

RESOLUTION NO. 4760

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Scheler, Wanda TR

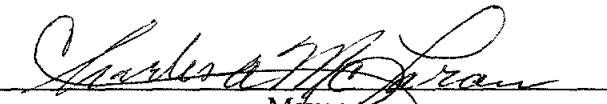
Purpose

A 20 00-foot wide permanent public utility easement as shown on attached EXHIBIT B and described in attached EXHIBIT A

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the Council and approval by the Mayor.

DATED AND EFFECTIVE THIS 25TH DAY OF SEPTEMBER 2002.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 12 day of September 2002, by Scheler, Wanda TR, herein called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That the Grantor has this day granted unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The right-of-way hereby granted consists of.  
 A 20.00-foot wide permanent public utility easement as shown on attached EXHIBIT B and described in attached EXHIBIT A.
2. In order that the work may be done in a timely and complete manner, we hereby agree to grant and allow a temporary right of entry for construction access to the City, its representatives and to the Contractor, for access to, upon and over our property for planning and construction of a sanitary sewer, service connection, and such appurtenances as are required to make the project complete. It is understood and agreed that this access agreement shall terminate on the date that such work has been satisfactorily completed and accepted by the City of Albany.
3. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
4. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever
5. Upon performing any maintenance, the City shall return the site to original or better condition.
6. The Grantor and the City acknowledge that if a structure exists on the public utilities easement described herein either additional permanent structures or additions to the existing structure may not be constructed on the public utilities easement. If the existing structure is removed from the public utility easement, no permanent structure may be reconstructed in its place.
7. Should the City determine that maintenance, repair, or reconstruction of the utilities located under the structure requires the removal or alteration of said structure, the City may undertake such removal or alteration as may be needed. In such event, however, the City shall, upon completion of said maintenance, repair, or reconstruction, restore the structure at City expense to its original or better condition.

Return to: City of Albany Records  
PO Box 498  
Albany, OR 97301

IN WITNESS WHEREOF, the Grantor has hereunto fixed his hand and seal the day and year above written.

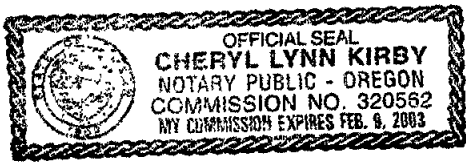
GRANTOR:

Wanda Scheler  
Wanda Scheler

The foregoing instrument was acknowledged before me this 12 day of September, 2002, by **Wanda Scheler Agent for the Scheler, Wanda TR** as his voluntary act and deed.

\_\_\_\_\_  
Agent

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )



Cheryl Lynn Kirby  
Notary Public for Oregon  
My Commission Expires: Feb 9, 2003

CITY OF ALBANY:

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )

I, Steve Bryant as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 47760, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 25 day of September 2002.

ATTEST:

Steve Bryant City Manager  
Betty Langwell City Recorder Clerk

**JAMES F. UDELL  
ENGINEERING & SURVEYING**

*63 EAST ASH STREET  
LEBANON, OR 97355  
PHONE (541) 451-5125  
FAX (541) 451-1366*

**EXHIBIT "A"**

A portion of land 20 feet in even width located in the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 4 of Township 11 South of Range 3 West of the Willamette Meridian in the City of Albany, Linn County, Oregon, more particularly described as follows:

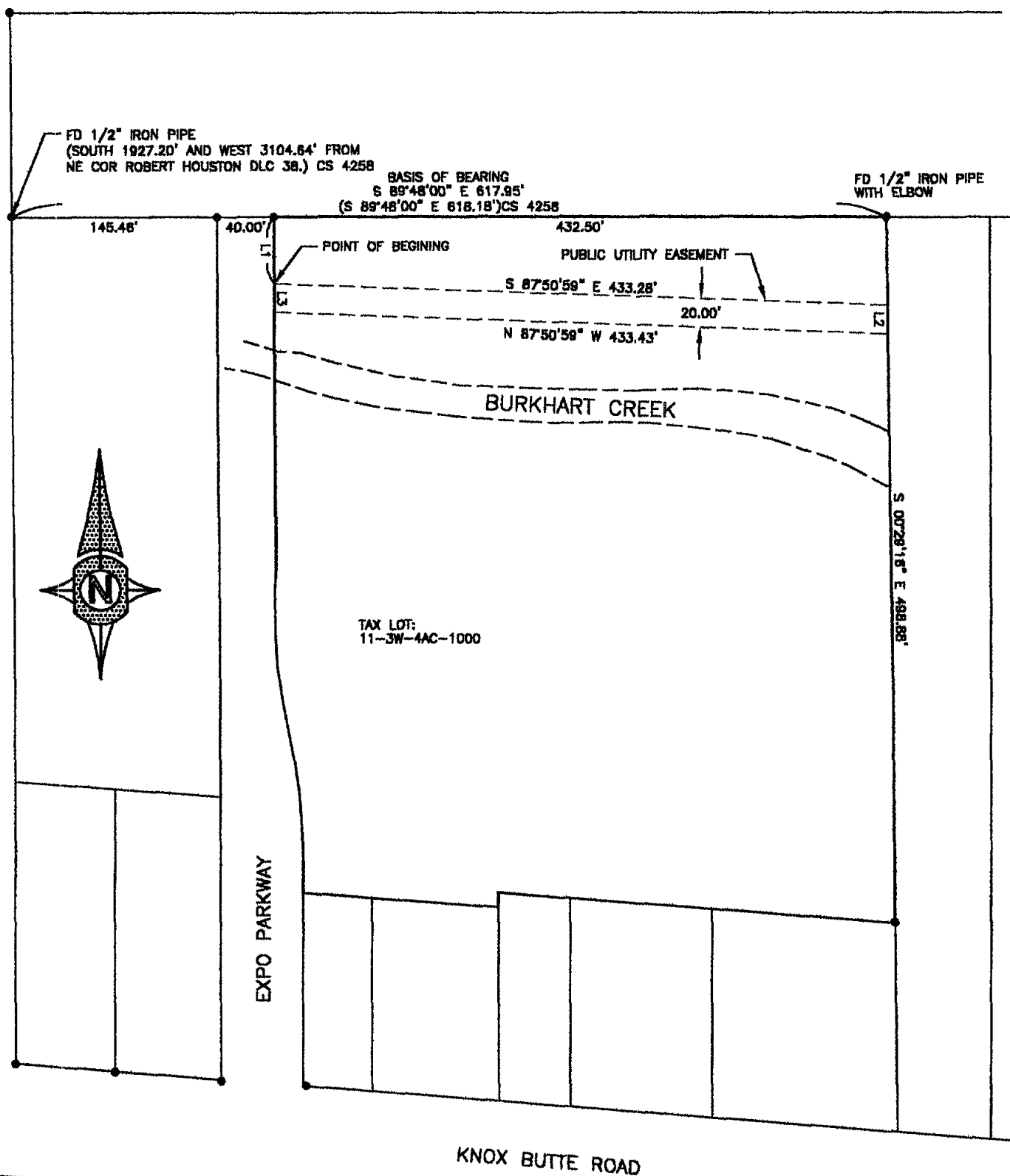
Beginning at a point on the East right-of-way of Expo Parkway which is South 1927.20 feet, West 3104.64 feet, South  $89^{\circ}48'00''$  East 185.46 feet, and South  $00^{\circ}03'43''$  East 47.55 feet from the Northeast corner of Robert Houston Donation Land Claim Number 38; thence South  $87^{\circ}50'59''$  East 433.28 feet; thence South  $00^{\circ}29'16''$  East 20.02 feet; thence North  $87^{\circ}50'59''$  West 433.43 feet to a point on the East right-of-way of Expo Parkway; thence along said East right-of-way North  $00^{\circ}03'43''$  West 20.01 feet to the point of beginning.

# EXHIBIT "B"

SW 1/4 NE 1/4 SEC. 4, T. 11 S., R. 3 W., W.M.  
CITY OF ALBANY, LINN COUNTY, OREGON

SCALE: 1"=100'

MAY 7, 2002



| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | BEARING     |
| L1         | 47.55  | S00°03'43"E |
| L2         | 20.02  | S00°29'16"E |
| L3         | 20.01  | N00°03'43"W |

ENGINEER  
8072

SURVEYOR  
1368

**JAMES F. UDELL**  
ENGINEERING & SURVEYING  
63 EAST ASH ST.  
LEBANON, OREGON  
97355

PH. (541) 451-5125  
FAX (541) 451-1366

STATE OF OREGON  
County of Linn

I hereby certify that the attached  
was received and duly recorded  
by me in Linn County records.

STEVE DRUCKENMILLER  
Linn County Clerk

By                     , Deputy

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R  
S  
A  
O

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PAGE 892

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41

Resolution No. 4760

Recorded Document Recorder File No. 4119