

1
2 **INTERGOVERNMENTAL AGREEMENT**
3 **RELATING TO THE ANNEXATION OF THE TERRITORY WITHIN THE CITY**
4 **OF WEST LINN**
5 **INTO TUALATIN VALLEY FIRE AND RESCUE DISTRICT**
6

7 THIS AGREEMENT is made and entered into by and among the City of West Linn,
8 an Oregon municipal corporation (hereafter "City") acting under authority of the City
9 Charter, and Tualatin Valley Fire and Rescue, A Rural Fire Protection District (hereafter
10 "District").
11

12 WHEREAS, the District has provided fire and emergency services to the City under
13 an intergovernmental agreement since July 1, 1998; and
14

15 WHEREAS, the parties have completed a comprehensive analysis demonstrating the
16 operational and fiscal advantages of an annexation of the territory within the City into the
17 District for the purposes of providing fire and emergency services; and
18

19 WHEREAS, this agreement will become effective only upon annexation of the City
20 territory into the District following approval by a majority of the City's voters of a Measure
21 authorizing annexation.
22

23 NOW, THEREFORE, under the contractual authority of ORS Chapters 190 and 195,
24 it is agreed between the parties as follows:
25

26 **The District agrees to the following:**
27

28 Relating to Intergovernmental Communication/Governance:
29

30 1) To assign a member of District command staff to serve as the primary liaison with
31 the City. Duties will include, but shall not be limited to, maintaining necessary day-
32 to-day communication with City staff and elected officials, providing periodic reports
33 relating to fire and emergency operations within the City, and coordinating activities
34 with City departments.
35

36 2) To convene, at a minimum, one annual meeting between the City Council and the
37 District Board of Directors. The purpose of the meeting shall be to receive
38 information of interest to the parties and to provide direction relating to funding,
39 infrastructure, legislation, and service levels. Emergency meetings or additional
40 meetings may be called upon agreement of both presiding officers or by a majority
41 request of either governing body. All meetings held under this paragraph shall be
42 deemed "public meetings" under Oregon law.
43

44 3) To solicit and consider input from the City on matters relating to the development
45 of, and revisions to, the fire code.
46

1 Relating to Funding:

2
3 1) To the extent legally permissible, and subject to the qualifications set forth below,
4 the District agrees that its tax rate to the citizens of West Linn, including funding for
5 capital requirements, shall not exceed \$1.89 through June 30, 2009.

6
7 2) The current rate is comprised of a \$1.5252 permanent levy rate and a \$0.25 local
8 option levy which currently expires on July 1, 2005. In addition, the District levies
9 the amount necessary to provide principal and interest on its 1999 and 2000 general
10 obligation bonds. The District intends to seek a renewal of the \$0.25 local option
11 levy for four years, beginning July 1, 2005. If the District increases its local option
12 levy beyond the existing \$0.25 per thousand, it will take such steps as are legally
13 permissible to maintain assessments within the current boundaries of West Linn at its
14 current rate or less for the five year period. The City and the District understand that
15 this provision is dependent upon the District taxpayers supporting a renewal of the
16 \$0.25 local option levy at the November 2004 election, which will first be levied on
17 July 1, 2005.

18
19 3) Should the request to renew the existing \$0.25 local option tax in November 2004
20 fail, the City acknowledges that the District would then need to seek replacement
21 funding for both the local option levy and the capital portions of the levy at another
22 election.

23
24 4) In the event of circumstances beyond the District's control, e.g. a property tax
25 limitation or man-made or natural disaster, the provisions of this section, "Related to
26 Funding," shall be terminated.

27
28 Relating to Fire Stations:

29
30 1) To solicit and consider input from the City, neighborhood associations, and
31 homeowners' associations on matters relating to fire station design, construction, and
32 location.

33
34 2) To provide, where consistent with available land, a community room in the
35 construction of all new fire stations.

36
37 3) To secure concurrence of the City Council on matters relating to new fire station
38 location within the City. Absent such concurrence, the District shall not exercise its
39 right of eminent domain, i.e. condemnation, within the territorial boundaries of the
40 City.

41
42 4) To maintain a minimum of two fire stations within the City, and the District agrees
43 to obtain the City Council's concurrence for placement of additional fire stations
44 within the City. Further, the District agrees that it shall not build fire stations within
45 two (2) miles of the City's southern and western boundaries, as those boundaries
46 exist on the effective date of this agreement, except to relocate existing fire stations to
47 improve response times to existing customers. A map of the current boundaries is
48 attached hereto as Exhibit 1.

1 5) To design and submit appropriate applications to build a new or substantially
2 remodeled and expanded fire station within the boundaries of the Bolton
3 neighborhood association (Exhibit 2), as those boundaries exist on the effective date
4 of this agreement, within two (2) years of the effective date of the annexation;
5 provided, however, that such time period shall be tolled for the time involved to
6 acquire land, if required, for the time to obtain all entitlements, such as land use
7 approvals, and for any other time required to seek approvals and concurrence of the
8 City for the acquisition, location, design, and construction of the fire station. Such
9 tolling period shall not exceed two (2) years unless the City denies final approval of
10 permits. The District shall have three (3) years following approval of all applications
11 in which to build the fire station; provided, however, that such period shall be tolled
12 for any delays related to or caused by hazardous or toxic materials found on the site.
13

14 6) To provide a new or substantially remodeled and expanded fire station within the
15 boundaries of the Willamette neighborhood association (Exhibit 2), as those
16 boundaries exist on the effective date of this agreement, within seven (7) years of the
17 effective date of the annexation; provided, however, that such time period shall be
18 tolled for the time involved to acquire land, if required, for the time to obtain all
19 entitlements, such as land use approvals, for any delays related to or caused by the
20 removal of underground fuel storage tanks or any other hazardous or toxic materials
21 found on the site, and any other time required to seek approvals and concurrence of
22 the City to acquisition, location, design, and construction of the fire station for up to a
23 maximum of two (2) additional years.
24

25 7) Unless the District constructs a new fire station on the property, upon ceasing to
26 use the current Bolton, Willamette, or Sunset fire stations for District purposes, i.e.
27 the property becomes surplus to the District, and the District has obtained an
28 occupancy permit for a replacement fire station, the District will transfer ownership
29 to the City at no cost. The conveyance of the property shall be in "as is" condition,
30 by warranty deed, free and clear of all encumbrances caused by or through the
31 District.
32

33 Relating to Fire and Emergency Services:
34

35 1) To provide fire protection and emergency medical services within the City. Under
36 this condition, the territory within the City shall be fully integrated with the balance
37 of the territory within the District, and provided with all District services. It is noted
38 that, if temporary demands for services exceed the District's capacity, the District
39 may use its mutual aid agreements to supplement the District's personnel, apparatus,
40 and equipment, as it does throughout the District.
41

42 2) To maintain fire protection and advanced life support emergency medical services
43 (EMS) within the City by staffing, at a minimum, two fire stations within the City 24
44 hours per day, seven (7) days per week. As noted above, however, that the stations
45 and services are fully integrated with the services provided by the District, and are
46 therefore subject to mutual aid agreements and other agreements which may
47 supplement the District's personnel, apparatus, and equipment, as it does throughout
48 the District.
49

- 1 3) To support the City's fire and life safety plan review process for new development
2 and construction consistent with applicable codes and ordinances within the City.
3
- 4 4) To review and propose fire codes, and to review ordinances being considered by
5 the City when they are related to the provision of fire and emergency services.
6
- 7 5) To ensure integration of the City's emergency management efforts by assigning
8 District command staff to the City's emergency operations center (EOC) when
9 activated.
10
- 11 6) To maintain a level-3 or better Insurance Service Office "ISO" rating or, in the
12 event ISO is replaced by a successor system, to maintain an equivalent rating.
13
- 14 7) To otherwise perform all fire department-related functions within the City which
15 the District is required to perform under its authorizing authority,
16 ORS Ch. 478, and which the District provides throughout its territory.
17
- 18 8) To hang banners at the request of the City; provided, however, that such banners
19 are "informational" in nature and the banners do not advocate for a candidate or
20 measure in an upcoming election or are otherwise prohibited by law.
21

22 **The City agrees to the following:**

23
24 Relating to Intergovernmental Communication/Governance:

- 25
26 1) To exclude the District from urban renewal districts, or otherwise take such steps
27 as are legally permissible to hold the District harmless from the financial impacts of
28 the urban renewal district.
29
- 30 2) To maintain current storage and fire flow capabilities and to ensure that changes in
31 the City's water system do not erode the District's ISO rating.
32
- 33 3) To solicit and consider the District's input on matters relating to transportation
34 planning including, but not limited to, street closures and traffic calming devices.
35
- 36 4) To adopt the District's Fire Code as it may be amended from time to time.
37

38 Relating to Funding:

- 39 1) Upon the effective date of annexation, in consideration of the obligations of the
40 District to the City, and the agreements set forth herein, e.g. station, apparatus, and
41 equipment asset transfers, and in satisfaction of the City's obligations, which are
42 identified in an amendment to an intergovernmental agreement dated November 13,
43 2000, the City agrees to transfer to the District the sum of \$500,000.
44

45 Relating to Fire Stations and Property:

- 46
47 1) To, upon the effective date of annexation, transfer ownership to the District of the
48 City-owned fire stations known as Bolton, Willamette, and Sunset, which are more

1 particularly described in Exhibit 3. The transfer of these City-owned fire stations
2 shall be without further consideration. Furthermore, the City shall transfer ownership
3 to the District of the City-owned fire service apparatus and equipment without further
4 consideration. The City shall convey the stations by warranty deed, free and clear of
5 all encumbrances, to include all existing furnishing. Excepting the City's obligation
6 with respect to hazardous or toxic materials found on the site, the conveyance shall be
7 in "as is" condition, and shall occur upon the effective date of the annexation.

8
9 2) Upon the effective date of the annexation, this agreement shall operate as a bill of
10 sale for all personal property transferred herein, whereby the City grants, bargains,
11 sells and delivers to the District, all of the City's right, title and interest in and to the
12 personal property transferred or conveyed to the District under this agreement. The
13 City warrants to the District that the City is the owner of the property, that the
14 property is free and clear of all encumbrances, and that the City has good right to sell
15 the property. The parties agree to execute such additional documents as may be
16 necessary and appropriate to effect transfer of property, e.g. titles to vehicles.

17
18 3) If, upon investigation of the City-owned fire stations, the District determines that a
19 site is not buildable, nothing in this Agreement shall be construed to require the
20 District to provide a new or substantially remodeled fire station on that site.

21
22 4) Provided the City has adequate facilities available, the City will allow the District
23 the use of City property as temporary fire stations or support facilities during
24 construction of fire stations within the City.

25
26 5) If the District determines that the current Bolton, Willamette, or Sunset fire
27 stations are surplus, the District shall transfer ownership back to the City, as is
28 provided under the section "Relating to Fire Stations," the City agrees to accept the
29 property in "as is" condition, by warranty deed, free and clear of all encumbrances
30 caused by or through the District.

31
32 Relating to Fire and Emergency Services:

33
34 To maintain an emergency operations center (EOC) including City staff who are
35 trained and meet certain agreed-upon core competencies.

36
37 **GENERAL PROVISIONS:**

38
39 Relating to Employees:

40
41 1) Upon the effective date of annexation, the City and District shall assume all rights
42 and obligations required of them under ORS 236.605, et seq., except as modified by
43 this agreement.

44
45 2) Upon the effective date of annexation, all accrued employee benefits, e.g. vacation,
46 compensatory time, etc, shall be transferred to the District. Except as noted under
47 paragraph 3 of this section, which addresses PERS responsibilities, the District
48 accepts liability for all such transferred benefits.

1 3) The City shall remain liable for the City's PERS obligations for all employees
2 transferred under this agreement through July 1, 1998. The City shall indemnify,
3 defend and hold harmless the District from any and all claims related to PERS
4 liabilities and responsibilities for City employees arising on or before July 1, 1998, or
5 arising out of transfer of PERS obligations pursuant to this agreement, including
6 claims of PERS, employees, or any third party.

7
8 4) To the extent allowed by law, the City shall provide to the District all employee
9 records for employees transferred as a result of this annexation.

10
11 Relating to Environmental Issues

12
13 1) Subject to the provisions of paragraph two (2) below, commencing upon
14 annexation, the City shall indemnify, defend and hold harmless the District, its
15 directors, officers, employees, and agents, from and against any and all liability of
16 any kind arising out of or attributable to the presence on any property conveyed to the
17 District of any hazardous or toxic material or substance, as defined by any federal,
18 state or local law, ordinance, rule or regulation.

19
20 2) The City agrees that environmental cleanup of the property is required to remove
21 underground fuel storage tanks and any hazardous or toxic materials found on the
22 site. At its discretion, the District shall have the option to manage the removal of the
23 underground storage tanks and the cleanup and remediation contracts. The District
24 agrees to pay the first \$25,000 of costs of the underground storage tank removal and
25 hazardous or toxic materials cleanup effort. The City agrees to pay the second
26 \$25,000 of costs of the underground storage tank removal and hazardous or toxic
27 materials cleanup effort. Thereafter, the costs shall be assumed in alternating order
28 and amounts of \$25,000, first by the District, then by the City, until the District has
29 paid \$100,000. Thereafter, all costs shall be paid by the City. The District shall be
30 able to count against its initial \$25,000 obligation, the cost of any environmental site
31 assessments provided that such costs are initiated after the effective date of the
32 annexation.

33
34 3) If the District determines that the current Bolton, Willamette, or Sunset fire stations
35 are surplus, and transfers the property back to the City, the District shall have no
36 obligation for environmental cleanup on the property, i.e. the cost of underground
37 storage tank removal and hazardous or toxic materials cleanup, unless the District is
38 responsible for the presence of the tank or the hazardous or toxic material or
39 substance.

40
41 Election Costs.

42
43 The parties hereto will share equally in the costs of election for an annexation subject
44 to this agreement including, but not limited to, filing fees, publication and printing costs, and
45 legal costs and fees.
46

1 Legal Notice:

2
3 The following notice is given pursuant to ORS 93.040(1):

4
5 THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY
6 DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND
7 USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS
8 INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
9 SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING
10 DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY
11 LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS
12 DEFINED IN ORS 30.930.

13
14 Relating to Termination and Withdrawal:

- 15
16 1) Except as otherwise provided herein, the term of this agreement shall be perpetual,
17 subject to termination as provided for in this section, as provided in the event breach
18 under the Default provisions hereafter, or as the parties may otherwise agree.
19
20 2) If withdrawal of the City's territory is sought by the City without default under this
21 agreement, upon the date of withdrawal, the City will reimburse the District for
22 newly constructed or substantially remodeled facilities based upon a 40-year straight-
23 line depreciation schedule, commencing upon the date the occupancy permit is
24 issued. Such reimbursement shall include all site improvements, but shall not
25 include the cost of land if the station remains on the existing site. In the event the
26 station has been relocated to a new site, reimbursement shall include the initial cost of
27 the land.
28
29 3) A City Council action to withdraw the City's territory from the District will be
30 subject to referendum, as set forth under ORS 222.524(4). The City will ensure that
31 its action, if taken, will be timed so as to ensure that a referendum vote on the action
32 will only occur in May or November of even numbered years.
33

34 Default:

- 35
36 1) If either the City or District has cause to believe that the other is in default of any
37 of the terms and conditions of this Agreement, the non-defaulting party shall request
38 a joint meeting of the City Council and District Board of Directors. If satisfaction is
39 not reached through the efforts of the governing boards within 60 days, the party
40 believing the other to be in default shall give the party alleged to be in default notice
41 of the default in writing and allow not less than 30 days in which the default may be
42 cured; and, if not so cured, the complaining party may declare this Agreement to be
43 terminated effective 30 days after the expiration of the period for curing the default,
44 or upon ruling by an arbitrator as set forth below, whichever is later. Provided,
45 however, that the City's payment and extinguishment of its obligations under the
46 section entitled "Relating to Funding" shall survive termination.
47
48 2) In the event the party declared to be in default believes the declaration to be
49 unjustified, the parties agree to resolve such dispute using arbitration procedures set

1 forth in ORS 190.710 and 190.800; provided, however, that the parties shall agree on
2 the arbitration service used, or if they are unable to agree, either party may make
3 application, pursuant to ORS Ch. 36, for appointment of an arbitrator by the court.
4

5 3) In the event either party is found to be in default, this agreement may be
6 terminated by the non-defaulting party. The City may elect to effect withdrawal of its
7 territory; provided, however, that the City's payment and extinguishment of its
8 obligations under the section entitled "Relating to Funding" shall survive such
9 termination. Upon effecting withdrawal, the District facilities in West Linn will be
10 transferred to the City's direct ownership. The City will reimburse the District for
11 newly constructed or substantially remodeled facilities based upon a 40-year,
12 straight-line depreciation schedule commencing upon the issuance of an occupancy
13 permit. Reimbursement shall include all site improvements, but shall not include the
14 cost of land if the station remains on the existing site. In the event the station has
15 been relocated to a new site, reimbursement shall include the initial cost of land. The
16 compensation for the District's investment shall be paid to the District upon
17 withdrawal, but the improvements shall be subject to a default penalty by reducing
18 the compensation to 60% of its present value. Unless the termination is subject to a
19 referendum vote, the City will have the right to immediately reconstitute its fire
20 department under its direct control and the District shall cooperate to effect an orderly
21 transfer.
22

23 4) During any election on withdrawal based on a finding of default by the District
24 failing to fulfill its commitments on station construction, or violating the restriction
25 on building within two (2) miles of the City's boundary, and such determination is
26 made by an arbitrator, the District will not comment on default events beyond
27 reciting the findings of the arbitration; provided, however, that the District may
28 respond to statements or allegations about the District's actions and positions which
29 are inconsistent with the District's position during arbitration.
30

31 Attorney Fees:
32

33 In the event a party shall initiate action, including arbitration and any action pursuant
34 to the bankruptcy laws of the United States, to interpret or enforce the terms of this
35 agreement, the prevailing party in such action, in addition to all other relief that may
36 be available, shall be entitled to an award of its reasonable attorney's fees, discovery
37 costs (including deposition costs) and expert witness' fees, to be fixed by the court or
38 arbitrator at trial or arbitration, and on appeal and review.
39

40 Entire Agreement; Amendments; Severability:
41

42 This instrument contains the entire agreement of the parties on the subjects
43 enumerated herein; provided, however, that the provisions of the amendment to the
44 intergovernmental agreement dated November 13, 2000 are not modified by this
45 agreement if annexation of the City territory into the District is not approved by the
46 City's voters. An addition or modification of the provisions of this agreement shall
47 not be effective unless it is in writing and acknowledged by the authorizing signature
48 of each party.
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If any provision of the agreement is rendered impractical, unenforceable, or illegal as a result of legislative action (including initiative), the balance of the agreement remains in force.

Notices:

All notices required or allowed of one party to the other shall be deemed given when sent to the parties at the following addresses, or to the individual then holding the position of City Manager or Fire Chief/Administrator if the following individuals are no longer in those positions: :

<u>For City:</u>	<u>For District:</u>
Sandi Farley, City Manager City of West Linn 22500 Salamo Road West Linn, Oregon 97068	Jeffrey D. Johnson, Fire Chief/Administrator Tualatin Valley Fire and Rescue 20665 S.W. Blanton Street Aloha, Oregon 97007

Effective Date:

This agreement shall take effect upon signing by both parties hereto, and shall remain in effect for one calendar year from its effective date. However, if the annexation is approved by voters during such one-year period, this agreement shall be implemented immediately upon issuance of a county order declaring the annexation complete, and shall be of perpetual duration as provided in this agreement.

IN WITNESS WHEREOF, this agreement has been approved by the respective governing authority of each party as of the date set forth below.

Tualatin Valley Fire and Rescue:	Resolution and Date of Approval:
By: <u>Larry O. Goff</u> Larry Goff, President	<u>12/16/03</u>

West Linn:	Resolution and Date of Approval:
By: <u>David Dodds</u> David Dodds, Mayor	<u>12-23-03</u>



City of West Linn

Exhibit #1

GisData: \Projects \WL-Neighborhd Assns; Plot Date: Decemter 15, 2003

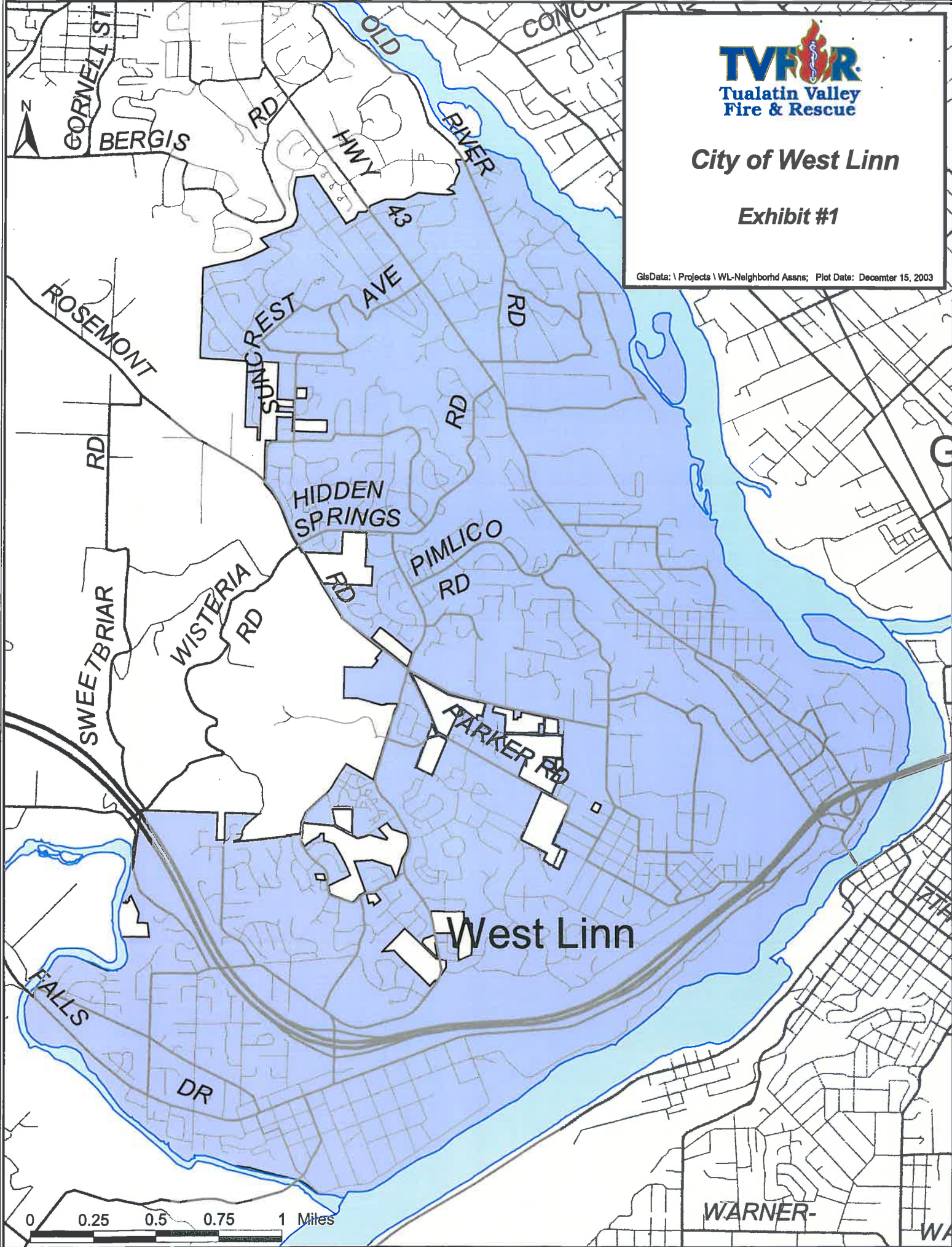


Exhibit #2



Bolton Neighborhood Association



Willamette Neighborhood Association

GisData: \Projects\WL-Neighborhood Assns; Plot Date: December 15, 2003

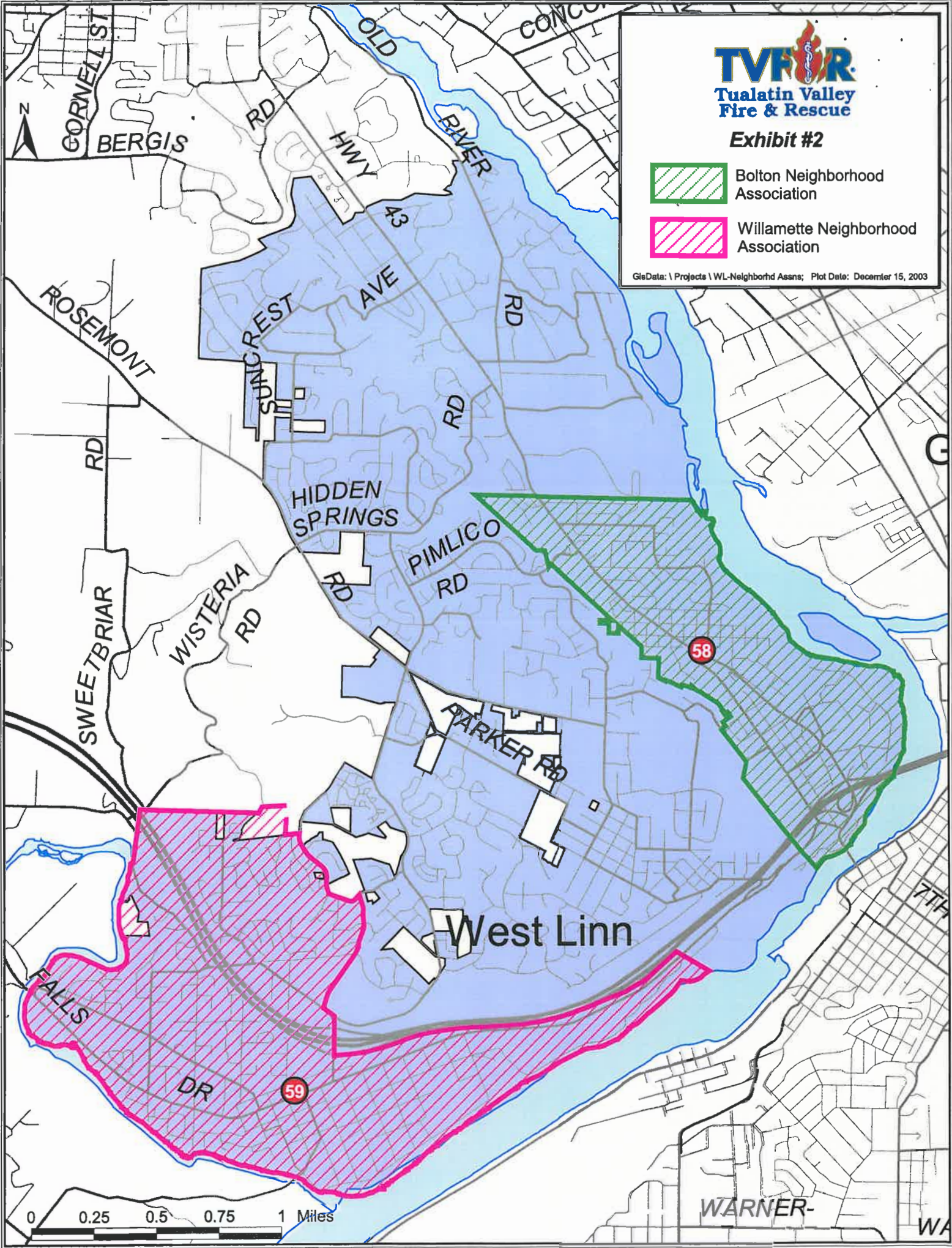
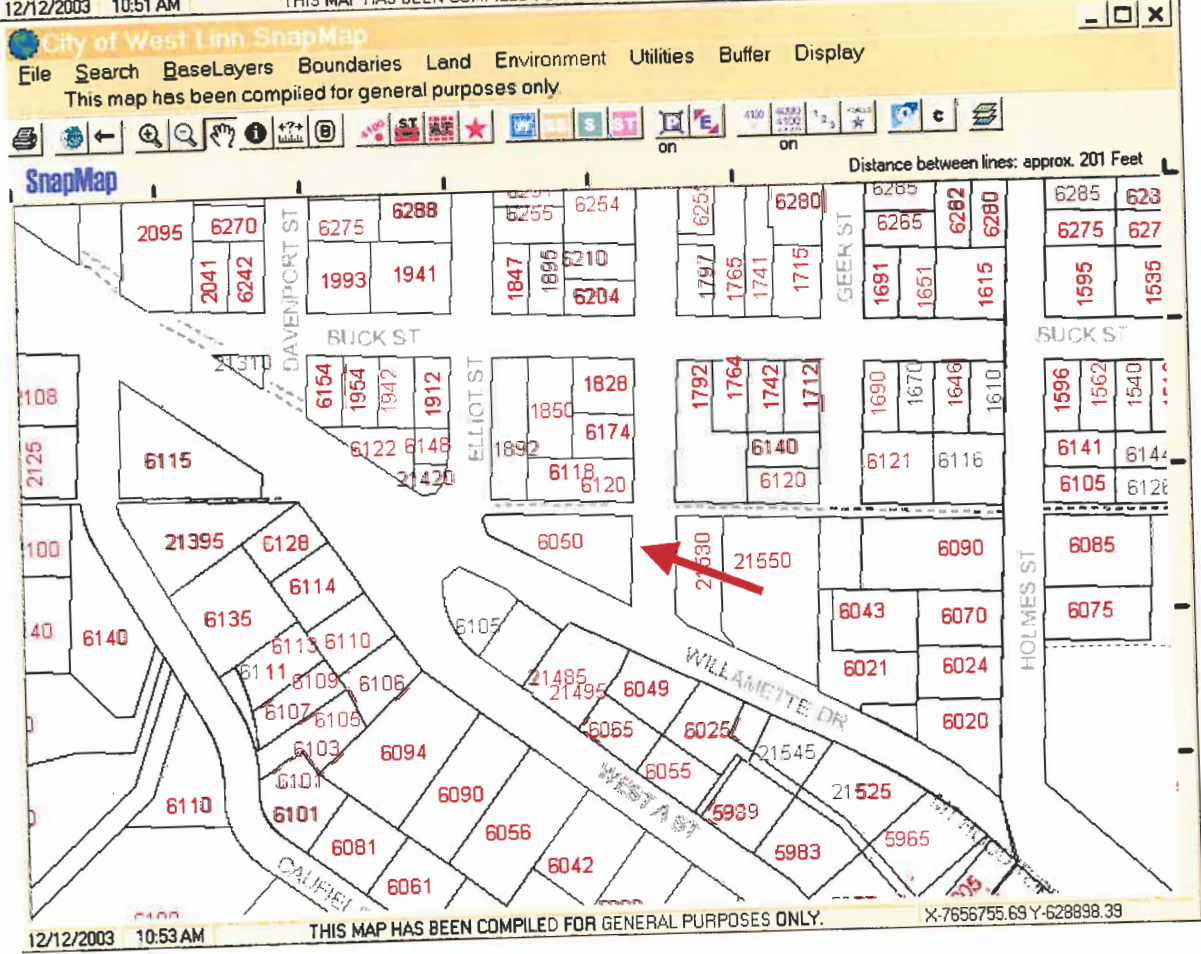
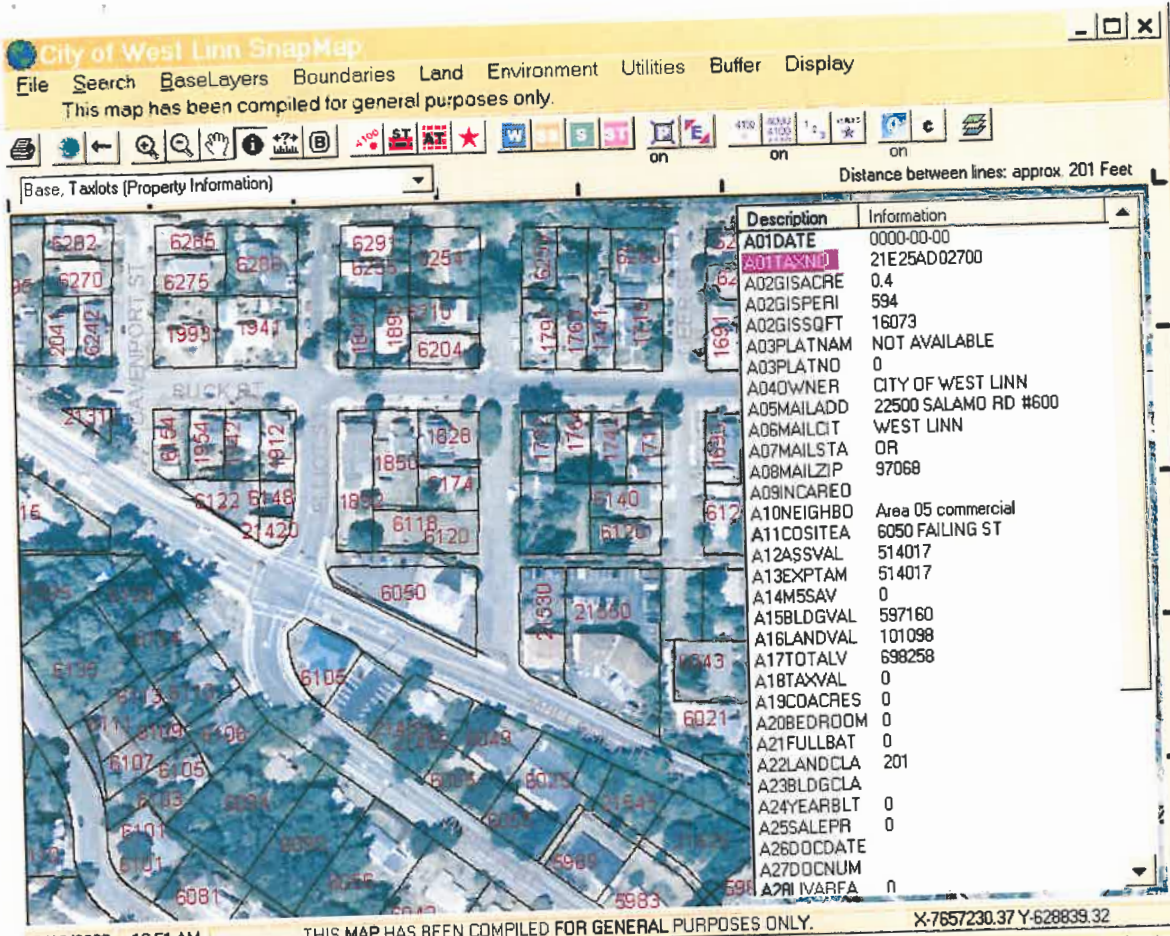


Exhibit 3



Bolton

City of West Linn SnapMap

File Search BaseLayers Boundaries Land Environment Utilities Buffer Display

This map has been compiled for general purposes only.

Base: Taxlots (Property Information) Distance between lines: approx. 201 Feet

Description	Information
A01DATE	0000-00-00
A01TAXNO	31E02BA02000
A02GISACRE	0.3
A02GISPERI	418
A02GISSQFT	10900
A03PLATNAM	WILLAMETTE & TUALATIN ...
A03PLATNO	198
A04OWNER	CITY OF WEST LINN
A05MAILADD	22500 SALAMO RD #600
A06MAILCIT	WEST LINN
A07MAILSTA	OR
A08MAILZIP	97068
A09INCAREO	
A10NEIGHBO	Area 05 commercial
A11COSITEA	NO SITUS
A12ASSVAL	350960
A13EXPTAM	350960
A14M5SAV	0
A15BLDGVAL	383460
A16LANDVAL	93295
A17TOTALV	476755
A18TAXVAL	0
A19COACRES	0
A20BEDROOM	0
A21FULLBAT	0
A22LANDCLA	201
A23BLDGCLA	
A24YEARBLT	0
A25SALEPR	0
A26DDCDATE	

12/12/2003 10:22 AM THIS MAP HAS BEEN COMPILED FOR GENERAL PURPOSES ONLY. X-7648346.41 Y-619067.17

City of West Linn SnapMap

File Search BaseLayers Boundaries Land Environment Utilities Buffer Display

This map has been compiled for general purposes only.

SnapMap Distance between lines: approx. 201 Feet

12/12/2003 10:24 AM THIS MAP HAS BEEN COMPILED FOR GENERAL PURPOSES ONLY. X-7647717.72 Y-619503.88

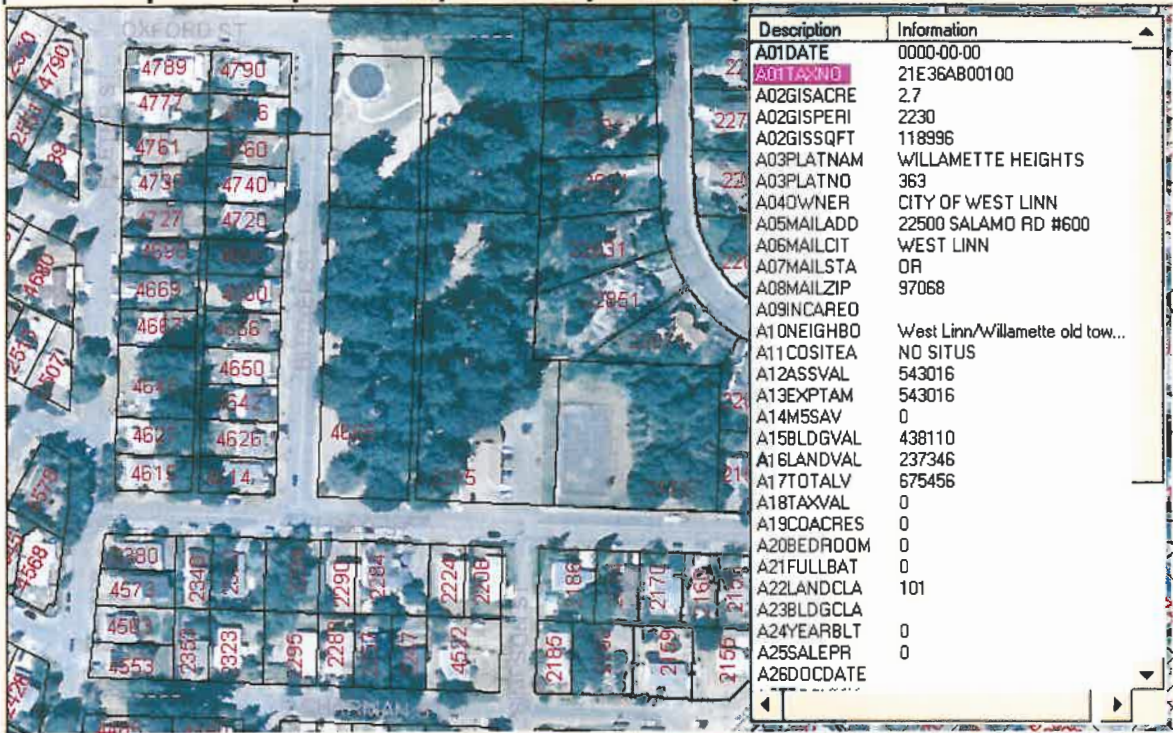
Willamette

This map has been compiled for general purposes only.



Base, Taxlots (Property Information)

Distance between lines: approx. 201 Feet



Description	Information
A01DATE	0000-00-00
A01TAXNO	21E36A800100
A02GISACRE	2.7
A02GISPERI	2230
A02GISSQFT	118996
A03PLATNAM	WILLAMETTE HEIGHTS
A03PLATNO	363
A04OWNER	CITY OF WEST LINN
A05MAILADD	22500 SALAMO RD #600
A06MAILCIT	WEST LINN
A07MAILSTA	OR
A08MAILZIP	97068
A09INCAREO	
A10NEIGHBO	West Linn/Willamette old tow...
A11COSITEA	NO SITUS
A12ASSVAL	543016
A13EXPTAM	543016
A14MSSAV	0
A15BLDGVAL	438110
A16LANDVAL	237346
A17TOTALV	675456
A18TAXVAL	0
A19COACRES	0
A20BEDROOM	0
A21FULLBAT	0
A22LANDCLA	101
A23BLDGCLA	
A24YEARBLT	0
A25SALEPR	0
A26DDCDATE	

This map has been compiled for general purposes only.



SnapMap

Distance between lines: approx. 201 Feet



Sunset