

W - 7. C.

AGENDA COVER MEMO

DATE: July 14, 2004

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Ollie Snowden, Public Works Director
Michelle Cahill, City of Eugene

AGENDA ITEM TITLE: In the Matter of Authorizing the City of Eugene to Assess Outside City Limits for Street Improvements to River Avenue

I. MOTION

THAT THE BOARD RESOLUTION AND ORDER BE APPROVED AUTHORIZING THE CITY OF EUGENE TO ASSESS OUTSIDE CITY LIMITS FOR STREET IMPROVEMENTS TO RIVER AVENUE – CITY IMPROVEMENT PROJECT NO. 3693

II. ISSUE OR PROBLEM

Should the City of Eugene be authorized to assess County residents for improvements to River Avenue, a City of Eugene street?

III. DISCUSSION

A. Background

The Board resolved by Resolution No. 00-8-9-1, to adopt policies for use by the City of Eugene when assessing City road improvements to benefiting properties outside the City, and said policies were subsequently adopted as amendments to Section 7.175 of the Eugene Code, a copy of which is attached as Exhibit "C".

The City of Eugene plans to improve River Avenue from 200 feet East of River Road to 100 feet West of Beltline Highway to city standards for a major collector. According to city staff, the existing roadbed is deteriorating and needs to be upgraded. In addition, development in this general area is creating a need to accommodate a variety of transportation users, including bicyclists, bus riders, pedestrians, and motorists.

This project was initiated via the 2001 Capital Budget adopted by the City of Eugene Council on June 26, 2000, pursuant to Section 7.160(5) of the Eugene Code (EC), 1971.

Bids were opened on July 7, 2004, with construction anticipated to occur during this summer (2004) and continuing into next summer (2005).

B. Analysis

The improvement is approximately 4,220 feet long and will include travel lanes, bike lanes, a center turn lane for approximately 2,000 feet, three pedestrian refuge islands, a connection to the Willamette River bike path and an adjacent parking bay, sidewalks, stormwater conveyance and water quality facilities, street light work and street trees. Trees in conflict with the proposed improvements have already been removed. The improvement project will be constructed within two construction seasons and property owners will not be assessed until after completion of the project in 2005.

Per City of Eugene policy, all properties adjacent to a street proposed to be improved to City standards are required to participate in the project costs. Assessments and Systems Development Charges (SDCs) are the primary sources of funding for the River Avenue improvements. The total project cost is \$2,269,502.16. The assessable cost is \$1,067,627.86. The percent of assessments for County property owners is 18.08%.

Ten (10) properties adjacent to the proposed improvement are outside the City of Eugene and, based on ORS provisions, concurrence from the Lane County Board of Commissioners is required before these properties can be included in the Cities' Local Improvement District (LID).

Attached and shown as Exhibit A are the estimated assessment amounts for each parcel in County jurisdiction.

C. Alternatives/Options

1. Authorize City of Eugene to assess benefiting properties outside city limits for River Avenue street improvements in accordance with the provision of the Eugene Code, Chapter 7.
2. Schedule a public hearing and direct staff to prepare and provide notice of the hearing to the ten affected County property owners. Return for further deliberation and action on the hearing date.
3. Do not authorize City of Eugene to assess properties outside the city limits.

D. Recommendations

The Board would need to approve the request to assess County residents on July 28 in order to meet the City of Eugene's schedule for formation of the LID, and award of the construction contract.

IV. IMPLEMENTATION/FOLLOW-UP

Upon approval of the Resolution and Order by the Board, the City of Eugene will include those properties outside city limits in the River Avenue LID and assess in accordance with its recently adopted assessment code.

V. ATTACHMENTS

Order, Exhibits A, B and C

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

RESOLUTION & ORDER NO.

(IN THE MATTER OF AUTHORIZING
(THE CITY OF EUGENE TO ASSESS
(OUTSIDE CITY LIMITS FOR STREET
(IMPROVEMENTS TO RIVER AVENUE

WHEREAS, the City of Eugene plans to improve River Avenue from 200 feet east of River Road to 100 feet West of Beltline Highway during the summers of 2004 and 2005; and

WHEREAS, proposed for inclusion in this assessable project are ten properties that fall outside Eugene city limits. These properties are proposed to be part of the City of Eugene's proposed River Avenue Local Improvement District (LID); and

WHEREAS, per ORS 223.878, cities may assess outside city limits for local street improvements subject to certain conditions. For assessment purposes, properties outside city limits must be treated in the same manner as those within city limits and have the same rights and remedies; and

WHEREAS, the Board resolved by Resolution No. 00-8-9-1, to adopt policies for use by the City of Eugene when assessing City road improvements to benefiting properties outside the City; and

WHEREAS, said policies were subsequently adopted by the city of Eugene as amendments to Section 7.175 of the Eugene Code; and

WHEREAS, per ORS 223.878, Lane County, by resolution, must approve the improvement and assessments against benefiting properties that fall outside city limits. The estimated assessment against the ten properties is shown on the attached exhibit; **NOW THEREFORE BE IT**

ORDERED AND RESOLVED that Lane County approve the Improvement of River Avenue, and

BE IT FURTHER ORDERED AND RESOLVED, that the City of Eugene is authorized to assess the benefiting properties described as Tax Lots 17-04-13-00-02900, 17-04-13-00-03000, 17-04-13-00-03200, 17-04-13-00-03400, 17-04-13-00-03500, 17-04-13-00-03501, 17-04-13-00-03502, 17-04-13-00-03600, 17-04-13-00-3601 and 17-04-13-22-00902 for improvements to River Avenue in accordance with ORS 223.878 and Eugene Code 7.175(5).

DATED this _____ day of _____, 2004.

Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 7-21-04 Lane County

OFFICE OF LEGAL COUNSEL

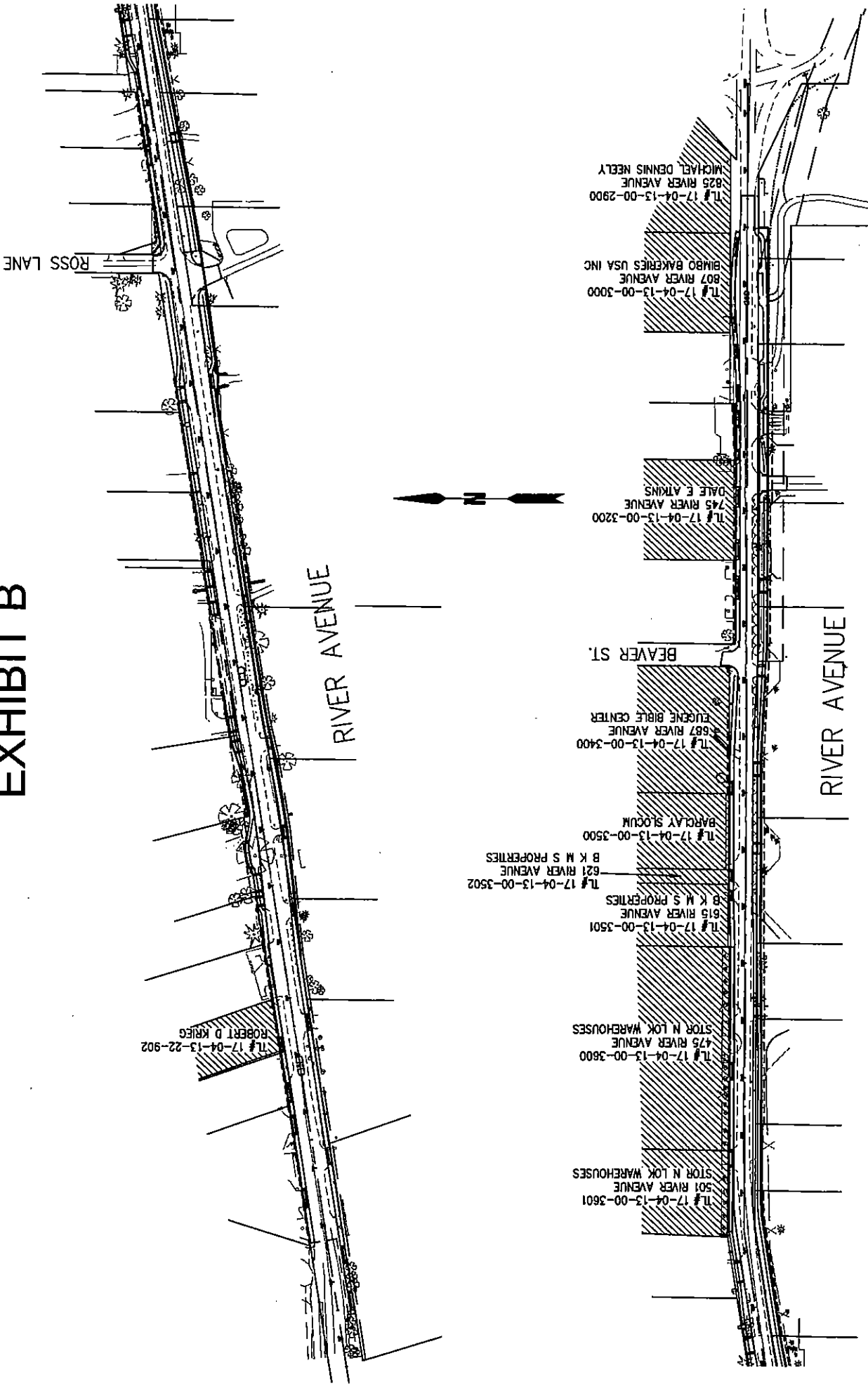
RIVER AVENUE STREET IMPROVEMENTS


COUNTY ASSESSABLE ACCOUNTS

Exhibit A

SEQUENCE NO.	TAX MAP NO.	TAX LOT NO.	PROPERTY OWNER	ASSESSMENT
100	17041300	2900	Neely	\$6,573.60
110	17041300	3000	Bimbo	\$23,458.75
140	17041300	3200	Atkins	\$23,726.85
160	17041300	3400	Eugene Bible	\$24,134.88
170	17041300	3500	Slocum	\$17,970.74
180	17041300	3501	Slocum	\$14,745.50
190	17041300	3502	Slocum	\$3,351.25
200	17041300	3600	Store N Lock	\$47,587.75
210	17041300	3601	Store N Lock	\$18,960.25
400	17041322	902	Rucker	\$12,541.72
				\$193,051.29

EXHIBIT B



 CITY OF EUGENE	
CITY OF EUGENE PUBLIC WORKS ENGINEERING JULY 2004	RIVER AVENUE STREET IMPROVEMENTS

7.175 Local Improvements - Apportionment of Assessments.

(1) Whatever share of the total actual project costs of the local improvement is to be borne by the city and by sources of funds other than assessments shall be deducted from the total project costs before they are apportioned and assessed under this section. The city shall pay the costs of the following, provided funds are available and the project has appropriate priority:

(a) Components of the local improvement that will not be assessed pursuant to subsections (2) through (12) of this section 7.175;

(b) Street improvements and sidewalks within the intersection of public ways other than intersections of new streets within the boundaries of a new development;

(c) A portion of the street and alley improvements for residentially zoned property upon which a single family dwelling or duplex exists which is owned and occupied by low-moderate income person(s) and which property is adjacent to a street or alley which is unimproved or improved with substandard improvements at the time the local improvement district is formed.

(d) Features of storm sewers constructed as part of a street improvement project within existing developed areas which are in addition to those necessary to properly drain the surface of the street being improved and to provide water quality treatment to the runoff from the street surface;

(e) Other costs attributable to special conditions or to policies adopted prior to or at the time the council adopts the resolution forming the local improvement district.

(2) The assessments for individual parcels of real property shall be calculated and assessed as follows against the property specially benefitted by the local improvement:

(a) Special costs or features of the improvement that benefit a particular parcel or parcels in a manner peculiar to the parcel(s) shall, together with a share of

the overhead for the improvement, be assessed separately against each benefitted parcel.

(b) The remainder of the costs of the improvement shall be assessed as described in subsections (3) through (12) of this section.

(c) Notwithstanding any provision in subsections (3) through (12) of this section, the city engineer may accept an alternative means of assessments or other means of collecting funds for local improvements if:

1. The alternative means is approved by all affected property owners; and
2. The city engineer determines that the alternative means adequately protects the city's interest in recovering its costs.

(3) Street construction assessments - General.

(a) Assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in section 7.175(4) and (5) (including, but not limited to street structure of a thickness determined by the city engineer as provided in sections 7.175(4)(a) and 7.175(5)(a), lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins, piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.

(b) Except when special circumstances exist that are identified in the resolution creating an assessment district, assessments for street improvements generally shall be based on the number of linear feet of property to be assessed, as provided in sections 7.175(3)(d) and (e) and 7.175(5)(c), multiplied by the per-foot cost of the assessable components described in paragraph (a) of this subsection. The portion of the street pavement to be assessed against an individual parcel shall be based on the assessable widths identified in subsections 7.175(4)(b) and 7.175(5)(b). Where not all of the linear feet of a parcel abutting a

street improvement are included in the assessment to be levied at the time the improvement is constructed, the parcel may be subject to a delayed equivalent assessment as provided in sections 7.175(3)(e) and (g), 7.175(4)(d) and 7.175(5)(d).

(c) For purposes of subsections 7.175(4) and (5), "development" means a structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to land designed, used or intended to serve such a structure or a business or other use whose employees or customers access the structure or business or other use from a street. "Developed parcel" means a parcel, or a group of parcels with development that functions as an integrated development, that at the time of substantial completion of the street improvement project has any development on it, except for ancillary structures on a parcel used exclusively for farm use. "Fully developed parcel" means a parcel that has development on it and that has no undeveloped portion that could be further partitioned or subdivided for purposes of additional development. "Partially developed parcel" means a parcel that has development on it but which has an undeveloped portion that could be further partitioned or subdivided in the future. "Vacant parcel" means a parcel that has no development on it.

(d) Vacant parcels less than one-half acre in size with residential zoning and fully developed parcels with a single family dwelling or duplex and residential zoning shall be assessed for the actual front footage abutting the improvement, except that no parcel shall be assessed for less than 50 feet of frontage or more than 100 feet of frontage.

(e) Partially developed parcels of one-half acre or larger with a single family dwelling or duplex in a single-family or low-density residential zone and having more than 100 feet of frontage abutting the improvement shall be assessed for 100 feet of frontage at the time of the improvement, and the remaining frontage shall be used to calculate an equivalent assessment when required by and in

accordance with sections 7.175(4)(d), 7.175(5)(d) and 7.407 of this code.

(f) Notwithstanding paragraphs (d) and (e) of this subsection and paragraph (b) of subsection 7.175(5), developed parcels used for a single-family dwelling or a duplex in a single-family or low density residential zone and the developed portions of partially developed parcels meeting the same description shall not be assessed for street improvements if they do not take primary access from the street being improved. Notwithstanding the foregoing sentence, if such a parcel abuts the street improvement and is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsections 7.175(4)(d) and 7.175(5)(d), even if the parcel does not take direct access from the street being improved. For purposes of this section, a parcel "takes primary access" from a street if the parcel abuts only that street or, in cases where a parcel abuts two or more streets, the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to take primary access from both streets.

(g) Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d), and 7.407 of this code.

(h) Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.

(i) Except as otherwise provided in section 7.175 of this code, a parcel shall be assessed for the actual full footage abutting the improvement.

(4) Local streets:

(a) Calculation of assessments for improvements to a local street shall be as provided in this subsection 7.175(4). As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended. In addition to the components listed in subsection 7.175(3)(a), assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of the street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.

(b) A parcel abutting a local street shall be assessed for an improvement to a local street according to the zoning of the parcel as follows:

1. A parcel with single-family or low-density residential zoning shall be assessed for a maximum of 17 feet of width.

2. A parcel with zoning other than single-family or low-density residential zoning shall be assessed for a maximum of 22 feet of width.

(c) The cost for the assessable width shall be apportioned to each parcel on the basis of its front footage abutting the improvement, except where subsection 7.175(3)(d) or (e) of this code provides for assessment of less than the full frontage. Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for additional width or special features in accordance with the engineer's determination.

(d) Concerning a parcel or a portion thereof for which paragraphs (e) or (g) of subsection 7.175(3) require no assessment at the time of the improvement:

1. A person who receives a permit to develop such a parcel after the improvement has been constructed shall pay an equivalent assessment based upon the abutting front footage that was not previously assessed, to be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:

A. A permit is issued authorizing construction of a new driveway access to the local street;

B. A permit is issued authorizing construction of a new street that connects the parcel to the local street;

C. Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or

D. Construction of a new structure capable of human occupancy.

2. A person who receives a permit to develop such a parcel before improvements to the abutting street have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 of this code when the street improvements are constructed.

(5) Arterial and collector streets:

(a) Calculation of assessments for improvements to an arterial or collector street shall be as provided in this subsection 7.175(5). As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector " mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications. In addition to the components listed in subsection 7.175(3)(a), assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local residential use.

(b) In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities) according to the functional classification of the street, as follows:

City Percentage of Cost =

$$\frac{(\text{Pipe Diameter}) - 24}{(\text{Pipe Diameter})} \times 100\%$$

(Pipe Diameter)

1. Major arterial - no paving or drainage.
2. Minor arterial - 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.
3. Major collector - 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.

4. Neighborhood collector - 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.

(c) Developed and partially developed parcels with commercial or industrial zoning shall be assessed for the full frontage abutting the street improvement and for 10 feet of the pavement.

(d) Concerning a parcel or portion thereof for which paragraphs (e) or (g), of subsection 7.175(3) require no assessment, a person who receives a permit to develop such a parcel, whether before or after the improvement has been constructed, shall pay an equivalent assessment based upon the abutting front footage of the parcel that was not previously assessed, to be calculated, reviewed, and paid as provided in section 7.407 of this code before any of the following occurs:

1. A permit is issued authorizing construction of a new driveway access to the arterial or collector street;
2. A permit is issued authorizing connection of a new street that connects the parcel to the arterial or collector street;
3. Any partition, subdivision or development of the parcel regulated by chapter 9 of this code is approved; or
4. Construction of a new structure capable of human occupancy.

(6) Alley improvement assessments. Alley improvement assessments shall be apportioned as follows:

(a) The front footage of a parcel along the alley shall be ascertained and that footage shall be weighted, on the basis of existing use of the parcel under the zoning of the city, by multiplying the footage by the factor indicated for that use in the following table:

Use	Factor
Single family dwelling or duplex	1.0
Other residential	3.0
Commercial or General Office	10.0
Industrial	10.0
Other	1.0 - 10.0*

*According to the most intensive use of the parcel most comparable to the use listed above as determined by the city engineer.

(b) The area of each such parcel that is within 160 feet of the alley, as measured at right angles from the front footage of the parcel, shall be ascertained and that area shall be weighted on the basis of permissible use of the parcel under the zoning of the city, by multiplying the area by the factor indicated for that use in the table set forth in (6)(a) of this subsection.

(c) One-half of the general costs and overhead to be assessed shall be apportioned on the basis of the weighted front footage and one-half on the basis of the weighted areas.

(d) When sections of an alley separated by a cross alley or street are improved, the apportionment and assessment under this section shall be for each section of the alley separately.

(e) Assessments for alley improvements shall include the cost of catch basins and pipings from catch basins to storm sewers for properties specially benefitted by the basins.

(7) Sidewalk assessments. Parcels abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalk, based on the front footage of the parcel abutting the sidewalk. The front footage shall be ascertained in the same manner as for street-improvement assessments. Where, however, the council finds that the topography makes it unfeasible to construct a sidewalk on both sides of the street, the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the

parcels on the opposite side of the street from the sidewalk, on the basis of the front footage abutting or directly across the street from the sidewalk, or the costs may also be apportioned on the basis of the area of sidewalk or driveway apron or both abutting each parcel, whichever basis is determined to be more equitable by the council.

(8) Storm drainage system assessments. The cost of storm sewer construction shall be borne in the following manner:

(a) In a new or undeveloped subdivision or a new development, the parcels specially benefitted by the storm drainage system shall bear the cost of the system pipe or other facility up to and including the first 24 inches of pipe diameter or comparable capacity in another storm drainage facility. Subject to subsection (1) of this section, for pipes larger than 24 inches or comparable capacity in another storm drainage facility, the city shall pay a proportional share of the cost calculated as follows:

Where pipe diameter is actual pipe diameter or the comparable measurement of capacity of other storm drainage facility being used.

(b) The cost to be assessed shall be apportioned to each parcel on the basis of its land area in the assessment district.

(9) Sanitary sewer assessments. The cost of sanitary sewer construction shall be borne in the following manner:

(a) The properties specially benefitted by a sanitary sewer shall bear the cost of the sewer up to and including eight inches of pipe diameter. The additional cost of a sanitary sewer may be borne by the specially benefitted properties, the city and others as provided in subsection (1) of this section.

(b) Sanitary sewer service lines. Each parcel provided with a service line that extends from the eight-inch or larger lateral sewer line to within 10 feet of the property line, shall be considered to have one service line connection point. If more than one service line

connection point is provided the parcel, it shall be assessed for the actual number of service line connection points. For large, unplatted parcels, provided with one or more service line connection points, each service line connection point shall be considered to serve an area of not more than 120 feet in width, and not more than 60 feet on each side of the service line connection point. All costs related to the service lines, including overhead costs, shall be divided by the total number of service line connection points, to determine the cost per service line connection point. Each parcel shall be charged for the number of service line connection points provided.

(c) Lateral sewer system. The lateral system shall include all cost items, including overhead costs, related to at least an eight-inch lateral system. These costs shall be apportioned to each parcel on the basis of a cost per square foot of service area, determined by dividing the total lateral system cost by the total service area. The service area for each parcel shall be determined as follows:

1. For parcels provided with a service line, the service area shall be that portion of the parcel lying within 160 feet of the street right-of-way line or within 160 feet of the side- or rear-lot lines when the sewer is located nearer such a line than the street line.

2. For parcels where service lines are not provided, a compensating factor shall be applied to allow for the distance to the lateral sewer line. The factor shall be computed as follows:

Factor = $160 - (\text{distance from property line to sewer} - \frac{1}{2} \text{ right-of-way width}) / 160$

The area, as determined in (9)(c)1 above, shall be multiplied by this factor to determine the equivalent area of service for the lateral system. Lateral system costs shall also include at least an eight-inch equivalent cost for a portion of all existing or new trunk sewer

lines larger than eight-inch diameter
which are necessary to complete the
sewer system within the improvement
district.

(10) Other local improvements. The cost of local improvements not identified in subsections (3) through (9) of this section shall be borne by the property specially benefitted as provided in the council resolution forming the local improvement district.

(11) When parcels of real property to be assessed are in a planned unit development, condominium or other development in which the common elements are jointly owned by those owning individual units within the development, the entire development shall be treated as a single parcel and its assessment shall be determined as provided in subsection 7.175(2). After determining the assessment for the entire planned unit development or condominium, the assessment shall then be apportioned and assessed against each individual unit of ownership within the planned unit development or condominium and that unit's interest in the common elements according to the terms of the irrevocable petition, if there is one, or according to the recorded declaration if it contains express language directing the apportionment of assessments for public improvements. Notwithstanding the foregoing sentence, the city engineer may select an alternative method if, in the engineer's judgment, the recorded declaration does not provide adequate security for payment of the owners' obligations to the city and the alternative method is equitable to all owners. Absent such express language in an irrevocable petition, a recorded declaration, or a determination by the council that only specific individual units within the planned unit development or condominium specially benefit from the improvement and should therefore bear the assessments, the assessments shall be apportioned and assessed among the individual units according to the individual unit's proportionate interest in the common elements. Where the foregoing provisions conflict or do not provide sufficient guidance, the city engineer shall make an equitable apportionment of the assessments according to the engineer's judgment as to proportionate benefit and in a manner that provides adequate security to assure payment of the owners' financial obligations to the city.

(12) Without repeating the notice required by section 7.185, prior to enactment of the ordinance levying the assessment required by section 7.190, the proposed assessments for individual parcels of real property calculated under subsections 7.175(2) and 7.175(3)

may be adjusted by a written agreement between the affected owners and the city engineer provided:

- (a) No parcel's adjusted proposed assessment exceeds the assessed value of the parcel at the time of the agreement;
- (b) The proposed adjusted assessment for any parcel subject to subsections 7.160(2) and (3) remains within the limitations imposed under subsections 7.160(2) and (3); and
- (c) There is no increase in the city's share of project costs or in assessments to other parcels within the project whose owners were not a party to the agreement.

(Section 7.175 added by Ordinance No. 17955, enacted April 11, 1977; amended by Ordinance No. 19393 enacted July 28, 1986, effective January 28, 1987; Ordinance No. 19653, enacted November 22, 1989, effective May 22, 1990; Ordinance No. 19773, enacted May 13, 1991, effective July 1, 1991; Ordinance No. 19808, enacted November 4, 1991, effective May 4, 1992; Ordinance No. 19922, enacted June 21, 1993; Ordinance No. 20214, enacted October 23, 2000, effective April 23, 2001; and Ordinance No. 20235, enacted November 26, 2002, effective May 26, 2002.)

7.185 Local Improvements - Assessments - Notice.

(1) Before an assessment for a local improvement is levied, the finance officer shall dispatch by certified mail to each owner whose parcel of real property is to be subject to the assessment a notice stating:

- (a) The description of the parcel of real property to be subject to the proposed assessment.
- (b) A general description of the project and a description of the kind of improvement for which the proposed assessment is to be made.