

FILED FOR RECORD AT REQUEST OF:

CITY CLERK
CITY OF NORTH BEND
P O BOX 896
NORTH BEND, WA 98045



BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of the sum of One Dollar (\$1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, the undersigned Seller, Forster Woods Limited Partnership, does by these presents hereby convey, set over, assign, transfer and sell to the City of North Bend (the "City"), King County, Washington, a municipal corporation, the following described water distribution system, wastewater collection system, storm drainage system, curbs, sidewalks, street paving, street trees, and other right of way improvements as listed on the following attachments: A, B, C, D, E, & F.

Commonly known as: Improvements provided as a part of the plats of FORSTER WOODS DIVISIONS 1, 2, 3, 4, AND 4A.

Seller warrants that they are the sole owners of all the property described in the attachments and have full power to convey all rights hereunto, and agree to hold the City of North Bend harmless from any and all claims which might result from execution of this document.

Seller warrants that the property above described is free from all liens and encumbrances and Seller warrants and will defend the property hereby sold to City and its successors and assigns against the lawful claims and demands of all persons.

By accepting and recording this instrument, the City accepts and agrees to maintain the water distribution system including booster stations and reservoir, wastewater collection system, storm drainage system (except detention ponds owned by the Home Owners Association), curb and gutter, sidewalks, street trees, street signage, street paving, street lights, and other miscellaneous improvements that lie in the Public Right of Way, in the same manner as though they had been constructed by the City.

9903011140

16.00
039 SKA
09:27:00 AM KING COUNTY RECORD

HOA EXHIBIT 1

IN WITNESS WHEREOF the Sellers have executed these presents this 21st of September, 1998.

Seller: Forster Woods Limited Partnership

Purchaser: City of North Bend


By Jeffrey Wright, President of
J. Wright Development Co.,
Its General Partner


APPROVED AS TO FORM:


City Attorney

9903011140

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Jeffrey Wright is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: September 21, 1998


Elaine Walker

NOTARY PUBLIC in and for the
State of Washington residing at
Kirkland
My appointment expires: 11/29/99

990301140

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Joan M. Simpson is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument on oath that (he/she) was authorized to execute the instrument and acknowledge it as the Mayor of the City of North Bend to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/16/98

Dolores M. Beauchene
(Signature)

Dolores M. Beauchene
(Print Name)



NOTARY PUBLIC in and for the State of
Washington residing at: North Bend

BILL OF SALE, WATER
ATTACHMENT A

DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: **FORSTER WOODS DIVISION I
AND OFFSITE WATER SYSTEM.**

<u>IN</u>	<u>FROM</u>	<u>TO</u>	<u>SIZE</u>	<u>LENGTH</u>
NORTH BEND BLVD.	STA 2 (+/-)	STA 12 (+/-)	16"	1000 LF
RIBARY WAY	STA 87+40	STA 92+04	16"	433 LF
RIBARY WAY	STA 92+04	STA 106+60	12"	1618 LF
FORSTER BLVD	STA 0	STA 4+00	12"	371 LF
FORSTER BLVD. S.W.	STA 17+20	STA 35+22	8"	1802 LF
HEMLOCK AVE S.W.	STA 17+89	STA 12+00	8"	589 LF
SW 11 TH COURT, 402 ND COURT SE, SW 11 TH PLACE, AND MISC.			8"	263 LF

THE ABOVE WATER SYSTEM INCLUDES ALL MAINLINE PIPES, WATER SERVICES,
FIRE HYDRANTS, BLOW-OFFS, PRESSURE REDUCING STATIONS, AND OTHER
APPURTENANCES ASSOCIATED WITH THE WATER SYSTEM

APPROXIMATE VALUE OF WATER SYSTEM FOR FORSTER WOODS
DIVISION I INCLUDING OFFSITE WORK: **\$440,000**

9903011140

**BILL OF SALE - SEWER
ATTACHMENT B**

**DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: FORSTER WOODS DIVISION I
AND OFFSITE SANITARY SEWER SYSTEM.**

<u>IN</u>	<u>FROM</u>	<u>TO</u>	<u>SIZE</u>	<u>LENGTH</u>
NORTH BEND BLVD.	STA 2 (+/-)	STA 12 (+/-)	8"	1049 LF
RIBARY WAY	STA 87+60	STA 94+35	10"	675 LF
FORSTER BLVD	STA 17+19	STA 34+04	8"	1685 LF
HEMLOCK AVE. S.E.	STA 12+72	STA 17+28	8"	456 LF
SW 11 TH COURT, 402 ND COURT S.E., SW 11 TH PLACE, AND MISC.			8"	931 LF

THE ABOVE SANITARY SEWER SYSTEM INCLUDES ALL MAINLINE PIPES, SIDE SEWERS TO PROPERTY LINES, MANHOLES, CLEAN-OUTS, AND OTHER APPURTENANCES ASSOCIATED WITH THE SANITARY SEWER SYSTEM.

APPROXIMATE VALUE OF SANITARY SEWER SYSTEM FOR FORSTER WOODS DIVISION I INCLUDING OFFSITE WORK: **\$460,000**

990301140

**BILL OF SALE - STREETS AND STORM DRAINAGE
ATTACHMENT C**

**DESCRIPTION OF SYSTEM FOR DEVELOPER EXTENSION AGREEMENT PROJECT:
FORSTER WOODS DIVISION I.**

1. Approximately 4638 lineal feet of storm drainage pipe.
2. Approximately 44 storm drainage catch basins.
3. One arch culvert stream crossing.
4. Approximately 5761 lineal feet of curb and gutter.
5. Approximately 5761 lineal feet of sidewalk.
6. Approximately 11,822 square yards of asphalt pavement.
7. Approximately 235 miscellaneous street trees.

Together with miscellaneous improvements such as street lights, fencing, monuments, that have been constructed within public rights of way and public easements.

**APPROXIMATE VALUE OF STREET AND STORM SYSTEMS FOR
FORSTER WOODS DIVISION I: \$527,000**

9908011140

**BILL OF SALE - WATER
ATTACHMENT D**

**DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: FORSTER WOODS
DIVISIONS 2, 3, 4, AND 4A.**

IN	FROM	TO	SIZE	LENGTH
FORSTER BLVD	STA 34+08	STA 46+80	8"	1272 LF
SW 10 TH STREET	STA 1-50	STA 16+50	12"	1500 LF
SW 12 TH COURT	STA 0	STA 2+00	16"	143 LF
HEMLOCK AVE SE, HEMLOCK AVE SW, 14 TH PLACE SW, 13 TH PLACE SW, SW 12 TH PLACE, 11 TH COURT SW, SW 13 TH PLACE, SW 15 TH PLACE, 11 PLACE SW, SW 14 TH PLACE AND MISC.			8" & 12"	6065 LF

THE ABOVE WATER SYSTEM INCLUDES ALL MAINLINE PIPES, WATER SERVICES, FIRE HYDRANTS, BLOW-OFFS, PRESSURE REDUCING STATIONS, THE 710 AND 780 ZONE BOOSTER PUMP STATIONS, THE WATER TANK RESERVOIR, AND OTHER APPURTENANCES ASSOCIATED WITH THE COMPLETE WATER SYSTEM

APPROXIMATE VALUE OF WATER SYSTEM FOR FORSTER WOODS
DIVISIONS 2, 3, 4, AND 4A: **\$1,393,000**

9903011140

**BILL OF SALE - SEWER
ATTACHMENT E**

**DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: FORSTER WOODS
DIVISIONS 2, 3, 4, AND 4A.**

<u>IN</u>	<u>FROM</u>	<u>TO</u>	<u>SIZE</u>	<u>LENGTH</u>
FORSTER BLVD	STA 37+04	STA 46+80	8"	976 LF
SW 10 TH STREET	STA 1+75	STA 17+19	8"	1544 LF
HEMLOCK AVE SE, HEMLOCK AVE SW, SW 12 TH COURT, 14 TH PLACE SW, 13 TH PLACE SW, SW 12 TH PLACE, 11 TH COURT SW, SW 13 TH PLACE, SW 15 TH PLACE, 11 PLACE SW, SW 14 TH PLACE AND MISC.			8"	6138 LF

THE ABOVE SANITARY SEWER SYSTEM INCLUDES ALL MAINLINE PIPES, SIDE SEWERS TO PROPERTY LINES, MANHOLES, CLEAN-OUTS, AND OTHER APPURTENANCES ASSOCIATED WITH THE SANITARY SEWER SYSTEM.

APPROXIMATE VALUE OF SANITARY SEWER SYSTEM FOR FORSTER WOODS DIVISIONS 2, 3, 4, AND 4A: **\$373,000**

9903011140

**BILL OF SALE - STREETS AND STORM DRAINAGE
ATTACHMENT F**

**DESCRIPTION OF SYSTEM FOR DEVELOPER EXTENSION AGREEMENT PROJECT:
FORSTER WOODS DIVISIONS 2, 3, 4, AND 4A.**

1. Approximately 8847 lineal feet of storm drainage pipe.
2. Approximately 72 storm drainage catch basins.
3. One arch culvert stream crossing.
4. Approximately 16,144 lineal feet of curb and gutter.
5. Approximately 78,812 square feet of sidewalk.
6. Approximately 35,728 square yards of asphalt pavement.
7. Approximately 120 miscellaneous street trees.

Together with miscellaneous improvements such as street lights, fencing, and monuments, that have been constructed within public rights of way and public easements.

APPROXIMATE VALUE OF STREET AND STORM SYSTEMS FOR
FORSTER WOODS DIVISIONS 2, 3, 4, AND 4A: \$762,309

990301140



Gregory F. Cromwell
Gregory L. Girard
Brian J. Hanis
Michael M. Hanis
Patrick M. Hanis

Jennifer R. Hill
Cynthia A. Irvine*
Erik R. Olsen
Florlan D. Purganan
Brittan E. Schwartz

Dennis J. Shanllan**
Mary Beth Sheehan
Peter B. Wilburn

*Also admitted in VA
**CPA/LLM

Mark W. Prothero - 1956-2014

May 18th, 2016

Mr. Brenden Elwood
City Council Member
P.O. Box 896
North Bend, WA. 98045

Mr. Alan Gothelf
City Council Member
P.O. Box 896
North Bend, WA. 98045

Mr. Jonathan Rosen
City Council Member
P.O. Box 896
North Bend, WA. 98045

Ms. Jeanne Pettersen
City Council Member
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Mr. Trevor Kostanich
City Council Member
P.O. Box 896
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Mr. Martin Volken
City Council Member
P.O. Box 896
North Bend, WA. 98045

Mr. Ross Loudenback
City Council Member
P.O. Box 896
North Bend, WA. 98045

Re: Forster Woods Homeowners Association/
City responsibility for trees and sidewalks maintenance
and repairs

Dear Honorable Council Members:

I am the Association's attorney. I am writing to address the issues pending between the City and the Association regarding responsibility for removal of trees and their root systems, and for maintenance and repair of the sidewalks within the planter strips in the community of Forster Woods. The Association regrets the need to involve me, but the position recently taken by the City that the abutting lot owners or the Association is responsible left them with no choice but to seek legal assistance to resolve these issues.

HOA EXHIBIT 2

I have been informed that the City's position is the Association or the owners of the lots abutting the planter strips are responsible and must bear the costs of removing trees/roots and repairing sidewalks. Apparently the City's position is based on its interpretation of Section 4.07.18 of the Association's Declaration of Covenants (CCRs), with the City believing that section means everything within the planter strips are the responsibility of the abutting lot owner. I and the Association respectfully disagree with that interpretation. The information below shows why the City's position is incorrect.

Sidewalks: Consider the following points and facts that show the City owns and is responsible for maintaining and repairing the sidewalks:

- The developer of Forster Woods installed the sidewalks. The plat approved by the City addressed sidewalks and accordingly the City approved their installation.
- The city has, since their installation, exercised control over the sidewalks including repairing them (eg. patching uneven joints with asphalt) and otherwise doing maintenance on them from time to time without prior notice to or consent of the abutting lot owner or the Association. In other words, the City has exercised total control over them, including their maintenance, since the establishment of the community by periodically trimming trees or removing them as needed. Having exercised such control and undertaking their repairs clearly indicates the City recognized the sidewalks as their responsibility. It is improper and not legally supportable that after such conduct over that period of time the City suddenly unilaterally reverses its position and attempts to make the lot owners responsible.
- Public nature and safety factors: the sidewalks are not just for or used by owners within Forster Woods. They are public sidewalks and used by anyone who chooses to stroll through the community. If owners in Forster Woods banned the public from using the sidewalks the City would certainly oppose that and claim they are public in nature and for the public's use. Accordingly, the City, as municipalities always do, has municipal power and control over public sidewalks. Given that power and control, the City also has the responsibility of maintaining and repairing them as the need arises. The sidewalks were installed so the public would not have to walk in the streets (owned and maintained by the City). Sidewalks are an important safety factor or service the City provides so citizens can avoid having to walk in the streets and risk pedestrian/vehicle accident.
- The City has removed trees for the purpose of correcting tree root issues with sidewalks. The City's position on the tree roots is addressed in detail below, but pertinent at this point regarding sidewalks is the history of the

City's unilateral removal of trees (again without prior notice to or consent from abutting lot owners or the Association). Removing trees and roots to correct and repair sidewalk issues proves the City has always assumed control over and taken the position it has the duty of protecting and maintaining the sidewalks including the removal of trees and roots where that is necessary.

- Section 4.07.18 of the CCRs does not make the owners responsible for maintenance and repair of the sidewalks. It addresses "landscaping" and uses language clearly indicating the intent to make owners responsible for maintaining small landscape improvements such as shrubs, grass, beauty bark and the like. Sidewalks, especially when installed for the benefit of the public, are not "landscaping" within the reasonable meaning and interpretation of that word. The word "sidewalks" or an equivalent is nowhere to be found in this section. It does not apply to sidewalks at all.
- The planter strips are in the City's right of way regarding the streets. The abutting lot owners do not own the planter strips. They are required to maintain landscaping but their responsibility does not include maintaining the sidewalks or the trees.
- There is a Bill of Sale executed by the developer and the City, recorded March 1st, 1999. A copy is enclosed. The language in this document expressly provides that the City is purchaser of the "... sidewalks, ... street trees, and other right of way improvements as listed on the following attachments: A, B, C, D, E, & F." It also states: "... the City accepts and agrees to maintain the sidewalks, street trees,.... and other miscellaneous improvements that lie in the Public Right of Way, in the same manner as though they had been constructed by the City." Attachments C and F to the Bill of Sale specifically refer to and describe the sidewalks and streets trees. This Bill of Sale was executed and recorded after the Association's Declaration of Covenants and the Plats for the community were recorded. This is the most definitive information on these issues, and it clearly establishes that the City owns and is responsible for maintaining the sidewalks and trees.

Trees/roots issues: The City's position is that owners are responsible for tree maintenance and that tree roots are causing the damage and need for sidewalk repairs, so therefore the owners are responsible for removal of the trees and their roots. The City's position is without merit and is contrary to the history of tree and sidewalks maintenance. It is also contrary to the Bill of Sale referenced above. The following points regarding trees/roots clearly show the City is responsible for maintaining them, including removing them and their roots, at least insofar as they adversely impact the sidewalks:

- The developer installed the trees used in the planter strips. During the approval and inspection process for development of Forster Woods, the City exercised control over the choice of trees to be used. The reference to trees in the relevant documents even indicates they had to be trees suitable for planter strips. The City took into consideration which type of trees would be used, with the idea of choosing a type that would not impact nearby improvements such as sidewalks. The city exercised approval power over the type of trees used. The wrong type trees were chosen. At this point, the City has primary responsibility for the trees used, as they turn out to be inappropriate for narrow planter strips and sidewalks nearby.
- The owners had no say in the type of trees used. Owners are not arborists or horticulturists. They never knew the roots would be a problem for the sidewalks until the sidewalks actually started to buckle. You have to be able to foresee a problem before you have responsibility for the result. The owners had no way to foresee that the trees used (ones they did not choose or plant) would be the wrong type of trees. The City personnel handling oversight of developments, however, are supposed to know such things.
- Since they were planted, the City has maintained and exercised complete control over the trees. Owners report City employees have cut down and removed trees without prior notice or asking for the abutting lot owner's or the Association's consent. Based on the documents involved and decades of the City conduct of maintaining the trees in the planter strips, owners and the Association have always reasonably viewed the City as being responsible for them. The City has, by its conduct, admitted and assumed responsibility for the trees.
- The Bill of Sale expressly provides that the trees belong to and are the responsibility of the City.

The City is responsible for both sidewalks and tree maintenance and repairs.

Urgent need for tree/root removal and sidewalks repairs: Mr. Mark Rigos, the City's Public Works Director, kindly attended the annual owners' meeting of the Association in March. He reported there are currently at least 78 "trip hazards" regarding the condition of the sidewalks. Accordingly, there is a very real risk of people falling and injuring themselves because of the sidewalk conditions. The Association is already aware of incidents where people have fallen and been hurt. Enclosed are photos of some of the asphalt repairs done by the City on the sidewalks, which also show the large gaps or buckling that has occurred resulting in extremely uneven sidewalk surfaces.

During the meeting Mr. Rigos also pointed out that the number of trip hazards will greatly increase in the future. As tree and sidewalk conditions age, more hazards will arise due to other trees continuing to grow and expanding their root systems which will impact other sidewalk areas not yet in need of repair.

It must be emphasized there over two hundred (200) trees in the community which are part of this situation. Those trees, in addition to the other seventy eight (78) or so in critical need of attention now, must also be addressed to avoid development in the future of the same dangerous and expensive sidewalk issues in other planter strip areas. It is much less expensive for the City to address removal and replacement of all of the trees now. Delay will result in additional sidewalk areas deteriorating and buckling. This is aside from the fact that waiting exposes the City, the owners and the Association to further risk of personal injury claims by persons injured while using the sidewalks, due to their increasingly deteriorating condition.

Action needs to be taken as soon as possible to remove problem trees and their roots and to repair the damaged sidewalks. And, it will benefit the City and protect persons using the sidewalks to remove all of the planter strip trees and to replace them with trees compatible with those locations to avoid other sidewalk areas from damage.

Please understand that if the owners and/or Association are sued due to an injury resulting from condition of the sidewalks, they will have no choice but to add the City as third party defendant and seek liability or contribution from the City. That is the last thing they want to happen, but under the historical and factual circumstances of these issues, the City has the responsibility to correct them.

Requests by the Association: The Association asks the City to swiftly and diligently take all necessary action to correct these conditions and pay for them. However, it is willing to discuss making some contribution to the costs of the project because, if for no other reason, that might expedite resolution. To make sure these serious issues are promptly addressed, the Association Board:

1. demands a written response from the City within thirty (30) days from date of this letter, acknowledging the City is responsible for maintenance of the planter strip trees and sidewalks including the removal of trees and roots and repair of the damaged sidewalks; and
2. demands a meeting be scheduled between the City and the Board members within thirty (30) days, to discuss how these issues will be resolved. The meeting will be to discuss, among other things, what will be done, the timing of action by the

City Council Members
City of North Bend
May 18, 2016
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City, the scope of the work including how many trees and sidewalk areas will be addressed by the project, and the City's payment of the costs. . Every day that goes by with no action taken is another day that someone may be injured, leading to liability claims and litigation between all involved. Lastly, please understand that if the City maintains its present position and refuses to accept responsibility for removal of trees/roots and repairing the sidewalks, it will leave the Association with no choice but to file a lawsuit asking for declaratory judgment and an order requiring the City to take these actions at its cost.

Thank you for your time and consideration.

Sincerely,
Hanis Irvine Prothero PLLC


Gregory F. Cromwell
Attorney at Law

Enclosures

cc: Board of Directors
Forster Woods Homeowners Association

Mr. Dennis Howard
Property Manager for the Association

Michael R. Kenyon
Rachel B. Turpin
Ann Marie J. Soto
Kim Adams Pratt
Robert F. Noe
David A. Linehan
Amy S. Mill
Charlotte A. Archer
Alexandra L. Kenyon



Bruce L. Disend
Doug F. Mosich
Of Counsel

Shelley M. Kerslake
1967 - 2014

Received 6-22-16

STZ

June 15, 2016

Gregory F. Cromwell
Hanis Irvine Prothero, PLLC
6703 S 234th Street, Suite 300
Kent, Washington 98032

VIA ELECTRONIC MAIL AND FIRST CLASS U.S. MAIL

Re: Forster Woods Homeowners Association – Responsibility for Tree and Sidewalk Maintenance and Repair

Dear Mr. *Greg* Cromwell:

Thank you for your letter dated May 18, 2016, regarding the above-referenced matter. The City appreciates your analysis but disagrees with the conclusions regarding liability for the condition of the sidewalks in the Forster Woods neighborhood.

In our view, the 1998 bill of sale referenced in your letter is subject to the mandatory provisions of the North Bend Municipal Code (NBMC), which provides:

Landscape strips and sidewalks in the right-of-way shall be maintained by the adjacent landowner, or homeowners' association in the case of low-impact development (LID) residential streets designed per the provisions under subsection V of this section. The landowner or homeowners' association may modify the landscaping strip with city approval. If no trees exist in the landscape strip, the landowner may plant trees that meet requirements of the city, pursuant to Chapter 18.18 NBMC, Landscaping Regulations, or per the LID provisions under subsection V of this section. The adjacent landowner shall not allow landscaping to obstruct the sidewalk or parking area along the curb, shall keep grass mowed, and shall not create an obstruction to visibility for drivers negotiating a driveway, alley, or intersection. The adjacent landowner shall keep sidewalks free of

EXHIBIT 3

HOA

all obstructions, snow, ice, and other substances that may be a hazard to the walking public.

NBMC 19.05.010(N). This Code provision explicitly holds homeowners responsible for maintaining both the landscape strips and sidewalks on City-owned streets. Moreover, the Code clearly contemplates that street trees fall within the scope of maintaining any such landscape strips. Based on the plain terms of adopted City Code, it appears to us that the homeowners and the Forster Woods Homeowners Association ("the Association") are responsible for the cost of repairs to the sidewalks in Forster Woods, including the costs of tree removal.

While the City maintains that it is not responsible for the sidewalk repairs in Forster Woods, we are also committed to the safety of our citizens and desire to continue a good working relationship with the residents of Forster Woods. We welcome the opportunity to meet with you and the Board to resolve this issue.

Please let us know if you have questions or need further information. Thank you.

Very truly yours,

KENYON DISEND, PLLC



Michael R. Kenyon

cc: Hon. Kenneth G. Hearing, Mayor
Londi Lindell, City Administrator
Mark Rigos, Public Works Director



August 15, 2016

Dennis Howard, Association Manager, President, WAMS
Forster Woods Homeowners Association (HOA)
Washington Association Management Services, LLC
PO Box 1294
Edmonds, WA 98020

RE: July 2016 Forster Woods Sidewalk Evaluation

Dear Mr. Howard:

Following our July 8, 2016 meeting at North Bend City Hall, which was attended by you, three Forster Woods (FW) HOA members (Jason Gram, Jean Hoedl and Bill Stovall), your attorney Greg Cromwell (Hanis Irvine Prothero law firm), City Attorney Mike Kenyon, Assistant City Attorney Amy Mill, City Administrator Londi Lindell, and myself, I performed a trip hazard sidewalk evaluation in FW on July 28, 2016. Specifically, I determined the number and location of concrete sidewalks where settling, tree roots, or other natural causes have created separation of more than 2.5 inches.

As we discussed, the sidewalk separations were (and still are) being caused by tree roots (large oak and maple trees) planted in the early 1990s in narrow (3-4.5 foot wide) landscape strips between the concrete sidewalk and concrete street curb. Some of the trees are 18-inch diameter and their root balls extend under the adjacent sidewalks and curbs. The trees roots are shallow, strong and have uplifted the concrete sidewalk panels searching for water.

My July 28 sidewalk evaluation counted 28 separations taller than 2.5 inches (see attached table). The City's requested action is for FW HOA to remove and replace the sidewalk panel(s) (see attached detail to include bedding and compaction) and remove adjacent street trees where the sidewalk has failed. For that work, the City is willing to reimburse FW HOA a total of \$28,000 following construction completion, if FW HOA is also willing to:

- Remove and replace all sidewalks that have a 1-2.5 inch separation, because the sidewalk condition is worsening there too. And remove all landscape trees that are creating this condition. Work shall be completed by 12/31/2017.

There are additional sidewalk issues that the FW HOA may wish to address, mostly due to the landscape strip trees. These issues can be relatively inexpensive to repair by patching, ramping, grinding and/or sawcutting.

The City thanks you for being a willing partner in promoting public safety.

Sincerely,

Mark Rigos, P.E.
Public Works Director

Encl. Sidewalk Separation Table and Sidewalk Details
CC: Mayor Ken Hearing, Londi Lindell, Mike Kenyon, City Engineer Don DeBerg
MJR:mjr

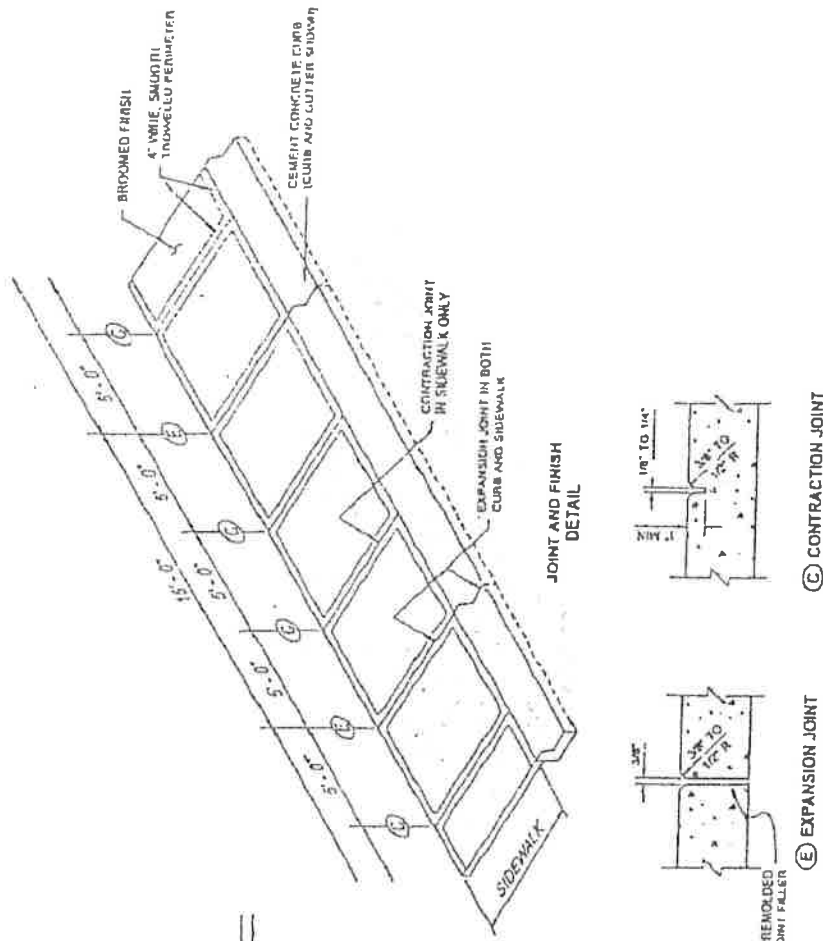
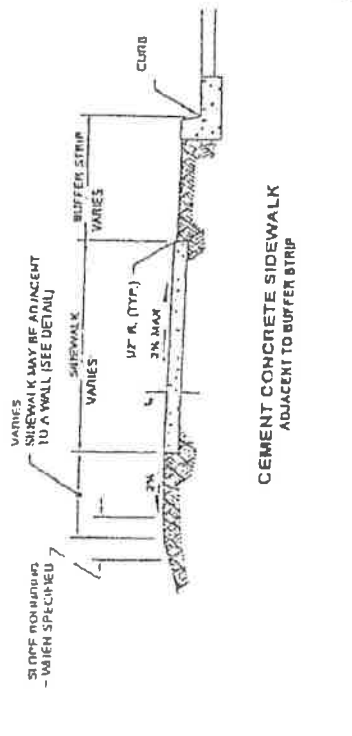
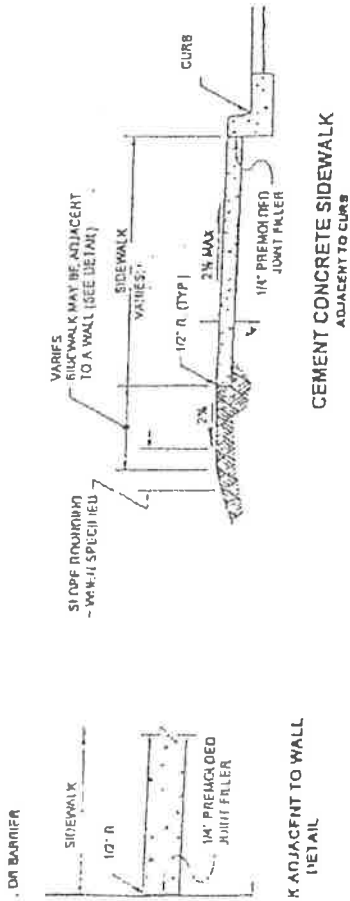
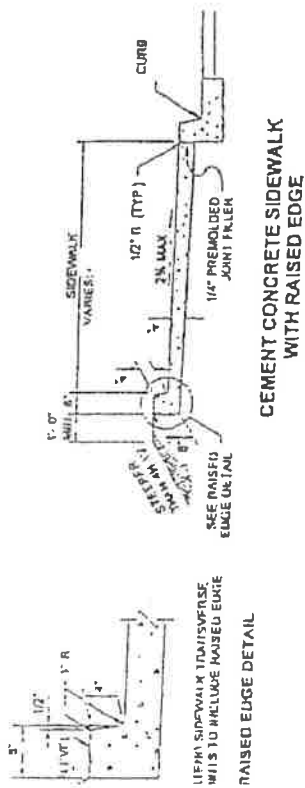
HOA

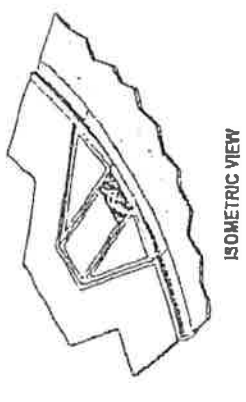
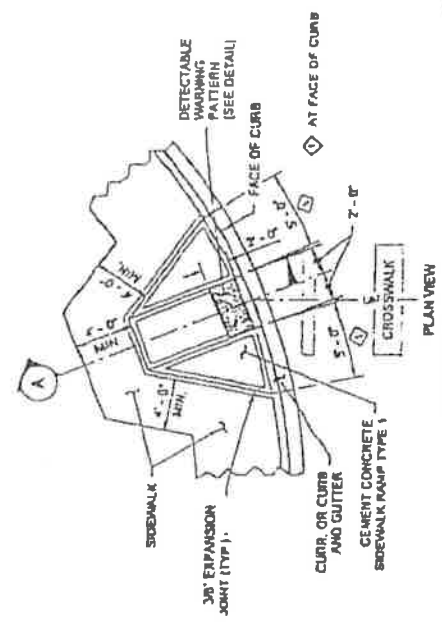
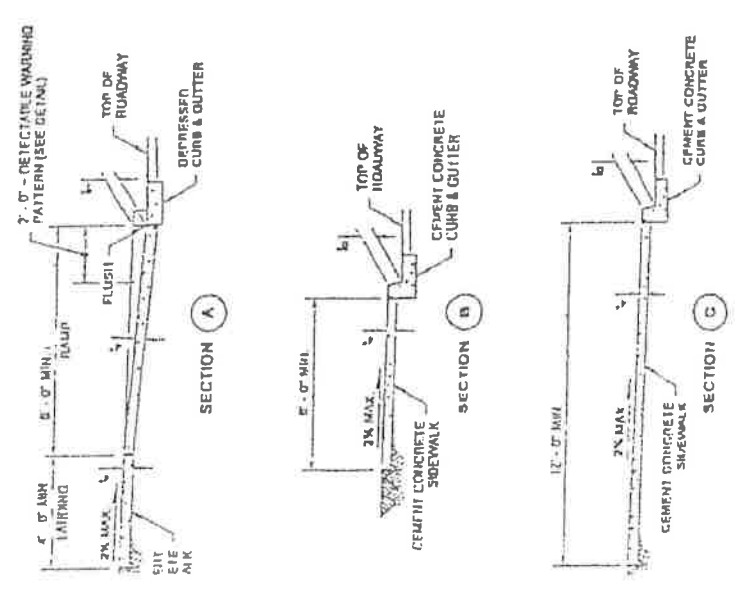
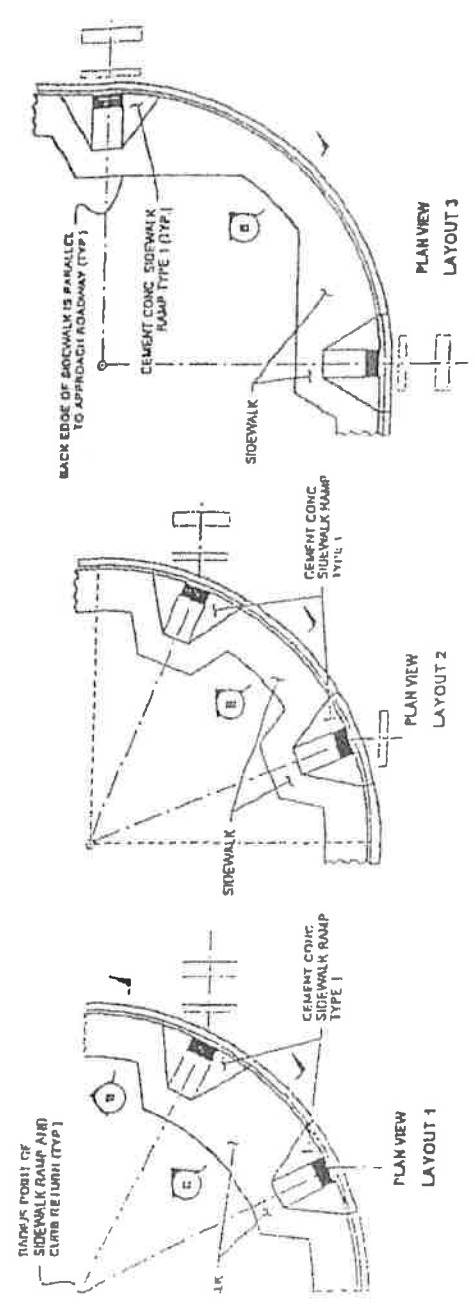
EXHIBIT 4

July 2016 Sidewalk Separation Table for Forster Woods

# in 2016 study	# from 2014 study	Sidewalk Separation Height (only for those greater than 2.5")	Street Frontage Address
1		6.4"	995 SW10th Street
2		6.0"	1125 SW 10th Street
3		6.0"	1170 Forster Blvd. West
4		5.7"	995 SW 10th Street
5		5.5"	1010 SW 10th Street
6		4.5"	1085 SW 10th Street
7		3.9"	1125 SW 10th Street
8		3.6"	980 SW 10th Street
9		3.5"	980 SW 10th Street
10		3.5"	1350 SW 10th Street
11		3.5"	1420 Forster Blvd. SW
12		3.3"	1370 Forster Blvd. SW
13		3.2"	1385 SW 10th Street
14		3.2"	1235 Forster Blvd. SW
15		3.1"	1085 SW 10th Street
16		3.0"	1385 SW 10th Street
17		3.0"	1125 SW 10th Street
18		3.0"	1085 SW 10th Street
19		3.0"	1325 Forster Blvd. SW
20		3.0"	1335 Forster Blvd. SW
21		3.0"	1410 Forster Blvd. SW
22		2.8"	1410 Forster Blvd. SW
23		2.7"	1330 Forster Blvd. SW
24		2.6"	1010 SW 10th Street
25		2.6"	1165 SW 10th Street
26		2.6"	1141 Forster Blvd. SW
27		2.6"	1235 Forster Blvd. SW
28		2.6"	1365 Forster Blvd SW

- Construction of sidewalks shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
- All forms shall be true to line and grade and securely staked, steel forms only shall be used on tangent sections.
- Wood forms may be used on curved sections.
- Full depth expansion joints consisting of 3/8-inch minimum pre-molded joint filler shall be placed around fire hydrants, poles, meter boxes, and other obstructions and along walls or structures in paved areas. Expansion joints will be placed at the beginning and the end of each curve, on each side of structures, driveways and curb ramps, between sidewalk and back of curb and at other locations as directed by the city engineer.
- Full expansion joints will generally be placed to match those placed in curb with a maximum spacing of 15 feet. Contraction joints will be placed on 5 foot centers, and to correspond to the markings in existing sidewalks and curb and gutter.
- All joints shall be clean and edged.
- Finish shall be light broom finish.
- Cement concrete sidewalks shall be a minimum 4 inches thick except in driveway areas where a minimum of 6 inches is required. A minimum of 4 inches of crushed surfacing top course compacted to 95% will be placed below the sidewalk. Pervious concrete may be allowed when approved by city and best available low impact techniques are incorporated.
- Additional width to maintain a minimum of 5 feet of clear sidewalk shall be provided when obstructions such as utilities exist.



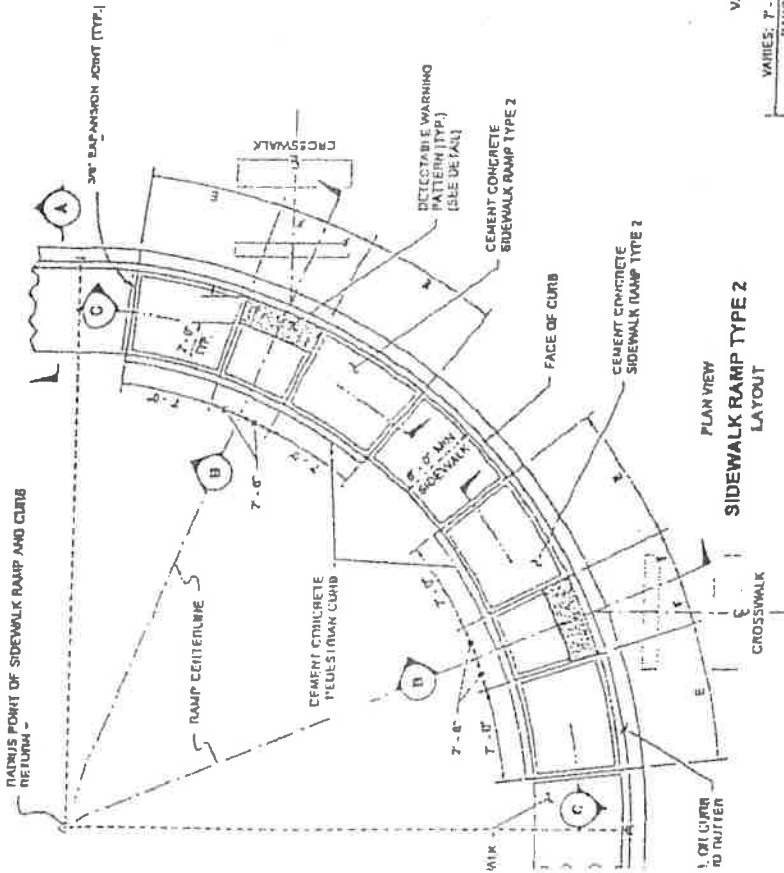


1. Construction of ramps shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. Ramp slopes shall not be steeper than 12H:1V.
3. Avoid placing drainage structures, junction boxes, or other obstructions in front of ramp access areas.

	MIN.	MAX.
A	6.00'	2.30'
B	5.4'	1.07'
C	7.00'	3.0'
D	7.0'	1.710'

THESE PATTERN AREAS SHALL BE YELLOW IN COLOR

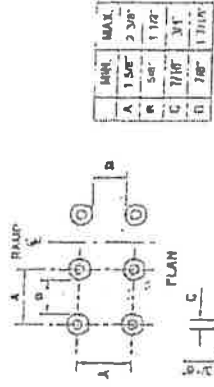
DETECTABLE WARNING PATTERN DETAIL



RADIUS AT FACE OF CURB	E	F
20 FEET	10'-4 3/4"	3'-8 1/2"
30 FEET	8'-11 1/2"	3'-2 1/4"
40 FEET	8'-4 1/2"	2'-11 3/4"
50 FEET	8'-0 3/4"	2'-10 1/4"
60 FEET	7'-10 1/4"	2'-9 3/4"
70 FEET	7'-7 1/2"	2'-8"
80 FEET	7'-6 1/2"	2'-8 3/4"
100 FEET	7'-0"	2'-6"
	DIMENSIONS AT FACE OF CURB	

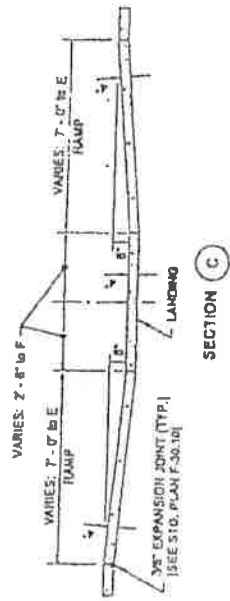
INTERMEDIATE RADII CAN BE INTERPOLATED

1. Construction of ramps shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. Ramp slopes shall not be steeper than 12H:1V
3. Avoid placing drainage structures, junction boxes, or other obstructions in front of ramp access areas

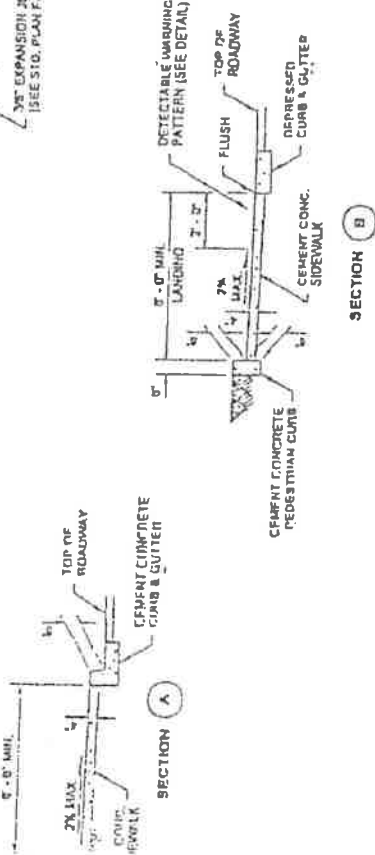


THIS PATTERN AREA SHALL BE YELLOW IN COLOR

DETECTABLE WARNING PATTERN DETAIL



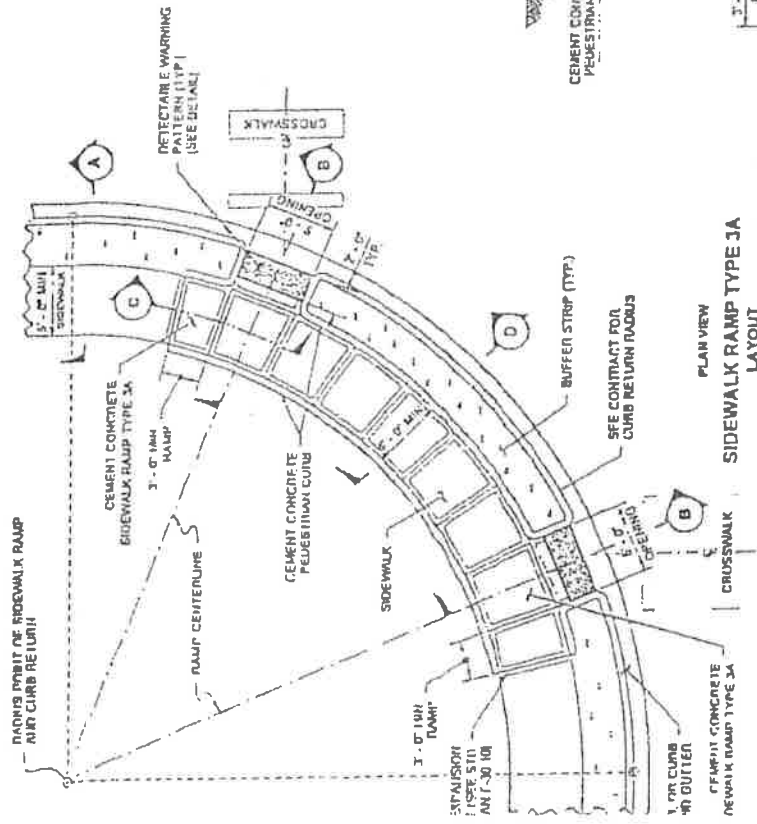
SECTION C



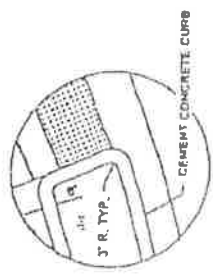
SECTION B



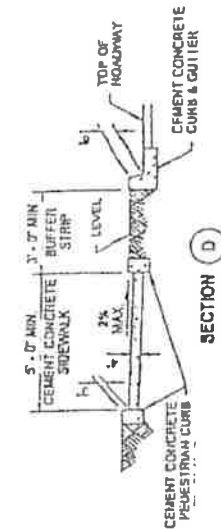
ISOMETRIC VIEW



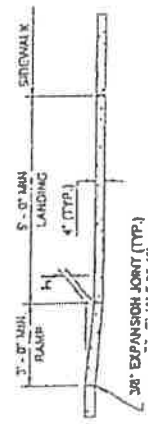
PLAN VIEW
SIDEWALK RAMP TYPE 3A
LAYOUT



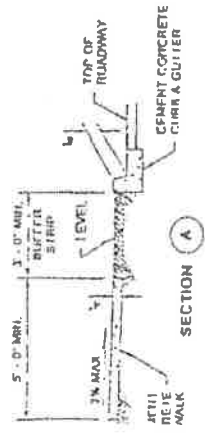
CURB RADIUS DETAIL



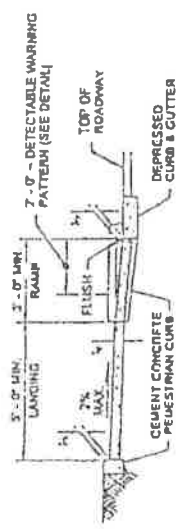
SECTION D



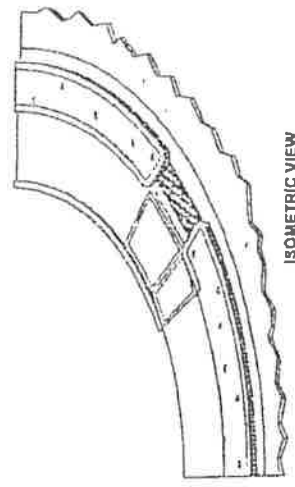
SECTION C



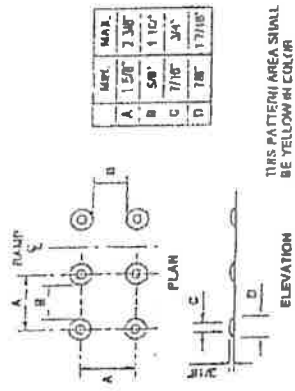
SECTION A



SECTION B



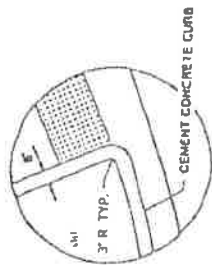
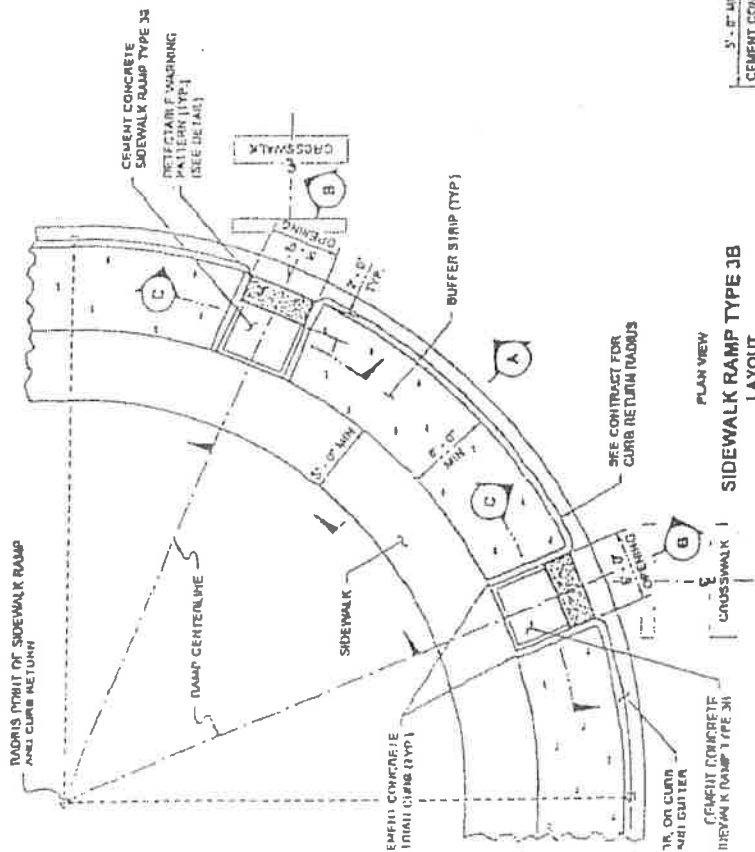
ISOMETRIC VIEW



DETECTABLE WARNING PATTERN DETAIL

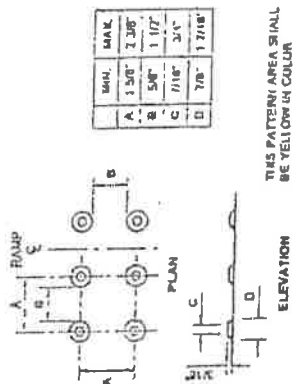
IMP.	MAX.
A	1 5/8" 2 3/8"
B	5/8" 1 1/2"
C	7/16" 3/4"
D	7/16"

1. Construction of ramps shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. Ramp slopes shall not be steeper than 1:11 V.
3. Avoid placing drainage structures, junction boxes, or other obstructions in front of ramp access areas.

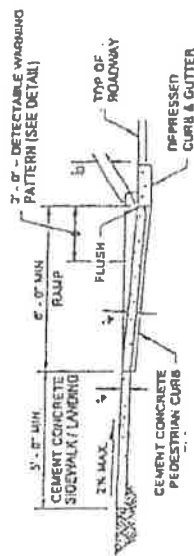


CURB RADIUS DETAIL

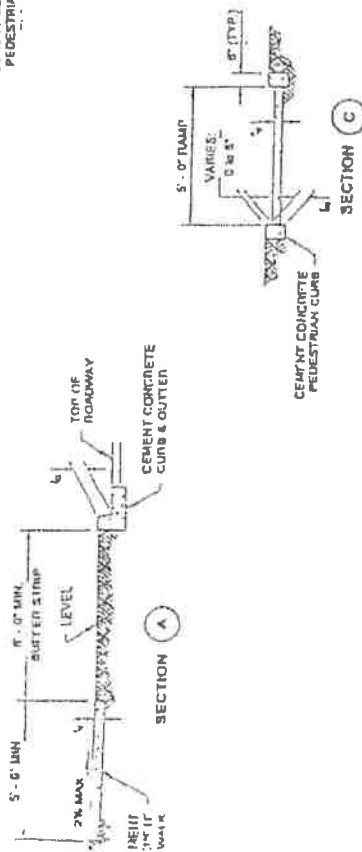
1. Construction of ramps shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. Ramp slopes shall not be steeper than 2:1 IV.
3. Avoid placing drainage structures, junction boxes, or other obstructions in front of ramp access areas.



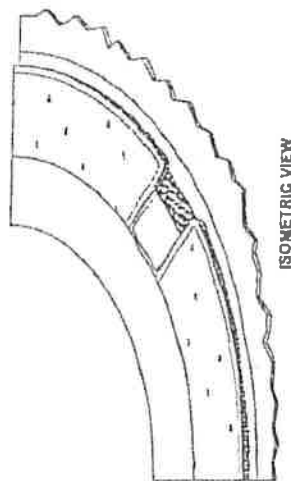
DETECTABLE WARNING PATTERN DETAIL



SECTION B



SECTION C

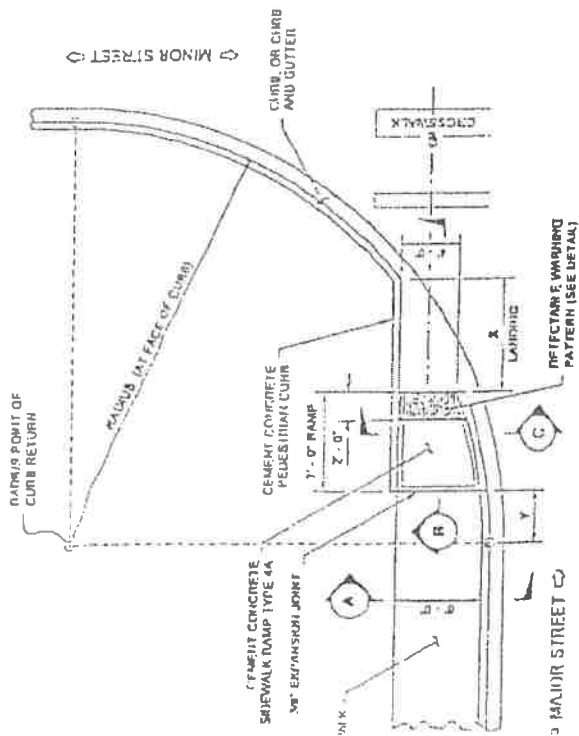


ISOMETRIC VIEW

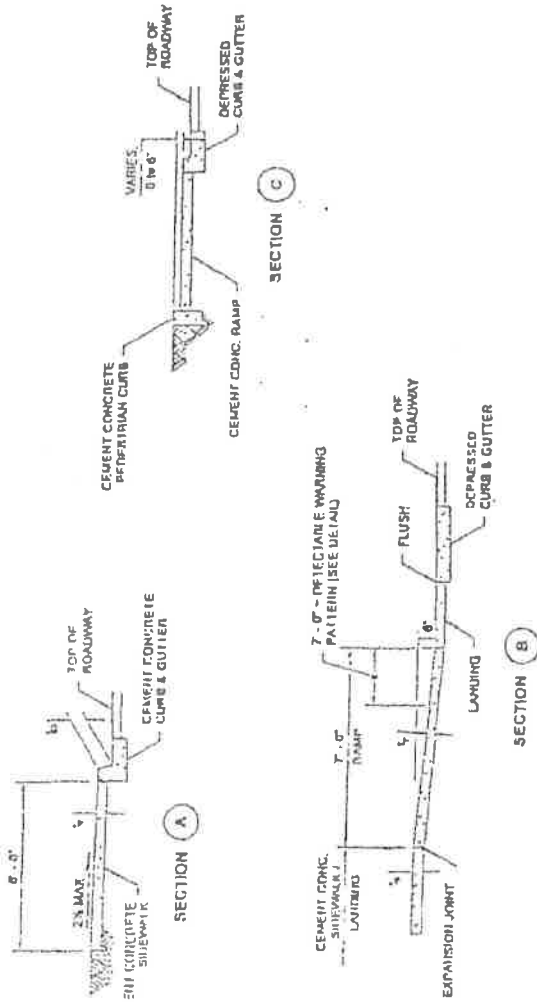
124

RADIUS AT FACE OF CURB	X LANDING	Y DISTANCE FROM P. C.
20 FEET	8'-3 1/2"	1'-3"
30 FEET	8'-0 1/4"	3'-0"
40 FEET	9'-0 1/4"	6'-1 3/4"
50 FEET	10'-0 3/4"	8'-1 1/2"
60 FEET	11'-11 1/2"	8'-3 1/2"
70 FEET	13'-11 1/2"	10'-8 1/4"
80 FEET	14'-10 1/2"	11'-0 3/4"
100 FEET	15'-8 3/4"	17'-10 1/4"

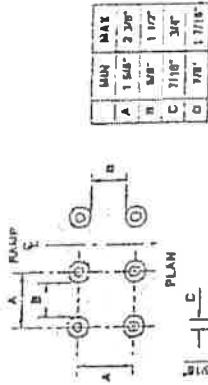
INTERMEDIATE RADII CAN BE INTERPOLATED



PLAN VIEW LAYOUT
SIDEWALK RAMP TYPE 4A



ELEVATION DETAIL
DETECTABLE WARNING PATTERN DETAIL

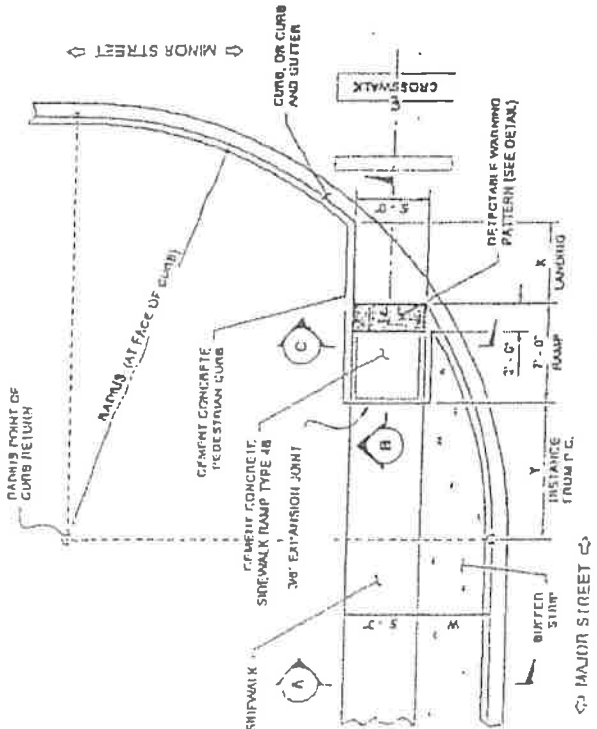


MIN	MAX
A 1 5/8"	2 3/8"
B 5/8"	1 1/2"
C 2 1/8"	3/4"
D 3/8"	1 7/16"

1. Construction of ramps shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. Ramp slopes shall not be steeper than 12H:1V
3. Avoid placing drainage structures, junction boxes, or other obstructions in front of ramp access areas

ISOMETRIC VIEW

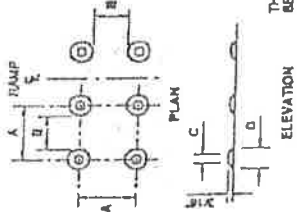




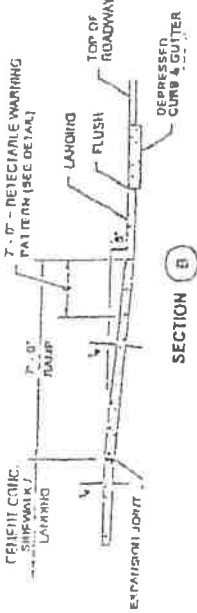
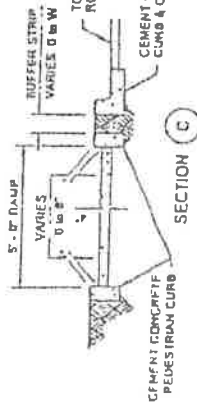
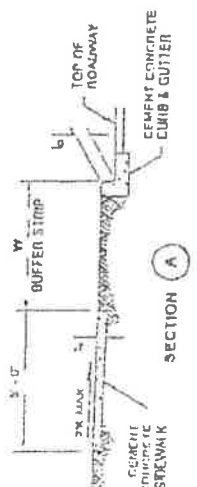
RADIUS AT FACE OF CURB	W = 3'-0"		W = 4'-0"		W = 6'-0"		W = 8'-0"		W = 10'-0"	
	X	Y	X	Y	X	Y	X	Y	X	Y
20 FEET	3'-5 1/2"	2'-8 1/2"	4'-8 1/2"	5'-0"	4'-1"	6'-3 3/4"	3'-1"	7'-3 1/2"	3'-1 1/2"	5'-3 1/2"
30 FEET	7'-3 3/4"	8'-1"	8'-5 1/2"	7'-11 1/2"	5'-8 1/4"	8'-7"	5'-2 1/2"	11'-0"	8'-8 3/4"	12'-3 1/4"
40 FEET	6'-8 1/2"	8'-3 1/2"	7'-10"	10'-5 1/4"	7'-2 1/2"	12'-4 1/4"	8'-2 1/2"	14'-8 1/2"	8'-11 3/4"	16'-8 1/4"
50 FEET	10'-3 3/4"	10'-3 3/4"	10'-3 3/4"	12'-2 1/4"	8'-2 1/2"	14'-8 1/2"	8'-2 1/2"	16'-8 1/2"	8'-11 3/4"	16'-8 1/4"
60 FEET	11'-2 1/2"	11'-8 3/4"	10'-3 3/4"	14'-8 1/2"	10'-1"	18'-11 3/4"	10'-1"	21'-4 1/4"	10'-8 1/4"	21'-1 1/2"
70 FEET	12'-3 3/4"	12'-3 3/4"	11'-1 1/4"	16'-4"	10'-10 3/4"	20'-10"	10'-10 3/4"	23'-8 3/4"	10'-8 1/4"	25'-8 1/4"
80 FEET	14'-10 1/2"	15'-10 1/2"	12'-8 1/4"	17'-11 3/4"	11'-7 3/4"	22'-7"	11'-7 3/4"	25'-3 3/4"	10'-1 1/4"	27'-8 1/2"
100 FEET	16'-10 1/2"	17'-3 3/4"	13'-5 1/2"	21'-0"	12'-4 1/4"	24'-2 3/4"	12'-4 1/4"	27'-1 1/2"	10'-8 1/4"	28'-0"

INTERMEDIATE RADII CAN BE INTERPOLATED

MIN. MAX.
A 1 5/8" 2 3/8"
B 5/8" 1 1/2"
C 7/16" 3/4"
D 7/8" 1 7/16"

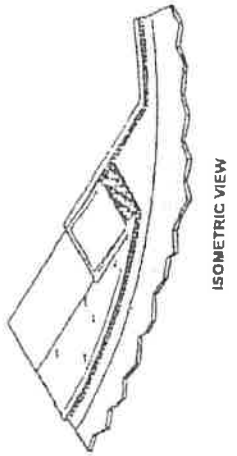


PLAN VIEW
SIDEWALK RAMP TYPE 4B
PLAN

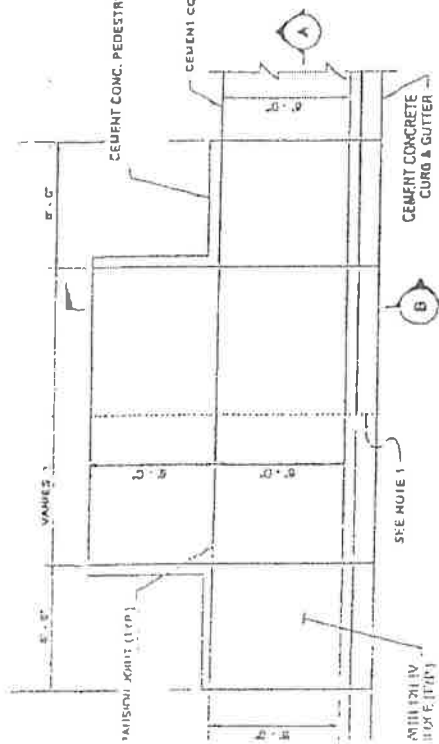


1. Construction of ramps shall be in accordance with the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. Ramp slopes shall not be steeper than 12H:1V.
3. Avoid placing drainage structures, junction boxes, or other obstructions in front of ramp access areas.

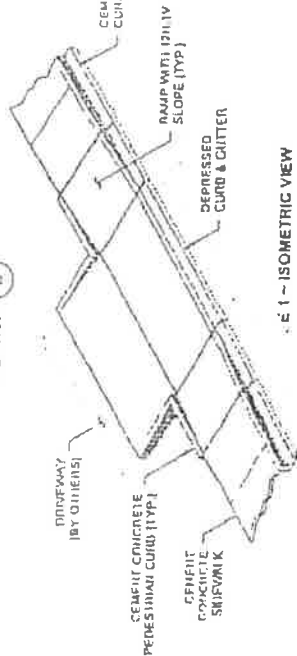
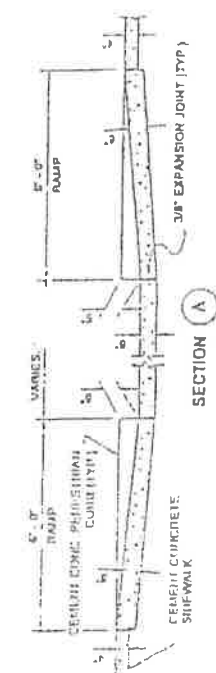
DETECTABLE WARNING PATTERN DETAIL



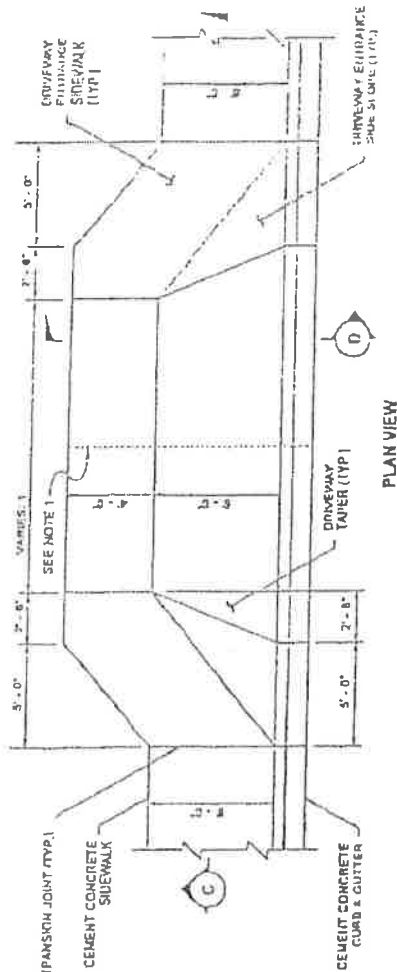
ISOMETRIC VIEW



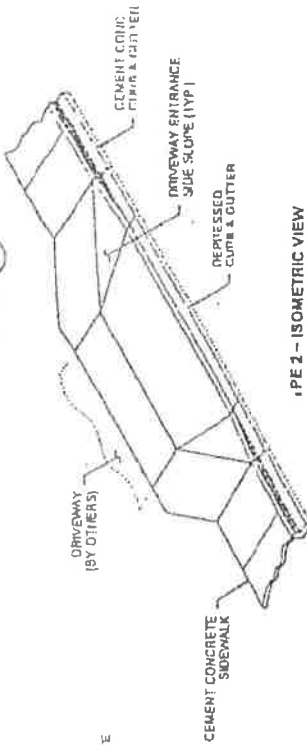
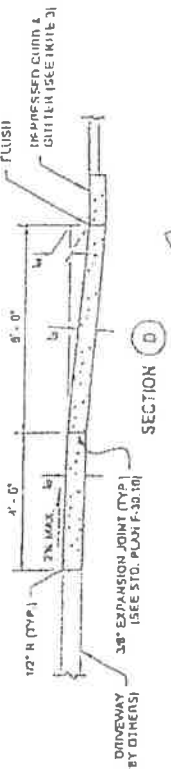
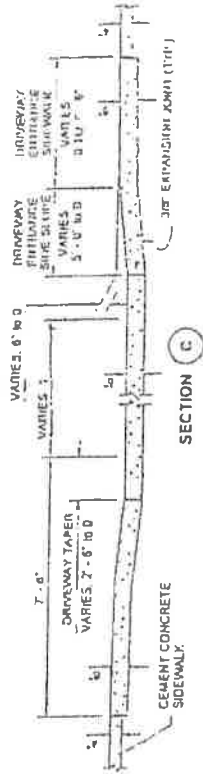
PLAN VIEW
CEMENT CONCRETE DRIVEWAY ENTRANCE TYPE 1



TYPE 1 - ISOMETRIC VIEW

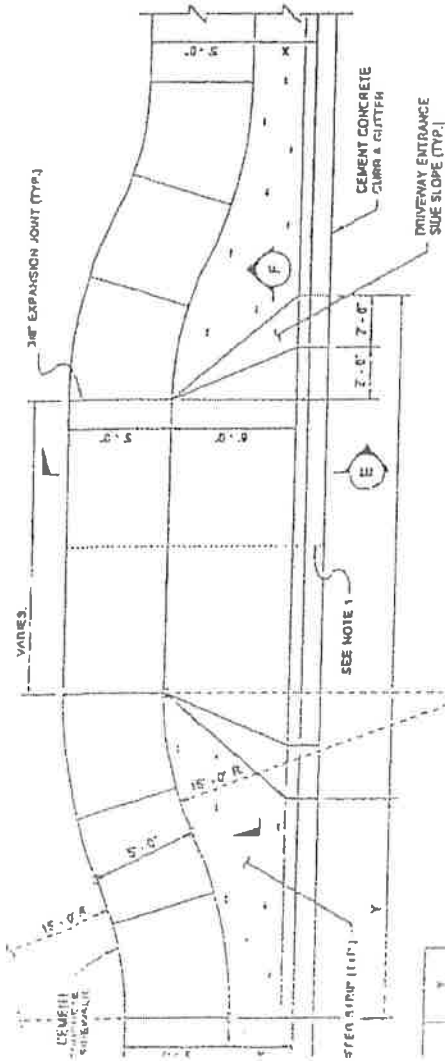


PLAN VIEW
CEMENT CONCRETE DRIVEWAY ENTRANCE TYPE 2

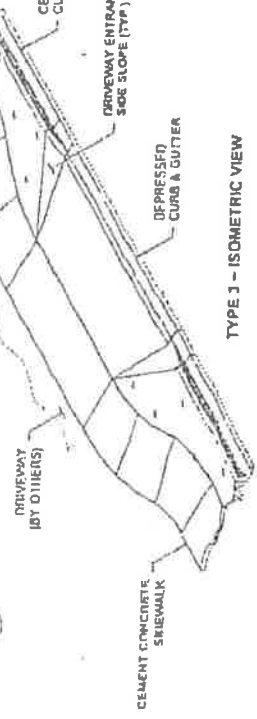
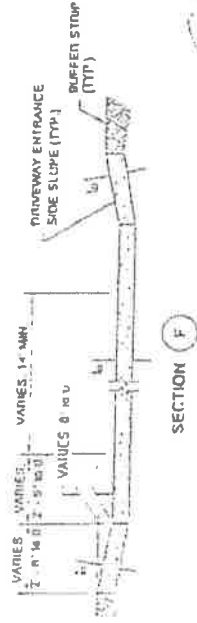
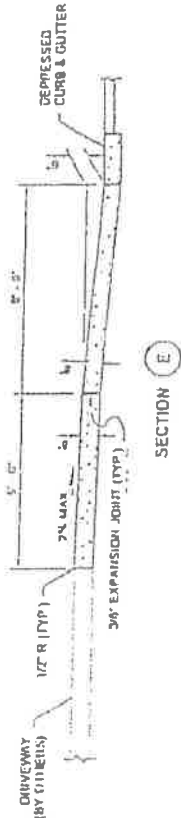


TYPE 2 - ISOMETRIC VIEW

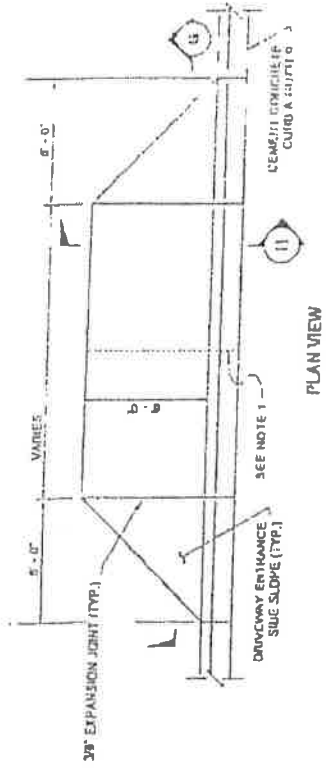
1. When the driveway width exceeds 15 feet, construct a full depth expansion joint with 3/8 inch joint filler along the driveway centerline.
 2. Avoid placing drainage structures, junction boxes, or other obstructions in floor of driveway entrance.
 3. Driveway cement concrete shall be minimum 6 to 8 inches thick and placed on compacted grade.
 4. Depending on vehicle loading, reinforcement may be required.
 5. Concrete shall be air entrained class 3000 (10,000 and edge all joints).



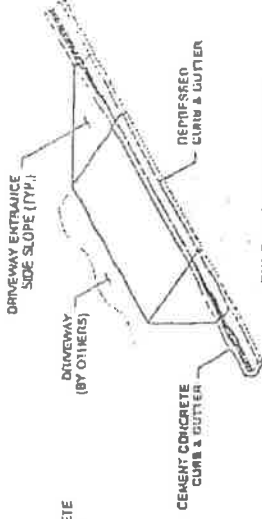
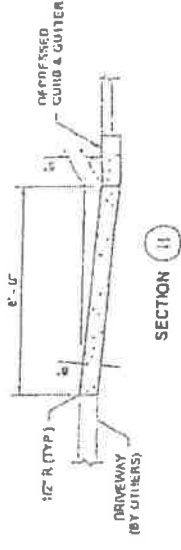
CEMENT CONCRETE DRIVEWAY ENTRANCE TYPE 3



TYPE 3 - ISOMETRIC VIEW



CEMENT CONCRETE DRIVEWAY ENTRANCE TYPE 4
THIS ENTRANCE SHALL NOT BE USED ON ANY ADA ACCESSIBLE PEDESTRIAN ROUTE



TYPE 4 - ISOMETRIC VIEW

Gregory F. Cromwell	Jennifer R. Hill	Dennis J. Shanlian**	*Also admitted in VA
Gregory L. Girard	Cynthia A. Irvine*	Mary Beth Sheehan	**CPA/LLM
Brian J. Hanis	Erik R. Olsen	Peter B. Wilburn	
Michael M. Hanis	Florian D. Purganan		
Patrick M. Hanis	Brittan E. Schwartz		

Mark W. Prothero – 1956-2014

October 17th, 2016

Mr. Michael R. Kenyon
Attorney at Law
Kenyon & Disend
11 Front Street South
Issaquah, WA. 98027

Re: Forster Woods Homeowners' Association/
City of North Bend/responsibility for
repairs & maintenance of sidewalks and
street trees

Dear Mike:

The Association is unable to accept the City offer of \$28,000, intended as a contribution for addressing the costs for maintenance of the sidewalks and street trees. The rejection is based upon further analysis of the history and documents involving the sidewalks and street trees. The Association has determined that the City is responsible for maintaining them, including removal of trees and replacement with vegetation or other trees, and repairing all of the sidewalks damaged by the trees roots. This determination also means the City has primary liability if personal injuries are suffered by Association members or the public using the sidewalks due to their condition.

The Association endeavors to maintain a good relationship with the City. It hopes that both sides can work their way through this situation while keeping intact a respectful relationship, especially since there are and probably will be other issues that exist or will arise in the future and cooperation will be needed to resolve them.

We realize the City's position is that the abutting lot owners or the association are solely responsible for maintenance on these matters because of City ordinance 10.05.010 (N). With respect, that ordinance does not protect the City from responsibility for the sidewalks and street trees due to the following:

- the Bill of Sale (copy enclosed for your easy reference) was signed by the City on September 21, 1998. It was then recorded March 1st, 1999. It clearly states that (a)

NOA EXHIBIT 5

ownership of the street trees and sidewalks was conveyed to the City, and (b) the City "accepts and agrees to maintain the....sidewalks, street trees,.... and other miscellaneous improvements that lie in the Public Right of Way, in the same manner as though they had been constructed by the City." (Emphasis provided.) Even more powerful and dispositive are the provisions in Attachments C and F of the contract. Attachment C deals with Division 1. Its sections 5 and 7 indicate the City is responsible for maintaining "approximately" 5,761 lineal feet of sidewalk and "approximately" 235 "miscellaneous" street trees. Attachment F is for Divisions 2 through 4A. Its sections refer to the City being responsible for "approximately" 78,812 square feet of sidewalk and "approximately" 120 "miscellaneous" street trees. The provisions in the contract can only be viewed one way, i.e., the City agreed to own and fully maintain all of the sidewalks and street trees within all divisions of the Association community.

- the ordinance you cite was adopted in 2009, well after the contract was signed and recorded. "A statute may not be given retroactive effect, regardless of the intention of the legislature, where the effect would be to interfere with vested rights. Thus, a statute may not operate retroactively where the result would be to impair the obligation of a contract (*In re Heilbron's Estate*, 14 Wash. 536, 45 Pac. 153), or deprive one of his property without due process of law (*Graves v. Dunlap*, 87 Wash. 648, 152 Pac. 532). See, also, *Bruenn v. North Yakima School District*, 101 Wash. 374, 172 Pac. 569; *State v. Natsuhara*, 136 Wash. 437, 240 Pac. 557; *Tonkoff v. Roche Fruit & Produce Co.*, 137 Wash. 148, 242 Pac. 3." Statutes are generally presumed to operate prospectively." *Godfrey v. State*, 84 Wn.2d 959, 530 P.2d 630 (1975). They will not be given retroactive effect where the result would be to impair the obligation of a contract. *Gillis v. King County*, 42 Wn.2d 373, 255 P.2d 546 (1953); *In re Estate of Heilbron*, 14 Wash. 536, 45 P. 153 (1896). *Scott Paper Company v. Anacortes*, 90 Wn.2d 19, 32 (1978). These cases may involve statutes rather than municipal ordinances; however, I am confident the principles equally apply to ordinances. The City cannot void or avoid its obligations under a contract by later enacting an ordinance that absolves it from contractual obligations. Aside from case law, the practical effect is that contracts with the City would be worthless if it could renege on or revoke them by legislative whim.
- even if the ordinance had been enacted before the contract (and it was not), a party has the ability to waive a right by entering into a contract in which the terms are inconsistent with a prior right. By signing the contract, the City accepted transfer of all maintenance obligations to it regardless of whether an ordinance said otherwise.
- There is logic and practical reasons behind the City signing the contract and assuming maintenance of, among other things, the sidewalks and street trees. As we stated before, the sidewalks are available for use by the general public and not restricted to use by owners within the community. Further, the history described in my first letter, that the City has for many years cut and otherwise maintained the street trees and also repaired the sidewalks. It is clear by these actions that the City assumed such responsibilities and knew it was supposed to maintain them.

- the contract was signed by a City official and you as City Attorney. The City clearly and unequivocally accepted, agreed to and understood that it was thereafter responsible for the items described in the document. It can hardly claim ignorance or avoidance under the circumstances surrounding the document and the physical things described in the contract.

Time is of the essence regarding these matters. Children have already been injured due to the condition of the sidewalks. Adults and children often go out into the streets while taking walks, in order to avoid the worst sidewalk areas. Aside from tree roots destroying the sidewalks, the roots are also growing under the street asphalt in about 10 areas, causing rippling of the asphalt. Bike riders and people walking in the streets could be injured by the condition of the street asphalt. It's important for the City Council members and other City officials to realize there is a very real risk of someone suing the City and/or the owners or the Association for injuries sustained due to the condition of the sidewalks, street trees and streets. If owners or the Association are sued in this regard, they will have no choice but to bring the City into the lawsuit as an additional defendant. If the City refuses to accept responsibility for these matters, it will be a breach or default of the contract. The Association and owners are third party beneficiaries of the contract. The nature of the contract indicates beyond doubt that it was made for the benefit of the Association and lot owners, as well as the public.

There is another risk that is an important factor in timely handling of these issues. As mentioned, the tree roots are pushing their way under the street asphalt in many locations. This invasion by the roots is evident from the visible rippling of the asphalt. These roots are most likely going to affect and possibly damage underground utilities, including natural gas, sewer, water and electrical lines as well as utility cables. The strength of the roots is obvious from the damage they have caused so far, another reason for diligent efforts to correct, repair and maintain the sidewalks and street trees with minimum delay.

Request for confirmation response/deadlines: The Association respectfully requests and demands that the City:

1. confirm in writing its acceptance of the contract and its obligations and responsibilities for maintaining the sidewalks and street trees no later than November 18th, 2016;
2. commit to creating a specific written Plan for fixing the sidewalks and removal of the street trees and planting replacement vegetation no later than December 1st, 2016; the Plan needs to include timelines/dates for implementation and needs to be provided to the Board so it can let owners know of anticipated actions.

These deadlines were determined based on the Board's understanding of the dates for City Council meetings and so are reasonable. We realize that City Council meeting agendas are

Mr. Mike Kenyon
October 17, 2016
Page - 4

decided far in advance. However, this issue involves urgent matters and so the Council needs to address it at its next meeting. There is too much at stake and the risks too great to further delay decisions on this.

The Association's property manager, Dennis Howard, obtained proposals or bids for the necessary work and will provide them to Mark Rigos, City Public Works Director.

The owners in our Association community are heavily pushing the Board for action and progress regarding these matters. The Board has a duty to pursue the City to perform its contractual obligations under the contract. The last thing the Association or owners want is to be adversarial with the City. We are small town and it is always best to cooperatively solve problems affecting so many. However, please note that if the City refuses to accept and perform its obligations under the contract it signed, the Association will have no choice but to sue the City for breach of contract/specific performance. The Association does not want it to come to this point, but it will do what is necessary to enforce the contract in order to protect its members/owners.

Thank you for your time and consideration. Please call if you have any questions.

Sincerely,

HANIS IRVINE PROTHERO PLLC



Gregory F. Cromwell

cc: Board of Directors
Forster Woods HOA

Mr. Dennis Howard
Association Property Manager

Nothing herein may be interpreted or construed as a waiver of or limit upon the Associations right and remedies; the Association expressly reserves any and all rights and remedies it may have under law and equity.

FILED FOR RECORD AT REQUEST OF:

CITY CLERK
CITY OF NORTH BEND
P O BOX 896
NORTH BEND, WA 98045



BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of the sum of One Dollar (\$1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, the undersigned Seller, Forster Woods Limited Partnership, does by these presents hereby convey, set over, assign, transfer and sell to the City of North Bend (the "City"), King County, Washington, a municipal corporation, the following described water distribution system, wastewater collection system, storm drainage system, curbs, sidewalks, street paving, street trees, and other right of way improvements as listed on the following attachments: A, B, C, D, E, & F.

Commonly known as: Improvements provided as a part of the plats of
FORSTER WOODS DIVISIONS 1, 2, 3, 4, AND 4A.

Seller warrants that they are the sole owners of all the property described in the attachments and have full power to convey all rights herein conveyed and agree to hold the City of North Bend harmless from any and all claims which might result from execution of this document.

Seller warrants that the property above described is free from all liens and encumbrances and Seller warrants and will defend the property hereby sold to City and its successors and assigns against the lawful claims and demands of all persons.

By accepting and recording this instrument, the City accepts and agrees to maintain the water distribution system including booster stations and reservoir, wastewater collection system, storm drainage system (except detention ponds owned by the Home Owners Association), curb and gutter, sidewalks, street trees, street signage, street paving, street lights, and other miscellaneous improvements that lie in the Public Right of Way. in the same manner as though they had been constructed by the City.

9905011140


16-06 009 SKI 590301-11-10 10:27:00 AM KING COUNTY RECORD

IN WITNESS WHEREOF the Sellers have executed these presents this 21st of September, 1998.


Seller: Forster Woods Limited Partnership

Purchaser: City of North Bend


By Jeffrey Wright, President of
J Wright Development Co.,
Its General Partner



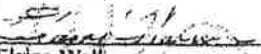
APPROVED AS TO FORM:


City Attorney

9903011140

STATE OF WASHINGTON)
) 98
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Jeffrey Wright is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.


Elaine Walker

NOTARY PUBLIC in and for the
State of Washington residing at
Kirkland.
My appointment expires: 11/29/99

9903011140

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Joan M. Simpson is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument on oath that (he/she) was authorized to execute the instrument and acknowledge it as the Mayor of the City of North Bend to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument

Dated: 12/16/98

Dolores M. Beauchene
(Signature)

Dolores M. Beauchene
(Print Name)

NOTARY PUBLIC in and for the State of
Washington residing at: North Bend



BILL OF SALE - WATER
ATTACHMENT A

DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: **FORSTER WOODS DIVISION I
AND OFFSITE WATER SYSTEM.**

<u>IN</u>	<u>FROM</u>	<u>TO</u>	<u>SIZE</u>	<u>LENGTH</u>
NORTH BEND BLVD	STA 2 (+/-)	STA 12 (+/-)	16"	1000 LF
RIBARY WAY	STA 87+40	STA 92+04	16"	433 LF
RIBARY WAY	STA 92+04	STA 106+60	12"	1618 LF
FORSTER BLVD	STA 0	STA 4 +00	12"	371 LF
FORSTER BLVD S.W.	STA 17+20	STA 35+22	8"	1802 LF
HEMLOCK AVE S.W.	STA 17+89	STA 12+00	8"	589 LF
SW 11 TH COURT, 402 ND COURT SE, SW 11 TH PLACE, AND MISC.			8"	263 LF

THE ABOVE WATER SYSTEM INCLUDES ALL MAINLINE PIPES, WATER SERVICES,
FIRE HYDRANTS, BLOW-OFFS, PRESSURE REDUCING STATIONS, AND OTHER
APPURTENANCES ASSOCIATED WITH THE WATER SYSTEM

APPROXIMATE VALUE OF WATER SYSTEM FOR FORSTER WOODS
DIVISION I INCLUDING OFFSITE WORK: **\$440,000**

9903011140

BILL OF SALE - SEWER
ATTACHMENT B

DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: FORSTER WOODS DIVISION I
AND OFFSITE SANITARY SEWER SYSTEM.

<u>IN</u>	<u>FROM</u>	<u>TO</u>	<u>SIZE</u>	<u>LENGTH</u>
NORTH BEND BLVD.	STA 2 (+/-)	STA 12 (+/-)	8"	1049 LF
RIBARY WAY	STA 87+60	STA 94+35	10"	675 LF
FORSTER BLVD	STA 17+19	STA 34+04	8"	1685 LF
HEMLOCK AVE. S.E.	STA 12+72	STA 17+26	8"	456 LF
SW 11 TH COURT, 402 ND COURT S.E., SW 11 TH PLACE, AND MISC.			8"	931 LF

THE ABOVE SANITARY SEWER SYSTEM INCLUDES ALL MAINLINE PIPES, SIDE SEWERS TO PROPERTY LINES, MANHOLES, CLEAN-OUTS, AND OTHER APPURTENANCES ASSOCIATED WITH THE SANITARY SEWER SYSTEM.

APPROXIMATE VALUE OF SANITARY SEWER SYSTEM FOR FORSTER WOODS DIVISION I INCLUDING OFFSITE WORK: \$460,000

9903011140

**BILL OF SALE - STREETS AND STORM DRAINAGE
ATTACHMENT C**

**DESCRIPTION OF SYSTEM FOR DEVELOPER EXTENSION AGREEMENT PROJECT:
FORSTER WOODS DIVISION I.**

1. Approximately 4638 lineal feet of storm drainage pipe.
2. Approximately 44 storm drainage catch basins.
3. One arch culvert stream crossing.
4. Approximately 5761 lineal feet of curb and gutter.
5. Approximately 5761 lineal feet of sidewalk.
6. Approximately 11,622 square yards of asphalt pavement.
7. Approximately 235 miscellaneous street trees.

Together with miscellaneous improvements such as street lights, fencing, monuments, that have been constructed within public rights of way and public easements.

**APPROXIMATE VALUE OF STREET AND STORM SYSTEMS FOR
FORSTER WOODS DIVISION I: \$527,000**

9903011140

**BILL OF SALE - WATER
ATTACHMENT'D**

**DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: FORSTER WOODS
DIVISIONS 2, 3, 4, AND 4A.**

<u>IN</u>	<u>FROM</u>	<u>TO</u>	<u>SIZE</u>	<u>LENGTH</u>
FORSTER BLVD	STA 34+08	STA 46+80	8"	1272 LF
SW 10 TH STREET	STA 1-50	STA 16+50	12"	1500 LF
SW 12 TH COURT	STA 0	STA 2+00	16"	143 LF
HEMLOCK AVE SE, HEMLOCK AVE SW, 14 TH PLACE SW, 13 TH PLACE SW, SW 12 TH PLACE, 11 TH COURT SW, SW 13 TH PLACE, SW 15 TH PLACE, 11 PLACE SW, SW 14 TH PLACE AND MISC.			8" & 12"	6065 LF

THE ABOVE WATER SYSTEM INCLUDES ALL MAINLINE PIPES, WATER SERVICES, FIRE HYDRANTS, BLOW-OFFS, PRESSURE REDUCING STATIONS, THE 710 AND 780 ZONE BOOSTER PUMP STATIONS, THE WATER TANK RESERVOIR, AND OTHER APPURTENANCES ASSOCIATED WITH THE COMPLETE WATER SYSTEM

APPROXIMATE VALUE OF WATER SYSTEM FOR FORSTER WOODS
DIVISIONS 2, 3, 4, AND 4A: **\$1,393,000**

9903011140

**BILL OF SALE - SEWER
ATTACHMENT E**

**DESCRIPTION OF SYSTEM FOR
DEVELOPER EXTENSION AGREEMENT PROJECT: FORSTER WOODS
DIVISIONS 2, 3, 4, AND 4A.**

IN	FROM	TO	SIZE	LENGTH
FORSTER BLVD	STA 37+04	STA 46+80	8"	976 LF
SW 10 TH STREET	STA 1+75	STA 17+19	8"	1544 LF
HEMLOCK AVE SE, HEMLOCK AVE SW, SW 12 TH COURT, 14 TH PLACE SW, 13 TH PLACE SW, SW 12 TH PLACE, 11 TH COURT SW, SW 13 TH PLACE, SW 15 TH PLACE, 11 PLACE SW, SW 14 TH PLACE AND MISC.			8"	6138 LF

**THE ABOVE SANITARY SEWER SYSTEM INCLUDES ALL MAINLINE PIPES, SIDE SEWERS TO
PROPERTY LINES, MANHOLES, CLEAN-OUTS, AND OTHER APPURTENANCES ASSOCIATED
WITH THE SANITARY SEWER SYSTEM.**

**APPROXIMATE VALUE OF SANITARY SEWER SYSTEM FOR FORSTER
WOODS DIVISIONS 2, 3, 4, AND 4A: \$373,000**

9903011140

**BILL OF SALE -STREETS AND STORM DRAINAGE
ATTACHMENT F**

**DESCRIPTION OF SYSTEM FOR DEVELOPER EXTENSION AGREEMENT PROJECT:
FORSTER WOODS DIVISIONS 2, 3, 4, AND 4A.**

1. Approximately 8847 lineal feet of storm drainage pipe.
2. Approximately 72 storm drainage catch basins.
3. One arch culvert stream crossing.
4. Approximately 16,144 lineal feet of curb and gutter.
5. Approximately 78,812 square feet of sidewalk.
6. Approximately 35,728 square yards of asphalt pavement.
7. Approximately 120 miscellaneous street trees.

Together with miscellaneous improvements such as street lights, fencing, and monuments, that have been constructed within public rights of way and public easements.

**APPROXIMATE VALUE OF STREET AND STORM SYSTEMS FOR
FORSTER WOODS DIVISIONS 2, 3, 4, AND 4A: \$762,309**

990301114U



March 13, 2017

Dennis Howard
Association Manager
Forster Woods Homeowners Association
PO Box 1294
Edmonds, WA 98020

Mr. Howard:

North Bend Staff and Legal Counsel have discussed the Forster Woods street tree and sidewalk issue at length and have come up with the following proposal.

The cost of the tree removal, stump removal, existing sidewalk removal, and pour of new sidewalk panels can vary greatly depending on how much work is done under one contract (economy of scale). In an effort to fix the worst areas first the City has divided the work up into 3 categories based on the severity of the sidewalk separation and street tree issues.

Category 1:

This category is in reference to the 28 largest sidewalk separations and the street trees causing these separations as identified by City staff and shown in the table provided to you in 2016 (see attached):

- City shall remove the 28 street trees including the stumps, remove the raised sidewalk panels, and pour new sidewalk panels over the course of 4 years. The City shall contract to fix 7 of the locations each of the first 4 years. Year 1 will be 2018.
- City shall manage the work described above. As the City shall be managing this work, the City shall be required to follow all public works requirements under RCW Title 39.
- Forster Woods HOA shall pay 33% of the total cost on a yearly basis to the City.
- Forster Woods HOA shall provide and install new landscaping which shall consist of flowers, sod, or shrubs, but not street trees. This re-landscaping work shall require a no cost street use permit that can be applied for at the North Bend Public Works Office.

Category 2:

This category is in reference to the next 40 sidewalk separations and the street trees causing these separations as identified by City staff that are not as severe as Category 1:

- City shall remove the 40 street trees during years 5 (2022) and 6 (2023).
- City shall remove the 40 stumps during years 5 (2022) and 6 (2023).

HOA

EXHIBIT 6

- City shall remove the raised sidewalk panels and pour new sidewalk panels during years 7 (2024), 8 (2025), and 9 (2026) at the sole discretion of the City, certain panels may only need to be ground down and not removed.
- City shall manage the work described above. As the City shall be managing this work, the City shall be required to follow all public works requirements under RCW Title 39.
- Forster Woods HOA shall pay 33% of the total cost on a yearly basis to the City.
- Forster Woods HOA shall provide and install new landscaping which shall consist of flowers, sod, or shrubs, but not street trees. This re-landscaping work shall require a no cost street use permit that can be applied for at the North Bend Public Works Office.

Category 3:

This category is in reference to the remaining street trees that are not causing any issues at this time:

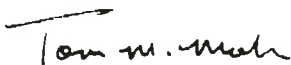
- Forster Woods HOA shall be responsible for any future street tree removal, stump grinding/removal, sidewalk panel removal, landscaping, installation of root barriers, and concrete sidewalk replacement for the street trees which currently are not causing any issues or for areas already addressed in Categories 1 and 2 above.

If the Forster Woods HOA is in agreement with this proposal, then the City can begin work as described in Category 1 in 2018. As a condition of the City starting any work, the HOA shall release and hold the City harmless as part of a settlement agreement in a form agreed to by the City Attorney. To indicate approval, please have the Forster Woods HOA Board President sign and date below.

X _____
Forster Woods HOA Board President

X _____
Date

Sincerely;



Tom Mohr, P.E.
Deputy Public Works Director

Enclosure: 2016 Tree Table

cc: Londi Lindell, City Administrator
Mark Rigos, P.E., Public Works Director
Gina Estep, Community and Economic Development Director
Susie Oppedal, City Clerk
Mike Kenyon, City Attorney

July 2016 Sidewalk Separation Table for Forster Woods

# in 2016 study	# from 2014 study	Sidewalk Separation Height (only for those greater than 2.5")	Street Frontage Address
1		6.4"	995 SW10th Street
2		6.0"	1125 SW 10th Street
3		6.0"	1170 Forster Blvd. West
4		5.7"	995 SW 10th Street
5		5.5"	1010 SW 10th Street
6		4.5"	1085 SW 10th Street
7		3.9"	1125 SW 10th Street
8		3.6"	980 SW 10th Street
9		3.5"	980 SW 10th Street
10		3.5"	1350 SW 10th Street
11		3.5"	1420 Forster Blvd. SW
12		3.3"	1370 Forster Blvd. SW
13		3.2"	1385 SW 10th Street
14		3.2"	1235 Forster Blvd. SW
15		3.1"	1085 SW 10th Street
16		3.0"	1385 SW 10th Street
17		3.0"	1125 SW 10th Street
18		3.0"	1085 SW 10th Street
19		3.0"	1325 Forster Blvd. SW
20		3.0"	1335 Forster Blvd. SW
21		3.0"	1410 Forster Blvd. SW
22		2.8"	1410 Forster Blvd. SW
23		2.7"	1330 Forster Blvd. SW
24		2.6"	1010 SW 10th Street
25		2.6"	1165 SW 10th Street
26		2.6"	1141 Forster Blvd. SW
27		2.6"	1235 Forster Blvd. SW
28		2.6"	1365 Forster Blvd SW



April 20th, 2017

Mr. Michael Kenyon
Attorney at Law
Kenyon & Disend
11 Front Street South
Issaquah, WA. 98027

Re: Forster Woods Homeowners' Association/
City of North Bend/sidewalks and
trees issues/City offer/Association counteroffer

Dear Mike:

The Forster Woods Homeowners Association (the "HOA") has spent many years trying to work with the City to resolve the streets/trees/ponds issues, without success, which has been very frustrating for the Board. Even though the City has given the Board the impression that the City is avoiding resolving these matters, the Board has given serious consideration to the City's offer in Mr. Mohr's letter of March 13th, 2017 (the "letter"), and has discussed it with me. The HOA cannot accept that offer and respectfully rejects it. However, the HOA will make a counteroffer, which is set out below. Before we get to the counteroffer, the HOA wanted me to comment on the reasons for its rejection of the City's offer.

We are confident that the City's offer was made because the City knows that it owns and is responsible for the maintenance, repair and/or replacement of the sidewalks and trees at issue. The recorded Bill of Sale dated September 21st, 1998, is clear and unassailable on this point. The terms of the City's offer unfortunately seem to ignore its ownership and obligations. While the HOA is willing to discuss the idea of some sharing of costs as explained below, the large percentage sought by the City is not acceptable. Especially unacceptable are the Category 3 terms in the letter. It makes no sense for the HOA to accept responsibility for future maintenance needs and costs for those sidewalks and trees not yet a problem, when the City owns those sidewalks and trees, and the Bill of Sale contract mandates the City maintain them.

-45-

HOA EXHIBIT 7

Mr. Michael Kenyon
City of North Bend Attorney
April 20, 2017
Page - 2

Besides the trees and sidewalks at issue, the letter does not address the need for street repairs in those areas where tree roots have undermined the streets and caused ripples or defects in the asphalt. The HOA and the City need to come to agreement on the street areas needing repairs. Because these roads are public streets, the City is responsible for these repairs. The ripples in the asphalt constitute hazards and create an unnecessary risk of injury to pedestrians and bicyclists. The HOA is very concerned that the underground utilities (gas, electrical, water, sewer, and cable) are right now being damaged by the tree roots encroaching under the streets. The main utility lines run under the streets. If these lines are breached and fail due to the roots, the result could be catastrophic. A news article not that long ago reported on gas lines rupturing in a residential community due to line damage caused by encroaching tree roots, resulting in a horrific explosion that caused great damage to homes and personal property. The HOA's concern on this point is very reasonable given the visible surface evidence of how strongly the roots are warping the asphalt streets in places. The other factor to consider is cost. It will cost much less for the City to make street repairs and check the underground utilities now, while doing the sidewalks and trees work, to avoid the possibility of utility failures that would cause damage to surrounding homes and possible injury to people than to wait for the areas of street damage to grow larger and risk these failures.

Lastly, in the interest of trying to settle all matters at issue between the HOA and the City, the HOA respectfully requests information and commitments from the City regarding the detention ponds. Despite years of the City personnel telling HOA members and Boards that the ponds were the City's responsibility and years of the City undertaking trimming around the ponds in the past, it has become obvious to the HOA from recorded documents coming to light during the last year or so that the HOA is responsible for maintaining the ponds. However, given the many years of communications from the City saying otherwise, which the HOA relied upon, the HOA needs to know whether, if it reconditions the ponds to a level acceptable to the City, the City will assume responsibility for the ponds. Please provide the HOA with detailed information on what the HOA needs to do to restore the ponds to a condition which would result in the City accepting future responsibility for them. One of my prior letters detailed the public interest regarding the ponds, so there is no need to do so again in this letter. It is in the best interests of the public, far beyond the boundaries of the HOA community, that the City maintains the ponds. Please let us know whether the City will commit to assume maintenance responsibility once the HOA restores the ponds to a proper condition. The City's assumption of the maintenance responsibility for the ponds will likely incentivize the HOA to share in some of

the costs regarding the trees and sidewalks, even though it could rightfully demand the City to bear all of these costs.

Counteroffer: The HOA makes the following counteroffer:

1. City of North Bend shall indemnify the HOA from any and all claims of property damage and/or personal injury relating to work by the City and regarding all claims arising from or relating to the present condition of the sidewalks and/or planter strip areas;
2. HOA shall pay for no more than 10% of the total cost for the City's removal of trees and sidewalk repairs/replacement; the HOA will cover the cost of repairs or replacement for any sprinkler system components within the planter strips damaged during the City's work;
3. City will accomplish the following work during Year 1 (by the end of December 2017):
 - (a) remove all trees (approximately 230 trees) down to below ground level and kill the remaining stumps/roots (so no regrowth occurs which could damage sidewalks); (removal of all trees, even those not yet causing or resulting in sidewalk damage, will avoid future damage and repair costs to those sidewalks not yet impacted);
 - (b) remove and replace (re-pour) all damaged sidewalk panels so the sidewalks are whole and even; however, non-damaged sidewalk panels, i.e., those intact but having a gap in height between the panels of two (2) inches or less due to tree roots lifting them, should be leveled by, first, removing tree roots from under the panels so that leveling can be accomplished, and, second, using a filler concrete mixture injected under such panels to accomplish leveling where necessary; (the use of asphalt patches to handle height gaps between the panels is not only unsightly, but also still presents an unacceptable degree of risk of tripping people and causing injuries); these tasks to include tree root removal as necessary to accomplish the repairs and leveling so the sidewalks match the other panels in height and overall appearance; for clarification, although it should be obvious, all of the trees (along with such roots as are damaging sidewalks) need to be removed before sidewalk repairs are begun, pursuant to section 3(a) above;
 - (c) repair street areas where roots have caused damage to the street; tasks to include: removal of tree roots where reasonably necessary, and assurance

Mr. Michael Kenyon
City of North Bend Attorney
April 20, 2017
Page - 4

that no utility or pipe lines have been or will be damaged in the future; if during such repairs damage to utility lines and/or pipes is discovered (or occurs from the work), the City will undertake repairs and/or replacement of such damaged lines and/or pipes.


4. Work performed by the City, its employees, agents, or contractors to accomplish the tasks set out in this counteroffer, shall be done in a manner and with materials that are reasonably harmonious with the standards and residential quality of the community and aesthetically pleasing and harmonious with the existing materials being repaired or replaced (in other words, sidewalk panel replacement/repairs will match as close as possible to existing materials).

All items above are non-negotiable. If the City is unwilling to accept the HOA counteroffer terms, we suggest and offer that the parties undertake formal mediation, with an experienced mediator (such as Chris Soelling in Seattle) to see if mediation can facilitate a settlement. If the City is unwilling to accept the HOA's terms or participate in mediation, the HOA is left with no choice but to sue the City. Enclosed is a copy Summons and Complaint, to hopefully convince the City's Council that the HOA is serious about getting this matter resolved or moving it to the courts. If litigation becomes necessary, please let me know if you will accept service on behalf of the City.

The HOA hopes settlement can be reached with the City, but the HOA will litigate if the City is unwilling to accept reasonable terms. The HOA needs the City to respond and accept the above terms in writing no later than May 15th, 2017. If not, the HOA will proceed with litigation.

Sincerely,

HANIS IRVINE PROTHERO PLLC



Gregory F. Cromwell

cc: Board of Directors
Forster Woods Homeowners Association

Mr. Dennis Howard, Property Manager for the Association

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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE
8 COUNTY OF KING

9 Forster Woods Homeowners Association, a
10 Washington Non-Profit Corporation

No.

11 Plaintiff,

12 vs.

SUMMONS [20 DAYS]

13 City of North Bend, a Washington Municipal
14 Corporation,

15 Defendant.

16 THE STATE OF WASHINGTON TO: Defendants.

17 TO THE DEFENDANTS: A lawsuit has been started against you in the above
18 entitled court by Forster Woods Homeowners Association, Plaintiff. Plaintiff's claim is
19 stated in the written Complaint, a copy of which is served upon you with this Summons.

20 In order to defend against this lawsuit, you must respond to the Complaint by stating
21 your defense in writing, and by serving a copy upon the person signing this Summons within
22 twenty (20) days (or 60 days if you are served outside of the State of Washington) after the
23 service of this Summons, excluding the day of service, or a default judgment may be entered
24 against you without notice. A default judgment is one where Plaintiff is entitled to what he
25
26

1 asks for because you have not responded. If you serve a Notice of Appearance on the
2 undersigned person you are entitled to notice before a default judgment may be entered.

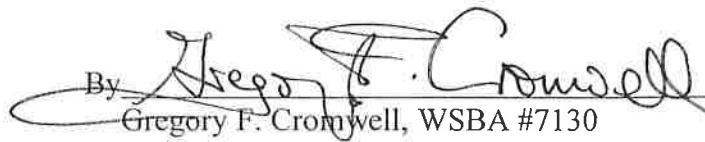
3 If this lawsuit has not already been filed with the court, you may demand that the
4 Plaintiff do so. If you do so, the demand must be in writing and must be served upon the
5 person signing this Summons. Within fourteen (14) days after you serve the demand, the
6 Plaintiff must file this lawsuit with the court, or the service on you of this Summons and
7 Complaint will be void.
8

9 If you wish to seek the advice of an attorney in this matter you should do so promptly
10 so that your written response, if any, may be served on time.

11 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the
12 State of Washington.

13 DATED this 20th day of April, 2017.

14
15 HANIS IRVINE PROTHERO, PLLC

16
17 By 
18 Gregory F. Cromwell, WSBA #7130
19 Attorney for Plaintiff
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE
COUNTY OF KING

Forster Woods Homeowners Association, a
Washington Non-Profit Corporation

Plaintiff,

vs.

City of North Bend, a Washington Municipal
Corporation,

Defendant.

No.

COMPLAINT FOR DECLARATORY
JUDGMENT REGARDING REPAIR
RESPONSIBILITY FOR SIDEWALKS AND
TREES; AND FOR AFFIRMATIVE
INJUNCTION

COMES NOW the Plaintiff, and for cause of action against the Defendant, alleges as follows:

I. THE PARTIES

1.1 Plaintiff Forster Woods Homeowners Association (the "Association") is a Washington non-profit corporation, duly organized and operating under the laws of the State of Washington. Plaintiff is the homeowners' association for Forster Woods, a residential community consisting of 213 homes and two (2) unbuilt lots. single-family homes. It is located in King County, Washington, and is within the boundaries of Defendant City of North Bend.

1 1999. This occurred at a time when the developer still controlled and ran the Association,
2 i.e., before the developer transitioned the Association to the owners. The Contract, among
3 other things, granted and conveyed to the City ownership of the street trees and sidewalks,
4 and stated that the City “accepts and agrees to maintain the ... sidewalks, street trees, and
5 other miscellaneous improvements that lie in the Public Right of Way, in the same manner as
6 though they had been constructed by the City.”
7

8 Attachments C and F to the Contract further addressed the sidewalks and street trees.
9 Attachment C addresses Division 1; its section 5 and 7 state that the City is responsible for
10 maintaining “approximately 5,762 lineal feet of sidewalk,” and “approximately 235
11 “miscellaneous street trees.” Attachment F to the Contract is for Divisions 2 through 4A, and
12 states that the City is responsible for “approximately 78,812 square feet of sidewalk,” and
13 “approximately 120 miscellaneous street trees.”
14

15 3.5 The street trees and sidewalks are esthetic amenities of the community and are
16 available for the use and enjoyment of owners within Forster Woods and the public. Over
17 the years the street trees grew and their roots expanded under the sidewalks and certain areas
18 of the streets. The street trees’ roots have caused significant movement of and damage to the
19 concrete panels of the sidewalks. Panels are cracked or broken, and many are lifted up so
20 that there are substantial height differences between the edges of the panels. Pedestrians and
21 bicyclists are at risk of tripping and falling. In fact, people have tripped and fallen, and hurt
22 themselves while attempting to use the sidewalks. Some pedestrians walk into the streets and
23 around the worst of the damaged sidewalk areas so as to avoid the risk.
24
25
26

1 3.6 Over the years since development of the community, and since the installation of
2 the sidewalks and street trees and the signing of the Contract, the City has exercised control
3 over the sidewalks and street trees. The City has repaired the sidewalks and trimmed and cut
4 down and removed street trees. The City has done such repairs and maintenance without
5 seeking the prior consent or approval of the Association. The City has removed some street
6 trees for the purpose of correcting or preventing continuing root growth damage to the
7 sidewalks. Based on the City performing such maintenance and repairs, the Association
8 assumed that the City thereby acknowledged its responsibility for the street trees and
9 sidewalks.
10

11 3.7 The street trees' roots have also grown under certain areas of the asphalt streets,
12 causing damage to the surface in the form of "ripples" in the asphalt. These areas of the
13 streets pose additional risk to pedestrians and bicyclists. Furthermore, there are gas and other
14 utility lines under the streets that may be ruptured by the street trees' roots which could cause
15 explosions regarding the gas lines. The Association has expressed concern to the City on this
16 issue, but the City has not acted to investigate or remove the roots under the streets, nor
17 repair the streets.
18

19 3.8 In 2015, for the first time, the City informed the Association that it was not
20 responsible for maintenance and repair of the sidewalks and street trees, citing an ordinance
21 it adopted in 2009 purportedly making associations responsible for such maintenance. The
22 City claimed that the ordinance superseded the 1998 Contract in which the City contractually
23 agreed to be responsible for such maintenance and repairs.
24
25
26

1 3.9 For approximately the last two (2) years the Association has repeatedly asked the
2 City to take responsibility for and do what is necessary to timely, diligently and properly
3 repair and maintain the sidewalks, and to address the street trees' root growth and damage
4 issues. The street trees' root growth continues, continually expanding and increasing the
5 damage occurring to the sidewalks and streets, and threatening damage to those areas of
6 sidewalks not yet showing damage. The City needs to take action as soon as reasonably
7 possible to remove the street trees and their root systems, to prevent continuing and future
8 damage to the sidewalks and streets, and to repair the sidewalks. The City has not
9 undertaken any action on these issues, other than having their staff do on-site examinations
10 of the sidewalks and street trees and offering an opinion on how many street trees and
11 sidewalks presently require removal and repair due to the nature of their damages or, in the
12 case of the street trees, the removal of those whose roots most impact certain areas of
13 sidewalks.
14

15
16 IV. FIRST CLAIM: PETITION FOR DECLARATORY RELIEF

17 4.1 An actual, present and existing dispute exists between the City and the
18 Association as to whether the City is responsible for the maintenance and repair of the
19 sidewalks and the care and maintenance of the street trees.
20

21 4.2 The City has breached the Contract under which it is obligated to maintain and
22 repair the sidewalks and street trees.

23 4.3 The Association seeks a declaratory judgment that the Contract is valid and
24 enforceable, and that the City is, in fact, obligated under the Contract to perform all
25 maintenance and repairs to the sidewalks and street trees, at its cost. The nature, extent and
26

1 methods of maintenance and repairs now and in the future needed to address the damages
2 caused by the lack of diligent and proper maintenance and repairs, and the timing of when
3 such repairs should be completed, should be determined by the Court upon later motion or at
4 time of trial.

5
6 V. SECOND CLAIM: PETITION FOR INJUNCTIVE RELIEF

7 5.1. Upon a declaration by the Court that the Contract is valid and enforceable and
8 that the City is responsible for all necessary maintenance and repairs of the sidewalks and
9 street trees, the Association seeks an affirmative injunction requiring the City to proceed with
10 due diligence to conduct repairs and maintenance of the sidewalks and street trees, in a
11 manner, and within a time period for implementation, to be decided by the Court.

12 5.2 Due to the street trees' roots causation of the existing damage and increasing
13 damage to the sidewalks, the City should be required by Court injunction/order to remove the
14 street trees and their stumps and roots, so as to prevent continuing and future damage to the
15 sidewalks. Many areas of the sidewalks cannot be repaired and leveled if the tree roots
16 remain. Further, if the street trees and/or their roots are permitted to remain in place,
17 repairing the sidewalks will be a futile endeavor since the roots will simply continue to grow
18 and damage newly repaired sidewalks.

19
20 5.3 The City should also be ordered by affirmative injunction to investigate
21 whether the street trees' roots which have undergrown the streets are impacting gas and other
22 utility lines and, as necessary remove such roots and repair the streets to remove the ripples
23 in the asphalt.
24
25
26

1 Court to retain jurisdiction for two (2) years for these purposes, or if the repair
2 implementation time period ordered by the Court is longer, for such longer time period.

3 6.5 For Plaintiff's statutory attorneys' fees and costs.

4 6.6 For such other and further relief as the Court, exercising its equitable
5 jurisdiction may deem reasonable and appropriate.
6

7
8 DATED this 20th day of April, 2017.

9
10 HANIS IRVINE PROTHERO, PLLC

11
12 
13 Gregory F. Cromwell, WSBA #7130
14 Attorney for Plaintiff



Premiere Lawn Service Inc.

Commercial/Residential Landscape Management
5714 134th Pl SE, A-18 #201 Everett WA 98208
OFFICE (360)668-9229/Fax (360)668-0907

PROPOSAL AND ACCEPTANCE

Estimate Submitted To: Dennis
Street Address: 11221 Forester Blvd. SW
City, State, Zip Code: North Bend WA 98045
Site Name: Forester Woods HOA

Date: 8/3/16
Phone:
Fax:

We hereby submit specifications and estimates for: Large tree removal, stump grind and debris removal.

1. Individual price for removal of (1) tree to include tree removal, stump grind and removal of all debris. Irrigation repairs if needed not included.

Cost: \$ 900.00 per tree plus tax

2. Removal of (77) or more trees to include tree removal, stump grind, and removal of all debris.

Cost per tree: \$ 700.00 per tree = \$ 53,900.00

Note: Quantity above 100 trees or more would be approximately an additional 7-10% reduction in price per tree.

Irrigation damage from stump grinding will be unavoidable and will have to be addressed accordingly on a time and material basis.

We propose hereby to furnish materials and labor complete in accordance with above specifications, for the sum of:

Payment to be made as follows
50% down, balance at completion

All materials is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our controls. Owner to carry all necessary insurances. Our workers are fully covered by Workmen's Compensation Insurance.

HOA EXHIBIT 8

Authorized Signature: _____

NJ Coon, Premiere Lawn Service Inc.

Note: This Proposal may be withdrawn by us if not accepted within 30 days.

Acceptance: the above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____

All unpaid balances over 30 days to bear interest at the highest level rate authorized by law

Northwest Arboriculture LLC



Forster Woods HOA
 1101 Forster BLVD SW
 North Bend, Washington 98045

Quote #890

From Northwest Arboriculture LLC
 425-806-6945
 trent.kreeck@nwarbor.com
 www.nwarbor.com
 5616 Mallby Road
 Woodinville, WA 98072
 Contractor # NORTHAL972CR

Client Phone 425-478-9640
 Bill To 1101 Forster BLVD SW
 North Bend, Washington 98045
 Sent On 08/10/2016
 Attn: Dennis

Service / Product	Description	Total
Bidder	Quote prepared by: Trent Kreeck	\$0.00
Removal	Cut down 77 trees (Pin Oak, Sunset Maple and Sycamore) that are causing side walk and road upheaval in the planting strip between the road and the side walk along Forster BLVD SW, and SW 10th St. Clean up the work areas and haul all the debris away.	\$37,992.00
Stump Grinding	Grind 77 stumps down 10-12" below grade and haul the grindings away. Grinding will be to this depth unless there are utilities present under the stump, in which case the stump grinder will grind as close to that depth as possible while maintaining a cushion of safety above the utility line. The stump grinding cutter head will need to stay 2-3" away from the concrete sidewalk and curbing so the machine and the concrete does not get damaged. This means that parts of the stump that are within this 2-3" will not get ground. Grade is defined as where the wood of the trunk intersects with the bare dirt or sod mat at the base of the tree. Surface root grinding is not included and would be an extra charge.	\$16,237.00
Permits	Right of Way Use Permit costs and costs related to traffic control devices required by the City of North Bend are not included in this proposal but will be added to the proposal total if the City of North Bend requires these items.	\$0.00
Misc Administrative	Weekly progress payments will be required.	\$0.00

TERMS AND CONDITIONS:

- Balance is due no later than 10 days after completion of the project. There will be a \$50.00 additional charge for payments received after 14 days and/or insufficient funds (returned checks).
- Work not quoted herein will be an extra charge.
- All Costs are subject to current Washington State Sales Tax Rates.
- Change orders will be presented to you at the time of occurrence.
- Tree work, clean up, dump fees, firewood, hauling and stump grinding are considered separate charges (unless otherwise quoted in proposal).
- Stump grinding does not include debris removal and is 10-12 inches below grade unless otherwise noted. Stump grinding does not include root grinding/removal unless otherwise noted in the proposal. Grinding may not be to the quoted depth if utilities are present within 2 feet of the stump and there may be an additional

Subtotal	\$54,229.00
(8.9%) Tax	\$4,826.38
Total	\$59,055.38

Northwest Arboriculture LLC



Forster Woods HOA

1101 Forster BLVD SW
North Bend, Washington 98045

Quote #890

From Northwest Arboriculture LLC
425-806-6945
trent.kreeck@nwarbor.com
www.nwarbor.com
5616 Maltby Road
Woodinville, WA 98072
Contractor # NORTHAL972CR

Client Phone 425-478-9640
Bill To 1101 Forster BLVD SW
North Bend, Washington 98045
Sent On 08/10/2016
Attn: Dennis

Notes Continued...

charge to locate utility lines directly under an area to be stump ground.

-When using chainsaws for cutting trees, stumps or wood; if we encounter any foreign objects such as nails, rebar, wire, dog chain or cables etc. There will be an additional charge for breakage of chainsaw chains and replacement. (This could be a \$40.00 charge per chain).

-Pruning will be in accordance with ANSI a 300 Pruning Standards and/or at the discretion of Northwest Arboriculture LLC in the event the customer elects not to be present.

-Installation of trees and shrubs will not be guaranteed unless otherwise specified in the proposal.

-Animal feces to be removed from the work area prior to commencing work on site. There will be a \$145.00 charge if Northwest Arboriculture LLC employees need to remove animal feces from the work area.

-Tree removal permits are the responsibility of the customer.

Customer warrants the property boundaries for the work requested or that customer has permission to have work performed on joining property and will hold Company harmless against any and all disputes regarding:

a) Property rights, and

b) Damage to undisclosed (those not stated in this proposal) below ground items such as, but not limited to, sewer, septic tank and drain field, plumbing, telephone, cable, gas lines, electric service, etc.

-Please inform us about anything which may be hidden from view!

This quote is valid for the next 365 days, after which values may be subject to change.

Signature: _____ Date: _____

Northwest Arboriculture LLC



Forster Woods HOA
 1101 Forster BLVD SW
 North Bend, Washington 98045

Quote #891

From Northwest Arboriculture LLC
 425-806-6945
 trent.kreeck@nwarbor.com
 www.nwarbor.com
 5616 Maltby Road
 Woodinville, WA 98072
 Contractor # NORTHAL972CR

Client Phone: 425-478-9640
 Bill To: 1101 Forster BLVD SW
 North Bend, Washington 98045
 Sent On: 08/10/2016
 Attn: Dennis

Service / Product	Description	Total
Bidder	Quote prepared by: Trent Kreeck	\$0.00
Removal	Cut down 144 trees (Pin Oak, Sunset Maple and Sycamore) that are causing side walk and road upheaval in the planting strip between the road and the side walk along Forster BLVD SW, and SW 10th St. Clean up the work areas and haul all the debris away.	\$69,367.00
Stump Grinding	Grind 152 (this includes stumps from previous tree cutting) stumps down 10-12" below grade and haul the grindings away. Grinding will be to this depth unless there are utilities present under the stump, in which case the stump grinder will grind as close to that depth as possible while maintaining a cushion of safety above the utility line. The stump grinding cutter head will need to stay 2-3" away from the concrete sidewalk and curbing so the machine and the concrete does not get damaged. This means that parts of the stump that are within this 2-3" will not get ground. Grade is defined as where the wood of the trunk intersects with the bare dirt or sod mat at the base of the tree. Surface root grinding is not included and would be an extra charge.	\$28,812.00
Permits	Right of Way Use Permit costs and costs related to traffic control devices required by the City of North Bend are not included in this proposal but will be added to the proposal total if the City of North Bend requires these items. Tree removal permits are the responsibility of the owner/owners agent.	\$0.00
Misc Administrative	Weekly progress payments will be required.	\$0.00

TERMS AND CONDITIONS:

- Balance is due no later than 10 days after completion of the project. There will be a \$50.00 additional charge for payments received after 14 days and/or insufficient funds (returned checks).
- Work not quoted herein will be an extra charge.
- All Costs are subject to current Washington State Sales Tax Rates.
- Change orders will be presented to you at the time of occurrence.
- Tree work, clean up, dump fees, firewood, hauling and stump grinding are considered separate charges (unless otherwise quoted in proposal).
- Stump grinding does not include debris removal and is 10-12 inches below grade unless otherwise noted. Stump grinding does not include root grinding/removal unless otherwise noted in the proposal. Grinding may not be to the quoted depth if utilities are present within 2 feet of the stump and there may be an additional

Subtotal	\$98,179.00
(8.9%) Tax	\$8,737.93
Total	\$106,916.93

Northwest Arboriculture LLC



Forster Woods HOA

1101 Forster BLVD SW
North Bend, Washington 98045

Quote #891

From Northwest Arboriculture LLC
425-806-6945
trent.kreeck@nwarbor.com
www.nwarbor.com
5616 Maltby Road
Woodinville, WA 98072
Contractor # NORTHAL972CR

Client Phone 425-478-9640
Bill To 1101 Forster BLVD SW
North Bend, Washington 98045
Sent On 08/10/2016
Attn: Dennis

Notes Continued...

charge to locate utility lines directly under an area to be stump ground.

-When using chainsaws for cutting trees, stumps or wood; if we encounter any foreign objects such as nails, rebar, wire, dog chain or cables etc. There will be an additional charge for breakage of chainsaw chains and replacement. (This could be a \$40.00 charge per chain).

-Pruning will be in accordance with ANSI a 300 Pruning Standards and/or at the discretion of Northwest Arboriculture LLC in the event the customer elects not to be present.

-Installation of trees and shrubs will not be guaranteed unless otherwise specified in the proposal.

-Animal feces to be removed from the work area prior to commencing work on site. There will be a \$145.00 charge if Northwest Arboriculture LLC employees need to remove animal feces from the work area.

-Tree removal permits are the responsibility of the customer.

-Customer warrants the property boundaries for the work requested or that customer has permission to have work performed on joining property and will hold Company harmless against any and all disputes regarding:

a) Property rights, and

b) Damage to undisclosed (those not stated in this proposal) below ground items such as, but not limited to, sewer, septic tank and drain field, plumbing, telephone, cable, gas lines, electric service, etc.

-Please inform us about anything which may be hidden from view!

This quote is valid for the next 365 days, after which values may be subject to change.

Signature: _____ Date: _____



Work Order Proposal

Prepared For:
Dennis Howard

Forester Woods HOA
- Site Forester
Woods HOA

Date: 08/10/2016

Prepared By: Jeff Fieck

Total: \$110,312.00+ tax if applicable

Project Goals: (150) street strip tree removals

Site Address: The locations of the trees are both sides of the streets marked in yellow: SW 10th Street and Forster Blvd SW.

NLS proposes to Remove (150) London Plane Maple Tree to include stump removal from street strips. The locations of the trees are both sides of the streets marked in yellow: SW 10th Street and Forster Blvd SW. (see attached work location map) All debris generated from scope of work will be removed and disposed of off-site leaving all work areas clean All permit fees are non-refundable. No work will begin until all permits are approved with city of North Bend and all utility locates have been completed.

Client Authorization

Date

Comments:

PO #

WARRANTY: We hereby propose to furnish materials and labor – complete in accordance with above specifications, including clean-up and removal of all related debris. This proposal may be withdrawn if not approved within 60 days. All material is guaranteed to be as specified. All work to be completed in a workmanship manner according to standard practices. Any alterations or deviations from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Plant material is warranted for 1 year of date of installation unless planted in areas not irrigated or where the irrigation system is in-operable.

~ Concrete Estimate Form ~

Valid for 30 days

Washington State License Lic: #BAEZCCL864QF

Date: Friday, December 2, 2016



Legal Full Name: DEnnis Howard

Residence: 1010 SW 10th ST North Bend, WA 98045

Home/Office #:

Contact #: 425-478-9640

E-mail: dhoward@edmondsrealty.net

FORM (B)	CONSTRUCTION ITEM	LABOR	MATERIAL	TONS UNITS	TOTAL
01000	General Conditions				
2	<input checked="" type="checkbox"/> Layout - Prep: Using SPECTRA LASER (LL300 N)	Included	N/A		\$ 00.00
3	<input checked="" type="checkbox"/> Clean up after job completion in the project jurisdiction	Included	N/A		\$ 00.00
4	<input type="checkbox"/> City Permit, <input type="checkbox"/> EPA, <input checked="" type="checkbox"/> 811, <input checked="" type="checkbox"/> Others.	Included	N/A		\$ 00.00
5	<input type="checkbox"/> Haul Refuse /Hazard: If any and required	N/A	N/A		\$ 00.00
6	<input checked="" type="checkbox"/> Dump Includes: All materials required to complete the job.	\$ 25,860.00	\$ 13,500.00	290-CYA	\$ 39,360.00 C/O
7	<input checked="" type="checkbox"/> Site Demolition Includes: Soil, Concrete, asphalt, soil, and others.	Included	Included		\$ 00.00
8	<input checked="" type="checkbox"/> Special Barricades/Partitions: For street and all others.	\$ 3,890.00	N/A		\$ 3,890.00
9	<input type="checkbox"/> Architectural/Engineer Design, <input type="checkbox"/> 3D Design, <input checked="" type="checkbox"/> Others.	Included	N/A		\$ 00.00
10	<input type="checkbox"/> Construction Estimate Fees/FREE 1 Hour consultation and estimate	N/A	N/A		\$ 00.00
11	<input checked="" type="checkbox"/> Equipment: Excavator, Bobcat, Compactor, Concrete Saw, Others.	Included	Included		\$ 00.00
02000	Concrete: (BROOM FINISH) 6.SPCY Mix	\$ 51,722.00	\$ 39,928.00	22,718-SQ	\$ 91,650.00
13	• Remove existing shipped worn out concrete, asphalt, others if any and then, replace with 6.5 Sacks Cement Mix Per Cubic Yard or higher to maximize the strength and VALUE. (5,500-PSI, A).			290-CYA	
14	• <input type="checkbox"/> Driveway, <input type="checkbox"/> Walkway, <input type="checkbox"/> Back Patio, <input type="checkbox"/> Pool Deck, <input type="checkbox"/> Others;				
15	<input type="checkbox"/> Existing, <input type="checkbox"/> New, <input type="checkbox"/> Addition, <input type="checkbox"/> Others.				
16	<input type="checkbox"/> 3/8" Rebar: Reinforcement steel to hold concrete in tension.				
17	<input type="checkbox"/> Steps: <input type="checkbox"/> In, <input type="checkbox"/> Out, <input type="checkbox"/> Round, <input type="checkbox"/> Standard, <input type="checkbox"/> N/A.				
18	<input type="checkbox"/> Temp Power Lighting (low voltage) (12V), <input type="checkbox"/> LED.				
19	<input type="checkbox"/> Drainage corrugated and coiled Land pipe 4" minimum.				
20	<input type="checkbox"/> Concrete Gutter channel to prevent garage flooding.				
21	<input type="checkbox"/> Sprinkler System; schedule 40 PVC pipe material.				
22	<input type="checkbox"/> Conduit, placed in area desired for lighting wired.				
23	<input type="checkbox"/> Retaining Wall:				
24	<input type="checkbox"/> Rockeries wall - rocks: <input type="checkbox"/> white, <input type="checkbox"/> gray, <input type="checkbox"/> mix.				
25	<input checked="" type="checkbox"/> 5/8, minus, <input checked="" type="checkbox"/> ¾, <input type="checkbox"/> 1"-2", gravel for base and foundation.	\$ 10,990.00	\$ 7,500.00		\$ 18,490.00
26	<input type="checkbox"/> Decorative Concrete borders:				
27	<input type="checkbox"/> GEO Rigid: commercial grade fabric for retaining walls.				
28	<input checked="" type="checkbox"/> Accessories: Epoxy Formula bond, bits and all others	Included	Included		\$ 00.00
29	Trees removal N/A in this estimate				
30	This estimate is subject to re-confirm to the final order	OPEN	OPEN		\$ OPEN
NOTE:	It is subject to the drawing and specification form.				

Acceptance of Proposal - The amount was written; specifications, conditions are satisfactory and are hereby accepted. Owner (s) authorized to do the work as specified. Payment will be made outlined above specified in sections with the grand total right side for this particular project.

Customer Legal Name

Customer Approval Signature

Authorized Signature.....

Sub-Total All Categories	\$ 153,390.00
Mark Up 10%	\$ 00.00
Military, Senior, Discount (OFF)	\$ N/A
Sub-Total Construction Cost	\$ 153,390.00
Washington State Sale Tax 8.60 %	\$ 13,191.54
Contingency 10%	\$ 00.00
Total Construction Estimate	\$ 166,581.54

NOTE: THIS AGREEMENT SHALL NOT BECOME EFFECTIVE OR BINDING ON CONTRACTOR UNTIL CONTRACTOR'S AUTHORIZED AGENT AND PRUCHASER HAVE SIGNED IT. Please write your job number on your check or money order and make payable to: Baez Construction, LLC.

-66-



Customer References

Please call our customer references with confidence with any questions about our Company Service and Value.

"100% Satisfaction Guaranteed or Your Money Back"

#	Name	Last Name	Address – Scope of work	Contact #
1	Gloria	Keniston	(Seattle) Concrete Driveway	(206) 362-6843
2	Kyle	Freeman	(Seattle) Concrete Driveway	kfree@unvain.com
3	Rick	Stevens	(Kirtland) Concrete Driveway	(360) 490-1013
4	Aliana	Candari	(Shoreline) Concrete Driveway	(206) 535-8154
5	Artisan Group		(Olympia WA) Concrete	Commercial
6	Oso Lumber		Arlington WA	Commercial
7	Calibre Homes		Marysville WA	Commercial
8				
9	1. Please follow this rules:			
10	~Don't call after 5:30 pm			
11	~Company questions only			
12	~Be respectful			
13	~Several calls not accepted			
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

NOTICE OF COMMUNICATION: The U.S. Federal Trade Commission (FTC). (Public Law No. 108-10 was H.R. 395 of the 108th Congress and Codified at 15 U.S.C. SS 6101 ET. Seq.), 47 C.F.R. § 64.1200 and 16 C.F.R. Part 310. The rules set forth in sections 64.1200(c) and 64.1200(d) CG Docket No. 02-278, FCC 03-153 Protection Act of 1991.

Tree Removal - Sidewalk Restoration Forster Woods



Rodarte Construction, Inc.

17 East Valley Highway East Auburn, WA 98092

RODARI*225D9

Contact: John Ells

Phone: 253.939.0532

Fax: 253.939.0557

Quote To: Forster Woods HOA
Attn: Dennis Howard

Phone: 425-478-9640
Fax: 425-778-2482
Email: dhoward@edmondsrealty.net

Job Name: Forster Woods Trees
Date of Plans: NA
Date of Proposal: 12-23-2016
Revision Date:

We are pleased to submit the following proposal to perform the work as outlined below.

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Tree Removal incl Grind Stumps	40.00	EA	600.00	24,000.00
2	Remove & Replace Sidewalk	450.00	SY	110.00	49,500.00
3	Remove & Replace Curb/Gutter	800.00	LF	42.00	33,600.00
4	Traffic Control	15.00	DAY	1,050.00	15,750.00
GRAND TOTAL					\$122,850.00

NOTES:

Exclusions: Permits, Fees, Taxes, Bond, Engineering, Surveying, Material Testing, Tree Removal around Utilities, Restoration at Planter/Behind Walk, Asphalt Removal/Repair.

Terms:

Proposal based on Approved Contract.
Proposal subject to Payment Terms as Dictated in Approved Subcontract.
Proposal Valid for 45 Days.

Forster Woods Sidewalk Repair and Street Tree Replacement Cost Estimate Table (prepared by MJR on 3/25/2016)

Item	Responsibility (Adjacent homeowner, HOA, or City)	Unit Cost	Number	Approx. Cost
1 Utility locate, survey and site plan (by landscape architect)		\$ 12,000	1	\$12,000
2 Submit and pay for ROW Use permit (only if HOA)?		\$ 200	1	\$200
Project manager to coordinate with city, consultants (surveyor, landscape architect, geotechnical engineer, arborist), HOA, adjacent property owners, contractor, and any franchise purveyors (as necessary)				
3 Chop down trees and 1-man traffic control		\$ 7,500	1	\$7,500
4 Grind stumps		\$ 175	78	\$13,650
5 Export or "chip" trees		\$ 75	78	\$5,850
6 Remove and export broken concrete sidewalk panels		\$ 50	78	\$3,900
7 Engineer to evaluate existing base under sidewalk (may be damaged due to roots)		\$ 150	78	\$11,700
8 Material and labor for new gravel base and compact		\$ 100	78	\$7,800
9 Labor and material for pouring new concrete panels		\$ 150	78	\$11,700
10 New 10-gallon street trees (species must first be accepted by an arborist to grow in a such a narrow 3-4' wide landscape strip and not impact sidewalk or curbs)		\$ 750	78	\$58,500
11 Purchase new topsoil, fertilizer, surrounding sod and bring to site		\$ 100	78	\$7,800
12 Labor to install new street trees		\$ 50	78	\$3,900
Sub-Total		\$ 150	78	\$11,700
Contingency 15%				\$156,200
Sub-Total				\$23,430
Tax 10%				\$179,630
Grand Total				\$17,963
				\$197,593

This assumes project is non-prevailing wage and performed as maintenance by the HOA. If project becomes a City project, then it would have to be a prevailing wage project. Labor rates cost would approx. double and project would cost ~50% more.

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LOCAL LINKS OPINION PHOTOS

Tree removal downtown causes public outcry; city explains why, says replacement planned

July 27, 2017 by Danna McCall [Leave a Comment](#)

It's pretty safe to say when trees come down around the Snoqualmie Valley, people notice. When they come down in a highly visible location – in a city where development is a hot button topic – people not only notice, they talk.

The removal of section of downtown street trees has North Bend residents buzzing, wanting to know why.

On Monday, July 24th, the City of North Bend commenced on a long-planned construction project in the downtown core between Bendigo Blvd and Ballarat Ave. The project includes a lot underground utility work (water main replacement, stormwater and electrical improvements) and a complete sidewalk redesign and replacement.

In order to do that underground work and replace those sidewalks, the project also includes replacing all the street trees in the area. One of the early steps in the

HOA

EXHIBIT 9

four-month construction project was taking out current trees – a step that occurred earlier this week and was very noticeable. Many residents described the tree removal as heartbreaking, making the downtown construction area an eyesore without those 15-20 sidewalk trees.

City of North Bend Public Work Director Mark Rigos said all of the deciduous trees will be replaced. He recognized the eyesore that the [temporary] loss of the trees has created, but said unfortunately their removal was needed due to what was going on below the street and sidewalks... the stuff you can't see.

Rigos explained that the removed trees ranged from 10-25 years old, with shallow roots due to the compacted ground that is required for streets and sidewalks. Those shallow roots make the trees more prone to blowing over during storms, which happened last fall when one landed on a parked car.

Some of the older trees also did not have underground, interlocking baskets around their planting area, which are typically installed around street trees in order to manage their root systems. The baskets help prevent raised sidewalks (tripping hazards) and the roots from invading underground utilities.

Utilities in the area are fairly shallow, which means the shallow tree roots were also wrapping around underground pipes and utility lines. Rigos said it would have been really hard to preserve all the trees while working on the underground utilities – with no guaranty they would survive. It also would have made the project more costly.

So the decision was made to replace the trees as part of the project. Once all the utility work is finished and the new sidewalks are constructed, an equivalent number of similar-aged (meaning all new trees will be a similar age

– not same age as those removed) street trees will be installed in downtown North Bend.

Yes, for a while the area might be an eyesore, but Rigos feels it will be worth it in the long run, with needed improvements to the intersection and utility systems – and better sidewalks that are fully ADA compliant.

He said he loves trees and it was sad these ones had to be removed, but added, "Next year with the potted flowers, new street trees, new concrete, it will look great."

And as construction projects go, it's not a long timeline. Completion is expected in November 2017.

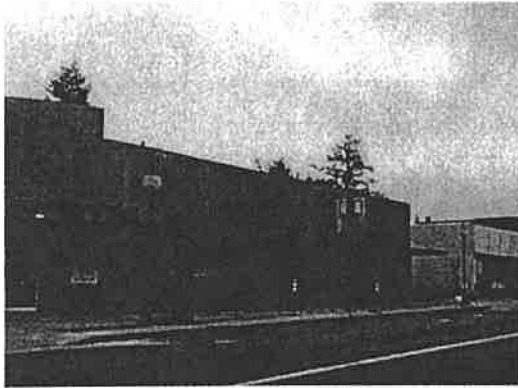
Rigos said the separate sidewalk replacement project between Ballarat and Downing is about 75% complete and moving on schedule.

The Downtown Plaza Project is funded by a grant from the Puget Sound Regional Council (PSRC), which distributes federal tax money to cities in the region. North Bend is expected to get another PSRC grant this year for the Park Street Roundabout project which is expected to help improve traffic on North Bend Way between Park Street and Cedar Falls Way – something Rigos said is a top transportation priority for the city council. With grant approval, that project could start in summer 2018.

You can read more about City of North Bend current capital projects [HERE](#).



Area of Downtown Plaza Project where crews removed 15-20 st



Section of North Bend Way where sidewalk trees were removed this installed as part of the Downtown Plaza Projec

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