

RESOLUTION NO. 1582

A RESOLUTION APPROVING DEVELOPMENT AGREEMENTS BETWEEN THE CITY OF WILSONVILLE AND WIEDEMANN PARK APARTMENTS LIMITED PARTNERSHIP AND BETWEEN THE CITY OF WILSONVILLE AND THE POLYGON NORTHWEST COMPANY FOR STORM SEWER CONSTRUCTION ON WILSONVILLE ROAD AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE DEVELOPMENT AGREEMENT ON BEHALF OF THE CITY AND REPEALING RESOLUTION NO. 1551.

WHEREAS, the Wiedemann Park Apartments Limited Partnership (formerly identified in Resolution No. 1305 and 1309 as the Cascade Housing Group, LLC) has obtained City planning and zoning approval, has obtained financing and has initiated construction of the 58 unit Wiedemann Park Senior Apartments Project; and

WHEREAS, the City Council has been very supportive of the construction of low and moderate income projects in the City; and

WHEREAS, the City Council in Resolution No. 1305 has previously approved street and parks systems development charge credits; and

WHEREAS, the Wiedemann Park Apartments Limited Partnership has agreed to oversize a storm sewer in Wilsonville Road to accommodate flows from other property; and

WHEREAS, the City of Wilsonville and the Wiedemann Park Apartments Limited Partnership have reached an agreement which addresses the construction of the Wilsonville Road storm sewer and the proposed reimbursement for the City's share of the project to the partnership; and

WHEREAS, the summary of the costs for the project and the spreadsheet listing the benefited properties is attached and marked as Exhibit C, and by this reference is incorporated as fully set forth herein; and

WHEREAS, Council adopted Resolution No. 1551, a development agreement between the City of Wilsonville and Wiedemann Parks Apartments Limited Partnership; and

WHEREAS, Wiedemann Park Limited Partnership never executed the agreement for various reasons; and

WHEREAS, the Polygon Northwest company now proposes they construct 1,050 feet of storm sewer that was originally to be accomplished by Wiedemann Parks Limited Partnership and

WHEREAS, the City of Wilsonville will benefit from this construction by 15.7% of the construction costs to serve Wiedemann Park and a small parcel at the intersection of Wilsonville Road and Brown Road which will be dedicated to the City; and

WHEREAS, Wiedemann Parks Limited Partnership will also benefit from the construction and will separately pay the Polygon Northwest Company for their negotiated share of the costs; and

WHEREAS, Wiedemann Park Limited Partnership will construct a 400 foot extension from the terminus of the line constructed by Polygon; and

WHEREAS, the City of Wilsonville will benefit by 15.2% of the construction costs to serve Wilsonville Road and a small parcel at the intersection of Brown Road and Wilsonville Road which will be dedicated to the City' and

WHEREAS, a copy of the development agreement between the City of Wilsonville and Polygon Northwest Company is marked as Exhibit A and by reference is fully incorporated herein; and

WHEREAS, a copy of the agreement entitled "City of Wilsonville, Wiedemann Park Apartment Limited Partnership Development Agreement" is marked Exhibit B and by this reference is incorporated as fully set forth herein; and

WHEREAS, the City Council of the City of Wilsonville having fully reviewed Exhibits A, B and C and being advised in these premises; and

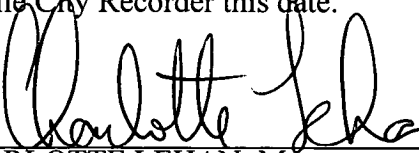
WHEREAS, a project must be in the capital improvements plan before the City can expand project funds; and

WHEREAS, the project for construction of the storm sewer is included in the FY 99/00 City Capital Improvements Project list.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City of Wilsonville, Polygon Northwest Company Development Agreement, Exhibit A as recited above and incorporated herein is approved.
2. The City of Wilsonville ; Wiedemann Park Apartments Limited Partnership Development Agreement, Exhibit B as recited above and incorporated herein is approved.
3. On behalf of the City the City Manager is authorized to execute the City of Wilsonville, Wiedemann Park Apartments Limited Partnership Development Agreement as recited above and incorporated herein.
4. Funding in amounts estimated at \$27,000 for the city's share of the Polygon Northwest Company construction and \$9,500 for the Wiedemann Park Limited Partnership construction is to be paid from storm sewer account 605 which was budgeted at \$53,000 for this fiscal year.
5. Resolution No. 1551 is hereby repealed.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 2nd day of August, 1999, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

Attest: 

SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Holt	<u>Yes</u>
Councilor Kirk	<u>Yes</u>

EXHIBIT A

**CITY OF WILSONVILLE-POLYGON NORTHWEST COMPANY
DEVELOPMENT AGREEMENT**

This Development Agreement is made and entered into by the City of Wilsonville, an Oregon Municipal Corporation and Polygon Northwest Company in consideration of the promises, terms and conditions recited and agreed to below.

RECITALS

WHEREAS, Polygon Northwest Company has obtained Stage II and design approval for the Silver Creek project, (formerly Greenhouse Estates); and

WHEREAS, Polygon Northwest Company has completed project design for grading onsite utility and road construction and offsite facilities; and

WHEREAS, Polygon Northwest Company has been conditioned to construct a storm sewer to Seely Ditch; and

WHEREAS, the City would benefit by 15.7% of the costs of storm sewer construction because the storm sewer would also serve Wilsonville Road and a small parcel at the northeast corner of Brown Road and Wilsonville Road which will be dedicated to the City; and

WHEREAS, the storm sewer has been oversized beyond the requirements to serve the Silver Creek development to also include the capability of serving Wilsonville Road and other projects in the immediate vicinity; and

WHEREAS, David Evans and Associates has developed a map showing the benefited properties and a preliminary cost estimate for the improvements along with a spreadsheet listing the property that would benefit from the construction of the project; and

WHEREAS, the Polygon Northwest Company is of the opinion that they do not have time to follow the buy-in pay back procedures in the Wilsonville Code to obtain repayment for the benefiting properties at the time their properties are developed; and

WHEREAS, Polygon Northwest Company will develop a separate agreement to obtain reimbursement from the Wiedemann Park Apartments Limited Partnership; and

WHEREAS, Polygon Northwest Company has obtained a firm bid of \$136,684 to complete this project; and

WHEREAS, it is estimated that the cost could be up to 20% above this to cover engineering, staking, project administration and contingencies; and

TERMS AND AGREEMENTS

NOW, THEREFORE, the parties intending to be legally bound agrees as follows:

The Polygon Northwest Company will:

1. Contract for construction of approximately 1,050 linear feet of 24" storm sewer along Wilsonville Road from the Vicinity of Seely Ditch to the west to tie to a 20" storm sewer which extends north to serve Greenhouse Estates and the Wiedemann Park Apartments project with capacity to serve these projects and others that would potentially benefit from the storm sewer construction on Wilsonville Road.
2. The Polygon Northwest Company will incorporate the wage price guidance as established by the State of Oregon Bureau of Labor and Industry for a public works project into the construction contract.
3. The Polygon Northwest Company will require the contractor to provide performance bonds, payment bonds and insurance as required by the City of Wilsonville Public Works Standards.
4. The Polygon Northwest Company will bill the City for its proportional share of the project with monthly draws allowed and with recognition that the City will hold a retainage in accordance with the Attorney General Guide Specifications for Public Works Projects.
5. The Polygon Northwest Company can include 10% of the construction costs to be paid by the City for proper design survey and administration.
6. Construction will be accomplished to City of Wilsonville Public Works and American Public Works Association Standards with the plans approved by the city engineer.
7. The plan for management of traffic during construction will be as approved by the city engineer. The Partnership acknowledges and understands that traffic management may limit or prohibit construction during certain hours or days yet to be determined.

8. The Polygon Northwest Company shall obtain a public works permit. The cost can be included in the bill to the City on a pro rata share basis.
9. The Partnership will construct the storm sewer during the normal construction season to minimize wet weather construction costs subject to #7 above.
10. City staff will be afforded opportunity to review and approve any construction change order prior to any obligation for payment for such additional/revised work by the City.
11. The City of Wilsonville will be responsible for the following:
 - a. Payment of all monthly and final draws of the City's proportionate share within 15 days of approval of the bill.
 - b. Ensuring that the storm sewer is on an approved capital improvement plan.
 - c. Approve all construction and traffic control plans in accordance with the City standards.
 - d. Providing a copy of the Bureau Labor and Industry Wage Price Guidelines to the Wiedemann Park Apartments Limited Partnership.
 - e. Issuing the Public Works Permit and providing City inspection services.
 - f. Paying its proportionate share of the project of 15.7% up to a total dollar value not to exceed \$27,000.
 - g. Permitting final occupancy of the Wiedemann Park Apartments Limited Partnership Project upon verification that any payments due to Polygon Northwest by Wiedemann Park Apartments Limited Partnership for this storm sewer has been made.

The undersigned are duly authorized to execute this Agreement on behalf of the respective parties, and enter this Agreement effective the 2nd day of August , 1999.

POLYGON NORTHWEST COMPANY

CITY OF WILSONVILLE

By _____

Arlene Loble, City Manager

Attest: _____

Sandra C. King
City Recorder

EXHIBIT B

CITY OF WILSONVILLE-WIEDEMANN PARK APARTMENTS LIMITED PARTNERSHIP DEVELOPMENT AGREEMENT

This Development Agreement is made and entered into by the City of Wilsonville, an Oregon Municipal Corporation (City) and Wiedemann Park Apartments Limited Partnership in consideration of the promises, terms and agreements recited and agreed to below.

RECITALS

WHEREAS, Wiedemann Park Apartments Limited Partnership is constructing 58 senior apartments on the east side of Brown Road north of Wilsonville Road; and

WHEREAS, Council has been very supportive of the construction of low and moderate income housing; and

WHEREAS, Council, by Resolution No. 1305 approved credits against street systems development charges for street improvements on Wilsonville Road on each side of Brown Road and for dedication of right-of-way adjacent to Wilsonville Road and Brown Road, and by Resolution No. 1305 Council approved a credit against the parks systems development charges for the Wiedemann Park Apartments for dedication of 0.37 acres of property for use as a nature park; and

WHEREAS, the Partnership had completed preliminary designs for construction of the apartments and related offsites; and

WHEREAS, the Partnership's engineer inadvertently designed the storm water run off incorrectly and the City has required the storm water design to be in compliance with requirements as outlined in Condition PF.16 of the City Council Adopted Conditions of Approval for Project 96 PC 09 that was approved by Council in Resolution No. 1309 on August 5, 1996; and

WHEREAS, the financing package for the Partnership did not anticipate the cost of constructing a storm sewer line to Seely Ditch as required in Condition PF16 as referenced above; and

WHEREAS, the Wiedemann Park Apartments Limited Partnerships has coordinated with the developers for the Greenhouse Estates project which were similarly conditioned for design of a storm sewer which would serve both facilities; and

WHEREAS, the revised storm sewer system has been oversized to accommodate other properties that would benefit from construction of this storm sewer on Wilsonville Road; and

WHEREAS, the Partnership has had David Evans and Associates, Inc., develop a map showing the benefited properties and a preliminary cost estimate for the improvements along

with a spreadsheet listing the properties that would benefit from the construction of the project;
and

WHEREAS, it is the opinion of the Wiedemann Park Apartments Limited Partnership that they do not have time to follow the buy-in payback procedures in the Wilsonville City Code to obtain repayment from benefiting properties at the time other properties are developed; and

WHEREAS, in the absence of the oversizing by the Wiedemann Park Apartments Limited Partnership, the City would have to construct a storm sewer at a cost that would be significantly higher than participating in the project as designed by the Wiedemann Park Apartments Limited Partnership; and

WHEREAS, the Polygon Northwest Company has agreed to construct the first 1,050 feet of storm sewer from Seely Ditch to a manhole, 1050 west at Seely Ditch on Wilsonville Road;
and

WHEREAS, Polygon Northwest and Wiedemann Park Apartments Limited Partnership will work out a separate agreement for payment by Wiedemann Park Apartments Limited Partnership to Polygon Northwest for the benefit received by Wiedemann Park Apartments Limited Partnership for the Wiedemann Senior Apartments project; and

WHEREAS, the Wiedemann Park Apartments Limited Partnership will construct an additional 400 foot storm sewer on Wilsonville Road to the west of the Polygon Northwest project to provide a direct connection to the Wiedemann Park Senior Apartments; and

WHEREAS, this storm sewer extension will provide benefits to the City of 15.2% of the cost of the construction costs of the project currently estimated at \$52,070; and

WHEREAS, the City's share including an additional 10% for engineering, constructing staking and project administration and 10% for contingencies is currently estimated at \$9,500.

TERMS AND AGREEMENTS

NOW, THEREFORE, the parties intending to be legally bound, agrees as follows:

The Wiedemann Park Apartments Limited Partnership will:

1. Contract for construction of approximately 400 linear feet of storm sewer along Wilsonville Road from the vicinity of 1,050 feet west of Seely ditch to the west to tie to a storm sewer from the Wiedemann Park Apartment project with capacity to serve this project and others that would potentially benefit from the storm sewer construction on Wilsonville road.
2. Wiedemann Park Apartments Limited Partnership will incorporate the wage price guidance as established by the State of Oregon Bureau of Labor and Industry for a public works project into the construction contract.

3. Wiedemann Park Apartments Limited Partnership will require the contractor to provide performance bonds, payment bonds and insurance as required by the City of Wilsonville Public Works Standards.
4. The Wiedemann Park Apartments Limited Partnership will bill the City for its proportional share of the project with monthly draws allowed and with recognition that the City will hold a retainage in accordance with the Attorney General Guide Specifications for Public Works Projects.
5. The Wiedemann Park Apartments Limited Partnership can include 10% of the construction costs to be paid by the City for project design survey and administration.
6. Construction will be accomplished to City of Wilsonville Public Works and American Public Works Association Standards with the plans approved by the city engineer.
7. The plan for management of traffic during construction will be as approved by the city engineer. The Partnership acknowledges and understands that traffic management may limit or prohibit construction during certain hours or days yet to be determined.
8. Wiedemann Park Apartments Limited Partnership shall obtain a public works permit. The cost can be included in the bill to the City on a pro rata share basis.
9. The Partnership will construct the storm sewer during the normal construction season to minimize wet weather construction costs subject to #7 above.
10. City staff will be afforded opportunity to review and approve any construction change order prior to any obligation for payment for such additional/revised work by the City.

The City of Wilsonville will be responsible for the following:

- h. Payment of all monthly and final draws within 15 days of approval of the bill.
- i. Ensuring that the storm sewer is on an approved capital improvement plan.
- j. Approve all construction and traffic control plans in accordance with the City standards.
- k. Providing a copy of the Bureau Labor and Industry Wage Price Guidelines to the Wiedemann Park Apartments Limited Partnership.
- l. Issuing the Public Works Permit and providing City inspection services.
- m. Paying its proportionate share of the project of 15.2% up to a total dollar value not to exceed \$9,500.

The undersigned are duly authorized to execute this Agreement on behalf of the respective parties, and enter this Agreement effective the 2nd day of August, 1999.

WIEDEMANN PARK APARTMENTS
LIMITED PARTNERSHIP

CITY OF WILSONVILLE

By _____

Arlene Loble, City Manager

Attest: _____

Sandra C. King
City Recorder