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RESOLUTION NO. 2021-43

**A RESOLUTION OF THE CITY OF LINCOLN CITY ESTABLISHING A
REIMBURSEMENT DISTRICT PURSUANT TO LCMC CHAPTER 13.06 – PRIVATE
PARTY - NE 26th STREET SEWER REIMBURSEMENT DISTRICT**

RECITALS

- A. On August 5, 2021, the Public Works Department received an application for a Reimbursement District pursuant to LCMC Chapter 13.06 regarding a privately constructed low pressure sewer improvement; and
- B. As the construction of the improvement was completed, City public works staff worked with the applicant to verify, document and support the purported expenditures for the improvement, said improvement to be dedicated to the public, if the requested reimbursement district is approved; and
- C. Pursuant to LCMC 13.06.020 the City Engineering Department evaluated the application and supporting materials and prepared an Engineering Report, said report being attached as Attachment A, hereto and made a part hereof by this reference; and
- D. The Engineering report identifies the boundaries of the Reimbursement District as including the benefitted properties identified in Exhibit A & B to Attachment A, attached hereto and made a part hereof by this reference; and
- E. The Engineering Report and supporting materials in the record support fair share reimbursement pursuant to LCMC 13.06.065, to the private party applicant from the benefitted property owners, subject to the terms and conditions of this Resolution and the City Code; and
- F. The amount of the reimbursement pursuant to the Engineering Report is \$8,526.75 for each benefitted lot; eight lots shall be required to pay reimbursement when such payment is triggered by City ordinance [13.06.065], including upon connection to the sewer improvement identified herein; the applicant's lots, shall not be required to pay reimbursement; and
- G. Pursuant to LCMC 13.06.030 notice of an informational hearing before the City Council was mailed, certified mail return receipt requested, to each of the benefitted property owners; and

- 1
- 2 H. On September 27, 2021, the City Council conducted a public hearing; the
- 3 Council heard and considered oral and written testimony on the proposed
- 4 Reimbursement District and closed the hearing; and
- 5
- 6 I. After close of the hearing and the record, the Council, after due consideration
- 7 and deliberation, finds and determines that such privately constructed
- 8 improvements to be dedicated to the public are of benefit to the City and all
- 9 property to be assessed will be benefitted to the extent of the amount
- 10 identified in the Engineers Report; and
- 11
- 12 J. The Council made no substantial modification to the findings or conditions in
- 13 the Engineering Report or supporting documentation; Council directed staff to
- 14 prepare a Resolution approving the District; and
- 15
- 16 K. Accordingly, pursuant to LCMC 13.06.035 the City Council for the City of
- 17 Lincoln City elects to establish and approve the proposed Reimbursement
- 18 District as described in the Engineering Report and directs that as a
- 19 precondition to receipt of any city permit necessary for development of the
- 20 benefitted properties and as a precondition to any connection whatsoever to
- 21 the improvement identified herein, the benefitted property owners, prior to
- 22 their connection shall pay the City their identified reimbursement amount of
- 23 \$8,526.75 (per lot identified herein) together with an administrative fee of \$100
- 24 and interest at the rate of 2.5% from the effective date of this Resolution.
- 25

26 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**

27 **LINCOLN CITY, AS FOLLOWS:**

28

29 **SECTION 1. RECITALS.** The above recitals are true and correct and are incorporated

30 herein by this reference.

31

32 **SECTION 2. ESTABLISHMENT OF DISTRICT.** Effective upon satisfaction of the

33 Conditions enumerated below, a Reimbursement District is hereby created and shall

34 consist of all the benefitted properties described herein as well as described in

35 Attachment A, Exhibits A and B, both Exhibits being attached hereto and incorporated

36 herein by reference. The district created herein shall be referred to as the "NE 26th

37 STREET SEWER REIMBURSEMENT DISTRICT."

38

1 **SECTION 3. CONDITIONS.** The establishment of the Reimbursement District is
2 contingent upon satisfaction of all the conditions identified in or incorporated into
3 this Resolution, including but not limited to:

- 4
- 5 • Private party applicant's execution of an acceptance of the terms and
6 conditions of this Resolution within fifteen (15) calendar days of approval by
7 the Council; and
- 8
- 9 • Conveyance to the City of a standard public utility easement for the
10 improvement easement area within thirty (30) days of approval by the Council;
11 and
- 12
- 13 • Conveyance / Dedication without cost to the City of the private sewer
14 improvements, (bill of sale) within thirty (30) days of approval by the Council;
15 and
- 16
- 17 • Compliance with all applicable provisions of LCMC Chapter 13.06; and
- 18
- 19 • Satisfaction of any and all conditions and terms in the Resolution, Engineering
20 Report and supporting documentation.
- 21

22 **SECTION 4. ORDER ON CONNECTION.** The City Council orders and directs that as
23 a precondition to receipt of any city permit necessary for development of the
24 benefitted properties and as a precondition to any connection whatsoever to the
25 sewer improvement identified herein, the benefitted property owners, prior to
26 triggering development [LCMC 13.06.065] or connection, shall pay to the City their
27 identified reimbursement amount of \$8,526.75 (per lot identified herein) together
28 with an administrative fee of \$100.00 and interest at the rate of 2.5% from the
29 effective date of this Resolution. Further, in the event the City takes over
30 maintenance of sewer pumps approved for use on this low pressure system, the
31 applicant and any benefitted property owners on the system shall cooperate with the
32 City to provide access for maintenance by City staff. All benefitted properties are
33 identified in Attachment A, Exhibits A and B.

34

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

39

1 **SECTION 6. AGREEMENT.** The City of Lincoln City and applicant stipulate and agree
2 as follows:

- 3
- 4 A. This Agreement shall be effective only upon satisfaction of all conditions set
5 forth in this Resolution; and
- 6
- 7 B. The public improvement shall meet all applicable city standards, including
8 construction standards and location within a public easement; Public Works
9 shall conduct such inspections or tests within 60 days, and accept or reject the
10 improvements; and
- 11
- 12 C. Applicant warrants and guarantees for a period of one year from the date of
13 acceptance (see paragraph B. above) the quality of the improvements
14 dedicated to the public; Applicant further agrees to reimburse the City for the
15 cost of repair or replacement if during the warranty period the installation is
16 defective; and
- 17
- 18 D. The applicant agrees to defend, indemnify and hold harmless the City of
19 Lincoln City, its officers, agents and employees from any and all losses, claims,
20 damage, judgments or other costs or expenses arising as a result of or related
21 to the City's establishment of the District; and
- 22
- 23 E. The applicant agrees that except as provided in LCMC 13.06.065 [Obligation to
24 Pay Reimbursement Fee] the City is *not obligated* to collect the reimbursement
25 fee from affected property owners; and
- 26
- 27 F. Consistent with LCMC 13.06.065 and LCMC 13.06.075, City shall reimburse
28 Applicant from payments received from benefitted property owners for the ten
29 (10) year reimbursement period, beginning on the effective date of this
30 Resolution.
- 31
- 32 G. No SDC credit is awarded by this Resolution. All property owners must pay
33 SDC fees when triggered by City ordinance.
- 34

35 **SECTION 7. ADJUSTMENT AUTHORIZED.** The City of Lincoln City shall annually
36 adjust the reimbursement amount on the anniversary date of the Council's resolution.
37 The adjustment shall be fixed and computed against the reimbursement fee as simple
38 interest and shall remain the same for each year the district exists. The interest rate
39 shall be (2.5%) percent.

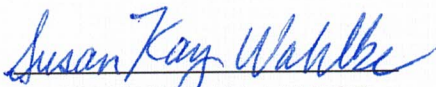
40

1 **SECTION 8. NOTICE RECORDING.** The City Recorder shall notify all owners within
2 the district as provided by LCMC 13.06.050. The Recorder shall also cause notice of
3 the formation and nature of the Reimbursement District to be filed in Lincoln County
4 official records in order to provide notice to potential purchasers of property within
5 the district boundaries. Failure to make such recording shall affect neither the legality
6 of the Resolution nor the obligation to pay the fee. [LCMC 13.06.050 and LCMC
7 13.06.055]

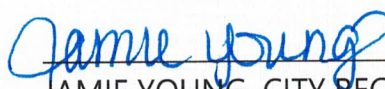
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9 **SECTION 9. FINDINGS ADOPTED.** The City Council finds and determines that the
10 public hearing, (conducted on September 27, 2021) was properly noticed and
11 conducted. The Council further finds that the establishment of the Reimbursement
12 District boundary includes all directly benefitted properties, is logically configured
13 based on topography and engineering constraints, is in the best interest of the city
14 and the public. The City further finds that the allocation of the cost of the
15 improvement is a logical and reasonable allocation of costs based upon the benefits
16 received by the affected properties. The Council adopts the findings and competent
17 evidence contained in the entire record as supporting its conclusion that the
18 improvements are in the public interest of the City of Lincoln City.

19
20 **SECTION 10. EFFECTIVE DATE.** This resolution is effective as of the date of its
21 adoption and signature by the Mayor, provided however, that the failure of
22 satisfaction of the Conditions identified herein shall render the Resolution null and
23 void.


24
25 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27th day of
26 September 2021.

27
28 
29 _____
30 SUSAN WAHLKE, MAYOR

31
32 ATTEST:

33
34 
35 _____
36 JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

37
38 
39 _____
RICHARD APPICELLO, CITY ATTORNEY

ATTACHMENT A – Engineer’s Report includes list of benefitted properties and
boundary Exhibits A and B and C respectively

CITY ENGINEER'S REPORT
NE 26th St (NE West Devils Lake Road to NE Yacht Ave)
SANITARY SEWER REIMBURSEMENT DISTRICT
August 20, 2021

An application has been submitted, pursuant The City of Lincoln City's Municipal Code, Chapter 13.06, for reimbursement of a completed, low pressure sanitary sewer main. During application NE 26th St, from NE Yacht to NE West Devils Lake Road was evaluated and determined to meet criteria for sanitary sewer service using a low pressure sewer system. The 2", High-Density Polyethylene (HDPE) sewer main was determined substantially complete & accepted by the city on December 8th, 2020 and supplies adequate capacity to serve the existing lots with additional capacity for future subdivision of fronting parcels.

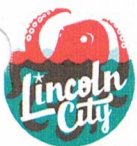
Eight (8) low-pressure sanitary sewer lateral connections have been provided with the reimbursement district and eight (8) lots directly benefit from construction of the sewer system.

Two (2) additional lots benefit but do not have frontage on the utility. These 2 "land locked" parcels have the same ownership as the adjacent lot fronting on the new sewer utility and utilize the fronting lot as access to the existing home. Taking this conjunctive use into consideration, only lots directly fronting the right-of-way & utility have been provided a connection and, solely for the purpose of assessment of the reimbursement amount, the "land locked" or "back lots" have been considered a part of the fronting lot.

See Exhibit "A" for listed property owners & tax lots.

Exhibit "B" includes a map showing the Reimbursement District Boundary.

Exhibit "C" includes a map of the area zoning; The properties benefitting are zoned (Single Family Residential-7,500sf) R-1-7.5.



City of Lincoln City | 801 SW Highway 101 | PO Box 50 | Lincoln City, OR 97367 | 541.996.2154
Public Works Department | lincolncity.org

To ensure equal access to City services, Lincoln City will reasonably modify procedures for person with disabilities. Call 541-996-1221, Oregon Relay 7-1-1, or visit the website with request.

The reported cost of improvements was \$68,214.00. This cost has been documented in the reimbursement district application, per LCMC 13.06.015[C] and found to be in compliance with the reimbursable costs outlined in LCMC 13.06.025

8 lateral connections have been provided: \$68,214.00 / 8 connections = \$8,526.75 per sewer connection for reimbursement. This number is based on the final construction cost.

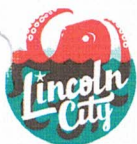
The \$8,526.75 per sewer connection is to reimburse the applicant for the cost to install the public sewer. The total cost for applicants to connect to the sewer system would also include:

Components of Property-Side Costs	Estimated Costs
System Development Charges	\$4,182.00 - Sewer only based on 5/8-inch water meter, 2021 rates
Inspection Fees/Permit Fees	\$100.00 Public Works Connection Inspection Fee
On-site construction costs for the pump and control panel	Pump and Control Panel cost is currently \$5,500.00 Installation cost will vary based on site conditions estimated to be \$8,000.00 - \$10,000.00
Abandoning existing septic tank	Estimated \$2,500, must remove or fill, cost will vary
Total Estimated Property-Side Costs	\$14,750.00 - \$17,000.00

City Engineer's Signature:

Date: *August 26, 2021*

Attachments: Exhibit A Property Owner List
 Exhibit B District Boundary
 Exhibit C District Zoning



City of Lincoln City | 801 SW Highway 101 | PO Box 50 | Lincoln City, OR 97367 | 541.996.2154
 Public Works Department | lincolncity.org

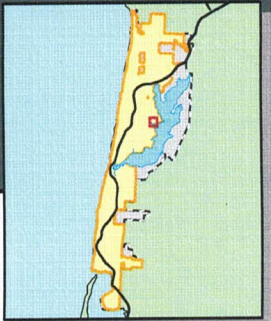
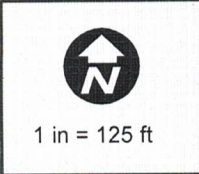
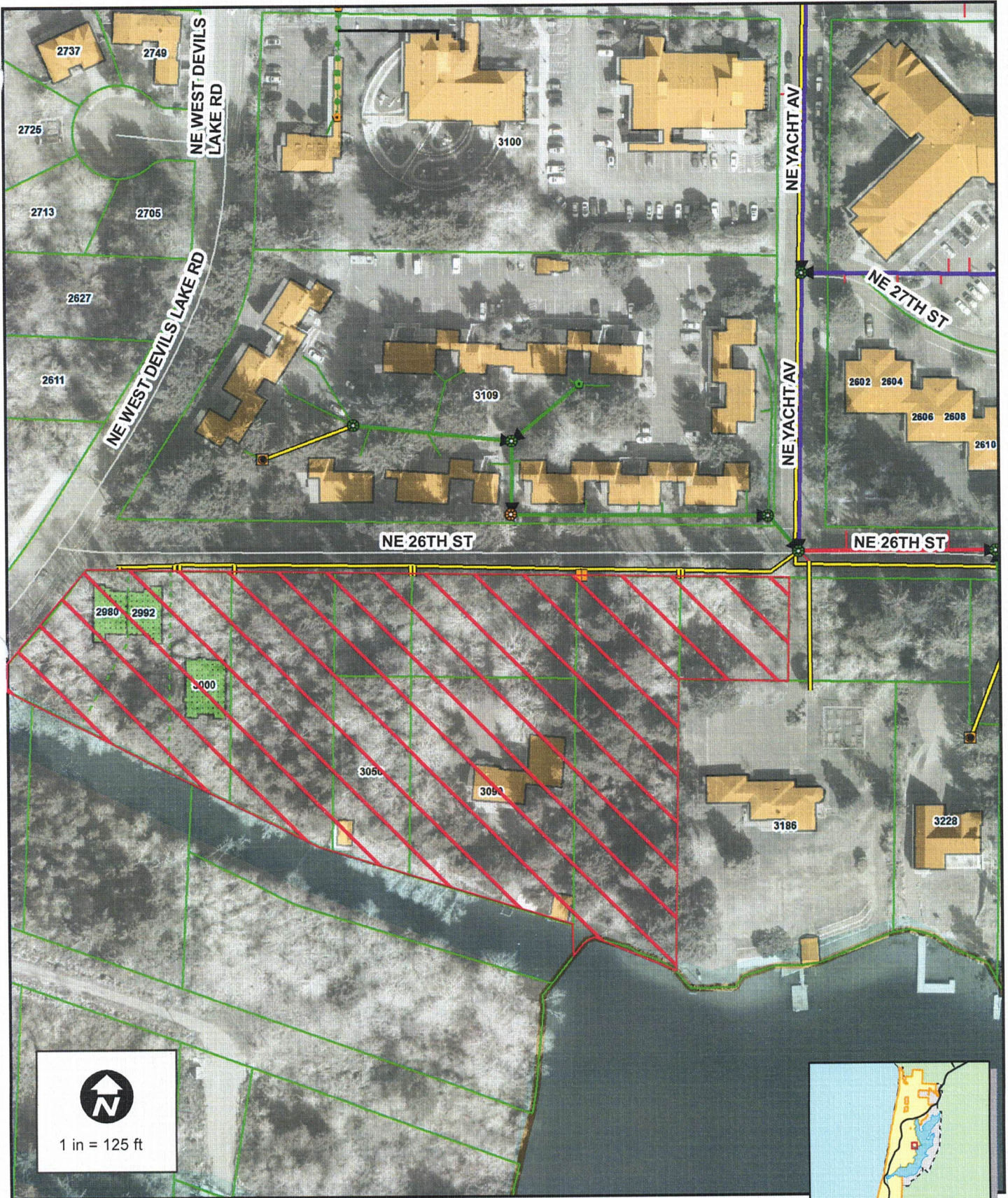
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EXHIBIT "A"

NE 26TH REIMBURSEMENT DISTRICT PROPERTY OWNER LIST

Tax Map	Tax Lot	Owner	Address	Lot Area (SF)	Provided Connections
7-11-11-AB	5902	Devils Paradise LLC	3025 SE 25th Ave Portland, OR 97202	10,527	1
7-11-11-AC	300	Olivia L Holt Trustee	28017 SW Strawberry Hill Dr Hillsboro, OR 97123	36,166	1
7-11-11-AB 07-11-11-AC	05071 301	Olivia L Holt Trustee	28017 SW Strawberry Hill Dr Hillsboro, OR 97123	50,301	1
7-11-11-AB 07-11-11-AC	05600 207	Carol Lynn Harris Trustee	8420 SW Canyon Lane #13 Portland, Or 97225	20,978	1
7-11-11-AC	210	Cary Dean Erkenbeck	1803 NE Laurelwood Loop Canby, OR 97013	24,678	1
7-11-11-AC	200	Nathan S Knott Trustee & Angie S Knott Trustee	PO Box 197 Otis, OR 97368	12,355	1
7-11-11-AC	215	Nathan S Knott Trustee & Angie S Knott Trustee	PO Box 197 Otis, OR 97368	10,000	1
7-11-11-AC	219	Nathan S Knott Trustee & Angie S Knott Trustee	PO Box 197 Otis, OR 97368	11,063	1

Exhibit B



Vicinity Map

City of Lincoln City government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date: 6/24/2021

Location

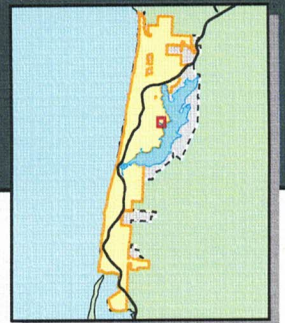
Exhibit C



Vicinity Map

City of Lincoln City government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date: 8/20/2021



Location

Notice of Reimbursement District Resolution Adoption – NE 26th

Dear Property Owners:

On September 27, 2021 the City Council held a public hearing and adopted Resolution 2021-43. This formed a Reimbursement District; your property is within this district. The notice of public hearing that was sent prior has been included for reference.

This improvement installed low-pressure sewer on NE 26th Street, between NE Yacht and NE West Devils Lake Road. Eight (8) lateral connections were also installed. The sewer line is a small diameter, low pressure main (2-inches in diameter) designed to work with a specific type of low-pressure/high head pumps (Environmental One or E-ONE is the manufacturer of this system).

This sewer line is now available to serve properties within the district. To connect to the new sewer system, property owners must install an E-ONE pump and controls and connect to the stub provided at the property line.

The cost of the improvement was recorded to be \$68,214.00. The improvement cost, divided by the eight (8) connections provided, results in a reimbursement fee of \$8,526.75 per connections ($\$68,214.00 / 8 = \$8,526.75$). This amount shall increase 2.5% per year in accordance with section 7 of resolution 2021-43.

The triggers in which a property must connect to the "installed sewer" are outlined in section 13.12.160 of the Lincoln City Municipal Code (LCMC). Additional triggers for payment of the reimbursement district fee are identified in LCMC 13.06.065. These are additionally summarized in section 4 of the attached resolution.

Attached to this letter is the City Engineer's Report which describes the improvements, identifies the properties within the District, and outlines how the Reimbursement Fee was calculated. Also attached is the City Resolution outlining the full reimbursement districts terms, and the notice of public hearing mentioned above.

If you have any questions and or would like to discuss, please call Lincoln City Public Works at (541)-996-2154 or email Sreid@lincolncity.org

Attachments: Public Hearing Notice
 City Engineer's Report
 Resolution 2021-43

October 13, 2021

Nathan & Angie Knott
PO BOX 197
Otis, OR 97368

RE: Resolution 2021-43 - NE 26th Reimbursement District, Reimbursement Agreement

Mr. and Mrs. Knott,

Please see the attached true and correct copy of City of Lincoln City - Resolution 2021-43, approved by City Council on September 27, 2021.

Please sign below to indicate that you have read and that you agree to the terms of the resolution and return a signed original to me in the self-addressed envelope included herein.

This acceptance shall fulfill the reimbursement agreement requirement, as outlined in LCMC section 13.06.040.

Section 3 and Section 6 outline specific conditions of the resolution that pertain to the reimbursement agreement.

Thank you,

Daniel Wentz
Engineering Technician III
City of Lincoln City

I have read and I agree to the terms of City of Lincoln City - Resolution 2021-43

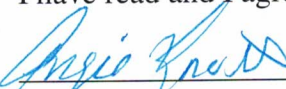


Nathan Knott

10/14/21

Date

I have read and I agree to the terms of City of Lincoln City - Resolution 2021-43



Angie Knott

10/14/21

Date

ATTACHMENTS: 1. City of Lincoln City - Resolution No. 2021 - 43
2. Notice of Reimbursement District Resolution Adoption - NE 26th