

RESOLUTION NO. 4661

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

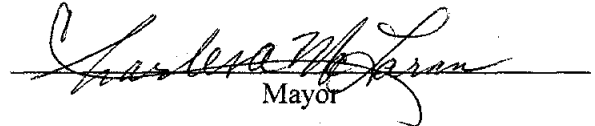
Lee & Vicki Foster
224 Sherman St. NE
Albany, OR 97321

Purpose

Construction of a permanent
multi-use pathway

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

DATED THIS DAY OF 2002.



Mayor

ATTEST:



City Recorder

GRANT OF EASEMENT

Grantor's Name and Address:

Grantee's Name and Address.

Lee & Vicki Foster
224 Sherman St. NE
Albany, OR 97321

City of Albany
333 Broadalbin Street
Albany, OR 97321

After recording return to:
James V.B. Delapoer
Attorney at Law
Post Office Box 40
Albany, OR 97321

This Agreement is made and entered into this 27 day of February, 2002, by and between the City of Albany, Oregon, hereinafter referred to as "City" and Lee Foster and Vicki Foster hereinafter referred to as "Owner"

In consideration of the City's agreement to maintain the easement hereby granted by and through this instrument, and such other consideration, the receipt and adequacy of which is hereby acknowledged, the Owner agrees as follows.

Grant of Easement. Owner hereby grants the City a permanent easement for a pathway or trail across the property of owner as described in the attached map, which by this reference is incorporated herein as *Exhibit "A"*, and more particularly described as follows

Beginning at the intersection of the centerline of vacated Front Street, as vacated by document recorded in MF Volume 377, Page 478 of the Linn County Deed Records, with the northerly projection of the west line of Lot 4 of Block 2 of "Hackleman's 3rd Addition to the City of Albany", a subdivision of record in Linn County, Oregon, thence North 81°00'05" East, along said centerline, 66.00 feet to the northerly projection of the east line of Lot 4; thence South 09°12'01" East, along said easterly projection, 21.25 feet, thence South 81°06'18" West 66.00 feet to a point on said westerly projection, thence North 09°12'01" West 21.13 feet to the Point of Beginning.

Grant of Temporary Construction Easement. Owner hereby grants the City a temporary Easement to construct the permanent pathway or trail across the property of Owner as described in the attach map, which by this reference is incorporated herein as Exhibit "A" and more particularly described as follows:

Return to: City of Albany - Recorder
P.O. Box 490, Albany, OR 97321

Beginning at the intersection of the centerline of vacated Front Street, as vacated by document recorded in MF Volume 377, Page 478 of the Linn County Deed Records, with the northerly projection of the west line of Lot 4 of Block 2 of "Hackleman's 3rd Addition to the City of Albany", a subdivision of record in Linn County, Oregon; thence North 81°00'05" East, along said centerline, 66.00 feet to the northerly projection of the east line of Lot 4, thence South 09°12'01" East, along said easterly projection, 21.25 feet; thence South 81°06'18" West 66 00 feet to a point on said westerly projection, thence North 09°12'01" West 21.13 feet to the Point of Beginning.

Description of Property to be Burdened by Easement. Owner hereby warrants that he has title to grant this Easement. The property of Owner which shall be burdened by this Easement is described as follows:

Lot 4, Block 2, HACKLEMAN'S THIRD EDITION, in the City of Albany, County of Linn and State of Oregon.

Together with that portion of vacated Front Avenue, which inured thereby Ordinance No. 4660 of the City of Albany, a copy of which was recorded 2-12-85 in Volume 377, page 478, Microfilm Records of Linn County, Oregon.

Duration of Temporary Construction Easement. The Temporary Construction Easement granted hereby shall terminate upon completion of construction of the permanent pathway or trail

Activities Permitted in Easement Area. This Easement shall allow City to construct a pathway or trail for the enhancement of recreational opportunities for the public so as to allow public recreational access for site seeing, hiking, nature observation, bicycling, and other similar or related recreational activities. Except as to the Owner, and persons entering onto the Easement area with the express consent of the Owner, City may control access to the easement and may, as a City deems appropriate, promulgate and enforce such restrictions on access as may, in the City's exclusive judgment, be desirable to maintain the quality of construction of the easement. Consistent therewith, City shall have authority to deny or limit access to the easement area and prosecute violators of such restrictions as City may deem appropriate.

Other Conditions.

1. The City agrees to construct a 10-foot wide concrete multi-use path within the easement path
2. The City agrees to construct a rose colored split-faced concrete masonry unit curved retaining wall adjacent to the south side of the easement path.

- 3 The City agrees to construct an approximately 65 lineal foot ornamental iron fencing, 6 feet in height, on top of the retaining wall referred to above
- 4. The City agrees to construct an approximately 70 lineal foot cedar privacy fence 7 feet in height, to be located at the east, clear of existing cherry tree, and west side of the property owned by Lee Foster and Vicki Foster.
- 5 The City agrees to pay \$200 00 to the Fosters for the purpose of replacing turf.

Binding Effect. This Agreement is binding upon the parties and their successors and interest

PARTIES:

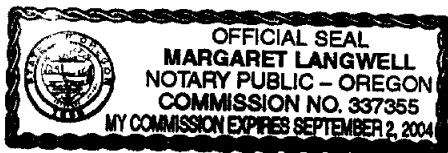
CITY OF ALBANY, OREGON:

OWNER

By: [Signature]
 Steve Bryant
 Title City Manager

[Signature]
 Lee Foster

[Signature]
 Vicki Foster



ATTEST:

By [Signature]
 Title: City Clerk

STATE OF OREGON)
)ss.
 County of Linn)

This instrument was acknowledged before me on February 27, 2002, by LEE FOSTER



[Signature]
 NOTARY PUBLIC FOR OREGON
My Commission Expires Sept. 2, 2004

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STATE OF OREGON)
)ss.
County of Linn)

This instrument was acknowledged before me on February 27, 2002, by STEVE BRYANT as City Manager of the City of Albany.

Margaret Langwell
NOTARY PUBLIC FOR OREGON
my commission expires on Sept 2, 2004

STATE OF OREGON)
)ss.
County of Linn)

This instrument was acknowledged before me on February 27, 2002, by VICKI FOSTER.



Margaret Langwell
NOTARY PUBLIC FOR OREGON
my commission expires Sept. 2, 2004

CONSTRUCTION & PATHWAY EASEMENT MAP

EXHIBIT "A"

FOR THE CITY OF ALBANY
OVER THE

FOSTER TRACT

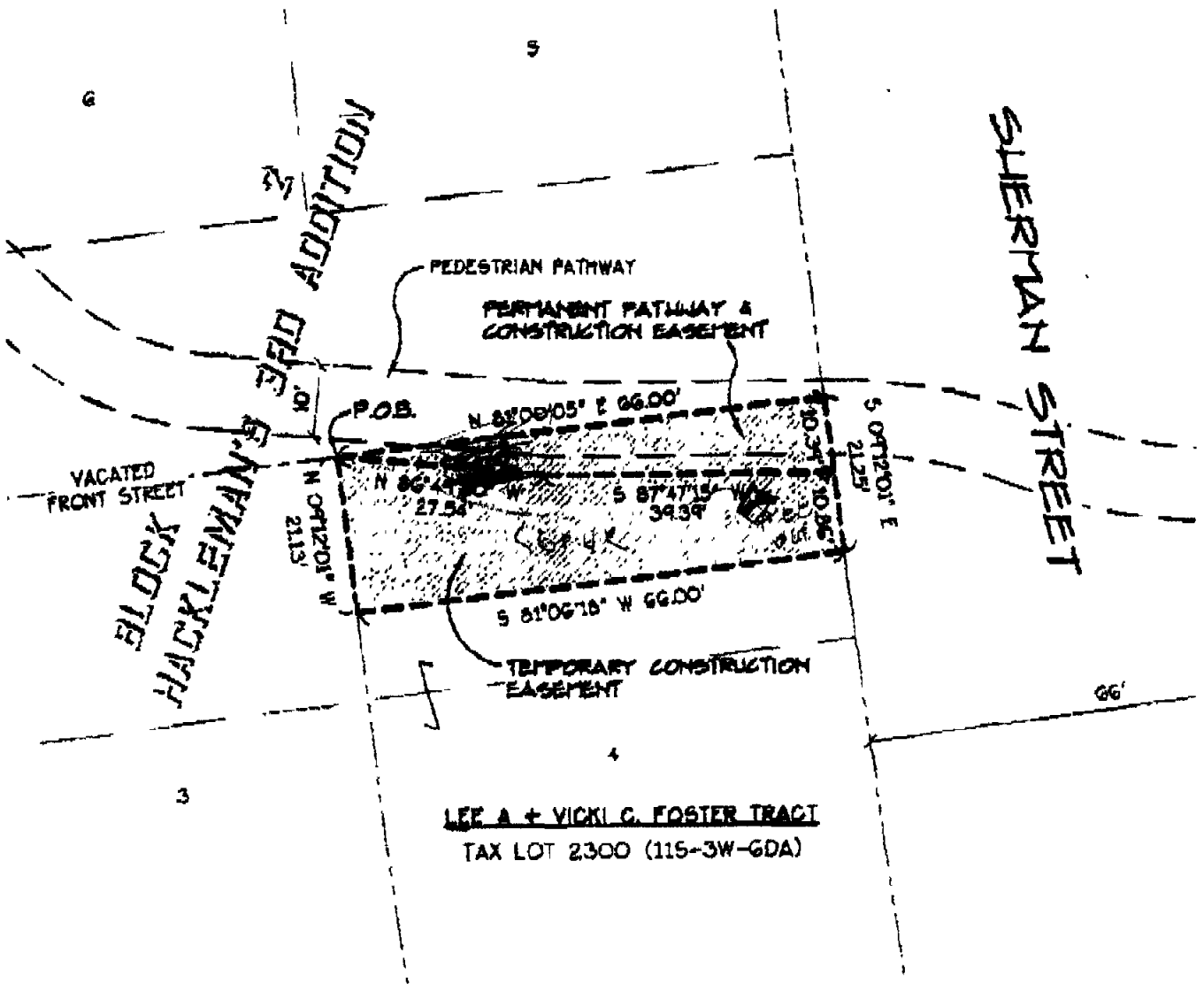
LOCATED IN

BLOCK 2 OF HACKLEMAN'S 3RD ADDITION
TAX LOT 2300, MAP 115-3W-6DA
SEC. 6, T. 11 S., R. 3 W., W.M.
CITY OF ALBANY, LINN COUNTY, OREGON

NOVEMBER 20, 2001



ORIG. SCALE: 1" = 20'



LEE A + VICKI C. FOSTER TRACT
TAX LOT 2300 (115-3W-6DA)

sta: 11/20/2001
cale: 1=20(P5)

Time: 11:00



K & D ENGINEERING, Inc.
278 N.W. Hickory Street P.O. Box 723
Albany, Oregon 97321
(541) 924-2543

46

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 SR, Deputy

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E
S
A
O

2002 MAR 15 P 1:43

MF 1273

PAGE 463

Resolution No. 4661

Recorded Document Recorder File No. 4092