

AFTER RECORDING RETURN TO:

Margaret Hawker
City Recorder
City of Newport
169 SW Coast Highway
Newport, OR 97365

Lincoln County, Oregon
03/18/2021 12:29:30 PM
DOC-RUL
\$20.00 \$11.00 \$60.00 \$10.00 \$7.00 - Total = \$108.00

2021-03395

Cnt=1 Pgs=4 Stn=12



00185881202100033950040049

I, Dana W. Jenkins, County Clerk, do hereby certify
that the within instrument was recorded in the Lincoln
County Book of Records on the above date and time.
WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



NO CHANGE IN TAX STATEMENTS

CITY OF NEWPORT ENCROACHMENT PERMIT AGREEMENT

THIS AGREEMENT is between the City of Newport, hereinafter called "City" or "Owner" and Port of Newport, a municipal corporation of the State of Oregon (hereinafter called "Port" or "Port of Newport"), Aaron Bretz, representative, hereinafter called "Applicant."

RECITALS

A. The City of Newport owns the property nearest and immediately adjacent the City right-of-way which this agreement will encroach upon. This property is identified on the Lincoln County Assessor's map as Tax Map 11-11-08-AC, Tax Lot 12900 and legally described as Partition Plat 1990-14, Parcel 2, County of Lincoln, State of Oregon (document 2009-790), addressed as 318 SE Bay Boulevard, and commonly known as the entrance to Port Dock 5 Pier.

B. The Port of Newport desires this encroachment agreement to install a stormwater-quality structure under Bay Boulevard approximately 25 feet northeast of the Port Dock 5 Pier for the purpose of stormwater collection from the Port Dock 5 Pier (see attached Exhibit "A").

PERMIT AGREEMENT TERMS

1. **Benefited Property:** The rights granted by this permit agreement are appurtenant to the Port of Newport. Applicant warrants that Applicant has fee simple title or sufficient interest to the Port of Newport to allow Applicant to bind current and future owners of the Port of Newport.

2. **Permitted Encroachment:** City authorizes the encroachment of a stormwater-quality structure under Bay Boulevard approximately 25 feet northeast of the Port Dock 5 Pier for the purpose of stormwater collection from the Port Dock 5 Pier (see attached Exhibit "A"). This structure will be in the public right-of-way adjacent to Partition Plat 1990-14, Parcel 2, County of Lincoln, State of Oregon.

3. **Safety:** The Port agrees to maintain the permitted encroachment in good condition so that it does not become a nuisance or hazard. Applicant agrees to maintain and repair

only those encroachments authorized by this permit.

4. Indemnity. The Port hereby agrees to defend and indemnify City and its officials and employees as to any loss, liability, claim, or demand relating to this permit or the permitted encroachment.

5. Termination: This permit shall be terminated in the event of the destruction, removal, or abandonment of the permitted encroachment. This Permit may be revoked at any time on written notice to the Port, for any reason.

6. Notice: Any notice relating to this permit shall be effective 48 hours after mailing. Notices shall be sent to the following addresses unless another address is provided to the other party by written notice.

City of Newport
c/o Spencer Nebel, City Manager
169 SW Coast Hwy
Newport OR 97365

Port of Newport
c/o Aaron Bretz, Director of Operations
600 SE Bay Boulevard
Newport OR 97365

HDR Engineering
Kevin Christiansen
1050 SW 6th Ave.
Suite 1800
Portland OR 97204

7. Removal of Improvements: Within five days of the termination of this permit Owner, or Owner's successor in interest, shall commence to remove the permitted encroachments and shall complete removal and restoration of the rights-of-way within 30 days.

8. Lien: City may impose a lien on the Port of Newport to secure performance of the Port's obligations under this permit.

9. Advice of Counsel: The parties hereto acknowledge and understand that this Encroachment Permit has been prepared by the City. Applicant is aware that this permit contains substantial, binding obligations, and that Applicant has the right to and should consult with the Applicant's attorney regarding any questions respecting the meaning or legal effect of this permit.

10. Attorneys' Fees: In the event that either party shall bring suit or action to enforce any term or provision hereof, the prevailing party shall be entitled to its reasonable attorneys' fees, including any appeal.

11. Insurance: Applicant shall maintain liability insurance respecting the permitted encroachments and include the City as a named insured. This provision is for the benefit of the City and Applicant and there are no intended third party beneficiaries to this

provision or any other portion of this Encroachment Permit Agreement. City will have no liability or responsibility for failure to enforce this provision.

12. Binding Upon Future Owners: The terms and obligations of this Encroachment Permit Agreement shall run with the Port of Newport and shall be binding on, and for the benefit of, all future owners of the Port of Newport, until terminated.

CITY OF NEWPORT:

BY [Signature]
Spencer Nebel, City Manager

DATE: 03-02-21

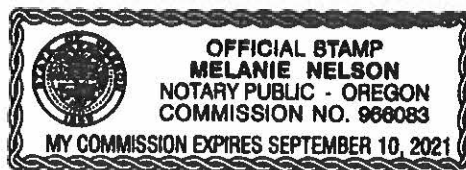
PORT OF NEWPORT:

[Signature]
Representative, Port of Newport

AARON T. BRETZ
[print name]

DATE: ~~03-02-21~~ 15 MAR 2021

STATE OF OREGON)
) ss.
County of Lincoln)

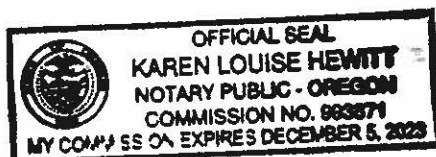


This instrument was acknowledged before me on this 2nd day of March, 2021, by Spencer Nebel as City Manager of the City of Newport.

[Signature]
Notary Public - State of Oregon

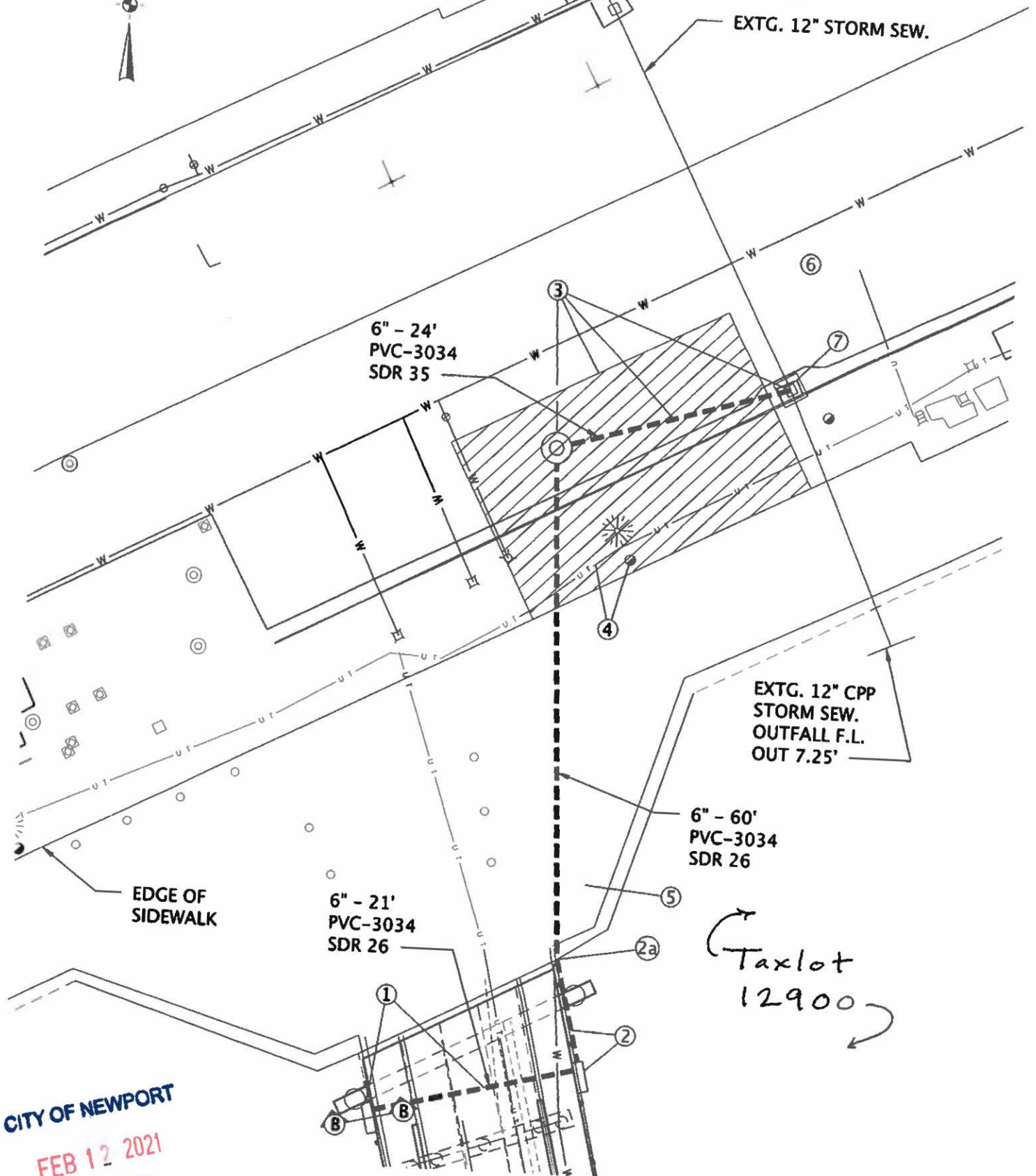
STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this 15th day of March, 2021, by Aaron T. Bretz as representative of the Port of Newport.



[Signature]
Notary Public - State of Oregon

EXHIBIT "A"



CITY OF NEWPORT
FEB 12 2021
RECEIVED

PLAN VIEW
NO SCALE