

RESOLUTION NO. 2021-59

**RESOLUTION ON FORMATION OF A PROPOSED REIMBURSEMENT DISTRICT,
PURSUANT TO CITY CODE SECTIONS 151.110 THROUGH 151.124,
“WAUNA CREDIT UNION PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT”**

WHEREAS, Wauna Credit Union constructed public improvements and desires an opportunity to recover some of its costs pursuant to Reimbursement Districts, Ordinance No. 2011-02, and Forest Grove Municipal Code (FGMC) sections 151.110 to 151.124; and

WHEREAS, the City gave notice of an informational public hearing to the applicant and all owners of property within the proposed District in which persons impacted by the creation of the Reimbursement District shall be given the opportunity to comment thereon; and

WHEREAS, the City Engineer, prepared a written report (Engineer’s Report) addressing formation of the proposed improvement reimbursement district and presented the Report to the City Council at the November 22, 2021 meeting; and

WHEREAS, the Engineer’s Report identified the specific properties that would be included in the reimbursement district, that will benefit from the improvement, as well as method of establishing a cost allocation for the benefiting properties; and

WHEREAS, because formation of a District does not result in an assessment or lien against a property, the hearing therefore is informational only and the District is not subject to termination as a result of remonstrances to the formation thereof; and

WHEREAS, after the public hearing, the City Council has the sole discretion to decide whether the District is to be formed or not. If a District is to be formed, a resolution approving and forming the Reimbursement District shall be adopted; and

WHEREAS, the City Council has considered the Engineers Report, the evidence in the record and public testimony in making a decision;

WHEREAS, the City Council opened the Public Hearing on November 22, 2021, and the hearing was continued to December 13, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The Wauna Credit Union Public Improvement Reimbursement District as described in the Engineers Report is hereby approved and formed; and

Section 2. The cost of the reimbursement district, the specific parcels that are included in the reimbursement district and benefit from the improvement, as well the

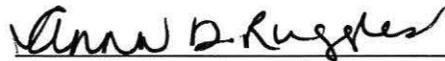
method for allocating the cost to the benefiting properties, is described in Attachment 1, Engineers Report; and

Section 3. The City shall notify all property owners within the District and the applicant of the adoption of this resolution. The notice shall include a copy of the resolution, date it was adopted and short explanation of when the property owner is obligated to pay the reimbursement fee and the amount thereof; and

Section 4. The City Recorder shall cause notice of the formation and nature of the Reimbursement District to be filed in the office of the County Recorder in order to provide notice to potential purchasers of properties within the District of its existence.

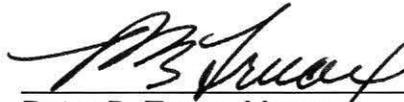
Section 5. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 13th day of December, 2021.



Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 13th day of December, 2021.



Peter B. Truax, Mayor



02839307202200005130050052

I, Joe Nelson, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Director of Assessment and Taxation,
Ex-Officio County Clerk



After recording, please return to:
City of Forest Grove
Attn: City Recorder
P. O. 326
Forest Grove, OR 97116-0326

NO CHANGE IN TAX STATEMENTS

(Space reserved for Washington County Recording Information)

**NOTICE OF PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT
"POPLAR STREET STORM PIPE EXTENSION REIMBURSEMENT DISTRICT"**

NOTICE IS HEREBY GIVEN that pursuant to Forest Grove Municipal Code ("FGMC") Sections 151.110 through 151.124, the CITY OF FOREST GROVE CITY COUNCIL approved Resolution No. 2021-59, which formed the Poplar Street Storm Pipe Extension Reimbursement District (the "District"), Wauna Credit Union, 3532 Pacific Avenue, Forest Grove, Oregon, 97116 (the "Applicant"). This resolution, together with its attachments, shall be filed in the Office of Washington County Records in order to provide notice to potential purchasers of property within the District of its existence. The obligation to pay reimbursement district was determined, declared, and allocated by the Forest Grove City Council pursuant to Resolution No. 2021-59 on December 13, 2021.

Attached to this cover page are the following documents:

1. Copy of Resolution No. 2021-59 (original is filed with Office of Forest Grove City Recorder, 1924 Council Street, Forest Grove, OR 97116).
2. Exhibit A – Final Engineer's Report, dated November 22, 2021. The real property located within the District is described in the attached Exhibit A, Section 4, Page 2-3, which is hereby incorporated into and made a part of this Notice of Information:

<u>TAX LOT NO:</u>	<u>SITE ADDRESS:</u>
1S305BA00100	3532 PACIFIC AVE
1S305BA00401	1948 POPLAR ST
1S305BA01700	3424 PACIFIC AVE STE A
1S305BA02000	1913 POPLAR ST
1S305BA00200	3510 PACIFIC AVE
1S305BA03100	1934 POPLAR ST

In accordance with FGMC Section 151.122, a person applying for a permit related to property within the district shall pay the City of Forest Grove, in addition to all other applicable fees and charges, the reimbursement fee and amount thereof as established by City Council (Exhibit A, Section 4, Page 2). In accordance with Resolution No. 2021-59 and FGMC Section 151.122(F), the right to reimbursement shall not exceed ten (10) years from the District's formation date, subject to renewal at the discretion of Forest Grove City Council for one additional ten (10) year period.

Contesting the Reimbursement District: Any legal action intended to contest the formation of the District or fees must be filed within 60 days of the Council's decision pursuant to O.R.S. 34.010 through 34.100 (writ of review).

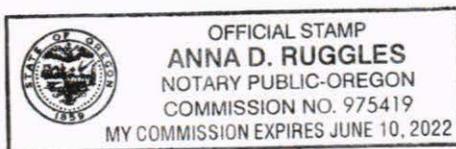
IN WITNESS WHEREOF, this Notice is filed and recorded pursuant to the Code and is executed by the authority of the above-mentioned Resolution, which is on file with the office of the City Recorder, located at 1924 Council Street, Forest Grove, Oregon, 97116.

CITY OF FOREST GROVE, OREGON

By: 
Jesse VanderZanden, City Manager

State of OREGON
County of Washington

This instrument was acknowledged before me on this 13th day of December, 2021, as Jesse VanderZanden, City Manager, of City of Forest Grove.




Anna D. Ruggles
Notary Public – Oregon
Commission No. 975419
My Commission Expires June 10, 2022



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**ENGINEERS REPORT
WAUNA CREDIT UNION
PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT
By: Gregory H. Robertson, P.E., AICP, CFM
Director of Public Works
November 22, 2021**

The Forest Grove Wauna Credit Union (WCU) at 3532 Pacific Avenue, has made application to enter into an agreement with the City for the establishment of a Reimbursement District associated with the construction of a new public storm service extension (improvement) to the site. Upon future development or redevelopment of properties within the District, the Applicant desires to recoup a portion of the cost of the storm service improvement. Pursuant to Ordinance No. 2011-02 and City Code sections 151.110 to 151.124, the objective of this report is to make a recommendation to Council as to the merit of establishing this Reimbursement District.

Engineering has evaluated an application from WCU and has determined that the storm water improvements proposed will benefit properties that are adjacent to the improvements when they develop. Therefore, the Applicant (WCU) may be entitled to recoup a portion of the improvement costs. City Code sections 151.110 to 151.124 requires the following specific information:

1. Whether the Public Improvement for which reimbursement is sought has capacity sufficient to allow use thereof by property other than property owned by the applicant;

The Applicant has constructed improvements that have sufficient capacity to serve properties other than that owned by the Applicant (see Section 4).

2. The area proposed to be included in the reimbursement district;

The Reimbursement District includes properties south of WCU on either side of Poplar Street (see Section 4). Owner names and tax lot details are on file and based on latest Washington County Assessor information (See Section 4).

3. The actual cost of the improvements within the area of the proposed Reimbursement District and the portion thereof for which the applicant should be reimbursed;

Table 1: Actual Project Cost (submitted by WCU)

	Description	Amount
	Storm (918 Lineal Feet)	
	Design	\$2,670
	Construction	\$260,196
	TOTAL	\$262,866

4. A methodology for allocating the cost among the parcels within the proposed district and, where appropriate, defining a "unit" for applying the Reimbursement Fee to property which may be partitioned, subdivided or otherwise modified at some future date;

Improvements have the potential to benefit 6 tax lots (including Wauna Credit Union for accounting purposes); costs for extension were allocated to the tax lots based on what is shown below. The costs were distributed based on the lands current tax lot information. Property owner names and tax lot details are on file and based on latest Washington County Assessor information. This assessment is tied to, or runs with the land. The ownership details may change by the time of actual reimbursement collection.

The cost allocation method proposed for the reimbursement district will utilize the area method which is prorated to the improvement. Wauna Credit Union out of pocket expenditure \$262,866 consisting of a 12 inch, 15 inch and 18 inch stormwater main to accommodate the entire drainage basin (including the Reserve properties). The plans originally approved for the Reserve at Fern Hill Apartments, showed numerous connections to the stormwater main constructed by Wauna Credit Union, requiring the progressively larger main. However, the developer subsequently made design revisions to their internal stormwater management system, significantly reducing the need to utilize the Wauna Credit Union constructed stormwater main. JT Smith Co. argued that their benefit was significantly reduced and, therefore, their reimbursement district cost should be reduced, as well. In order to reconcile the differences and to be fair to all parties, an assumption was made that, because of the developer's design revisions, if the Reserve developer were to be the first to build, they would only be required to build the minimum 12 inch to serve the upstream properties. Progress billings provided by Wauna were examined. Relevant bid item unit rates were applied to match a similar alignment that the Reserve developer would have had to build. As a result, the total equivalent cost is \$191,652. Because of a lot consolidation recorded earlier this year, the proposed district of 9.54 acres now consists of five parcels that would potentially benefit and be subject to reimbursing Wauna Credit Union.

Fern Hill Apartments (two parcels):	6.78 acres
Wauna Credit Union:	0.64 acres
Fern Hill Apartments (Popeyes)	0.71 acres
Diego et al.:	0.12 acres
Pacific Development Holdings	1.29 acres
<u>Total</u>	<u>9.54 acres</u>

Reimbursement on a per acre basis is \$20,089.31. When applied on a per parcel basis as outlined above, the reimbursable amounts are listed below:



Poplar Street Storm Pipe Extension Reimbursement District

Property Total Amount To be Paid:

1S305BA00100	WAUNA FEDERAL CREDIT UNION	3532 PACIFIC AVE	\$12,857.16
1S305BA00401	DIEGO, JAIME & JUAN, CATARINA AN	1948 POPLAR ST	\$2,410.72
1S305BA01700	PACIFIC DEVELOPMENT HOLDINGS LLC	3424 PACIFIC AVE STE A	\$25,915.21
1S305BA02000	FERNHILL APARTMENTS LLC	1913 POPLAR ST	\$90,401.88
1S305BA00200	FERNHILL APARTMENTS LLC	3510 PACIFIC AVE	\$14,263.41
1S305BA03100	FERNHILL APARTMENTS LLC	1934 POPLAR ST	\$45,803.62
TOTAL			\$191,652.00

5. The period of time that the right to reimbursement exists;

Pursuant to City Code, the right to reimbursement exists for 10 years from the district formation date. Upon application for an extension, the City Council, at its sole discretion may authorize up to 10 more years, for total reimbursement period not to exceed 20 years.

6. Whether the improvements will meet or have met City standards;

The constructed improvements have been reviewed, inspected, and accepted by the City in accordance with City standards.

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CITY RECORDER USE ONLY:

AGENDA ITEM #: _____

MEETING DATE: 12/13/2021

FINAL ACTION: RESO 2021-59

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Greg Robertson, Director of Public Works*

MEETING DATE: *November 22, 2021; December 13, 2021*

SUBJECT TITLE: *Wauna Credit Union Proposed Public Improvement Reimbursement District*

ACTION REQUESTED:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ordinance	Order	X	Resolution	Motion	Informational

X all that apply

ISSUE STATEMENT:

Wauna Credit Union (WCU) has constructed public improvements and would like an opportunity to recover some of its costs pursuant to City Ordinance No. 2011-02 and City Code sections 151.110 to 151.124 (see attached). The purpose of this informational hearing is to consider WCU's request, the Engineer's Report, and hear public testimony. The City Council continued the hearing until the December 13, 2021, Council meeting to allow a property owner who could not be at the November 22 Council meeting an opportunity to provide public testimony.

BACKGROUND:

Originally, this agenda item was considered at the August 10, 2020, however was removed from the agenda at staff's request. This agenda item was considered on January 25, 2021 as Resolution 2021-06 and was tabled from the agenda to a date uncertain allowing staff and the property owners to address issues of mutual concern. During this time, staff has been working with the City Attorney and stakeholders to address the issues raised during public testimony. The result is a revised Engineers Report that seeks to address the concerns raised during public testimony and be fair to all parties.

In 2011, City Council adopted Ordinance No. 2011-02, which allows the City to create a process for development of reimbursement districts as a means to finance public improvements. The process is described in Sections 151.110 to 151.124 of the Forest Grove Municipal Code (see attached).

The City can form a reimbursement district when one party constructs and pays for certain infrastructure (sewer, water, storm, or street) that will benefit another property. If during the life of the reimbursement district (typically 10 years), the benefitted property owner makes use of the improvements, then reimbursement is due to the party that paid for and constructed the improvements. The benefitted property owner makes use of an improvement by connecting to sewer, water or storm pipelines included in the reimbursement district.

The process of establishing a reimbursement district includes preparation of an Engineers Report by the City Engineer. The Engineers Report outlines the costs of the improvement, the method of distributing the costs to the benefitting properties, the properties involved, and the details of the reimbursement agreement. The Engineer's Report is presented to the City Council at a public hearing and owners of property in the district are given the opportunity to provide input.

If the Engineer's Report is approved by City Council, a resolution is recorded against the properties in the reimbursement district. Reimbursements are collected by the City and turned over to the developer that constructed the improvements when property in the district develops or makes use of the improvements. See attached City Code section 151.110.



WCU was the first to construct in the proposed district. As a result, Clean Water Services required them to construct the storm sewer improvement "through and to" the nearest hook up point, in this case 19th Avenue. See the dashed green line in the drawing.

WCU constructed the storm service extensions through a Public Improvement Agreement with the City. WCU applied for a reimbursement district to potentially recoup some of its improvement costs from properties who would benefit by hooking up to the improvement and therefore not having to construct the

improvement themselves.

As mentioned earlier, the Engineer's Report contains the methodology to allocate the costs of the storm sewer improvements to benefitting property owners. The Engineer's Report submitted in January was met with concerns by an affected landowner about the costs of the improvements and the method to allocate those costs.

In response, the City met numerous times with affected property owners in an effort to find a fair and impartial method to allocate costs. These meetings yielded new information that was very helpful in narrowing the focus and scope of the proposed district. The City has also closely examined the costs and construction of the improvements to determine if they are within industry standard. The attached Engineer's Report, revised from the Engineer's Report submitted in January, reflects these discussions and analysis by containing a new method to allocate costs and updated costs.

The prior method to allocate costs was based on the costs of what was actually constructed by WCU, in this case an 18" storm sewer line. Because WCU was the first to construct in the area, the size of storm sewer line was based on an assumption that all adjacent property owners would utilize and benefit from it. The developer of Fernhill Apartments (Tax Lot Nos. 1S305BA02000; 00200 and 03100) raised concerns about the proposed district in January, revised their design to minimize their usage of the WCU storm sewer line, however, they have connected to the storm sewer line in multiple locations and are therefore benefitting from it. Further, the developer was advised of the proposed

reimbursement district prior to seeking City approval and their development was conditioned to participate in the reimbursement district once it is formed.

The revised methodology attempts to resolve this difference by recognizing that if the developer was the first one to develop instead of WCU, based on the developer's design, they would have had to extend storm water facilities along the same route as WCU but with a smaller sized pipe. The minimum accepted size that would have had to be constructed was 12 inches in diameter. In searching through the pay estimates provided by WCU, a bid item of this diameter and similar depth was found and used as the basis for calculating the costs in the Engineers Report. Using this methodology yielded a significantly reduced cost to be distributed among all the benefited properties, however, it also recognized that WCU installed improvements benefitting other properties. This reconciliation seeks to acknowledge fairness and impartiality to all parties involved in the proposed district.

STAFF RECOMMENDATION:

Per City ordinance, at the conclusion of the hearing, the City Council shall approve, reject, or modify the recommendations contained in the City Engineer's report and manifest its action in a resolution. If a Reimbursement District is established, the resolution shall include a copy of the City Engineer's report as approved or modified and specify that payment of the appropriate fee as determined by the Council for each parcel is a precondition to receipt of any city permit necessary for development of that parcel. The Reimbursement District is formed the date the Council adopts the resolution.

ATTACHMENT(S):

Attachment 1 – Engineer's Report.

Attachment 2 – Resolution forming the proposed reimbursement district.

Attachment 3 – Supporting Pay Requests provided by Wauna Credit Union

Attachment 4 – Letter from Schwabe Williamson & Wyatt, representing JT Smith Companies, dated October 29, 2021

Attachment 5 – City Code excerpt concerning Reimbursement Districts



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**ENGINEERS REPORT
 WAUNA CREDIT UNION
 PROPOSED PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT
 By: Gregory H. Robertson, P.E., AICP, CFM
 Director of Public Works
 November 22, 2021**

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TOTAL			\$191,652.00

5. The period of time that the right to reimbursement exists;

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6. Whether the improvements will meet or have met City standards;

The constructed improvements have been reviewed, inspected, and accepted by the City in accordance with City standards.



35064 Hwy 101 Business
Astoria OR 97103
503-338-3878

License: OR 147632 / WA BIGRIE*955DW

Unit Billing

Application: 5

Period: 10/31/2019

Owner: Rickenbach Construction
37734 Eagle Lane
Astoria OR 97103

Job Location: Wauna FCU - Forest Grove
3532 Pacific Avenue
Forest Grove OR 97116

Application For Payment On Contract

Contract Sum to Date	771,588.54
Total Complete to Date	<u>754,255.29</u>
Total Retained	37,712.78
Total Earned Less Retained	<u>716,542.51</u>
Less Previous Billings	<u>677,321.40</u>
Current Payment Due	<div style="border: 1px solid black; padding: 2px;">39,221.11</div>
Balance on Contract	17,333.25

Contractor's Certification of Work

The undersigned contractor certifies that, to the best of the contractor's knowledge, the work on the above named job has been completed in accordance with the plans and specifications to the level of completion indicated on the attached schedule of completion.

Contractor:  Date: 11-13-19

Terms: Invoices are due and payable 30DY from the date of invoice. All overdue amounts will be charged a service charge of 18.00 % per anum. Please make checks payable to: Big River Construction, Inc.

Thank you for your prompt payment.

Unit Billing

Application: 5

Schedule of Work Completed

Period: 10/31/2019

Item Code	Description	Price/Unit	Contract Plus Changes	Previous Units Billed	Current Units Complete	Total Units Complete	Previous Value	Current Value	Total Value	Retained
1	Mobilization,Flaggin EROSION CONTRO	67,000.00	67,000.00	1.00		1.00	67,000.00		67,000.00	3,350.00
2	Construction Entran	2,200.00	2,200.00	1.00		1.00	2,200.00		2,200.00	110.00
3	Concrete Washout	2,000.00	2,000.00	1.00		1.00	2,000.00		2,000.00	100.00
4	Silt Fence	2.25	2,137.50	950.00		950.00	2,137.50		2,137.50	106.88
5	Inlet Protection	60.00	360.00	6.00		6.00	360.00		360.00	18.00
6	Temp Seed & Hay OFF SITE GRADIN	1,800.00	1,800.00	1.00		1.00	1,800.00		1,800.00	90.00
7	Sawcutt & Demo A	0.85	3,825.00	3,250.00		3,250.00	2,762.50		2,762.50	138.13
8	Demo Existing Gau	725.00	725.00	1.00		1.00	725.00		725.00	36.25
9	Remove Existing Si	725.00	725.00							
10	Demo Exisitng Stor	670.00	670.00	1.00		1.00	670.00		670.00	33.50
11	Grubbing	17.00	14,365.00	845.00		845.00	14,365.00		14,365.00	718.25
12	Rock Placement Un	2.00	10,900.00	4,000.00	1,450.00	5,450.00	8,000.00	2,900.00	10,900.00	545.00
13	Prep For Driveway	2.00	250.00	125.00		125.00	250.00		250.00	12.50
14	Prep For Patch on P	3.50	367.50	105.00		105.00	367.50		367.50	18.38
15	Prep for Sidewalks	1.75	5,748.75							
16	Prep for Curb & Gut	5.00	1,910.00							
17	Prep For AC Patch	3.25	7,624.50							
18	Prep For Landscap ONSITE GRADING	0.17	1,343.00	3,950.00	3,950.00	7,900.00	671.50	671.50	1,343.00	67.15
19	Remove Exisitng Tr	5,000.00	5,000.00	1.00		1.00	5,000.00		5,000.00	250.00
20	Grubbing	17.00	23,222.00	1,366.00		1,366.00	23,222.00		23,222.00	1,161.10
21	Excavation to Subgr	28.00	12,124.00	433.00		433.00	12,124.00		12,124.00	606.20
22	Rock Placement to	29.00	43,181.00	1,489.00		1,489.00	43,181.00		43,181.00	2,159.05
23	Rock Placement Un	2.00	25,440.00	11,000.00	1,720.00	12,720.00	22,000.00	3,440.00	25,440.00	1,272.00
24	Prep For Curbs	5.00	4,880.00	976.00		976.00	4,880.00		4,880.00	244.00
25	Prep For Sidewalks	1.75	3,850.00	1,100.00	1,100.00	2,200.00	1,925.00	1,925.00	3,850.00	192.50
26	Backfill Planters & I	0.95	1,045.00		1,100.00	1,100.00	1,045.00	1,045.00	1,045.00	52.25
27	Prep For Landscap	0.50	3,675.00	4,350.00	3,000.00	7,350.00	2,175.00	1,500.00	3,675.00	183.75
28	Prep for Sign Footin	1,500.00	1,500.00		1.00	1.00		1,500.00	1,500.00	75.00
29	Foot Ex & Prep Rat OFFSITE STORM	3.75	15,416.25	4,111.00		4,111.00	15,416.25		15,416.25	770.81
30*	12" Storm 8'-9' Dept	159.00	43,407.00	273.00		273.00	43,407.00		43,407.00	2,170.35
30.1	15" Storm	166.00	71,712.00	432.00		432.00	71,712.00		71,712.00	3,585.60
30.2	18" Storm	187.00	39,831.00	213.00		213.00	39,831.00		39,831.00	1,991.55

Unit Billing

Schedule of Work Completed

Application: 5

Period: 10/31/2019

Item Code	Description	Price/Unit	Contract Plus Changes	Previous Units Billed	Current Units Complete	Total Units Complete	Previous Value	Current Value	Total Value	Retained
31	Manholes	5,200.00	15,600.00	3.00		3.00	15,600.00		15,600.00	780.00
32	Prep for AC Patchin	0.40	2,200.00	5,500.00		5,500.00	2,200.00		2,200.00	110.00
33	Storm Testing & TV ONSITE STORM SY	6,650.00	6,650.00	1.00		1.00	6,650.00		6,650.00	332.50
34	Detention System	177.00	42,480.00	240.00		240.00	42,480.00		42,480.00	2,124.00
35	WQCB	10,350.00	20,700.00	2.00		2.00	20,700.00		20,700.00	1,035.00
36	Flow Control Manh	7,250.00	7,250.00	1.00		1.00	7,250.00		7,250.00	362.50
37	Pretreatment Manh	6,600.00	6,600.00	1.00		1.00	6,600.00		6,600.00	330.00
38	10" 3034	107.00	13,589.00	127.00		127.00	13,589.00		13,589.00	679.45
39	8" 3034	90.00	6,210.00	69.00		69.00	6,210.00		6,210.00	310.50
40	6" 3034	88.00	32,560.00	370.00		370.00	32,560.00		32,560.00	1,628.00
41	Clean Outs	540.00	1,620.00	3.00		3.00	1,620.00		1,620.00	81.00
42	Rain Drains Fittings	200.00	1,600.00	8.00		8.00	1,600.00		1,600.00	80.00
43	Foundation Drain & OFFSITE SEWER	52.00	20,800.00	400.00		400.00	20,800.00		20,800.00	1,040.00
44	Connect to Existing	1,750.00	1,750.00	1.00		1.00	1,750.00		1,750.00	87.50
45	6" 3034 8'-11' Deep	138.00	35,328.00	256.00		256.00	35,328.00		35,328.00	1,766.40
45.1	10" 3034	150.00	1,950.00	13.00		13.00	1,950.00		1,950.00	97.50
46*	Manhole	5,200.00	10,400.00	2.00		2.00	10,400.00		10,400.00	520.00
47	Prep For AC Patchi	1.75	262.50							
48	Testing & TV Inspec ONSITE SEWER	2,750.00	2,750.00	1.00		1.00	2,750.00		2,750.00	137.50
49	4" 3034 8' Depth 10 OFFSITE WATER	132.00	12,540.00	95.00		95.00	12,540.00		12,540.00	627.00
50	Connect to Existing	5,800.00	5,800.00	1.00		1.00	5,800.00		5,800.00	290.00
50.1	Relocate Existing Fi	6,000.00	6,000.00	1.00		1.00	6,000.00		6,000.00	300.00
51	Fire Hydrant & Pipin ONSITE WATER	6,000.00	6,000.00	1.00		1.00	6,000.00		6,000.00	300.00
52	Connect to Existing	2,200.00	2,200.00	1.00		1.00	2,200.00		2,200.00	110.00
53*	2" Water Service (5'	60.00	3,660.00	61.00		61.00	3,660.00		3,660.00	183.00
54	Testing DRY UTILITIES	900.00	900.00	1.00		1.00	900.00		900.00	45.00
55*	Power Vault & Con	12,550.00	12,550.00	1.00		1.00	12,550.00		12,550.00	627.50
	CO#3 Waterline rea	39,923.14	39,923.14	1.00		1.00	39,923.14		39,923.14	1,996.16
	CO#5 Storm Manho	5,177.53	5,177.53	1.00		1.00	5,177.53		5,177.53	258.88
	CO#7 Light Pole Co	24.00	10,800.00		450.00	450.00		10,800.00	10,800.00	540.00

Unit Billing

Schedule of Work Completed

Application: 5

Period: 10/31/2019

Item Code	Description	Price/Unit	Contract Plus Changes	Previous Units Billed	Current Units Complete	Total Units Complete	Previous Value	Current Value	Total Value	Retained
	CO#8 Gas Line Rel	17,503.87	17,503.87		1.00	1.00		17,503.87	17,503.87	875.19
Totals:			771,588.54	46,143.00	12,772.00	58,915.00	712,969.92	41,285.37	754,255.29	37,712.78

Unit Billing

Application: 5

Schedule of Work Completed

Period: 10/31/2019

Item Code	Description	Price/Unit	Contract Plus Changes	Previous Units Billed	Current Units Complete	Total Units Complete	Previous Value	Current Value	Total Value	Retained
1	Mobilization,Flaggin EROSION CONTRO	67,000.00	67,000.00	1.00		1.00	67,000.00		67,000.00	3,350.00
2	Construction Entran	2,200.00	2,200.00	1.00		1.00	2,200.00		2,200.00	110.00
3	Concrete Washout	2,000.00	2,000.00	1.00		1.00	2,000.00		2,000.00	100.00
4	Silt Fence	2.25	2,137.50	950.00		950.00	2,137.50		2,137.50	106.88
5	Inlet Protection	60.00	360.00	6.00		6.00	360.00		360.00	18.00
6	Temp Seed & Hay OFF SITE GRADIN	1,800.00	1,800.00	1.00		1.00	1,800.00		1,800.00	90.00
7	Sawcut & Demo A	0.85	3,825.00	3,250.00		3,250.00	2,762.50		2,762.50	138.13
8	Demo Existing Gau	725.00	725.00	1.00		1.00	725.00		725.00	36.25
9	Remove Existing Si	725.00	725.00							
10	Demo Exisitng Stor	670.00	670.00	1.00		1.00	670.00		670.00	33.50
11	Grubbing	17.00	14,365.00	845.00		845.00	14,365.00		14,365.00	718.25
12	Rock Placement Un	2.00	10,900.00	4,000.00	1,450.00	5,450.00	8,000.00	2,900.00	10,900.00	545.00
13	Prep For Driveway	2.00	250.00	125.00		125.00	250.00		250.00	12.50
14	Prep For Patch on P	3.50	367.50	105.00		105.00	367.50		367.50	18.38
15	Prep for Sidewalks	1.75	5,748.75							
16	Prep for Curb & Gut	5.00	1,910.00							
17	Prep For AC Patch	3.25	7,624.50							
18	Prep For Landscap ONSITE GRADING	0.17	1,343.00	3,950.00	3,950.00	7,900.00	671.50	671.50	1,343.00	67.15
19	Remove Exisitng Tr	5,000.00	5,000.00	1.00		1.00	5,000.00		5,000.00	250.00
20	Grubbing	17.00	23,222.00	1,366.00		1,366.00	23,222.00		23,222.00	1,161.10
21	Excavation to Subgr	28.00	12,124.00	433.00		433.00	12,124.00		12,124.00	606.20
22	Rock Placement to	29.00	43,181.00	1,489.00		1,489.00	43,181.00		43,181.00	2,159.05
23	Rock Placement Un	2.00	25,440.00	11,000.00	1,720.00	12,720.00	22,000.00	3,440.00	25,440.00	1,272.00
24	Prep For Curbs	5.00	4,880.00	976.00		976.00	4,880.00		4,880.00	244.00
25	Prep For Sidewalks	1.75	3,850.00	1,100.00	1,100.00	2,200.00	1,925.00	1,925.00	3,850.00	192.50
26	Backfill Planters & I	0.95	1,045.00		1,100.00	1,100.00	1,045.00	1,045.00	1,045.00	52.25
27	Prep For Landscap	0.50	3,675.00	4,350.00	3,000.00	7,350.00	2,175.00	1,500.00	3,675.00	183.75
28	Prep for Sign Footin	1,500.00	1,500.00		1.00	1.00		1,500.00	1,500.00	75.00
29	Foot Ex & Prep Rat OFFSITE STORM	3.75	15,416.25	4,111.00		4,111.00	15,416.25		15,416.25	770.81
30*	12" Storm 8'-9' Dept	159.00	43,407.00	273.00		273.00	43,407.00		43,407.00	2,170.35
30.1	15" Storm	166.00	71,712.00	432.00		432.00	71,712.00		71,712.00	3,585.60
30.2	18" Storm	187.00	39,831.00	213.00		213.00	39,831.00		39,831.00	1,991.55

Unit Billing

Schedule of Work Completed

Application: 5

Period: 10/31/2019

Item Code	Description	Price/Unit	Contract Plus Changes	Previous Units Billed	Current Units Complete	Total Units Complete	Previous Value	Current Value	Total Value	Retained
31	Manholes	5,200.00	15,600.00	3.00		3.00	15,600.00		15,600.00	780.00
32	Prep for AC Patchin	0.40	2,200.00	5,500.00		5,500.00	2,200.00		2,200.00	110.00
33	Storm Testing & TV	6,650.00	6,650.00	1.00		1.00	6,650.00		6,650.00	332.50
ONSITE STORM SY										
34	Detention System	177.00	42,480.00	240.00		240.00	42,480.00		42,480.00	2,124.00
35	WQCB	10,350.00	20,700.00	2.00		2.00	20,700.00		20,700.00	1,035.00
36	Flow Control Manh	7,250.00	7,250.00	1.00		1.00	7,250.00		7,250.00	362.50
37	Pretreatment Manh	6,600.00	6,600.00	1.00		1.00	6,600.00		6,600.00	330.00
38	10" 3034	107.00	13,589.00	127.00		127.00	13,589.00		13,589.00	679.45
39	8" 3034	90.00	6,210.00	69.00		69.00	6,210.00		6,210.00	310.50
40	6" 3034	88.00	32,560.00	370.00		370.00	32,560.00		32,560.00	1,628.00
41	Clean Outs	540.00	1,620.00	3.00		3.00	1,620.00		1,620.00	81.00
42	Rain Drains Fittings	200.00	1,600.00	8.00		8.00	1,600.00		1,600.00	80.00
43	Foundation Drain &	52.00	20,800.00	400.00		400.00	20,800.00		20,800.00	1,040.00
OFFSITE SEWER										
44	Connect to Existing	1,750.00	1,750.00	1.00		1.00	1,750.00		1,750.00	87.50
45	6" 3034 8'-11' Deep	138.00	35,328.00	256.00		256.00	35,328.00		35,328.00	1,766.40
45.1	10" 3034	150.00	1,950.00	13.00		13.00	1,950.00		1,950.00	97.50
46*	Manhole	5,200.00	10,400.00	2.00		2.00	10,400.00		10,400.00	520.00
47	Prep For AC Patchi	1.75	262.50							
48	Testing & TV Inspec	2,750.00	2,750.00	1.00		1.00	2,750.00		2,750.00	137.50
ONSITE SEWER										
49	4" 3034 8' Depth 10	132.00	12,540.00	95.00		95.00	12,540.00		12,540.00	627.00
OFFSITE WATER										
50	Connect to Existing	5,800.00	5,800.00	1.00		1.00	5,800.00		5,800.00	290.00
50.1	Relocate Existing Fi	6,000.00	6,000.00	1.00		1.00	6,000.00		6,000.00	300.00
51	Fire Hydrant & Pipin	6,000.00	6,000.00	1.00		1.00	6,000.00		6,000.00	300.00
ONSITE WATER										
52	Connect to Existing	2,200.00	2,200.00	1.00		1.00	2,200.00		2,200.00	110.00
53*	2" Water Service (5'	60.00	3,660.00	61.00		61.00	3,660.00		3,660.00	183.00
54	Testing	900.00	900.00	1.00		1.00	900.00		900.00	45.00
DRY UTILITIES										
55*	Power Vault & Con	12,550.00	12,550.00	1.00		1.00	12,550.00		12,550.00	627.50
	CO#3 Waterline rea	39,923.14	39,923.14	1.00		1.00	39,923.14		39,923.14	1,996.16
	CO#5 Storm Manho	5,177.53	5,177.53	1.00		1.00	5,177.53		5,177.53	258.88
	CO#7 Light Pole Co	24.00	10,800.00		450.00	450.00		10,800.00	10,800.00	540.00

Unit Billing

Schedule of Work Completed

Application: 5

Period: 10/31/2019

Item Code	Description	Price/Unit	Contract Plus Changes	Previous Units Billed	Current Units Complete	Total Units Complete	Previous Value	Current Value	Total Value	Retained
	CO#8 Gas Line Rel	17,503.87	17,503.87		1.00	1.00		17,503.87	17,503.87	875.19
Totals:			771,588.54	46,143.00	12,772.00	58,915.00	712,969.92	41,285.37	754,255.29	37,712.78



35064 Hwy 101 Business
Astoria OR 97103
503-338-3878

License: OR 147632 / WA BIGRIE*955DW

Change Order Request

Order#: 7

Order Date: 10/31/2019

To: Rickenbach Construction
37734 Eagle Lane
Astoria OR 97103

Project: **19027**
Wauna FCU - Forest Grove
3532 Pacific Avenue
Forest Grove OR 97116

The contractor agrees to perform and the owner agrees to pay for the following changes to this contract.

Plans Attached

Submitted By: _____

Customer Order: _____

Specifications Attached

Description of Work	Hours/Units	Cost	Mark-up %	Requested
---------------------	-------------	------	-----------	-----------

Work to be done as itemized below: **Light Pole Conduit Trenching**

Reason for Work:

Light Pole Conduit Trenching Per Alt 8 provided with original contract. 450 LF @ \$24.00 per LF = \$10,800.00				10,800.00
---	--	--	--	-----------

Notes:

Negative changes will lower the overall contract price requiring no additional payment by owner.

Requested Amount of Change

10,800.00

The original Contract Sum was	698,184.00
Net change by previous Change Orders	62,604.54
The Contract Sum prior to this Change Order	760,788.54
The Contract Sum will be changed by this Change Order	10,800.00
The new Contract Sum including this Change Order will be	771,588.54
The Contract Time will be changed by	0 Days

Owner: _____ Date: _____

Contractor: _____ Date: _____



35064 Hwy 101 Business
Astoria OR 97103
503-338-3878

License: OR 147632 / WA BIGRIE*955DW

Change Order Request

Order#: 8
Order Date: 10/31/2019

To: Rickenbach Construction
37734 Eagle Lane
Astoria OR 97103

Project: 19027
Wauna FCU - Forest Grove
3532 Pacific Avenue
Forest Grove OR 97116

The contractor agrees to perform and the owner agrees to pay for the following changes to this contract.

Plans Attached

Submitted By:

Customer Order:

Specifications Attached

Description of Work	Hours/Units	Cost	Mark-up %	Requested
Work to be done as itemized below: <i>Gas Line Relocate/Storm Conflict</i>		Reason for Work:		
Gas Line Relocate/Storm Conflict See attached		15,220.76	15.00	17,503.87

Notes:

Negative changes will lower the overall contract price requiring no additional payment by owner.

Requested Amount of Change

17,503.87

The original Contract Sum was	698,184.00
Net change by previous Change Orders	45,100.67
The Contract Sum prior to this Change Order	743,284.67
The Contract Sum will be changed by this Change Order	17,503.87
The new Contract Sum including this Change Order will be	760,788.54
The Contract Time will be changed by	0 Days

Owner: _____ Date: _____

Contractor: _____ Date: _____

CM 8 Storm Conflict with Gas & Existing Utilities

1 Is

Material:

	Quant	Unit		Unit Price	Total
3/4"-0 Rock 7/15	31.1	tn	*	\$ 10.00	\$ 311.00
Dump Fee Dirt Spoils 7/15	20	cy	*	\$ 6.00	\$ 120.00
3/4"-0 Rock 7/16	20.74	tn	*	\$ 10.00	\$ 207.40
Dump Fee Dirt Spoils 7/16	13.5	cy	*	\$ 6.00	\$ 81.00
Level 3 1/2" Asphalt 7/18/19	1	ls	*	\$ 1,218.17	\$ 1,218.17
EZ Street	3.98	tn	*	\$ 125.00	\$ 497.50

sub total \$ 2,435.07

Equipment:

	Quant	Unit		Unit Price	Total
Excavator Cat 312	15.25	hrs	*	\$ 67.00	\$ 1,021.75
Excavator JD 245	21	hrs	*	\$ 84.70	\$ 1,778.70

sub total \$ 2,800.45

Labor:

	Quant	Unit		Unit Price	Total
Operator	21.75	hrs	*	\$ 48.00	\$ 1,044.00
Laborer	51.25	hrs	*	\$ 40.00	\$ 2,050.00
Supervisor	6.5	hrs	*	\$ 50.00	\$ 325.00
Laborer OT	34	hrs	*	\$ 63.00	\$ 2,142.00
Supervisor OT	14	hrs	*	\$ 105.00	\$ 1,470.00

sub total \$ 7,031.00

Sub & Misc.:

	Quant	Unit		Unit Price	Total
Solo Dump Truck 7/15	7.5	hrs	*	\$ 90.00	\$ 675.00
rental roller peterson	1	ls	*	\$ 453.20	\$ 453.20
Shoring Rental (Cascade)	1	ls	*	\$ 1,226.04	\$ 1,226.04
Vac Truck	4	hrs	*	\$ 150.00	\$ 600.00

sub total \$ 2,954.24

NOTES: 7/15 Trucking for manhole pick up and delivery.

Cost	\$ 15,220.76
<i>percent</i>	15.0%
<i>profit</i>	\$ 2,283.11
Total	\$ 17,503.87

Unit Price Per Is \$ 17,503.87



37734 Eagle Lane Astoria, OR 97103 CCB#59660

Bill To

Wauna Federal Credit Union
 PO BOX 67
 Clatskanie, Or 97016

RECEIVED
 By mike.chapman at 10:32 am, Aug 26, 2020

REVIEWED
 By Ashley Erickson at 3:24 pm, Aug 26, 2020

INVOICE

Date	Invoice #
8/25/2020	3095

Terms	Due Date
Due within 14 days of receipt	8/25/2020

Date	Item	Description	Amount
7/31/2020	Labor & Supervision	Pay Application #10 for work performed in July and change orders #1-4	8,550.91
7/31/2020	Retention Withholding	Retention	-427.55
<div data-bbox="178 1123 847 1255" data-label="Text"> <p>APPROVED By Debi Smiley at 1:26 pm, Aug 26, 2020</p> </div> <div data-bbox="170 1272 841 1400" data-label="Text"> <p>APPROVED By Robert Blumberg at 1:59 pm, Aug 26, 2020</p> </div>			
<div data-bbox="938 1053 1523 1336" data-label="Text"> <p>GL 130010 Forest Grove ODOT work</p> </div>			
Total			
Balance Due			\$8,123.36

Phone	Fax	E-mail
503-325-3749	503-325-6305	debbie@rcibuilds.com



APPLICATION AND CERTIFICATE FOR PAYMENT APPLICATION #9 PAGE 1 OF 1 PAGES

TO (OWNER) WAUNA FEDERAL CREDIT UNION PO Box 67, Clatskanie, OR 97016	PROJECT: WFCU FOREST GROVE BRANCH FOREST GROVE OR	APPLICATION TEN NUMBER: PERIOD: JULY 1-31, '20	Distribution to: OWNER ARCHITECT CONTRACTOR
FROM (CONTRACTOR) Rickenbach Construction Inc. 37734 Eagle Lane, Astoria OR 97103 CONTRACT FOR: Construction Management of New Construction	ARCHITECT/ENGINEER: Doug Circosta, Partin & Hill Architects, LLC 209 NE Lincoln, Hillsboro OR 97124	ARCH. PROJECT # 1711 Notice to Proceed Date: CONTRACT DATE:	

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMERY		
APPROVED IN PREVIOUS MONTHS	ADDITIONS	DEDUCTIONS
	49,960.16	
APPROVED THIS MONTH		
CO #2: Gas Line Reloc	18,562.85	
CO #3: Interior Work	11,066.49	
COLUMN TOTALS	79,589.50	-
Net Change by Change Orders		79,589.50

Application is made for Payment, as shown below, in connection with the Contract
Continuation Sheet, Documents G702A, is attached.

1. ORIGINAL CONTRACT SUM-----	\$	2,322,964.76
2. Net Change by Change Orders-----	\$	79,589.50
3. CONTRACT SUM TO DATE (Line 1+2)-----	\$	2,402,554.26
4. TOTAL COMPLETED & STORED TO DATE (Column G on Continuation Sheet)	\$	2,390,359.22
5. RETAINAGE:		
a. 5% OF Completed Work-----		119,517.96
(Column D+E on cont. sheet)		
b. RETAINAGE PAID-----		111,888.16
(Column F on the cont. sheet)		
Total Retainage (Line 5a-5b)-----	\$	7,629.80
6. TOTAL EARNED LESS RETAINAGE-----	\$	2,270,841.26
(Line 4 less Line 5 Total)		
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (TOTAL line 7 and line 8 on G702#9)-----	\$	2,374,606.06
8. CURRENT PAYMENT DUE----- (line 4 less Line 5 less Line 7)	\$	8,123.36
9. BALANCE OF GMP, INCLUDING RETAINAGE ON APP 9-----	\$	19,824.84
(Line 3 less Line 7 less Line 8)		

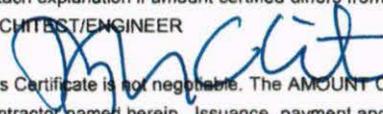
The undersigned Contractor certifies that to the best of the Contractor's knowledge information and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payments shown herein is now due.

CONTRACTOR:
Rickenbach Construction Inc.
37734 Eagle Lane, Astoria, OR 97103
By: Diane A. Rickenbach  Date: AUG 22, 2020

State of: OREGON County of: CLATSOP
Subscribed and sworn to before me this day of .2020
NOTARY PUBLIC:
My Commission Expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED:
(Attach explanation if amount certified differs from the amount applied for.) **\$ 8,123.36**
ARCHITECT/ENGINEER
By:  Date: **8/26/20**
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.



WAUNA FEDERAL CREDIT UNION, NEW FOREST GROVE BRANCH				ATTACH TO PAY REQUEST COVER SHEET G702					
CONTINUATION SHEET		G703	APPLICATION #10		DATE: AUG 22, 2020				
A	B	C	D	E	F	G	H	I	J
DESCRIPTION OF WORK		SCHEDULED VALUE	WORK PREVIOUS APPLICATIONS	WORK COMPLETED THIS PERIOD	MATERIALS STORED	TOTAL COMPLETED & STORED TO DATE	%	BALANCE TO FINISH (C-G)	
			128,278.08	108,065.43	2,338.40	-	110,403.83		17,874.25
			46,334.09	37,162.77	1,081.71	-	38,244.48		8,089.62
1			174,612.17	145,228.19	3,420.11	-	148,648.31	85	25,963.87
			864,687.80	853,929.53	-	-	853,929.53		10,758.27
			111,285.69	111,343.74	-	-	111,343.74		(58.05)
2			975,973.48	965,273.27	-	-	965,273.27	99	10,700.22
3			121,230.79	124,258.53	-	-	124,258.53	102	(3,027.74)
4			17,773.98	22,890.82	-	-	22,890.82	129	(5,116.84)
5			60,441.71	60,087.46	-	-	60,087.46	99	354.25
			117,715.50	120,533.92	-	-	120,533.92		(2,818.42)
			30,132.92	18,022.56	-	-	18,022.56		12,110.37
			116,750.45	120,429.85	-	-	120,429.85		(3,679.40)
6			264,598.87	258,986.32	-	-	258,986.32	98	5,612.54
			20,404.02	19,195.05	-	-	19,195.05		1,208.97
			54,001.72	56,732.53	-	-	56,732.53		(2,730.81)
			89,217.74	89,454.88	-	-	89,454.88		(237.14)
7			163,623.48	165,382.46	-	-	165,382.46	101	(1,758.98)
			38,852.62	34,921.50	-	-	34,921.50		3,931.12
			179,587.19	181,667.89	-	-	181,667.89		(2,080.70)
8			218,439.81	216,589.39	-	-	216,589.39	99	1,850.42
			48,433.25	49,653.11	-	-	49,653.11		(1,219.86)
			10,918.91	9,973.79	-	-	9,973.79		945.12
			32,361.16	33,400.45	-	-	33,400.45		(1,039.29)
			27,632.39	29,155.63	-	-	29,155.63		(1,523.24)
9			119,345.70	122,182.97	-	-	122,182.97	102	(2,837.27)
10			-	-	-	-	-	-	-
			18,975.53	18,916.86	-	-	18,916.86		58.67
			102,048.73	102,101.76	-	-	102,101.76		(53.02)
15			121,024.26	121,018.62	-	-	121,018.62	100	5.64
16			85,900.50	86,852.08	-	-	86,852.08	101	(951.58)
			2,322,964.76	2,288,750.12	3,420.11	-	2,292,170.23	99	30,794.53
			49,960.16	49,960.16	-	-	49,960.16	100	-
			18,562.85	18,562.85	-	-	18,562.85	100	-
			11,066.49	12,734.78	-	-	12,734.78	115	(1,668.29)
17			79,589.50	81,257.79	-	-	81,257.79		(1,668.29)
				11,800.41	5,130.79	-	16,931.20		(16,931.20)
			2,402,554.26	2,381,808.31	8,550.91	-	2,390,359.22	99.49	12,195.04



- General Contracting
- Design Build
- Construction Management
- Restoration

WAUNA FEDERAL CREDIT UNION			DATE: AUG. 22, 2020		
PROJECT WFCU NEW FOREST GROVE BRANCH			PAY REQUEST #10		
DATE	INVOICE	VENDOR	DESCRIPTION	AMOUNT	PLUS MKUP
7/1-31/20	RCI		Project Management & ODOT & City permitting close outs	2,205.00	
SUPERVISION				2,205.00	2,338.40
7/16/20	5574	TerraCalc Land	restake curb offsite to backside of curb, stake walks par.	1,020.00	
PROJECT LOGISTICS (SURVEY)				1,020.00	1,081.71
GENERAL CONDITIONS					3,420.11
AC pavement, striping, , signals, curbs				-	-
Landscaping: water feature				-	-
SITE CONSTRUCTION					
CONCRETE					
MASONRY					
METALS					
ROUGH CARPENTRY				-	-
FINISH CARPENTRY				-	-
CASEWORK				-	-
WOOD AND PLASTICS					
INSULATION				-	-
ROOFING				-	-
SIDING				-	-
THERMAL AND MOISTURE PROTECTION					
WOOD DOORS & HARDWARE				-	-
STOREFRONTS & Glass Barn style doors				-	-
DOORS AND WINDOWS					
SHEETROCK				-	-
T-BAR				-	-
FLOORING				-	-
PAINT				-	-
FINISHES					
SPECIALTIES TRA owner performed					
PLUMBING				-	-
HVAC				-	-
MECHANICAL					
ELECTRICAL					
TOTAL BASE CONTRACT					3,420.11
CHANGE ORDERS					
Change Order #1: Site Work Changes 7/26/19				-	-
Change Order #2: Gas Line Relocation for Sewer				-	-
Change Order #3: Interior Work				-	-
7/16/20	9185 WFCU FG	Hogan Fab, Inc	odot signage	2,750.00	
7/17/20	ccJR	Ace HardwareF	concrete patch	6.49	
7/17/20	48815540	Builders FirstSc	ODOT work: 6) cdx for installing signs	192.00	
7/17/20	JRcc- Ace FG	JARED RICKEI	ODOT sign erection hardwre on personl cc	19.10	
7/1-31/20	RCI labor		erect signs, ground work cleanup after erections	1,870.50	
Change Order Request #4: Additional Traffic Control at ROW				4,838.09	5,130.79
TOTAL CHANGE ORDERS					5,130.79
TOTAL INVOICE					8,550.91
LESS RETENTION					8,123.36

REQUEST FOR PAYMENT

From: Brix Paving Northwest Inc.
 PO Box 2388
 Tualatin, OR 97062

To: Rickenbach Construction Inc
 37734 Eagle Lane
 Astoria, OR 97103

Invoice: 1993473
 Draw: 3
 Invoice date: 6/15/2020
 Period ending date: 6/15/2020

Contract For: Wauna Credit Union

Request for payment:

Original contract amount	\$72,618.00	
Approved changes	\$20,070.66	
Revised contract amount		\$92,688.66
Contract completed to date		\$79,129.50
Add-ons to date	\$0.00	
Taxes to date	\$0.00	
Less retainage	\$1,093.57	
Total completed less retainage		\$78,035.93
Less previous requests	\$57,258.00	
Current request for payment		\$20,777.93
Current billing		\$21,871.50
Current additional charges	\$0.00	
Current tax	\$0.00	
Less current retainage	\$1,093.57	
Current amount due		\$20,777.93
Remaining contract to bill	\$14,652.73	

Project: 199347
 Wauna Credit Union

Contract date:

Architect:

Scope:

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Changes approved in previous months by Owner	20,070.66	
Total approved this Month		
TOTALS	20,070.66	
NET CHANGES by Change Order	20,070.66	

I hereby certify that the work performed and the materials supplied to date, as shown on the above represent the actual value of the accomplishment under the terms of the Contract (and all authorized changes thereof) between the undersigned and the Rickenbach Construction Inc relating to the above referenced project. I also certify that the contractor has paid all amounts previously billed and paid by the owner.

CONTRACTOR: Brix Paving Northwest Inc.

State Of Oregon

County Of Washington

By: *WRS*

Subscribed and sworn to before me this 23 day of June, 2020

Date: 6-23-20

Notary Public *Lisa Marie Smith*

My commission expires: 9-18-20



REQUEST FOR PAYMENT DETAIL

Project: 199347 / Wauna Credit Union

Invoice: 1993473

Draw: 3

Period Ending Date: 6/15/2020

Detail Page 2 of 2 Pages

Item ID	Description	Unit of Measure	CONTRACTED			CURRENT		TOTAL TO DATE		Units to Finish
			Bid Quantity	Unit Price	Amount	Quantity	Amount	Quantity	Amount	
10	Mob	EA	2.00	1,125.00	2,250.00	1.00	1,125.00	3.00	3,375.00	-1.00
20	3" AC Paving - One Lift	SF	18,144.00	2.00	36,288.00			18,144.00	36,288.00	
30	4" AC Paving - Offsite Pacific	SF	3,000.00	5.12	15,360.00	132.00	675.84	132.00	675.84	2,868.00
40	4" AC Paving Popular St	SF	4,680.00	4.00	18,720.00			4,680.00	18,720.00	
70	9" Patching	SF	1,152.00	10.24	11,796.48	1,152.00	11,796.48	1,152.00	11,796.48	
80	6" Patching	SF	1,434.00	5.77	8,274.18	1,434.00	8,274.18	1,434.00	8,274.18	

Totals					92,688.66		21,871.50		79,129.50	
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**Planning Commission Findings and Decision Number 2020-05 to
Approve the Site Plan and Design of the Reserve at Fernhill Apartments,
A 196-Unit Apartment Complex in the 1900 Block of Poplar Street
File Number: 311-20-000042-PLNG**

WHEREAS, 3J Consulting, representing J. T. Smith Companies, filed for site and design review for Forestplace Apartments, a proposed 196-unit apartment complex, on April 16, 2020; and

WHEREAS, the application was deemed complete on May 18, 2020; and

WHEREAS, notice of this request was mailed to property owners and residents within 300 feet of the subject site on June 15, 2020 as required by Development Code §17.1.610. Notice was also published in the *News Times* on July 2, 2020. No written comments were received in response to these notices; and

WHEREAS, the Planning Commission held the duly-noticed public hearing on the proposal on July 6, 2020.

The City of Forest Grove Planning Commission does hereby approve the site plan and building design, making the following specific findings in support of this decision:

- 1) The Planning Commission adopts by reference the staff report including findings and recommendations dated July 6, 2020.
- 2) The project complies with Development Code §17.2.450 *Site Development Review Criteria* as follows:

The Planning Commission shall review and approve, conditionally approve, or deny the site development plan based on the following criteria:

- A. The site development plan complies with all applicable standards of the base zoning district, any overlay district, and the applicable general development standards of Article 8.

Finding: The site will be comprised of three parcels, two of which would be developed with apartments. The applicant will be required to submit a copy of the recorded survey and legal description prior to filing for permits for any building within 10 feet of an existing property line.

Finding: The site plan consists of 8 apartment buildings, along with a pool and spa, sport court, children's play area, and dog park.

Finding: Parking would be provided throughout the site, and all the buildings connected with pedestrian walkways. Walkways would also connect with the sidewalks on Poplar Street, 19th Avenue and the Highway 47 Bypass.

Finding: The site is mostly located in the Community Commercial (CC) zone district. No front, side, or rear setbacks apply. Buildings would be set back at least 11 feet from the Poplar Street right-of-way line, and 10 feet from the 19th Avenue r.o.w. line. Building 7 would be set back 10 feet from the Highway 47 r.o.w. line, while Building 5 would be 14 ½ feet from it. The north and south yard building setbacks would be at least 10 feet. Building 3 would be set back 5 feet from the west property line. As no building setbacks are required in the CC zone district, no conditions of approval appear necessary.

Finding: Car park set backs are at least 5 feet abutting any property line. The site plan indicates compliance with this standard.

Finding: Once the consolidation process is complete and additional right-of-way is dedicated along Poplar Street, the site area will be 7.26 acres. Of that, 6.58 acres are located in the CC zone district, where the minimum and maximum residential density is 16.22 to 30.00 DUA respectively. The allowable density would therefore be between 97 and 180 units.

The southern-most part of the site (1845 Poplar Street) is located in the RML zoning district, where the minimum and maximum density is 9.60 to 12.00 DUA respectively. This area totals 0.59 acres. The allowable density would therefore be between 6 and 7 units.

In total, the allowable density for Lots 1 and 2 would be between 103 and 187 units. The application proposes 196 units. Because it fronts Pacific Avenue, the applicant proposes to reserve and market Lot 3 for commercial purposes. At 0.68 acres, it could be developed with between 16 and 20 units. The applicant proposes to transfer 9 of those units to elsewhere within the project site.

To ensure that Lot 3 is not subsequently over-developed with residential units at a later date, the applicant proposes to record a deed restriction to limit future density to not more than 11 units. This deed restriction has been included as a condition of approval.

Finding: The height limit in the CC zone district is 45 feet. The height of the three-story apartment buildings would be about 44 feet at the roof peak. As the height of the proposed buildings would all be less than the maximum, this criterion is satisfied.

Finding: The project would have 300 off-street spaces, 25 more than the Development Code minimum. There are no maximum limits on parking for residential projects.

Finding: Submitted with the application was a Traffic Impact Analysis (TIA). The TIA concluded that the project would not unduly impact the capacity or safety of the existing roadway and pedestrian network in the area. The TIA recommended one approval condition, to wit:

- *Landscaping, above-ground utilities, and signing should be located and maintained along the site frontage and throughout the site in a manner that preserves adequate intersection sight distance.*

The above recommendation has been incorporated into the project's approval conditions.

Finding: ODOT's Development Review staff was provided a copy of the Traffic Impact Analysis (TIA). In an e-mail received on May 20, 2020, ODOT staff submitted these comments:

- *ODOT has reviewed the TIA submitted for the Reserve at Fernhill Development and the draft Washington County Study for the OR 47/Maple Street intersection. Since the development will be adding trips to this already failing intersection, ODOT recommends that the City require a proportionate share contribution towards the planned project.*
- *Also, ODOT recommends that frontage improvements be required along the property's OR 47 frontage consistent with the Wauna Credit Union plans that have been approved by ODOT.*

The City will be collecting approximately \$1.2 million in Transportation Development Tax (TDT) revenues from this project, a portion of which could be dedicated to the Hwy 47/Maple Street intersection improvement.

In regards to the Highway 47 frontage improvements, the proposed site plan already incorporates the replacement of the deteriorating asphalt path with a new, 8-foot-wide concrete pathway. While already noted on the site plan, this improvement has also been included as a condition of approval.

Summary and Conclusion: With the conditions noted above, the proposed density, setbacks, building heights, access and parking would meet or exceed Development Code standards.

B. The site development plan ensures reasonable compatibility with surrounding uses as it relates to the following factors:

1. Building mass and scale do not result in substantial visual and privacy impacts to nearby residential properties; and

Finding: All apartment buildings would be 3 stories tall. Building 3 on Lot 1 would, at its closest point, be setback about 5 feet from the west property line, and that area landscaped with shrubs and small trees. Most of the building would be setback several additional feet.

The parcel at 3411-3435 19th Avenue is developed with a 5-unit single-family detached condominium complex and the home located at 3435 19th Avenue is a 2-story structure. Because there are no building setbacks required in the CC zoning district; and the abutting properties are all located in the same district; and the apartment building would be only 1 story greater in height than the home located next door; and the uses are the same (residential), building mass and scale of the proposed apartment building would not result in a substantial visual and privacy impact to nearby residential properties.

2. Proposed structures, parking lots, outdoor use areas or other site improvements that could cause substantial off-site impacts such as noise, glare and odors are oriented away from nearby residential uses and/or adequately mitigated through other design techniques.

Finding: As a residential project, off-site noise impacts are not anticipated. Should noise become a complaint issue, the City has in place a noise control ordinance that could be used to abate the nuisance.

Finding: On-building, pathway and car park lighting is proposed. Lighting will be required to comply with the provisions of DC §§17.8.755(C) and (D).

Finding: Trash and recycling enclosures would be centrally located on Lots 1 and 2, well away from any property lines. They would be roofed structures constructed of concrete block, so potential odor transmission to nearby residential uses should be minimized.

C. The site development plan preserves or adequately mitigates impacts to unique or distinctive natural features including, but not limited to:

1. Significant on-site vegetation and trees;
2. Prominent topographic features; and
3. Sensitive natural resource areas such as wetlands, creek corridors and riparian areas.

Finding: The site does not have any prominent topographic features, wetlands, creek corridors or riparian areas. Existing on-site trees have been examined by a certified arborist. Due to their condition, all are proposed for removal.

D. The site development plan preserves or adequately mitigates impacts to designated historic resources.

Finding: No designated historic resources are present on or adjacent to the site. This criterion does not apply.

E. The site development plan provides adequate right-of-way and improvements to abutting streets to meet the street standards of the City. This may include, but not be limited to, improvements to the right-of-way, sidewalks, bikeways, and other facilities needed because of anticipated vehicular and pedestrian traffic generation.

Finding: Poplar Street is of inadequate right-of-way width and improvement. The applicant will be dedicating r.o.w. to provide a width of 58 feet. The applicant will be improving the street to a 32-

foot width, with curbs, gutters, sidewalks and street trees. The applicant will also install new underground electrical service.

Finding: The 19th Avenue r.o.w. is of adequate width, but is not improved adjacent to the site. In cooperation with the City, the applicant will construct a full-width improvement, a portion of which will be eligible for City TIF/TDT funds. When it is constructed, the street network in this area will be complete.

Finding: The project may affect the operations of the Hwy 47/Maple Street intersection. The City will be collecting approximately \$1.2 million in Transportation Development Tax (TDT) revenues from this project, a portion of which could be dedicated to the Hwy 47/Maple Street intersection improvement.

Finding: The Highway 47 frontage adjacent to the site will be improved by replacing the deteriorating asphalt path with a new, 8-foot-wide concrete pathway.

- F. The site development plan promotes safe, attractive and usable pedestrian facilities that connect building entrances, public sidewalks, bicycle and auto parking spaces, transit facilities, and other parts of a site or abutting properties that may attract pedestrians.

Finding: DC §17.8.115(4) requires a minimum walkway width of four feet. Concrete pedestrian walkways are proposed to connect each unit to the car park and public sidewalk. Additional walkways would connect to the play area, trash enclosure, and garages. All walkways would be at least five feet wide. This criterion is met.

Finding: As a condition of approval, the deteriorating Highway 47 asphalt path will be replaced with a new, 8-foot-wide concrete pathway.

Finding: A walkway would extend from Oak Street all the way through both Lots 1 and 2 to the office located in Building 7. It would cross Poplar Street at about the mid-point of the block. Residents of buildings 1-3 on Lot 1 could be expected to routinely cross over Poplar Street to visit the office or use the recreational facilities located on Lot 2. To provide a safer crossing of Poplar Street, a bulb-out and possibly a crosswalk will be constructed at this location. A bulb-out would also have the added benefit of slowing vehicular traffic. To ensure safe traffic operations, the bulb-out will be required to be constructed in compliance with Engineering and Fire department standards and specifications.

- G. Design Review Criteria: Projects subject to design review shall be evaluated based on the following:

- (a) The development standards of the applicable zoning district and any overlay district;
- (b) The general development standards of Article 8.
- (c) Departures from code requirements may be permitted as part of a Track 2 Design Review Process, when the following criteria are met:
 - 1. The design guidelines contained in the applicable section of the "Design Guideline Handbook" are adequately addressed.
 - 2. The applicant demonstrates that the overall development would result in a development that better meets the intent of the design guidelines than a design that simply meets the Code.

The Design Guideline Handbook Section III *Multi-Unit Residential Design Guidelines* has two options for design review: Track 1 *Development Standards* and Track 2 *Design Guidelines*. The following analyzes the application compared to Track 1 standards unless otherwise noted.

Site – Circulation

- *Continuous pedestrian connections required* – Pathways are proposed that would connect the buildings, car parks, play area, and the public sidewalks.
- *Pathways at least 10 feet from dwellings* – The distance between pathways and buildings varies. Some buildings meet this guideline, while for others the pathways would be located closer. However, the pathways would comply with this recommended Design Guideline: *“Provide comprehensive, pleasant and direct pedestrian pathways linking buildings, open space and parking areas.”* Shifting the buildings away from pathways would crowd the buildings closer together, thus reducing useable yard areas for the residents, and/or would shift the buildings closer to perimeter property lines, thus increasing the potential adverse impacts on neighboring properties. Maintaining greater useable yard areas and setbacks from the perimeter would be preferable to strict adherence to this standard.
- *The minimum pathway width of 5 feet* – All proposed pathways would be at least five in width.

Site – Parking

- *Include 18-foot-wide landscape planter bays in parking areas > 10,000 square feet* – The proposed car park and aisles would exceed 10,000 square feet in area, therefore, this provision applies. Planter bays of 9 x 32 feet are scattered throughout the complex; this standard is met.
- *Sidewalk system shall connect all front doors to the car park* – Walkways are provided throughout the site with multiple connections to the car park.

Site – Pedestrian Environment

- *Residential front doors shall be setback at least 2 feet from the public sidewalk* - All residential front doors would be located more than 10 feet from the public sidewalk.
- *Primary entrance doors shall not be sliding glass, or solid metal without glazing* - Entry doors will be standard doors.
- *Residential porch height < 4 feet* – No porches are proposed.
- *Residences with entry porches: porches shall be not be less than 40 square feet* - No porches are proposed.
- *Residences shall not be < 4 feet below grade* – The new buildings will be erected at grade.

Site – Screening / Service Areas

- *All mechanical equipment shall be screened* – The apartment units will have standard residential-sized appliances located inside. Additional mechanical equipment will be located in the building attics.
- *Service / refuse collection areas shall be not < 20 feet from the right-of-way* – The refuse collection areas would be located more than 50 feet from the Poplar Street right-of-way.
- *Refuse collection area to be screened from above* – The refuse collection areas would be walled and roofed structures.
- *All rooftop mechanical equipment shall be screened* – None proposed; not applicable.

Site – Landscaping

At least 75% of required landscaped areas shall be planted; at most 25% of required landscaped areas shall be hardscaped – Landscaping would include deciduous trees, shrubs, groundcover, and turf. Less than 25% of the required landscape areas would be hardscaped.

- *Buffering and Screening* – The development site abuts two residential properties on the south border. To provide buffering and screening, an expanded 15-foot-wide area will be created and landscaped with a variety of large and small trees, shrubs and groundcover.

Site – Crime Prevention Through Environmental Design

- *Plant materials by entries shall be < 5 feet in height by the entry* - Complies. Various shrub varieties are proposed near the entries, all of which can be kept pruned to a height of five feet and less.

- *Window areas facing common spaces, paths, and parking areas shall be at least 25 square feet each* – Dimensions of the individual window units vary; multiple windows will be present in all elevations. Given the multiplicity of windows facing the common spaces, the intent of this criterion is satisfied.
- *Entries shall be lighted* – All entries would be illuminated.
- *Gated residential areas are prohibited* – None are proposed.
- *Motion-activated lighting by the street is prohibited* – None are proposed.

Site – Open Space

- *At least 25% of the lot (excluding parking areas) shall be landscaped* – The site totals 7.26 acres. Open space and landscaped areas would comprise 2.13 acres or about 29% of the gross site area, including parking areas. This standard is met.
- *Apartment complexes with six units or more shall provide 100 square feet of recreation space per unit* – No specific Development Code section includes this provision. With 196 units, 19,600 square feet of recreation space would be necessary. Each unit would have a deck or patio of 60 square feet more or less (totaling 11,760 square feet). All units would have access to the 11,495-square-foot recreation area (children's play area, sport court, pool, spa and dog park). The combined recreation space would therefore be 23,255 square feet, which would comply with this guideline.
- *Apartment complexes with 21 or more units shall have a children's play area* – The project would have 196 units. One play area is proposed.
- *At least 50 square feet of private open space shall be provided per unit* – Each unit would have a patio or deck of at least 60 square feet.
- *Private open space shall be separated from common open space with landscaping, fencing, or grade changes (including balconies)* – The patios and decks would be separated from the common areas with landscaping (ground floor) or deck railings.

Building – Massing and Form

- *Building dimensions > 150 feet shall have a minimum 3-foot off-set* – The buildings all have off-sets of at least 3 feet.
- *Every two dwelling units shall be off-set from the next by at least 4 feet* – Complies.
- *All habitable rooms shall have a window facing the car park and common areas* – Windows would face both the car park and the common areas.

Building – Compatibility

- *All buildings shall have a defined entry space of at least 16 square feet* – Complies.

Building – Safety

- *Line-of-sight shall be maintained between the building entries and the sidewalk or car park* – Complies.

Building – Privacy

- *Building entries shall be at least 3 feet from sidewalks and walkways* – Complies. The distance from all entries to any sidewalk or walkway would be at least 5 feet.
- *Bedroom and bathroom windows shall be off-set at least 4 feet from windows on adjacent buildings (unless privacy glazing is used)* – None of the bathrooms would be situated to align with adjacent unit windows.

Site – Lighting

- *All unit entries and walkways shall be lighted* – All entry areas will be lit.
- *Light poles shall not exceed 18 feet in height* – This standard is required by DC §17.8.750(D) *Lighting Standards for Multi-Unit Development*.
- *Concrete bases shall not exceed 8 inches in height* – This standard is required by DC §17.8.750(D).
- *Cut-off shields shall be installed* – These are required by DC §17.8.750(D).
- *Plastic interior-lighted signs are prohibited* – None are proposed.

Signs –

- *Residential nameplates allowed* – None proposed. Site identification signs will be required at each driveway.

Summary and Conclusions: The design guidelines have been addressed by the application as follows:

- 1) The facades of the new buildings include building overhangs, balconies and gables, all of which will serve to provide relief and shadow patterns.
- 2) The buildings would be three stories in height. Building projections and recesses are incorporated.
- 3) Exterior building materials would include vertical and lap siding, along with trim boards.
- 4) Proposed window designs would be coordinated with the building's architecture and would be sufficient in number to ensure ample visibility of the common areas.

The facades of the new buildings will include architectural detailing which will serve to provide relief and shadow patterns, including varied roof lines, sheltered entries, decks, and bay window bump-outs. The buildings would use a variety of quality durable materials including Hardie-Plank and Hardie-Panel siding. The proposed architecture complies with the design guidelines and standards.

Based on the information provided in the application and the findings above, the Planning Commission approves the application for the Reserve at Fernhill Apartments, with the following conditions:

1. The applicant is bound to the project description and all representations made by the applicant during the application and decision-making proceeding.
2. A deed restriction shall be recorded over Lot 3 to limit its future residential density to a maximum of 11 units. This limit shall not be exceeded unless the maximum residential density permitted in the CC zoning district is increased.
3. Landscaping, above-ground utilities, and signing shall be located and maintained along the site frontage and throughout the site in a manner that preserves adequate intersection sight distance.
4. Replace the deteriorating asphalt path along the Hwy 47 frontage with a new, 8-foot-wide concrete pathway.
5. Install a 4-to-6-foot-tall wire fence or decorative metal panel fence along the east property line.
6. Extend a full-width 19th Avenue from its existing terminus through to Poplar Street. The additional improvement shall be eligible for City TIF / TDT credits.


PHIL RUDER, Chair

July 7, 2020
Date

October 29, 2021

Michael C. Robinson

Admitted in Oregon

T: 503-796-3756

C: 503-407-2578

mrobinson@schwabe.com

VIA E-MAIL

Mr. Jesse VanderZanden, City Manager
City of Forest Grove
Forest Grove City Hall
1924 Council Street
PO Box 326
Forest Grove, OR 97116-0326

RE: Forest Grove City Council Hearing on Proposed Wauna Reimbursement District

Dear Mr. VanderZanden:

This office represents J.T. Smith Companies (“J.T. Smith”), the property owner most affected by the proposed reimbursement district. First, I want to say “thanks” to the City staff with whom we have worked over the last year on this matter; their professionalism is most appreciated.

I just learned on Wednesday of this week that the City Council informational hearing on the proposed reimbursement district has been scheduled for November 22, 2021.

I am writing to request that you reschedule the hearing to the next available City Council meeting. Jesse Nemeč, J.T. Smith’s Project Manager, had informed the City shortly after the City Council Work Session on October 11, 2021 that he was not available on November 22, 2021 because he would be out of the country. J.T. Smith will be severely disadvantaged if Mr. Nemeč cannot be available at the hearing and he cannot attend virtually while out of the country. No one from the City contacted either me or Mr. Nemeč to ask us about our availability for the hearing date.

While we would all like to have this matter resolved as soon as possible, the hearing should be held only when both the parties’ principles can be present. This matter has been before the City since 2020 and a delay to accommodate Mr. Nemeč’s schedule is a reasonable request and will not damage Wauna.

Thank you for your consideration of this request.

Mr. Jesse VanderZanden, City Manager
October 29, 2021
Page 2

Very truly yours,

A handwritten signature in blue ink that reads "Michael C. Robinson". The signature is written in a cursive, flowing style.

Michael C. Robinson

MCR:jmhi

cc: Mr. Jesse Nemecek (*via email*)
Mr. Greg Robertson (*via email*)
Mr. Chris Crean (*via email*)

PDX\133294\251057\MCR\32124149.1

ATTACHMENT 5

EXCERPT FROM CITY CODE CONCERNING REIMBURSEMENT DISTRICTS

The following are the necessary steps for creating this reimbursement district.

§ 151.110 PURPOSE.

The purpose of this subchapter is to provide the process and means by which a person who is required to make certain public improvements to serve his or her property may recover a portion of the cost of such improvements when the improvements benefit, within a specified time period, other properties.

(Prior Code, § 3.10.005) (Ord. 2011-02, passed 1-24-2011)

§ 151.111 DEFINITIONS.

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

APPLICANT. A person who is required or chooses to finance some or all of the cost of a street, water or sanitary sewer, or storm water improvement, which improvement is also available to serve or benefit property other than that of the applicant, and who in turn applies to the city for reimbursement of the expense of the improvement.

CITY. The City of Forest Grove.

CITY ENGINEER or **ENGINEER.** The person holding the position of Director of Public Works or such other officer, employee, or agent designated by the Council or City Manager to perform the duties set out for the City Engineer in this chapter.

PERSON. A natural person, firm, partnership, corporation, association, or any other legal entity, be it public or private and/or any agent, employee, or representative thereof.

PUBLIC IMPROVEMENT. All capital facilities (including plant facilities) associated with water, sanitary sewer, storm water, street (including bicycle lanes), and/or sidewalk facilities or the undergrounding of public utilities.

REIMBURSEMENT AGREEMENT. The agreement between an applicant and the city (as authorized by the City Council and executed by the City Manager) providing for the installation of and payment for public improvements within a Reimbursement District.

REIMBURSEMENT DISTRICT. The area determined by the City Council to derive a benefit from the construction of public improvements financed in whole or in part by an applicant.

REIMBURSEMENT FEE. The fee established by resolution of the City Council and required to be paid by persons within a Reimbursement District once they utilize the public improvement.

STREET IMPROVEMENT, WATER IMPROVEMENT, SEWER IMPROVEMENT, and **STORM WATER IMPROVEMENT.** Respectively:

(1) A street or street improvement, including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic-control devices, street trees, lights and signs, and public rights-of-way;

(2) A water facility or water line improvement, including, but not limited to, extending a water line to property (other than property owned by the applicant) so that

water service can be provided for such other property without further extension of the line;

(3) A sanitary sewer, sewer line, or other facility improvement, including, but not limited to, extending a sewer line to property (other than property owned by the applicant) so that sewer service can be provided for such other property without further extension of the line; and

(4) A storm water improvement, including, but not limited to, extending a storm water line to property (other than property owned by the applicant) so that stormwater disposal for such other property can be provided without further extension of the line; conforming with standards and specifications set by the city.

UTILIZE. To use or benefit from a public improvement, to apply for a building or other permit which will allow for the use or increase in the use of a public improvement or to connect to a public improvement.

(Prior Code, § 3.10.010) (Ord. 2011-02, passed 1-24-2011)

§ 151.112 APPLICATION FOR A REIMBURSEMENT DISTRICT.

(A) Any applicant who finances some or all of the cost of a public improvement available to provide service or benefit to property other than property owned by that person may, by written application filed with the City Engineer, request the city establish a Reimbursement District. The improvement(s) must be in a size greater than that which would otherwise ordinarily be required and must be available to provide service to property other than that owned by the applicant. Examples include (but are not limited to):

- (1) Full street improvements instead of half street improvements;
- (2) Off-site sidewalks;
- (3) Connection of street sections for continuity;
- (4) Extension of water lines; and
- (5) Extension of sewer lines.

(B) All applications shall include the following:

- (1) A description of the location, type, size, and cost of the public improvement eligible for reimbursement;
- (2) A map showing the properties to be included in a proposed Reimbursement District;
- (3) The zoning for the properties;
- (4) The front or square footage of said properties (or similar data appropriate for calculating the apportionment of the cost of the improvement among the properties); and

(5) A listing of the property(ies) owned by applicant. All applications shall be accompanied by a fee in an amount sufficient to cover the cost of administrative review and notice required by this chapter as established by City Council resolution.

(C) In the event an application is submitted after the construction of the public improvement, the application shall also include information as to when the city accepted the public improvement as well as the actual cost of the improvements, evidenced by receipts, invoices, or other similar documents. Until receipt of said information, the affected application will be deemed incomplete.

(D) In the event an application is submitted prior to the construction of the improvements, the application shall be accompanied by an estimate of the cost of the

improvements as evidenced by bids, projections, or similar data. The application shall also include the estimated date of completion of the public improvement(s). Until the receipt of said information, the affected application will be deemed incomplete.

(E) An application may be submitted at any time prior to the installation of the public improvement, but in no event later than 180 days after acceptance of the improvement for which reimbursement is sought, unless the City Engineer, in his or her sole discretion, waives this requirement.

(Prior Code, § 3.10.015) (Ord. 2011-02, passed 1-24-2011)

§ 151.113 CITY ENGINEER'S REPORT.

The City Engineer shall review the application and other material submitted therewith and prepare a written report for the Council which will address, to the extent relevant, the following factors:

(A) Whether the public improvement for which reimbursement is sought has capacity sufficient to allow use thereof by property other than property owned by the applicant;

(B) The area proposed to be included in the Reimbursement District;

(C) The actual or estimated cost of the improvements within the area of the proposed Reimbursement District and the portion thereof for which the applicant should be reimbursed;

(D) A methodology for allocating the cost among the parcels within the proposed district and, where appropriate, defining a "unit" for applying the reimbursement fee to property which may be partitioned, subdivided, or otherwise modified at some future date. The methodology should include consideration of the cost of the improvement(s), prior contributions by property owners, the value of the unused capacity, rate-making principles associated with the financing of public improvements, and such other factors as deemed relevant by the City Engineer;

(E) The amount to be charged by the city for administering the agreement, to be fixed by City Council and included in the resolution approving and forming the Reimbursement District. The fee is due and payable to the city at the time the reimbursement agreement is signed;

(F) The period of time that the right to reimbursement exists if that period is less than ten years; and

(G) Whether the street, water, and sewer improvements will meet or have met city standards.

(Prior Code, § 3.10.020) (Ord. 2011-02, passed 1-24-2011)

§ 151.114 AMOUNT TO BE REIMBURSED.

(A) The potential amount of the reimbursement is limited to the following:

(1) The costs of construction;

(2) Engineering (including surveying and inspection) costs in an amount not to exceed 15% of the construction costs;

(3) Off-site right-of-way purchase costs, limited to the reasonable market value of land or easements purchased by the applicant from third parties to complete off-site improvements;

(4) Financing costs associated with the improvement to the extent the financing costs are not attributable to the applicant's property or project; and

(5) Legal and other expenses incurred by the applicant to the extent said expenses relate to the preparation and filing of the application, the preparation of the report required by § [151.113](#), and the hearing process set out in §§ [151.115](#) and [151.116](#).

(B) Regardless of amount or category, costs reimbursable or eligible for traffic impact fee credits or systems development charge credits which cannot be clearly documented or which are attributable to the applicant's property or project are not reimbursable.

(C) By submitting an application that seeks reimbursement of legal expenses, the applicant thereby waives any attorney/client or attorney work product privilege that may exist in attorney billing statements or records in support thereof.

(D) A reimbursement fee shall be determined for all properties which fall within the proposed Reimbursement District, including applicant's; however, the applicant shall not be reimbursed for that portion of the fee representing the benefit to the applicant's property.

(E) The applicant shall not be reimbursed for the portion of the reimbursement fee computed for property owned by the city or other governmental body.

(Prior Code, § 3.10.025) (Ord. 2011-02, passed 1-24-2011)

§ 151.115 PUBLIC HEARING.

(A) Within a reasonable time after the City Engineer has completed the report required in § [151.113](#), the City Council shall hold an informational public hearing in which persons impacted by the creation of the Reimbursement District shall be given the opportunity to comment thereon.

(B) Notice of the hearing shall be given not less than ten nor more than 30 days prior to the public hearing date. Notice shall be given to the applicant and all owners of property within the proposed District with notification by certified mail, return receipt requested, or by personal service. Notice shall be deemed complete as of the date notice is mailed or served. Failure to receive actual notice of the hearing shall not invalidate or otherwise affect any action of the city relative to the creation of the Reimbursement District and/or the costs associated therewith.

(C) Formation of a District does not result in an assessment or lien against property. As a result, the hearing is informational only and the District is not subject to termination as a result of remonstrances to the formation thereof. The City Council has the sole discretion, after the public hearing, to decide whether the District is to be formed or not. If a District is to be formed, a resolution approving and forming the Reimbursement District shall be adopted.

(D) If a Reimbursement District is formed prior to construction of the improvement(s), a second public hearing shall be held after the improvement has been accepted by the city when the Council may modify the resolution to reflect the cost of the improvement(s).

(Prior Code, § 3.10.030) (Ord. 2011-02, passed 1-24-2011)

§ 151.116 CITY COUNCIL ACTION.

At the conclusion of the hearing, the City Council shall approve, reject, or modify the recommendations contained in the City Engineer's report and manifest its action in a resolution. If a Reimbursement District is established, the resolution shall include a copy of the City Engineer's report as approved or modified and specify that payment of the appropriate fee as determined by the Council for each parcel is a precondition to receipt of any city permit necessary for development of that parcel. If a Reimbursement District

is established, it shall be deemed formed as of the date the Council adopts the resolution referred to in § [151.115](#).

(Prior Code, § 3.10.035) (Ord. 2011-02, passed 1-24-2011)

§ 151.117 REIMBURSEMENT AGREEMENT.

(A) If the Council approves the City Engineer's Report and thereafter creates a District, the City Manager shall cause the creation of an agreement between the applicant and city containing (at a minimum) provisions relating to the following:

- (1) The public improvement(s) will or do meet all applicable city standards;
- (2) The amount of the potential reimbursement the applicant can expect along with a caveat that the total amount of any reimbursement will not exceed the actual cost of the public improvement(s);
- (3) The annual fee adjustment, if any;
- (4) The applicant will guarantee the quality of the public improvement(s) for a period of not less than 12 months after the date of their installation;
- (5) The applicant will defend, indemnify, and hold the city harmless from any and all losses, claims, damage, judgments, or other costs or expense arising as a result of or related to the city's establishment of the District; and
- (6) The applicant acknowledges the city is not obligated to collect the reimbursement fee from affected property owners.

(B) The city may include other provisions as the City Council determines necessary to ensure compliance with this subchapter.

(Prior Code, § 3.10.040) (Ord. 2011-02, passed 1-24-2011)

§ 151.118 ANNUAL FEE ADJUSTMENT.

The City Council may, in its discretion, grant an annual adjustment to the amounts established as the reimbursement fee at the time of the hearing on the Engineer's report. In the event such an adjustment is deemed appropriate, it shall be applicable to the fee beginning on the first anniversary of the date of the Council's approval of the application, be fixed and computed against the reimbursement fee as simple interest, and remain the same for each year the District exists.

(Prior Code, § 3.10.045) (Ord. 2011-02, passed 1-24-2011)

§ 151.119 NOTICE OF ADOPTION OF RESOLUTION.

The city shall notify all property owners within the District and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, date it was adopted and short explanation of when the property owner is obligated to pay the reimbursement fee and the amount thereof.

(Prior Code, § 3.10.050) (Ord. 2011-02, passed 1-24-2011)

§ 151.120 RECORDING THE RESOLUTION.

The City Recorder shall cause notice of the formation and nature of the Reimbursement District to be filed in the office of the County Recorder in order to provide notice to potential purchasers of property within the District of its existence. Failure to make such recording shall affect neither the legality of the resolution nor the obligation to pay any fee.

(Prior Code, § 3.10.055) (Ord. 2011-02, passed 1-24-2011)

§ 151.121 CONTESTING THE REIMBURSEMENT DISTRICT.

Any legal action intended to contest the formation of the Reimbursement District or fee must be filed, within 60 days of the Council's hearing on the application consistent with the terms of O.R.S. 34.010 through 34.100 (writ of review).

(Prior Code, § 3.10.060) (Ord. 2011-02, passed 1-24-2011)

§ 151.122 OBLIGATION TO PAY REIMBURSEMENT DISTRICT.

(A) A person applying for a permit related to property within a Reimbursement District shall pay to the city, in addition to all other applicable fees and charges, the reimbursement fee established by the City Council under the terms of this subchapter if, within the time specified in the resolution establishing the District, the person applies for and receives approval from the city for any of the following activities:

(1) A building permit for a new building or a permit for an addition, modification, repair, or alteration to an existing building exceeding 25% of the value thereof within any 12-month period (not due to damage or destruction of the building by fire or natural disaster). **VALUE** as used above means the amount shown on the County's Department of Assessment and Taxation for the building's real market value;

(2) Any alteration, modification, or change in the use of real property, which increases the number of parking spaces required under the city code in effect at the time of permit application; or

(3) Connection to or use of a water, sanitary sewer, storm water, or street improvement, if the District is based on that improvement.

(B) The obligation to pay the reimbursement fee arises and accrues as of the time property within the District utilizes the affected public improvement regardless of whether a person applies for and/or receives a permit connected with that utilization.

(C) The City Council's determination of which properties shall be liable for payment of the fee is final. Neither the city nor any officer or employee of the city shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination.

(D) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this subchapter is intended to modify or limit the authority of the city to provide or require access management.

(E) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement.

(F) The right to reimbursement shall not extend beyond ten years from the District's formation date, subject to renewal at the option of the Council for one additional ten-year period.

(Prior Code, § 3.10.065) (Ord. 2011-02, passed 1-24-2011)

§ 151.123 PUBLIC IMPROVEMENTS BECOME PROPERTY OF THE CITY.

Public improvements installed pursuant to Reimbursement District agreements shall become and remain the sole property of the city. More than one public improvement may be the subject of a Reimbursement District.

(Prior Code, § 3.10.070) (Ord. 2011-02, passed 1-24-2011)

§ 151.124 COLLECTION AND PAYMENT; OTHER FEES AND CHARGES.

(A) Applicants shall receive all reimbursement monies collected by the city for the public improvements they install. Such reimbursement shall be delivered to the developer for as long as the Reimbursement District agreement is in effect. Such payments shall be made by the city within 90 days of receipt of the reimbursements monies.

(B) The reimbursement fee is not intended to replace or limit any other existing fees or charges collected by the city.

(Prior Code, § 3.10.075) (Ord. 2011-02, passed 1-24-2011)



December 10, 2021

Michael C. Robinson
Admitted in Oregon
T: 503-796-3756
C: 503-407-2578
mrobinson@schwabe.com

VIA E-MAIL

Mr. Peter Truax, Mayor
Forest Grove City Council
Forest Grove City Hall
1924 Council Street
PO Box 326
Forest Grove, OR 97116-0326

RE: Letter on Behalf of J.T. Smith Companies Opposing the Petition by Wauna Credit Union to Establish a Reimbursement District for Storm Sewer Improvements that do not Benefit the J.T. Smith Companies; Resolution No. 2021-59

Dear Mayor Truax and City Council Members:

This office represents the J.T. Smith Companies (“Smith”), the builder of a multi-family housing project south of Wauna Credit Union’s (“Wauna”) building and the property owner most affected by Wauna’s petition (the “Petition”) to establish a reimbursement district (the “District”). Smith opposes the creation of the District for the reasons explained in this letter, its August 10, 2020 letter (attached as **Exhibit 1**) and its oral testimony to the City Council at the City Council’s first public hearing on the District on January 20, 2021 because Wauna’s Improvements do not benefit Smith’s residential development and burden a residential project with higher costs. The City Council is not required to establish the District.

I. Introduction.

Smith thanks City staff and the City Council for continuing the November 22, 2021 public hearing to December 13, 2021 in order to allow Mr. Nemeck to attend the hearing. Smith also appreciates the professional courtesy by the City Engineer and the City Attorney in meeting with its representatives more than several times. Finally, Smith appreciates the Mayor not meeting with Wauna’s representative at her request in this quasi-judicial proceeding because all of the arguments should be made in a public hearing where everyone can hear and address them.

The City Council first considered the District in a public hearing on January 20, 2021 but took no action on the Petition. The City Council instead indefinitely continued the matter so that the City Engineer could revise the Engineer’s Report (the “Report”) to address numerous issues raised by Smith. Since then, Smith, the City Engineer and the City Attorney met several times to discuss the Petition. While the parties weren’t able to come to an agreement whereby Smith could

support the Petition, the meetings did result in a significantly revised Report reflecting much lower costs to be assessed against Smith in order to pay back Wauna for some of its Improvements cost. This reflects the fact that neither the Petition nor the Report met the benefit test in Forest Grove Code (the “FGC”) 151.111, definition of “Reimbursement Agreement.”

The City Council held a Work Session on October 11, 2021. Several City Council members asked questions about the Report, including the fact that Wauna and Smith had no agreement for Smith to participate in the District, that Wauna used above-standard materials in its Improvements and expects Smith to pay for those higher costs, and that a third party has not verified that Wauna’s costs are reasonable.

The City Council opened its second public hearing on the District on November 22, 2021, heard a short Staff Report and public testimony and continued the public hearing to December 13, 2021.

II. The City Council Cannot Approve the District nor is it Required to do so for the Following Reasons.

A. The July 8, 2020 Smith Land Use Decision Condition of Approval does not require that the City Council Impose the District on Smith.

The Staff argued that Condition of Approval 14 (the “Condition”) in Smith’s land use decision settles the question as to Smith but this is incorrect.

First, the Condition merely required Smith to participate in the Poplar Street storm sewer District, which it is entitled to do under FGC 151.115(A). “Participate” does not mean that Smith was required to agree with the Petition. The Condition did not mandate an outcome nor could it since the City Council must make the required findings in FGC 151.116, nor did it compel Smith to agree to the District. Any other interpretation would have deprived Smith of its rights under FGC 151.115(A). In any event, the District did not then exist nor did Smith have notice that it had been proposed, so there was no need to appeal the Condition.

Second, Smith was not required to have appealed the Condition because the Condition could not mandate an outcome on the District.

Third, interpreting the Condition as requiring Smith to accept the Petition and District would violate FGC 151.116 requirement that the City Council decide if Smith should be assessed as proposed in the Report.

Fourth, the District involves two Improvements but the Condition applies only to one Improvement, the storm sewer, and thus may not be a basis for the sanitary sewer Improvement.

Finally, the Condition compels a result violating ORS 197.307(4)(b):

“(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.”

If the City Council is going to rely on the Condition, the Condition must fail as a basis for Smith to be assessed because Smith has testified that the costs imposed by the District are unreasonable.

B. The “To and Through” Clean Water Services (“CWS”) Rule (the “Rule”) Cannot be a Basis for the Decision.

The Staff relied on the Rule in the Work Session to justify the District. However, the Rule is not in FGC 151.110-151.124 and simply because it requires the Improvements to be extended “to and through” cannot substitute for demonstrating that the requirements to establish the District are met. Were that the case, the City Council would always be required to approve a petition, which would ignore the requirements of FGC 151.110-151.124.

C. The District Needlessly Subsidizes a Commercial Project by Raising the Cost of a Residential Project and Thus Raising the Cost of Housing.

The November 22, 2021 City Council meeting also included a presentation by the Washington County Department of Housing Services, Supportive Housing Services Program, Jes Larson, Supportive Housing Services Program Manager, who told the City Council that the County needs apartments and asked the City Council to support all types of housing. She noted during her presentation the high cost of housing in the County.

The District is contrary to the goal of providing housing and increases its costs simply to benefit an overly expensive set of Improvements by a commercial use. Not establishing the District will support housing and Wauna knows that it took the risk of constructing the Improvements without the approval of Smith or the establishment of the District.

D. The Requirements to Approve the Report and Establish the District are not Satisfied by the Evidence in the Record.

FGC requires the following that are not satisfied.

1. FGC 151.110 sets forth the purpose of a District as reimbursing owners for the cost of improvements that benefit other properties. A District cannot be established without demonstrating such benefit nor are all costs required to be reimbursed. *See* FGC 151.111, definition of “Reimbursement District” requiring benefit.
2. The City Council is not required to approve the Report. FGC 151.116.
3. The District must prove that the Improvements are of a size larger than required and that the Improvements provide a benefit. The best evidence in this matter is that Smith neither needed nor benefits from the Improvements since Wauna chose to make the improvements without the consent of Smith while knowing that Smith did not need the improvements and could have made its own improvements at a lower cost. Wauna took a risk in order to enrich itself and should not be rewarded for that decision.
4. FGC 151.113(D) requires the City Engineer to consider the cost of the Improvements. The Report fails to consider the excessive costs imposed on Smith and there is no objective, third party evaluation of the costs. This is a Cadillac project where a Chevrolet project would have done just as well, especially where the excessive costs will increase the cost of housing.

E. Additional issues not Addressed by the Engineer’s Report.

1. The Purchase and Sale Agreement that Wauna entered into when it purchased its property (**Exhibit 2**), binding upon successors and assigns, required Wauna to provide its own utility extensions to its property and specifically provided for an easement across Smith’s property for Wauna to do so. While this is a private agreement that does not bind the City, it is a breach of contract for Wauna to apply for the District. The Agreement has been provided to City staff.
2. The City Engineer removed the sanitary sewer portion of the District because Wauna was the only party that benefited from it. Similarly, the portion of the stormwater system that Wauna installed in Pacific Avenue benefits only Wauna. This portion of the system was some of the most expensive per linear foot of system installed due to the additional traffic control, saw-cutting and pavement restoration located within the highway right-of-way. The Improvement installed by Wauna within Pacific Avenue does not benefit the City or ODOT because it does not collect any public street runoff since there was already a stormwater system located within Pacific Avenue prior to Wauna purchasing the property, and a stormwater

inlet is located at the intersection of Pacific Avenue and Poplar Street. Wauna's site should have had a private stormwater lateral extended to it from Poplar Street through the location where they were building their driveway, similar to the lateral that was extended to the Popeye's lot.

Because CWS requires stormwater detention anyway, the City Council should ask why this elaborate, off-site Improvement was created in the first place when another stormwater system was available so close, as shown below:



3. The City Council has not been provided with evidence to demonstrate that less expensive alternative solutions were investigated by Wauna. In addition, due to CWS' detention requirement, another point of poor engineering judgment was utilized by oversizing the pipe network that was installed within Poplar Street. Smith was informed by the City Engineer that the unit price of the smaller pipe size would be utilized for the purposes of the District.

Mr. Peter Truax, Mayor
December 10, 2021
Page 6

4. None of the apartment buildings benefit from the Improvements because only the public street along Smith's frontage drains to Wauna's improvements.
5. Smith objects to the pavement restoration being included within the District because it essentially makes Smith pay for the pavement twice, since Smith was conditioned to completely rebuild and widen Poplar Street and 19th Avenue, including sidewalks and expensive stormwater quality filtering planters per CWS' new standards.
6. Smith is trying to build quality housing that is affordable to the work-force population in the midst of all-time record material and labor costs and being conditioned to participate in the District that did not yet exist, and of where Smith had no notice of the District, is contrary to that purpose.

III. Conclusion.

The City Council is under no obligation to approve the Report and create the District where Wauna ignored its contract obligations with Smith, where Smith does not benefit from the District because it did not need the Cadillac Improvements and could have easily served its own project, where the Improvement costs are excessive and affect housing costs, where Wauna chose to proceed without Smith's consent and took the risk of establishment of the District and where Smith is not bound to accept the District by the land use condition.

For all of these reasons, Smith respectfully requests that the City Council reject the Report and not create the District.

Very truly yours,



Michael C. Robinson

MCR/jmhi
Enclosures

cc: Mr. Jesse Nemecek (via email) (w/enclosures)
Mr. Greg Robertson (via email) (w/enclosures)
Mr. Chris Crean (via email) (w/enclosures)
Ms. Erin Forbes (via email) (w/enclosures)

PDX\133294\251057\MCR\32435637.1

August 10, 2020

Michael C. Robinson
Admitted in Oregon
T: 503-796-3756
C: 503-407-2578
mrobinson@schwabe.com

VIA E-MAIL

Mr. Peter Truax, Mayor
Forest Grove City Council
Forest Grove City Hall
1924 Council Street
PO Box 326
Forest Grove, OR 97116-0326

RE: My Client, J.T. Smith Companies; Comments on Proposed Acceptance of City Engineer's Report for Formation of Proposed Reimbursement District Initiated by Wauna Credit Union

Dear Mayor Truax and Members of the Forest Grove City Council:

This office represents the J.T. Smith Companies ("Smith"). Smith is developing the former Albertson's property, consisting of ten tax lots, adjacent to and near Wauna Credit Union ("Wauna"). Wauna's proposed Reimbursement District (the "RID") includes all of Smith's property and will add significant and unanticipated costs to Smith's development of its apartment project. Smith asks the City Council to consider this letter as it reviews the Engineer's Report for the RID. Before providing substantive comments on the RID's compliance with the requirements of Forest Grove Code ("FGC") 151.110 to 151.124, Smith has three preliminary comments.

First, Smith is pleased that it will become part of Forest Grove when it builds its new apartment project. Smith has no desire not to be a good neighbor with Wauna, or not to participate in a RID that is proportionate to the benefits to Smith's development. However, because the Engineer's Report was not available to Smith until recently, it is only now able to review the financial impacts on its project from the RID.

Second, Smith asks that the City Council open and take testimony at the August 10 City Council meeting but continue the matter until September 14, 2020 and that it also continue the City Council hearing on adoption of the RID Resolution now scheduled for September 14 to the next City Council meeting available date. A continuance will not prejudice Wauna. This request is made in order to give Smith and its engineer an opportunity to discuss the RID with the City Engineer and with Wauna. Despite Wauna being Smith's neighbor and being aware of Smith's development, Wauna has not talked to Smith about the RID. It is appropriate to allow Wauna and the most-affected property owner, Smith, discuss the proposed charges against Smith's property and to allow Smith to discuss the RID with the City Engineer.

Third, the Forest Grove Planning Commission approved Smith's limited land use application. Exhibit E to the Staff Report for that decision is the "Engineering Department Special Conditions." Special Condition 14 provides in its entirety that "Applicant shall participate in the Poplar Street stormwater drainage system reimbursement district." To the extent someone may suggest that Smith cannot comment on the Engineer's Report or challenge the adoption of the Resolution establishing the RID, Smith thinks it is appropriate to discuss this issue now.

The condition does not prohibit Smith from commenting on the Engineer's Report or challenging the Resolution; the condition says only that Smith must participate in the stormwater RID. Smith will participate in a RID that is eventually adopted, subject to any review by the courts. Second, the condition refers only to a stormwater RID but Wauna has proposed a stormwater and a sanitary sewer RID. At most, the condition concerns only the stormwater portion of the RID. Finally, the condition cannot prevent Smith from participating in the review of the Engineer's Report or the Resolution allowed under the FGC. For these reasons, Smith is providing comments on the Engineer's Report and will participate in the City Council hearing on the Resolution creating the RID as allowed by the FGC.

1. Comments on the Engineer's Report and Compliance with the FGC.

The Engineer's Report at page 171 notes that the RID can be approved when one party constructs public improvements that benefit another party. FGC 151.110, "Purpose." FGC 151.113.D, "City Engineer's Report," requires that the City Engineer consider a methodology for allocating the cost of the public improvements among the properties in the RID and consider rate-making principles associated with the financing of public improvements and other relevant factors. As explained below, the RID fails to satisfy these requirements because Wauna seeks to recoup improvement costs that would be unnecessary for Smith if it were to construct its own improvements. Because these required considerations should result in a RID that fairly and proportionately allocates costs to other properties but have not been considered, the RID is unfair and not proportionate to the benefits derived by Smith from Wauna's construction of the public improvements. Wauna should be responsible for all of its costs not related to the proportionate benefit to Smith.

The RID includes and allocates costs to 13 lots. One of these lots is Wauna's but 10 of the lots in the RID are Smith's lots. Wauna clearly seeks to take advantage of its neighbor's apartment project to subsidize its own development costs, contrary to the FGC, as explained below.

Additionally, the disparity of benefit does not end with the number of lots in the RID. The RID proposes to split the sewer line costs of \$108,340 equally with Smith, resulting in an allocation of \$57,170.00 to Smith. The RID proposes that Smith be allocated 82.52% of the storm sewer improvements costs as compared to Wauna's 11.5% of the costs, despite Smith benefitting from and needing far less than this percentage for its development. This results in Wauna paying only \$29,299.74 compared to Smith paying \$210,963.32. In other words, even though Smith needs just a small part of the public improvements to be constructed by Wauna, Wauna proposes that Smith pay over \$250,000 as opposed to Wauna's payment of about \$86,000. The City Council

should ask if Wauna would have constructed this project but for its intention to compel Smith to pay for most of its costs. The RID does not meet the definition of “utilize” in FGC 151.111 because Smith will not benefit from and does not need to use the full extent of Wauna’s public improvements.

A. Does the RID Benefit Smith’s Property?

The Engineer’s report assigns proportionate shares of responsibility based on contributing area to the entire run of the utility lines. However, all of Smith’s properties have a common ownership, are in the process of a lot-consolidation process and have submitted and obtained approval of a limited land use application showing a proposed stormwater piping system that utilizes connections to the existing stormwater system at two different locations. The City Council vacated 19th Place because all of Smith’s lots will be developed together and utilities routed internally, as has been planned since Albertson’s purchased the properties over a decade ago. As explained below, Wauna’s improvements do not benefit Smith except for a small part of the two new lines, in one case just over 10%, and in another case, about a third but Wauna asks Smith to pay over 80% of the costs in one case and 50% of the costs in the other. The RID does not benefit Smith to the extent requested by Wauna.

a. Stormwater Improvement Allocation of Costs Proposed by Wauna.

The stormwater connection for Smith Tax Lots 1910, 1916, 1924, 1934, 1942, 1907 and 1913 only utilizes 95 linear feet of the overall 900 linear feet (11%) constructed by Wauna. These Tax Lots should only be subject to a proportionate share of no more than 11% of the overall cost of the project, because that is the amount of pipe that would be required to be installed to develop those lots. In other words, if those lots were being developed before Wauna, they would only have been required to construct 95 feet of this pipe.

The stormwater connection for Tax Lots 1925, 1931 and 3510 only utilizes 295 linear feet of the 900 feet total that was installed by Wauna. These Tax Lots should only be subject to a proportionate share of no more than 32% of the improvement costs.

b. Sewer Improvements Allocation of Improvement Costs Proposed by Wauna.

Smith does not need to connect at all to Wauna’s sewer line. Because Smith does not benefit from this line, the RID should not impose these costs on Smith.

B. The RID Methodology is Flawed and Unexplained.

The RID map at Page 177 targets Smith and two other properties but excludes other tax lots with no explanation of why that is rationale or fair as required by FGC 151.113.B and D. Further, the

50%/50% split of the sewer line costs excludes the two other lots without evidence that other lots will not benefit.

C. The Engineer's Report Does Not Examine the Costs of the Public Improvements Submitted by Wauna.

FGC 151.112.C and 151.113.D require that Wauna submit evidence as to the actual costs of the public improvements shown through receipts, invoices and similar documents and that the City Engineer analyze the costs. The Engineer's report at Page 176 states the purported actual costs but includes no evidence or analysis as to the costs' accuracy. Did Wauna spend the money it seeks to be reimbursed for? Were the costs reasonable? How do these costs compare to other recent similar projects? This evidence and analysis is needed before the City Council can approve the Engineer's Report.

D. Costs Recouped by Wauna in Other Ways Must be Deducted from the Costs that Wauna Seeks to Obtain Through the RID.

The Engineer's Report at Page 171 notes that Wauna and the City have entered into a Public Improvement Agreement (the "Agreement") for the construction of the two new public improvements. The Agreement is not in the record nor otherwise analyzed in the Engineer's Report. If the Agreement provides for City payments to Wauna, including System Development Charge ("SDC") credits, the City Council must deduct those costs from the costs sought from Smith by Wauna.

E. The RID is Not Proportional to the Benefits Derived by Smith.

The City Council's decision on the Engineer's Report and the RID Resolution is subject to the analysis under *Hill v. City of Portland*, ___ Or App ___ (2018), *Nollan v. California Coastal Comm'n*, 483 US 825 (1987) and *Dolan v. City of Tigard*, 512 US 374 (1994) holding that City actions must be "roughly proportional" to the impacts of a proposal. In this case, the City Council must apply these decisions by finding that what Wauna seeks and what the City Council may impose is disproportionate to the benefits that Smith would receive from the RID.

2. Conclusion.

The City Council should not accept the Engineer's Report until these issues have been resolved. A delay of the action on the Engineer's Report will allow Smith to work with the City Engineer to answer these questions and with Wauna to arrive at a fair and proportional RID that Smith can agree to.

Mr. Peter Truax, Mayor
August 10, 2020
Page 5

Thank you for your consideration of this letter.

Very truly yours,



Michael C. Robinson

MCR/jmhi

cc: Mr. Jesse Vanderzanden (*via email*)
Mr. Derek Robbins (*via email*)
Mr. Jesse Nemecek (*via email*)
Mr. Aaron Murphy (*via email*)
Mr. Chad Jacobs (*via email*)

PDX\133294\251057\MCR\28730694.1



February 5, 2021

Greg Robertson, Director of Public Works
City of Forest Grove, Oregon

via: grobertson@forestgrove-or.gov

RE: Proposed City Council Resolution 2021-06 "Wauna Credit Union Public Improvement Reimbursement District"

Mr Robertson,

It has been an enjoyable experience working with you and your staff on an important project that we are extremely proud of that will increase the needed housing supply and construction jobs in Forest Grove. Thank you for taking the time to discuss some of our concerns regarding the proposed utility Reimbursement District (RID). As we discussed, we have a number of concerns regarding this. From the moment that we learned of the magnitude of cost associated with the proposed RID, I was shocked at the values as they seemed an order of magnitude more than it should have been.

While it may not pertain exactly to the City of Forest Grove, I believe a little context to the history of these parcels is in order to better understand our position, if you will allow me the courtesy.

As you may or may not know, the collection of properties included in the proposed RID, specifically those owned by Fernhill Apartments, LLC and Wauna Federal Credit Union have had somewhat of a interesting past since 1997 when Albertson's started assembling properties to develop a new store. When the feasibility of this new store was failing to meet their requirements, Albertson's entered an agreement with Sterling Development in 2000 with the premise that Sterling would purchase Albertson's entire assemblage. A stipulation was added to that agreement that in the event that Sterling's due diligence failed, Albertsons would still sell an outparcel on the corner of the property with high visibility for commercial use. JCR Resources, LLC, another development company subsequently assumed Sterling's contract with Albertson's and notified Albertsons that they have concluded their due diligence and that the entire assemblage of properties was not feasible for them and demanded the aforementioned outparcel.

JCR and Albertson's negotiated the particulars of this outparcel for several years, and in 2005 a lot line adjustment was recorded that created the configuration of the parcel that Wauna eventually purchased. Perhaps utilities should have been extended then. Albertson's had owned the property for 8 years at this point, had completed their own due diligence of the properties and were well aware the outparcel wasn't served by utilities but at JCR's demand, they contractually followed through under the premise that all construction costs be borne by JCR because Albertson's intent was to get out from under their failing real estate position and had not budgeted for any construction. If JCR demanded the parcel, they would pay for the associated costs.



Subsequent negotiation occurred by the parties, each trying protect their and their successor's respective development opportunities. Neither party had a final plan yet, but in 2008 a final Restrictions and Easement Agreement was finalized and recorded that outlined the terms for development, binding upon "successors and assigns" in 7.2. Section 3.5 of this agreement was titled "Utility Lines and Facilities" and started out with section:

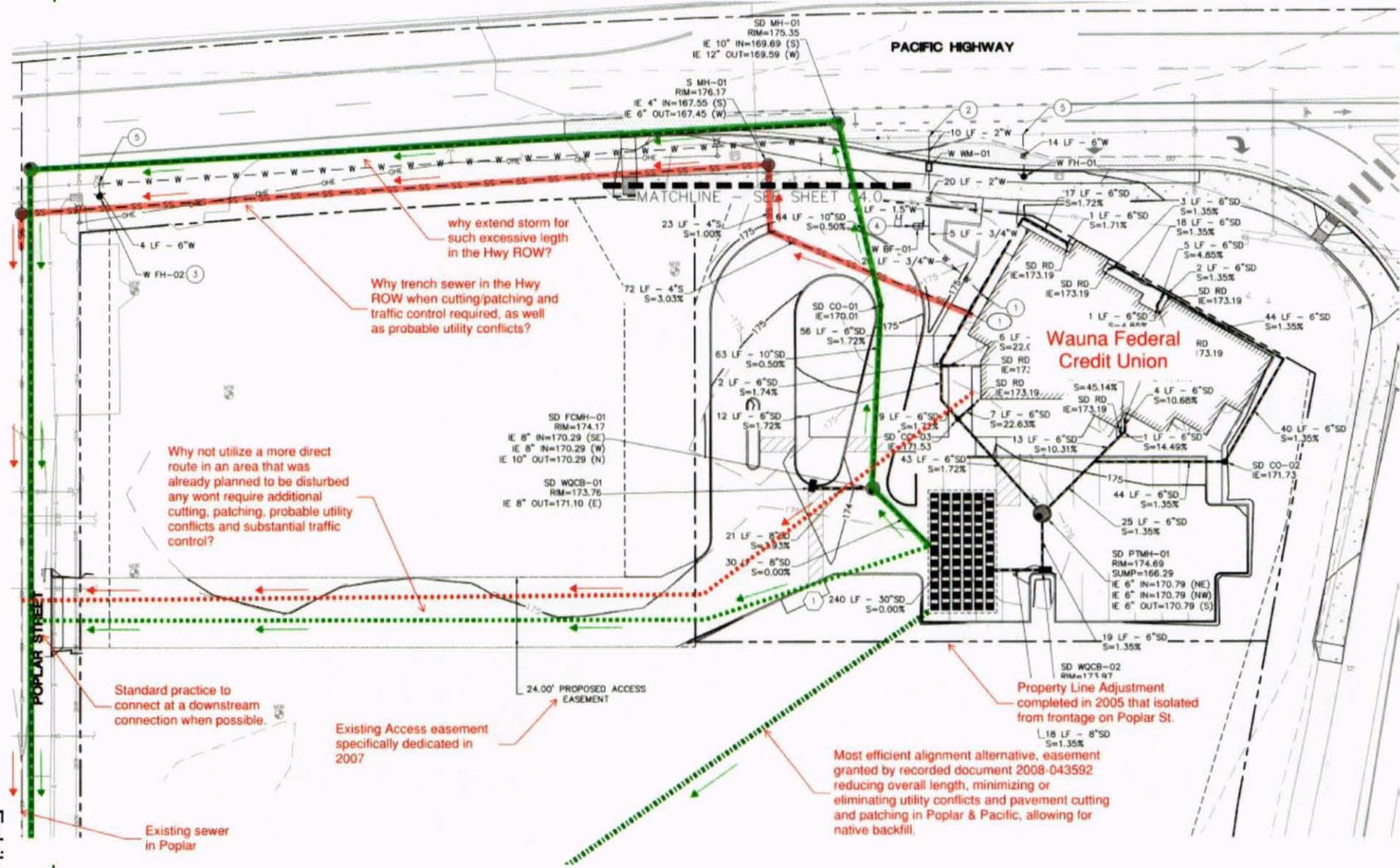
- (a) *Each Owner, as grantor, hereby grants to the other Owners, for the benefit of each Parcel belonging to the other Owners, as grantees, an nonexclusive easement under, through, and across the Common Area of such grantor's Parcel for the installation, operation, maintenance, repair and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, communication lines, pneumatic tube systems, electrical conduits or systems, gas mains and other public or private utilities or underground systems facilitating communication and/or coordination of business operations between two or more Parcels. Each Owner agrees to grant such additional easements as are reasonably required by any public or private utility for the purpose of providing the utility lines and facilities described herein, provided such easements are not inconsistent with the provisions of this agreement, and are located subject to the Owner's prior written consent, not to be unreasonably withheld, conditioned or delayed, in locations that will not interfere with, adversely affect or create additional costs for such Owner's development, operation or use of it's Parcel by Owner or tenants of Owner as developed or planned to be developed by the Owner requesting such easement(s)*
- (b) *All such systems, structures, mains, sewers, conduits, lines and other utilities shall be installed and maintained below the ground level or surface of such easements except for ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service (including, without limitation, temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any buildings, signs or Common Area improvements located on Parcel 1(JCR) and Parcel 2 (Albertsons)). Any such above ground facilities shall be located on the Parcel of the Owner installing such utility or service to the extent possible, and if there is no other commercially reasonable option and it must be located on the other Owner's Parcel, in a location on such Owner's Parcel consented to in writing by such Owner, which consent shall not be unreasonably withheld, conditioned or delayed. The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the improved Common Area or with the normal operation of any business located on such other Parcel. The grantee shall bear all costs related to the installation, operation, maintenance, repair and replacement of such easement facilities, shall repair to the original specifications any damage to the Common Area resulting from such use and shall provide as-built plans for all such facilities to the Owner of the Parcel upon which such utility lines and facilities are located within thirty (30) days after the date of completion of construction of same. The construction or installation of such facilities must be conducted so as not to unreasonably interfere with the conduct Of the business of such other Owner or such Owner's*



tenants and to the extent that such construction or installation unreasonably interferes with the conduct of business on such Owner or Owner's tenants the grantee Owner shall use reasonable efforts to have such work performed other than at the Owner or Owner's tenant's peak business times. The Owner using the other Owner's Parcel for the operation, construction or maintenance of such utility lines and facilities shall: (i) use reasonable efforts to minimize material impacts upon the business located on such Parcel; (ii) store equipment and materials at the end of the day in such a way as not to block drive isles or parking spaces on the other Owner's Parcel; (iii) fence or cover any open trenches in accordance with reasonable safety practices under such circumstances; (iv) complete such work or maintenance in a diligent manner and in a reasonable time period; and (v) not disturb, destroy, harm or otherwise damage any portion of the Parcel, except in connection with the construction, operation or maintenance of the utility lines and facilities; (vi) not permit any vehicles to block any portion of the drive isles on the Parcel; (vii) upon termination of the Owner's use of the Parcel, remove from the Parcel all of the Owner's personnel, property and materials, except those materials and equipment pertaining to the installation of the utilities of facility; and (viii) comply with in all respects with all applicable laws and ordinances.

Clearly, the agreement presumed that the development would proceed efficiently and economically, and would not require circuitous routing of utilities since JCR's parcel was located at the high-point of the site and not fronting public right of way with direct access to public storm or sewer (Poplar), thereby necessitating easements. Clean Water Services design standards specifically allow for public utilities to be located in easements outside of public right of way, and a substantial portion of CWS' Chapter 5 "Conveyance Design" is devoted to proper installation of sewer and storm conveyance in easements outside of right of way. This is commonly employed as a more economical approach for the installation of utilities, especially when asphalt cutting and patching is concerned, as well as the higher probability of conflicts with other utilities.

In light of this, why then was the decision made for Wauna Federal Credit Union, successor to JCR, to route their sanitary sewer service by extending the highest point of a nearby 10" line, trench into the highway, install a manhole, trench further into the highway, install another manhole before routing the pipe into their property? Or more substantially, why all of the additional length of trenching, pipe, pavement cutting, pavement patching and high-risk traffic control in the highway when a much more direct and substantially less expensive routes were legally and physically available? At face value, the only logical explanation that I can come to is that per the exact definition of the Restrictions and Easement Agreement, utilities that are installed in the easement area would be paid for solely by the party needing and installing them. However, if the utilities are installed in the public right of way, no matter how circuitous, hazardous, inefficient and expensive, might be eligible for a public Reimbursement District and were intentionally routed this way.



why extend storm for such excessive length in the Hwy ROW?

Why trench sewer in the Hwy ROW when cutting/patching and traffic control required, as well as probable utility conflicts?

Why not utilize a more direct route in an area that was already planned to be disturbed any wont require additional cutting, patching, probable utility conflicts and substantial traffic control?

Standard practice to connect at a downstream connection when possible.

Existing Access easement specifically dedicated in 2007

Existing sewer in Poplar

Property Line Adjustment completed in 2005 that isolated from frontage on Poplar St.

Most efficient alignment alternative, easement granted by recorded document 2008-043592 reducing overall length, minimizing or eliminating utility conflicts and pavement cutting and patching in Poplar & Pacific, allowing for native backfill.



Perhaps the reasoning is simply due to poor Engineering judgement or direction. However, I believe that that rationale is also why the methodology for determining SDC credit values for sewer or stormwater systems, the value calculated is simply the difference in value from what would originally have been needed for the development and what was up-sized to support other development, but ancillary items like pavement cutting or patching, utility relocations, etc are not included in the valuation partially because it is very difficult to determine if these were actually needed or if a better design would be needed. I firmly believe that substantially less risky and more efficient engineering solutions could have been employed in Wauna's utility extension project, and therefore costs associated with pavement restoration and water or gas line relocations at a minimum should be excluded from the RID valuation calculation.

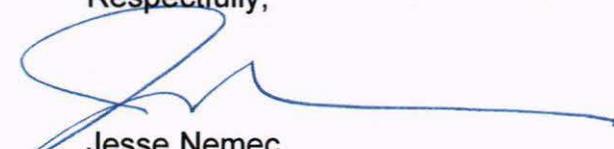
Speaking of System Development Charge credits, I believe that Wauna should have been eligible for SDC credits for up-sizing the storm line in Poplar Street for the 15" and 18" pipe sections. However, I'm somewhat surprised that the City would have required the upsizing of these pipes given that Clean Water Services requires stormwater detention systems for new development. We have requested a copy of Wauna's drainage report to further review the basin analysis and conveyance calculations, but are awaiting a copy from our public records request.

I am still concerned about the methodology for attributing cost contained in the Engineer's report. First, it is not well described, and the calculations can't be extrapolated without the corresponding spreadsheet, confusing calculations in future. You have assured both me and Pacific Development Holdings that if you don't connect to the system, then you don't pay into the RID when you develop. Therefore in order to be fair, the calculation for the methodology needs to utilize actual contributing stormwater basin area, not necessarily just property area.

All of these concerns should have been addressed ahead of time before assessing liabilities against the Reserve at Fernhill project. If we would have known that we had a liability of this magnitude we could have negotiated a price reduction with Albertsons. I was assured multiple times by City staff that you pay any RID allocations that might be due when the permit is purchased. Since our connection permits are already issued and paid for, and there were no viable RID allocations at the time, we have participated in all valid RIDs. I don't see how it would be appropriate for the City to retroactively apply a pending RID considering all of the above.

Please feel free to let me know if you should have any additional questions or comments, but I am confident that you will see the complications with proceeding with the RID as proposed.

Respectfully,



Jesse Nemec
Senior Development Manager



A place where families and businesses thrive.

**ENGINEERS REPORT
WAUNA CREDIT UNION
PROPOSED PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT
By: Gregory H. Robertson, P.E., AICP, CFM
Director of Public Works
September 27, 2021**

The Forest Grove Wauna Credit Union (WCU) at 3532 Pacific Avenue, has made application to enter into an agreement with the City for the establishment of a Reimbursement District associated with the construction of a new public storm service extension (improvement) to the site. Upon future development or redevelopment of properties within the District, the Applicant desires to recoup a portion of the cost of the storm service improvement. Pursuant to Ordinance No. 2011-02 and City Code sections 151.110 to 151.124, the objective of this report is to make a recommendation to Council as to the merit of establishing this Reimbursement District.

Engineering has evaluated an application from WCU and has determined that the storm water improvements proposed will benefit properties that are adjacent to the improvements when they develop. Therefore, the Applicant (WCU) may be entitled to recoup a portion of the improvement costs. City Code sections 151.110 to 151.124 requires the following specific information:

1. Whether the Public Improvement for which reimbursement is sought has capacity sufficient to allow use thereof by property other than property owned by the applicant;

The Applicant has constructed improvements that have sufficient capacity to serve properties other than that owned by the Applicant (see Section 4).

2. The area proposed to be included in the reimbursement district;

The Reimbursement District includes properties south of WCU on either side of Poplar Street (see Section 4). Owner names and tax lot details are on file and based on latest Washington County Assessor information (See Section 4).

3. The actual cost of the improvements within the area of the proposed Reimbursement District and the portion thereof for which the applicant should be reimbursed;

Table 1: Actual Project Cost (submitted by WCU)

	Description	Amount
	Storm (918 Lineal Feet)	
	Design	\$2,670
	Construction	\$260,196

	TOTAL	\$262,866
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4. A methodology for allocating the cost among the parcels within the proposed district and, where appropriate, defining a "unit" for applying the Reimbursement Fee to property which may be partitioned, subdivided or otherwise modified at some future date;

Improvements have the potential to benefit 17 tax lots; costs for extension were allocated to the tax lots based on what is shown below. The costs were distributed based on the lands current tax lot information. Property owner names and tax lot details are on file and based on latest Washington County Assessor information. This assessment is tied to, or runs with the land. The ownership details may change by the time of actual reimbursement collection.

The cost allocation method proposed for the reimbursement district will utilize the area method which is prorated to the improvement. Wauna Credit Union out of pocket expenditure \$262,866 consisting of a 12 inch, 15 inch and 18 inch stormwater main to accommodate the entire drainage basin (including the Reserve properties). The plans originally approved for the Reserve at Fern Hill Apartments, showed numerous connections to the stormwater main constructed by Wauna Credit Union, requiring the progressively larger main. However, the developer subsequently made design revisions to their internal stormwater management system, significantly reducing the need to utilize the Wauna Credit Union constructed stormwater main. JT Smith Co. argued that their benefit was significantly reduced and, therefore, their reimbursement district cost should be reduced, as well. In order to reconcile the differences and to be fair to all parties, an assumption was made that, because of the developer's design revisions, if the Reserve developer were to be the first to build, they would only be required to build the minimum 12 inch to serve the upstream properties. Progress billings provided by Wauna were examined. Relevant bid item unit rates were applied to match a similar alignment that the Reserve developer would have had to build. As a result, the total equivalent cost is \$191,652. Because of a lot consolidation recorded earlier this year, the proposed district of 9.54 acres now consists of five parcels.

Fern Hill Apartments:	6.78 acres
Wauna Credit Union:	0.64 acres
Fern Hill Apartments (Popeyes)	0.71 acres
Diego et al.:	0.12 acres
<u>Pacific Development Holdings</u>	<u>1.29 acres</u>
Total	9.54 acres

Reimbursement on a per acre basis is \$20,089.31. When applied on a per parcel basis as outlined above, the reimbursable amounts are listed below:



Poplar Street Storm Pipe Extension Reimbursement District

Property Total Amount To be Paid:

1S305BA00100	WAUNA FEDERAL CREDIT UNION	3532 PACIFIC AVE	\$12,857.16
1S305BA00401	DIEGO, JAIME & JUAN, CATARINA AN	1948 POPLAR ST	\$2,410.72
1S305BA01700	PACIFIC DEVELOPMENT HOLDINGS LLC	3424 PACIFIC AVE STE A	\$25,915.21
1S305BA02000	FERNHILL APARTMENTS LLC	1934 POPLAR ST	\$90,401.88
1S305BA00200	FERNHILL APARTMENTS LLC	3510 PACIFIC AVE	\$14,263.41
1S305BA03100	FERNHILL APARTMENTS LLC	1913 POPLAR ST	\$45,803.62
TOTAL			\$191,652.00

5. The period of time that the right to reimbursement exists;

Pursuant to City Code, the right to reimbursement exists for 10 years from the district formation date. Upon application for an extension, the City Council, at its sole discretion may authorize up to 10 more years, for total reimbursement period not to exceed 20 years.

6. Whether the improvements will meet or have met City standards;

The constructed improvements have been reviewed, inspected, and accepted by the City in accordance with City standards.



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CITY RECORDER USE ONLY:	
AGENDA ITEM #:	F. 3.
MEETING DATE:	11/22/2021
FINAL ACTION:	RESO 2021-59

CITY COUNCIL STAFF REPORT

TO: City Council

FROM: Jesse VanderZanden, City Manager

PROJECT TEAM: Greg Robertson, Director of Public Works

MEETING DATE: November 22, 2021

SUBJECT TITLE: Wauna Credit Union Proposed Public Improvement Reimbursement District

ACTION REQUESTED:	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Order	<input checked="" type="checkbox"/> X	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion	<input type="checkbox"/> Informational
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X all that apply

ISSUE STATEMENT:

Wauna Credit Union (WCU) has constructed public improvements and would like an opportunity to recover some of its costs pursuant to City Ordinance No. 2011-02 and City Code sections 151.110 to 151.124 (see attached). The purpose of this informational hearing is to consider WCU's request, the Engineer's Report, and hear public testimony. Staff is recommending the hearing be continued to December 13 to allow a major property owner to testify who was not able to attend the November 22 hearing.

BACKGROUND:

Originally, this agenda item was considered at the August 10, 2020, however was removed from the agenda at staff's request. This agenda item was considered on January 25, 2021 as Resolution 2021-06 and was tabled from the agenda to a date uncertain allowing staff and the property owners to address issues of mutual concern. During this time, staff has been working with the City Attorney and stakeholders to address the issues raised during public testimony. The result is a revised Engineers Report that seeks to address the concerns raised during public testimony and be fair to all parties.

In 2011, City Council adopted Ordinance No. 2011-02, which allows the City to create a process for development of reimbursement districts as a means to finance public improvements. The process is described in Sections 151.110 to 151.124 of the Forest Grove Municipal Code (see attached).

The City can form a reimbursement district when one party constructs and pays for certain infrastructure (sewer, water, storm, or street) that will benefit another property. If during the life of the reimbursement district (typically 10 years), the benefitted property owner makes use of the improvements, then reimbursement is due to the party that paid for and constructed the improvements. The benefitted property owner makes use of an improvement by connecting to sewer, water or storm pipelines included in the reimbursement district.

The process of establishing a reimbursement district includes preparation of an Engineers Report by the City Engineer. The Engineers Report outlines the costs of the improvement, the method of distributing the costs to the benefitting properties, the properties involved, and the details of the reimbursement agreement. The Engineer's Report is presented to the City Council at a public hearing and owners of property in the district are given the opportunity to provide input.

If the Engineer's Report is approved by City Council, a resolution is recorded against the properties in the reimbursement district. Reimbursements are collected by the City and turned over to the developer that constructed the improvements when property in the district develops or makes use of the improvements. See attached City Code section 151.110.



WCU was the first to construct in the proposed district. As a result, Clean Water Services required them to construct the storm sewer improvement "through and to" the nearest hook up point, in this case 19th Avenue. See the dashed green line in the drawing.

WCU constructed the storm service extensions through a Public Improvement Agreement with the City. WCU applied for a reimbursement district to potentially recoup some of its improvement costs from properties who would benefit by hooking up to the improvement and therefore not having to construct the

improvement themselves.

As mentioned earlier, the Engineer's Report contains the methodology to allocate the costs of the storm sewer improvements to benefitting property owners. The Engineer's Report submitted in January was met with concerns by an affected landowner about the costs of the improvements and the method to allocate those costs.

In response, the City met numerous times with affected property owners in an effort to find a fair and impartial method to allocate costs. These meetings yielded new information that was very helpful in narrowing the focus and scope of the proposed district. The City has also closely examined the costs and construction of the improvements to determine if they are within industry standard. The attached Engineer's Report, revised from the Engineer's Report submitted in January, reflects these discussions and analysis by containing a new method to allocate costs and updated costs.

The prior method to allocate costs was based on the costs of what was actually constructed by WCU, in this case an 18" storm sewer line. Because WCU was the first to construct in the area, the size of storm sewer line was based on an assumption that all adjacent property owners would utilize and benefit from it. The developer of Fernhill Apartments (Tax Lot Nos. 1S305BA02000; 00200 and 03100) raised concerns about the proposed district in January, revised their design to minimize their usage of the WCU storm sewer line, however, they have connected to the storm sewer line in multiple locations and are therefore benefitting from it. Further, the developer was advised of the proposed

reimbursement district prior to seeking City approval and their development was conditioned to participate in the reimbursement district once it is formed.

The revised methodology attempts to resolve this difference by recognizing that if the developer was the first one to develop instead of WCU, based on the developer's design, they would have had to extend storm water facilities along the same route as WCU but with a smaller sized pipe. The minimum accepted size that would have had to be constructed was 12 inches in diameter. In searching through the pay estimates provided by WCU, a bid item of this diameter and similar depth was found and used as the basis for calculating the costs in the Engineers Report. Using this methodology yielded a significantly reduced cost to be distributed among all the benefited properties, however, it also recognized that WCU installed improvements benefitting other properties. This reconciliation seeks to acknowledge fairness and impartiality to all parties involved in the proposed district.

STAFF RECOMMENDATION:

Per City ordinance, at the conclusion of the hearing, the City Council shall approve, reject, or modify the recommendations contained in the City Engineer's report and manifest its action in a resolution. If a Reimbursement District is established, the resolution shall include a copy of the City Engineer's report as approved or modified and specify that payment of the appropriate fee as determined by the Council for each parcel is a precondition to receipt of any city permit necessary for development of that parcel. The Reimbursement District is formed the date the Council adopts the resolution.

At the request of the attorney who represents the developer, see Attachment 4, staff recommends Council continue the hearing to December 13, 2021, to provide the opportunity to testify. This requires a motion by the Council to continue the hearing to the December 13, 2021 meeting.

ATTACHMENT(S):

Attachment 1 – Engineer's Report.

Attachment 2 – Resolution forming the proposed reimbursement district.

Attachment 3 – Supporting Pay Requests provided by Wauna Credit Union

Attachment 4 – Letter from Schwabe Williamson & Wyatt, representing JT Smith Companies, dated October 29, 2021

Attachment 5 – City Code excerpt concerning Reimbursement Districts

Continue
Hearing to
Dec 13, 2021



RESOLUTION NO. 2021-59

**RESOLUTION ON FORMATION OF A PROPOSED REIMBURSEMENT DISTRICT,
PURSUANT TO CITY CODE SECTIONS 151.110 THROUGH 151.124,
“WAUNA CREDIT UNION PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICT”**

WHEREAS, Wauna Credit Union constructed public improvements and desires an opportunity to recover some of its costs pursuant to Reimbursement Districts, Ordinance No. 2011-02, and Forest Grove Municipal Code (FGMC) sections 151.110 to 151.124; and

WHEREAS, the City gave notice of an informational public hearing to the applicant and all owners of property within the proposed District in which persons impacted by the creation of the Reimbursement District shall be given the opportunity to comment thereon; and

WHEREAS, the City Engineer, prepared a written report (Engineer’s Report) addressing formation of the proposed improvement reimbursement district and presented the Report to the City Council at the November 22, 2021 meeting; and

WHEREAS, the Engineer’s Report identified the specific properties that would be included in the reimbursement district, that will benefit from the improvement, as well as method of establishing a cost allocation for the benefiting properties; and

WHEREAS, because formation of a District does not result in an assessment or lien against a property, the hearing therefore is informational only and the District is not subject to termination as a result of remonstrances to the formation thereof; and

WHEREAS, after the public hearing, the City Council has the sole discretion to decide whether the District is to be formed or not. If a District is to be formed, a resolution approving and forming the Reimbursement District shall be adopted; and

WHEREAS, the City Council has considered the Engineers Report, the evidence in the record and public testimony in making a decision.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The Wauna Credit Union Public Improvement Reimbursement District as described in the Engineers Report is hereby approved and formed; and

Section 2. The cost of the reimbursement district, the specific parcels that are included in the reimbursement district and benefit from the improvement, as well the method for allocating the cost to the benefiting properties, is described in Attachment 1, Engineers Report; and

Section 3. The City shall notify all property owners within the District and the applicant of the adoption of this resolution. The notice shall include a copy of the resolution, date it was adopted and short explanation of when the property owner is obligated to pay the reimbursement fee and the amount thereof; and

Section 4. The City Recorder shall cause notice of the formation and nature of the Reimbursement District to be filed in the office of the County Recorder in order to provide notice to potential purchasers of properties within the District of its existence.

Section 5. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 22nd day of November, 2021.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 22nd day of November, 2021.

Peter B. Truax, Mayor

Anna Ruggles

From: Robinson, Michael C. <MRobinson@SCHWABE.com>
Sent: Friday, October 29, 2021 1:56 PM
To: Jesse VanderZanden
Cc: Jesse Nemec (jnemec@jtsmithco.com); Gregory Robertson; 'Christopher Crean'; Anna Ruggles; Hicks, Jane M.
Subject: My Client, JT Smith Companies; Letter to the City Manager Requesting that November 22, 2021 City Council Informational Public Hearing on the Reimbursement District be Continued so that Mr. Nemec Can Attend
Attachments: 10.29.2021 Letter to Forest Grove City Manager VanderZanden.PDF

Dear Mr. VanderZanden, attached is a letter on behalf of the JT Smith Companies requesting that the November 22, 2021 hearing be continued to the next available City Council meeting date so that Mr. Nemec can be available to attend. I have your City Attorney's authority to send this letter to you and Mr. Robertson.

Thank you. Mike

Michael C. Robinson

Shareholder

Direct: 503-796-3756

Mobile: 503-407-2578

mrobinson@schwabe.com

Schwabe Williamson & Wyatt

[Please visit our COVID-19 Resource page](#)



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Anna Ruggles

From: Debi Smiley <Debi.Smiley@waunafcu.org>
Sent: Friday, October 29, 2021 10:12 AM
To: Peter Truax
Subject: Wauna Credit Union



Hello Mr. Truax,

I understand that the Forest Grove City Council has recently reviewed Wauna CU's Proposed Reimbursement District information. I appreciate your review and consideration of this Reimbursement District. Wauna Credit Union partnered with the City of Forest Grove throughout the build project in 2019 to ensure we were good community partners and the undeveloped area was set up as desired for future development.

It is my understanding the reimbursement district proposal is scheduled to be on the agenda in an upcoming council meeting. I would appreciate the opportunity to have a moment of your time to discuss this further and answer any questions you may have.

I currently have time available Friday afternoon and Monday morning. However, I will definitely work around your schedule. Please advise of a timeslot that would work best for you.

Thank you,



Debi Smiley (she/her)
Chief Operations Officer – Inform • Inspire • Innovate
Wauna Credit Union | T 503-728-6116 | F 503-728-3042 | 800-773-3236 x3116
101 Truehaak | PO Box 67 | Clatskanie OR 97016 | waunafcu.org

Anna Ruggles

From: Debi Smiley <Debi.Smiley@waunafcu.org>
Sent: Monday, November 15, 2021 11:53 AM
To: Peter Truax
Subject: RE: Wauna Credit Union
Importance: High



Hello Mayor Truax,

I hope your Monday is going well and you were able to stay dry over the weekend.

I wanted to take a moment to better introduce myself. I am Debi Smiley, Chief Operations Officer at WCU. I have had the privilege of serving the members at WCU for the past 33 years. As a not for profit financial cooperative, Wauna Credit Union takes pride in providing local and relevant financial services to the membership and communities we serve. Our mission is to provide financial services that provide opportunities for the members to build their financial well-being. We are here to improve lives through financial health.

That is why we were excited to have the opportunity to serve the Forest Grove community members. We wanted to provide another financial choice from a truly local business. We understood that we would need to earn their business by offering services that meet their individual financial needs (e.g. low loan rates, deposit services, business accounts, ITIN Lending, to name a few) and provide the outstanding service they deserve.

As I noted below, we wanted to compliment the City of Forest Grove's growth objectives in place and developed a partnership with the City and its representatives. We partnered with Derek Robbins, James Reitz, and Jon Holan to ensure we were achieving the guidelines in place and meeting the development growth objectives set. And, I am excited to report we did meet these objectives and built a beautiful facility which we are very proud of.

I would truly appreciate the opportunity to visit with you prior to the upcoming council meeting scheduled for Monday, November 22nd. Does 11 am tomorrow, November 16th work for you? If yes, what is the best number I can reach you at? I see the number 503-992.3235 provided on the web site. Is that the number to use? Please advise.

If tomorrow does not work for you, I have the rest of the afternoon that day available. I also have time after 1 pm on Wednesday and Thursday as well.

If I could have a few minutes of your time, that would be truly appreciated.



Debi Smiley (she/her)

Chief Operations Officer – Inform • Inspire • Innovate

Wauna Credit Union | T 503-728-6116 | F 503-728-3042 | 800-773-3236 x3116
101 Truehaak | PO Box 67 | Clatskanie OR 97016 | waunafcu.org

From: Debi Smiley
Sent: Thursday, October 28, 2021 12:26 AM
To: 'ptruax@forestgrove-or.gov' <ptruax@forestgrove-or.gov>
Subject: Wauna Credit Union

Hello Mr. Truax,

I understand that the Forest Grove City Council has recently reviewed Wauna CU's Proposed Reimbursement District information. I appreciate your review and consideration of this Reimbursement District. Wauna Credit Union partnered with the City of Forest Grove throughout the build project in 2019 to ensure we were good community partners and the undeveloped area was set up as desired for future development.

It is my understanding the reimbursement district proposal is scheduled to be on the agenda in an upcoming council meeting. I would appreciate the opportunity to have a moment of your time to discuss this further and answer any questions you may have.

I currently have time available Friday afternoon and Monday morning. However, I will definitely work around your schedule. Please advise of a timeslot that would work best for you.

Thank you,



Debi Smiley (she/her)

Chief Operations Officer – Inform • Inspire • Innovate

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101 Truehaak | PO Box 67 | Clatskanie OR 97016 | waunafcu.org

Anna Ruggles

From: Debi Smiley <Debi.Smiley@waunafcu.org>
Sent: Monday, November 22, 2021 11:32 AM
To: City Councilors
Subject: Wauna Credit Union



Hello Council Members,

I hope your Monday is going well and you had an enjoyable the weekend.

I wanted to take a moment to introduce myself. I am Debi Smiley, Chief Operations Officer at WCU. I have had the privilege of serving the members at WCU for the past 33 years. As a not for profit financial cooperative, Wauna Credit Union takes pride in providing local and relevant financial services to the membership and communities we serve. Our mission is to provide financial services that provide opportunities for the members to build their financial well-being. We are here to improve lives through financial health.

That is why we were/are excited to have the opportunity to serve the Forest Grove community members. WCU has been serving local communities since 1967. We understood that we would need to earn the business of the Forest Grove community members by offering services that meet their individual financial needs (*e.g. low loan rates, great deposit services, online and mobile options, business accounts, ITIN Lending, to name a few*) and to always provide the outstanding service they deserve.

In addition, the team at Wauna Credit Union wanted to compliment the City of Forest Grove's growth objectives in place and developed a partnership with the City and its representatives. We partnered with Derek Robbins, James Reitz, Jon Holan, and Gregory Robertson to ensure we were achieving the building guidelines and wanted to assist in meeting the city's development growth objectives set. And, I am excited to report we did meet these objectives and built a beautiful facility which we are very proud of, along with the infrastructure requested to support the future development anticipated by the City of Forest Grove. We had visited with the Forest Grove city representatives from the onset regarding the value of these infrastructure efforts and the reimbursement program available to assist WCU with regards to the reimbursement of the initial development expenses incurred. As a financial cooperative, it was definitively a financial undertaking to take on the burden of these expenses and we appreciate that the reimbursement district is being reviewed and considered by the council members.

I wanted to extend my availability to anyone on the council who may have questions as to WCU's partnership and reimbursement program understanding.

Again, thank you for your consideration.



Debi Smiley (she/her)

Chief Operations Officer – Inform • Inspire • Innovate

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