



00212101202200013400150156

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



After recording return to:

City of Newport
Attn: City Recorder
169 SW Coast Hwy.
Newport, OR 97365

DECLARATION OF COVENANT OF RELEASE AND INDEMNITY

This Covenant of Release and Indemnity (Covenant) is made by 795 SW Bay Blvd, LLC, an Oregon limited liability company (Permittee), for the benefit of the City of Newport, an Oregon municipal corporation (City).

RECITALS

A. Permittee is the owner and developer of certain real property located in the City of Newport, Lincoln County, Oregon, described as: 795 SW Bay Blvd. (Development)

Map and Tax Lot: 11-11-08-CA-02000-00

Legal Description: See attached Exhibit A

B. Permittee has applied for a right-of-way (ROW) permit from the City to act on the Development, which would require deviation from the standard slope for the driveway approach from Bay Blvd. to the concrete slab on the real property:

- i. The vertical distance between the street and sidewalk elevations and the concrete slab on the real property is too great to permit construction of a driveway approach within standard slope limits.
- ii. This deviation increases the risk of damage to vehicles or equipment using the driveway approach and to the adjacent public right-of-way (street and sidewalk).

C. City has issued the ROW permit contingent on Permittee providing a covenant of release and indemnity to the City.

COVENANT

Now, therefore, in consideration of the issuance of the ROW permit, a copy is attached as Exhibit B along with ROW permit application, the undersigned (Permittee) covenants and agrees to the following terms:

1. Release. Permittee hereby releases and forever discharges the City and its officers, employees, and agents from any claims, liability, suits, actions, and loss, and assumes the risk of damage and the cost of repair or replacement to the adjacent public right-of-way (street and sidewalk), resulting from the driveway approach from Bay Blvd. to the concrete slab on the real property. Permittee will repair or replace any such damage to the adjacent street or sidewalk within 30 days of receipt of notice from the City, and the City may utilize Newport Municipal Code sections 9.70.040 to 9.70.070 (in effect or as amended) if timely repair or replacement is not made to the adjacent street or sidewalk.

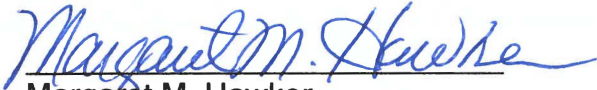
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THIS INSTRUMENT ACCEPTED BY:

City of Newport, Oregon



Aaron Collett, PE
City Engineer



Margaret M. Hawker
Acting City Manager

STATE OF OREGON)
) ss.
County of Lincoln)



This instrument was acknowledged before me on January 20, 2022, by Aaron Collett, PE.




Notary Public - State of Oregon

My Commission Expires: 9/12/25

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me on January 20, 2022, by Margaret M. Hawker.



Notary Public - State of Oregon

My Commission Expires: 9/20/25

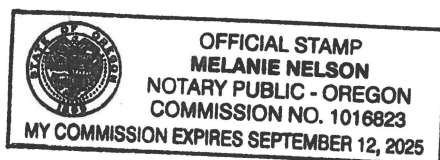


EXHIBIT A
Legal Description

795 SW Bay

Beginning at a point on the Easterly side of Bay Blvd. in the City of Newport, Oregon, that is 60 feet distant from the Northeast corner of Block 1, original Town of Newport, on a line found by the Southeasterly prolongation of the Northerly boundary of said Block 1, which is the true point of beginning; running thence Southwesterly and at right angles to said Bay Blvd. to the deep water line of the Yaquina Bay; thence Northeasterly and paralleling Bay Blvd. a distance of 25 feet; thence Northwesterly and at right angles to Bay Blvd. to the Easterly right-of-way of Bay Blvd.; thence Southwesterly 25 feet along the Easterly right-of-way of Bay Blvd. to the Place of beginning; but excluding therefrom any portion of the above described premises belonging to the State of Oregon,

Also excepting therefrom any portion outside the boundaries of that property conveyed to the City of Newport in deed recorded November 3, 1909 as document 20-152 Lincoln County Records

Together with such interest as the Lessor may have in the submerged or submersible lands adjacent to said premises pursuant to lease agreement with the State of Oregon, acting by and through the Division of State Lands, a memorandum of which was recorded August 10, 2012, Document No. 2012-07641, Lincoln County Records.

Exhibit B



City of Newport Right-of-Way Permit Application

Newport Public Works Dept.
169 SW Coast Hwy
Newport, OR 97365
541-574-3366

Call Before You Dig: dial 811, or go to digsafelyoregon.com for online locate requests
Inspection Requests (24 hrs notice): 541-574-3366 or rightofwaypermits@newportoregon.gov

Address/location of work: 795 SW BAY BLVD

Describe work (attach sketch/plans): SIDEWALK,

Purpose of work: ☐ Water ☐ Sewer ☐ Storm ☒ Sidewalk/driveway ☐ Gas ☐ Comm. ☐ Electric
☐ Tree trimming* ☐ Tree Removal* ☐ Other:

Work includes: ☐ Boring ☐ Street Cut (area: _____ ft²) ☐ Traffic Control (attach plan)

Expected start date: _____ Expected project duration: _____

Contractor Information

Business name: RUNIONS CONSTRUCTION LLC

Address: 521 NE NEWPORT HTS. DR. City: NEWPORT State: OR Zip: 97365

24-hr Emergency Phone: 541-270-6064 E-mail: tomrunions@yahoo.com

Main Phone (if different):

CCB License #: 180019 City of Newport Business License #: 4322

Property Owner Information

Property owner name: STEVE WEBSTER

Address: 113 SE BAY BLVD City: NEWPORT State: OR Zip: 97365

Phone: 541-265-9243 E-mail: riverheadmarina@charter.net

Applicant's Declarations

1. The drawings, plans, and specifications submitted with the application comply with all applicable technical codes, rules, and regulations.
2. I have reviewed, understand, and agree to comply with the attached permit requirements.
3. Work cannot commence until application is reviewed, approved, and returned by the City of Newport.

Contractor / Applicant RUNIONS CONST, LLC Signature: [Signature] (print name): THOMAS P RUNIONS Date: 12-2-21

Property owner signature required: ☐ Yes ☐ No

Property owner FRONT ST. MARINE Signature: [Signature] (print name): STEPHEN WEBSTER Date: 12/3/21

Insurance verified: ☐ Yes ☐ N/A Bond provided: ☐ Yes ☐ N/A Bond #:

SDCs paid: ☐ Yes ☐ N/A Receipt #:

Permit approved by: AC [Signature] Date: 02-03-22

Permit expires: 120 Days (06/03/22) Permit #: TBD

Final inspection approved by: _____ Date: _____

Comments: Right-of-way permit issued in conjunction with Covenant Agreement between Steve Webster and the City of Newport. 02-03-22 Update - clarification of sidewalk approved conditional upon maintaining cross/running slopes compliant with ADA requirements. Driveway slopes (non-standard) addressed by covenant agreement (to be recorded). - AC

*Note: Permit requirements are attached.

Tree removal or trimming work requires completion of checklist prior to approval.

Exhibit B

10-15-1915

10-15-1915

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SKETCH WORK BELOW

(if no plans are attached)

- Show details and dimensions of Project**
- Add Aerial Photos of Plan, show lot lines, North arrow**
- Show Locations of all existing and proposed utilities, driveway's etc.**

Right-of-Way Permit Requirements

- A. Applicant shall attach the following to the Right-of-Way Permit Application:
1. Plans, drawings, and specifications in sufficient detail to demonstrate:
 - a. That all work will be performed and any facilities will be constructed in accordance with all applicable codes, rules, and regulations.
 - b. If applicant is a franchise or a contractor working on behalf of a franchise, that all work will be performed, and any facilities will be constructed, in accordance with the franchise agreement.
 - c. The location, route, and description of all of applicant's new facilities to be installed, as well as their relation to streets, curb, sidewalk, rights-of-way, and all existing utilities in the construction area.
 - d. The construction methods to be employed for protection of existing structures, fixtures, and facilities, and a description of any improvements that the applicant proposes to temporarily or permanently remove or relocate.
 2. A written construction schedule, including a deadline for completion. The construction schedule is subject to approval by the City Engineer or the City Engineer's designated representative (designee). Schedules shall follow those outlined in the OSS.
- B. Comply with all applicable laws, rules, regulations, codes, and standards, including but not limited to:
1. Oregon Standard Specifications for Construction Manual, (OSS); current edition.
 2. City of Newport Municipal Code (NMC) – available at City Hall or on the City website at <http://newportoregon.gov/dept/adm/documents/NewportMunicipalCode.pdf>.
 3. Oregon Temporary Traffic Control Handbook
 4. Rules adopted by the Oregon Utility Notification Center. Call for locates at 811 or 503-232-1987.
 5. City of Newport Standard Details- available at City Hall or on the City website.
- C. All construction shall be in accordance with the permit and approved plans and specifications. Any changes must be approved by the City Engineer or designee prior to proceeding with work.
- D. Provide, upon request, any information needed by the City Engineer to determine compliance with applicable requirements.
- E. Keep a copy of the approved permit and plans on-site and available upon request by any City representative.
- F. Notify the City Engineer not less than two working days prior to any excavation or construction in the right-of-way.
- G. All permittees shall make a good faith effort to coordinate their construction schedules with those of the City and other users of the right-of-way.

Permit #: _____

- H. The City Engineer may impose conditions regulating the time, place, and manner of performing the work, such as specifying a time period within which all work must be performed and/or require coordination of construction activities. **Note: Inspections are only on Mondays, Tuesdays and Thursdays, except under pre approved special circumstances.**
- I. The City Engineer or designee shall be provided access to the work site and the opportunity to inspect any work in the right-of-way.
- J. Use suitable traffic control, barricades, signs, and other measures as required for safety of the general public and protection of property.
- K. Any obstruction or excavation in the right-of-way shall be properly safeguarded by suitable barricades, and lighting at night (see NMC 9.10.120 for complete requirements). Promptly remove any obstructions when no longer needed.
- L. Restore the rights-of-way to good order and condition as existed prior to the work being undertaken, unless otherwise directed by the City Engineer or designee.
- M. Final asphalt restoration must be with ACP (asphalt concrete pavement hot mix). If ACP isn't available at the time of restoration, then a temporary cold mix patch may be used and replaced with ACP within 30 days.
- N. Upon completion, notify the City Engineer or designee for final inspection of the work.
- O. All work that does not comply with permit requirements shall be corrected or removed at the sole expense of the permittee.
- P. All work must be completed within 120 days of permit issuance unless an extension or alternate schedule has been approved by the City Engineer.
- Q. If requested, provide City with two complete sets of as-built plans showing the location of the new facilities, in a form acceptable to the City.
- R. Promptly remedy any defects that appear, for two years after completion.
- S. City may require a financial security to assure restoration of rights-of-way and other property (see NMC 9.10.140 for complete requirements).
- T. Any cut or opening in the street of 400 linear feet or greater requires at least 60 days advance notice to the city and all other utilities franchised or permitted to place facilities within the project area (see NMC 9.10.105 for complete requirements).
- U. All contractors shall be licensed, bonded and insured. Contractors shall provide a certificate of insurance, with the City of Newport named as an additional insured.
- V. Permittee holds the City and its employees harmless against any contaminated waste cleanup, injury, damage, or other claim resulting from work under this permit.

Permit #: _____

Construction Specifications & Standard Details

The following construction specifications and standard detail drawings are attached:

Water

- ☐ Construction specifications (___ pages)
- ☐ Standard detail drawings: _____
- ☐ Notes: _____

Sewer

- ☐ Construction specifications (___ pages)
- ☐ Standard detail drawings: _____
- ☐ Notes: _____

Storm

- ☐ Construction specifications (___ pages)
- ☐ Standard detail drawings: _____
- ☐ Notes: _____

Sidewalk/driveway

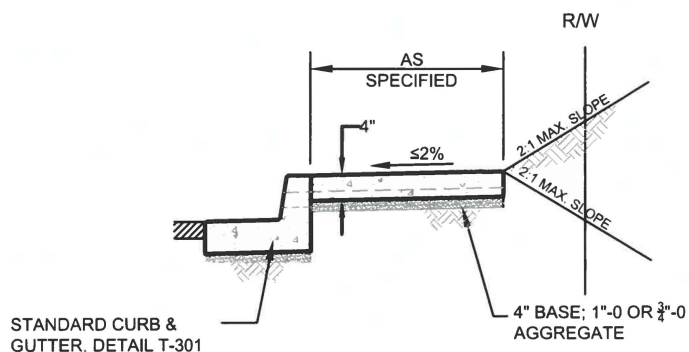
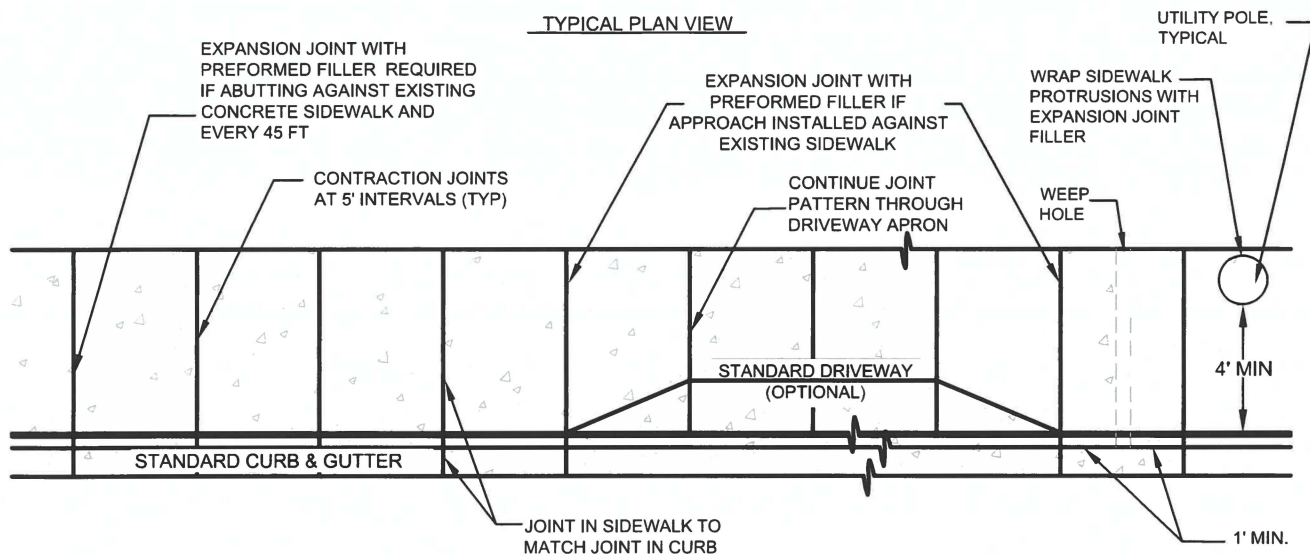
- ☐ Construction specifications (___ pages)
- ☒ Standard detail drawings: ATTACHED 1 PAGE
- ☒ Notes: AWAITING RESPONSE FOR A VARIANCE

Use Sidewalk Detail on next page for construction.

Street Cut

- ☐ Construction specifications (___ pages)
- ☐ Standard detail drawings: _____
- ☐ Notes: _____

Permit #: _____



SIDEWALKS 8' AND WIDER SHALL HAVE A LONGITUDINAL CONTRACTION JOINT AT THE MIDPOINT

NOTES:

1. A CONCRETE MIX DESIGN SHALL BE SUBMITTED TO THE CITY ENGINEER PRIOR TO SCHEDULING POUR.
2. STRUCTURES SHALL CONFORM TO OREGON STANDARD SPECIFICATIONS FOR CONSTRUCTION, CURRENT EDITION, SECTION 00759.
3. STANDARD SIDEWALK CROSS SLOPE SHALL BE 2% TOWARD THE STREET. WHEN THE ADJACENT PROPERTY IS LOWER THAN THE TOP OF THE CURB, SIDEWALK MAY SLOPE AWAY FROM STREET.
4. DRAIN BLOCKOUTS IN THE CURB SHALL BE EXTENDED TO THE BACK OF THE SIDEWALK WITH A 3" DIA. PLASTIC PIPE AT A 2% SLOPE. A CONTRACTION JOINT SHALL BE PLACED OVER THE PIPE. NO COUPLINGS UNDER SIDEWALK. OUTFALL AT FACE OF CURB EQUALS GUTTER PAN ELEVATION.
5. SEE STANDARD WHEELCHAIR/BICYCLE RAMP DETAILS ODOT STANDARD DRAWING RD744, CITY STANDARD DRAWING T-212.
6. SEE STANDARD DETAILS FOR DRIVEWAYS: T-150, T-151, AND T-152.
7. WRAP PROTRUDING STRUCTURES IN SIDEWALKS WITH PREFORMED EXPANSION JOINT FILLER.



City of Newport
169 SW Coast Hwy
Newport, Oregon 97365
(541) 574-3366 Fax: (541) 265-3301

STANDARD SIDEWALK DETAILS

DETAIL NO.

T-210

5/12/2020

Required Inspections

The following inspections are required:

Water

- ☐ Water tap (observe all work)
- ☐ Water service (prior to backfilling)
- ☐ Other: _____
- ☐ Other: _____
- ☐ Final inspection

Sewer

- ☐ Sewer tap (observe all work)
- ☐ Sewer lateral (prior to backfilling)
- ☐ Other: _____
- ☐ Other: _____
- ☐ Final inspection

Storm

- ☐ Other: _____
- ☐ Other: _____
- ☐ Final inspection

Sidewalk/driveway

- ☐ Concrete formwork (prior to pouring)
- ☐ Other: _____
- ☐ Final inspection

Street Cut

- ☐ Prepared base rock (prior to paving)
- ☐ Other: _____
- ☐ Final inspection

Permit #: _____

TREE TRIMMING OR REMOVAL REQUIREMENTS

Right-of-Way Permit Application Checklist

The following information must be submitted with a City of Newport Right-of-Way Permit Application for Tree Pruning or Removal:

- ☐ 1. A description of the number, diameter and species of tree(s) requested to be pruned or removed.
- ☐ 2. A site plan identifying the size, location and species of the tree(s) to be pruned or removed, including property lines, North arrow and adjacent streets. Applicants may use aerial maps as a site plan.
- ☐ 3. For pruning, a statement from a tree care professional indicating that the proposed pruning measures will not foreseeably lead to death or permanent damage to the tree(s).

For removals:

- ☐ 4. Reasons justifying the removal, referencing the criteria in Newport Municipal Code Section 9.10.025.
- ☐ 5. If the application is being made on the criteria in Section 9.10.025(A)(1-4), a formal report from a tree care professional establishing that one or more of the criteria for removal are being met may be required by the Public Works Department, in the case that the Department is unable to make its own determination.
- ☐ 6. For removals that are being referred to the Tree Board, a list of names and addresses of property owners, as shown in the records of the Lincoln County Assessor, within 200 feet of the subject property.
- ☐ 7. Photograph(s) of the tree(s) to be removed wherein tree(s) to be removed are clearly marked with brightly colored tape.
- ☐ 8. A description of the proposed tree replacement, including planting details specifying the number, size, species, cost and proposed replacement location(s). If approval criteria in Section 9.10.025(A)(1-4) apply, then 1 mitigation tree is required for each tree that is removed. All other tree replacements shall be in accordance with the table below:

DBH of tree to be removed (inches in diameter 4.5' above the ground)	Number of mitigation trees to be planted
<4" (City planted)	1
4" to 6"	1
>6" to 12"	2
>12" to 18"	3
>18" to 24"	4
>24" to 30"	5
>30"	8

In lieu of replacing trees, the applicant may propose to pay into the City tree fund an amount equivalent to the value of the mitigation trees after installation, as detailed in NMC Section 9.10.055(E).

- ☐ 9. All contractors performing tree pruning or removals must be licensed, bonded and insured. Contractors shall provide a certificate of insurance, with the City of Newport named as an additional insured.

If permission for tree removal is granted, all costs of removal, cleanup and replacement shall be borne by the person requesting the removal. Trees are to be removed at least flush with ground level, and all debris is to be removed.

Decisions of the Tree Board may be appealed to the City Council in writing within 10 calendar days of the date of the decision. If it is not appealed, a decision of the Tree Board becomes final 10 business days after the decision is issued.

