

RESOLUTION NO. 3209

WHEREAS, under and by virtue of the laws of the State of Oregon, the City of Albany is duly authorized and empowered to locate, acquire, construct, reconstruct, alter, enlarge, renew, replace, operate and maintain a sewage collection and disposal system and facility as in the judgment of its City Council is necessary and proper for the City of Albany; and

WHEREAS, under and by virtue of the laws of the State of Oregon, the City of Albany may acquire by purchase, gift, devise, condemnation proceedings or otherwise, such real and personal property, interests therein, easements and rights of way, either within or without the limits of the City as in the judgment of the Council are necessary and proper to exercise its powers; and

WHEREAS, for the purpose of extending the sewer collection and disposal system and facility to serve the City for the health, safety, benefit and general welfare of the public, the City of Albany plans to extend the sewer collection system and to locate, construct, operate, maintain and repair that system upon the property hereinafter described; and

WHEREAS, Resolution No. 3129 was previously adopted by the City Council of the City of Albany on January 29, 1992, authorizing the condemnation of easements across certain properties for the construction of the aforesaid sewage collection and disposal system and facility; and

WHEREAS, Resolution No. 3139 was adopted by the City Council of the City of Albany on February 12, 1992, to allow the relocation of a proposed sewer line; and

WHEREAS, this resolution will supplement the prior resolutions by authorizing the condemnation of additional easements.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Albany, as follows:


1. The City of Albany does hereby find and declare that there is needed and required for the location, construction, operation, maintenance, repair and improvement of the City of Albany sanitary sewer system, easement rights in the real property owned by the individuals listed in Exhibit "1", attached hereto, and by this reference incorporated herein, and further described as Benton County Assessor's Map No. 10-4-36, Tax Lot 400. The location of the said easement

is more particularly described in Exhibit "2", attached hereto and by this reference incorporated herein.

2. The location, construction, operation, maintenance, repair and improvement of the City of Albany sanitary sewer system for which the easement in the real property described in Exhibit "2" is required and being taken is necessary to serve the public interest. The sanitary sewer system has been planned, designed, located and will be constructed in a manner that will be most compatible with the greatest public benefit and the least private injury or damage.
3. The City of Albany, its agents and its attorneys be and they are hereby authorized to attempt to agree with the owners and other persons set forth in Exhibit "1" who have an interest in the real property and interests therein described in Exhibit "2" as to the compensation to be paid for the appropriation of the property and easement rights, and in the event that no satisfactory agreement can be reached, then the attorneys for the City of Albany be and the same hereby are directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the easement rights in said real property, and that upon the filing of such proceedings, possession of the real property and interest therein may be taken immediately.
4. Upon the trial of any suit or action instituted to acquire the easement right in said real property, the attorneys acting for and on behalf of the City of Albany be and hereby are authorized to make such stipulation, agreement or admission as in their judgment may be for the best interest of the City of Albany.
5. In order to protect the health, safety and welfare of the public, an emergency exists and it is necessary that no undue delay be encountered in obtaining access to and possession of the real property and interest therein described in Exhibit "2" in order to

extend the sanitary sewer system and facility; and, therefore, this resolution shall be in force and effect from and after its passage by the City Council of the City of Albany.

6. This resolution is passed and adopted by the City Council of the City of Albany on this 28th day of October, 1992, and is hereby entered in full in the minutes and records of the City Council as of said date.



\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder - Deputy

**K & D ENGINEERING, INC.**

202 N.W. HICKORY STREET, P. O. BOX 725  
ALBANY, OR 97321 (503) 928-2583

**EXHIBIT 1**

Owner: Northwest Intermountain Development Co.

Map: 10-4-36

Tax Lot: 400

See attached Title Report

LG 38 0842 21 000104

Key Title Company  
Attn: Barbe  
P.O. Box 1450  
Albany, Oregon 97321

October 26, 1992  
Report No: 10-12301  
Your No: 19-19303  
Assured: POWELL/CRAIG  
Borrower: NW INTERMOUNTAIN DEV

GUARANTEE FOR:  
Litigation \$25,000.00

PREMIUM:  
Litigation Guarantee \$200.00  
IRS Jdt/Lien Search \$ 15.00

EXHIBIT I

Guarantee No. 38 0842 21 000104      Effective Date: October 14, 1992

Liability \$25,000.00

Fee \$200.00

A. Assured:

ROBERT S. POWELL, JR. and NEAL CRAIG

B. The estate or interest in the land hereinafter described or referred to covered by this Guarantee is:

Fee Simple Estate

C. Title to said estate or interest at the date hereof is vested in:

NORTHWEST INTERMOUNTAIN DEVELOPMENT CO., a dissolved corporation,

D. The land referred to in this Guarantee is situated in the County of Benton, State of Oregon, and is described as follows:

SEE ATTACHED EXHIBIT "A"

E. The title to said estate or interest is subject to the following exceptions:

1. Purchasers or incumbrancers acquiring an interest in the subject property during the pendency of the foreclosure, unless a Notice of Lis Pendens is recorded pursuant to the provisions of ORS 93.740
2. Parties in Possession or claiming the right to possession.

3. The rights of the public in and to that portion of the premises herein described lying within the limits of roads, streets and highways.

4. Taxes for the fiscal year 1992-93:  
Total Amount: \$1452.20, unpaid  
Account No.: 10-4-36 400  
Data: 017412  
Code: 8-09

5. The premises herein described lie within and are subject to the levies, liens, assessments, rights of way and easements of the North Albany County Service District, Ordinance No. NACSD-1 D, including the terms and provisions thereof, as imposed by Instrument  
Recorded: December 5, 1990, as M-130029-90, Microfilm Records of Benton County, Oregon

An amendment of which was recorded December 5, 1991, as M-142111-91, Microfilm Records of Benton County, Oregon, by Order removing the provision of sewer services from the authority of the North Albany County Service District, including the terms and provisions thereof.

6. The assessment roll and the tax roll disclose that the premises herein described have been specially assessed as Farm Use Land. If the land becomes disqualified for the special assessment under the statute, an additional tax may be levied for previous years in which the farm use assessment was in effect for the land and in addition thereto a penalty may be levied if notice of disqualification is not timely given.

7. An easement created by instrument, including the terms and provisions thereof,  
Recorded: November 15, 1939, in Book 95, Page 376, Deed Records of Benton County, Oregon  
In favor of: United States of America  
For: Electrical power lines on strip of land 100 feet in width  
Affects: No specific location given

8. Memorandum of Oil and Gas Lease, including the terms and provisions thereof,  
Dated: November 20, 1975  
Recorded: January 27, 1976, as M-62684, Microfilm Records of Benton County, Oregon  
Lessor: Northwest Intermountain Development Company  
Lessee: Mobil Oil Corporation, a New York corporation

9. Mortgage, including the terms and provision thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: January 25, 1983  
Recorded: February 17, 1983, as M-45468-83, Microfilm Records of Benton County, Oregon  
Amount: \$77,847.00  
Mortgagor: Northwest Intermountain Development Co.  
Mortgagee: James E. Schram, Charles K. McCormack, William F. Gwinn, Frank T. Glasser, Jean B. Disher, Jean B. Disher, Trustees, Delta Land Co., Clyde Rushing, Beam McCormack & Atwood, Inc.  
(Includes additional property)

10. Easement as disclosed by Bargain and Sale Deed between Northwest Intermountain Development Company and North Albany County Service District,

For: Ingress and egress  
Recorded: February 17, 1983, as M-45469-83, Microfilm Records of Benton County, Oregon  
In favor of: North Albany County Service District  
Affects: A portion of the Westerly 50 feet and 50 feet across the Northerly half

11. Easement as disclosed by Bargain and Sale Deed between Northwest Intermountain Development Company and North Albany County Service District,

For: Construction, maintenance and operation, of a sewer line  
Recorded: February 17, 1983, as M-45469-83, Microfilm Records of Benton County, Oregon  
In favor of: North Albany County Service District

12. A complaint including the terms and provisions thereof,

Case No.: CV 92-0313  
Entered: March 19, 1992  
Defendant: Delta Land Co., Jean B. Disher, William F. Gwinn, Charles K. McCormack, North Albany Land Co., Northwest Intermountain Development Co., a dissolved corporation, James E. Schram  
Plaintiff: City of Albany  
Attorney for Plaintiff: James V.B. Delapoer

An Order of Immediate Possession was filed with Benton County April 1, 1992, in favor of the City of Albany

13. A complaint including the terms and provisions thereof.

Case No.: CV 92-0314

Entered: March 19, 1992

Defendant: Delta Land Co., Jean B. Disher, William F. Gwinn,  
Charles K. McCormack, North Albany Land Co.,  
Northwest Intermountain Development Co., a dissolved  
corporation, James E. Schram

Plaintiff: City of Albany

Attorney for Creditor: James V.B. Delapoe

An Order of Immediate Possession was filed with Benton County  
April 1, 1992, in favor of the City of Albany



EXHIBIT "A"

Beginning at a 5/8 inch iron rod at the Southeast corner of Lot 8, Block 11, of the FIRST ADDITION TO RIVERVIEW HEIGHTS SUBDIVISION in Township 10 South, Range 4 West, Section 36, Willamette Meridian, Benton County, Oregon; thence North 0°04'00" West 275 feet; thence South 89°56'00" West 270 feet; thence North 0°04'00" West 281.50 feet; thence South 89°56'00" West 84.45 feet; thence South 0°04'00" East 97.91 feet; thence South 89°56'00" West 163 feet; thence South 0°04'00" East 94.00 feet; thence South 06°27'01" West 90.18 feet; thence North 62°53'16" West 108.01 feet; thence South 74°11'42" West 67.81 feet; thence North 1313 feet more or less to a 3/4 inch iron rod which is 222.35 feet South 0°08'51" East of the Reentrant Corner West line of Adkins Donation Land Claim No. 43; thence North 87°45'15" East 252.60 feet; thence North 83°06'30" East 153.60 feet; thence South 83°49'54" East 391.04 feet; thence North 44°38'30" East 156.00 feet; thence South 30°07' East 423.26 feet; thence South 25°38'30" East 377.52 feet; thence South 27°59'28" East 309.42 feet; thence South 43°01' East 280.61 feet; thence South 3°29' West 990 feet more or less to a 3/4 inch iron pipe; thence West 844.00 feet, more or less; thence North 660 feet to the point of beginning.

EXCEPTING THEREFROM: Commencing at a 1/2" iron pipe set at the interior corner of the West line of the Gallatin Adkins Donation Land Claim #43; thence South 0°08'51" East 222.35 feet; thence North 87°45'15" East 252.60 feet; thence North 83°06'30" East 153.60 feet; thence South 83°49'54" East 391.04 feet to the point of beginning, said point marked by a 5/8" iron rod with aluminum cap as shown on county survey No. 4487 on file at the Benton County Surveyor's Office, said point being also a point on the Southerly line of Parcel IV of that property conveyed to Young & Morgan Timber Company by deed M-90352 of Benton County Deed Records; thence South 0°43'51" East 84.02 feet; thence South 44°15'39" East 363.51 feet; thence North 37°06'50" East 111.72 feet to a 5/8" iron rod with aluminum cap as shown on said survey, said point being a point on said Southerly line; thence North 30°07'00" West, along said Southerly line 423.26 feet to a 5/8" iron rod with aluminum cap as shown on said survey, thence South 44°45'34" West, along said Southerly line 156.02 feet to the point of beginning.

BE1.1 017412 R 08-09 10435-00-00400

08:54:30 26 OCT 1992

NORTHWEST INTERMOUNTAIN DEV CO  
7233 SW CAPITOL HILL RD  
PORTLAND OR 97219-2635

> 2 OTHER ACCOUNTS USING THE SAME PRIME

017412(P) 017420 019418

PLNG ZONE URS,EFU/FP  
PROP CLASS 500 MA 1 SA 1 PAGE-VOL 88769-00 APPR# 27

AT	QOPR	CLASS	ACRES	VALUE	(IC)
L1	MISC		48.71	85,790	

		1992 (CURRENT)		1991 (PRIOR)	
TOTAL T.C.V.		TOTL ASSESSD	TOTAL T.C.V.	TOTL ASSESSD	
----- NON-QOPR -----		100.00%		100.00%	
LAND & IRR. VALUE:		85,790	85,790	77,290	77,290
APPRAISAL YEAR:		89	00		
TREND PERCENT:		11%			

BE1.1 017412 R 08-09 10435-00-00400 08:54:30 26 OCT 1992

92 TAX RATE	
92 BALANCE DUE	ADVAL TAX
1,452.20	1,452.20

91 TAX RATE	
91 BALANCE DUE	ADVAL TAX
0.00	1,643.80

TRN DATE	BCH	RECEIVED	INT/DISC	INT16 JRL RCPT#	DESCRIPTION
06-17-92	114	-1,753.39	109.59	109.59 L90 85424	RIVERVIEW WATER CORP

90 TAX RATE	26.3853
90 BALANCE DUE	ADVAL TAX
0.00	1,871.05

TRN DATE	BCH	RECEIVED	INT/DISC	INT16 JRL RCPT#	DESCRIPTION
10-25-90	078	-1,814.92	-56.13	0.00 C90 1020	RIVERVIEW WATER CORP

TB.4

PROPERTY TAX INQUIRY

10/26/92

TYPE: R  
CODE: 08-09  
ACCT: 10436-00-00400

SERIAL: 017412 PAYMENT DATE: 10-26-92  
NORTHWEST INTERMOUNTAIN DEV CO  
7233 SW CAPITOL HILL RD  
PORTLAND, OR 97219-2635

TAX INFORMATION FOR YEAR \*\* 92

***** TRI	PAYMENT	PAST DUE	INT DUE	TOTAL DUE
1	484.07	484.07	0.00	484.07
2	484.06	484.06	0.00	968.13
3	484.07	484.07	0.00	1452.20

TAXES 1452.20

PAYMENTS

VOUCHERS

BALANCE 1452.20

DISCOUNT -43.57

INTEREST

PAST DUE

\*\*\*\*\* TOTAL DUE 1408.63

WARRANT FEES

NSF FEES

OVERPAYMENT

(CR) FOR NEW ACCT; YEAR (OR "P") TO PRINT; "T" YEAR ("S") FOR TRIMESTER;

1" = 400'



### KEY TITLE COMPANY

THIS COPY OF ASSESSOR'S MAP IS PROVIDED SOLELY TO ASSIST IN LOCATING SUBJECT PROPERTY. NO LIABILITY IS ASSUMED BY KEY FOR DISCREPANCIES IN THIS MAP AS OUTLINED AND THE ACCOMPANYING LEGAL DESCRIPTION.

SEE MAP 10 4 25

101  
14.29 Ac.

8-C

600  
3.00 Ac.

500  
20.73 Ac

400  
48.71 Ac.

402  
1.50 Ac.

NW PARK TERRACE  
P04967

NW 22nd ST  
P04968U

SEE MAP  
10 4 36AB

BB

208  
31.80

300  
10.00 Ac.

1832

SEE

MAP

SEE MAP

10 4

36AC

10 4 36AD

MAP

8-07

8-07

SW Cor.  
G.Adkins DLC No. 43

GIBSON HILL DRIVE

LAUREL PLACE

P04973

FISHER LOOP 04410  
4

EUGENE LINE  
36BD

NW LINCOLN ST  
P04962  
DARREN PLACE  
P04964  
EMBASSY PLACE  
P04963  
NW 17th 04411

NW BROADWAY 04409

NW PARK TERRACE  
P04967

WILSON WAY  
P04971

40-01

ca 1822

ca 1874

ca 1874

ca 1855-1860

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# K & D ENGINEERING, INC.

202 N.W. HICKORY STREET, P. O. BOX 725  
ALBANY, OR 97321 (503) 928-2583

## EXHIBIT 2

- I. The legal description of the easement sought to be obtained is as follows:

### Permanent Utility Easement

A portion of land from that parcel of land described in M-88769 Benton County Deed Records, located in Section 36, Township 10 South, Range 4 West, Willamette Meridian, City of Albany, Benton County, Oregon, which is more particularly described as follows:

A 15-foot wide strip of land, 7.50 feet on either side of the following described centerline:

Beginning at the Northwest corner of Lot 5, Block 13, First Addition to Riverview Heights Subdivision as recorded in Plat Book 8, Page 62, Benton County Records Office; thence North 00°04'00" West 140.00 feet to the Center of an existing sanitary sewer manhole and there terminating.

Containing 2,100 square feet of land, more or less.

### Temporary Construction Easement

A portion of land from that Parcel of land described in M-88769 Benton County Deed Records, located in Section 36, Township 10 South, Range 4 West, Willamette Meridian, City of Albany, Benton County, Oregon, which is more particularly described as follows:

A 50-foot wide strip of land, 25-feet on either side of the following described centerline:

Beginning at the Northwest corner of Lot 5, Block 13, First Addition to Riverview Heights Subdivision as recorded in Plat Book 8, Page 62, Benton County Records Office; thence North 00°04'00" West 140.00 feet to the center of an existing sanitary sewer manhole and there terminating.

Containing 7,000 square feet of land, more or less.

### Property Description

The legal description of the parcel proposed to be burdened by the subject easement, is as follows:

# K & D ENGINEERING, INC.

202 N.W. HICKORY STREET, P. O. BOX 725  
ALBANY, OR 97321 (503) 928-2583

Beginning at a 5/8 inch iron rod at the Southeast corner of Lot 8, Block 11, of the FIRST ADDITION TO RIVERVIEW HEIGHTS SUBDIVISION in Township 10 South, Range 4 West, Section 36, Willamette Meridian, Benton County, Oregon; thence North 0°04'00" West 275 feet; thence South 89°56'00" West 270 feet; thence North 0°04'00" West 281.50 feet; thence South 89°56'00" West 84.45 feet; thence South 0°04'00" East 97.91 feet; thence South 89°56'00" West 163 feet; thence South 0°04'00" East 94.00 feet; thence South 06°27'01" West 90.18 feet; thence North 62°53'16" West 108.01 feet; thence South 74°11'42" West 67.81 feet; thence North 1313 feet more or less to a 3/4 inch iron rod which is 222.35 feet South 0°08'51" East of the Reentrant Corner West line of Adkins Donation Land Claim No. 43; thence North 87°45'15" East 252.60 feet; thence North 83°06'30" East 153.60 feet; thence South 83°49'54" East 391.04 feet; thence North 44°38'30" East 156.00 feet; thence South 30°07' East 423.26 feet; thence South 25°38'30" East 377.52 feet; thence South 27°59'28" East 309.42 feet; thence South 43°01' East 280.61 feet; thence South 3°29' West 990 feet more or less to a 3/4 inch iron pipe; thence West 844.00 feet, more or less; thence North 660 feet to the point of beginning.

EXCEPTING THEREFROM: Commencing at a 1/2" iron pipe set at the interior corner of the West line of the Gallatin Adkins Donation Land Claim #43; thence South 0°08'51" East 222.35 feet; thence North 87°45'15" East 252.60 feet; thence North 83°06'30" East 153.60 feet; thence South 83°49'54" East 391.04 feet to the point of beginning, said point marked by a 5/8" iron rod with aluminum cap as shown on county survey No. 4487 on file at the Benton County Surveyor's Office, said point being also a point on the Southerly line of Parcel IV of that property conveyed to Young & Morgan Timber Company by deed M-90352 of Benton County Deed Records; thence South 0°43'51" East 84.02 feet; thence South 44°15'39" East 363.51 feet; thence North 37°06'50" East 111.72 feet to a 5/8" iron rod with aluminum cap as shown on said survey, said point being a point on said Southerly line; thence North 30°07'00" West, along said Southerly line 423.26 feet to a 5/8" iron rod with aluminum cap as shown on said survey, thence South 44°45'34" West, along said Southerly line 156.02 feet to the point of beginning.