

LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON **2012-12024**
E-EAS
Cnt=1 Stn=1 K. ADAMS **08/10/2012 10:27:48 AM**
\$25.00 \$11.00 \$15.00 \$19.00 \$10.00 **\$80.00**



00184750201200120240050053

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



Steve Druckenmiller - County Clerk

After Recording Return To:

City of Albany City Clerk

PO Box 490

Albany, OR 97321

All Tax Statements Should Be Sent To:

Exempt

1. Name/Title of Transaction - by ORS 205.234 (a)

Encroachment Permit

2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160

City of Albany

3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160

Samaritan Albany General Hospital

4. True and Actual Consideration (if there is one), ORS 93.030

\$0

RESOLUTION NO. 6154

A RESOLUTION AUTHORIZING A LICENSE TO OCCUPY THE PUBLIC RIGHT-OF-WAY TO SAMARITAN ALBANY GENERAL HOSPITAL.

WHEREAS, Chapter 14.04 of the Albany Municipal Code sets forth the authority of the City Council to issue licenses to occupy public property, including rights-of-way, as long as certain conditions are met, subject to the restrictions in the Municipal Code; and

WHEREAS, Samaritan Albany General Hospital has requested a license to occupy the public right-of-way on Elm Street for the placement and maintenance of a fiber-optic cable in a conduit, as described and defined in encroachment permit # E-0056-12; and

WHEREAS, Samaritan Albany General Hospital's request meets the conditions identified in Chapter 14.014 of the Albany Municipal Code; and

WHEREAS, Encroachment permit # E-0056-12 identifies conditions of the license and indemnifies and holds harmless the City of Albany; and

WHEREAS, Samaritan Albany General Hospital has agreed to participate as an Operator in the Oregon Utility Notification Center's system for locating underground facilities if approved for this license.

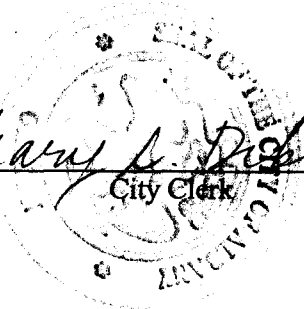
NOW, THEREFORE, BE IT RESOLVED that Samaritan Albany General Hospital is hereby approved for a license to occupy the public right-of-way as defined in the attached encroachment permit # E-0056-12.

DATED AND EFFECTIVE THIS 8TH DAY OF AUGUST 2012.


Mayor

ATTEST:


City Clerk



LICENSE TO OCCUPY PUBLIC RIGHT OF WAY

ENCROACHMENT PERMIT # B-0056-12

MAY 23 2012

FW Engineering

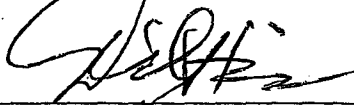
The City of Albany ("Licensor") hereby authorizes Samaritan Albany General Hospital, an Oregon nonprofit corporation ("Licensee") to encroach upon the Licensor's public right-of-way under the terms and specifications set forth herein.

1. **Location and Nature of Encroachment:** This License shall apply to Licensee and shall allow all reasonable and necessary access for the installation and subsequent alteration, modification, repair and maintenance of a private utility fiber optic cable, and all related accessory and component parts and equipment thereof, as shown on Exhibit "A," and "B" attached hereto, under the Licensor's public right-of-way between two parcels of real property, and the buildings and other improvements located thereon, at 832 Elm Street SW and 1020 11th Avenue SW in Albany, Linn County, Oregon. A more particular description of the area within the Licensor's public right-of-way that this License encompasses is attached hereto as Exhibit "A" and "B".
2. **Conditions of License:**
 - a. The Licensee agrees to indemnify and hold harmless the Licensor, and other franchise utilities located in the public right-of-way closely enough to be affected by this encroachment, their agents, officers, and employees from all damages, claims, or liability arising from its use of the public right-of-way pursuant to the terms of this License. Licensee's indemnity shall cover the acts of any agents, contractors, subcontractors, representatives, or employees of Licensee for any negligence or intentional acts or omissions with regard to the installation and subsequent alteration, modification, repair and maintenance of the fiber optic cable, and all related accessory and component parts and equipment thereof, and any work or other activities within the public right-of-way that may give rise to liability arising out of the use of this License by Licensee. Licensee shall promptly repair any damage it may cause to the area affected by this License caused by the installation, and subsequent alteration, modification, repair and maintenance of the fiber optic cable, and all related accessory and component parts and equipment thereof, so that the area is restored to its original pre-existing condition prior to the work. All work done pursuant to this permit shall be performed in accordance with City standards including engineering and construction specifications.
 - b. The Licensee agrees to repair and maintain all of Licensee's private improvements within the public right-of-way.
 - c. This License shall be subject to revocation without cause after 90 days written notice by the Licensor as provided by AMC 14.04.010. C'
 - d. This License may be revoked, at any time, for failure of the Licensee to comply with the terms of this License after '10 days' notice of revocation.
 - e. If, during the course of maintaining or installing private infrastructure, the Licensee encounters or disturbs any of Licensor's public improvements within the right-of-way or those of any franchise utility, it shall be the Licensee's responsibility to remove and/or repair said improvements at the Licensee's expense. The Licensee shall also be responsible for any damages or delays that result from said improvements. However, if the disturbance is caused through the Licensor's gross negligence or intentional acts or omissions, the Licensor shall be responsible for any required repairs.

3. Notices. Notices shall be given as provided in AMC 14.04.030.
4. Liens. Licensor shall have the authority to impose a lien upon the property as provided for in AMC 14.04.040.
5. Binding Upon Heirs and Assigns. Unless earlier terminated by either party, the terms of this License shall inure to the benefit of and be binding upon, the parties, their heirs, devisees, successors, and assigns. The terms of an encroaching structure pursuant the terms of AMC 14.04.040 and of this License shall constitute a covenant running with all of the land described in Exhibit "A" and "B" attached hereto.

LICENSEE:

SAMARITAN ALBANY GENERAL HOSPITAL, an Oregon nonprofit corporation




David G. Triebes, CEO

STATE OF OREGON
County of Linn

The foregoing instrument was acknowledged before me on this 17 day of May, 2012, by David G. Triebes as CEO of Samaritan General Hospital, an Oregon nonprofit corporation, as a voluntary act and deed.




NOTARY PUBLIC FOR OREGON
My commission Expires: 4/21/16

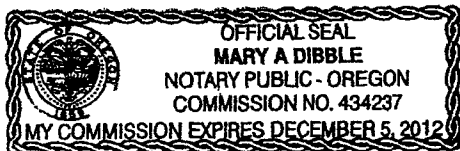
CITY OF ALBANY:

I, Wes Hare, as City Manager of the City of Albany, Oregon, hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 10th day of August 2012.


City Manager

STATE OF OREGON
County of Linn

This instrument was acknowledged before me this 10 day of August 2012, by Wes Hare as City Manager of City of Albany.



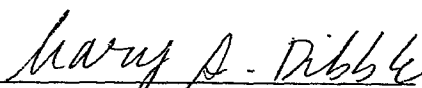

NOTARY PUBLIC FOR OREGON
My commission Expires: 12/5/2012

EXHIBIT "A"

**LEGAL DESCRIPTION
for
PRIVATE UTILITY LICENSE AGREEMENT**

A 3.00 foot wide strip of land located in the Elm Street right-of-way in Albany, Oregon that is more particularly described as follows:

Beginning at a point on the West right-of-way line of Elm Street that is South 08°50'22" East 212.00 feet from the southeast corner of Block 61 of "City of Albany" a subdivision recorded in Linn County, Oregon, which corner being at the intersection of the north right-of-way line of 8th Avenue with the west right-of-line of Elm Street; thence South 08°50'22" East, along said west right of way line 829.00 feet; thence North 81°09'38" East 3.00 feet; thence North 08°50'22" West, parallel to said west right-of-way line, 829.00 feet; thence South 81°09'38" West 3.00 feet to the Point of Beginning.

The bearings of the above described strip are based on County Survey Number 23194, a record of survey filed in the office of the Linn County Surveyor.

End Description.

March 23, 2011
LEGAL DESCRIPTION FOR
PRIVATE UTILITY LICENSE AGREEMENT
(11-77-A) JJC:ls

File Ref: share/projects/2011/11-77-A/surveying/documents/Legal Description.doc

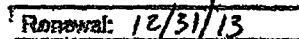
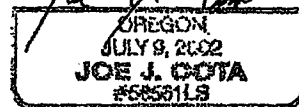
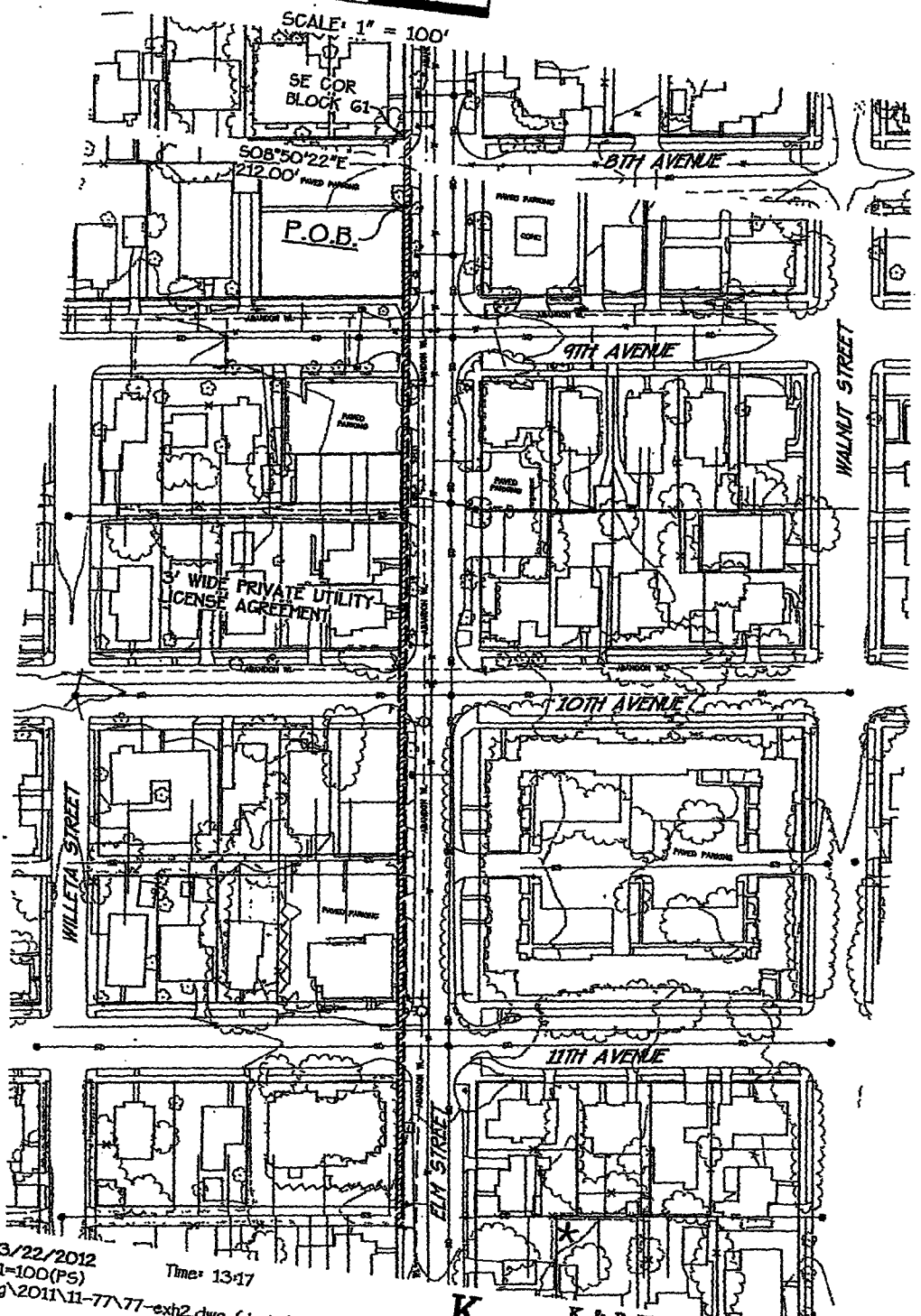
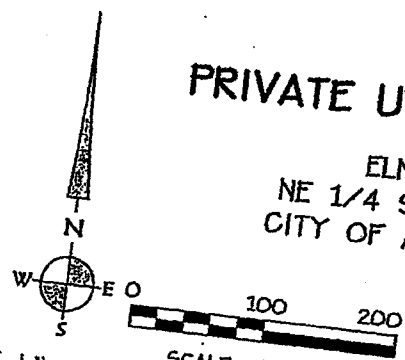


EXHIBIT "B"
FOR
PRIVATE UTILITY LICENSE AGREEMENT

LOCATED IN
ELM STREET RIGHT-OF-WAY
NE 1/4 SEC. 12, T. 11 S., R. 4 W., W.M.
CITY OF ALBANY, LINN COUNTY, OREGON
MARCH 22, 2012



Date: 3/22/2012
Scale: 1=100(PS)
File: dwg\2011\11-77\77-exh2.dwg (Justin)
Time: 13:17

K & D
K & D ENGINEERING, Inc.
276 N.W. Hickory Street P.O. Box 723
Albany, Oregon 97321
(541) 928-2683