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RESOLUTION NO. 2015- 29

**A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING AND
ESTABLISHING THE “NE 19th STREET” REIMBURSEMENT DISTRICT
PURSUANT TO LCMC CHAPTER 13.06 – REIMBURSEMENT TO CITY OF
LINCOLN CITY**

RECITALS

- A. The City budget contains an unbonded assessment fund for the purpose of funding construction of local improvements; and
- B. The City received a request for an extension of sanitary sewer service in NE 19th Street between NE Oar and NE Port Avenue. The reason for the request is a failed septic system and unsuitable soils for septic systems in the area; and
- C. Staff recommends the City initiate, design and fund a sanitary sewer project consisting of a low pressure sewer system to service the area (hereinafter “the NE 19th Street Project”) from legally available funds and establish a reimbursement district to recover the cost; and
- D. On October 26, 2015, the Council at the request of the City Public Works Department initiated an application for a Reimbursement District pursuant to LCMC Chapter 13.06; and
- E. City staff estimates the project will cost approximately \$50,700; however, as the construction of the improvement is yet to be completed, City public works staff will verify, document and support the expenditures for the authorized improvement; and
- F. Pursuant to LCMC 13.06.020 the City Engineering Department prepared an Engineering Report, entitled “ City Engineer’s Report: NE 19th Street (NE Port to NE Oar) Sanitary Sewer Reimbursement District (hereinafter “Engineering Report”) said Engineering Report being attached as **Attachment 1**, hereto and made a part hereof by this reference; and
- G. The Engineering Report identifies the boundaries of the Reimbursement District as including the benefitted properties identified in Exhibit A to the Final Report; and
- H. Council finds and determines that the Engineering Report and supporting materials in the record support 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 I. The amount of the reimbursement pursuant to the Engineering Report for the
2 12 potential benefitted lots is established at \$4225.00 per sewer connection for
3 service to one dwelling unit (subject to administrative fee and interest as noted
4 herein). If more than twelve connections are made (e.g. a parcel legally
5 develops as multi-family), the City shall recalculate the reimbursement among
6 the benefitted property owners; and
7
- 8 J. The Council finds and determines that the reimbursement formula is fair and
9 equitable and will result in proportionate reimbursement (or credit) to the City
10 unbonded assessment fund; and
11
- 12 K. Only one connection is permitted per legal lot and all lots shall be required to
13 pay per the referenced formula when such payment is triggered by City
14 ordinance [13.06.065], including upon connection to the sewer improvement
15 identified herein; and
16
- 17 L. Pursuant to LCMC 13.06.030 on October 13, 2015 notice of an informational
18 hearing before the City Council on October 26, 2015 was mailed, certified mail
19 return receipt requested, to each of the benefitted property owners; and
20
- 21 M. On October 26, 2015, the City Council conducted a public hearing and heard
22 and considered oral and written testimony on the proposed Reimbursement
23 District. The hearing was closed on October 26, 2015, and the record was
24 closed on October 26, 2015; and
25
- 26 N. After close of the hearing and the record, the Council, on October 26, 2015,
27 after due consideration and deliberation, finds and determines that such
28 improvements to be constructed and dedicated to the public are of benefit to
29 the City and all property to be assessed reimbursement will be benefitted to the
30 extent of the amount identified in the Engineers Report; and
31
- 32 O. The Council made no substantial modification to the findings or conditions in
33 the Engineering Report or supporting documentation; Council directed staff to
34 prepare a Resolution approving the District; and
35
- 36 P. Accordingly, pursuant to LCMC 13.06.035 the City Council for the City of
37 Lincoln City elects to establish and approve the proposed "NE 19th Street
38 Reimbursement District" as described in the Engineering Report. Council
39 further directs that as a precondition to receipt of any city permit necessary for
40 development of the benefitted properties and as a precondition to any
41 additional connection whatsoever to the improvement identified herein, the
42 benefitted property owners, prior to their connection or connections in the
43 event of a land division, shall pay the City the identified reimbursement
44 amount(s) as calculated by the formula in the Engineering Report, together
45 with an administrative fee of \$100 and interest at the rate of 2.5% annually
46 from the effective date of this Resolution.
47

1 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**
2 **CITY OF LINCOLN CITY, AS FOLLOWS:**

3
4 **SECTION 1. INCORPORATION.** The above Findings and Recitals are true and
5 correct and are incorporated herein by this reference.

6
7 **SECTION 2. ESTABLISHMENT OF DISTRICT.** Effective upon satisfaction of the
8 Conditions enumerated below, a Reimbursement District is hereby created and shall
9 consist of all the benefitted properties described in the Exhibit A in the Engineer's
10 Report (**Attachment 1**), being attached hereto and incorporated herein by
11 reference. The District created herein shall be referred to as the "NE 19th Street
12 Reimbursement District."

13
14 **SECTION 3. CONDITIONS.** The establishment of the Reimbursement District is
15 contingent upon satisfaction of all the conditions identified in or incorporated into
16 this Resolution, including but not limited to:

- 17
- 18 • Completion of construction of the improvement in accordance with approved
19 plans as part of the NE 19th Street sanitary sewer project. All costs subject to
20 adjustment and modification based upon the permissible range of flexibility
21 set forth in Chapter 13.06; and
 - 22
 - 23 • Compliance with all applicable provisions of LCMC Chapter 13.06; and
 - 24
 - 25 • Satisfaction of any and all conditions and terms in the Resolution, Engineering
26 Report and supporting documentation.
 - 27

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

40
41 **SECTION 5. NO LIEN / ENFORCEMENT.** This Resolution does not impose a lien
42 against the benefitted properties; however, unlawful connection to the improvement
43 specified herein may be punished as a daily civil violation pursuant to City Code or as
44 felony or misdemeanor criminal mischief against a public utility under State law.
45

1 **SECTION 6. AGREEMENT.** The City of Lincoln City is the applicant for purposes of
2 the Reimbursement District. Accordingly and agreement with the applicant is
3 unnecessary. City does however stipulate and agree that:
4

- 5
- 6 A. The public improvement shall meet all applicable city standards, including
7 construction standards and location within a public right-of-way or easement;
8 Public Works shall conduct such inspections or tests within 60 days, and
9 accept or reject the improvements; and
10
- 11 B. City will ensure contractor, if any, warrants and guarantees for a period of one
12 year from the date of acceptance, the quality of the improvements dedicated to
13 the public; City will further require contractor, if any, to reimburse the City for
14 the cost of repair or replacement if during the warranty period the installation
15 is defective; and
16
- 17 C. Contractors shall agree to defend, indemnify and hold harmless the City of
18 Lincoln City, its officers, agents and employees from any and all losses, claims,
19 damage, judgments or other costs or expenses arising as a result of or related
20 to the City's construction of the Improvements and establishment of the
21 District; and
22
- 23 D. 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
25 reimbursement fee from affected property owners; and
26
- 27 E. Consistent with LCMC 13.06.065 and LCMC 13.06.075, City shall reimburse
28 the City unbonded assessment fund, from payments received from benefitted
29 property owners for additional connections noted herein for the ten (10) year
30 reimbursement period, as well as a ten (10) year extension period [total
31 twenty (20) years] beginning on the effective date of this Resolution. The
32 Council may extend the Reimbursement period on its own motion as provided
33 in Chapter 13.06 by Resolution.
34
- 35 F. No SDC credit is awarded by this Resolution. All property owners must pay
36 SDC fees when triggered by City ordinance.
37

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

45 **SECTION 8. NOTICE OF SEWER CONNECTION TRIGGERS/RECORDING.** The
46 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.
3 Failure to make such recording shall affect neither the legality of the Resolution nor
4 the obligation to pay the fee. [LCMC 13.06.050 and LCMC 13.06.055] Owners and
5 Purchasers: Be Advised that LCMC 13.12.160 identifies triggers for abandonment of
6 septic systems and connection to sanitary sewer.
7

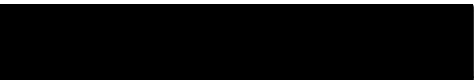
8 **SECTION 9. FINDINGS ADOPTED.** The City Council finds and determines that the
9 public hearing, (conducted on October 26, 2015) was properly noticed and conducted.
10 The Council further finds that the establishment of the Reimbursement District
11 boundary includes all directly benefitted properties, is logically configured based on
12 topography and engineering constraints, is in the best interest of the city and the
13 public. The City further finds that the allocation of the cost of the improvement is a
14 logical and reasonable allocation of costs (formula) based upon the benefits received
15 by the affected properties. The Council adopts the findings and competent evidence
16 contained in the entire record as supporting its conclusion that the improvements are
17 in the public interest of the City of Lincoln City.
18

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

24 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of
25 November, 2015.
26

27 
28 _____
29 DON WILLIAMS, MAYOR
30

31 ATTEST:

32 
33 _____
34 CATHY STEERE, CITY RECORDER
35
36
37
38

39 ATTACHMENT A



CITY ENGINEER'S REPORT

NE 19th Street (NE Port to NE Oar) SANITARY SEWER REIMBURSEMENT DISTRICT

October 13, 2015

A property owner on NE 19th Street has an existing septic system that is fast approaching the end of its useful life. The property owner approached the City requesting sanitary sewer service be made available. City staff determined this area is eligible for sanitary sewer service using a low pressure sewer system. We are proposing to construct such a system to serve eight existing lots on NE 19th Street. This area would then become a sanitary sewer reimbursement district.

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

Description of the Improvements

The City will construct a low pressure sanitary sewer system that will provide sanitary sewer service to the properties along NE 19th Street between NE Port and NW Oar. Each existing lot at the time of construction will be provided with a service lateral to their property line. There are 8 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.

"PRIDE IN SERVICE"

P.O. Box 50 801 SW Hwy 101
Lincoln City, OR 97367

Phone (541) 996-2154
Fax (541) 994-4881

Cost

The estimated cost of the public portion of the sanitary sewer improvements in the reimbursement district is \$50,700.

Reimbursement Cost

Within the reimbursement district there are 8 lots varying in size from 4,997 square feet to 10,289 square feet, with the development pattern being single family dwelling. The City is proposing each potential 5,000 square foot lot would be assessed a share in the project cost payable only if or when the property is connected to the sewer system. There are potentially 12 lots or \$50,700 /12 lots = \$4,225 per sewer connection for reimbursement. This number is based on the estimated construction cost, actual construction cost will be used to calculate the final reimbursement amount. The estimated \$4,225 per sewer connection 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)

Period

The reimbursement district shall exist for 10 years but can be extended by City Council following a public hearing.

City Engineer's Signature: Stephanie Reid

Date: October 13, 2015

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

“PRIDE IN SERVICE”

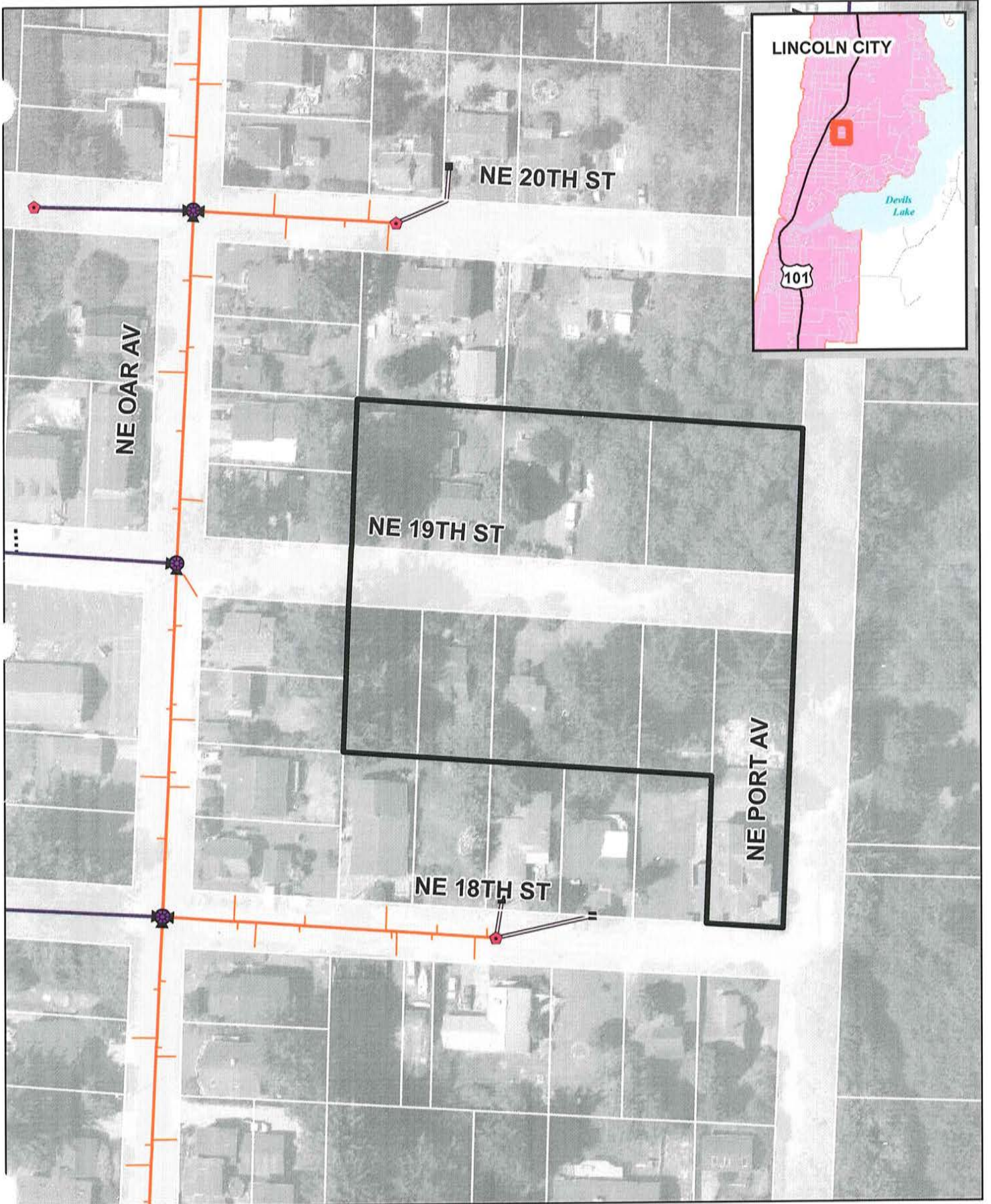
P.O. Box 50 801 SW Hwy 101
Lincoln City, OR 97367

Phone (541) 996-2154
Fax (541) 994-4881

EXHIBIT "A"

REIMBURSEMENT DISTRICT PROPERTY OWNERS LIST

Tax Map	Tax Lot	Owner	Address	Lot Area (SF)	Potential Connections
7-11-10DA	2700	Aaron Smith	2684 NE Lee Ave, City, Or 97367	10,000.00	2
7-11-10DA	2800	Kurt & Meredith Olsen, Randall & Teri Sawyer	603 S. Anderson Creek Rd. Lincoln City, Or 97367	10,000.00	2
7-11-10DA	2900	Kurt & Meredith Olsen, Randall & Teri Sawyer	603 S. Anderson Creek Rd. Lincoln City, Or 97367	10,289.00	2
7-11-10DA	3000	Donald Horn	8420 SW Canyon Lane #13 Portland, Or 97225	4,997.00	1
7-11-10DA	3100	Vicky & Alan Peters	37100 NE Willsonville Rd. Newberg, Or 97132	9,994.00	2
7-11-10DA	3200	Della Park, Trustee	1326 SE 2nd Court Lincoln City, Or 97367	4,997.00	1
7-11-10DA	3300	James Allm & Jennifer Purkey	395 SE Cowl's St. McMinnville, Or 97128	4,997.00	1
7-11-10DA	3900	Gordon French II Trustee & Patricia French, Trustee	3501 NE 3rd Ave Camas, Wa 98607	5,000.00	1

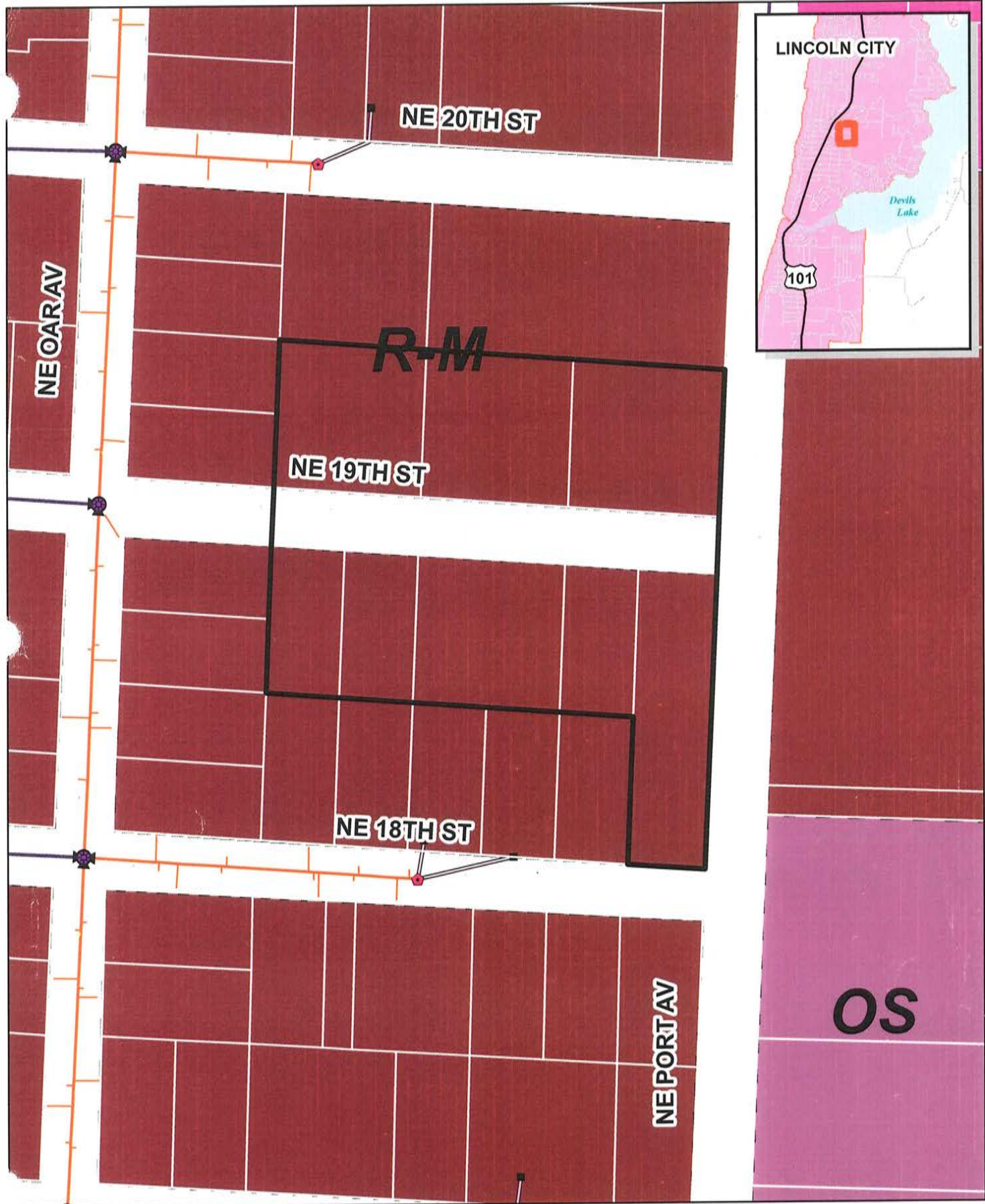


**NE 19th St - Oar to Port Reimbursement District
Exhibit B - Boundary**

September 2015



1 inch = 84 feet



**NE 19th St - Oar to Port Reimbursement District
Exhibit C - Zoning**



R-M Multi Family Residential
 September 2015



1 inch = 84 feet