

EXHIBIT D



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JAN 24 2014
TRANSPORTATION



Steve
Novick
Commissioner

Leah Treat
Director

**LOCAL IMPROVEMENT DISTRICT PETITION
AND WAIVER OF REMONSTRANCE
FOR NORTH VANCOUVER AVENUE & COOK STREET
TRAFFIC SIGNAL IMPROVEMENTS**

PARTIES: City of Portland
Local Improvement District Program
1120 SW Fifth Avenue, Suite 800
Portland, OR 97204

“CITY”

AND

CTC Gregory LLC
388 Pearl Street
Eugene, OR 97401

“CTC GREGORY”

DATED: January 15, 2014

RECITALS

- A. The Portland Bureau of Transportation prepared a cost scope and estimate for installing a mast arm traffic signal at the North Vancouver Avenue and Cook Street intersection on December 2, 2013. The intersection is currently not signalized, but due to vehicle crash history, this intersection may need to be converted to an all-way stop in the absence of funding and constructing traffic signal improvements. All funding will be provided by the North Vancouver Avenue and Cook Street Local Improvement District (“LID”). Properties benefitting from traffic signal improvements will be assessed on an equal shares basis, with each assessment zone having a different assessment rate per equal share per property owners’ findings of special benefit in a property owner meeting held on December 4, 2013. All references to traffic signal improvements herein will also include by reference necessary civil engineering and construction work on North Cook Street between the I-405 freeway off-ramp and North Vancouver Avenue.
- B. Assessment Zone ‘A’ will have an estimated assessment rate of \$5,000.00 per equal share apportioned to 32 equal shares for an estimated assessment total of \$160,000.00 in Assessment Zone ‘A’, which will fund all costs of the project up to \$160,000.00. Five (5) assessable properties included in this Assessment Zone are State ID #1N1E27AB 400, twelve (12) equal shares; State ID #1N1E27AB 401, six (6) equal shares; State ID #1N1E22DC 14100, 1 equal share; State ID #1N1E22DC 14200, 1 equal share; and State ID #1N1E27AC 200, twelve (12) equal shares.

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An Equal
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To ensure equal access, the Portland Bureau of Transportation will make accommodations in full compliance with Title VI of the Civil Rights Act of 1964, the ADA Title II, and related statutes and regulations in all programs and activities. For accommodations and additional information, and complaints, contact the Title II and Title VI Coordinator at Room 1204, 1120 SW Fifth Ave., Portland, OR 97204, or by telephone 503-823-5185, City TTY 503-823-6868, or use Oregon Relay Service: 711.

- C. Assessment Zone 'B' will have an estimated assessment rate of \$83,582.63 or \$83,582.64 per equal share apportioned to 4 equal shares for an estimated assessment total of \$334,330.54 in Assessment Zone 'B', which will fund all costs of the project in excess of \$160,000.00 less funding, if any, by Assessment Zone 'D'. Four (4) assessable properties included in this Assessment Zone are State ID #1N1E27AB 400, one (1) equal share; State ID #1N1E27AB 401, one (1) equal share; State ID #1N1E22DC 14100; 1 equal share; State ID #1N1E22DC 14200, 1 equal share; and State ID #1N1E27AC 200, one (1) equal share.
- D. Assessment Zone 'C' will have an estimated assessment rate of zero and will not fund the traffic signal improvements. Properties in this Assessment Zone are included only for the purpose of potentially voluntarily funding electrical undergrounding improvements in the public right-of-way.
- E. Assessment Zone 'D' will have an estimated assessment rate of zero unless the property owner elects to voluntarily fund the traffic signal improvements and specifies the amount of this voluntary contribution. Any contribution amount will be apportioned to 2 equal shares, which will fund all project costs in excess of \$160,000.00 up to \$160,000.00 plus the amount funded by Assessment Zone 'D'. For example, if the property owner elects to fund \$60,000 towards the traffic signal, then the estimated assessment rate will be \$30,000 per equal share, and this assessment zone will fund all project costs between \$160,000.00 and \$220,000.00 with Assessment Zone 'B' covering all project costs in excess of \$220,000.00. Two (2) assessable properties included in this Assessment Zone are State ID #1N1E27AB 10600, one (1) equal share; and State ID #1N1E27AB 1600, one (1) equal share.
- F. All estimated assessments are voluntary during the petition phase, but may not be rescinded or reduced upon Council passage of the LID Formation Ordinance.
- G. System development charge (SDC) credits will be offered to the maximum extent allowed under Oregon law; however, such SDC credits will be offered only to properties in Assessment Zone 'B'.
- H. This Assessment Zone 'A' property is described on the attached Exhibit A, is within the LID boundary, receives special benefit from the LID and is subject to a future assessment for the LID. The estimated project assessment for the work ("Project Work") for this property is \$60,000.00 based on apportionment of 12 equal shares at \$5,000.00 per equal share in Assessment Zone 'A'.
- I. CTC Gregory, through this Agreement, agrees to the assessment by the LID. The amount not to exceed is \$60,000.00.

- J. The owner of any property within the boundary of the LID may voluntarily fund design and construction electrical undergrounding improvements in the public right-of-way by allowing the Portland Bureau of Transportation ("PBOT") to perform this work and contract with Pacific Power as necessary at the direction of the Local Improvement District Administrator ("LID Administrator"). These improvements may be required as a condition of development or may be done for aesthetic improvement to the property in the absence of such a requirement. Electrical undergrounding work is not budgeted in the LID and will be additional work added to the scope of the LID ("Extra Work"). Once the Extra Work Agreement is executed, it may not be rescinded or the amount reduced by the property owner.
- K. Project and Extra Work costs will be eligible for 5, 10 and 20-year financing upon final assessment currently anticipated to occur in spring 2015.

AGREEMENT

THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. City and CTC Gregory agree that formation of this LID fulfills a future obligation for signalization of the North Vancouver Avenue and Cook Street intersection which otherwise may be required.
2. The project scope to be performed by PBOT includes the following work, and CTC Gregory hereby petitions in favor of such work:
 - a. Install a new mast arm traffic signal at the intersection of North Vancouver Avenue and Cook Street; and
 - b. Perform necessary civil work to realign North Cook Street from the Interstate 405 off-ramp to North Vancouver Avenue to properly align this block for eastbound traffic continuing east on North Cook Street to North Williams Avenue.
3. The project scope to be performed by PBOT does not include electrical undergrounding, unless such work is funded by subsequent Extra Work Agreement.
4. CTC Gregory will pay these LID costs, the cost of which will be assessed to CTC Gregory as part of the LID. CTC Gregory's share of these LID costs shall not exceed \$60,000.00.
5. CTC Gregory agrees to the LID waivers, terms and conditions as set forth on Exhibit B, incorporated herein by this reference.

Agreed to as of the date set forth ~~APPROVED~~ **APPROVED AS TO FORM**

CITY OF PORTLAND


CITY ATTORNEY

Approved as to Form:

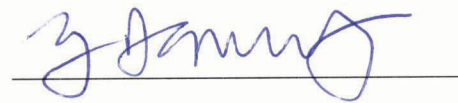
MEM
Harry Auerbach
Acting City Attorney

By:

Andrew H. Aebi 11/28/14
Andrew H. Aebi
LID Administrator

CTC GREGORY

By:



Its:

Manager

EXHIBIT A

PROPERTY DESCRIPTION
Assessor Data Updated December 2, 2013

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General Information

Property ID R308619

County MULTNOMAH

State ID 1N1E27AB 400

Alt Account # R916401110

Map Number 2730 OLD

Site Info

Site Address 3445 N WILLIAMS AVE

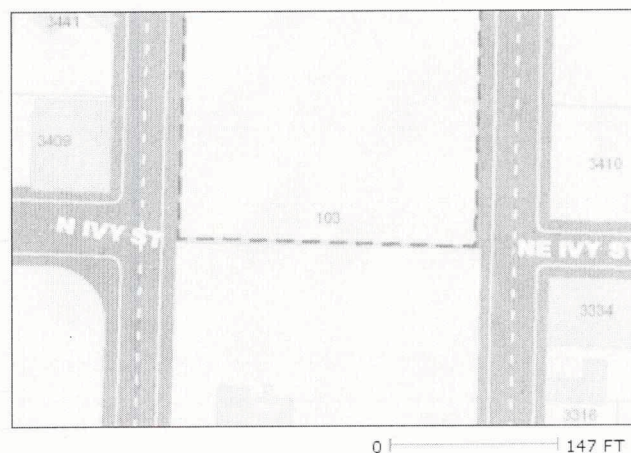
City/State/Zip PORTLAND OR 97227

Owner Info ([Privacy](#))

Owner(s) Name CTC GREGORY LLC

Owner Address 388 PEARL ST

City/State/Zip EUGENE OR 97401-5437



Split Property

Parent ID

Children [R650923](#)

Property Description

Tax Roll WILLIAMS AVE ADD, BLOCK 5 TL 400

Use STORE BIG BOX

[Handwritten signature]

EXHIBIT B**LID WAIVERS, TERMS AND CONDITIONS**

THEREFORE, in consideration of the mutual covenants and conditions contained herein, CTC Gregory agrees as follows:

1. This Agreement must be received by the City's LID Administrator via U.S. Mail or delivered in person by December 31, 2013 for the City to begin formation of the North Vancouver & Cook Street LID.
2. All rights to a public hearing on the formation of the LID or inclusion of Extra Work within the LID, on the scope of the improvements to be made, on the method for apportioning final Project Work and Extra Work costs, and on the amount of the final assessment are waived.
3. All rights to remonstrate against formation of the LID or inclusion of Extra Work within the LID are waived.
4. All rights to object to final assessment of the LID are waived.
5. All irregularities or defects, jurisdictional or otherwise, in the process by which the Project Work and Extra Work are made to the property subject to this Agreement, or in the process by which the LID was formed or administered, or by which final assessment was made are waived.
6. The City shall assess benefited property on an equal shares basis in a manner substantially similar to the apportionment method identified in Recitals B, C, D and E herein.
7. This Petition & Waiver Agreement is for the benefit of the City of Portland, is intended as an obligation of the benefited property as identified in Exhibit A, and binds all subsequent purchasers. Special assessments, which result in construction of local improvements, including Project Work and Extra Work identified in this Agreement, are a lien on real property, enforceable through foreclosure and property sale.
8. CTC Gregory agrees that the City of Portland will remove the lien on the property identified in Exhibit A only when the obligation has been satisfied in full for both Project Work and Extra Work, if any. As of December 11, 2013 the real market valuation was in excess of this amount so bonding is not being required.
9. The amount payable by CTC Gregory with respect to the LID shall not exceed \$60,000.00