also for his residence at 901 S. Springbrook.

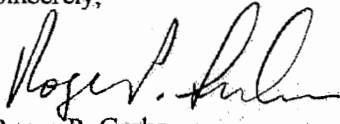
7/14

EXHIBIT B

Further, Mr. Bowlin would be amenable to agree to a future annexation requirement  
AFTER his ownership ends.

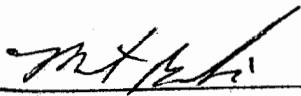
Thank you in advance for your assistance in this matter.

Sincerely,



Roger P. Grahn,

jlg



ACKNOWLEDGED

# EXHIBIT C

## FINDINGS

Requests for hardship exceptions to allow water connections outside of City limits are governed by City Municipal Code of Ordinances Title V Chapter 52.

*Section 52.12. Exceptions due to Hardships. An exception to Section 52.11 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:** The existing home was originally constructed in 1948 and was purchased by Mr. Bowlin in 1997.

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

**Response:** Annexation of the property at this time is not desired by the property owner, who agrees to annexation to the City of Newberg as such time as he leaves the property, there is a change in ownership, or the property is developed for another use. Staff recommends that the City accept Mr. Bowlin's consent to annex in the future.

The Council grants the request without requiring immediate annexation, because the hardship was occasioned by a transportation improvement project resulting in condemnation of the property on which the well that furnishes water to the Bowlin property is situated. That well is required to be decommissioned by ODOT who is now the owner of the property to be used in the transportation project. Further, immediate annexation would result in a zone change to industrial and require residence which is the home of Mr. Bowlin to be removed within a certain period of time. Due to these circumstances, the City is willing to accept Mr. Bowlin's consent to annex in the future as satisfying the condition that annexation is "not immediately feasible".

(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:** Domestic drinking water for this home was provided by a well located on the northern neighbor's property. ODOT has obtained title to the portion of that property that contains the well. They plan to construct the new Wilsonville Road and Highway 219 route over that well. The property owner will not have any suitable domestic water service, due to the action by ODOT.

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

**Response:** The property owner has researched the feasibility of drilling another well. The current well does provide quality water. Mr. Bowlin and his family drink bottle water exclusively. His discussions indicate that there is little likelihood of successfully drilling a new well.

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

**Response:** The new meter will be a standard ¾" domestic meter that connects from the existing City potable water system at a 14" cast iron main on Springbrook Road. The new service will not over-burden the water line or the City's water supply.

*(C) Application for Hardship. A request in letter form, for a hardship exception to Section 52.11 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 Council by the Public Works Department prior to the Council's consideration of the matter. A granting of the request for an exception can be made by the Council, provided that all the conditions stated in division (B) do exist.*

**Response:** A letter has been submitted by the owner and adjacent property owner. It is attached to the Request for Council Action (Exhibit B) for review by City Council.

*(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 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.*

*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.*

**Response:** The owner agrees to pay the appropriate cost of extending services to the parcel in accordance with City standards at this time. The owner shall pay the appropriate systems development charges at the time the property is connected to the City services. At this time the appropriate charges would be water system development charges. Further he agrees to annexation by the City of Newberg at such time as he leaves the property, there is a change in ownership, or the property is developed for another use. These conditions will be incorporated into a legal agreement should City Council choose to approve this hardship.

EXHIBIT B-1

**Dundee Law PC**

PO Box 272

Dundee, OR 97115

503-537-6977

[Gunn1947law@gmail.com](mailto:Gunn1947law@gmail.com)

Michael G. Gunn  
Attorney at Law

June 17, 2024

Mayor and City Council  
City of Newberg  
Newberg City Hall  
Newberg, OR 97132

**SENT VIA E MAIL:**

Re: Water Hardship Application - The Estate of Monte Bowlin – Tax Account R3221-1901  
Address 901 S. Springbrook Rd, Newberg (located outside City limits of Newberg)

Dear Mayor and City Council:

This letter is to inform you that I represent, in a limited role, Matt Bowlin who is the Personal Representative of the Estate of Monte Bowlin as the Estate is the current owner of the aforesaid real property. My role as counsel is associated with this said Hardship Application for City water service via a separate meter to the said real property. Terry Hansen, attorney in Newberg, represents Matt Bowlin as Personal Representative associated with the administration of the Estate of Monte Bowlin.

The Estate is requesting approval of a Hardship Application for a separate meter providing water service to Tax Lot 1901 with this separate meter installed on Tax Lot 1901; specifically, the following:

1. A Joint Rescission (between Applicant and the City of Newberg) of the Hardship Application executed by the City Council which was previously approved on or about February 5, 2007 with the approval then memorialized in a Contract for Extra-Territorial Provision of Water Service and Consent to Annexation dated February 6, 2007 ("February 2007 Contract"), which was not recorded in the Deed and Mortgage Records of Yamhill County, State of OR, until February 8, 2010, in Instrument #201001821. A copy of the February 2007 Contract is enclosed herein as a separate document and also as part of the original Hardship Application file.

2. Approval of this new Hardship Application with the specific terms and conditions set forth later in this Application.

Before setting forth the Estate's reasons and justification for this said application, Applicant believes a detailed history of this matter is required for a complete understanding, as the history is somewhat convoluted.

\*\*\*\*\*

**The applicable properties are as follows:**

1. Tax Lot R3221-1900 ("Tax Lot 1900") which is now approximately .33 acres in size, is unimproved and located within the City limits and contiguous to the subject property, and is owned by ACG Concrete LLC ("ACG") whose members are Matt Bowlin and Christina Scott. This property was previously owned by DMR Concrete, Inc. (which is owned by Matt Bowlin and Christina Scott as sole stockholders) and was recently conveyed by DMR Concrete Inc. ("DMR") to ACG for tax and other purposes.

2. Tax Lot R3221-1901 ("Tax Lot 1901") which is the subject property that is approximately .68 acres in size, contains a residence and an outbuilding, is located outside the City limits of Newberg, and is owned by The Estate of Monte Bowlin.

\*\*\*\*\*

**A chronological history of the matter is as follows:**

1. In or about 1997, Roger Grahn or entities controlled by him ("Grahn") owned all of what was then known as Tax Lots 1900, 1901, and 1802 (at that time, tax lot 1900 was a small piece just south of Tax Lot 1802 but contiguous to Tax Lot 1900). The total size of Tax Lots 1802 and 1900 at that time was approximately 2.41 acres more or less. All these properties were located outside the City limits of Newberg in unincorporated Yamhill County.

A. There was an existing well on Tax Lot 1802, which provided water service to Tax Lot 1901, but the water produced by the well was "hard" water with potability issues. The access for both Tax Lots 1802 and 1900 was a driveway from the south end of Springbrook Rd to Tax Lot 1802 (reference to any access issues is only set forth to present to Staff, Mayor, and the City Council anecdotally various access issues which were caused by condemnation of real property for subsequent construction of the "Bypass" which is referenced later).

2. On or about 8/8/1997, Grahn sold Tax Lot 1901 to Monte Bowlin; see copy of recorded deed from Grahn to Monte Bowlin.

A. Subsequent to the closing date set forth above, Monte Bowlin resided in the house located on Tax Lot 1901 and used water from the well on Tax Lot 1802 to provide service to Tax Lot 1901 (his usage of the water for drinking purposes was complicated by the fact it was "hard" water with potability issues). For a certain period of time, Monte Bowlin also utilized Tax Lot 1901 as a storage facility for concrete trucks and other equipment as he was the owner of DMR, which was a concrete construction company. However, the primary usage of Tax Lot 1901 was as a residence as the storage usage was minimal and tangential in nature.

3. For the time period on or about 8/8/1997 to on or about 12/3/2004, Grahn allowed Monte Bowlin, pursuant to an oral agreement, to use water from the aforesaid well to provide water service to Tax Lot 1901.

4. On or about 3/26/2003, Grahn and Monte Bowlin applied for annexation into the City of Newberg associated with tax lots 1900, 1901, and 1802.

A. Before the annexation was final, Monte Bowlin withdrew his application for annexation of Tax Lot 1901, ostensibly because he wanted to continue living in the unincorporated area of Yamhill County. If Tax Lot 1901 had been annexed into the City of Newberg, the zoning would have been Light Industrial, and the house would no longer have been able to be utilized as a residence (residences are not allowed uses in Light Industrial Zoned property). Monte Bowlin would have been forced to move to another residence to live.

B. As part of the annexation application, assuming annexation was approved, Grahn proposed to develop Tax Lots 1802 and 1900 as light industrial property.

5. On or about 12/4/2004 (not recorded until 5/23/2005), Grahn and Monte Bowlin entered into a formal agreement whereby Monte Bowlin acquired an easement over a portion of Tax Lots 1802 and 1900 for the purpose of obtaining water from the well resident on Tax Lot 1802 to service Tax Lot 1901 (see copy of recorded Easement enclosed herein).

6. On or about 12/7/2004, annexation for tax lots 1802 and 1900 became final, and those tax lots are now within the city limits of Newberg as Tax Lot 1802 was incorporated into Tax Lot 1900 as part of the annexation process (see enclosed copy of complete annexation packet).

A. The said annexation approval included certain conditions (i.e, hook up to City water and sewer, etc.) to occur within 1 year subsequent to final approval of the annexation. Applicant

submits this time period was effectively stayed” by the intervening act of the “bypass condemnation” which is why city water and city sewer were never “hooked up” to the resultant Tax Lot 1900 (this is discussed later in this Application).

7. In or about 2005, the State of OR, acting by and through its Department of Transportation (“ODOT”), filed a condemnation action against both Grahn (the then owner of Tax Lot 1900) as well as Monte Bowlin [note: Monte Bowlin was named as a defendant because of his recorded rights under the aforesaid water well easement, not because of any fee ownership interest in the said real property]. In the said Complaint, ODOT asked the Court to condemn approximately 2 acres more or less of Grahn’s property by reason of the “bypass” project. The aforesaid well was situated within the condemned area, and after the condemnation was completed, Monte Bowlin would no longer have access to the well as it would be decommissioned by ODOT. The legal action proceeded to mediation in 2007, at which time the parties reached a settlement agreement; see enclosed Stipulated General Judgment and hand written settlement agreement from mediation. Since both Grahn and Monte Bowlin are now deceased, it is unknown as to the allocation of the settlement proceeds between the two, but one can reasonably infer that Grahn received the vast majority of the settlement proceeds as Monte Bowlin only had an easement interest (i.e. no fee interest) being extinguished by the condemnation.

A. The end result of the condemnation was that ODOT acquired approximately 2 acres more or less of Grahn’s property; the well located on Grahn’s property and the easement in favor of Monte Bowlin were both extinguished, and the access from Springbrook Rd via the driveway to Tax Lot 1900 was extinguished. Tax Lot 1900 was then left without any approved access from Springbrook Rd or water source, and Monte Bowlin was left without any water source to Tax Lot 1901. Furthermore, any light industrial development plans Grahn had for Tax Lot 1900 were effectively extinguished by reason of the intervening action of the condemnation, because it would be extremely difficult, if not near impossible, to develop a light industrial parcel of approximately .33 acres and configured in the resultant shape of Tax Lot 1900 with the associated access issues (both these issues are extensively discussed later in this Hardship Application). Again, Applicant further submits that the city service “hook up” requirements set forth in the February 2007 Contract were never required because the results of the ODOT condemnation have caused Tax Lot 1900 as it now exists to be very difficult to develop.

8. In or about early 2007, ODOT, by and through its contractor “took” and decommissioned the aforesaid well resident on Tax Lot 1900, thereby leaving Monte Bowlin without any water source for Tax Lot 1901.

9. On or about 12/20/2006, Grahn submitted a Hardship Application Letter to the City of Newberg requesting City water service to Tax Lot 1901 (which was owned by Monte Bowlin).



This said Application was “acknowledged” by Monte Bowlin; see enclosed Application Letter dated 12/20/2006 which as separate enclosure and is contained within the Hardship Application Packet.

A. Included in that Application Letter is a paragraph which states the following:

*“Accordingly, we respectfully request on behalf of Monte Bowlin that the city agree to install a ¾” service on a hardship basis, but on property within the cities (sic) boundary (Tax Lot 3221-901) (sic lot R3221-1900), the small piece left over from ODOT’s condemnation. It is our intent for us to convey the piece to DMR Concrete, Mr. Bowlin’s concrete company\* and this water service would serve not only the needs to his\* company and its’ (sic) equipment, but also for his residence at 901 S. Springbrook.” [ \*Note: the aforesaid statements set forth by the \* are incorrect, because Monte Bowlin and Matt Bowlin, as stockholders, incorporated DMR Concrete Inc. in 1993, and both of them were stockholders at the time the Application was submitted by Grahn. DMR was not solely owned by Monte Bowlin].*

The substantive information set forth in the above paragraph is extensively discussed later in this Application.

10. On or about 2/5/2007 (with an effective date of 2/6/2007), the City of Newberg approved the aforesaid Hardship Application in Resolution No. 2007-2700 (which also contained certain findings); see enclosed copy of Resolution as well as the findings attached to the Resolution, both of which are contained in the Hardship Application Packet.

11. On or about 2/6/2007, the City of Newberg and Monte Bowlin executed the aforesaid February 2007 Contract, which authorized water service to Tax Lot 1901. Applicant further submits that by execution of the said February 2007 Contract, the City also authorized water service to Tax Lot 1900 via the same water meter (this issue is discussed later in this Application).

12. In or about March 2007, after authorization by the City of Newberg to do so, a ¾” lateral was installed from the City “water main” on Springbrook Rd to Tax Lot 1900 and a corresponding ¾” water meter was installed on Tax Lot 1900, and service lines to both Tax Lots 1900 and 1901 were installed from the shared water meter. This “shared installation” is discussed in greater detail later in this Application.

13. Subsequent to the said water meter installation, as set forth above, both Tax Lots 1900 and 1901 have continually used the shared meter for water service. As set forth above, Tax Lot 1901 uses the water service for domestic usage, while Tax Lot 1900 uses the water service for light

industrial usage; i.e. washing the concrete trucks and other equipment. Applicant submits Tax Lot 1900's usage amount is minimal.

14. In or about 2008, ODOT instituted condemnation against the Swonger trust property (Tax Lot 1800) and acquired the fee interest in a large portion of that property as well as the two then existing accesses from Springbrook Rd which served the Swonger trust property. There were a series of 3 deeds (2 from Swonger to ODOT and 1 from ODOT to Swonger) associated with this condemnation.

A. As part of the condemnation action, ODOT replaced the existing two (2) accesses to the Swonger property from Springbrook Rd with a single 25' wide permitted access from Springbrook Rd. This access was authorized by ODOT not just for the Swonger trust property but also as an access for Tax Lot 1900. However, this access did not provide direct access to Tax Lot 1900 from Springbrook Rd; instead, it required travel over a certain portion of the Swonger property to access Tax Lot 1900.

A. From the time that the said 25' access was constructed (which was the 2008 – 2009 time period range), the owners of Tax Lot 1900 have continually utilized the said access and the associated area of Tax Lot 1800 to access Tax Lot 1900. See attached aerial view of the "access" area identified by cross-hatching.

B. In or about March 2018, ODOT issued Darlene Swonger, as trustee of the Swonger trust, a shared access permit to access both tax lots 1800 and 1900 from Springbrook Rd. This permit was associated with the current location of the existing access to these properties. The said permit states that it is for access from Springbrook Rd to Tax Lots 1800 and 1900. The permit also states the usage is for 2 residential units; i.e. one for each Tax Lot. However, Regina Thompson, Right of Way Agent for ODOT (whom Applicant's attorney has been communicating with for several months) has stated words to the effect that "ODOT will recognize the existing Light Industrial Usage of Tax Lot 1900 as being compliant with the conditions of the existing access permit", but that if the usage should change (i.e. become a higher intense usage which would increase the trip counts), that ODOT would reserve the right to require modification, mitigation, or possibly revocation of the terms and conditions of that access permit as relates to Tax Lot 1900. See attached copy of Access Permit issued by ODOT.

C. A formal access easement agreement over Tax Lot 1800 for the benefit of Tax Lot 1900 has not yet been completed and recorded as ACG is currently in negotiations with the current trustee of the Darlene Swonger Trust.

Letter to Mayor and City Council

June 17, 2024

Page 7

15. On or about 8/7/2010, Grahn sold what was then Tax Lot 1900 to DMR which was owned by both Monte Bowlin and Matt Bowlin; see enclosed copy of deed from Grahn to DMR.

A. Subsequent to 8/7/2010, DMR (and its successor in interest as owner) have utilized Tax Lot 1900 as a storage area for concrete trucks as well as other associated pieces of equipment).

16. In or about March 2021, Matt Bowlin and Christina Scott purchased from Monte Bowlin his stock of DMR. At that time, DMR owned Tax Lot 1900. Matt Bowlin and Christina Scott as sole stockholders continue to operate DMR as a concrete construction company,

17. On or about 3/8/2021, Monte Bowlin borrowed money from American Advisors Group pursuant to a reverse mortgage and pledged as security Tax Lot 1901.

A. As with all reverse mortgages, the “due on sale” clause is triggered upon the death of the borrower.

19. On or about 1/14/2024, Monte Bowlin passed away.

20. On or about 3/13/2024, a Petition for Probate of Testate Estate of Monte Bowlin was filed in Yamhill County, Case #24PB02211.

21. On or about 3/13/2024, Matt Bowlin was named Personal Representative of the Estate of Monte Bowlin, and Letters Testamentary were issued.

A. The only asset of the estate is Tax Lot 1901 as the Estate does not have any bank accounts or other assets of any nature.

B. The current amount owing the reverse mortgage lender is approximately \$200,000; the reverse mortgage lender will allow a maximum of one (1) year from the date of death to pay the amount owing in full, so long as the owner (i.e., the Estate) is actively trying to sell the property to pay the debt in full.

C. There are various expenses associated with administration of the Estate which Matt Bowlin and Christina Scott have advanced and will have to continue to advance additional money to pay; i.e. utilities, insurance, court filing fees, etc.

22. On or about 6/4/2024, DMR conveyed Tax Lot 1900 to ACG for tax and other reasons. DMR now leases Tax Lot 1900 from ACG. DMR continues to utilize the said property as a storage facility for its concrete trucks and other equipment.

\*\*\*\*\*

**Options for the Estate after Monte Bowlin passed away associated with the February 2007 Contract**

1. The Estate basically has three (3) options as to how to deal with the February 2007 contract, to-wit:

A. Request a Joint Rescission of the February 2007 Contract and simultaneously submit a Request for a New Hardship Application for water service to Tax Lot 1901 that requires a separate lateral from the City main and a separate meter to be installed on Tax Lot 1901 with certain other conditions associated with the Hardship Application if approved.

B. Comply with the literal interpretation of the Contract and apply for annexation into the City of Newberg with the property being zoned Light Industrial and a Comprehensive Plan Designation of Industrial.

C. Comply with the literal interpretation of the Contract (with two variations) and apply for annexation into the City of Newberg with the property being zoned Residential (a zone change application would also have to be submitted) and a Comprehensive Plan Amendment Designation of Residential (a Comprehensive Plan Amendment would also have to be submitted).

*Applicant has chosen Option A and this Application sets forth the specific reasons for said choice, discussed in detail below.*

**Specific Reasons for Joint Rescission of the February 2007 Contract**

1. As set forth at the beginning of this Hardship Application, Applicant is requesting two separate requests in this Application with the first request being a Joint Rescission of the February 2007 Contract for the following reasons:

A. The intent and spirit of the annexation requirement set forth in the February 2007 Contract is not applicable to the facts of this situation.

1). Applicant acknowledges and concedes that Paragraph 4 of the February 2007 Contract between Monte Bowlin and the City of Newberg states the following:

a). “Consent to Annex: The Owner hereby consents to the eventual 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. The Owner agrees that the intent is the property will be annexed into the City of Newberg at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. ... “

b). Arguably, a literal interpretation of the above Paragraph could require Tax Lot 1901 to be annexed into the City of Newberg (i.e. annexation initiated by the owner of Tax Lot 1901 with all costs the responsibility of the owner).

c). However, Applicant submits that one should interpret the said Paragraph (and the complete February 2007 Contract) as to the intent and spirit of the document. Applicant submits that the intent and spirit was such that if Monte Bowlin voluntarily moved from the property (i.e. he no longer resided at the property), or if he voluntarily sold the property, or if he voluntarily developed the property for another use (which would be highly unlikely as it would be very difficult to obtain Yamhill County approval to do so), then annexation would be required. Applicant further submits that the intent and spirit was such that annexation would not be required if Monte Bowlin passed away, triggering the necessity of selling the property to pay the debts of the estate. His passing away was an involuntary act which Applicant submits was not within the scope of the intent and spirit of the annexation language set forth in the February 2007 contract.

B. *Option B as set forth above is rejected*, because annexation of the property at the present time will cause a tremendous financial hardship to Applicant (the property if annexed will be zoned Light Industrial with a Comprehensive Plan Designation of Industrial).

1). The property is only .68 acres in size and contains several outbuildings as well as the residence.

2). If this property is annexed into the City as Light Industrial, the existing residence will be required to be “decommissioned” as a residence, as residential usage is not allowed in a Light Industrial zone. Perhaps the house could be used as an office incidental to an overall usage of Light Industrial, but the value is severely diminished if zoned as Light Industrial.

a. The enclosed letter from Diana Cooper, realtor, dated 5/24/2024, sets forth the following:

1)). The highest and best use of the property is that of Rural Residential (i.e., continue to remain outside the City limits of Newberg). Her letter sets forth that the property should be listed for sale at \$650,00 based upon a comparable sale of property located at 3517 N. College St, Newberg, on 4/18/2024.

2)). However, if the property is required to be annexed into the City of Newberg as Light Industrial, the value decreases significantly. The letter states that Light Industrial properties of a small size are very difficult to develop (parking, landscaping, etc. being some of the reasons for the difficulty). She could only find two Light Industrial properties less than 3 acres in size in the Newberg/Dundee area which have actually sold in the last 8 years. The highest sales price per sq. ft. was the Fulquartz Rd, Dundee, property which sold at \$7.50/sq. ft. Even if the subject property would sell at that price (which is highly doubtful), that would only result in a gross sales price of .68 acre x 43,560 sq. ft. in 1 acre x \$7.50 = \$222,156. Subtracting realtor commissions and closing costs would result in a net sales price of maybe \$200,000 which would barely be enough to satisfy the reverse mortgage, let alone pay the administration costs of the probate and the debts owing by the Estate to Matt Bowlin and Christina Scott. That \$200,000 amount to satisfy the reverse mortgage is only valid if the property was closed NOW. This is impossible since the property would have to be annexed into the City which takes months to accomplish, and the Applicant would have to expend a significant amount of attorney fees and costs. Applicant submits that no prudent real estate buyer who really desired it as Light Industrial property would close on this transaction without the property first being annexed into the City. This is impossible since the property would have to be annexed into the City which takes months to accomplish, and the Applicant would have to expend a significant amount of attorney fees and costs. Applicant submits that no prudent real estate buyer who really desired it as Light Industrial property would close on this transaction without the property first being annexed into the City. By then, the payoff amount to satisfy the reverse mortgage would be much greater than \$200,000.

a)). Applicant further submits that the City's own Comprehensive Plan (copies of applicable Excerpts are enclosed) does not show a need for Light Industrial parcels < 20 acres in size, much less a parcel .68 acres in size. The most current Comprehensive Plan sets forth the following:

Page 68, Table V-10 Industrial Land Need (which is **overall** Industrial Land sets forth the following Needs

2005-2025	2026-2040
87 acres	76 acres



Page 69, Table V-11 Industrial Land Supply and Need  
sets forth the following Needs and Supply

2025 Need Parcels < 20 acres	Supply (Inside UGB)	Surplus/Deficit
50 acres	99 acres	49 acres surplus

Page 69, Paragraph 3 2040 Industrial Land Supply and Need

States “The period 2025-2040 will have additional needs for industrial lands. There is projected to be a need for 37 acres of additional small/medium sites.”

Page 69, Table V-12 2026-2040 Industrial Land Supply and Need  
sets forth the following Needs

Small/Medium Sites < 20 acres    37 acres Need

Applicant submits that the total Need for Industrial < 20 acres size (50 acres + 37 acres) is less than the Existing Supply (99 acres) thus accounting for a Surplus. Thus, allowing this property to remain outside the City limits zoned Rural Residential will have no negative impact on the City’s future need for Light Industrial parcels < 20 acres.

*C. Option C as set forth above is rejected,* because contemporaneously with the annexation request, Applicant would also be required to submit a Comprehensive Plan Amendment change (from Industrial to Residential) as well a Zone Change request from Light Industrial to Residential. The time period from applications to final decisions by the City would require many months, and would require the expenditure of a significant amount of attorney fees and. It is highly unlikely that the City would approve the aforesaid change requests, but even if the City approved them, it is very questionable as to whether or not those approvals would withstand appeals.

\*\*\*\*\*

**Contemporaneously With the Application for Joint Rescission of the February 2007 Contract, Applicant is Also Requesting Approval of a New Hardship Application for Water Service to Tax Lot 1901 with a Separate Lateral Providing Water to a New Separate Meter Situated on Tax Lot 1901**

Specifically, Applicant is requesting the following:

1. Disconnect the existing water service from the shared meter resident on Tax Lot 1900 which serves Tax Lot 1901 – the connection from this shared meter which serves Tax Lot 1900 will remain in place as the meter will then only service one (1) property, i.e. Tax Lot 1900.
2. Installation of a new ¾" lateral service from the existing water main under McKern Ct to Tax Lot 1901.
3. Installation of a new ¾" water meter on Tax Lot 1901.
4. Upon approval, only requiring annexation of the property upon the primary change of usage of the property from Residential to another usage or development of the property (i.e., subdividing, portioning, etc.).

The applicable Newberg City Ordinance is set forth as below, and the reasons that Applicant believes it has satisfied the Ordinance requirements are set forth *in italics* immediately below the specific Ordinance section:

**Ordinance 13.15.120 – Exceptions Due to Hardship**

An exception to NMC [13.15.110](#) 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.

Reasons for approval/satisfaction of this requirement:

*. There is already a shared meter in place resident on Tax Lot 1900 that serves both Tax Lots 1900 and 1901. There is already one existing residence on Tax Lot 1901 that is serviced by this shared meter. That is the only residence/structure that will be serviced by the installation of the new meter on Tax Lot 1901. There will be no increase in water usage for Tax Lot 1901 by reason of the new meter.*

*. Applicant does not want to continue with the shared meter serving both Tax Lots 1900 and 1901, because Tax Lot 1901 will be sold to satisfy debts of the Estate. While*

*Monte Bowlin was still alive, both Tax Lots using the same shared water meter did not cause issues, because both properties were owned by family members (i.e. Monte Bowlin was Matt Bowlin's father). However, once Tax Lot 1901 is sold to a 3<sup>rd</sup> party, Applicant is concerned regarding the potentially of a myriad of issues that can arise with a shared water meter resident on Tax Lot 1900 when the owners of the two Tax Lots do not even know one another (i.e. allocation of payment of the monthly bill, one owner believes the other owner is using too much water, etc.).*

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

Reasons for approval/satisfaction of this requirement:

- . Annexation is not immediately practical for the following reasons:
  - *Monte Bowlin passed away on 1/14/2024.*
  - *Prior to his death, on or about 3/8/2021, he borrowed money pursuant to a reverse mortgage and pledged the property as collateral.*
  - *The death of Monte Bowlin triggered the due on sale clause of the reverse mortgage (i.e. accelerating the entire amount due).*
  - *The present amount owing associated with the reverse mortgage is approximately \$200,000, and the reverse mortgage company will only allow the Estate of Monte Bowlin (current owner of the said property) until January, 2025 to pay off in full the reverse mortgage.*
  - *The Estate of Monte Bowlin does not have sufficient funds to satisfy the amount due associated with the reverse mortgage as the only asset of the Estate at the present time is the real property.*
  - *The total amount of debts of the Estate are in excess of \$200,000.*
  - *It is necessary to sell the property to satisfy the reverse mortgage as well as other debts of the Estate of Monte Bowlin.*
  - *If the property is annexed into the City as Light Industrial property (pursuant to the Comprehensive Plan Designation of Industrial), the value of the property*

*will be at most \$223,156, with a net amount of available cash after sale of the property being no more than \$200,000.*

*- Annexation will result in a financial hardship to the Estate, because the property sold as Light Industrial will not even result in a sufficient amount of funds to pay the debts of the Estate.*

*- If the property is **not** annexed into the City (i.e., allowed to remain outside the City limits), the value of the property as Residential property is at least \$600,00. A sale of the property at that amount will result in sufficient funds to the Estate to pay the debts of the Estate and have some remaining monies to distribute to the beneficiaries of the Estate.*

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.

Reasons for approval/satisfaction of this requirement:

*- Applicant submits that this request, if approved, will result in one new water meter, and arguably a "new or additional connection" per se; however, this new water meter is just a substitute for the existing Tax Lot 1901 connection from the shared meter. That connection will be disconnected upon approval of Hardship Application. Thus, from a strict usage standpoint, there will not be any additional usage.*

*- As far as a genuine hardship existing due to quality and/or quantity of water for domestic consumption, a well is not practical or feasible as there are severe quality issues associated with the potability of water from a well as water in that area is "hard" water. This is the main reason that the City approved the original Hardship Application.*

*- As set forth above, if this property remains Residential outside the City limits, there are only two choices to obtain City water for Tax Lot 1901:*

*. Continue with the same shared meter resident on Tax Lot 1900 that serves both Tax Lots, or disconnect service from the shared meter for Tax Lot 1901 and install a new lateral from the existing City main and a new meter on Tax Lot 1901.*

*. The City previously approved the shared meter to be installed on Tax Lot 1900 to service both Tax Lots 1900 and 1901. From 2010 until Monte Bowlin's death*



*in January 2024, both properties were owned by family members or entities controlled by family members. Applicant has already stated the potentiality for issues that may arise in the future if forced to continue with this shared meter arrangement. Applicant submits it is not fair, practical, or feasible for the City to require the owners of Tax Lot 1900 to continue with the current shared meter usage in light of the future sale of Tax Lot 1901 to an unknown 3<sup>rd</sup> party. It is also Applicant's understanding that the City prefers to discontinue with the shared meter and have a separate meter installed on Tax Lot 1901. Thus, Applicant submits that from a literal standpoint, if Tax Lot 1901's water service is discontinued from the shared meter, there is a genuine hardship as to the quantity of water available, because without the installation of a new meter on Tax Lot 1901, there would be no water available for Tax Lot 1901. The only feasible solution is to install a new lateral to provide service to a new meter installed on Tax Lot 1901, and contemporaneously disconnect service for Tax Lot 1901 from the meter resident on Tax Lot 1900.*

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

*- The only other alternatives are a well or continuation of the existing shared meter, neither of which are practical or feasible as both have been discussed above.*

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

*- There is an existing City water main under McKern Ct which serves the shared meter on Tax Lot 1900 and which is available for a new ¾" lateral to service the new meter to be installed on Tax Lot 1901.*

*- This new connection to be installed on Tax Lot 1901 is not "really an additional connection" but rather only a new meter, because the shared meter presently serves both Tax Lots 1900 and 1901.*

*- The installation of a new lateral to service a new meter to be installed on Tax Lot 1901 will not overburden existing lines, ... , or overburden the City's water supply, because the shared meter now services both Tax Lots. After approval and installation of the new lateral and new meter on Tax Lot 1901, the meter on Tax Lot 1900 will only serve Tax Lot 1900 (who uses a minimal amount of water), and the new meter will serve only Tax Lot 1901. Hence, there will be no increase in usage of City water.*

C. Application for Hardship. A request in letter form for a hardship exception to NMC [13.15.110](#) 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.

*- This entire Application in letter form together with all attached Exhibits satisfies this condition.*

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.

*- Applicant, The Estate of Monte Bowlin, understands that it is responsible for the payment of the full cost of extending services to the parcel with all services meeting city standards together with the cost of the disconnection of the service for Tax Lot 1901 from the existing shared meter. Among these costs are the reasonable amount of attorney fees incurred by the City associated with this Application.*

*- Applicant intends to request waiver of the water SDC charges as allowed in Subsection 5 set forth below.*

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.

*- Applicant specifically requests that approval of this application only include the following requirements for annexation to the City:*

*. The City shall request annexation only upon a change in usage of the property from primarily residential to another usage or development of the property (i.e. subdividing, portioning, etc.), whichever occurs first.*

*. The City shall not request annexation if the owner dies or if the owner sells the property or if the owner no longer resides on the property, because if those conditions*



*“triggered” annexation, this application would be meaningless. It would be impossible to sell the property to a buyer who had to accept these conditions.*

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

*- There is only one residence on the property, and Applicant agrees that this application, if approved, will only allow water for domestic purposes.*

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.

*- Applicant agrees to this condition.*

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.]

*- Applicant requests a waiver of the water system development charges associated with the new meter to be installed on Tax Lot 1901 for the following reasons:*

*. The Hardship Application submitted by Grahn on behalf of Monte Bowlin on or about 12/20/2006 contained the following language:*

***“Accordingly, we respectfully request on behalf of Monte Bowlin that the city agree to install a ¾” service on a hardship basis, but on property within the cities (sic) boundary (Tax Lot 3221-901) (sic lot R3221-1900), the small piece left over from ODOT’s condemnation. It is our intent for us to convey the piece to DMR Concrete, Mr. Bowlin’s concrete company and this water service would serve not only the needs to his company and its’ (sic) equipment, but also for his residence at 901 S. Springbrook.” Applicant has already set forth the incorrectness in the above statement relating to the ownership of DMR at the time of the original Hardship Application.***

*. The City, in approving the said Hardship Application authorized water service to Tax Lots 1900 and 1901 via a single shared meter. Since 2007, that meter has been providing service to both Tax Lots. Monte Bowlin, as a condition of approval of the Hardship Application, was required to pay the water SDC’s for that meter which serviced two properties. The purpose of SDC payments is to offset the future burden on City services caused by the development. There is no additional future burden on City water*

Letter to Mayor and City Council

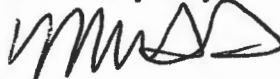
June 17, 2024

Page 18

*services as the amount of water used by Tax Lots 1900 and 1901 after installation of a new water meter on Tax Lot 1901 should not result in any increase from the present usage. Hence, there is no need for the imposition of water SDC's in an amount in excess of \$7,800 which will place a tremendous financial burden on Applicant as a condition of this approval.*

Applicant believes it has satisfied all conditions for this two-part Water Hardship Application approval. Thank you for your attention.

Yours very truly,



Michael G. Gunn  
Attorney at Law

MGG;mgg

Enc: List of Exhibits/Enclosures to Hardship Application

Map Showing Area Before Condemnation and Location of Well

Aerial Map Showing Configuration of Lots Now and Location of Meter on Tax Lot 1900

**The above two maps are also set forth in a Power Point File that is enclosed herein**

Original February 2007 Contract Associated with Approval of Hardship Application

Deed Grahn to Monte Bowlin 1997 Tax Lot 1901

Well Easement Grahn to Monte Bowlin 2004/2005

Annexation Packet Associated with Annexation of Tax Lots 1802 and 1900

Original Hardship Application File 2006-2007

General Judgment from Mediation Settlement Condemnation ODOT v. Grahn and Monte Bowlin 2007

2018 ODOT Access Permit for Tax Lot 1800 (Swonger Property) and Tax Lot 1900 (ACG Concrete LLC) Property

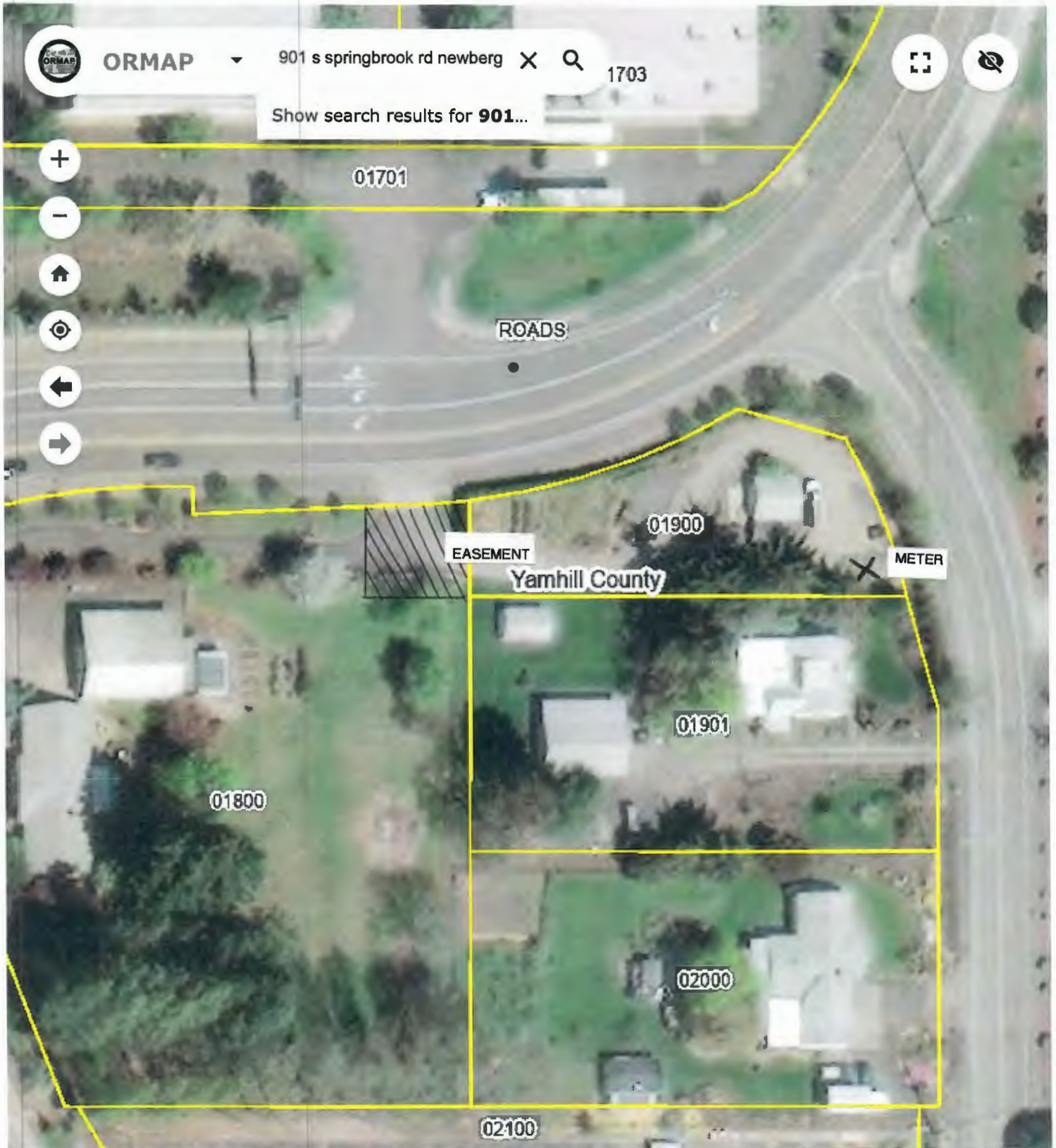
Deed Grahn to DMR Concrete Inc. 2010

Diana Cooper Realtor Analysis of Value Residential v. Light Industrial

Excerpts From City's Comprehensive Plan

Cc: Matt Bowlin and Tina Scott via e mail (with enc), Terry Hansen atty via e mail (with enc), Will Worthey City Mgr via e mail (with enc), Scot Siegel Planning Director via e mail (with enc), Regina Thompson ODOT (with enc), Diana Cooper via e mail (with enc)

**AERIAL MAP SHOWING  
CONFIGURATION OF  
LOTS NOW AND  
LOCATION OF METER  
ON TAX LOT 1900**



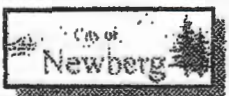
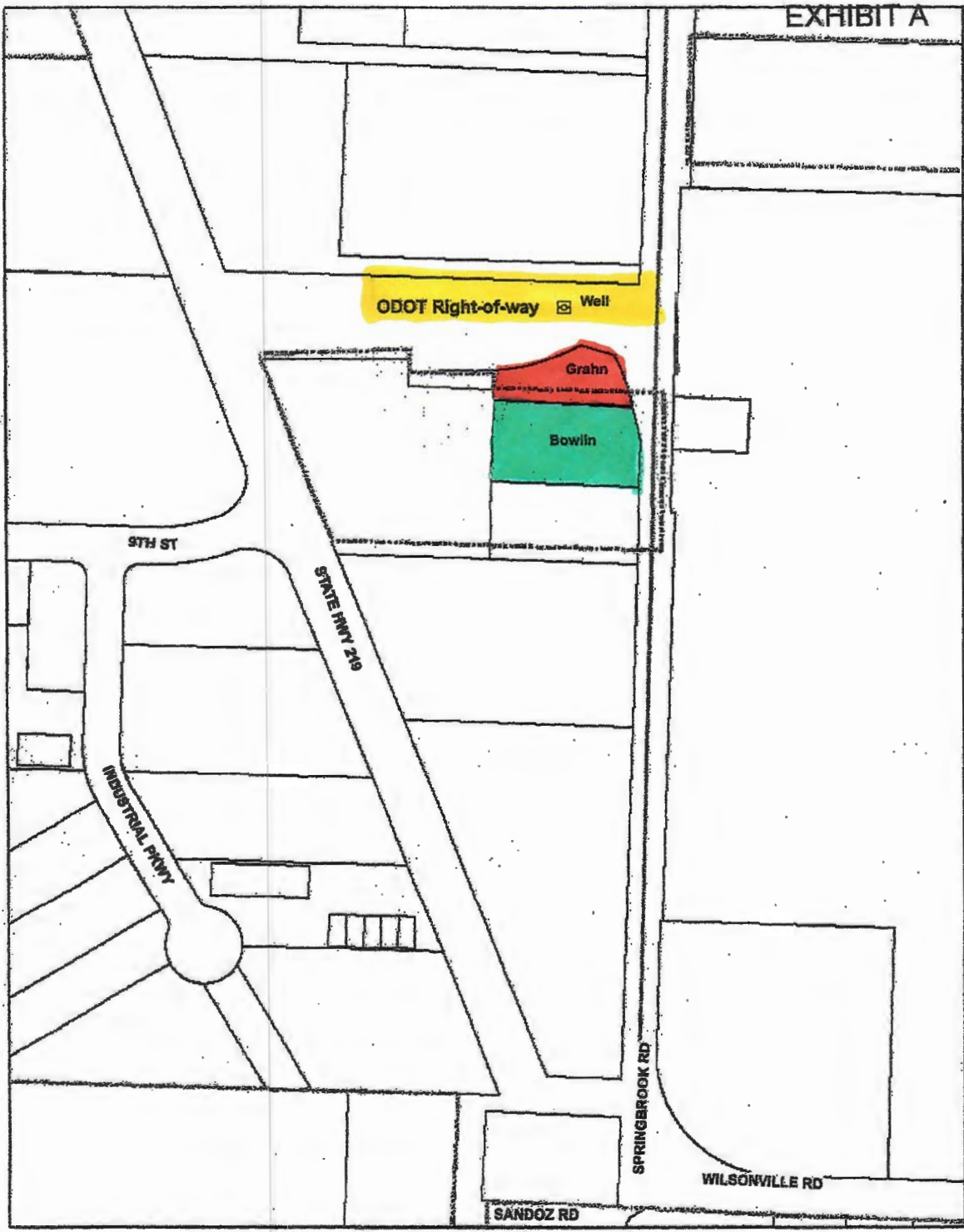
-122.948 45.294 Degrees





**MAP SHOWING AREA  
BEFORE  
CONDEMNATION AND  
LOCATION OF WELL**

EXHIBIT A



P:\GIS\_Eng\springbrookandwilsonvillewaterline.mxd  
01/18/2007 @ 2:17:03 PM



Legend

- City of Newberg water system line
- Newberg City Limits

200 Feet

6/11



**ORIGINAL FEBRUARY  
2007 CONTRACT  
ASSOCIATED WITH  
APPROVAL OF  
HARDSHIP  
APPLICATION**

**AFTER RECORDING RETURN TO:**  
City of Newberg – Public Works Department  
PO Box 970 – 414 East First Street  
Newberg, OR 97132  
(503) 537-1273

OFFICIAL YAMHILL COUNTY RECORDS  
REBEKAH STERN DOLL, COUNTY CLERK

201001821



\$91.00

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02/08/2010 03:20:10 PM

DMR-CONDMR Cnt=1 Stn=2 ANITA  
\$55.00 \$10.00 \$11.00 \$15.00

**CONTRACT FOR EXTRA-TERRITORIAL PROVISION  
OF WATER SERVICE and CONSENT TO ANNEXATION**  
(water service outside the City)  
(ORS 221.115)

THIS AGREEMENT is entered into this 6 day of Feb 2007 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". 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:** Monte Bowlin
- b. **Owner(s) Address:** 901 S. Springbrook Rd.  
Newberg, Oregon 97132

**REAL PROPERTY:**

- c. **Property Address:** 901 S. Springbrook Rd.  
Newberg, Oregon 97132
- d. **Tax Lot No.:** 3221-1901
- e. **Legal Description** recorded in Yamhill County Records, Instrument Number 199713551 on 08/12/97, is hereby referenced and by this reference fully incorporated.

2. **Request.** The Owner of the real property has requested water service from the City which will supply City water to the real property located outside the City limits of the City of Newberg.

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1/2

3. **Hardship Exceptions.** The City Code at Title V, Chapter 52, provides for water connections outside the City limits under certain hardship conditions.
4. **City Council Approval.** Under certain hardship conditions, the City Council has approved this connection by City Resolution No. 2007-2700. The Resolution with attached hardship conditions is hereby referenced and by this reference fully incorporated.
5. **Intent to Annex.** The parties agree that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use.

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** in accordance with the City Code.
  - B. The **City** consents to the **Owner** connecting to the Citywater 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** 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.
4. **Consent to Annex.** The **Owner** hereby consents to the eventual 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. The **Owner** agrees that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. The **Owner** wishes the consent to annexation be considered in any annexation procedure and waives the one-year time period provided for in ORS 222.173 within which the consent shall be effective for consideration and requests that this consent be valid as long as the property is receiving the extra-territorial services.
5. **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 an existing structure and will not be used to allow any new development.
  - 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.
6. **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.

2/10

- 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.

7. **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 6 day of Feb 2007.

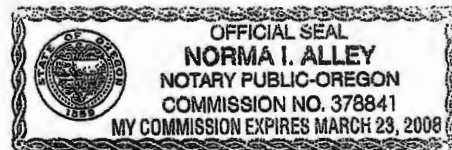
STATE OF OREGON)  
County of Jefferson)s.s.

OWNER

Monte Bowlin  
Monte Bowlin

This instrument was acknowledged before me this 6<sup>th</sup> day of February, 2007 by Monte Bowlin.

Norma I. Alley  
Notary Public for Oregon  
My Commission Expires: March 23, 2008



CITY OF NEWBERG

Daniel Danicic  
Daniel Danicic, City Recorder

APPROVED AS TO FORM

Terrence D. Mahr  
Terrence D. Mahr, City Attorney

3/4

EXHIBIT B-5

**DEED GRAHN TO  
MONTE BOWLIN 1997  
TAX LOT 1901**



**TICOR TITLE INSURANCE**

**WARRANTY DEED**

This Space Reserved for Recorder's Use

GRANTOR: R.P. GRAHN, INC.

GRANTEE: MONTE BOWLIN

Until a change is requested, all tax statements shall be

sent to the following address:

MONTE BOWLIN

735 N. COLLEGE

NEWBERG, OR 97132

Escrow No. 78890 Title No. 78890

After recording return to:

MONTE BOWLIN

735 N. COLLEGE

NEWBERG, OR 97132

Recorded in Yamhill County, Oregon  
CHARLES STERN, COUNTY CLERK



35.00

199713551 10:50am 08/12/97

091 052710 00 00 000202  
1 0 D08 1 5.00 10.00 20.00 0.00 0.00 0.00

**STATUTORY WARRANTY DEED**

R.P. GRAHN, INC., an Oregon Corporation Grantor, conveys and warrants to MONTE BOWLIN Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in YAMHILL County, Oregon, to wit:

---BEGINNING at the Northeast corner of a tract conveyed to Kenneth Wegter and wife by deed recorded December 8, 1953 in Book 171, Page 733, Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West, of the Willamette Meridian in Yamhill County, Oregon; thence West along the North line of said Wegter tract, 260 feet; thence North 125 feet; thence East 260 feet to the East line of said Everest Claim; thence South along the East line of said Richard Everest Claim, 125 feet to the point of beginning.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930. The said property is free from encumbrances except rights of the public in streets, roads and highways; 1997-98 taxes.

The true consideration for this conveyance is \$150,000.00 (Here comply with the requirements of ORS 93.030)

Dated this 9<sup>th</sup> day of AUGUST 19 97

R. P. GRAHN, INC.

ROGER GRAHN

State of Oregon, County of YAMHILL

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of AUGUST 19 97 by ROGER GRAHN, of R.P. GRAHN, INC., a corporation, on behalf of the corporation.

Notary Public for Oregon

My commission expires 2-6-98



OFFICIAL SEAL  
SHERYL LUTZ

NOTARY PUBLIC-OREGON

COMMISSION NO. 000096

MY COMMISSION EXPIRES FEBRUARY 6, 1998

8-12-97



**WELL EASEMENT  
GRAHN TO MONTE  
BOWLIN 2004/2005**

NN

## EASEMENT

STATE OF OREGON,  
County of \_\_\_\_\_ } ss.Between  
R P Grahn, Inc  
23287 LaSalle Lane  
Sherwood, OR 97140And  
Monte Bowlin  
901 S Springbrook Rd  
Newberg, OR 97132After recording, return to (Name, Address, Zip):  
Monte Bowlin  
901 S Springbrook Rd  
Newberg, OR 97132I certify that the within instrument was  
received for recording on \_\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in  
book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_  
and/or as fee/file/instrument/microfilm/reception

SPACE RESERVED

OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK

200510481



\$36.00

00200012200500104810030031

05/23/2005 10:56:36 AM y.

DMR-EDMR Cnt=1 Stn=2 ANITA  
\$15.00 \$10.00 \$11.00THIS AGREEMENT made and entered into on December 4, 2004, by and  
between R. P. Grahn, Inc.  
hereinafter called the first party, and Monte S. Bowlin

hereinafter called the second party, WITNESSETH:

WHEREAS: The first party is the record owner of the following described real property in Yamhill  
County, State of Oregon, to-wit:

See EXHIBIT "A" attached.

and has the unrestricted right to grant the easement hereinafter described relative to the real estate.

NOW, THEREFORE, in view of the premises and in consideration of \$ none by the second party to the  
first party paid, the receipt of which is acknowledged by the first party, it is agreed:

The first party hereby grants, assigns and sets over to the second party an easement, to-wit:

The use of an existing water well situate on the herein described property of First  
Party, including the pump, supply lines, electrical power, pump house and  
equipment within, and the other incidentals necessary for the supply of water required  
by Second Party.

This easement is given to memorialize our verbal agreement of August 10, 1997.

(Insert a full description of the nature and type of easement granted by the first party to the second party.)

(OVER)

THIS IS AN ACCOMMODATION RECORDING ONLY  
IT HAS NOT BEEN EXAMINED AS TO ITS CONTENT  
NORTHWEST TITLE COMPANY



The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate.

The second party agrees to save and hold the first party harmless from any and all claims of third parties arising from the second party's use of the rights herein granted.

The period of this easement shall be 30 years, always subject, however, to the following specific conditions, restrictions and considerations:

This Easement shall terminate in the event of any of the following:

- A. The existing well shall fail, or
- B. One year after the death of Monte Bowlin, or
- C. Six months after the sale of the Second Party's property.

If this easement is for a right of way over or across the real estate, the center line of the easement is described as follows:  
not applicable

and the second party's right of way shall be parallel with the center line and not more than \_\_\_\_\_ feet distant from either side thereof.

During the existence of this easement, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of (check one): ☐ the first party; ☐ the second party; ☐ both parties, share and share alike; ☐ both parties, with the first party responsible for \_\_\_\_\_% and the second party responsible for \_\_\_\_\_. (If the last alternative is selected, the percentages allocated to each party should total 100.)

During the existence of this easement, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

R. P. Grah, Inc

by: Roger P. Grah President

12/4/04

STATE OF OREGON, County of Yamhill ss.

This instrument was acknowledged before me on \_\_\_\_\_

by \_\_\_\_\_

This instrument was acknowledged before me on May 20, 2005

by Roger P. Grah

as President

of R. P. Grah, Inc.



Notary Public for Oregon

My commission expires 03-10-06

Monte Bowlin

SECOND PARTY

STATE OF OREGON, County of Yamhill ss.

This instrument was acknowledged before me on May 20, 2005

by Monte Bowlin

This instrument was acknowledged before me on \_\_\_\_\_

by \_\_\_\_\_

as \_\_\_\_\_

of \_\_\_\_\_



Notary Public for Oregon

My commission expires 03-10-06

**EXHIBIT "A"**

**PARCEL I:**

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

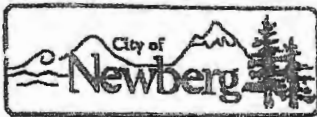
BEGINNING at the Northeast corner of said Rahier tract; thence South  $00^{\circ}09'30''$  West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North  $89^{\circ}50'30''$  West, 260.00 feet to the Northwest corner thereof; thence South  $00^{\circ}09'30''$  West 20.00 feet to an iron rod at the Southwest corner thereof; thence North  $89^{\circ}50'30''$  West 135.68 feet to an iron rod; thence North  $00^{\circ}20'30''$  East, 60.81 feet to an iron rod; thence South  $87^{\circ}56'$  West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North  $22^{\circ}43'$  West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South  $89^{\circ}51'30''$  East, 684.17 feet to the point of beginning.

**PARCEL II:**

BEGINNING at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the true place of beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the place of beginning.

**ANNEXATION PACKET  
ASSOCIATED WITH  
ANNEXATION OF TAX  
LOTS 1802 AND 1900**





# TYPE III APPLICATION (QUASI-JUDICIAL REVIEW)

## OFFICE USE ONLY:

Total Ap Fee: 194700 (Pre-Application Conference is required on Type 3)  
File #: NY 21-03 Project Cost: \_\_\_\_\_  
Less Pre-Ap Fee: \_\_\_\_\_ Date: \_\_\_\_\_ Receipt: \_\_\_\_\_  
Balance Due: 194700 Date: 4/5/03 Receipt: 238616

## TYPES - PLEASE CHECK ONE:

- ☒ Annexation  
☐ Historic Landmark Designation  
☐ Comprehensive Plan Amendment (site specific)  
☐ Conditional Use Permit  
☐ Zoning Amendment (site specific)  
☐ Historic Landmark Modification/alteration  
☐ Planned Unit Development  
☐ Sign Program  
☐ Other: (Explain) \_\_\_\_\_

## APPLICANT INFORMATION:

APPLICANT: R. P. GRAHN, INC  
ADDRESS: 23287 LaSalle, Sherwood OR 97140  
PHONE: 625-4552 MOBILE: 314-7682 FAX: 625-1244  
OWNER (if different from above): ABOVE & MONTE BOWLIN PHONE: 538-9452  
ADDRESS: 901 S. SPRINGBROOK, NEWBERG  
ENGINEER/SURVEYOR: \_\_\_\_\_ PHONE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

## GENERAL INFORMATION:

PROJECT NAME: SPRINGBROOK ANNEXATION PROJECT LOCATION: 901 & 835 S. SPRINGBROOK  
PROJECT DESCRIPTION/USE: APPROVAL OF AN ANNEXATION OF APPROX 3 ACRES.  
MAP/TAX LOT NO. (i.e. 3200AB-400): 3221-1802, 1903, 1904 ZONE: AF-10 SITE SIZE: 3.16 SQ. FT. ☐ ACRE:  
COMP PLAN DESIGNATION: IND TOPOGRAPHY: FLAT  
CURRENT USE: VACANT & RESIDENTIAL  
SURROUNDING USES:  
NORTH: INDUSTRIAL - M-2 SOUTH: RESIDENTIAL NON CONFORMING M-1  
EAST: RESIDENTIAL R-2 WEST: INDUSTRIAL - M-2

## SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

- General Checklist: ☐ Fees ☐ Noticing Information ☐ Title Report ☐ Criteria Response ☐ Owner Signature/Letter of Consent  
Annexation/Comprehensive Plan Amendment/Zoning Amendment Checklist: ☐ Site Plan ☐ Map & Legal Description ☐ Dedications ☐ Easements ☐ Annexation Consent Form  
Conditional Use Checklist: ☐ Site Plan ☐ Landscape Plan ☐ Drives/Parking/Circulation ☐ Buffering/Screening  
☐ Signs/Graphics ☐ Exterior Lighting ☐ Trash/Refuse Storage ☐ Roadways/Utilities ☐ Traffic Study  
Historic Landmark Establishment/Modification Checklist: ☐ Historical Information ☐ Site Plan ☐ Architectural Drawings  
☐ Existing Features/Natural Landscape  
Planned Unit Development Checklist: ☐ Site Plan ☐ Landscape Plan ☐ Existing Features/Natural Landscape  
☐ Drives/Parking/Circulation ☐ Buffering/Screening ☐ Signs/Graphics ☐ Roadways/Utilities ☐ Traffic Study  
Sign Program Checklist: ☐ Copy of sign regulations

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must either sign the application giving applicant authorization, or submit letters of consent. Incomplete or missing information may delay the approval process.

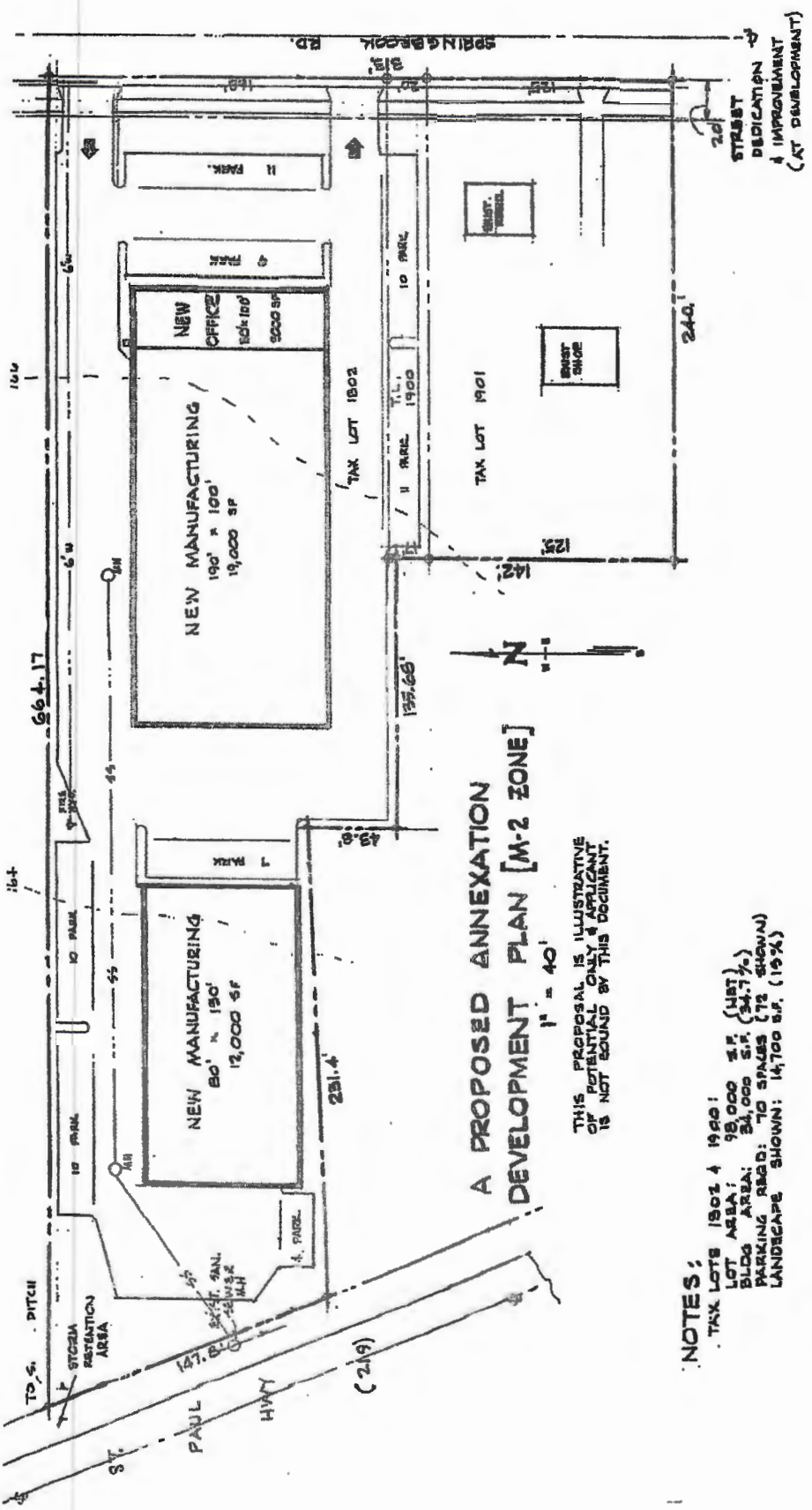
by [Signature] 4/14/03  
Applicant Signature Date  
Print Name R. P. GRAHN, INC.

4/14/03  
Owner Signature Date  
Print Name MONTE S. BOWLIN

Attachments: General Information, Criteria, Noticing Procedures, Fee Schedule, Checklist

5.3-14





A PROPOSED ANNEXATION  
DEVELOPMENT PLAN [M-2 ZONE]  
1" = 40'

THIS PROPOSAL IS ILLUSTRATIVE  
OF POTENTIAL ONLY & APPLICANT  
IS NOT BOUND BY THIS DOCUMENT.

NOTES:

TAX LOTS 1901 & 1902:  
LOT AREA: 98,000 S.F. (NET)  
BLDG AREA: 34,000 S.F. (34.7%)  
PARKING REQD: 70 SPACES (7% SHOWN)  
LANDSCAPE SHOWN: 14,700 S.F. (15%)

TAX LOT 1901:  
LOT AREA: 37,500 S.F. (NET)  
BLDG AREA: 2,400 S.F.

ANX 29-03  
22 APRIL 1994

STREET  
DEDICATION  
& IMPROVEMENT  
(AT DEVELOPMENT)

McMinnville Office  
P.O. Box 1239  
445 Third Street  
McMinnville, OR 97128  
(503) 472-4627  
(503) 538-8354  
FAX (503) 434-4432

# Northwest Title Company

Newberg Office  
P.O. Box 746  
515 E. Hancock  
Newberg, OR 97132  
(503) 538-7361  
FAX (503) 538-0723

December 31, 2002

Title No. 77381  
Grahm

## PRELIMINARY TITLE REPORT

Roger Grahm  
23287 LaSalle Lane  
Sherwood, Oregon 97140

Ladies and Gentlemen:

We are prepared to issue a Title Report, covering:

See EXHIBIT "A" attached;

as of December 5, 2002, at 8:00 A.M., vested in:

ROGER P. GRAHN, INC., as to Parcels I and II  
and  
MONTE BOWLIN, as to Parcel III;

Subject to the usual printed exceptions, and

1. Rights of the public in and to any portion of the herein described premises lying within the boundaries of roads or highways.
2. Trust Deed, including the terms and provisions thereof, given by Monte Bowlin as trustor, to David C. Haugeberg as trustee, and First Federal S&L Association as beneficiary, dated August 8, 1997, recorded August 12, 1997, as Instrument No. 199713552, Deed and Mortgage Records, to secure the payment of \$90,000.00. (Affects part of Parcel III)

NOTE: Taxes, 2002-2003: \$ 6.80 PAID. Tax Lot R3221-1900. Acct. No. 62746.  
Taxes, 2002-2003: \$ 688.43 PAID. Tax Lot R3221-1802. Acct. No. 62737.  
Taxes, 2002-2003: \$1,309.01 PAID. Tax Lot R3221-1901. Acct. No. 509548.

NOTE: The address of the herein described property is: 901 and 813 NE Springbrook Road, Newberg, Oregon 97132.

NORTHWEST TITLE COMPANY



Finis D. Carter  
(503) 472-4627

FDC/db

5.3-10

**EXHIBIT "A"**

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A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

BEGINNING at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the point of beginning.

**PARCEL II:**

BEGINNING at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the true place of beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the place of beginning.

**PARCEL III:**

BEGINNING at the Northeast corner of a tract conveyed to Kenneth Wegter and wife by deed recorded December 8, 1953 in Book 171, Page 733, Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon; thence West along the North line of said Wegter tract, 260 feet; thence North 125 feet; thence East 260 feet to the East line of said Everest Claim; thence South along the East line of said Richard Everest Claim, 125 feet to the place of beginning.

R P GRAHN, INC.  
23287 LaSalle Lane  
Sherwood, OR 97140  
Phone: (503) 625-4552  
Fax: (503) 625-1244  
CCB# 5128

March 26, 2003

SPINGBROOK ANNEXATION  
CRITERIA RESPONSE

*(1) The proposed use for the site complies with the Newberg Comprehensive Plan and with the designation on the Newberg Comprehensive Plan Map.*

This proposed annexation complies with the City's Comprehensive Plan. There are no proposed uses or development plans for the vacant portions (Parcels I and II) of this request. The intent is to eventually develop something that complies with the M-2 zoning proposed. The existing residence (Parcel III) will remain as is. This site currently abuts the city on nearly all sides, being approximately the North half of a non annexed "island".

*(2) An adequate level of urban services must be available, or made available, within three years time of annexation.*

*(A) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg Comprehensive Plan for provision of these services.*

Urban services are all available immediately to this site. These include:

Sewer: at Springbrook Rd and Hwy 219

Water: at Springbrook Rd and Hwy 219

Storm: at Springbrook Rd and Hwy 219

Power, Natural Gas, Etc.: at Springbrook Rd and Hwy 219

It may be noteworthy that Parcel III is being brought in to the city solely because the current water supply (a well) to the existing residence (the Bowlin Residence) is NOT Potable and represents a serious health hazard. A hardship connection request is prepared.

*(B) Roads with an adequate design capacity for the proposed use and projected future uses.*

Springbrook Road is the only access (access is not permitted on to Hwy 219) and is adequate for the only current use (one residence). A half street improvement by the developer such as that to the immediate North would be proposed and necessary at the time of any future improvements. There should be no other public improvements required as they already exist, hence no public costs.

*(3) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.*

#### Availability of Services:

(1) Police: As an un-annexed "island", essential police services now are provided pro bono. The tax base increase of this annexation will more than offset these very minimal requirements. Similarly, any development of an M-2 type will create more than enough tax base increase to offset any increase in services in this, the least demanding type of development.

(2) Fire: Newberg has the unique distinction of having two fire departments in one, The Newberg Fire Department and the Newberg Rural Fire Department. Under this proposal, the legal responsibility for this site transfers to the Newberg Fire Department along with the increase in tax base. Thus, the city benefits from providing the same service for more money. As with police above, any future development will more than pay its own way.

(3) Parks and Schools: This proposal will create no new need for parks or schools, nor will any future development. This results in additional tax income for no services provided.



SEE MAP 3 2 20

29.2

29.0

1300  
16.15 AC.  
CSP A 196  
CSP 9159  
CSP 5055  
C

NW COR  
MCKERN  
DLC 56

681.1 CS 9819

3900  
7.2 AC.

4000  
12.5 AC.

4100  
2.98 AC.

29.0

1400  
6.6 AC.

1500  
3.62 AC.

3800  
14.75 AC.

1601  
2.75 AC.

1602  
1.09 AC.

1600  
2.5 AC.

3700  
6.05 AC.

3701  
5.59 AC.

1702  
2.37 AC.

1701  
2.17 AC.

1700  
3.19 AC.

3500  
6.3 AC.

3400  
13.59 AC.

3401  
7.30 AC.

3300  
10665 SF

1802  
2.3 AC.

1800  
2 AC.

1900  
0.11 AC.

1901  
0.69 AC.

2000  
0.69 AC.

2100  
2.4 AC.

2101  
3.3 AC.

3200  
24.73 AC.

3100  
3.2 AC.

5003  
2.4 AC.

5001  
1 AC.

5000  
3.3 AC.

5101  
CSP 44

491  
1.5

NE COR  
S-SNOWDEN  
DLC-68 &  
WNW COR  
DLC-56

CSP 9345

2200

2300

2400

2500  
1.35 AC.  
CSP 4238

2700  
1.97 AC.

2800

2900

3000

2600  
3.11 AC.

WILSONVILLE  
9.05 CH

5200  
0.96 AC.

5300  
3.59 AC.

541  
6.4

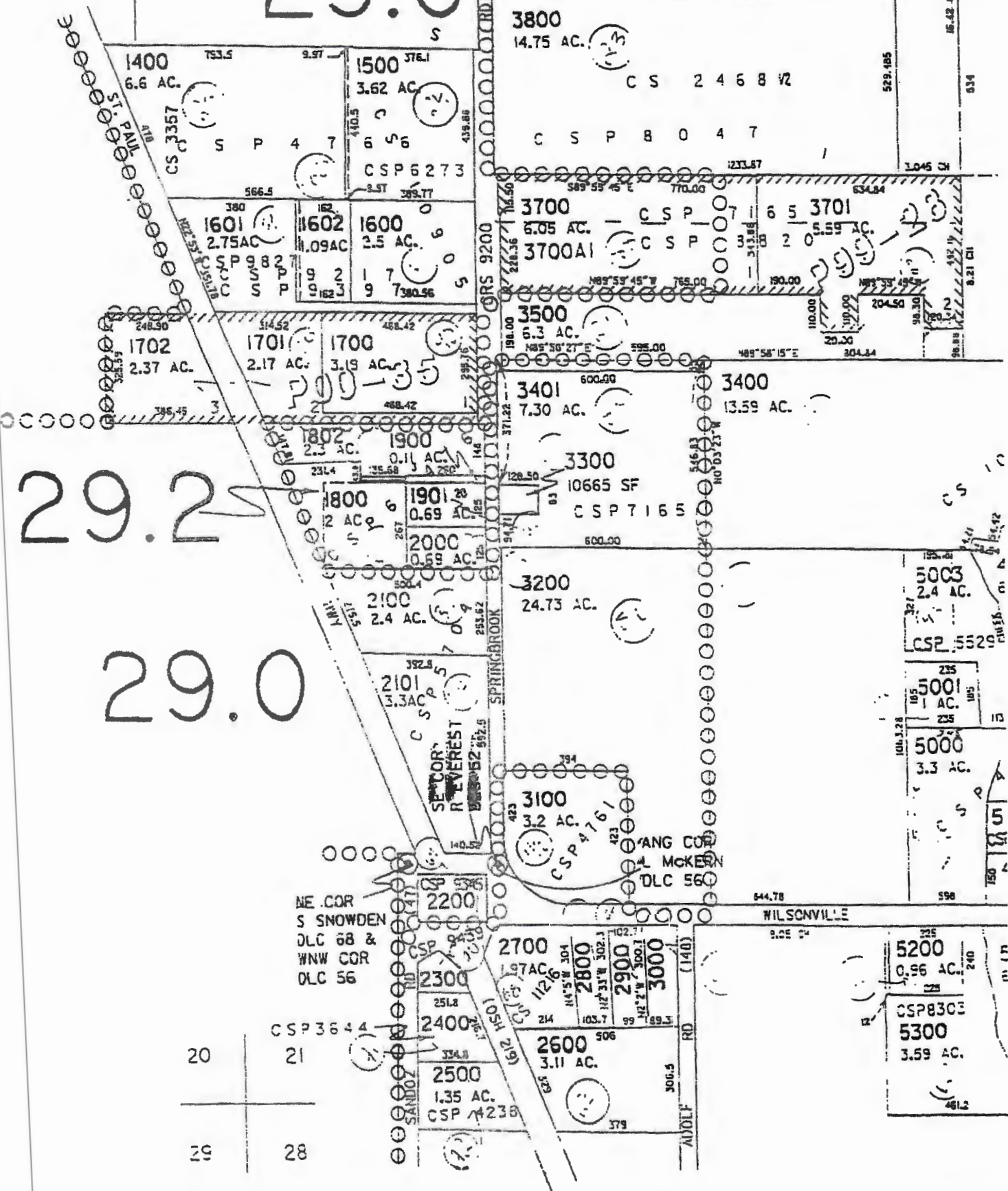
his sketch is furnished to help you  
locate the acreage. It is not a survey  
of the property and no liability  
is assumed.

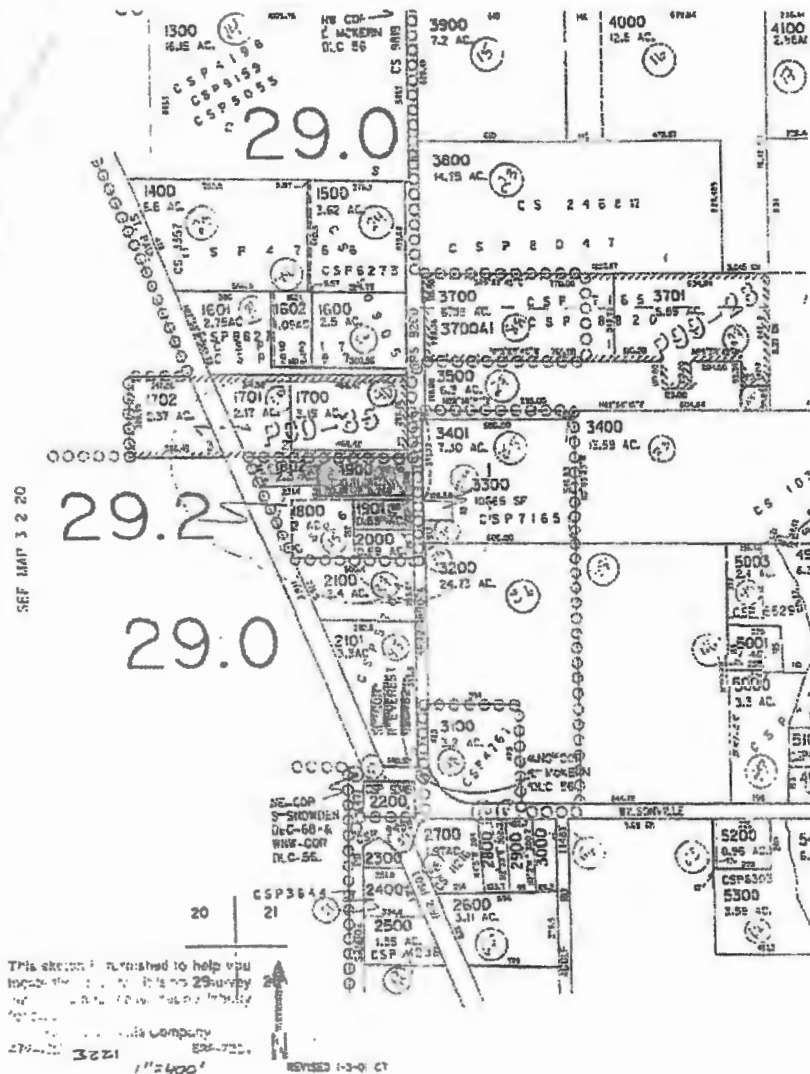
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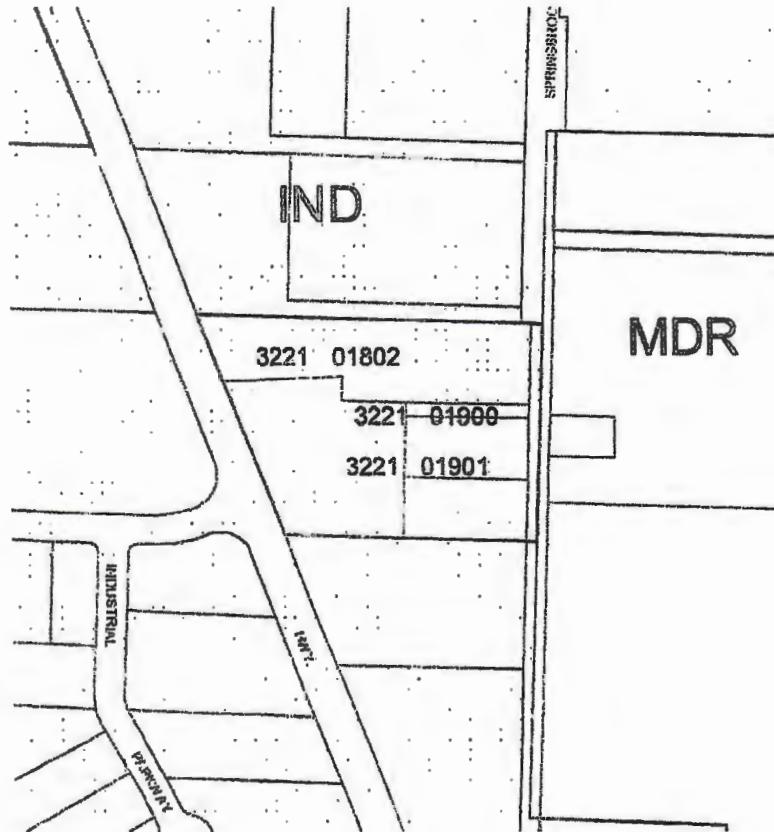
5.3-20



5.3-21







**Description:** Annexation of  
3.16 acres

**File:** ANX-29-03

**Date:** April 8, 2004 -  
Planning Commission

**EXHIBIT D  
COMPREHENSIVE  
PLAN MAP**

**Tax Lot:** 3221-1802, -1900,  
1901

**Location:** 901 & 813 S.  
Springbrook

**Application By:**  
R. P. Grahn, Inc.



**Description:** Annexation of  
3.16 acres

**File:** ANX-29-03  
**Date:** April 8, 2004 -  
Planning Commission

**EXHIBIT E  
TOPOGRAPHY MAP**

**Tax Lot:** 3221-1802, -1900,  
1901  
**Location:** 901 & 813 S.  
Springbrook  
**Application By:**  
R. P. Grahn, Inc.



**CITY OF NEWBERG  
ANNEXATION  
STAFF REPORT**

**FILE NO:** ANX-29-03

**REQUEST:** Annexation of 3.16 acres, zone change to M-2 (Light Industrial)

**LOCATION:** 901 & 813 S. Springbrook

**TAX LOT:** 3221-1802, -1900, -1901

**APPLICANT:** R. P. Grahn, Inc.

**OWNER:** R.P. Grahn / Monte Bowlin

**ZONE:** AF-10 (County)

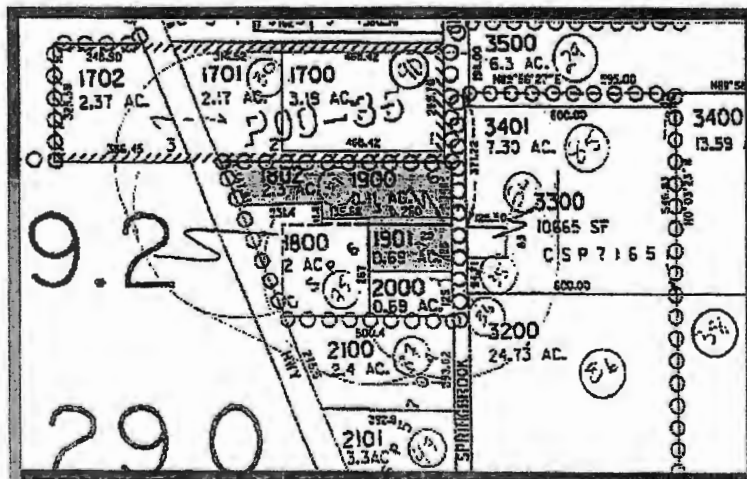
**PLAN DESIGNATION:** IND (City)

**PREPARED BY:** City of Newberg Planning Staff

**DATE OF HEARING:** April 8, 2004 - Planning Commission

**ATTACHMENTS:**

- A. Reso. 2004-179 w/map, findings, and legal description
- B. ANX-29-03 Application - attached
- C. Site Map - attached
- D. Comprehensive Plan Map - attached
- E. Topography Map - attached
- F. Noticing Information
- G. Newberg Comprehensive Plan - by reference
- H. Newberg Development Code - by reference



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- A. **PROCESS:** The applicant's request for approval of an annexation or zone change is being processed through the provisions of Newberg Development Code § 151.024 as follows:

3/11/04

The director determined the application was complete.

3/11/04 mail, 3/12/04 post

Public notice was mailed to property owners within 500 feet of the site for comment and the site was posted (Attachment F).

No public comments were received prior to the publishing of this staff report.

- B. **CRITERIA:** The Planning staff has determined that the following criteria apply to the subject proposal. The Planning Commission or other interested parties should direct their comments to the criteria listed or state why they feel other criteria may apply. The Newberg City Council has the authority to make the final decision on this matter. The Planning Commission has an advisory role.

#### § 151.262 - TYPE III ANNEXATION CRITERIA

The following criteria shall apply to all annexation requests:

- (A) The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.
- (B) An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:
  - (1) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.
  - (2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.
- (C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.
- (D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.



**C. SITE INFORMATION:**

1. The applicant has requested annexation of Tax Lots 3221-1802, -1900, and -1901 (3.16 acres), and that the lots, when annexed, be zoned Light Industrial (M-2).
2. The site is located at 901 & 813 S. Springbrook Road and contains approximately 3.16 acres. The site is zoned AF-10 (County), with a comprehensive plan designation of IND (City). The entire site is within the Airport Overlay. The western edge of Tax Lot 1802 is within the Transitional Surface area, and is limited to 1 foot of building height for every 7 feet of distance from the centerline of the airport runway. The rest of the site is within the Inner Horizontal Surface area and is limited to a maximum building height of 150 feet. The topography of the site is flat. Tax Lots 1802 and 1900 contain some trees and a small garage on their eastern ends, but are largely vacant lots. Tax Lot 1901 contains an existing residence and garage.
3. The conceptual development plan for Tax Lots 1802 and 1900 shows a new 19,000 square foot building for manufacturing and a new 22,000 square-foot building with 19,000 square feet of manufacturing space and 3,000 square feet of office space. 72 parking spaces are shown for the new development. Tax Lot 1901 is shown as remaining as an existing residential use. All three lots front on S. Springbrook Road. The conceptual plan shows a 20 foot wide street dedication and improvement, to be made at the time of development.
4. The property is adjacent to and will take access from S. Springbrook Road, a major arterial planned to have an 80-foot right-of-way. Upon development, the following transportation and access improvements will be completed:
  - ▶ Dedication: the applicant proposes a 20-foot street dedication along the front of each lot abutting S. Springbrook Road
  - ▶ Improvements: the applicant proposes improvements including 5 feet of additional paved street width and 15 feet of landscaping strip and sidewalk.
5. Current and proposed City sewer, water and storm water provisions to the site are shown in the following table:

Utility	Current Provisions	Proposed Provisions
Sanitary Sewer	In Hwy 219, and in Springbrook Road as far north as Tax Lot 1901	Private lateral to Hwy 219 line (The existing house on Tax Lot 1901 will need to be connected to the sewer line in Springbrook Road.)
Water	12 in. in Springbrook Rd.	Private laterals to Springbrook Rd

Storm Water	Storm ditch along Hwy 219	Surface flow to storm ditch along Hwy 219
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**D. ISSUES:**

- ▶ Street Dedications: the applicant has offered to dedicate an additional 20 feet of right-of-way along Springbrook Road, and complete a half-street improvement at the time of development.
- ▶ Future Development Potential: the site is adjacent to by M-2 zoned properties on the north and west sides. To the south is a small island of County land zoned AF-10, which has a City comprehensive plan designation of IND. It is anticipated that this island will eventually be annexed into the City, creating a contiguous industrial district as shown on the Comprehensive Plan map.
- ▶ Non-conforming use: the existing residence on Tax Lot 1901 will become a non-conforming use if the annexation is approved and the zone changes to M-2. Section 151.269 of the Development Code states that when a non-conforming use is annexed into the City the applicant shall provide a schedule for the removal of the non-conforming use for the Planning Commission and City Council. At time of approval of the annexation, the City Council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one to ten years at the discretion of the City Council.

**E. PUBLIC AGENCY COMMENTS**

- John Lindstrom, Building Official:  
Rain drains will need to go to the street.  
Fences over 6 feet will need permits.  
No concentrated flows will be allowed onto adjacent properties.  
Fire resistant construction may be required.  
ADA will need to be met.
- Russ Thomas, Public Works:  
All existing properties shall be connected to City water and sewer services upon successful completion of annexation and shall decommission wells and septic tanks as per City ordinance. All applicable SDCs and construction fees shall be paid and approval received prior to connections.
- Bob Knorr, Engineering:  
All properties shall connect to City utility services once annexation is successfully completed. All appropriate fees shall be paid.

**F. PRIVATE UTILITY COMMENTS:**

- ▶ Ralph Reisbeck, PGE

PGE has two connected overhead metered services that serve the house at 901 S. Springbrook Road and another meter pole (see drawings) that serves a meter pole service to the well pump.

**G. CITIZEN COMMENTS:**

None received at the time this staff report was published.

**H. PRELIMINARY STAFF RECOMMENDATION:** The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, the staff recommends the following motion:

- Move to adopt Planning Commission Resolution 2004-179, which recommends to the City Council approval of the annexation of Tax Lots 3221-1802, -1900 and -1901 into the City, a corresponding zone change from AF-10 to M-2, and withdrawal of these lots from the Newberg Rural Fire Protection District.

**PLANNING COMMISSION RESOLUTION NO. 2004-179**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG  
RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE ANX-29-03, AN  
ANNEXATION AND REZONING FOR PROPERTY LOCATED AT 901 & 813 S.  
SPRINGBROOK ROAD, YAMHILL COUNTY TAX LOT 3221-1802, -1900, -1901.**

**WHEREAS,** On March 11, 2004 an application was submitted by R. P. Grahn, Inc. requesting annexation for property located at 901 & 813 S. Springbrook Road; and

**WHEREAS,** On March 11, 2004 notice of this proposed annexation/zone change and withdrawal from the Newberg Rural Fire Protection District was mailed to the owner of record as identified in Yamhill County Assessor's Office, and all adjoining property owners within a distance of 500 feet.

**WHEREAS,** Notice was published in the Graphic Newspaper on March 17, 2004, which is at least ten days prior to the public hearing before the Planning Commission on April 8, 2004, and on March 12, 2004 notice of the Planning Commission was posted on the site and at four public places to comply with Oregon Revised Statute requirements for annexations.

**WHEREAS,** On April 8, 2004 a hearing was held by the Newberg Planning Commission.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Newberg that it recommends to the City Council approval of the requested annexation; zone change from County AF-10 to City M-2; and withdrawal from the Newberg Rural Fire Protection District. This recommendation is based on the staff report, findings and testimony, and is subject to the Conditions of Approval.

**DATED** this 8th day of April, 2004.

**AYES:**

**NAYS:**

**ABSTAIN:**

**ABSENT:**

**ATTEST:**

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Planning Commission Secretary

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Planning Commission Chair

Exhibits to be forwarded to Council as part of adoption ordinance:  
Findings, Legal Description and Area Map



**ANNEXATION/ZONE CHANGE FINDINGS**  
**ANX-29-03**  
**Annexation of 3.16 acres - 901 & 813 S. Springbrook**  
**CONDITIONS FOR ANNEXATION - FILE ANX-29-03**

**A. The following conditions must be met prior to or concurrent with City processing of any annexation request:**

- 1. *The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.***

**Finding:** The Newberg Comprehensive Plan Map indicates that this site is within the Newberg Urban Growth Boundary. This condition is met.

- 2. *The subject site must be contiguous to the existing City limits.***

**Finding:** The Newberg Comprehensive Plan Map indicates that this site is contiguous to the existing City limits, abutting them on the west, north and east sides of the site. This condition is met.

**B. An application for an annexation may be granted through a Type III procedure only if the proposal conforms to the annexation criteria found in NDC § 151.262, as follows:**

- 1. *The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.***

*The applicant states "This proposed annexation complies with the City's Comprehensive Plan. There are no proposed uses or development plans for the vacant portions (Parcels I and II) of this request. The intent is to eventually develop something that complies with the M-2 zoning proposed. The existing residence (Parcel III) will remain as is. This site currently abuts the city on nearly all sides, being approximately the North half on an non-annexed island." The applicant later supplemented this statement with a conceptual development plan.*

**Finding:** The proposed use for the majority of the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. The comprehensive plan map designation for the site is IND, which Newberg Development Code states is equivalent to a zoning designation of M-1, M-2, or M-3. The applicant is proposing that the entire site be zoned M-2 and that a majority of the site (Tax Lots 1802 and 1900) will be developed for manufacturing, which is an approved use. The residential use on Tax Lot 1901 will be a non-conforming use if the annexation and zone change is approved. The Newberg Development Code requires that the applicant provide a schedule to the Planning Commission and City Council for the removal of the non-conforming use.

The Comprehensive Plan is implemented through the Development Code. There are issues related to the development standards for the M-2 zone that should be considered:

The front yard setback in M-2 is a minimum of 20 feet. The interior yard setbacks are zero adjacent to other commercial or industrial zoned land, and 10 feet when adjacent to residential land. The interior yard setbacks from the adjacent AF-10 lots will be zero because the Comprehensive Plan designation for the AF-10 lots is Industrial (IND).

The minimum lot area standard in M-2 is 20,000 square feet. Lots 1802 and 1901 meet the standard, but lot 1900 is only 0.11 acre (approx. 4792 square feet), and so does not meet the standard. The applicant should combine lot 1900 with lot 1802 to eliminate the substandard lot.

The lot width to depth ratio standard states that the average depth cannot exceed 2.5 times the average width. The lot width is also required to be at least 25 feet wide at the street frontage. Lot 1900 does not meet either standard, but this will not be relevant if the applicant consolidates lot 1900 with lot 1802.

The landscaping standards require a landscaped buffer along the property line between lots 1802 and 1900. This would be impractical in the conceptual development, but would not be relevant if the applicant consolidates the two lots.

The access spacing standards for a major arterial requires 300 feet of additional frontage in order to have more than one driveway. Tax lots 1802 and 1900 have 188 feet of frontage, so they are limited to one driveway. The existing residence on Tax Lot 1901 is also limited to one driveway.

2. ***An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:***
  - (a) ***Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.***
  - (b) ***Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.***

*The applicant states "Urban service are all available immediately to this site. These include:*  
*Sewer: at Springbrook Road and Hwy 219*  
*Water: at Springbrook Road and Hwy 219*



*Storm: at Springbrook Road and Hwy 219*

*Power, Natural Gas, Etc.: at Springbrook Road and Hwy 219*

*It may be noteworthy that Parcel III is being brought in to the city solely because the current water supply (a well) to the existing residence (the Bowlin Residence) is NOT potable and represents a serious health hazard. A hardship connection request is prepared."*

*The applicant further states "Springbrook Road is the only access (access is not permitted onto Hwy 219) and is adequate for the only current use (one residence). A half street improvement by the developer such as that to the immediate North would be proposed and necessary at the time of any future improvements. There should be no other public improvements required as they already exist, hence no public costs."*

**Finding:** An adequate level of urban services is available or will be made available at the time that this site is developed. Development is anticipated to occur within three years. This criterion (a) is met. The road dedication and improvements will occur at the time that the site is developed. Development is anticipated to occur within three years. This criterion (b) is met.

City standards require public sanitary sewer, water and stormwater services to be extended to each lot within the city. Existing septic tanks and wells will have to be decommissioned in accordance with City Ordinances. The sanitary sewer connection for lot 1802 and/or lot 1900 shall be made to the public line along Highway 219. A permit from ODOT will be required to perform work within the state highway right-of-way. The sanitary sewer connection for lot 1901 shall be made to the existing public line in Springbrook Road. The stormwater surface flow from the site can run to the stormwater ditch along Highway 219 on the western edge of the property.

3. ***Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.***

*The applicant states " Availability of Services:*

*1. Police: As an un-annexed "island", essential police services now are provided pro bono. The tax base increase of this annexation will more than offset these very minimal requirements. Similarly, any development of an M-2 type will create more than enough tax base increase to offset any increase in services in this, the least demanding type of development.*

*2. Fire: Newberg has the unique distinction of having two fire departments in one, the Newberg Fire Department and Newberg Rural Fire Department. Under this proposal, the legal responsibility for this site transfers to the Newberg Fire Department along with the increase in tax base. Thus, the city benefits from providing the same service for more money. As with police above, any future development will more than pay its own way.*

*3. Parks and Schools: This proposal will create no new need for parks or schools, nor will*

*any future development. This results in additional tax income for no services provided."*

**Finding:**

Police and Fire service can be provided to the lot and the proposed development. The development will cause a very small increase in service needs. The development will generate additional City tax revenues. It is estimated that the revenues received will more than offset the costs.

In that the proposed annexation is not new residential uses, it is anticipated that the annexation will have no effect on school or park facilities.

- 4.     *The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.***

**Finding:** The applicant has provided findings for the criteria of this section, which are shown before the staff findings. The applicants findings were used to inform the staff findings.

**Conditions of Approval**

1. Extend a half-width street improvements along Springbrook Road at the time of development. Match the right-of-way width and extend the improvements made by the industrial park on the parcel just to the north of the site.
2. Apply for a lot consolidation at the time of development that will combine lots 1802 and 1900 to eliminate the non-conforming aspects of lot 1900.
3. Applicant will comply with all City development standards at the time of development.
4. All existing properties shall be connected to City water and sewer services and shall decommission wells and septic tanks as per City ordinance within one year of annexation. All applicable SDCs and construction fees shall be paid and approval received prior to connections.
5. The non-conforming use (Single Family Residential) on Tax Lot 1901 shall be removed within 5 years of the date the annexation is final.

## EXHIBIT B - LEGAL DESCRIPTION

### South Springbrook Annexation 2004

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being a part of that parcel excepted from being within the city limits of Newberg called Parcel #3 of the Newberg City Limits Legal Description, said tract also being all of Parcel 1, Parcel 2, and Parcel 3 as described in deed to R.P. Grahn, Inc., an Oregon Corporation, recorded as Fee#199713561, Yamhill County Deed Records.

BEGINNING at the southeast corner of said Grahn Parcel 2, said point being 971.12 feet North of the southeast corner of the Richard Everest Donation Land Claim No. 52 and on the east line of said Parcel #3 excepted from Newberg City Limits;

THENCE WEST, along the South line of said Grahn Parcel 2, 260.00 feet to the southwest corner of said Grahn Parcel 2;

THENCE NORTH, along the west line of said Grahn Parcel 2, 125.00 feet to the northwest corner of said Grahn Parcel 2, said point also being the southwest corner of said Grahn Parcel 3 and the most southerly southeast corner of said Grahn Parcel 1;

THENCE WEST, along the most southerly south line of said Grahn Parcel 1, 135.68 feet to the most southerly southwest corner of said Grahn Parcel 1;

THENCE North 00° 11' 00" East, along the most easterly west line of said Grahn Parcel 1, 60.81 feet to the most westerly interior corner of said Grahn Parcel 1;

THENCE North 87° 46' 30" East, along the most northerly south line of said Grahn Parcel 1, 231.40 feet to the east line of Highway 219, also known as the Saint Paul Highway, and the west line of said Parcel #3 excepted from Newberg City Limits, said point being the most westerly southwest corner of said Grahn Parcel 1;

THENCE North 22° 52' 30" West, along the East line of said Highway 219 and along the west line of said Parcel #3 excepted from Newberg City Limits and along the most westerly west line of said Grahn Parcel 1, 147.81 feet to the northwest corner of said Grahn Parcel 1, said point also being the northwest corner of said Parcel #3 excepted from Newberg City Limits;

THENCE EAST, along the north line of said Grahn Parcel 1 and the north line of said Parcel #3 excepted from Newberg City Limits, to the east line of said Everest DLC, said point being the northeast corner of said Grahn Parcel 1 and the northeast corner of said Parcel #3 excepted from Newberg City Limits;

THENCE SOUTH, along the east line of said Everest DLC, said line also being the East line of said Parcel #3 excepted from Newberg City Limits, and along the east lines of said Grahn Parcel 1, said Grahn Parcel 3, and said Grahn Parcel 2, to the Point of Beginning.

# ANNEXATION CONSENT

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF NEWBERG, OREGON:

The undersigned Monte S. Bowlin & R.P. GRAHN, INC.

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) 813 & 901 S. SPRINGBROOK and (tax lot) 1802, 1900 & 1901, & 3221, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

The undersigned does hereby respectfully petition that the real premises described in Exhibit A be annexed to the City of Newberg, Oregon, in the manner provided by the laws of the State of Oregon and the Charter and Ordinances of the City of Newberg, Oregon.

This consent is binding upon the heirs, successors, and assigns of the above listed property.

In construing this consent, the singular includes the plural as circumstances may require.

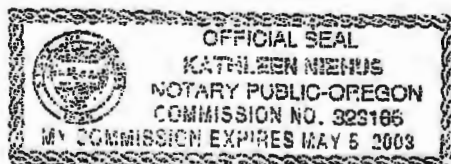
IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 14th day of April, 2003, 19xx.

by R.P. GRAHN, INC.  
Monte S. Bowlin  
[Signature]

STATE OF Oregon, County of Yamhill ss 4/14/03  
month / day / year

Personally appeared the above named Roger P. Grahn and Monte S. Bowlin

and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Kathleen Nienus

Notary Public for State of Oregon

My commission expires 5-5-2003



# WAIVER OF EXPIRATION OF ANNEXATION CONSENT

WHEREAS: The undersigned Monte S. Bowlin & R.P. GRAHN, Inc.

as owner(s) of certain property have signed a consent to annex that property to the City of Newberg, Oregon, which consent is attached; and

WHEREAS: ORS 222.173 provides that "only statements of consent to annexation which are filed within any one-year period shall be effective, unless separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city."; and

WHEREAS: The owner(s) desire that this consent to annex be valid until the property is annexed.

NOW, THEREFORE:

The undersigned do hereby request that the attached consent to annex be valid until the property is annexed to the City of Newberg, Oregon.

In construing this consent, the singular includes the plural as circumstances may require.

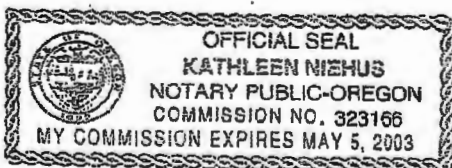
IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 14th day of April, 2003

by R.P. GRAHN, Inc  
R.P. Bowlin

STATE OF Oregon, County of Yamhill ss 4/14/03  
month / day / year

Personally appeared the above named Roger P. Grahn and Monte S. Bowlin

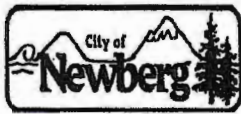
and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Kathleen Niehus

Notary Public for State of Oregon

My commission expires 5-5-2003



## **RESOLUTION No. 2004-2546**

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**A RESOLUTION ADOPTING THE RESULTS OF THE BALLOTS CAST FOR THE NOVEMBER 2, 2004, GENERAL ELECTION AS PROVIDED BY JAN COLEMAN, YAMHILL COUNTY CLERK, FOR THE FOLLOWING: THE OFFICE OF THE MAYOR, TWO CITY COUNCIL POSITIONS, FOUR MEASURES (ANNEXATIONS) - MEASURE 36-63 KNOWN AS "NORTH MAIN STREET ANNEXATION," MEASURE 36-64 KNOWN AS "NORTH COLLEGE STREET ANNEXATION," MEASURE 36-65 KNOWN AS "GREENS-FERNWOOD ROAD ANNEXATION," AND MEASURE 36-66 KNOWN AS "SPRINGBROOK ROAD ANNEXATION."**

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### **RECITALS:**

1. At the November 2, 2004, General Election, the City had placed on the ballot before the voters of the City the following items.

#### **MUNICIPAL OFFICES**

Mayor

Council Position - District 1

Council Position - District 2

Council Position - District 3

#### **PERSON**

Robert "Bob" V. Stewart

Edward Leffler

Robert Soppe

Dwayne Brittell

Roger Currier

Mike Boyes

#### **MEASURES**

##### ***Annexations:***

North Main Street Annexation (0.22 acres – Measure 36-63)

North College Street Annexation (0.55 acres – Measure 36-64)

Greens-Fernwood Road Annexation (20.58 acres – Measure 36-65)

Springbrook Road Annexation (2.41 acres – Measure 36-66)

2. On November 23, 2004, the City received from Jan Coleman, County Clerk of Yamhill County, a Certificate certifying the true, actual, and final results of the ballots cast in the November 2, 2004, General Election.
3. In accordance with the City Ordinances and state law, the City should accept the results as presented by the County Clerk.



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

1. The City accepts the Certificate of the Yamhill County Clerk Certifying the true, actual, and final results of the ballots cast in the November 2, 2004, General Election. A copy of the Certificate and the final results are attached as Exhibit "A."
2. Based upon these results, the City declares the following persons elected to the Offices and the following measures to have passed.

**MUNICIPAL OFFICES**

Mayor  
Council Position - District 1  
Council Position - District 2  
Council Position - District 3

**PERSON**

Robert "Bob" V. Stewart  
Robert Soppe  
Roger Currier  
Mike Boyes

**MEASURES**

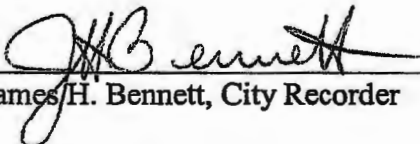
**Annexations:**

North Main Street Annexation (0.22 acres – Measure 36-63) **PASSED.**  
North College Street Annexation (0.55 acres – Measure 36-64) **PASSED.**  
Greens-Fernwood Road Annexation (20.58 acres – Measure 36-65) **PASSED.**  
Springbrook Road Annexation (2.41 acres – Measure 36-66) **PASSED.**

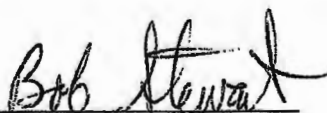
3. The unofficial Yamhill County election results were obtained from the Internet and posted on November 3, 2004. A Certificate of Posting is hereby attached as Exhibit "B" and incorporated herein.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 7, 2004.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 6<sup>th</sup> day of December, 2004.

  
James H. Bennett, City Recorder

**ATTEST** by the Mayor this 23<sup>rd</sup> day of December, 2004.

  
Bob Stewart, Mayor

## LEGISLATIVE HISTORY

*North Main Street Annexation:*

By and through Planning Commission at 05/13/2004 meeting.

By and through City Council at 07/06/04 meeting.

*North College Street Annexation:*

By and through Planning Commission at 06/10/04 meeting.

By and through City Council at 07/19/04 meeting.

*Greens-Fernwood Road Annexation:*

By and through Planning Commission at 06/10/04 meeting.

By and through City Council at 07/19/04 meeting.

*Springbrook Road Annexation:*

By and through Planning Commission at 04/08/04 meeting.

By and through City Council at 05/17/04 meeting.

PLANNING DIVISION FILE #: ANX 29-03

**CITY OF NEWBERG  
AFFIDAVIT OF NOTICING**

**REFERENCE ATTACHED LIST(S)/NOTICE(S)**

I, Rosa P. Graw, do hereby certify that the attached Notice of Land Use Action was:

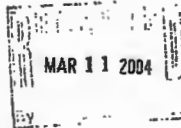
a. mailed to the following list of property owners, by United States mail, postage prepaid on March 11, 2009  
(date)

b. posted on the site according to standards established in 10.14.060 of the Newberg Development Code on 11/14/14 2004 (date)

Signature

Date March 11, 2004

Roger P. Grawn  
Print name



**Description:** Annexation of 3.16 acres

**File: ANX-29-03**

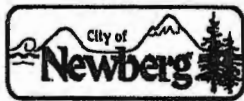
**Date:** April 8, 2004 -  
**Planning Commission**

**EXHIBIT F**  
**AFFIDAVIT OF NOTICING**

Tax Lot: 3221-1802, -1900,  
1901

Location: 901 & 813 S.

Springbrook  
Application By:  
R. P. Grahn, Inc



## **ORDINANCE No. 2004-2600**

---

**AN ORDINANCE DECLARING THAT PROPERTY AT 813 S. SPRINGBROOK BE ANNEXED INTO THE CITY OF NEWBERG, WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND ZONED M-2.**

**SUBJECT TO A PUBLIC VOTE**

---

### **RECITALS:**

1. Roger Grahn submitted an application to annex property he owns at 813 S. Springbrook Road (Yamhill County Tax Lot 3221-1802 & 1900). The property includes 2.41 acres. The property is part of an island of unincorporated property within Newberg.
2. On April 8, 2004, the Planning Commission held a hearing on the item, considered public testimony from various individuals, and voted to recommend that the City Council approve the annexation.
3. Notice was published in the Graphic Newspaper on April 28, 2004, which is at least ten days before the May 17, 2004 City Council meeting; and on April 28, 2004 notice of the City Council meeting was posted at four public places. On April 26, 2004, notice was mailed to property owners within 500 feet of the proposal, and notice was posted on-site.
4. Requirements of the City of Newberg Comprehensive Plan and Newberg Development Code regarding annexations have been met; and
5. After proper notice, on May 17, 2004 at the hour of 7:00 PM in the Newberg Public Safety Building, 401 E. Third, the City Council held a public hearing on the item: accurately stated objections to jurisdiction, bias, and ex-parte contact; considered public testimony; examined the record; heard the presentation from staff and the applicant; examined and discussed the appropriate criteria to judge the project (as listed in the staff report); considered all relevant information regarding the item; and deliberated.

### **THE CITY OF NEWBERG ORDAINS AS FOLLOWS:**

1. The City Council adopts the findings which are attached hereto as Exhibit A and incorporated herein by reference.
2. Owners understand that annexation to the city must be approved by the voters of the City. The City may place the matter before the voters of the City at a biennial General Election (held in November of each even numbered year), unless otherwise approved by resolution of the City Council.
3. At this time, the City does not have to pay any election costs to place a matter on the ballot before the voters at the biennial General Election. The State of Oregon, which conducts the election, has the authority and may change the rules to require the City to pay some costs. In which case, the applicant/owners will be required to pay their proportionate share of such costs. The City Council directs that all costs associated with placing the item on the ballot

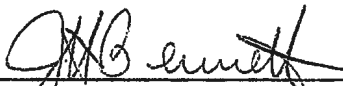


be paid for by the applicant/owners. This includes but is not limited to noticing, signage, advertising, and costs assessed by the Yamhill County Clerk to place the item on the ballot. Owners may be required to place monies in escrow to cover such costs of election(s).

4. Should this annexation request be approved by a majority of the electorate of the City of Newberg at the election date as identified by resolution of the City Council, the property shall be annexed and the following events shall occur:
  - A. It is hereby ordered and declared that the property described in Exhibit B and shown in Exhibit C, is annexed and withdrawn from the Newberg Rural Fire Protection District.
  - B. The territory described in Exhibit B and shown in Exhibit C, shall be zoned M-2 (Light Industrial). The "Newberg, Oregon Zoning Map" shall be amended to indicate this change.
  - C. The Recorder of the City of Newberg is hereby authorized and directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:
    1. A copy of this ordinance.
    2. A map identifying the location of said territory.
5. Following annexation, the owner shall complete the following:
  - A. Extend a half-width street improvements along Springbrook Road at the time of development. Match the right-of-way width and extend the improvements made by the industrial park on the parcel just to the north of the site.
  - B. Apply for a lot consolidation at the time of development that will combine lots 1802 and 1900 to eliminate the non-conforming aspects of lot 1900.
  - C. Comply with all City development standards at the time of development.
  - D. Connect all uses to City water and sewer services and decommission wells and septic tanks as per City ordinances within one year of annexation. All applicable SDCs and construction fees shall be paid and approval received prior to connections.

**ADOPTED** by the Newberg City Council this 17<sup>th</sup> day of May, 2004, by the following votes:

AYE: 6                      NAY: 0                      ABSENT: 0                      ABSTAIN: 0

  
\_\_\_\_\_  
James H. Bennett, City Recorder

**ATTEST** by the Council President this 16<sup>th</sup> day of May, 2004.

  
\_\_\_\_\_  
Bob Larson, Council President

## LEGISLATIVE HISTORY

By and through Newberg Planning Commission at 4/8/2004 meeting. Or, None.  
(committee name) (date) (check if applicable)



**EXHIBIT A TO ORDINANCE 2004-2600  
ANNEXATION/ZONE CHANGE FINDINGS - ANX-29-03**

**A. The following conditions must be met prior to or concurrent with City processing of any annexation request:**

- 1. *The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.***

**Finding:** The Newberg Comprehensive Plan Map indicates that this site is within the Newberg Urban Growth Boundary. This condition is met.

- 2. *The subject site must be contiguous to the existing City limits.***

**Finding:** The Newberg Comprehensive Plan Map indicates that this site is contiguous to the existing City limits, abutting them on the west and north sides of the site. This condition is met.

**B. An application for an annexation may be granted through a Type III procedure only if the proposal conforms to the annexation criteria found in NDC § 151.262, as follows:**

- 1. *The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.***

**Finding:** The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. The comprehensive plan map designation for the site is IND, which Newberg Development Code states is equivalent to a zoning designation of M-1, M-2, or M-3. The applicant is proposing that the entire site be zoned M-2 and that the site will be developed for manufacturing, which is an approved use.

The Comprehensive Plan is implemented through the Development Code. There are issues related to the development standards for the M-2 zone that should be considered:

The front yard setback in M-2 is a minimum of 20 feet. The interior yard setbacks are zero adjacent to other commercial or industrial zoned land, and 10 feet when adjacent to residential land. The interior yard setbacks from the adjacent AF-10 lots will be zero because the Comprehensive Plan designation for the AF-10 lots is Industrial (IND).

The minimum lot area standard in M-2 is 20,000 square feet. Lot 1802 meets the standard, but lot 1900 is only 0.11 acre (approx. 4792 square feet), and so does not meet the standard. The applicant should combine lot 1900 with lot 1802 to eliminate the substandard lot.

The lot width to depth ratio standard states that the average depth cannot exceed 2.5 times the average width. The lot width is also required to be at least 25 feet wide at the street frontage. Lot 1900 does not meet either standard, but this will not be relevant if the applicant consolidates lot 1900 with lot 1802.

The landscaping standards require a landscaped buffer along the property line between lots 1802 and 1900. This would be impractical in the conceptual development, but would not be relevant if the applicant consolidates the two lots.

The access spacing standards for a major arterial requires 300 feet of additional frontage in order to have more than one driveway. Tax lots 1802 and 1900 have 188 feet of frontage, so they are limited to one driveway.

2. ***An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:***
  - (a) ***Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.***
  - (b) ***Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.***

**Finding:** An adequate level of urban services is available or will be made available at the time that this site is developed. Development is anticipated to occur within three years. This criterion (a) is met. The road dedication and improvements will occur at the time that the site is developed. Development is anticipated to occur within three years. This criterion (b) is met.

City standards require public sanitary sewer, water and stormwater services to be extended to each lot within the city. Existing septic tanks and wells will have to be decommissioned in accordance with City Ordinances. The sanitary sewer connection for lot 1802 and/or lot 1900 shall be made to the public line along Highway 219. A permit from ODOT will be required to perform work within the state highway right-of-way. The stormwater surface flow from the site can run to the stormwater ditch along Highway 219 on the western edge of the property.

3. ***Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.***

**Finding:**

Police and Fire service can be provided to the lot and the proposed development. The development will cause a very small increase in service needs. The development will generate additional City tax revenues. It is estimated that the revenues received will more than offset the costs.

In that the proposed annexation is not new residential uses, it is anticipated that the annexation will have no effect on school or park facilities.

4. *The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.*

**Finding:** The applicant has provided findings for the criteria of this section, which are shown before the staff findings. The applicants findings were used to inform the staff findings.

## **EXHIBIT B - LEGAL DESCRIPTION**

### **South Springbrook Annexation**

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being a part of that parcel excepted from being within the city limits of Newberg called Parcel #3 of the Newberg City Limits Legal Description, said tract also being all of Parcel 1 and Parcel 3 as described in deed to R.P. Grahm, Inc., an Oregon Corporation, recorded as Fee#199713561, Yamhill County Deed Records.

BEGINNING at the southeast corner of said Grahm Parcel 3, said point being 1096.12 feet North of the southeast corner of the Richard Everest Donation Land Claim No. 52 and on the east line of said Parcel #3 excepted from Newberg City Limits;

THENCE WEST, along the South line of said Grahm Parcel 3, 260.00 feet to the southwest corner of said Grahm Parcel 3, said point also being the most southerly southeast corner of said Grahm Parcel 1;

THENCE WEST, along the most southerly south line of said Grahm Parcel 1, 135.68 feet to the most southerly southwest corner of said Grahm Parcel 1;

THENCE North 00° 11' 00" East, along the most easterly west line of said Grahm Parcel 1, 60.81 feet to the most westerly interior corner of said Grahm Parcel 1;

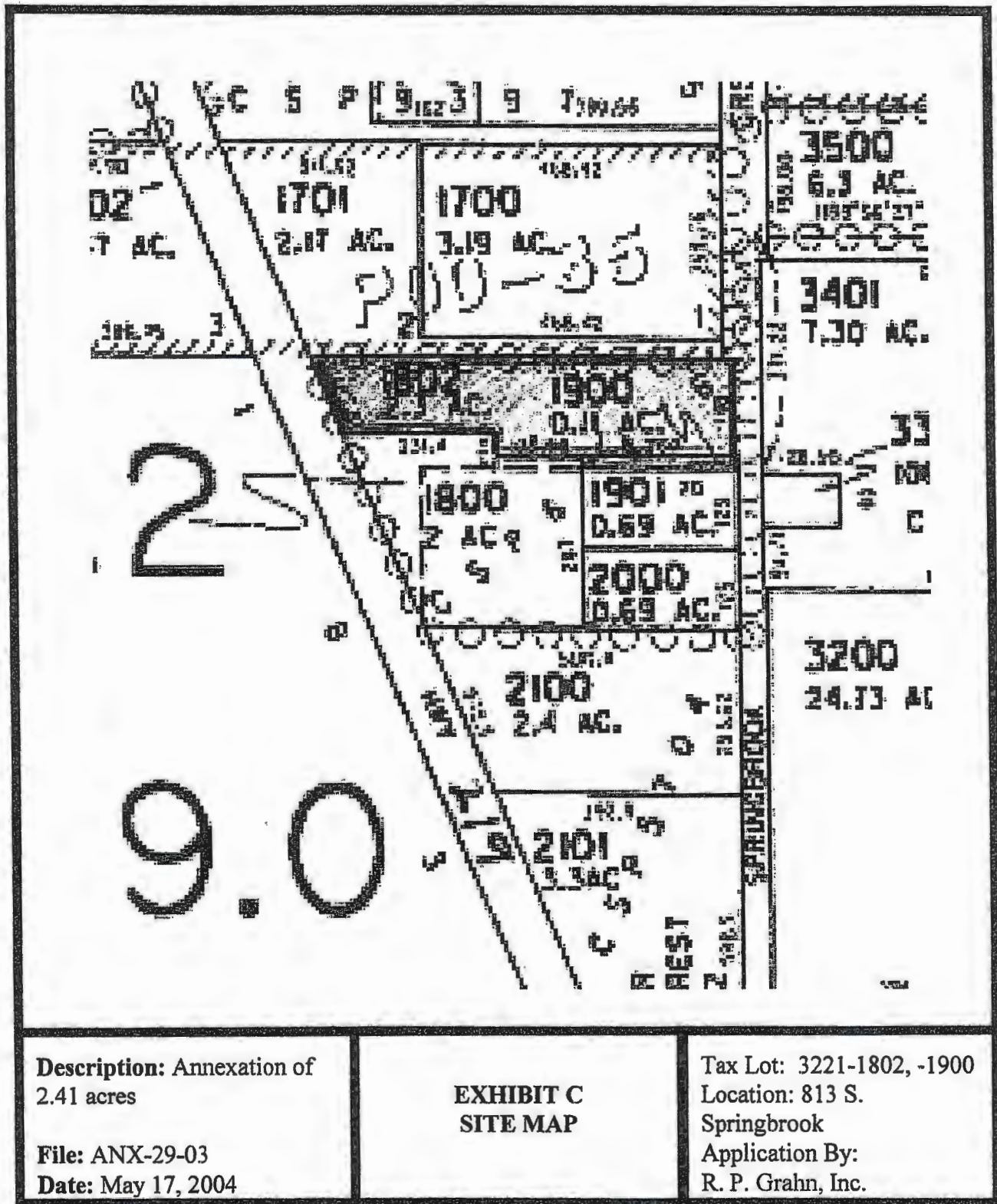
THENCE North 87° 46' 30" East, along the most northerly south line of said Grahm Parcel 1, 231.40 feet to the east line of Highway 219, also known as the Saint Paul Highway, and the west line of said Parcel #3 excepted from Newberg City Limits, said point being the most westerly southwest corner of said Grahm Parcel 1;

THENCE North 22° 52' 30" West, along the East line of said Highway 219 and along the west line of said Parcel #3 excepted from Newberg City Limits and along the most westerly west line of said Grahm Parcel 1, 147.81 feet to the northwest corner of said Grahm Parcel 1, said point also being the northwest corner of said Parcel #3 excepted from Newberg City Limits;

THENCE EAST, along the north line of said Grahm Parcel 1 and the north line of said Parcel #3 excepted from Newberg City Limits, to the east line of said Everest DLC, said point being the northeast corner of said Grahm Parcel 1 and the northeast corner of said Parcel #3 excepted from Newberg City Limits;

THENCE SOUTH, along the east line of said Everest DLC, said line also being the East line of said Parcel #3 excepted from Newberg City Limits, and along the east lines of said Grahm Parcel 1, said Grahm Parcel 3, to the Point of Beginning.





**Description:** Annexation of  
2.41 acres

**File:** ANX-29-03  
**Date:** May 17, 2004

**EXHIBIT C  
SITE MAP**

Tax Lot: 3221-1802, -1900  
Location: 813 S.  
Springbrook  
Application By:  
R. P. Grahn, Inc.



## **RESOLUTION No. 2004-2498**

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**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ELECTIONS OFFICER TO CERTIFY TO THE YAMHILL COUNTY CLERK A BALLOT TITLE FOR A MEASURE TO BE SUBMITTED TO THE ELECTORATE OF THE CITY OF NEWBERG FOR THEIR APPROVAL OF AN ANNEXATION FOR PROPERTY AT 813 S. SPRINGBROOK ROAD**

---

### **RECITALS:**

1. On May 17, 2004, the City Council adopted Ordinance No. 2004-2600, annexing the property at 813 S. Springbrook Road (Yamhill County Tax Lot 3221-1802 & 1900), subject to a public vote.
2. The City of Newberg Charter requires that territory may be annexed into the City of Newberg only upon approval by a majority vote among the electorate of the City.
3. The City Council has requested that this matter be placed before the voters at the general election in November, 2004.

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

1. The City Attorney of the City of Newberg is hereby authorized and directed to prepare in proper form a ballot title placing before the voters the question of the annexation of the property at 813 S. Springbrook Road (Yamhill County Tax Lot 3221-1802 & 1900), as described in Ordinance No. 2004-2600, and file such ballot title with the City Elections Officer.
2. The City Elections Officer of the City of Newberg is hereby authorized and directed to certify to the Yamhill County Clerk the ballot title for the annexation measure to be placed before the voters at the next general election in November, 2004. Further, the City Elections Officer is directed to give all necessary notices of the ballot title and do all other necessary acts and deeds which may be required to place the matter before the voters of the City of Newberg at said election.
3. The City Council directs that all costs associated with placing the item on the ballot be paid for by the applicant/owners. This includes but is not limited to noticing, signage, advertising, and costs assessed by the Yamhill County Clerk to place the item on the ballot.

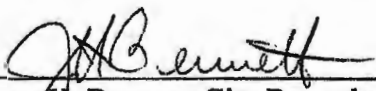


4. The City Attorney is directed to have prepared and review the explanatory statement which shall be submitted to the Yamhill County Clerk with the ballot title. Such explanatory statement shall be filed with the City Elections Officer and the City Elections Officer is further directed to certify this explanatory statement to the Yamhill County Clerk.

The City Elections Officer is authorized to do all other necessary acts and deeds which may be required to conduct the election concerning this measure.

> **EFFECTIVE DATE** of this resolution is the day after the adoption date which is: May 18, 2004.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 17<sup>th</sup> day of May, 2004.

  
James H. Bennett, City Recorder

**ATTEST** by the Council President this 17<sup>th</sup> day of May, 2004.

  
Bob Larson, Council President

### LEGISLATIVE HISTORY

By and through Newberg Planning Commission at 4 / 8 / 2004 meeting. Or, None.  
(committee name) (date) (check if applicable)

**PLEASE POST:**

- \_\_\_ Newberg Fire Station (*Attn: Jill*)
- \_\_\_ Newberg Public Library (*Attn: Leah*)
- \_\_\_ Newberg City Hall (*Attn: Mariann*)
- \_\_\_ Newberg Public Safety Building (*Attn: Mary*)

**OFFICIAL**  
**Election Results (Ballots Cast)**  
**For the November 2, 2004, General Election**  
***Newberg Measures and Candidates Only***

***\* SEE ATTACHED FOR RESULTS \****

***OFFICIAL Election Results POSTED on November 29, 2004, at the following locations:***

**Newberg Fire Station, 414 East Second Street, Newberg, Oregon**  
**Newberg Public Library, 503 East Hancock Street, Newberg, Oregon**  
**Newberg City Hall, 414 East First Street, Newberg, Oregon**  
**Newberg Public Safety Building, 401 East Third Street, Newberg, Oregon**

**For Questions, Please Contact:**

**Dawn Wilson, Paralegal/Elections Officer**  
**(503) 537-1206**

**Posting Expiration: 12/15/04**

MAIL GENERAL ELECTION  
NOVEMBER 2, 2004  
YAMHILL COUNTY CLERK  
MCMINNVILLE, OREGON

CITY OF NEWBERG MAYOR  
NONPARTISAN  
VOTE FOR 1

2 YEAR TERM

CITY OF NEWBERG COUNCILPERSON - DIST #1  
NONPARTISAN  
VOTE FOR 1

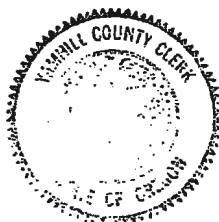
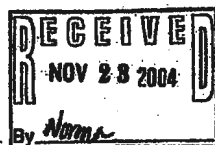
4 YEAR TERM

238 EDWARD LEFFLER  
239 ROBERT "BOB" V. STEWART  
240 WRITE-IN  
241 Overvotes  
242 Undervotes

243 ROBERT SOPPE  
244 WRITE-IN  
245 Overvotes  
246 Undervotes

0002 NEWBERG CITY CENTRAL NE  
0003 NEWBERG CITY N & NW  
0004 NEWBERG CITY S

238....	239....	240....	241....	242	243....	244....	245....	246
664	1,389	17	1	520	1,576	22	0	993
801	1,922	16	2	591	1,931	18	0	1,383
735	1,224	24	1	418	1,489	28	0	885
TOTAL	2,200	4,535	57	4	1,529	4,996	68	0 3,261



I CERTIFY THAT THE VOTES RECORDED ON THIS  
ABSTRACT CORRECTLY SUMMARIZE THE TALLY  
OF VOTES CAST AT THE ELECTION INDICATED.  
*[Signature]*  
SIGNATURE OF COUNTY CLERK:  
11-19-2004  
DATE OF ABSTRACT

MAIL GENERAL ELECTION  
NOVEMBER 2, 2004  
YAMHILL COUNTY CLERK  
MCINNIVILLE, OREGON

CITY OF NEWBERG COUNCILPERSON - DIST #2

4 YEAR TERM

NONPARTISAN

VOTE FOR 1

247 ROGER CURRIER  
248 DWAYNE BRITTELL  
249 WRITE-IN  
250 Overvotes  
251 Undervotes

0002 NEWBERG CITY CENTRAL NE  
0003 NEWBERG CITY N & NW  
0004 NEWBERG CITY S

TOTAL

247....	248....	249....	250....	251	252....	253....	254....	255
1,003	940	12	1	635	1,668	38	0	885
1,211	1,389	12	4	716	2,091	27	0	1,214
1,078	809	6	1	508	1,623	29	0	750
3,292	3,138	30	6	1,859	5,382	94	0	2,849

CITY OF NEWBERG COUNCILPERSON - DIST #3

4 YEAR TERM

NONPARTISAN

VOTE FOR 1

252 MIKE BOYES  
253 WRITE-IN  
254 Overvotes  
255 Undervotes



I CERTIFY THAT THE ABOVE IS A TRUE AND  
ACCURATE SUMMARY OF THE TALLY  
OF VOTES CAST AT THE ELECTION INDICATED.  
*[Signature]*  
SIGNATURE OF COUNTY CLERK  
11-19-2004  
DATE OF ABSTRACT

MAIL GENERAL ELECTION  
NOVEMBER 2, 2004  
YAMHILL COUNTY CLERK  
MCMINNVILLE, OREGON

36-63 CITY OF NEWBERG ANNEX 0.22 ACRES - NORTH MAIN  
VOTE FOR 1

256 YES  
257 NO  
258 Overvotes  
259 Undervotes

0002 NEWBERG CITY CENTRAL NE  
0003 NEWBERG CITY N & NW  
0004 NEWBERG CITY S

TOTAL

256....257....258....259  
1,927 333 0  
2,350 504 1  
1,744 413 0  
6,221 1,250 1

36-64 CITY OF NEWBERG ANNEX 0.55 ACRES - NORTH COLLEGE  
VOTE FOR 1

260 YES  
261 NO  
262 Overvotes  
263 Undervotes

260....261....262....263  
1,824 421 0 346  
2,357 692 0 283  
1,635 499 0 268  
5,816 1,612 0 897



I CERTIFY THAT THE VOTES RECORDED ON THIS  
ABSTRACT CORRECTLY SUMMARIZE THE TALLY  
OF VOTES CAST AT THE ELECTION INDICATED.  
*Debra Coleman*  
SIGNATURE OF COUNTY CLERK:  
11-19-2004  
DATE OF ABSTRACT



MAIL GENERAL ELECTION  
NOVEMBER 2, 2004  
YAMHILL COUNTY CLERK  
MCMINNVILLE, OREGON

36-65 NEWBERG CITY - ANNEX 20.58 ACRES - FERNWOOD ROAD  
VOTE FOR 1

264 YES  
265 NO  
266 Overvotes  
267 Undervotes

0002 NEWBERG CITY CENTRAL NE  
0003 NEWBERG CITY N & NW  
0004 NEWBERG CITY S

TOTAL

264	265	266	267	268	269	270	271
1,667	382	0	342	1,749	504	0	338
2,126	891	1	314	2,348	673	0	311
1,488	633	0	281	1,640	492	0	270
5,281	2,106	1	937	5,737	1,669	0	919

36-66 NEWBERG CITY - ANNEX 2.41 ACRES - S SPRINGBROOK  
VOTE FOR 1

268 YES  
269 NO  
270 Overvotes  
271 Undervotes



I CERTIFY THAT THE VOTES RECORDED ON THIS  
ABSTRACT CORRECTLY SUMMARIZE THE TALLY  
OF VOTES CAST AT THE ELECTION INDICATED.  
*[Signature]*  
SIGNATURE OF COUNTY CLERK:  
11-19-2004  
DATE OF ABSTRACT

**CERTIFICATE OF POSTING**

***UNOFFICIAL***

***YAMHILL COUNTY ELECTION RESULTS***

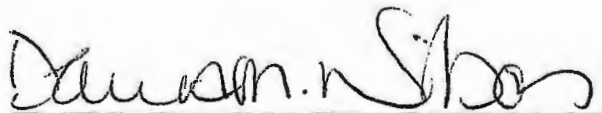
***AS OF NOVEMBER 3, 2004***

**CITY OF NEWBERG ELECTION RESULTS**  
**Biennial General Election: November 2, 2004**

I, Dawn M. Wilson, Paralegal/Elections Officer, City of Newberg Legal Department, hereby acknowledge that I posted the Unofficial Election Results held on November 2, 2004, at the following locations on November 3, 2004:

**Newberg City Hall**, 414 East First Street, Newberg, Oregon  
**Newberg Public Safety Building**, 401 East Third, Newberg, Oregon  
**Newberg Community Development Department**, 719 East First Street, Newberg, Oregon  
**Newberg Fire Department**, 414 East Second Street, Newberg, Oregon

**DATED** this 29<sup>th</sup> day of November, 2004.

  
Dawn M. Wilson, Paralegal/Elections Officer

# PROCLAMATION

by  
Mayor Bob Stewart

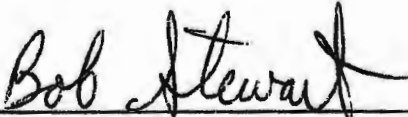
## CITY OF NEWBERG ELECTION RESULTS General Election: November 2, 2004

**WHEREAS**, a General Election for the State of Oregon was held on November 2, 2004, in which the Office of the Mayor, three City Council member positions, and three measures were presented to the voters.

**WHEREAS**, on November 23, 2004, the City received from Jan Coleman, County Clerk of Yamhill County, a Certificate certifying the true, actual, and final results of the ballots cast in the November 2, 2004, General Election; a copy of which is attached to this Proclamation;

**NOW, THEREFORE, I, BOB STEWART**, Mayor of the City of Newberg, do hereby proclaim the results of the November 2, 2004, General Election, as Certified to the City by Jan Coleman, County Clerk of Yamhill County. A certified true copy of the results of the ballots cast for the November 2, 2004, General Election are attached as Exhibit "A."

**DATED** this 23<sup>rd</sup> day of December, 2004.

  
\_\_\_\_\_  
Bob Stewart, Mayor



**POSTED** on November 29, 2004, at the following locations:

Newberg Fire Station, 414 East Second Street, Newberg, Oregon  
Newberg Public Library, 503 East Hancock Street, Newberg, Oregon  
Newberg City Hall, 414 East First Street, Newberg, Oregon  
Newberg Public Safety Building, 401 East Third Street, Newberg, Oregon

**ORIGINAL HARDSHIP  
APPLICATION FILE  
2006 -2007**

EXHIBIT B

Roger P Grahm  
23287 Lasalle Lane  
Sherwood, OR 97140  
(503)625-4552

December 20, 2006

Dab Danicic, Director Public Works Dept.  
City of Newberg  
414 E First Street  
PO Box 970  
Newberg OR 97132

Dear Mr. Danicic:

Re: Water Service Installation at Tax Lot 3221-901 (Monte Bowlin).

This is a modified hardship request for a water service on behalf of Monte Bowlin at 901 S. Springbrook.

To Summarize the facts, Mr. Bowlin's property at 901 S. Springbrook is adjacent to the south of the property we lost to condemnation by ODOT. By a legal easement documenting our agreement, Mr. Bowlin has for several years, used the well located on the property taken by ODOT. The well on his own property goes dry intermittently and is unfit for consumption without the poor flow. The well currently in use has good flow, but is also of unsafe water quality. It is not used for consumption but rather only for washing clothes, bathing and irrigation. Drinking and cooking is done with bottled water. Because of this fact, our discussions with Arrow Drilling and the neighbors, we feel there is a very small likelihood of successfully drilling a new well with safe drinking water and satisfactory flow.

Accordingly, we respectfully request on behalf of Mr. Bowlin, that the city agree to install a 3/4" service on a hardship basis, but on property within the cities boundary (Tax Lot 3221-901), the small piece left over from ODOT's condemnation. It is our intent for us to convey this piece to DMR Concrete, Mr. Bowlin's concrete company and this water service would serve not only the needs of his company and its' equipment, but also for his residence at 901 S. Springbrook.

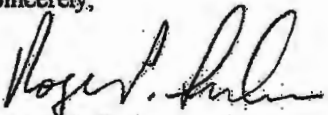
7/14

EXHIBIT B

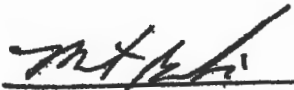
Further, Mr. Bowlin would be amenable to agree to a future annexation requirement  
AFTER his ownership ends.

Thank you in advance for your assistance in this matter.

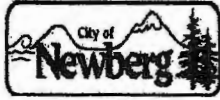
Sincerely,

  
Roger P. Grahn,

jlg

  
\_\_\_\_\_  
Acknowledged





## **RESOLUTION No. 2007-2700**

---

### **A RESOLUTION GRANTING A HARDSHIP WATER CONNECTION FOR SERVICE OUTSIDE OF THE CITY LIMITS FOR MONTE BOWLIN AT 901 S. SPRINGBROOK ROAD**

---

#### **RECITALS:**

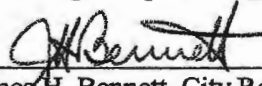
1. Monte Bowlin resides and owns property at 901 S. Springbrook Road (Tax Lot No. 3221-1901). The property is located outside the Newberg City Limits, but is within the Urban Growth Boundary and the Newberg Urban Reserve Area. Refer to **Exhibit A** for a vicinity map.
2. The house at 901 S. Springbrook Road was built in 1948 and receives water service from an off-site well that had been owned by his neighbour Roger Grahn. That well and land has been transferred to ODOT for construction of a new approach to Highway 219 for Wilsonville Road.
3. ODOT has notified Mr. Bowlin that they plan on decommissioning the well as of February 23, 2007. That will leave Mr. Bowlin without any potable water service to his property.
4. On December 20, 2006, Mr. Grahn and Mr. Bowlin submitted a written request for a hardship connection to City water based on the fact that the existing well will be closed down by ODOT. The letter is attached as **Exhibit B**.
5. The City of Newberg has an existing 14" water service line in Springbrook Road that runs along the east boundary of Mr. Bowlin's property. The City can provide a standard 3/4" water meter from that service line to the property. Cost to install the meter and SDC's are estimated to be \$5,000.
6. In January 2007, City staff visited the site and confirmed that the primary use of the property is for a single family residence. Mr. Bowlin does own and operate a small concrete finishing company (DMR Concrete) at this location; however this is an incidental use of the property.
7. Municipal Code of Ordinances Title V Chapter 52 authorizes the Newberg City Council to approve hardship connections to the City's water system provided the criteria contained in Section 52.12 is met. Staff has prepared findings relative to Section 52.12 (**Exhibit C**).

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

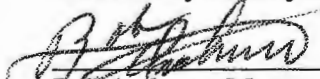
1. The City Council hereby approves the request to provide a hardship connection to the City water system for property located at 901 S. Springbrook Road based on the criteria, findings and testimony presented in the hearing on February 5, 2007.
2. The City Council hereby approves the condition that the City will not request annexation until such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use whichever occurs first. The expense for the annexation process shall be the responsibility of the applicant.
3. The City Council affirms that this approval does not bind this Council or future Councils, to hear, consider, or grant additional requests for water service outside the City limits, and that this decision is not a precedent for future decisions.
4. The City Council adopts **Exhibit C** as the findings of fact for granting the hardship and incorporates **Exhibit C** as part of this resolution.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is February 6, 2007.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 5<sup>th</sup> day of February 2007.

  
James H. Bennett, City Recorder

**ATTEST** by the Mayor this 8<sup>th</sup> day of February 2007

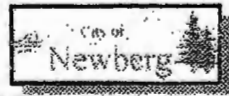
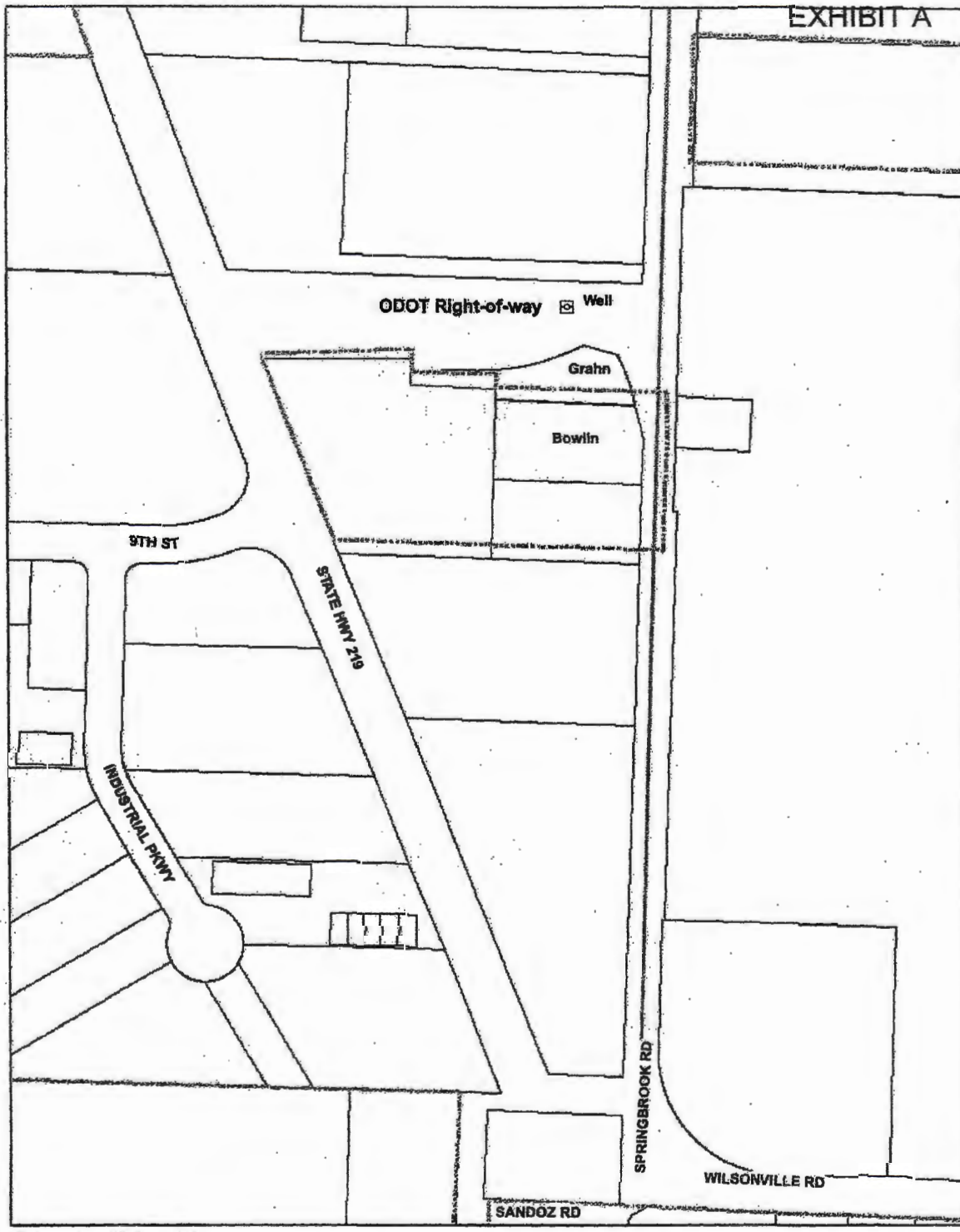
  
Bob Andrews, Mayor

**LEGISLATIVE HISTORY**

By and through \_\_\_\_\_ Committee at \_\_\_\_ / \_\_\_\_ / 2007 meeting. Or, X None.

5/12

EXHIBIT A



Legend

- City of Newberg water system line
- Newberg City Limits

200 Feet

6/17

## EXHIBIT C

### FINDINGS

Requests for hardship exceptions to allow water connections outside of City limits are governed by City Municipal Code of Ordinances Title V Chapter 52.

*Section 52.12. Exceptions due to Hardships. An exception to Section 52.11 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:** The existing home was originally constructed in 1948 and was purchased by Mr. Bowlin in 1997.

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

**Response:** Annexation of the property at this time is not desired by the property owner, who agrees to annexation to the City of Newberg as such time as he leaves the property, there is a change in ownership, or the property is developed for another use. Staff recommends that the City accept Mr. Bowlin's consent to annex in the future.

The Council grants the request without requiring immediate annexation, because the hardship was occasioned by a transportation improvement project resulting in condemnation of the property on which the well that furnishes water to the Bowlin property is situated. That well is required to be decommissioned by ODOT who is now the owner of the property to be used in the transportation project. Further, immediate annexation would result in a zone change to industrial and require residence which is the home of Mr. Bowlin to be removed within a certain period of time. Due to these circumstances, the City is willing to accept Mr. Bowlin's consent to annex in the future as satisfying the condition that annexation is "not immediately feasible".

(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.*

a/u



**Response:** Domestic drinking water for this home was provided by a well located on the northern neighbor's property. ODOT has obtained title to the portion of that property that contains the well. They plan to construct the new Wilsonville Road and Highway 219 route over that well. The property owner will not have any suitable domestic water service, due to the action by ODOT.

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

**Response:** The property owner has researched the feasibility of drilling another well. The current well does provide quality water. Mr. Bowlin and his family drink bottle water exclusively. His discussions indicate that there is little likelihood of successfully drilling a new well.

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

**Response:** The new meter will be a standard ¾" domestic meter that connects from the existing City potable water system at a 14" cast iron main on Springbrook Road. The new service will not over-burden the water line or the City's water supply.

- (C) *Application for Hardship. A request in letter form, for a hardship exception to Section 52.11 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 Council by the Public Works Department prior to the Council's consideration of the matter. A granting of the request for an exception can be made by the Council, provided that all the conditions stated in division (B) do exist.*

**Response:** A letter has been submitted by the owner and adjacent property owner. It is attached to the Request for Council Action (Exhibit B) for review by City Council.

- (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 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.*
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.*

**Response:** The owner agrees to pay the appropriate cost of extending services to the parcel in accordance with City standards at this time. The owner shall pay the appropriate systems development charges at the time the property is connected to the City services. At this time the appropriate charges would be water system development charges. Further he agrees to annexation by the City of Newberg at such time as he leaves the property, there is a change in ownership, or the property is developed for another use. These conditions will be incorporated into a legal agreement should City Council choose to approve this hardship.



200708151002  
AFTER RECORDING RETURN TO:  
City of Newberg – Public Works Department  
PO Box 970 – 414 East First Street  
Newberg, OR 97132  
(503) 537-1273

OFFICIAL YAMHILL COUNTY RECORDS  
REBEKAH STERN DOLL, COUNTY CLERK



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\$55.00 \$10.00 \$11.00 \$15.00

201001821

\$91.00

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**CONTRACT FOR EXTRA-TERRITORIAL PROVISION  
OF WATER SERVICE and CONSENT TO ANNEXATION**  
(water service outside the City)  
(ORS 221.115)

THIS AGREEMENT is entered into this 6 day of Feb 2007 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". 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:** Monte Bowlin
  - b. **Owner(s) Address:** 901 S. Springbrook Rd.  
Newberg, Oregon 97132
  - c. **REAL PROPERTY:**  
**Property Address:** 901 S. Springbrook Rd.  
Newberg, Oregon 97132
  - d. **Tax Lot No.:** 3221-1901
  - e. **Legal Description** recorded in Yamhill County Records, Instrument Number 199713551 on 08/12/97, is hereby referenced and by this reference fully incorporated.
2. **Request.** The Owner of the real property has requested water service from the City which will supply City water to the real property located outside the City limits of the City of Newberg.

91-

3. **Hardship Exceptions.** The City Code at Title V, Chapter 52, provides for water connections outside the City limits under certain hardship conditions.
4. **City Council Approval.** Under certain hardship conditions, the City Council has approved this connection by City Resolution No. 2007-2700. The Resolution with attached hardship conditions is hereby referenced and by this reference fully incorporated.
5. **Intent to Annex.** The parties agree that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use.

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** in accordance with the City Code.
  - B. The **City** consents to the **Owner** connecting to the City 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** 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.
4. **Consent to Annex.** The **Owner** hereby consents to the eventual 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. The **Owner** agrees that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. The **Owner** wishes the consent to annexation be considered in any annexation procedure and waives the one-year time period provided for in ORS 222.173 within which the consent shall be effective for consideration and requests that this consent be valid as long as the property is receiving the extra-territorial services.
5. **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 an existing structure and will not be used to allow any new development.
  - 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.
6. **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.

2/10

- 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.

7. **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 6 day of Feb 2007.

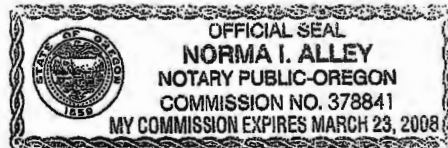
STATE OF OREGON)  
County of Jefferson)s.s.

OWNER

Monte Bowlin  
Monte Bowlin

This instrument was acknowledged before me this 6<sup>th</sup> day of February, 2007 by Monte Bowlin.

Norma I. Alley  
Notary Public for Oregon  
My Commission Expires: March 23, 2008



CITY OF NEWBERG

Daniel Danicic  
Daniel Danicic, City Recorder

APPROVED AS TO FORM

Terrence D. Mahr  
Terrence D. Mahr, City Attorney

3/4

**GENERAL JUDGMENT  
FROM MEDIATION  
SETTLEMENT  
CONDEMNATION ODOT  
V. GRAHN AND MONTE  
BOWLIN 2007**

200618315

\$66.00



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\$55.00 \$11.00

FILED  
STATE OF OREGON  
YAMHILL COUNTY  
TRIAL COURT

06 JUL 26 AM 11:19

TRIAL COURT ADMINISTRATOR  
BY \_\_\_\_\_

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

STATE OF OREGON, by and through its  
Department of Transportation,

Plaintiff,

v.

R & J GRAHN PROPERTIES, LLC, and  
Oregon limited liability company; FIRST  
FEDERAL SAVINGS AND LOAN  
ASSOCIATION OF MC MINNVILLE; and  
MONTE S. BOWLIN,

Defendants.

Case No. CV050258

GENERAL JUDGMENT

This matter comes to the Court following a day-long mediation between the two property owners and ODOT; Hon. Edwin J. Peterson, mediator. Plaintiff was represented there by Paul J. Sundermier, Senior Assistant Attorney General and defendants R & J Grahn Properties, LLC and Monte S. Bowlin were represented there by Donald Joe Willis, and Schwabe Williamson and Wyatt, their attorneys; and the Court finds,

That the parties reached an agreement settling the case at that mediation, a copy of which is attached and incorporated herein;

That no good cause exists for setting aside the settlement agreement or setting this case for trial;

That this judgment reflects a settlement of all issues raised or raiseable in this action;

That a Judgment of Dismissal has been entered herein against First Federal Savings and Loan Association of McMinnville, defendant herein;



1/1

WESTERN TITLE & ESCROW 40-00-077504

1 That the real property described in Exhibit A, pages 1– 3 and the attached map of the  
2 properties showing Parcel 3 (not previously described in the plaintiff's Complaint) which map  
3 and properties were the subject of the settlement agreement in mediation, is necessary for public  
4 use;

5 That the plaintiff, prior to the commencement of this action and pursuant to its resolution,  
6 attempted to acquire the real property described in the Complaint by agreement and purchase,  
7 but was unable to do so;

8 That the sum to be paid to the defendants for the property is \$625,000;

9 That plaintiff, on August 24, 2005, deposited \$405,000 and on February 10, 2006  
10 deposited \$500 for a total deposit of \$405,500 with the clerk of this court for use and benefit of  
11 the defendants;

12 That defendants have pursuant to order of the court, withdrawn all but \$500 of plaintiff's  
13 deposit;

14 That plaintiff will deposit with the clerk of this court the balance due in the amount of  
15 \$219,500 and that plaintiff is now entitled to judgment, appropriating the real property described  
16 in the attached Exhibit A, to the State of Oregon, by and through its Department of  
17 Transportation, free and clear of all liens and encumbrances except as hereinafter provided; now,  
18 therefore,

19 **IT IS HEREBY ORDERED AND ADJUDGED:**

20 1.

21 The real property described in Exhibit A attached to the Settlement Agreement is  
22 appropriated for public purposes; and title to said acquisition, together with all rights and  
23 easements therein is vested in the State of Oregon, by and through its Department of  
24 Transportation, free and clear of all liens and encumbrances, except as herein provided.

25 The acquisition and use consist of:  
26



1 The property, fee simple, described as Parcels 1, 2 and 3 in the  
2 Exhibit A attached hereto.

2.

3 Defendant First Federal Savings and Loan Association of McMinnville has been  
4 adjudged dismissed.

3.

6 Defendants R & J Grahn Properties, LLC and Monte S. Bowlin may withdraw the total  
7 sum deposited into the court, on account of just compensation for this property, to wit, \$220,000,  
8 upon order of this court.


4.

10 The real property shall be used for the public purposes named in the Complaint within ten  
11 (10) years of the filing of this judgment pursuant to ORS 35.385(2)(a).

5.

13 None of the parties shall recover from another party costs or attorney fees incurred  
14 herein.

15 DATED this 24<sup>th</sup> day of July, 2006.

16   
17  
18 Circuit Court Judge

19 Submitted by: Paul J. Sundermier  
20 Senior Assistant Attorney General

State of Ore  
Dept of Transportation

v.

R & J Grahn Properties LLC,  
Monte S. Bowlin, et al

Yamhill County  
Circuit Court Case  
# CV050258

## SETTLEMENT AGREEMENT

Plaintiff agrees to pay Defendants  
\$625,000 <sup>00</sup> TOTAL, which sum includes  
the \$405,500 <sup>00</sup> already paid, for the  
property described in the Complaint filed herein,  
plus the remainder property between the new  
Right of Way and the Synger property, as shown  
on Exhibit A attached, for which ODOT  
will provide a legal description.

This settlement includes resolution of all issues  
between Plaintiff and Defendants relating to  
the easement for water well use dated 12/4/04  
and recorded on 5/23/05 in the Official  
Yamhill County Records.

DOT will prepare a stipulated judgment  
acceptable to counsel.  
Parties to share mediation costs & to otherwise  
pay their own costs.

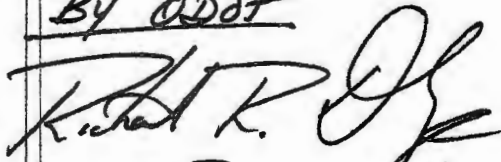
②

ODOT agrees to cooperate and support efforts to provide city water to the Bowl in property.

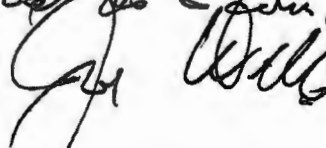
Should there be any need for clarification or assistance in the implementation of this agreement, the parties agree to first seek the assistance of ~~the~~ Hon Edwin Peterson.

June 27, 2006

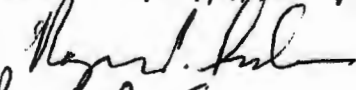
By ODOT



ODOT RIGHT OF WAY OPERATIONS Manager

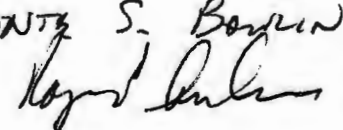
Approved & Signed for Defendants  
 June 27, 2006

R & L GRAHN PROPERTIES, LLC

by 

ROGER P. GRAHN, MANAGING MEMBER

MONTY S. BOYD

by  <sup>RP</sup> ACTUAL AUTHORITY

**Parcel 1 – Fee**

A parcel of land lying in the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M., Yamhill, Oregon and being a portion of that property designated as Parcel I in that Statutory Warranty Deed to Roger P. Grahn, Inc., recorded August 12, 1997 as Instrument No. 199713561, Records of Yamhill County; the said parcel being that portion of said property included in a strip of variable in width lying on the Southerly side of the "C" center line which center line is described as follows:

Beginning at Engineer's center line Station "C" 10+00.00, said station being 1,139.79 feet North and 620.76 feet West of the Southeast Corner of the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M.; thence North 68° 23' 11" East 86.99 feet; thence on a 400.00 foot radius curve right (the long chord of which bears North 80° 03' 09" East 161.77 feet) 162.89 feet; thence South 88° 16' 52" East 118.50 feet; thence on a 301.56 foot radius curve left (the long chord of which bears North 46° 47' 24" East 425.94 feet) 472.94 feet; thence North 1° 51' 40" East 158.68 feet to Engineer's center line Station "C" 20+00.00.

The width in feet of said strip of land is as follows:

		Width on Southerly Side of Center Line
"C" 10+30.00	"C" 12+49.88	51.50
"C" 12+49.88	"C" 13+68.38	51.50 in a straight line to 46.50
"C" 13+68.38	"C" 18+41.32	46.50

ALSO that portion of the said property lying on the Northerly side of said center line.

Bearings are based on County Survey No. 11833 Filed January 29, 2004, Yamhill County, Oregon.

This parcel of land contains 1.76 acres, more or less.

**Parcel 2 – Fee**

A parcel of land lying in the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M., Yamhill, Oregon and being a portion of that property designated as Parcel I and Parcel III in that Statutory Warranty Deed to Roger P. Grahn, Inc., recorded August 12, 1997 as Instrument No. 199713561, Records of Yamhill County; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of relocated Springbrook Road which center line is described as follows:

Beginning at Engineer's center line Station "S" 18+00.00, said station being 799.58 feet North and 25.98 feet East of the Southeast Corner of the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M.; thence North 1° 51' 40" East 241.70 feet; thence on a 301.56 foot radius curve left (the long chord of which bears North 19° 11' 38" West 216.68 feet) 221.63 feet; thence North 40° 14' 56" West 30.02 feet to Engineer's center line Station "S" 22+93.35.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
"S" 20+41.70		"S" 21+02.93	30.00 in a straight line to 39.50
"S" 21+02.93		"S" 22+00.00	39.50
"S" 22+00.00		"S" 22+51.69	39.50 in a straight line to 74.63
"S" 22+51.69		"S" 22+93.35	74.63

ALSO that portion of said property lying on the Easterly side of said center line.

EXCEPT therefrom Parcel 1.

This parcel of land contains 6,701 square feet, more or less.

**PARCEL 3 - Fee**

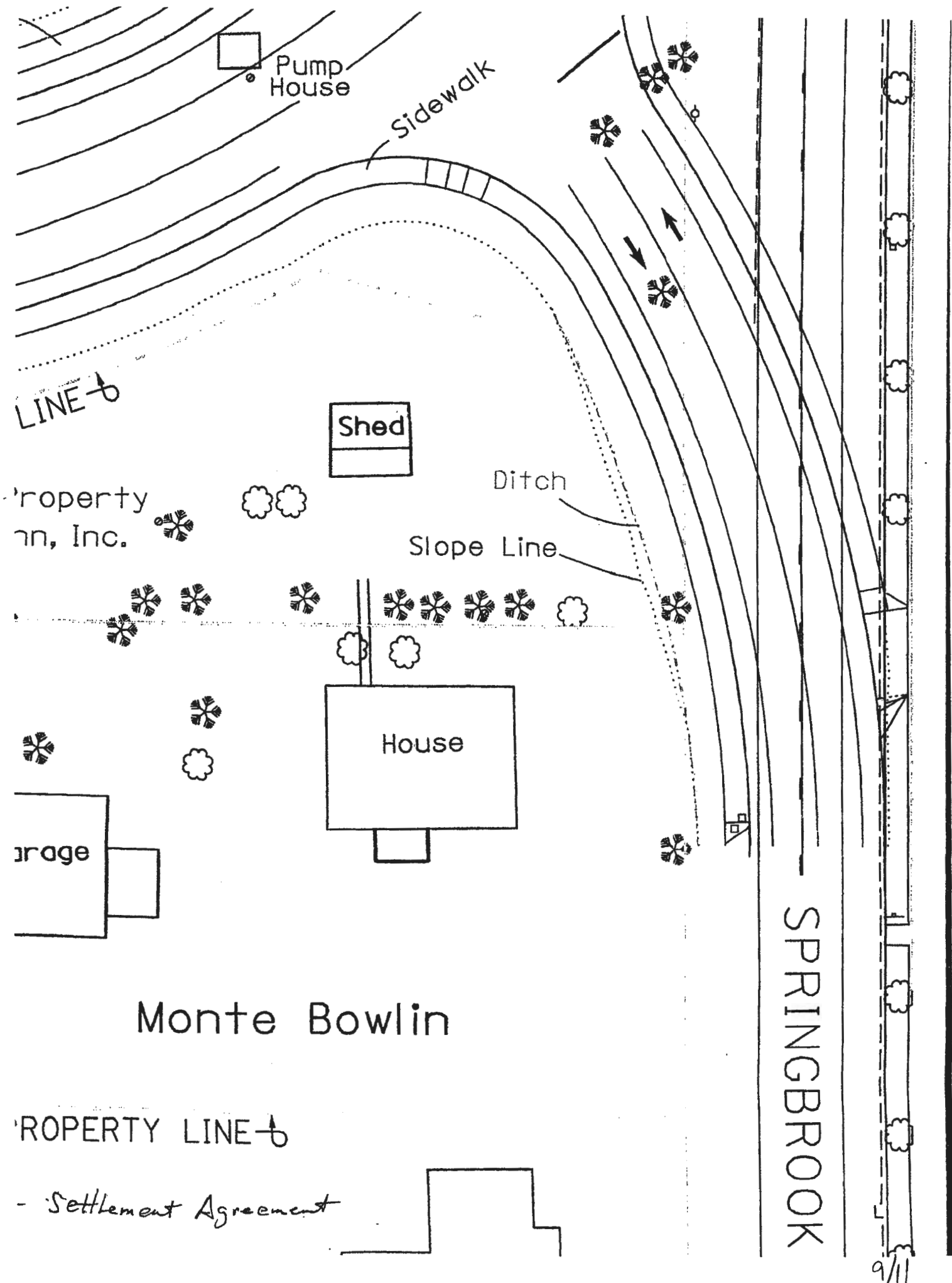
A parcel of land lying in the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M., Yamhill, Oregon and being a portion of that property designated as Parcel I in that Statutory Warranty Deed to Roger P. Grahn, Inc., recorded August 12, 1997 as Instrument No. 199713561, Records of Yamhill County; the said parcel being that portion of said property lying Southerly of and adjoining Parcel 1 and Westerly of the following described line:

Beginning at a point opposite and 76.23 feet Southerly of Engineer's Station 14+01.20 on the "C" center line; thence Northerly in a straight line to a point opposite and 46.50 feet Southerly of Engineer's Station 14+04.09 on said center line.

The "C" center line referred to herein is described in Parcel 1.

This parcel of land contains 3,545 square feet, more or less.





Pump House

Sidewalk

Shed

Property  
n, Inc.

Ditch

Slope Line

House

Garage

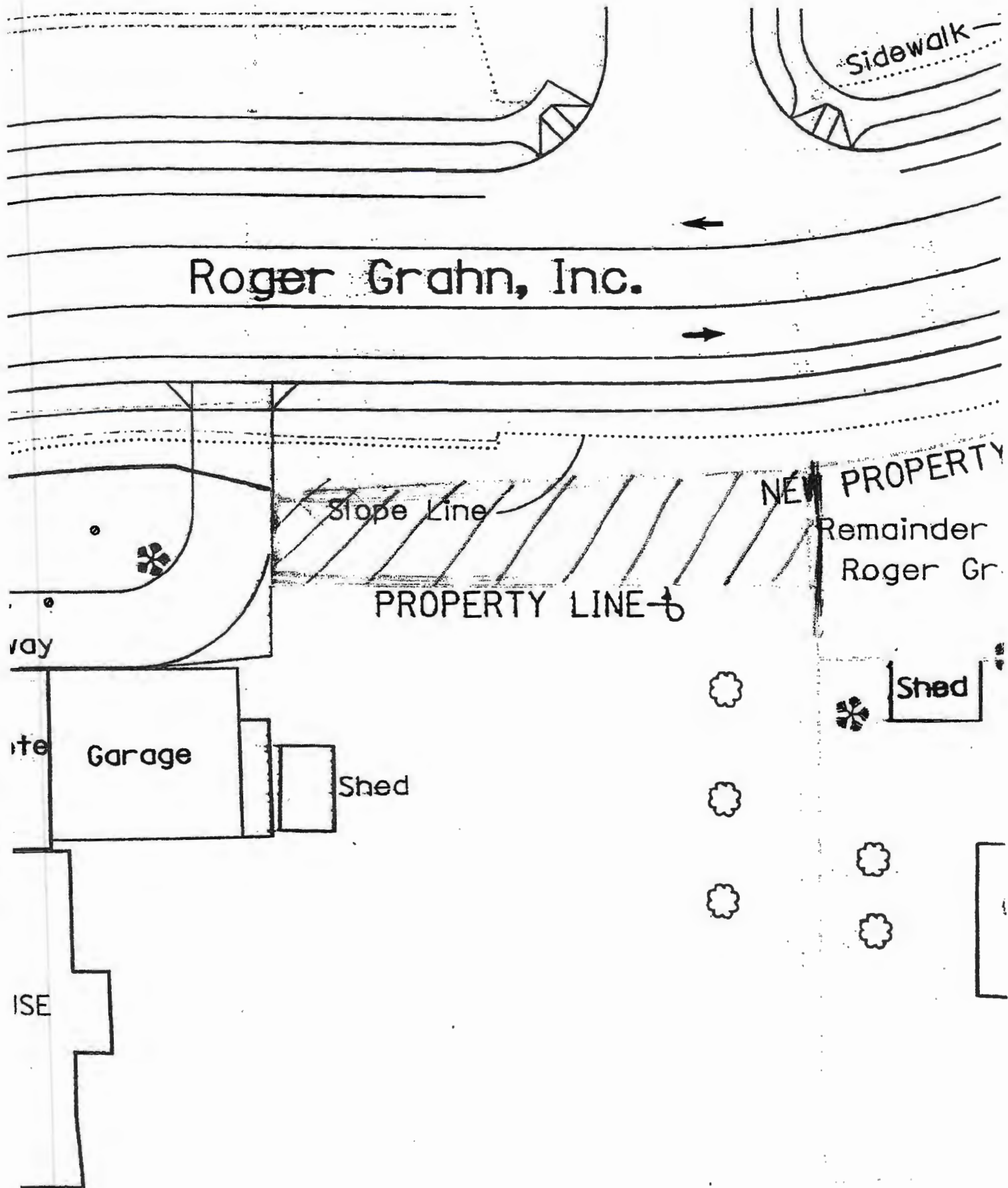
Monte Bowlin

PROPERTY LINE

SPRINGBROOK

Settlement Agreement

9/11



Jack & Darlene Swonger

Ex. 1


10/11

1 **CERTIFICATE OF SERVICE**

2 I certify that on July 20, 2006, I served the foregoing proposed General Judgment upon  
3 the parties hereto by the method indicated below, and addressed to the following:

4 Donald Joe Willis  
5 Steve C. Morasch  
6 Schwabe Williamson Wyatt PC  
7 1211 SW 5th Ave Ste 1600-1900  
Portland OR 97204

☐ HAND DELIVERY  
☒ MAIL DELIVERY  
☐ OVERNIGHT MAIL  
☐ TELECOPY (FAX)

8  
9  
10   
11 PAUL J. SUNDERMIER #82407  
12 Senior Assistant Attorney General  
13 Trial Attorney  
14 Tel (503) 947-4700  
15 Fax (503) 947-4792  
16 paul.sundermier@doj.state.or.us  
17  
18  
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**2018 ODOT ACCESS  
PERMIT FOR TAX LOT  
1800 (SWONGER  
PROPERTY) AND TAX  
LOT 1900 (ACG  
CONCRETE LLC)  
PROPERTY**

**PERMIT NO: 56992****PERMIT TO OPERATE, MAINTAIN AND USE A  
STATE HIGHWAY APPROACH**

Oregon Department of Transportation

Appl No.: 92142

Reason for Request: ODOT Project

Site ADT: 20

**Permittee Information**

Name	<b>Darlene Swonger</b>
Company	<b>Swonger</b>
Mailing Address:	<b>832 S Springbrook Road Newberg, OR 97132</b>
Phone:	<b>(503) 538-3534</b>
FAX:	<b>( ) -</b>
eMail:	

**Property Information**

Address:			
<b>832 S. Springbrook Rd. Newberg OR 97132</b>			
County:	<b>Yamhill</b>	District:	<b>03</b>
Highway:	<b>Salmon River</b>	Hwy #:	<b>039</b>
		Route:	<b>ORE18</b>
MilePoint:	<b>59.970</b>	Engineering Station:	<b>C 13+81</b>
		Side of Hwy:	<b>R</b>
		Public/Private:	<b>Public</b>
Permit Description:			
<b>Shared access - 2 SF residences</b>			

**Plan View**

See Custom Drawing

**Effective Period**

(1) General Provisions: A permit to operate, maintain and use ("permit to operate") an approach runs with the land. Except as otherwise provided, a permit to operate is effective until:

- (a) Revoked by mutual consent;
- (b) Revoked for failure to abide by the terms and conditions;
- (c) The approach is subject to a change of use as set forth in OAR 734-051-3020;
- (d) The development of safety or operational concerns as set forth in OAR 734-051-5120 Project Delivery; or
- (e) By other operation of law.

(2) Successors and Assignees: The permit to operate is binding on successors and assignees including successors in interest to the property being served by the approach.

The Permit is issued subject to the provisions of Oregon Administrative Rules 734-051.

**Specification**

Width (W):	<b>25.00ft</b>	Angle (A):	<b>90</b>
Radius 1 (R1):	<b>.00ft</b>	Radius 2 (R2):	<b>.00ft</b>
Paving Lmt (P1):	<b>.00ft</b>	Paving Lmt (P2):	<b>.00ft</b>
Surf (Ds):	<b>25.00ft</b>	Ditch (Dd):	<b>.00ft</b>
		R/W (Drw):	<b>.00ft</b>
Culvert:	<b>None</b>	Diam.	Len:
Sub Base Crse.		Thickness:	
Base Crse:		Thickness:	
Level Crse:		Thickness:	
Wear Crse:	<b>Concrete</b>	Thickness:	

**Land Use**

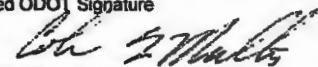
Land Use Description:	Units of Measure:
<b>Residential</b>	<b>2.00 DU</b>

**Tax Lot**

Township	Range	Section	Tax Lot
<b>3S</b>	<b>2W</b>	<b>21</b>	<b>1800</b>
<b>3S</b>	<b>2W</b>	<b>21</b>	<b>1900</b>

**This permit is not valid until signed by a duly authorized representative of the Oregon Department of Transportation.**

Authorized ODOT Signature



Date

**9 April 18**

**PERMIT NO: 56992**

**PROVISIONS FOR ENCROACHMENT,  
CONSTRUCTION ON OR USE OF STATE HIGHWAY  
PROVISIONS**

*Oregon Department of Transportation*

**Application Id: 92142 Highway Number: 039**

**MilePoint 59.970**

**Reason for Request: ODOT Project**

**Applicant: Darlene Swonger**

**Company: Swonger**

**Maintenance of Approach**

Prior to performing any maintenance work on the approach, which will interfere with or interrupt traffic upon or along the highway, the applicant shall obtain approval and necessary permits from the District Office. In all cases where traffic signals have been required, signal maintenance will be performed by the Oregon Department of Transportation or as assigned by a Cooperative Cost Agreement. The Permittee is responsible for maintenance of the approach in accordance with ORS 374.315

**374.317** [https://www.oregonlegislature.gov/bills\\_laws/ors/ors374.html](https://www.oregonlegislature.gov/bills_laws/ors/ors374.html)

ORS 374.317 Approach road maintenance. An owner of real property abutting a state highway with an existing approach road that is presumed to have written permission under ORS 374.308 or that has an approach permit under ORS 374.310 is responsible for the cost and performance of maintaining the approach road, in accordance with the Department of Transportation's requirements, from the outermost edge of the highway pavement, shoulder or curb line to the right-of-way line, and shall maintain all portions of the approach road on the owner's property. [2013 c.476 §3]  
Note: See note under 374.308.



**DEED GRAHN TO DMR  
CONCRETE INC.  
2010**



Until a change is requested all tax statements shall be sent to the following address:

Monte Bowlin *Wilsonville*  
901 NE ~~Springbrook~~ Road  
Newberg OR 97132

Date: September 7, 2010

THIS SPACE RESERVED FOR RECORDER'S USE

OFFICIAL YAMHILL COUNTY RECORDS  
REBEKAH STERN DOLL, COUNTY CLERK

201012521



\$51.00

00355778201000125210030031

09/09/2010 02:35:21 PM

DMR-DDMR Cnt=1 Sln=2 ANITA  
\$15.00 \$10.00 \$11.00 \$15.00

### STATUTORY BARGAIN AND SALE DEED

R & J Grahn Properties, LLC, an Oregon Limited Liability Company, Grantor, conveys to DMR Concrete, Inc. Grantee, the following described real property:

**LEGAL DESCRIPTION: SEE EXHIBIT 'A' ATTACHED**

The true consideration for this conveyance is **\$Zero**. (Here comply with requirements of 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, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. 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, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Dated this 7th day of August, 2010

R & J Grahn Properties, LLC.

*Roger P. Grahn*  
By Roger P. Grahn, Managing Member

STATE OF Oregon )  
County of Yamhill )

This instrument was acknowledged before me on this 7<sup>th</sup> day of September, 2010 by **Roger P. Grahn, Managing Member of R&J Grahn Properties, LLC.**



*Janell Walker*  
\_\_\_\_\_  
Janell Walker  
Notary Public for Oregon  
My commission expires: 4/5/2011

EXHIBIT "A"

**PARCEL I:**

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

BEGINNING at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the point of beginning.

**PARCEL II:**

BEGINNING at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the true place of beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the place of beginning.



007652151

**DIANA COOPER**  
**RALTOR ANALYSIS OF**  
**VALUE RESIDENTIAL V.**  
**LIGHT INDUSTRIAL**



May 24, 2024

RE: Estate of Monte Bowlin- Hardship Application City of Newberg

To whom it may concern:

My name is Diana Cooper, I am the Real Estate Broker representing the Estate of Monte Bowlin. I would like to tell you a little about myself and my real estate experience. Newberg has been my home since 1983. In 1994, thirty (30) years ago, I became a licensed Oregon Real Estate Broker. I began my career in real estate at Newberg Realty as a Real Estate Agent and went on to get my Principal Brokers license. My license currently is hung at John L Scott Market Center, but I work out from home in Newberg. For the past Thirty (30) years I have gained experience and training in residential, commercial, bare land, acreage and light industrial property. I am required to complete Thirty (30) hours of Continuing Real Estate Education every two years. I have made it my mission to know the real estate market, especially in Yamhill County. As requested by the Bowlin Estate I have researched the Residential Verses Light Industrial market value of the property located at 901 S McKern Ct Newberg, OR 97132.

**Residential:** There has been limited inventory for the past few years which does not give many active, pending or sold for the past year. The property located at 3517 N College St Newberg OR is most comparable. This residential property that is similar in lot size, age of dwelling, not annexed into the city, on public water and septic system. They started the price at \$650,000 and sold at \$578,500 on April 18, 2024. However, the lot is .19 acres smaller, the house is 169 square feet smaller and does not have a large shop. (see attached brochure page showing characteristics of this property). Our current listing contract has the list price of \$650,000 and I still stand by that list price recommendation.

I can only find two (2) Light Industrial properties of small size (less than 3 acres) that sold in the Newberg/Dundee area in the last eight (8) years. There is little interest in properties the size of the subject property, particularly when there is a residence on the subject property that would probably have to be removed upon annexation. That is because a parcel approximately .68 acres in size is extremely hard to develop as Light Industrial property (i.e., parking, landscaping, and other requirements are just several reasons for the difficulty in developing a parcel of that size). The two parcels that sold were:

1. 1001 S. McKern Ct aka 1001 NE Wilsonville Rd, Newberg (see attached brochure page showing characteristics of this property). This property is approximately 2.07 acres in size and sold on June 20, 2016, for \$530,000 which calculates to approximately \$5.90/sq. ft. I feel that price is probably still a valid price per sq. ft. as industrial property of this size has not increased that much in price in the past 8 or so years.
2. Fulquartz Rd, Dundee (see attached brochure page showing characteristics of this property). This property is approximately 2 acres in size and sold for \$650,000 on March 14, 2023, which

calculates to \$7.50/sq. ft. I believe this property may have had a higher price per sq. ft. than the McKern Ct property in that it did not contain a house that would have to be removed.

Even if you use the value of \$7.50/sq. ft. to calculate an approximate value for the subject property (which I don't think is accurate, because the subject property has a house that will probably have to be removed, and the property is much smaller in size than the Fulquartz Rd property, the calculated value is still only \$7.50/sq. ft. x .68 acre x 43,560 sq. ft./acre = approximately \$222,157 maximum value if the property is annexed into the City of Newberg as Light Industrial.

In my opinion, after serious review of the options the current zoning of residential is the highest and best use and financial option for the Monte Bowlin Estate. I have attached copies of the supporting documentation. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Diana Cooper". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Diana Cooper, Principal Real Estate Broker  
John L Scott Market Center  
[Your2realtors@yahoo.com](mailto:Your2realtors@yahoo.com)  
503-380-0270





her: [Virtual Tour #1](#)

her: [Virtual Tour #2](#)

PEN HOUSE 3/16 2-4 PM. Introducing this one-level home with timeless appeal this 3-bedroom, 2-bath residence has vintage character while boasting modern amenities. Located on a sprawling 9-acre lot that's not annexed to the city, this property offers the perfect blend of peaceful suburban living and convenient accessibility. Inside, you'll immediately notice the classic original hardwood floors that add warmth and character providing a cozy and welcoming atmosphere for your family guests. Natural light pours in through a large window, illuminating the living area. One of the highlights of this home is the outdoor oasis it offers. In the backyard, you'll discover a large, serene water feature that creates a tranquil setting to unwind and relax. The covered stamped concrete patio is perfect for outdoor entertaining, and a pergola adds a touch of elegance to your outdoor gatherings. The built-in sprinkler system ensures that your lawn and garden remain vibrant and lush. For those who love working on cars or have a passion for crafts, the 24'x45' ft garage is a dream come true. Equipped with a craftsman bench and storage lockers, it's a versatile space that can cater to your hobbies and needs. The garage features a compressor and dehumidifier to maintain the ideal working environment, and is heated by a propane furnace, making it comfortable year-round. The included car lift makes it possible to accommodate up to 5 vehicles, and there's even a urinal and sink, adding a touch of convenience. Additional loft space in the garage provides extra storage options. If you're an RV enthusiast or need extra storage space, you'll appreciate the extensive 10'x61' covered RV/storage area with a concrete floor, providing protection for your recreational vehicles and other belongings. The property also boasts the potential for division due to its size and location, making an attractive opportunity for investment or expansion. Agent related to seller. BUMPABLE BUYER STATUS

Client Full

Residential

5/24/2024 2:02PM

**\$578,500** 3 bd | 2 / 0 ba | 1515 sqft

Status: **Sold**

List Date: 10/25/2023

DOM: 143

Acres: 0.49

MLS#: 23246348

Year Built: 1950 / RESALE

3517 N COLLEGE ST Newberg, OR 97132

Unit #:

Condo Loc:

XST/Dir: Turn off of 99w or Pacific Hwy onto College street

## Property Details:

Property Type: Detached

Area: 156

Style: 1 Story, Craftsman

Zoning:

County: Yamhill

Seller Disclosure: Disclosure

Nhood/Bldg:

Waterfront:

CC&amp;Rs: No

Lot Desc:

Legal: TOWNSHIP 3S RANGE

Lot Size: 20,000 SqFt to .99

2W SECTION 07 QTR A QQTR D Acres

TAXLOT 03500

Lot Dimensions:

Warranty:

View:

55+ w/Affidavit Y/N: No

Body Water:

Open House:

Tax ID: 23398

Opportunity Zone:

Short Term Rental Allowed:

Floor #:

Upcoming Open House:

Lot/Land Lease/Rent Payment: /

Lot/Land Lease: No

## Schools:

Elementary: Antonia Crater

Middle: Chehalem Valley

High: Newberg

RESIDENCE INFORMATION:

Upper SQFT: 0	SQFT Source: owner	Levels: 1	Green Certification:
Main SQFT: 1515	Total Up/Main: 1515	Roof: Shingle	Energy Efficiency:
Lower SQFT: 0	Fireplaces: 1	Parking: Driveway, Parking Pad	Exterior: Brick, Cedar
Additional SQFT:	Garage: 1 / Extra Deep, Carport,	Basement:	RV Description: RV/Boat Storage
Reinforced Masonry Building:	Detached	Road Surface: Concrete, Paved	
	Foundation: Concrete Perimeter		

Approximate Room Sizes and Descriptions:

Living:	M	Daylight, Fireplace, Hardwood Floors			
Kitchen:	M	Built-in Dishwasher, Disposal			
Primary Bedroom:	M	Bathroom, Closet, Sliding Doors, Tile Floor			
Second Bedroom:	M				
Baths - Full/Part	Upper Level: 0/0	Main Level: 2/0	Lower Level: 0/0	Total Baths: 2/0	

Features and Utilities:

Kitchen:	Built-in Dishwasher, Free-Standing Refrigerator, Tile				
Interior:	Hardwood Floors, Tile Floor, Washer/Dryer, Wood Floors				
Exterior:	Covered Patio, Fenced, Garden, Outbuilding, Patio, Porch, RV Parking, RV/Boat Storage, Sprinkler, Tool Shed, Workshop, Water feature, Yard				
Accessibility:	One Level, Main Floor Bedroom w/Bath				
Security:					
Internet:					
Windows:	Vinyl Frames				
Cool:	Central Air	Heat: Forced Air	Fuel: Gas		
Water:	Public Water	Sewer: Septic Tank	Hot Water:		

Financial:

Property Tax/Yr: \$2,239.40 / 022	Rent, If Rented: Dues:	Short Sale: No	Bank Owned/Real Estate Owned: No
HOA: No		BAC: % 2.25	
Association Amenities:		Other Dues:	
Terms Considered: Cash, Conventional, VA Loan			
Assumable Interest Rate:			
Assumable Remaining Months Ending:			

Comparable Information:

Listing Date: 3/16/2024	Original Price: \$650,000	Sold Price: \$578,500
Listing Date: 4/18/2024	List Price: \$599,000	Sold Terms: Conventional

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.  
SCHOOL AVAILABILITY SUBJECT TO CHANGE.





Client Full

Comm/Industrial

5/24/2024 2:02PM

**\$530,000** 2160 gross sqftStatus: **Sold**

List Date: 6/20/2016

DOM: 274

Acres: 2.07

MLS#: 16603206

Year Built: 1980 / EXISTNG

**1001 NE WILSONVILLE RD Newberg, OR 97132**

Unit #:

XST/Dir: Hwy 219 or Springbrook to Wilsonville Hwy interchange

## Property Details:

Property Type: Light Industrial

Property Tax/Yr: \$2,722.95 /

County: Yamhill

Sale Inc: Building, Land

Legal: 2.23 ACRES IN SEC 21

T3S R2W

Area: 156

Zoning: M2

Tax ID: 62773

CC&amp;Rs: No

Open House:

Upcoming Open House:

Features:

Equipment:

Internet:

Lot Size: 1 to 2.99 Acres

Seller Disclosure:

Lot Dimensions:

Approx. Lot SQFT: 2.07 acres

# Stry/Bldg: 1/2

Parking: / On Site

Construction: Metal

Ceiling Ht/Ft:

Truck Door: /

Roof: Metal

Occupancy: Other

Loading:

Office SqFt:

Whse SqFt:

Mfg SqFt:

Road Frontage:

Road Surface: Paved

View:

Waterfront:

Body Water:

Current Use: Automotive

Unreinforced Masonry Building:

great location bordered by Hwy 219 and Wilsonville Road. Zoning M2 Light Industrial. 60x36 metal building currently used as auto repair shop. House is of little value. City water & sewer to the property w/2 RV sewer connections. Existing well & septic not in use. Lot size differs from legal due to recent ODOT acquisition.

## Utilities:

Heat: Zoned

Fuel: Gas

Water: Public Water

Sewer: Public Sewer, Septic Tank

Cool:

Volts:

amps:

## Business and Lease Information:

Restrictions:

Actual Gross Income: \$0

Proj. Gross Income:

Lease Expire:

Business Name:

Actual Net Income: \$0

Proj. Net Income:

Lease Equip

Yr Estab:

Actual Oper. Expenses: \$0

Proj. Oper. Expenses:

Lease Amount:

Short Sale: No

BAC: % 2.5

Bank Owned/Real Estate

Owned: No

Inventory:

Lease Deposit:

Lease Type:

Terms: CONV

Doc Available: Deeds, Plot - Plat Map

Assumable Interest Rate:

Assumable Remaining Months Ending:

## Comparable Information:

Selling Date: 3/21/2017

Sold Date: 9/5/2017

Original Price: \$795,000

List Price: \$695,000

Sold Price: \$530,000

Sold Terms: Conventional





parcels. Ideal for RV or boat storage. Nice 60x40 shop included as fenced on property line. Listing agent related to seller.

## Utilities:

**Heat:** None  
**Water:** Shared Well  
**Sewer:** Other  
**Cooling:** None  
**Electric:** None  
**Gas:** None

Client Full

Comm/Industrial

5/24/2024 2:02PM

**\$650,000** 2400 gross sqft

Status: **Sold**

List Date: 3/14/2023

DOM: 8

Acres: 2

MLS#: 23446783

Year Built: 2020 / APPROX

Fulquartz DR Dundee, OR 97115

Unit #:

XST/Dir: 99W to Fulquartz Landing Rd

## Property Details:

Property Type: Industrial

Property Tax/Yr: \$2,108.00 / 2022

County: Yamhill

Sale Inc: Building, Land

Legal: Parcel 1 and parcel 2 of partion plat 2020-16

Area: 156

Zoning: industr

Tax ID: 712810

CC&amp;Rs:

Open House:

Upcoming Open House:

Features: Fenced

Equipment:

Internet:

Lot Size: 1 to 2.99 Acres

Seller Disclosure:

Lot Dimensions:

Approx. Lot SQFT:

# Stry/Bldg: 1/1

Parking: /

Construction: Frame, Wood Siding

Ceiling Ht/Ft: 17

Truck Door: /

Roof: Composition

Occupancy: Other

Loading:

Office SqFt:

Whse SqFt:

Mfg SqFt:

Road Frontage:

Road Surface: Gravel

View:

Waterfront:

Body Water:

Current Use: Automotive, Industrial

Unreinforced Masonry Building:

## Business and Lease Information:

Restrictions:

Actual Gross Income: \$0

Proj. Gross Income:

Lease Expire:

Business Name:

Actual Net Income: \$0

Proj. Net Income:

Lease Equip

Yr Estab:

Actual Oper. Expenses: \$0

Proj. Oper. Expenses:

Lease Amount:

Short Sale: No

BAC: % 2.5

Bank Owned/Real Estate

Owned: No

Inventory:

Lease Deposit:

Lease Type:

Terms: CASH

Loc Available:

Assumable Interest Rate:

Assumable Remaining Months Ending:

## Comparable Information:

Selling Date: 3/22/2023

Sold Date: 4/7/2023

Original Price: \$650,000

List Price: \$650,000

Sold Price: \$650,000

Sold Terms: Cash



**EXCERPTS FROM  
CITY'S  
COMPREHENSIVE  
PLAN**

small, scattered sites, with only 8 parcels larger than 5 acres and only 3 parcels that are 20 acres or larger. Second, several sites are hindered because of proximity to residential neighborhoods or other factors. Thus, some of the industrial should be rezoned for other uses. Third, a significant part of the “buildable” land is in fact in industrial use, such as storage yards. Also, the land need is adjusted to account for existing industrial uses that are displaced by the Newberg Dundee Bypass.

**Table V- 11. 2025 Industrial Land Supply and Need**

<b>Industrial Site Size</b>	<b>2025 Need</b>	<b>Supply</b>	<b><u>Surplus/(Deficit)</u></b>
Small/Medium sites (< 20 ac)	50 ac	99 ac	49 ac
Large sites (20+ ac)	100 ac	60 ac	(40) ac

Inside the current UGB, the only one large site (20 acres) that is viable in the long term is at the Sportsman Airpark. Two other sites are better suited for other uses long term. Therefore, Newberg needs to look to add additional industrial land to its UGB.

### 3. 2040 Industrial Land Supply and Need

The period 2025-2040 will have additional needs for industrial lands. There is projected to be a need for 37 acres of additional small/medium sites. In addition, there will be a need for six large industrial sites (20 acres each).

**Table V- 12. 2026-2040 Industrial Land Supply and Need**

<b>Industrial Site Size</b>	<b>2026-2040 Need</b>
Small/Medium sites (< 20 ac)	37 ac
Large sites (20+ ac)	120 ac

## E. INSTITUTIONAL LAND SUPPLY AND NEED

Newberg has estimated the land need for public and quasi-public institutional uses based on consultation with the Newberg School District, the Chehalem Park and Recreation District, and per capita needs based on the future population forecast (Table V-13).<sup>e</sup>

**Table V- 13. Summary of Institutional Land Needs (acres)**

<b>Category</b>	<b>2025</b>	<b>2040</b>
Schools	85 acres	105 acres
Parks	85 acres	115 acres
Other	79 acres	128 acres
<b>Total</b>	<b>249 acres</b>	<b>348 acres</b>

<sup>e</sup> Ad Hoc Committee on Newberg's Future (2005), Report to Newberg City Council

## 2. Commercial Land Supply

The commercial buildable land inventory inside the current Newberg UGB has approximately 105 acres, but consists mostly of small, scattered sites, with only 3 parcels larger than 5 acres. Overall, Newberg has a deficit of commercial land through 2025. Appropriate land will need to be designated commercial to meet future needs, through some combination of changing the plan designation of lands within the UGB and/or adding additional land to the UGB. To meet the commercial land needs through 2040, additional land will need to be designated commercial.

**Table V- 9. Commercial Land Need and Supply**

Commercial Land Need 2005-2025 (acres)	Commercial Land in UGB (2004)	2025 Surplus (Deficit) (acres)	Commercial Land Need 2026-2040 (acres)
111	105	(6)	109

## D. INDUSTRIAL LAND NEED AND SUPPLY

### 1. Industrial Land Need

Johnson-Gardner prepared future industrial land forecasts based on long-range employment forecasts and converted the new jobs to space needs for each employment sector (Table V-10). This forecast is based on a high employment growth scenario consistent with Newberg's economic development goals to bring more family-wage jobs to the area and to avoid becoming a bedroom community.<sup>d</sup>

**Table V- 10. Industrial Land Need**

	2005-2025	2026-2040
Industrial	87 acres	75 acres

Source: Johnson Gardner

In addition to an overall supply of buildable land, Newberg needs to have sites available to meet the specific needs of potential industrial users, so-called "target industries". A variety of parcel sizes, building types, and land use designations are required to attract target industries and provide market choice. In 2005, there is a general lack of suitable large (20+ acre) industrial sites with access to a state highway and physical separation or transitional buffering from residential neighborhoods. Therefore, Newberg needs 4 large (20+ acre) industrial sites for the period 2005-2025 and an additional 6 sites for the period 2026-2040. The assumption is that approximately 50 percent of the future industrial employment will take place on large parcels.

### 2. 2025 Industrial Land Supply and Need

The industrial buildable land inventory inside the current UGB has approximately 159 acres. While this may seem to be a large supply, it is disadvantaged by a number of elements. First, it consists mostly of

<sup>d</sup> Johnson-Gardner (2004), Industrial and office land need





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Attorney at Law

June 20, 2024

Mayor and City Council  
City of Newberg  
Newberg City Hall  
Newberg, OR 97132

**SENT VIA E MAIL:**

Re: Water Hardship Application - The Estate of Monte Bowlin – Tax Account R3221-1901  
Address 901 S. Springbrook Rd, Newberg (located outside City limits of Newberg)  
Supplement to Original Application dated June 17, 2024

Dear Mayor and City Council:

This letter acts as a supplement to the Water Hardship Application submitted on June 17, 2024. This Supplement is associated with the fiscal impact to the City should the Council approve the Hardship Application.

The fiscal impact is divided into two (2) areas, to-wit:

1. The actual dollar and cent impact to the City associated with future revenue if the Application is approved:

A. Approval will result in the property not being annexed into the City; however, if annexation actually occurred, the property would be annexed with a zoning of Light Industrial. The analysis letter of Diana Cooper which was enclosed with the original Application, set forth that the maximum value of the property as Light Industrial was approximately \$222,156. Applicant submits that is the maximum amount of assessed value of the property that would be associated with property tax assessments. Using a millage rate of \$5.00/\$1,000 assessment (the maximum amount that a city can assess), calculates to approximately \$1,100. That amount arguably is the maximum amount of future property tax revenue per year that the City would lose by approving this Application. However, that is not a cost but rather a loss of potential future property tax revenue. Applicant submits that amount is miniscule when compared to the

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projected amount of property tax revenue of \$7.4 million dollars to be collected as set forth in the proposed 2024-25 City budget. Therefore, Applicant submits the property tax impact to the City is negligible.

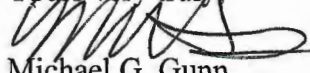
2. The dollar and cent impact to the City if the Council grants the waiver of water SDC's as requested by the Applicant.

A. Applicant concedes that the City will not receive some \$7,800 in water SDC monies if the waiver of water SDC's is approved. Applicant has already set forth an extensive discussion as to the fact there will be no increase in future usage of water simply by the approval of the Application, and that the purpose of water SDC's is to charge the applicant for the potential increased future burden on City water usage the applicant will cause by the installation of a new meter. Hence, Applicant submits there should be no water SDC's charged now, because there will be no increased future burden on City water usage caused by approval. Additionally, Applicant does not want the City to think there will be no water SDC's collected in perpetuity simply by approval of Applicant's waiver request. Applicant fully understands that upon development of Tax Lot 1900, the owner will be required to pay water SDC's based upon the amount of flow required for the proposed development.

B. Additionally, the City will actually gain future revenue by approval of the Application. Presently, there are two properties sharing usage from a single meter, but there is only one monthly bill created by the City. After the new meter is installed on Tax Lot 1901, there will be two monthly water bills – one for Tax Lot 1900 (the present shared meter but which will only service Tax Lot 1900 after approval), and a separate bill for Tax Lot 1901 where the new meter will be installed. While the usage by Tax Lot 1900 will be minimal (as it now is), nonetheless, the City will still receive the minimum monthly amount for City water. Hence, the City will gain additional monthly revenue.

Please place this Letter as a supplement to the original Application dated June 17, 2024.  
Thank you for your consideration.

Yours very truly,

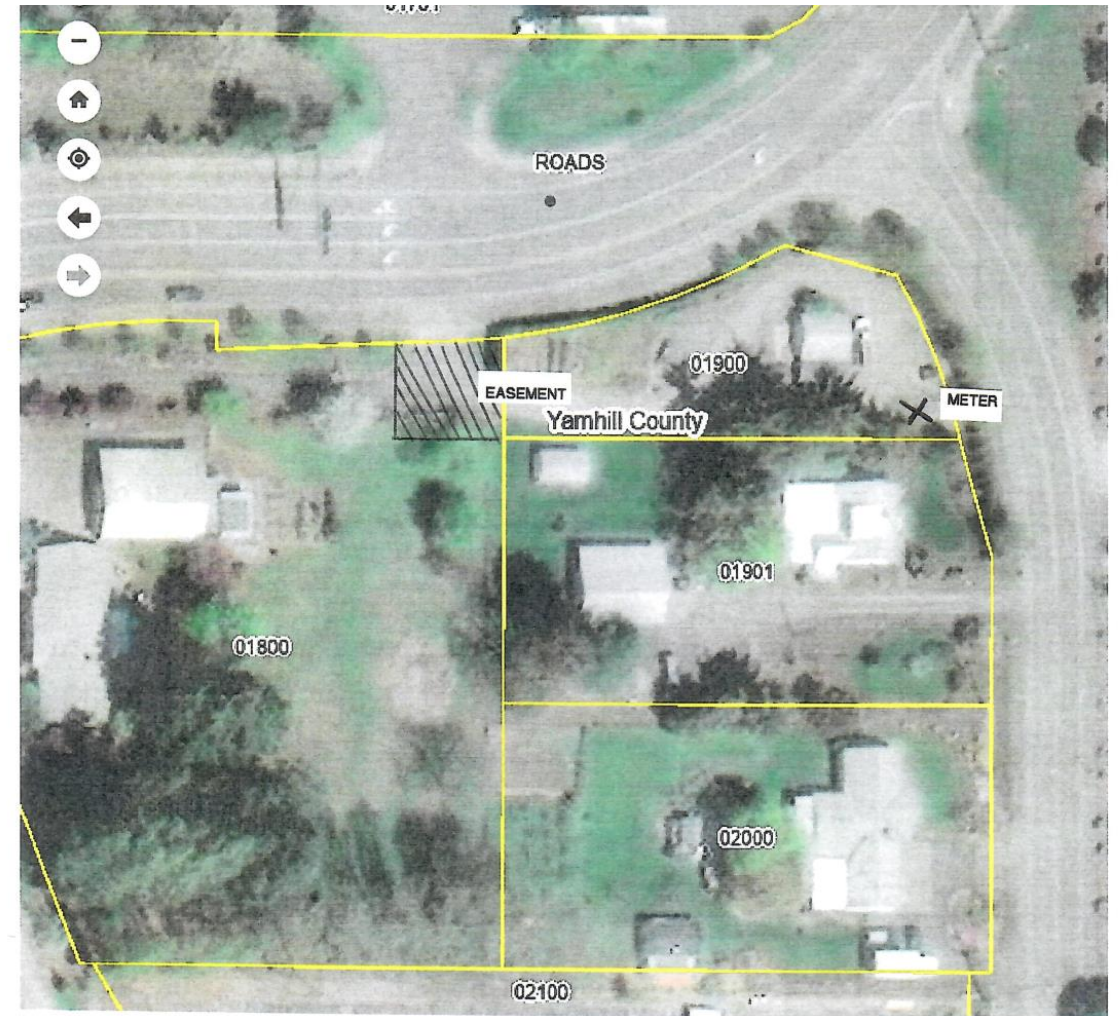


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Cc – Scot Siegel via e mail, Will Worthey via e mail, ACG Concrete LLC via e mail, Terry Hansen, via e mail, Regina Thompson via e mail





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