

A RESOLUTION ACCEPTING THE FOLLOWING SLOPE AND PUBLIC UTILITIES EASEMENT:

Grantor

Mary Morris, Trustee of the Evelyn F. Brandis Family Charitable Trust #1 and #2; John S. Brandis, Jr.; Trinity O. Lind, fka Gail Brandis Jacob, Gail Brandis Yarborough, and Gale Brandis Coleman; Susan B. Decker; and Timberhill Corporation.

Purpose

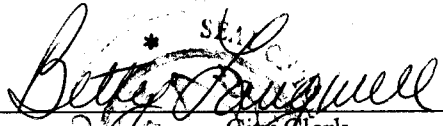
10-foot wide slope and public utility easement adjacent to the Brandis Avenue and Somerset Avenue right-of-way, in connection with the street project to Timber Ridge School.


NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this slope and franchise utility easement.

DATED AND EFFECTIVE THIS 27TH DAY OF AUGUST 2008.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk



## SLOPE AND FRANCHISED PUBLIC UTILITIES EASEMENT

THIS AGREEMENT, made and entered into this 24th day of July, 2008, by and between Mary Morris in her capacity as Trustee of the Evelyn R. Brandis Family Charitable Trust #1 and #2; John S. Brandis, Jr.; Trinity O. Lind, fka Gail Brandis Jacob, Gail Brandis Yarborough, and Gail Brandis Coleman; Susan B. Decker; and Timberhill Corporation, an Oregon Corporation collectively as their interest in the property may appear, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, and those Utility Companies with Franchise Agreements with the City, herein called "Grantee."

### WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the Grantor does hereby grant, bargain, sell, convey, and transfer unto Grantee, an easement and right-of-way, including the right to enter upon the real property hereinafter described, and to place, maintain and repair public utilities and the roadway fill slope, for the purpose of conveying public franchised utilities services and the roadway fill slope 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 roadway fill slope and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location and maintenance of the said public utilities and roadway fill slope.

This agreement is subject to the following terms and conditions:

1. The right-of-way hereby granted consists of:  
  
See legal description on attached Exhibit A and maps on attached Exhibits B and C.
2. The permanent easement described herein grants to the Grantee, 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.
3. The easement granted is in consideration of \$1.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. The Grantor does hereby covenant with the Grantee 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 Grantee shall return the site to original or better condition, at Grantee's sole cost and expense.
6. No permanent structure shall be constructed on this easement.
7. Grantee shall indemnify and hold harmless Grantor, its successors and assigns, from any and all claims, actions, damages, liability and expense which arise in connection use of the easement and right-of-way by Grantee, its agents, employees, invitees, or licensees; or occasioned wholly or in part by any act or omission for which Grantee, its agents, contractors, employees, servants, lessees, concessionaires or invitees are legally liable.
8. With respect to any dispute arising under or relating to this Agreement, or in the event that a suit, action, arbitration, or other proceeding of any nature whatsoever is instituted to interpret or enforce this Agreement or any provisions of this Agreement, the prevailing party shall be entitled to recover from the

losing party its reasonable attorneys', paralegals', accountants', and other experts' and professional fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial or other proceeding, or on any appeal or review, in addition to all other amounts provided by law.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring title to the part should check with the appropriate city or county planning departments to verify approved uses and to determine any limits on lawsuits against farming or forest practices as defined in ORS 30.930.

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

**GRANTORS:**

Mary Morris  
Mary Morris, Trustee of the Evelyn F. Brandis  
Family Charitable Trusts #1 and #2

John S. Brandis, Jr.  
John S. Brandis, Jr.

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

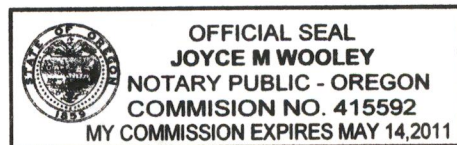
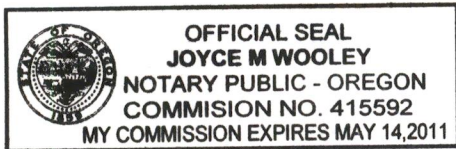
STATE OF OREGON            )  
County of Linn             ) ss.  
City of Albany             )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2008, by Mary Morris, Trustee of the Evelyn F. Brandis Family Charitable Trusts #1 and #2 as a representative of the trusts as their voluntary act and deed.

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of August, 2008, by John S. Brandis, Jr. as their voluntary act and deed.

Joyce M. Wooley  
Notary Public for Oregon  
My Commission Expires: 5/14/2011

Joyce M. Wooley  
Notary Public for Oregon  
My Commission Expires: 5/14/2011



Trinity O. Lind  
Trinity O. Lind, fka Gail Brandis Jacob, Gail Brandis Yarborough, and Gail Brandis Coleman.

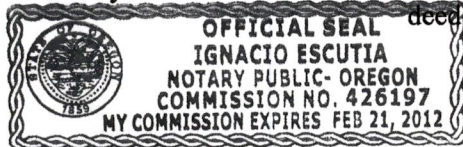
Tanya Durkee  
Tanya Durkee, President, Timberhill Corporation

STATE OF OREGON )  
~~X~~ County of ~~Linn~~ Deschutes ) ss.  
~~X~~ City of Albany Bend )

STATE OF OREGON )  
County of ~~Linn~~ Clackamas ) ss.  
City of Albany Lake Oswego )

The foregoing instrument was acknowledged before me this 1 day of August, 2008, by Trinity O. Lind as their voluntary act and deed.

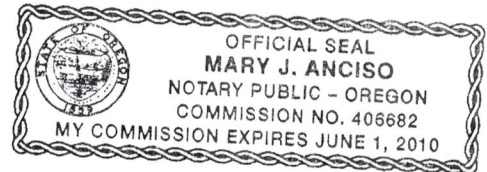
The foregoing instrument was acknowledged before me this 31 day of July, 2008, by Tanya Durkee, President, as a representative of Timberhill Corporation as their voluntary act and deed.



Ignacio Escutia  
Notary Public for Oregon  
My Commission Expires: Feb. 21, 2012

Mary J. Anciso  
Notary Public for Oregon  
My Commission Expires: 6-1-2010

Susan B. Decker  
Susan B. Decker



STATE OF OREGON )  
County of ~~Linn~~ Benton ) ss. 29  
City of ~~Albany~~ Corvallis ) 29

The foregoing instrument was acknowledged before me this 7th day of August, 2008, by Susan B. Decker as their voluntary act and deed.



Deborah G. Seeley  
Notary Public for Oregon  
My Commission Expires: 11-3-08

**CITY OF ALBANY:**

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

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 5651, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 26 day of September 2008.

Wes Hare  
\_\_\_\_\_  
City Manager

ATTEST: Betty Langwell  
\_\_\_\_\_  
City Clerk



**EXHIBIT A**  
**DESCRIPTION FOR SLOPE AND UTILITY EASEMENT**  
**PARCEL 1 OF PARTITION PLAT 2008-02**

BEING A PORTION OF PARCEL 1 OF PARTITION PLAT 2008-02 IN THE LINN COUNTY RECORD BOOK OF PARTITION PLATS WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A TEN (10.00) FOOT WIDE CONTIGUOUS STRIP LYING NORTHERLY OF THE RIGHT-OF-WAY OF SOMERSET DRIVE NE (SIXTY FEET WIDE) AND EASTERLY OF THE RIGHT-OF-WAY OF BRANDIS AVENUE (SEVENTY FEET WIDE) AS DEDICATED ON PARTITION PLAT 2007-74 AND SHOWN ON PARTITION PLAT 2008-02 OF THE LINN COUNTY RECORD BOOK OF PARTITION PLATS. SAID TEN-FOOT STRIP TO RUN CONTINUOUSLY FROM THE WESTERLY BOUNDARY OF SAID PARCEL 1 TO THE NORTH BOUNDARY OF PARCEL 2 OF PARTITION PLAT 2008-02. THE MOST NORTHERLY CORNER OF SAID STRIP TO BE AT THE INTERSECTION OF THE PROLONGATION OF AN ARC TEN FOOT DISTANT FROM THE NORTH RIGHT-OF-WAY OF SOMERSET DRIVE AND THE PROLONGATION OF A LINE TEN FOOT DISTANT FROM THE EASTERLY RIGHT-OF-WAY OF BRANDIS AVENUE.

AND ALSO:

A TEN (10.00) FOOT WIDE CONTIGUOUS STRIP LYING SOUTHERLY OF THE RIGHT-OF-WAY OF SOMERSET DRIVE NE (SIXTY FEET WIDE) AND WESTERLY OF THE RIGHT-OF-WAY OF BRANDIS AVENUE (SEVENTY FEET WIDE) AS DEDICATED ON PARTITION PLAT 2007-74 AND SHOWN ON PARTITION PLAT 2008-02 OF THE LINN COUNTY RECORD BOOK OF PARTITION PLATS. SAID TEN-FOOT STRIP TO RUN CONTINUOUSLY FROM THE WESTERLY BOUNDARY OF SAID PARCEL 1 TO THE SOUTHERLY BOUNDARY THEREOF.

AND ALSO:

A TEN (10.00) FOOT WIDE STRIP LYING CONTIGUOUS TO AND EASTERLY OF THE RIGHT-OF-WAY OF BRANDIS AVENUE (SEVENTY FEET WIDE) AS DEDICATED ON PARTITION PLAT 2007-74 AND SHOWN ON PARTITION PLAT 2008-02 OF THE LINN COUNTY RECORD BOOK OF PARTITION PLATS. SAID TEN-FOOT STRIP TO RUN CONTINUOUSLY FROM THE SOUTH BOUNDARY OF PARCEL 2 OF PARTITION PLAT 2008-02 TO THE SOUTH BOUNDARY OF PARCEL 1 OF SAID PLAT.



**LEGEND**

PROPERTY LINE

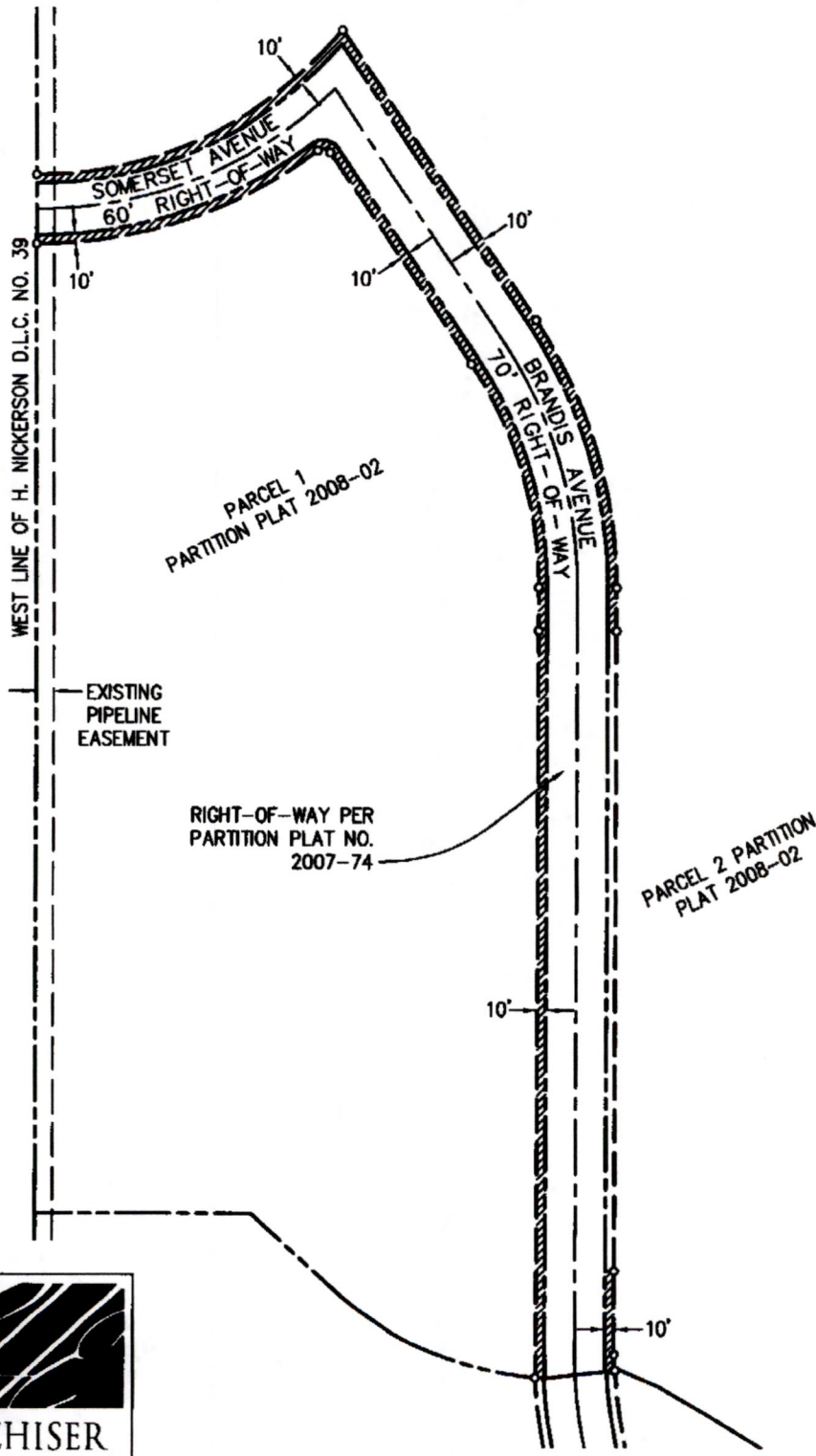
RIGHT-OF-WAY

CENTERLINE

PROPOSED SLOPE AND UTILITY EASEMENT



**SCALE 1"=200'**



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Clell Goodwin*

OREGON  
JULY 30, 1976  
CLELL GOODWIN  
1078

EXPIRES JUNE 30, 2009



**BALZHISER  
& HUBBARD  
ENGINEERS**

MECHANICAL  
ELECTRICAL  
CIVIL  
TRANSPORTATION  
SURVEYORS

100 WEST 13TH AVENUE  
EUGENE, OR 97401  
P: 541-686-8478  
F: 541-345-5303

**SLOPE AND UTILITY EASEMENT  
PARCEL 1 OF PARTITION PLAT 2008-02**

PROJECT 2100-022-06  
DATE: AUGUST 13, 2008  
FILENAME: BOUNDARY.dwg  
TAX MAP 11-03-03 AND TAX MAP 10-34-03

SHEET No.  
**EXHIBIT  
B**

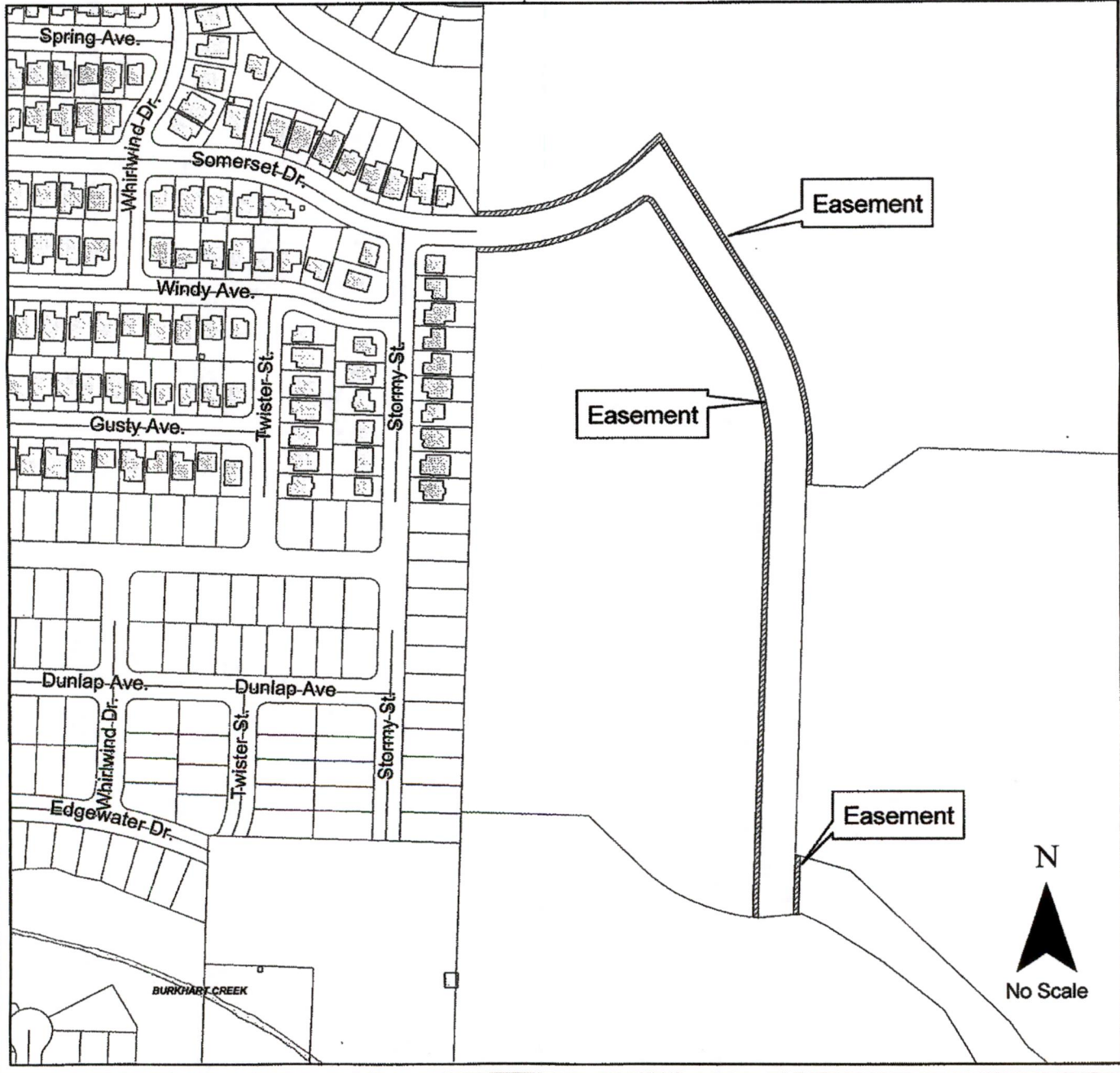
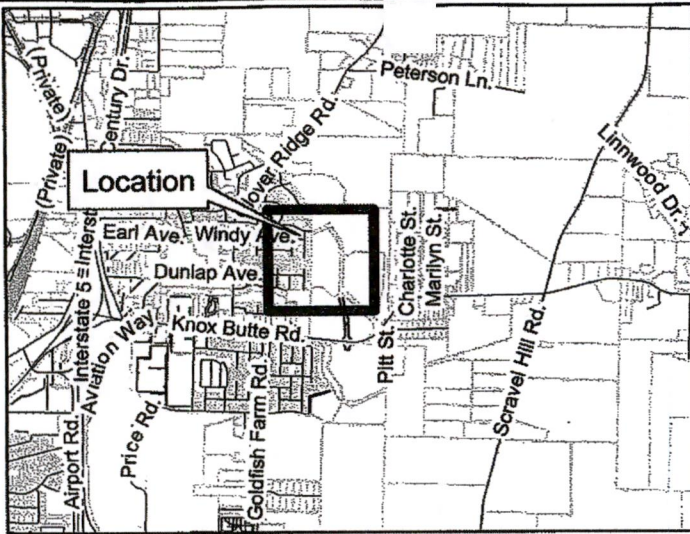
# EXHIBIT C

11SO3W03B 00100

Slope and Utility Easement related to construction of a new public school.



Geographic Information Services







**LINN COUNTY**  
Recording Cover Sheet  
All Transactions, ORS: 205.234

After Recording Return To:  
City of Albany City Clerk  
PO Box 490  
Albany, OR 97321

All Tax Statements Should Be Sent To:  
City of Albany - Exempt

LINN COUNTY, OREGON **2008-19311**  
E-PS **10/07/2008 03:31:31 PM**  
Cnt=2 Str=1 COUNTER  
\$40.00 \$5.00 \$11.00 \$10.00 **\$66.00**  
  
00093467200800193110080081  
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  


1. Name/Title of Transaction - by ORS 205.234 (a)  
SLOPE AND FRANCHISED PUBLIC UTILITIES EASEMENT
2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160  
Mary Morris, Trustee of the Evelyn F. Brandis Family Charitable Trust #1 and #2; John S. Brandis, Jr.; Trinity O. Lind, fka Gail Brandis Jacob, Gail Brandis Yarborough, and Gale Brandis Coleman; Susan B. Decker; and Timberhill Corporation.
3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160  
City of Albany
4. True and Actual Consideration (if there is one), ORS 93.030  
\$0.00

Resolution No. 5651

Recorded Document Recorder File No. 5190