

ORDINANCE NO. 1786

CITY OF FIFE, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, APPROVING AND CONFIRMING THE ASSESSMENTS AND ASSESSMENT ROLL OF LOCAL IMPROVEMENT DISTRICT NO. 08-1 FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS TO THE CITY'S SANITARY SEWER SYSTEM AND WATER SYSTEM AS PROVIDED BY ORDINANCE NO. 1659, AND LEVYING AND ASSESSING THE COST AND EXPENSE THEREOF AGAINST THE SEVERAL LOTS, TRACTS, PARCELS OF LAND AND OTHER PROPERTY AS SHOWN ON THE ASSESSMENT ROLL

WHEREAS, the assessment roll levying the special assessments against the property located in Local Improvement District ("LID") No. 08-1 in the City of Fife, Pierce County, Washington (the "City") has been filed with the City Clerk as mandated by law; and

WHEREAS, notice of the time and place of hearing and making objections to the assessment roll was published at and for the time and in the manner provided by law fixing the time and place of hearing for the 24th day of September, 2012 at the hour of 6:00 P.M. at Fife City Hall Council Chambers, 5411 23rd Street East, Fife, Washington, and further notice thereof was mailed by the City to each property owner shown on the assessment roll along with a copy of the proposed final assessment roll; and

WHEREAS, at the time and place fixed and designated in the notice, the final assessment hearing was held before the City Council sitting and acting for the purpose of considering the assessment roll and the special benefits to be received by each lot, parcel, and tract of land shown upon such assessment roll, including the increase and enhancement of the fair market value of each such parcel of land by reason of the improvement, and written objections were received and persons appeared at the hearing to provide testimony in support of their objections; and

WHEREAS, the City Council gave due consideration to said roll and to all written objections received, all persons appearing and testifying at the hearing, and to all evidence presented at the hearing; now, therefore

THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON
DO ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the findings and conclusions attached hereto as Exhibit A and incorporated herein by reference.

Section 2. The City Council, sitting as a board of equalization, and having made all revisions to the assessment roll as it deems necessary, and having heard and considered any objections of individual property owners, hereby finds and determines that the final assessment roll (the "Assessment Roll") for LID No. 08-1, which was created and established for the purpose of constructing improvements to the City's sanitary sewer and water systems, including installation of approximately 9600 linear feet of sewer force main and related appurtenances and 4430 linear feet of water main and related appurtenances, is just and equitable and that no assessment against property within LID No. 08-1 is greater than the special benefits to be derived from the improvements. Accordingly, the Assessment Roll, a copy of which is attached hereto as Exhibit B and incorporated by this reference, in the total amount of \$2,360,902, is hereby approved and confirmed, and the assessments set forth therein are hereby levied against each lot, tract, or parcel of land and other property appearing upon the Assessment Roll.

Section 3. The City Council having heard the objections of those submitting written objections and presenting evidence at the hearing, denies said objections.

Section 4. The Assessment Roll as approved and confirmed shall be filed with the City Finance Director-Treasurer for collection and the City Finance Director-Treasurer is authorized and directed to publish notice as required by law stating that the Assessment Roll is in his hands for collection and that payment of any assessment thereon or any portion of such assessment can be made at anytime within thirty (30) days from the date of first publication of such notice without penalty, interest or cost, and thereafter that the sum remaining unpaid may be paid in fifteen (15) equal annual installments. The estimated interest rate is 6.9 percent per annum, with the exact interest rate to be fixed in the Ordinance authorizing the issuance and sale of the Local Improvement Bonds for LID No. 08-1. Interest shall commence on the 31st day following first publication of the above-described notice that the Assessment Roll is in the Finance Director-Treasurer's hands for collection.

Section 5. If the whole or any portion of the assessment remains unpaid after the first thirty (30) day period, interest upon the whole unpaid sum shall be charged at the rate as determined above, and each year thereafter one of the installments, together with interest upon the unpaid balance, shall be collected. The first installment of assessments on the Assessment Roll shall become due and payable during the 30-day period following the date one year after the date of first publication by the City Finance Director-Treasurer of notice that the Assessment Roll is in his hands for collection and annually thereafter each succeeding installment shall become due and payable in like manner. Annual installments, including interest and any penalty, shall be paid in full when due, and no partial payment shall be accepted by the City Finance Director-Treasurer.

Section 6. Any installment not paid prior to expiration of the thirty (30) day period during which such installment is due and payable shall thereupon become delinquent. Each delinquent installment shall be subject at the time of the delinquency to a penalty charge of twelve percent (12%) of the amount of the installment, including both principal and interest, from the date of the delinquency until paid. The collection of such delinquent installments shall be enforced in the manner provided by law.

Section 7. Should any property assessed under LID 08-1 fail to pay the yearly installments as they come due for two or more successive years, then the City may, at its discretion, accelerate the full amount of the remaining LID assessment and demand payment of that full amount. Should the City initiate litigation to foreclose on the lien of the LID assessment, then the City shall have the option to claim in that litigation the full amount of the unpaid LID accelerated assessment; provided, that payment of all the delinquent installments, together with interest, penalty and administrative costs at any time before entry of judgment and foreclosure shall extend the time of payment on the remainder of the assessment as if there had been no delinquency or foreclosure.

Section 8. Should it become necessary for the City to institute an action to foreclose on a property delinquent in its installment payments, then the City shall have the right to claim administrative costs for the prosecution of such assessment lien foreclosure proceeding. For the purposes of these foreclosure proceedings, "administrative costs" shall include all costs of the LID administrator, all costs associated with the filing, serving and processing of the suit and reasonable attorney's fees. Any judgment for attorney's fees and costs shall constitute a portion of the judgment to be enforced by foreclosing of the lien and such attorney's fees and costs shall be paid before the assessments shall be considered paid current.

Section 9. The lien of any assessment may be discharged at any time after the 30-day prepayment period by payment of the entire principal amount of the assessment remaining unpaid together with interest thereon to the due date of the next installment.

Section 10. Only properties classified as Farm and Agricultural Land at the time LID 08-1 was created, and for which no waiver has been received, shall be exempt from assessment under RCW 84.34.320. Such properties are identified in the Assessment Roll and shall remain exempt as long as the property remains in such classification, except as otherwise provided in RCW 84.34.360.

Section 11. Each and every provision of this ordinance shall be deemed severable. In the event that any portion of this ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this ordinance can still be furthered without the invalid provision.

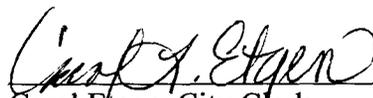
Section 12. This ordinance shall be in full force and effect five days after publication as required by law. A summary of this ordinance may be published in lieu of the entire ordinance, as authorized by state law.

Introduced on the 24th day of September, 2012.

Passed by the City Council on the 24th day of September, 2012.


David K. Zabell, City Manager

ATTEST:


Carol Etgen, City Clerk

APPROVED AS TO FORM:

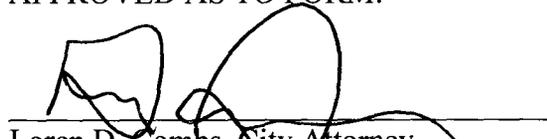

Loren D. Combs, City Attorney
attest to copy
Published: 9/26/12
Effective Date: 10/1/12

EXHIBIT A
Ordinance No. 1786

FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF FIFE LOCAL IMPROVEMENT DISTRICT 08-1

I. FINDINGS OF FACT

1. Local Improvement District No. 08-1 was formed on February 12, 2008, by Ordinance No. 1659 for the installation of the following improvements:

Sewer Improvements

Installation of sewer force main and related appurtenances on Valley Avenue East from 70th Avenue East to Freeman Road, and on 78th Avenue East from Valley Avenue to a point approximately 350 feet north of Valley Avenue.

Water Improvements

Installation of water main and related appurtenances along Valley Avenue East from approximately 400 feet east of 70th Avenue East, to Freeman Road, and along 78th Avenue East, from Valley Avenue to a point approximately 350 feet north of Valley Avenue East.

(Collectively "The LID Project")

2. The cost of the LID Project was estimated to be \$3,855,000.
3. Prior to formation of the LID, a feasibility study was conducted by the appraisal firm of Macauley and Associates, Ltd. The study concluded that the special benefit to the properties within the LID as a result of the LID Project ranged from \$7,300,000 to \$9,300,000.
4. LID Project was put out for bids in accordance with all applicable bid laws, and the contract was awarded to Scarsella Bros, Inc. The contract included road improvements to Valley Avenue East that were not included in the LID and not included on the costs of the LID Project.
5. The LID Project was accepted as complete by the Fife City Council on April 10, 2012, by Resolution No. 1467. The improvements constructed under the LID are as follows:

Sewer Improvements

Installation of approximately 4800 linear feet of 8-inch high density polyethylene (HDPE) force main, 2400 linear feet of 3-inch HDPE force main, 2400 linear feet of 2-inch force main, service laterals and related appurtenances on Valley Avenue East from 70th Avenue East to Freeman Road.

Water Improvements

Approximately 4430 linear feet of 12-inch ductile iron water main, service laterals and related appurtenances along Valley Avenue East from approximately 400 feet east of 70th Avenue East, to Freeman Road and approximately 200 linear feet of 12-inch ductile iron water main and related appurtenances on Freeman Road from approximately 100 feet north of Valley Avenue to approximately 100 feet south of Valley Avenue.

6. Final cost of the LID Project was \$2,364,301, of which \$2,360,902 will be funded through LID assessments.

7. RCW 35.44.047 provides that, in addition to the zone and termini and square foot methods of assessment, any method or combination of methods to compute assessments which may be deemed to more fairly reflect the special benefits to the properties being assessed may be used. The City deemed that the buildable acre basis more fairly reflected the special benefits to the properties being assessed and thus, assessments were computed pro-rata on a buildable acre basis. Wetlands and other critical areas where building is prohibited were not considered buildable areas.

8. The City Council set the date for the hearing to consider the final assessment roll for LID No. 08-1 in Resolution No. 1495, approved August 28, 2012.

9. Notice of the hearing on the proposed final assessment roll and copies of the proposed final assessment roll were provided by mail to owners of the affected properties more than fifteen days prior to the hearing, and notice of the hearing was published in The News Tribune on August 31, 2012 and September 7, 2012.

10. The assessment area for the LID consists of 33 parcels, four of which are currently classified as Farm and Agricultural Land and are exempt from assessment pursuant to RCW 84.34.320. Properties in the assessment area are zoned either Industrial or Community Commercial. Some of the parcels are developed, and others are undeveloped or partially developed.

11. Washington State Department of Transportation ("WSDOT") filed an objection to its assessment. The basis of the objection was that WSDOT asserted that its properties are not specially benefited by the LID 08-1 water and sewer improvements because WSDOT intends to use the property for the future SR-167 extension.

12. All WSDOT parcels north of Valley Avenue are contiguous and consist of vacant undeveloped land. All WSDOT parcels south of Valley Avenue are also contiguous and consist of vacant undeveloped land.

13. With the availability of water and sewer, the WSDOT parcels are reasonably well adapted to a variety of uses. WSDOT parcels numbered 9-12 and 23-28 on the LID map are zoned Community Commercial. WSDOT parcels numbered 20A, 20B, 21, and 22 on the LID map are zoned Industrial. A variety of residential, commercial, and public uses are allowed

outright in the Community Commercial Zone, including. Multifamily structures, Mixed use structures, professional office buildings, Retail sales stores, Commercial services, entertainment facilities, restaurants, and public and quasi-public facilities. FMC 19.40.020. A variety of commercial and industrial uses area allowed outright in the Industrial zone, including manufacturing, warehousing and distribution facilities, products assembly, retail and wholesale sales and service, commercial parking lots and public and quasi-public facilities. FMC 19.48.020.

14. Planning for the SR-167 project began over forty years ago. WSDOT still needs to acquire approximately 30% of the necessary right of way, and determine the scope and design of the project.

15. WSDOT presented testimony at the hearing that the current unfunded portion was approximately \$1.5 billion.

16. There is no current timeline for commencement of construction of the project.

17. To determine the amount of special benefit that parcels within the assessment area would receive from the LID Project the appraisal firm of Allen Bracket Shedd was hired to evaluate the special benefit of several representative parcels, including the WSDOT parcels, based on the value before and after the LID Project improvements.

18. Allen Bracket Shedd concluded that all of the parcels within the LID were specially benefited by the LID Project in an amount greater than their LID assessment, that the assessment method used by the City—pro rata based on buildable acres--was fair and equitable, and that it resulted in each property's assessment share being proportionate in relation to other parcels in the LID.

19. The proposed Final Assessment Roll allocated the LID Project costs at \$28,287 per buildable acre.

20. Each of the properties to be assessed as proposed in the Final Assessment Roll is specially benefitted by the LID Project improvements in an amount that is at least equal to the amount of such parcel's assessment.

21. Each assessment is fair and equitable, and each property's assessment share is proportionate in relation to other parcels in the LID.

II. CONCLUSIONS OF LAW

1. It is presumed that all property in the assessment area is specially benefitted by the improvement in an amount at least equal to the assessment contained in the final assessment roll, and that the assessments in the final assessment roll are imposed on each property equitably and in proportion to all other property in the assessment area. *Seattle v. Rogers Clothing*, 114 Wn.2d

213, 229 (1990). Competent evidence of appraisal values and benefits is necessary to rebut these presumptions. *Id.* at 229-230.

2. RCW 35.44.250, which regulates appeals from the City's adoption of an assessment roll to Superior Court, provides that the court shall confirm the assessment roll "unless the court shall find from the evidence that such assessment is founded upon a fundamentally wrong basis and/or the decision of the council or other legislative body thereon was arbitrary or capricious"

3. All procedures required prior to confirmation of the final assessment roll by RCW Chapters 35.43 and 35.44, the Fife Municipal Code and the Ordinances and Resolutions of the City relating to LID No. 08-1 have been followed.

4. Property owned by the state is assessed in the same manner as other properties, and "shall bear its just and equitable proportion of the cost of local improvements specially benefiting lands of the state." RCW 79.44.020.

5. All property in the assessment area, including the WSDOT owned property, is specially benefitted by the improvement in an amount at least equal to the assessment contained in the final assessment roll.

6. The assessments in the final assessment roll are imposed on each property equitably and in proportion to all other property in the assessment area.

7. No property owner who filed an objection and/or provided testimony at the hearing overcame the presumptions set forth above.

8. The City of Fife has continuously demonstrated its support for the SR-167 project, and the project would certainly aid traffic flow and freight mobility. However, WSDOT's intended future use of the property does not relieve it of the burden of a local improvement district assessment. *Doolittle v. City of Everett*, 114 Wn.2d 88, 93 (1990); *Great Northern Ry. Co. v. City of Seattle*, 73 Wn. 576, 580 (1913).

9. The Final Assessment Roll for LID 08-1 should be confirmed.

10. Any Finding of Fact that should be denominated a Conclusion of Law shall be deemed to be a Conclusion of Law. Any Conclusion of Law that should be denominated a Finding of Fact shall be deemed to be a Finding of Fact.

Exhibit B to Ord. No. 1786

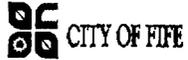
CITY OF FIFE
 LOCAL IMPROVEMENT DISTRICT 08-1
 FOR WATER AND SEWER ALONG
 VALLEY AVENUE EAST - 70TH AVENUE EAST TO FREEMAN ROAD EAST

LID No. 08-1 - Proposed Final Assessment Roll

Lot #	Taxpayer Name	Parcel Number	Total Acres	Buildable Acres	Buildable % of Parcel	Buildable % of LID	Water Assess	Sewer Assess	Total Assess
1	Boitano Louise R Ttee	0420172028	1.34	1.34	100.0%	1.61%	\$21,953	\$15,951	\$37,905
2	Holt Richard D and Anna M	0420172029	1.42	1.42	100.0%	1.70%	\$23,264	\$16,904	\$40,168
3	Cerqui Robert D & Cerqui Louie/Etux Ttee	0420172030	1.45	1.45	100.0%	1.74%	\$23,756	\$17,261	\$41,017
4	Cerqui Robert D	0420172032	1.94	1.94	100.0%	2.32%	\$31,783	\$23,094	\$54,877
6	Cerqui Robert D	0420172063	1.23	1.17	95.1%	1.40%	\$19,168	\$13,928	\$33,096
7	Vanmeer Debra J	0420172040	1.79	1.12	62.6%	1.34%	\$18,349	\$13,333	\$31,682
9	State of Washington DOT	0420172008	16.01	16.01	100.0%	19.18%	\$262,295	\$190,584	\$452,879
10	State of Washington DOT	0420172036	1.60	1.60	100.0%	1.92%	\$26,213	\$19,047	\$45,260.00
11	State of Washington DOT	0420172033	0.23	0.23	100.0%	0.28%	\$3,768	\$2,738	\$6,506
12	State of Washington DOT	0420172035	0.05	0.05	100.0%	0.06%	\$819	\$595	\$1,414
13	Managing Green LLC	0420172050	2.86	2.26	79.1%	2.71%	\$37,082	\$26,944	\$64,026.00
14	Managing Green LLC	0420172051	3.50	3.17	90.7%	3.80%	\$52,002	\$37,785	\$89,786.00
15	Managing Green LLC	0420172053	3.18	3.09	97.1%	3.70%	\$50,575	\$36,748	\$87,322.00
16	Managing Green LLC	0420172054	11.05	4.81	43.5%	5.76%	\$78,792	\$57,250	\$136,042.00
17	Managing Green LLC	0420172052	0.41	0.41	100.0%	0.49%	\$6,717	\$4,881	\$11,597
18A	**Coldwater Creek Land Development LLC	0420171701	8.45	8.30	98.2%	9.95%	\$136,004	\$98,821	\$234,825.00
18B	**Coldwater Creek Land Development LLC	0420171704	5.16	3.60	69.8%	4.31%	\$58,979	\$42,855	\$101,834.00
18C	**Coldwater Creek Land Development LLC	0420171703	5.55	4.98	89.7%	5.97%	\$81,606	\$59,295	\$140,901.00
19A	**Coldwater Creek Land Development LLC	0420171705	5.66	4.82	85.1%	5.77%	\$78,942	\$57,359	\$136,301.00
19B	Stowe Investments LLC	0420171063	4.84	4.54	93.7%	5.44%	\$74,330	\$54,009	\$128,339.00
20A	State of Washington DOT	0420171058	0.55	0.45	81.8%	0.54%	\$7,372	\$5,357	\$12,729
20B	State of Washington DOT	0420171702	4.34	4.34	100.0%	5.20%	\$71,103	\$51,664	\$122,767.00
21	State of Washington DOT	0420171030	0.55	0.39	70.9%	0.47%	\$6,389	\$4,643	\$11,032
22	State of Washington DOT	0420171008	1.09	0.78	71.6%	0.93%	\$12,779	\$9,285	\$22,064
23	State of Washington DOT	0420171018	2.00	2.00	100.0%	2.40%	\$32,766	\$23,808	\$56,574
24	State of Washington DOT	0420171040	3.77	3.77	100.0%	4.52%	\$61,765	\$44,878	\$106,643
25	State of Washington DOT	0420171009	0.24	0.24	100.0%	0.29%	\$3,932	\$2,857	\$6,789
26	State of Washington DOT	0420171010	1.63	1.63	100.0%	1.95%	\$26,705	\$19,404	\$46,108
27	State of Washington DOT	0420171022	1.60	1.60	100.0%	1.92%	\$26,213	\$19,047	\$45,260
28	State of Washington DOT	0420174048	0.69	0.69	100.0%	0.83%	\$11,304	\$8,214	\$19,518
29	Khara Gurmej S & Brij B	0420174057	0.69	0.69	100.0%	0.83%	\$11,304	\$8,214	\$19,518.00
30	Khara Gurmej S & Brij B	0420174058	0.22	0.22	100.0%	0.26%	\$3,604	\$2,619	\$6,223.00
31	City of Fife	0420174035	0.35	0.35	100.0%	0.42%	\$5,734	\$4,166	\$9,900.00
		TOTAL	95.44	83.46	87.4%	100.00%	\$ 1,367,370.89	\$ 993,534.97	\$2,360,902
		\$/Acre					\$ 16,383/ac	\$ 11,904/ac	\$ 28,287/ac
		\$/Sq Ft					\$ 0.38/sf	\$ 0.27/sf	\$ 0.65/sf

** These parcels are classified as Farm and Agricultural Land and are exempt from assessment pursuant to RCW 84.34.320. The assessment total for these parcels represents the amount of assessment which would have been levied against the property if it had not been exempted or if the exemption had been waived. See RCW 84.34.310-380

Project costs total \$2,364,301. The City shall pay the \$3399 difference outside of the LID. Total assessments that are bolded are \$1.00 less than the sum of water and sewer due to rounding.



**City of Fife
LID No. 08-1
Valley Ave. East
Exhibit B
LID Boundary**

Legend

- LID Boundary
- LID Properties

1 inch = 300 feet

0 75 150 300 Feet

Lot_1	Parcel_1
1	0420172028
2	0420172029
3	0420172030
4	0420172032
6	0420172063
7	0420172040
9	0420172008
10	0420172036
11	0420172033
12	0420172035
13	0420172050
14	0420172051
15	0420172053
16	0420172054
17	0420172052
18A	0420171701
18B	0420171704
18C	0420171703
19A	0420171705
19B	0420171063
20A	0420171058
20B	0420171702
21	0420171030
22	0420171008
23	0420171018
24	0420171040
25	0420171009
26	0420171010
27	0420171022
28	0420174048
29	0420174057
30	0420174058
31	0420174035



The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. Orthophotos and other data may not align. The County assumes no liability for the information presented herein. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. The County makes no warranty of fitness for a particular purpose.

Ad Order Confirmation

Ad Order Number 0001339673
PO Number ORD 1786
Customer Account 220218AIM
Customer CITY OF FIFE
ACCOUNTS PAYABLE,5411 23RD ST E,
FIFE WA 98424-2061 USA

Phone Number 253-922-2489
Phone Number 2
Customer Fax

Payment Method
Total Amount \$225.59
Payment Amt \$0.00
Amount Due \$225.59

Ad Number 0001339673-01
Sales Rep. legals
Blind Box
Tear Sheets 3
Proofs 0
Ad Size 1.0 X 39 Li
Invoice Text: ORD 1786
Affidavits 1
Placement Legal
Position Legals-001

Product	Start Date	Stop Date	# Inserts
The News Tribune	9/26/2012	9/26/2012	1

NOTICE OF ORDINANCES PASSED BY
THE CITY OF FIFE
ORDINANCE NO. 1786

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON APPROVING AND CONFIRMING THE ASSESSMENT AND ASSIGNMENT ROLL OF LOCAL EMPLOYMENT DISTRICT NO. 00-1 FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS TO THE CITY'S SANITARY SEWER SYSTEM AND WATER SYSTEM AS PROVIDED BY ORDINANCE NO. 1688 AND LETTING AND ASSIGNING THE COST AND EXPENSE THEREOF AGAINST THE SEVERAL LOTS, TRACTS, PARCELS OF LAND AND OTHER PROPERTY AS SHOWN ON THE ASSIGNMENT ROLL.

A COMPLETE COPY OF THE ORDINANCES IS ON THE City of Fife website, www.cityofife.org
Carol Egan
City Clerk

ORDINANCE NO. 1787

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON APPROVING AND CONFIRMING THE ASSESSMENT AND ASSIGNMENT ROLL OF LOCAL EMPLOYMENT DISTRICT NO. 00-2 FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS TO THE CITY'S SANITARY SEWER, WATER AND STORM SEWERAGE SYSTEMS AS PROVIDED BY ORDINANCE NO. 1688 AND LETTING AND ASSIGNING THE COST AND EXPENSE THEREOF AGAINST THE SEVERAL LOTS, TRACTS, PARCELS OF LAND AND OTHER PROPERTY AS SHOWN ON THE ASSIGNMENT ROLL.

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