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RESOLUTION NO. 2016-25

A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING AND ESTABLISHING THE “SE KEEL AVENUE SEWER REIMBURSEMENT DISTRICT.” REIMBURSEMENT DISTRICT PURSUANT TO LCMC CHAPTER 13.06 – REIMBURSEMENT TO CITY OF LINCOLN CITY

RECITALS

- A. On March 14, 2016, the City Council for the City of Lincoln City approved Resolution 2016-09, authorizing and establishing SE Keel Avenue Sewer Reimbursement District; and
- B. Pursuant to Oregon public contract law and Chapter 2.05 of the Lincoln City Municipal Code, the City solicited bids and caused to be constructed the improvements identified in Resolution 2016-09; and
- C. LCMC 13.06.030 D, mandates a second public hearing shall be conducted after construction of the improvements, if a reimbursement district is formed prior to the construction of the improvements; and
- D. After such required public hearing the City Council may modify the Resolution establishing the Reimbursement District to reflect the actual cost of the improvements to be allocated among the benefitted properties; and
- E. Pursuant to LCMC 13.06.020 the City Engineering Department prepared a revised Engineering Report, “City Engineer’s Report Updated with Construction Cost SE Keel Avenue Sanitary Sewer Reimbursement District June 28, 2016 (hereinafter “Updated Engineering Report”) said Updated Engineering Report being attached as **Attachment 1**, hereto and made a part hereof by this reference; and
- F. The original Engineer’s estimate of the project was \$75,000.00; the actual construction cost as verified and documented by City staff is \$70,797.25; the decrease (\$4,202.75) is proposed to be allocated among the 12 benefitted properties (decreasing cost by \$350.23 per connection from \$6,250.00 to \$5899.77 per connection)
- G. The Updated Engineering Report identifies the boundaries of the Reimbursement District as including the benefitted properties identified in Exhibit A to the Updated Engineering Report; and
- H. Council finds and determines that the Updated Engineering Report and supporting materials in the record support the fair share reimbursement formula pursuant to LCMC 13.06.065, to the City unbonded assessment fund from the benefitted property owners, subject to the terms and conditions of this Resolution and the City Code; and

- 1
2 I. The amount of the reimbursement pursuant to the Updated Engineering
3 Report for the twelve potential benefitted lots is modified to reflect actual
4 construction costs and established at \$5,899.77 per sewer connection service
5 to one dwelling unit (subject to administrative fee and interest as noted
6 herein). If more than twelve connections are made, the City shall recalculate
7 the reimbursement among the benefitted property owners; and
8
9 J. The Council finds and determines the reimbursement formula is fair and
10 equitable and will result in proportionate reimbursement to the City unbonded
11 assessment fund; and
12
13 K. Only one connection is permitted per legal lot and all lots shall be required to
14 pay per the referenced formula when such payment is triggered by City
15 ordinance [LCMC 13.06.065], including upon required connection [LCMC
16 13.12.160] to the sewer improvement identified herein; and
17
18 L. Pursuant to LCMC 13.06.030 on June 29, 2016, notice of a public hearing
19 before the City Council on July 11, 2016, was mailed, certified mail return
20 receipt requested, to each of the benefitted property owners; and
21
22 M. On July 11, 2016, the City Council conducted a public hearing and heard and
23 considered oral and written testimony on the proposed Reimbursement
24 District. The hearing was closed on July 11, 2016 and the record was closed on
25 July 11, 2016; and
26
27 N. After close of the hearing and the record, the Council, on July 11, 2016, after
28 due consideration and deliberation, finds and determines such improvements
29 to be constructed and dedicated to the public are of benefit to the City and all
30 property to be assessed reimbursement will be benefitted to the extent of the
31 amount identified in the Updated Engineers Report; and
32
33 O. The Council made no substantial modification to the findings or conditions in
34 the Updated Engineering Report or supporting documentation; Council
35 directed staff to prepare a Resolution approving the District; and
36
37 P. Accordingly, pursuant to LCMC 13.06.035 the City Council for the City of
38 Lincoln City elects to establish and approve the proposed SE Keel Avenue
39 Reimbursement District as described in the Updated Engineering Report.
40 Council further directs as a precondition to receipt of any city permit necessary
41 for development of the benefitted properties and as a precondition to any
42 additional connection whatsoever to the improvement identified herein, the
43 benefitted property owners, prior to their connection or connections in the
44 event of a land division, shall pay the City the identified reimbursement
45 amount(s) as calculated by the formula in the Updated Engineering Report,
46 together with an administrative fee of \$100 and interest at the rate of 2.5%
47 from the effective date of this Resolution; and

1
2 Q. Because this Reimbursement District formation is occurring prior to
3 construction of the improvement, a second public hearing is required pursuant
4 to LCMC 13.06.030.D. to make any adjustments to the reimbursement amount
5 after actual costs are known.
6

7 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**
8 **CITY OF LINCOLN CITY, AS FOLLOWS:**
9

10 **SECTION 1. INCORPORATION.** The above Findings and Recitals are true and
11 correct and are incorporated herein by this reference.
12

13 **SECTION 2. MODIFICATION OF ESTABLISHMENT OF DISTRICT.** Effective
14 upon satisfaction of the Conditions enumerated below, a Reimbursement District is
15 hereby created and shall consist of all the benefitted properties described in the
16 Exhibit A in the Updated Engineer's Report (**Attachment 1**), being attached hereto
17 and incorporated herein by reference. The District created herein shall be referred to
18 as the "SE Keel Avenue Sewer Reimbursement District."
19

20 **SECTION 3. CONDITIONS.** The establishment of the Reimbursement District is
21 contingent upon satisfaction of all the conditions identified in or incorporated into
22 Resolution 2016-09 and this Resolution.
23

24 **SECTION 4. ORDER ON CONNECTION.** The City Council orders and directs that
25 as a precondition to receipt of any city permit necessary for development of the
26 benefitted properties and as a precondition to any additional connection whatsoever
27 to the pressure sewer improvement identified herein, the benefitted property owners,
28 prior to triggering development [LCMC 13.06.065] or connection, shall pay to the
29 City their identified reimbursement amount pursuant to the appropriate Engineering
30 report formula together with an administrative fee of \$100.00 and interest at the rate
31 of 2.5% from the effective date of this Resolution. Further, in the event the City takes
32 over maintenance of sewer pumps approved for use on this system, the applicant and
33 any benefitted property owners on the system shall cooperate with the City to provide
34 legal access for maintenance by City staff. All benefitted properties are identified in
35 Resolution 2016-09 and Exhibit A to the Updated Engineering Report.
36

37 **SECTION 5. NO LIEN/ENFORCEMENT.** This Resolution does not impose a lien
38 against the benefitted properties; however, unlawful connection to the improvement
39 specified herein may be punished as a daily civil violation pursuant to City Code or as
40 felony or misdemeanor criminal mischief against a public utility under State law.
41

42 **SECTION 6. AGREEMENT.** The City of Lincoln City is the applicant for purposes of
43 the Reimbursement District. Accordingly an agreement with the applicant is
44 unnecessary. City nevertheless stipulated and agreed to Agreement terms as set forth
45 in in Resolution 2016-09, restated below:
46

- 1
2 A. The public improvement shall meet all applicable city standards, including
3 construction standards and location within a public right-of-way or easement;
4 Public Works shall conduct such inspections or tests within 60 days, and
5 accept or reject the improvements; and
6
7 B. City will ensure contractor, if any, warrants and guarantees for a period of one
8 year from the date of acceptance, the quality of the improvements dedicated to
9 the public; City will further require contractor, if any, to reimburse the City for
10 the cost of repair or replacement if during the warranty period the installation
11 is defective; and
12
13 C. Contractors shall agree to defend, indemnify and hold harmless the City of
14 Lincoln City, its officers, agents and employees from any and all losses, claims,
15 damage, judgments or other costs or expenses arising as a result of or related
16 to the City's construction of the Improvements and establishment of the
17 District; and
18
19 D. The applicant agrees that except as provided in LCMC 13.06.065 [Obligation to
20 Pay Reimbursement Fee] the City is *not obligated* to collect the
21 reimbursement fee from affected property owners; and
22
23 E. Consistent with LCMC 13.06.065 and LCMC 13.06.075, City shall reimburse
24 the City unbonded assessment fund, from payments received from benefitted
25 property owners for additional connections noted herein for the 10 year
26 reimbursement period, as well as a ten (10) year extension period [total
27 twenty (20) years] beginning on the effective date of this Resolution. The
28 Council may extend the Reimbursement period on its own motion as provided
29 in Chapter 13.06 by Resolution.
30
31 F. No SDC credit is awarded by this Resolution. All property owners must pay
32 SDC fees when triggered by City ordinance. If permitted by City Ordinance at
33 the time connection is sought, SDC installment payment is authorized for
34 sewer SDCs when connection is triggered by LCMC 13.12.160. Installments
35 shall be secured with financial security, made monthly for a period not to
36 exceed five years, at an interest rate consistent with Section 7 below.
37

38 **SECTION 7. ADJUSTMENT AUTHORIZED.** The City of Lincoln City shall annually
39 adjust the reimbursement amount on the anniversary date of the Council's resolution.
40 The adjustment shall be fixed and computed against the reimbursement fee as simple
41 interest and shall remain the same for each year the district exists. The interest rate
42 shall be (2.5%) percent. Cost of construction shall be subject to such increase, given
43 the formula set forth in the Updated Engineering Report.
44

45 **SECTION 8. NOTICE OF SEWER CONNECTION TRIGGERS AND RECORDING.**
46 The City Recorder shall notify all owners within the district as provided by LCMC
47 13.06.050. The City Recorder shall also cause notice of the formation and nature of

1 the Reimbursement District to be filed in Lincoln County official records in order to
2 provide notice to potential purchasers of property within the district boundaries. As
3 an alternative and if permitted by Ordinance the City may file a Notice of the
4 Reimbursement District in the City's electronic lien record. Failure to make such
5 recording shall affect neither the legality of the Resolution nor the obligation to pay
6 the fee. [LCMC 13.06.050 and LCMC 13.06.055] Owners and Purchasers: Be
7 Advised that LCMC 13.12.160 identifies mandatory connection triggers for
8 abandonment of septic systems and connection to sanitary sewer.

9
10
11 **SECTION 9. FINDINGS ADOPTED.** The City Council finds and determines the
12 public hearing, (conducted on July 11, 2016) was properly noticed and conducted.
13 The Council further finds the establishment of the Reimbursement District boundary
14 includes all directly benefitted properties, is logically configured based on topography
15 and engineering constraints, and is in the best interest of the city and the public. The
16 City further finds the allocation of the cost of the improvement is a logical and
17 reasonable allocation of costs (formula) based upon the benefits received by the
18 affected properties. The Council adopts the findings and competent evidence
19 contained in the entire record as supporting its conclusion that the improvements are
20 in the public interest of the City of Lincoln City.

21
22 **SECTION 10. EFFECTIVE DATE.** This resolution is effective as of the date of its
23 adoption and signature by the Mayor, provided the failure of satisfaction of the
24 Conditions identified herein shall render the Resolution null and void.

25
26 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 25th day
27 of July 2016.

28
29
30 
31 _____
32 DON WILLIAMS, MAYOR

33 ATTEST:

34
35 
36 _____
37 CATHY STEERE, CITY RECORDER

38
39 ATTACHMENT 1



FINAL CITY ENGINEER'S REPORT

SE KEEL AVENUE SANITARY SEWER REIMBURSEMENT DISTRICT

June 28, 2016

One property within the proposed Reimbursement District has a failing septic tank and requested sanitary sewer service. City is proposing to design and construct a low pressure sewer system to serve eleven existing lots that will be the area for establishing a reimbursement district.

Pursuant to the City of Lincoln City's Municipal Code of Ordinances Chapter 13.06, the City Engineer is submitting the following report pertaining to the formation of a reimbursement district.

Description of the Improvements

The Reimbursement District will construct a low pressure sanitary sewer system that will provide a sanitary sewer with a service lateral to each lot of record at the time of construction, with the exception of a City owned lot assumed to have two potential connections. Based on this definition, there are eleven lots that will be benefited by the construction of the sewer system, see Exhibit "A".

Location of the Improvements

See Exhibit "B" for a map showing the Reimbursement District Boundary.

Zoning for the Properties benefited by the Improvements

The properties being benefited are zoned (Residential-Multi-Family) R-M, see Exhibit "C". The minimum lot area shall be 5,000 square foot for a single-family dwelling and a minimum of 8,000 square foot for a duplex of first two units of a multifamily development. Higher density is allowed in the zone.

Reimbursement Cost

Within the reimbursement district there are eleven lots varying in size from 4,006 square feet to 14,998 square feet; the existing development pattern is single family residential dwelling. Staff is proposing each potential 5,000 square foot lot would be assessed a share in the project cost, Two of the lots have existing structures on them and would only be assessed one connection. Tax Lot 200 is owned by the City with two potential connections and tax lots 202 and 203 are owned by Lincoln County with a connection for each lot.

The estimated construction cost of sanitary sewer improvements within the reimbursement district is \$75,000.00. Divided by twelve potential connections, this equals approximately \$6,250.00 per connection to the system. This number is based on the estimated construction cost; actual construction cost will be used to calculate the final reimbursement amount.

On April 25, 2016 City Council awarded the construction contract in the amount of \$67,610.00 to K&E Excavating, Inc. The final construction cost was \$67,610.00 and the final project cost was \$70,797.25. The final cost per connection to the system is $\$70,797.25/12 = \$5,899.77$.

The final reimbursement cost per connection of \$5,899.77 is to reimburse the City for the cost to install the public sewer. The total cost to connect to the sewer system would also include:

- System Development Charges
- Inspection Fees/Permit Fees
- On-site construction costs for the pump and appurtenances
- Abandoning existing septic tank (if applicable)

City Engineer's Signature: *Stephanie Reid*

Date: *June 28, 2016*

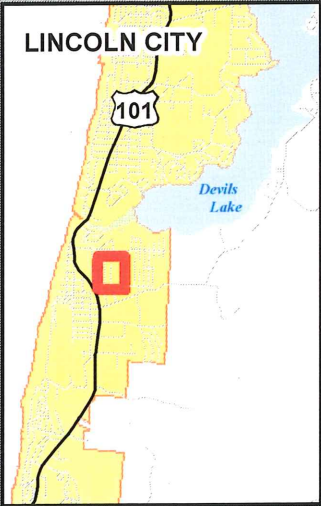
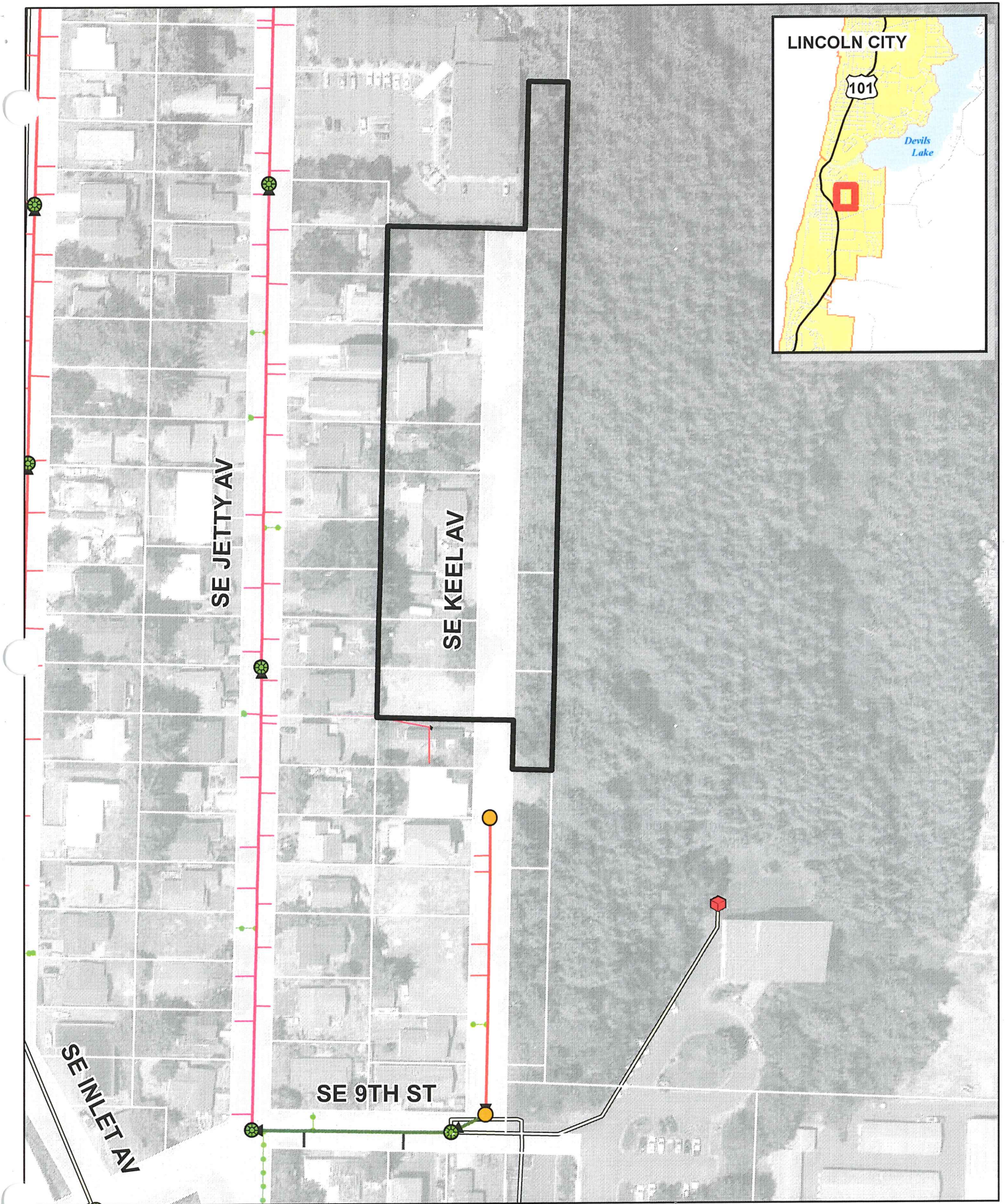
EXHIBIT "A"

REIMBURSEMENT DISTRICT PROPERTY OWNERS LIST

Tax Map	Tax Lot	Owner	Address	Lot Area (SF)	Potential Connections
7-11-15DA	200	Lincoln City	PO Box 50 Lincoln City, Or 97367	10,461.67	2
7-11-15DA	202	Heather Turpin	2065 Heather Stone Ct. NE Keizer, OR 97303	5,230.83	1
7-11-15DA	203	Heather Turpin	2065 Heather Stone Ct. NE Keizer, OR 97303	5,230.83	1
7-11-15DA	215	Kathy Wilson	31930 SE 44th St. Fall City, Wa. 98024	5,230.83	1
7-11-15DA	222	Robert Armstrong	960 SW Hwy 101 Lincoln City, Or. 97367	5,230.83	1
7-11-15DA	227	Robert Black & Colette Black	3220 Mason Ave. Las Vegas, Nv. 89102	5,230.83	1
7-11-15DA	228	Richard Meyers & Marie Meyers	PO Box 992 Lincoln City, Or 97367	5,230.83	1
7-11-15DA	229	Wally Kohl & Warna Kohl	3247 SW Beach Lincoln City, Or. 97367	5,230.83	1
7-11-15DA	230	Wally Kohl & Warna Kohl	3247 SW Beach Lincoln City, Or. 97367	5,230.83	1
7-11-15DA	231	David Sledz & Melissa Sledz	13706 SW Tamaway Ln Tigard, Or 97223	5,230.83	1
7-11-15DA	501	Gene Jones & Judy Jones	13308 NW 40th Vancouver, Wa. 98685	5,230.83	1

Total

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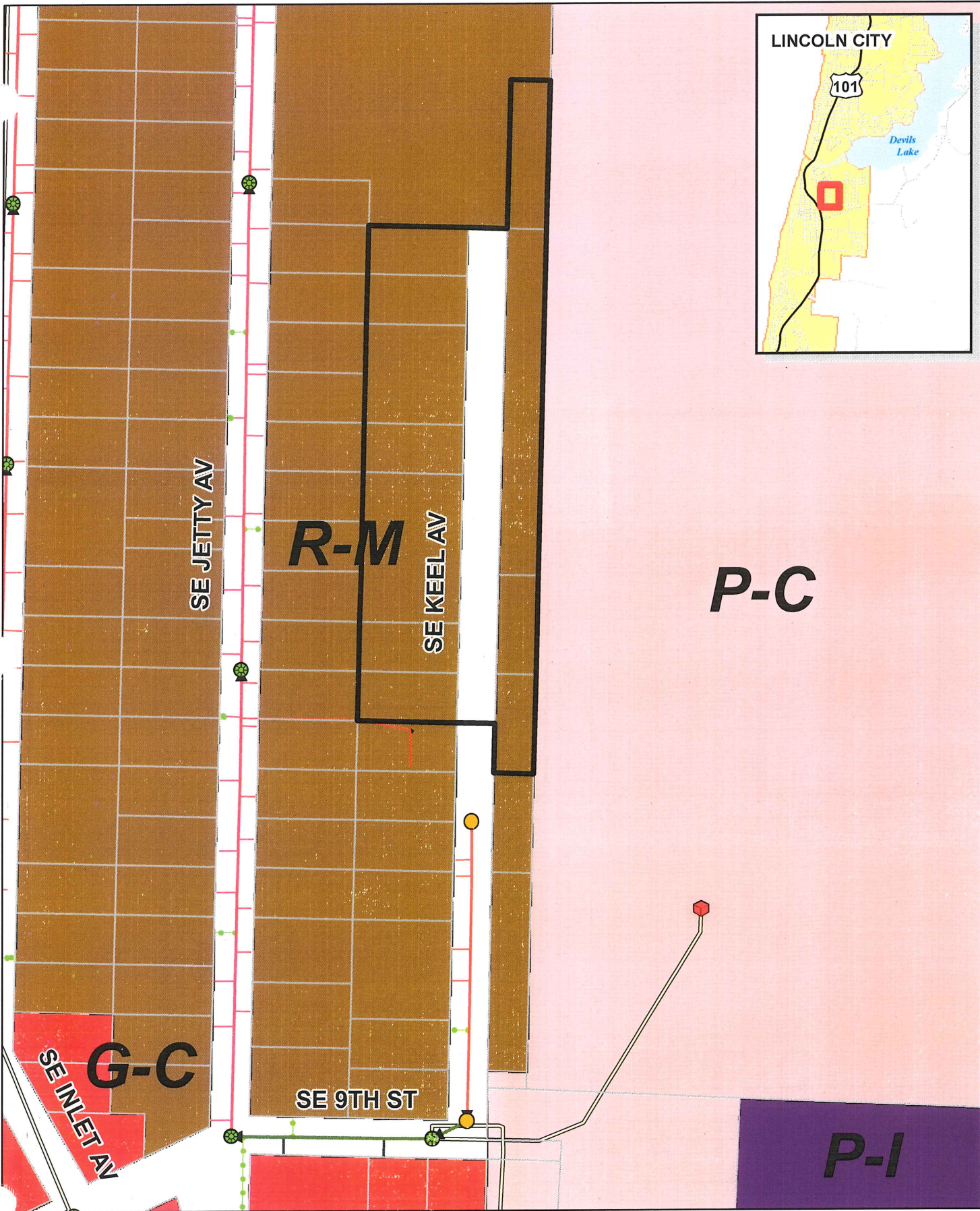
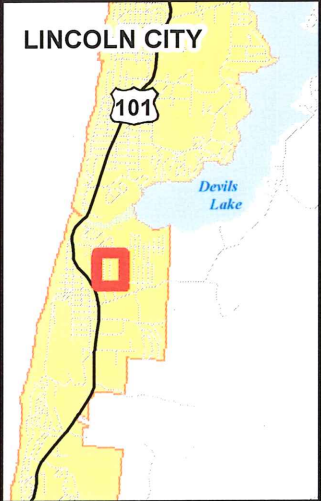


**SE Keel Ave Reimbursement District
Exhibit B - Boundary**

September 2015



.1 inch = 125 feet



**SE Keel Ave Reimbursement District
Exhibit C - Zoning**



- R-M Multi Family Residential
- P-C Professional Campus



1 inch = 125 feet

September 2015