

WEST RICHLAND AGENDA ACTION ITEMS

AGENDA ITEM:	9a & 9b	TYPE OF ACTION NEEDED			
MEETING DATE:	Dec. 21 , 2009	<i>Execute Contract</i>	X	<i>Consent Agenda</i>	
SUBJECT:	Public Hearing & Motion to Approve Latecomers Agreement – Akers	<i>Pass Resolution</i>		<i>Public Hearing</i>	X
		<i>Pass Ordinance</i>		<i>1st Discussion</i>	
Prepared by:	Roscoe C. Slade, III <i>RS</i>	<i>Pass Motion</i>		<i>2nd Discussion</i>	
Reviewed by:	Dave Weiser	<i>Other</i>		<i>Other</i>	

ATTACHMENTS:

- Copy of proposed Latecomers Agreement between City and Akers
- Sample copy of notice mailed to property owners to be assessed by the proposed Latecomer’s Agreement

BACKGROUND INFORMATION:

RCW 35.91 authorizes contracts between City and owner/developer of real estate within the City, who construct water improvements that serve their own properties and other properties whereby such owner/developer may be reimbursed by the owner/developer of the other properties who did not contribute to the original cost of construction of the water improvements, but who later desire to connect their properties to the improvements previously constructed.

West Richland Municipal Code Chapter 13.94 Latecomer Agreements for Water and Sewer implements RCW 35.91 and outlines the application process and requirements for an owner/developer to request the execution of a latecomer agreement with the City.

Notice of the public hearing on the proposed latecomer agreement was mailed on December 4, 2009 to all properties within the latecomer agreements reimbursement area. A sample of the notice has been provided.

SUMMARY:

The owner/developer of Lot 7, Section 8 has constructed the following described improvements to the City Water System at a total cost of \$22,674.90:

An eight inch water line which connects to the City’s existing eight inch water line approximately 165 feet west of the northwest corner of Lot 7, Plat of Willamette Heights, Section 8 and runs east approximately 170 feet along the northern boundary of Lot 8, Plat of Willamette Heights, Section 8 and then south approximately 332 feet along the western boundary of Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

A fire hydrant at the southwest corner of Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

The aforementioned improvements to the City’s Water System as constructed will benefit and serve owner/developers own property, Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington and the following-described areas:

Lots 27 and 28, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

The owner/developer of Lot 7, Section 8 has submitted a complete application per West Richland Municipal Code Section 13.66.030 requesting the City execute a latecomer agreement. The proposed latecomers agreement to be recorded against Lot 27 and 28, Section 8 would provide means for the owner/developer of Lot 7, Section 8 to

collect a pro-rata share of the original cost to design and construct the water line and fire hydrant improvements, \$7,558.30 per connection (split in half if Lot 27 or 28 is subdivided in the future), when these lots or properties desire to connect to the City's water system. The proposed latecomers agreement terminates 15 years after the date execution or when \$15,116.60 (minus 5% City administrative fee) has been reimbursed to the owner/developer of Lot 7, Section 8. The City shall retain 5% of the collected latecomer fees to be distributed to the owner/developer to cover the City's administrative costs of collecting and dispersing the reimbursement amounts.

As per West Richland Municipal Code Section 13.94.050, the City Engineer has reviewed and concurs with the proposed latecomer agreement's cost of construction, the method of assessment and the reimbursement area.

As per West Richland Municipal Code Section 13.94.055, the City Engineer has accepted the aforementioned water improvements located with existing 33' utility easements for City ownership and maintenance.

The proposed latecomer agreement has been reviewed by the City's Attorney as to content and form.

The City Council is not required to execute a latecomer agreement (West Richland Municipal Code Section 13.94.060) however, the City Council may execute a latecomer agreement as long as the conditions of West Richland Municipal Code Section 13.94.020 have been met. The conditions of this section are as follows:

A. The water and or sewer facility to be constructed by the developer must be consistent with the city's latest adopted version of the comprehensive plan. The water and or sewer facility to be constructed by the developer must be within the City's urban growth boundary, connecting with the city water system or city sewer system to serve the area in which the real estate owned by the latecomers is located.

B. The latecomer agreement must provide for a period not to exceed 15 years for the reimbursement of the developer and his/her assigns by the latecomer who did not contribute to the actual cost of such water and or sewer facilities and who subsequently taps into or uses the same.

C. The latecomer agreement must require that the latecomer pay his or her pro rata share of the cost of construction of the water and or sewer facilities, including not only those directly connected thereto, but also users connected to laterals or branches connecting thereto.

D. The latecomer agreement shall be effective as to any owner of real estate not a party unless such latecomer agreement has not been recorded in the office of the Benton County auditor prior to the time that that the latecomer taps into or connects to said water and or sewer facilities.

The aforementioned conditions have been met, hence the City Council may execute a latecomers agreement with the owner/developer of Lot 7, Section 8.

RECOMMENDATION:

Staff recommends the Council authorize the Mayor to execute the proposed latecomers agreement.

ALTERNATIVES:

Per West Richland Municipal Code Section 13.94.060, City Council could deny the request to execute a latecomer agreement resulting in the owner/developer bearing the full cost of the waterline improvements even though these improvements benefit other properties.

FISCAL IMPACT (Indicate amount, fund and impact on budget):

401 Water Fund Revenue: \$1,360.49 latecomer agreement application fee and \$66.00 reimbursement for Benton County recording fee.

001 General Fund Revenue (assumes both Lot 27 & Lot 28, Section 8 connect to the waterline improvements): 5% administrative fee = \$755.83.

MOTION:

I move to authorize the Mayor to execute the proposed latecomers agreement.

Please Return To:
City of West Richland
3801 Van Giesen
West Richland, WA. 99353

**CITY OF WEST RICHLAND
LATECOMERS AGREEMENT**

Parcel No(s). 1-0898-102-0007-000, 1-0898-102-0027-000 & 1-0898-102-0028-000

THIS AGREEMENT, made and entered into this _____ day of _____, 2009, by and between the City of West Richland, a municipal corporation of the State of Washington, hereinafter referred to as the "City", and Doug Akers, his heirs, successors and assigns, hereinafter referred to as "Developer"; and

WHEREAS, RCW Chapter 35.91 authorizes contracts between City and owner/developers of real estate within the City, who construct water facilities to serve other properties whereby the owner/developer may be reimbursed by the owner/developer of the other real property who did not contribute to the original cost of the construction of the water facilities, but who later desire to connect their properties to the facilities previously constructed; and

WHEREAS, West Richland Municipal Code Chapter 13.94 Latecomer Agreements for Water and Sewer, outlines the application process and requirements for an owner/developer to request the execution of a latecomer agreement with the City; and

NOW, THEREFORE, the parties hereby mutually agree as follows:

1. Developer has constructed the following-described improvements to City's Water System:

An eight inch water line which connects to the City's existing eight inch water line approximately 165 feet west of the northwest corner of Lot 7, Plat of Willamette Heights, Section 8 and runs east approximately 170 feet along the northern boundary of Lot 8, Plat of Willamette Heights, Section 8 and then south approximately 332 feet along the western boundary of Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

A fire hydrant at the southwest corner of Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

A. The improvements have been accepted as being constructed in accordance with plans and specifications approved by the City's Public Works Director.

- B. Developer has provided record drawings of said improvements stamped by a professional civil engineer licensed in the State of Washington.
- C. The improvements were installed in existing 33' utility easements.
- D. The cost of construction, method of assessment, and latecomer reimbursement area has been reviewed and approved by the City's City Engineer.
- E. Developer has paid all costs of recording the latecomers agreement with the Benton County auditor's office.
- F. Developer has provided a one-year maintenance bond for said improvements.

2. The improvements to the City's Water System as constructed will benefit and serve the following-described areas:

Lots 7, 27 and 28, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

3. City will hereafter own and operate said improvements as part of the City's Water System subject to all laws and regulations, fees and assessments of City.

4. City and Developer agree that the actual cost for the construction of the improvements to the City's Water System was twenty-two thousand six hundred seventy-four dollars and ninety cents (\$22,674.90) and of that amount, fifteen thousand one hundred sixteen dollars and sixty cents (\$15,116.60) may be recovered for the Developer in accordance with this agreement.

5. Developer is the owner of the following-described real property which will be served by the facilities herein described:

Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington.

6. Until December 21, 2024, any person, firm or corporation now or hereafter owning real estate described in Paragraph 2 which desires to connect to the described improvements shall pay a fair pro rata share of the cost of the construction of said improvements. The pro rata share for said connection shall be calculated as follows:

Seven thousand five hundred fifty-eight dollars and thirty cents (\$7,558.30) per connection to said improvements. If Lot 27 and or Lot 28, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington, are short platted into two parcels, the said pro rate share shall be split equally between the two new parcels; three thousand seven hundred seventy-nine dollars and fifteen cents (\$3,779.15) per connection to said improvements.

Developer agrees that once Developer has been paid the total amount authorized for reimbursement as set forth in Paragraph 4 above, Developer shall collect no further fees under this contract and the provisions of this Latecomers Agreement for the collection of latecomer fees shall terminate.

7. No person, firm or corporation shall be granted a permit or be authorized by City to tap into or use the referenced improvements during the period of time prescribed in Paragraph 6 above without first paying to City, in addition to any and all other costs, assessments and charges made and assessed for such connection or use, the amount required by the provisions of this contract. All amounts so received by City shall be remitted to Developer or assigns within sixty (60) days of the receipt thereof.

8. Whenever any tap or connection is made into the described facilities, without such payment having first been made, the West Richland City Council may remove, or cause to be removed, such unauthorized tap or connection and all connecting pipe located in the utility easement and dispose of unauthorized material so removed without any liability whatsoever.

9. Any funds collected by City in accordance with the terms of this agreement shall be remitted to Developer, less a five percent fee to be retained by the City to cover the City's estimated administrative costs of administering, collecting and dispersing reimbursement amounts, at the following address:

Doug Akers
3530 Andalusien Street
West Richland, WA. 99353

DEVELOPER

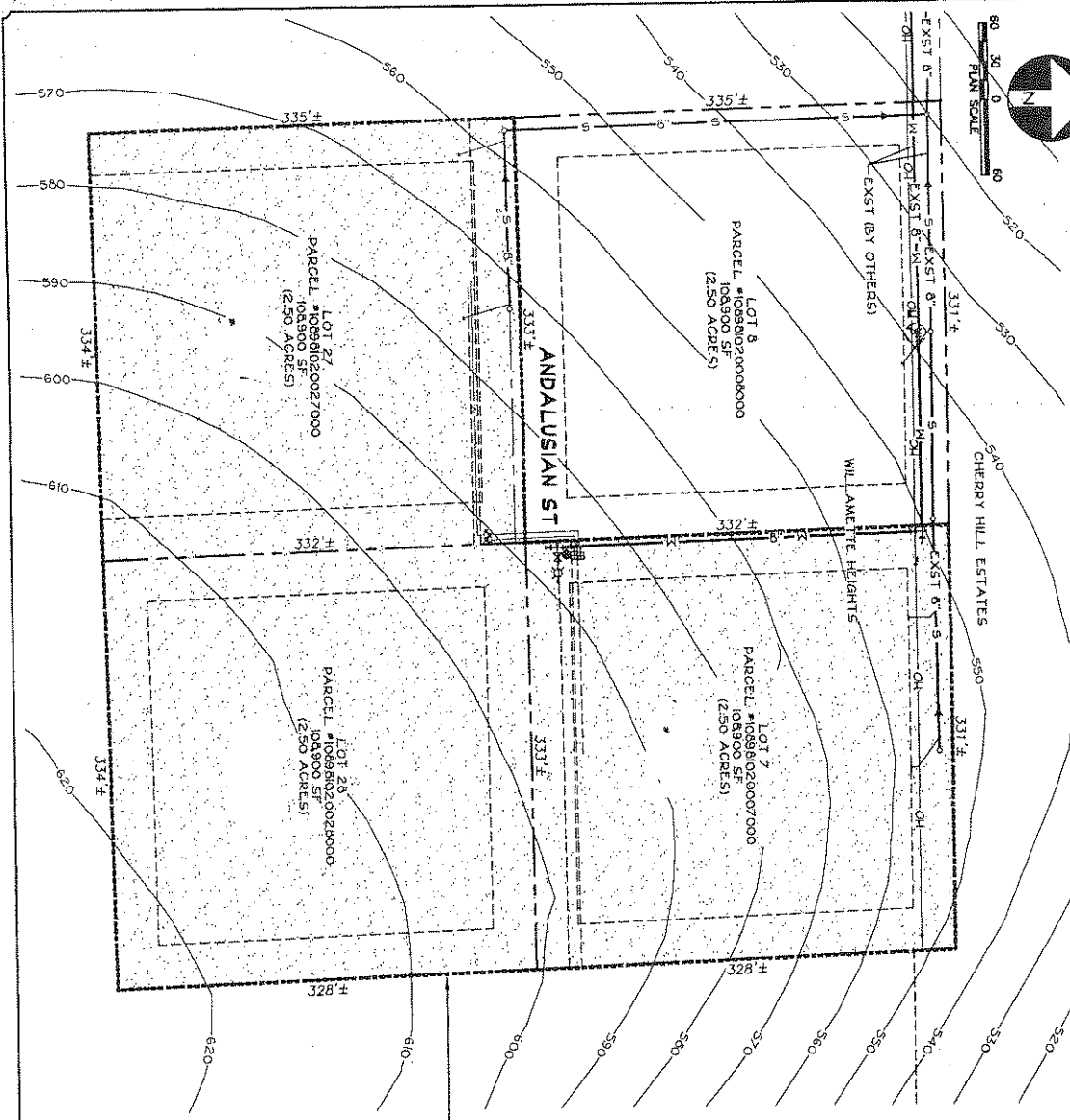
Doug Akers

City of West Richland

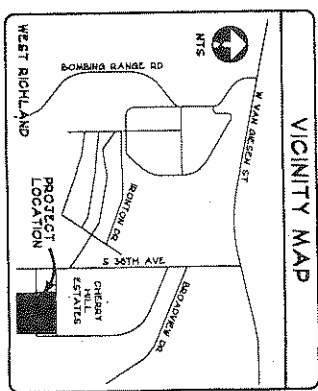
By: _____
DALE JACKSON
Mayor

Attest: _____
JULIE RICHARDSON
City Clerk

**PLAT OF WILLAMETTE HEIGHTS, SECT 8, T9N, R28E, W.M.
WEST RICHLAND, BENTON COUNTY, WASHINGTON**



**METHOD OF ASSESSMENT
- PER CONNECTION
LATECOMER REIMBURSEMENT
AREA**





**NOTICE OF PUBLIC HEARING
REGARDING EXECUTION OF LATECOMER AGREEMENT**

«AddressBlock»

Parcel #«Country»

DATE: December 4th, 2009

Dear Property Owner:

The West Richland City Council will hold a Public Hearing relating to the proposed execution of a Latecomer Agreement on **Monday, December 21st, 2009, at 7:00 p.m.** at the City Council Chambers, 3805 West Van Giesen, West Richland, Washington. At that time, the City Council will take testimony relating to the execution of a Latecomers Agreement with the property owner of Lot 7, Section 8, pursuant to West Richland Municipal Code 13.94 and RCW 35.91. Interested parties desiring to be heard either for or against this matter are invited to voice their approval or disapproval at the public hearing. If you are not able to attend the public hearing, please provide your comments, testimony or other evidence in writing, and to file them with the City Clerk, 3801 W. Van Giesen, West Richland, WA. 99353, prior to 5pm on December 21st, 2009.

RCW Chapter 35.91 authorizes contracts / latecomer agreements between City and owner/developers of real estate within the City, who construct water facilities to serve other properties whereby the owner/developer may be reimbursed by the owner/developer of the other real property who did not contribute to the original cost of the construction of the water facilities, but who later desire to connect their properties to the facilities previously constructed

The property owner of Lot 7, Section 8 constructed the following improvements to the City's water system: 1) An eight inch water line which connects to the City's existing eight inch water line approximately 165 feet west of the northwest corner of Lot 7, Plat of Willamette Heights, Section 8 and runs east approximately 170 feet along the northern boundary of Lot 8, Plat of Willamette Heights, Section 8 and then south approximately 332 feet along the western boundary of Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington and 2) A fire hydrant at the southwest corner of Lot 7, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington benefiting the following properties; LOT 7, LOT 27 AND LOT 28 all in Willamette Heights Section 8, Township 9 North, Range 28 East, W.M. West Richland, Benton County, Washington.

The total cost for the aforementioned improvements is \$22,674.90. The proposed Latecomer Agreement would assess any person, firm or corporation now or hereafter owning Lot 27 and or Lot 28 which desires to connect to the described improvements shall pay a fair pro rata share of the cost of the construction of said improvements. The pro rata share for said connection shall be calculated as follows:

Seven thousand five hundred fifty-eight dollars and thirty cents (\$7,558.30) per connection to said improvements. If Lot 27 and or Lot 28, Plat of Willamette Heights, Section 8, Township 9 North, Range 28 East, W.M., City of West Richland, Benton County, State of Washington, are short platted into two parcels, the said pro rate share shall be split equally between the two new parcels; Three thousand seven hundred seventy-nine dollars and fifteen cents (\$3,779.15) per connection to said improvements.

If you have any questions in regards to this notice, please contact me at 509-967-5434 or roscoe@westrichland.org.

Sincerely,

Roscoe C. Slade III, P.E.
Director of Public Works

Enclosure: Draft copy of proposed Latecomer Agreement