

RESOLUTION NO. 801

A RESOLUTION APPROVING THE REVISED CLOSING AGREEMENT WITH MTW PARTNERS-WILSONVILLE TRANSACTION.

WHEREAS, a Revised Closing Agreement has been prepared for MTW Partners which is attached hereto as Exhibit "A"; and

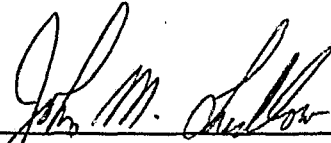
WHEREAS, the City Council has duly considered this Agreement; and

WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject.

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


1. The City Council of the City of Wilsonville does hereby authorize the Revised Agreement attached hereto as Exhibit "A" and further instructs that action appropriate to the Agreement be taken.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 3rd day of December 1990 and filed with the Wilsonville City Recorder this date.



JOHN M. LUDLOW, Mayor

ATTEST:



VERA A. ROJAS, CMC, City Recorder

SUMMARY of Votes:

Mayor Ludlow AYE
Councilor Edwards ABSENT
Councilor Chandler AYE
Councilor Clarke AYE
Councilor Dant ABSENT

CLOSING AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 1990 by an between MTW PARTNERS-WILSONVILLE, a partnership ("Developer"), CITY OF WILSONVILLE, a municipal corporation ("City"), and TRANSAMERICA TITLE INSURANCE COMPANY, a corporation ("Transamerica").

RECITALS

A. Developer has caused to be constructed within the City of Wilsonville a cul-de-sac street commonly known as _____. The cost of such construction was slightly in excess of \$65,000. City has required that 10% of such construction cost be placed in escrow for a period of one year to defray any costs of repairs to such street needed during that period.

B. Transamerica has agreed to hold such deposited sum.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

1. Deposit. Upon execution hereof, Developer shall deposit with Transamerica the sum of \$6,600. Such sum shall be held in escrow, in an insured bearing account. At the expiration of one year from the date hereof, Developer and City shall give to Transamerica written instructions to disburse to Developer the balance of such account, including interest. For its services pursuant to this Agreement, Transamerica shall be entitled to a fee in the amount of \$250.00. Such fee shall be deducted by

Transamerica from the escrow account prior to distribution in accordance with this Section 1 or Section 2 below.

2. Deductions. In the event repairs or maintenance to the street are required to be made during the one-year period of this Agreement, City shall give notice of such fact to Developer. If Developer does not elect to accomplish the needed repairs or maintenance, at Developer's expense, within thirty (30) days of the City's notice, or as soon thereafter as weather permits, then the City may accomplish the same and submit to Transamerica the following: (a) a copy of the City's original notice of the need for repair or maintenance, (b) a statement that the Developer did not complete the same within thirty (30) days or as soon thereafter as weather would have permitted, and (c) copies of invoices showing the cost of the City in completing the same. A copy of such materials will be contemporaneously delivered by City to Developer. Upon receipt of such materials, Transamerica is hereby authorized to pay to City the total of such invoices. No claim shall be made by Developer against Transamerica for compliance with the foregoing.

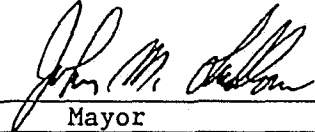
3. Reasonableness. City agrees in favor of Developer to only make proper and reasonable charges under Section 2 above.

4. General Matters. Transamerica shall be entitled to rely upon the joint instructions of the parties for a disbursement to Developer under Section 1, and upon the presentation of materials under Section 2, in disbursing funds pursuant to Section 2. In the event of any controversy between the parties with respect to the sums deposited pursuant to Section 1 above,

Transamerica (a) shall be held harmless by the parties hereto (except as to its negligence or failure to comply with these instructions), and (b) shall have the right to commence an action in interpleader, in which case its costs and expenses in so doing shall be reimbursed equally by City and Developer. In the event of litigation with respect to this agreement, the prevailing party shall be entitled to recover, in addition to all other sums and relief, its reasonable costs and attorneys fees incurred both at and in preparation for arbitration, trial, appeal and review, such sum to be set by the arbitrator(s) or court(s) before which the matter is heard. Time is of the essence hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

CITY: CITY OF WILSONVILLE, a municipal corporation

By: 
Its: Mayor

DEVELOPER: MTW PARTNERS-WILSONVILLE, an Oregon general partnership

By: _____
Its: _____

TRANSAMERICA: TRANSAMERICA TITLE INSURANCE COMPANY, a corporation

By: _____
Its: _____