

RESOLUTION NO. 1983

A RESOLUTION OF THE CITY OF WILSONVILLE EXCHANGING AND ADOPTING EASEMENTS, THE MICHAEL JAMES BERREY IRREVOCABLE TRUST AND THE ANDREW WAYNE BERREY IRREVOCABLE TRUST, GRANTOR

WHEREAS, the City of Wilsonville Design Review Board approved the Stage II development to Canyon Creek Business Center Phase II, 03DB36, which required as a condition of approval that a public utility easement be conveyed to the City; and

WHEREAS, there currently exists on the property an easement granted by the applicant John Seibert and Joseph P. Tennant, Co-Trustees of the Michael James Berrey Irrevocable Trust, u/t/a dated December 31, 1984, as to an undivided 50% interest and John Seibert and Joseph P. Tennant, Co-Trustees of the Andrew Wayne Berrey Irrevocable Trust, u/t/a dated December 31, 1984, as to an undivided 50% interest, as tenants in common ("Owners"), as Doc. No. 98-082183 and dated July 28, 1998. However, because the applicant removed and reconstructed a portion of the public waterline, the location of this easement does not track the location of the utility; does not conform to the needs and requirements of the Public Works Department and therefore is no longer needed by the City of Wilsonville; and

WHEREAS, the City Council finds that the public interest is served by an "exchange" of easements through a quitclaim of the existing above-referenced real property easement pursuant to ORS 271.310(3) in return for a real property easement which is of equal or superior useful value, which tracks the City's water lines constructed to serve this and other properties in the area; therefore, extinguishment by vacation is unnecessary.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Based on the above recitals and findings, the City of Wilsonville approves the following exchange of easements:


(a) The City's release, by a Reconveyance and Quitclaim, of all its interest in the Waterline Easement described in Exhibit 1, attached hereto and incorporated herein, in exchange for

(b) The Owners' conveyance to the City of the Water Line Pipeline Easement described in Exhibit 2, attached hereto and incorporated herein.

2. The City Manager is authorized to sign these instruments on behalf of the City.

3. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 20th day of March, 2006, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

ATTEST:



Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Holt	<u>Excused</u>
Councilor Knapp	<u>Yes</u>
Councilor Ripple	<u>Yes</u>

**RECONVEYANCE AND QUITCLAIM
OF EASEMENT**

After recording, return to:
CITY RECORDER
CITY OF WILSONVILLE
30000 SW Town Center Loop E.
Wilsonville, OR 97070

KNOW ALL MEN BY THESE PRESENTS that the **City of Wilsonville**, a municipal corporation, Grantor, releases and quitclaims to John Seibert and Joseph P. Tennant, Co-Trustees of the Michael James Berrey Irrevocable Trust, u/t/a dated December 31, 1984, as to an undivided 50% interest and John Seibert and Joseph P. Tennant, Co-Trustees of the Andrew Wayne Berrey Irrevocable Trust, u/t/a dated December 31, 1984, as to an undivided 50% interest, as tenants in common, Grantee, for the consideration hereinafter stated, all right, title and interest in and to the following real property easement, described as follows:

The legal description is set forth in "EXHIBIT A" attached hereto, and incorporated by reference herein.


A map of the above legal description is set forth in EXHIBIT "B" and incorporated by reference herein.

The true and actual consideration paid for this transfer, in terms of dollars, is None. However, the actual consideration consists of other property of equal or superior value, which is the whole consideration.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT DOES 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 FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

IN WITNESS WHEREOF, the undersigned Grantor has executed this Reconveyance and Quitclaim of Easement this 27 day of March, 2006.

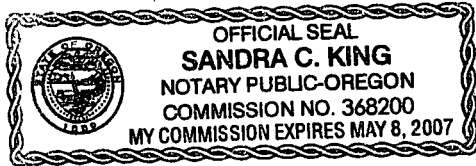
GRANTOR: CITY OF WILSONVILLE

By 
Arlene Loble, City Manager

STATE OF OREGON)
) ss
County of Clackamas)

This instrument was acknowledged before me on March 27th, 2006,
by Arlene Loble as City Manager of the City of Wilsonville.

Sandra C. King
Notary Public for Oregon
My Commission Expires: 5/8/07



APPROVED AS TO FORM
this 13 day of March, 2006.
Paul A. Lee /s/
Paul A. Lee, Assistant City Attorney
City of Wilsonville, Oregon

APPROVED AS TO LEGAL DESCRIPTION
this 13th day of March, 2006.
Michael A. Stone
Michael A. Stone, P.E., City Engineer
City of Wilsonville, Oregon



WEDDLE SURVEYING

Excellence is our benchmark.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
ANTHONY B. RYAN
58833

1750 SW Skyline Blvd. Suite 105
Portland, Oregon 97221
Phone : (503) 292-8083
Fax : (503) 292-0938
Email : weddle@integraonline.com

January 13, 2006
Job No. 3699WTV

RENEWAL DATE: DEC. 31, '06

PUBLIC WATERLINE EASEMENT (TO BE VACATED) LEGAL DESCRIPTION:

Exhibit "A"

A tract of land for waterline easement purposes being a portion of Parcel 1 and Parcel 2, Partition Plat No. 1999-100, in the Southwest 1/4 of Section 1, Township 3 South, Range 1 West of the Willamette Meridian, in the City of Wilsonville, County of Washington and State of Oregon, being a strip of land 15.00 feet in width, lying 7.50 feet on each side of the following described centerline:

Commencing at the Southeast corner of aforementioned Parcel 1, being a point on the arc of a 569.00 foot radius curve to the left, a radial line bears South 65°28'13" East to said point; thence along the Easterly line of said Parcel 1 and Northeasterly along the arc of said curve 231.79 feet through a central angle of 23°20'25" (the long chord bears North 12°51'36" East, 230.19 feet); thence continuing along said Easterly line North 01°11'24" East, 276.50 feet to the True Point of Beginning of the herein described easement centerline; thence leaving said Easterly line North 88°48'39" West, 17.39 feet; thence South 00°00'00" West, 16.50 feet; thence South 56°56'55" West, 182.00 feet; thence North 88°35'27" West, 164.47 feet to a point hereinafter referred to as point "A"; thence North 88°35'27" West, 163.61 feet; thence South 01°24'33" West, 200.59 feet to a point hereinafter referred to as point "B"; thence South 01°24'33" West, 94.20 feet to a point hereinafter referred to as point "C"; thence South 86°10'52" East, 251.05 feet; thence South 63°40'52" East, 159.38 feet to a point hereinafter referred to as point "D"; thence South 63°40'52" East, 54.48 feet to said Easterly line of Parcel 1 and the terminus of this centerline description.

ALSO, beginning at the aforementioned point "A"; thence North 00°00'03" West, 28.41 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "B"; thence South 88°35'27" East, 18.00 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "C"; thence South 01°24'33" West, 72.00 feet; thence South 88°52'51" East, 24.63 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "D"; thence South 26°19'08" West, 24.28 feet to the terminus of this centerline description.

The bearings for this description are based on Partition Plat No. 1999-100, Washington County Plat Records.



SCALE: 1" = 100'
DATE: 01-13-06

Exhibit "B"

PUBLIC WATERLINE EASEMENT (TO BE VACATED)

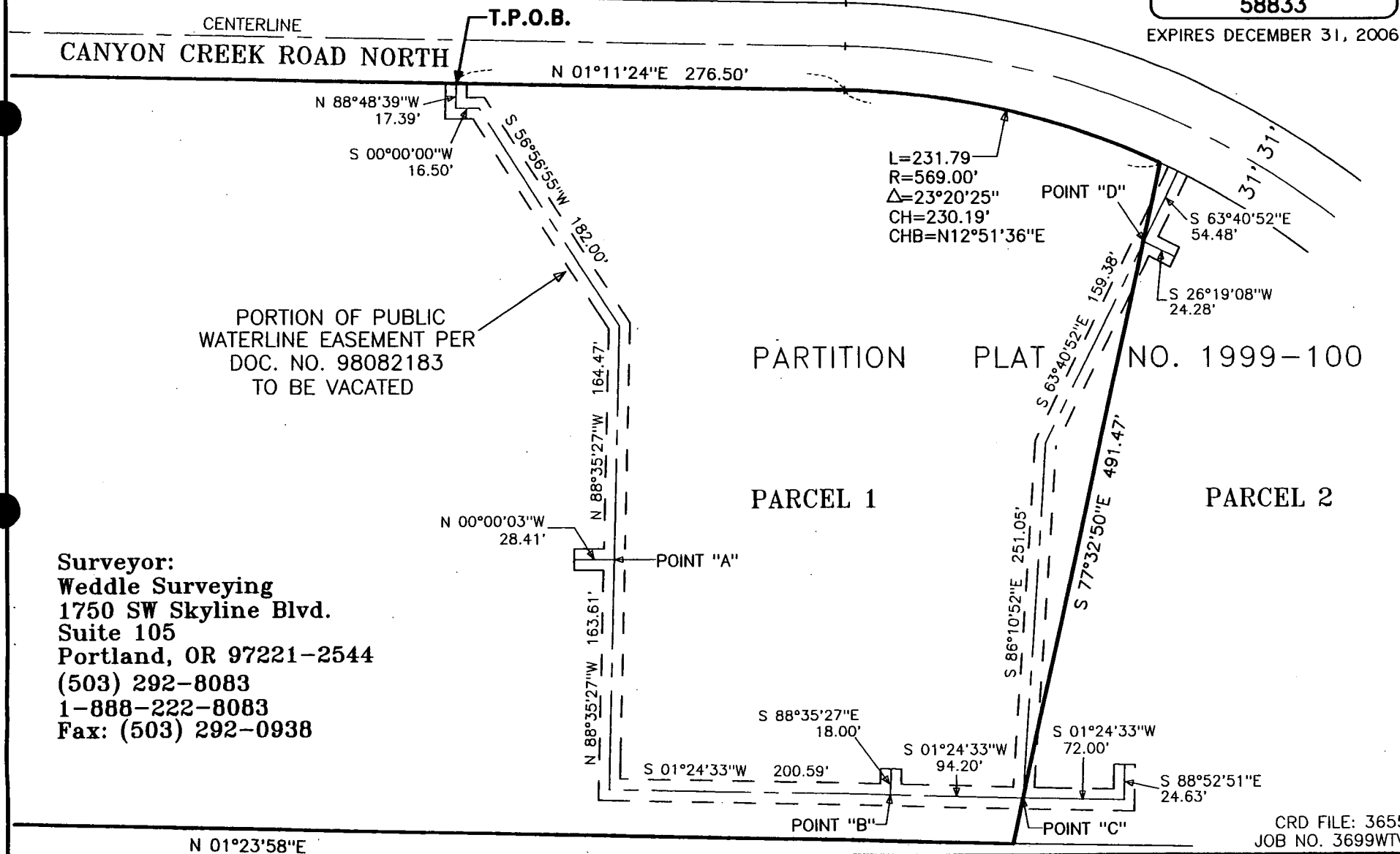
PARCEL 1 AND 2, PARTITION PLAT NO. 1999-100
SW 1/4 SEC. 1, T.3S., R.1W., W.M.
City of Wilsonville, Washington County, Oregon

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Anthony B. Ryan

OREGON
JULY 13, 2004
ANTHONY B. RYAN
58833

EXPIRES DECEMBER 31, 2006



Surveyor:
Weddle Surveying
1750 SW Skyline Blvd.
Suite 105
Portland, OR 97221-2544
(503) 292-8083
1-888-222-8083
Fax: (503) 292-0938

CRD FILE: 3655
JOB NO. 3699WTV

PIPELINE EASEMENT

Grantor - Individual

After recording, return to:
CITY RECORDER
CITY OF WILSONVILLE
30000 SW TOWN CENTER LOOP, E.
WILSONVILLE OR 97070

KNOW ALL MEN BY THESE PRESENTS, that **John Seibert and Joseph P. Tennant, Co-Trustees of the Michael James Berrey Irrevocable Trust, u/t/a dated December 31, 1984, as to an undivided 50% interest and John Seibert and Joseph P. Tennant, Co-Trustees of the Andrew Wayne Berrey Irrevocable Trust, u/t/a dated December 31, 1984, as to an undivided 50% interest, as tenants in common**, hereinafter referred to as "Grantor", for the consideration hereinafter stated, does forever grant unto the CITY OF WILSONVILLE, a municipal corporation, hereinafter referred to as "Grantee", a permanent right-of-way and easement over and along the full width and length of the premises described as follows, to-wit:

1. Legal description is set forth in EXHIBIT "A" attached hereto, and incorporated by reference herein.
2. A map of the above legal description is set forth in EXHIBIT "B" and incorporated by reference herein.

together with a temporary construction easement as follows: N/A

The temporary construction easement shall be effective only for and during the time of the initial construction of the below described public improvements, and shall under any circumstances be extinguished and expire on N/A , 200 (specific date).

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ -0- . *However, the actual consideration consists of or includes other property or value given or promised which is (the whole/~~part of the~~) consideration (indicate which)*. (If not applicable, the sentence between the symbols * should be deleted. See ORS 93.030.)

In the event the permanent right-of-way and easement shall no longer serve a public purpose, it shall revert back to the Grantor(s), his/her/their heirs, successors and/or assigns; and

TO HAVE AND TO HOLD the above described permanent right-of-way and easement unto said Grantee in accordance with the conditions and covenants as follows:

1. The permanent right-of-way and easement shall include the right, privilege, and authority, to the said City of Wilsonville, to excavate for, and to construct, build, install, lay, patrol, operate, maintain, repair, replace and remove an underground sanitary sewer, storm drain, or water pipeline or pipelines, with all appurtenances incident thereto or necessary therewith,

including aboveground valve boxes, fire hydrants or manholes, for the purpose of carrying and conveying sewage wastes, surplus waters, or potable water as the case may be, and for similar uses in, under, and across the said premises, and to cut and remove from said right-of-way any trees and other obstructions which may endanger the safety or interfere with the use of said pipelines, appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above described premises at any and all times for doing anything necessary, useful, or convenient for the enjoyment of the easement hereby granted. No building or structure shall be constructed over the pipeline easement right-of-way.

2. To the extent allowed by law, Grantee will indemnify and hold harmless the Grantor(s), his/her/their heirs, successors and/or assigns from claims for injury to person or property as a result of the negligence of the Grantee, its agents or employees in the construction, operation, or maintenance of said pipeline.

3. The City of Wilsonville, upon the initial installation, and upon each and every occasion that the same be repaired, replaced, renewed, added to, or removed, shall restore the premises of the Grantor(s), and any improvements disturbed by the City, to as good condition as they were prior to any such installation work, including, but not limited to, the restoration of any topsoil, lawn and nursery stock of like kind and quality subject to reasonable substitution as may be necessitated by obstruction or interference with the use granted herein.

4. Grantor(s) may, at his/her/their option and expense, relocate said right-of-way, easement and associated public appurtenances and utilities, provided such relocation is accepted by the City as complying with applicable codes and standards, land use laws and regulations.

IN WITNESS WHEREOF, the undersigned grantor has executed this easement, this 13 day of February, 2006.

GRANTOR(S):

John Seibert co-trustee
John Seibert, Co-Trustee

Joseph P. Tennant
Joseph P. Tennant, Co-Trustee

STATE OF OREGON)

County of Clatsop) ss

On this 13 day of February, 2006, before me, a notary public in and for said County and State, personally appeared **JOHN SEIBERT**, known to me to be the person whose name _____ subscribed to the within instrument and acknowledged that _____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

Sharon L. Metschan
NOTARY PUBLIC FOR OREGON
My Commission Expires: Aug. 16, 2008



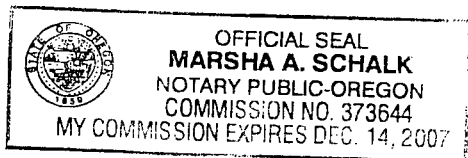
STATE OF OREGON)

County of Multnomah) ss

On this 13th day of February, 2006, before me, a notary public in and for said County and State, personally appeared **JOSEPH P. TENNANT**, known to me to be the person whose name _____ subscribed to the within instrument and acknowledged that _____ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

Marsha A. Schalk
NOTARY PUBLIC FOR OREGON
My Commission Expires: Dec. 14, 2007



APPROVED AS TO FORM

this 13 day of March, 2006.

Paul A. Lee /s/

Paul A. Lee, Assistant City Attorney
City of Wilsonville, Oregon

APPROVED AS TO LEGAL DESCRIPTION

this 13th day of March, 2006.

Michael Stone

Michael A. Stone, P.E., City Engineer
City of Wilsonville, Oregon

ACCEPTED on behalf of the City of Wilsonville, OR

this _____ day of _____, 2006.

Arlene Loble, City Manager

ATTESTED TO:

Sandra C. King, MMC, City Recorder
Date: _____

STATE OF OREGON)
) ss
County of Clackamas)

On this ____ day of _____, 2006, before me personally appeared **Arlene Loble**, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that she executed the same.

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____



WEDDLE SURVEYING

Excellence is our benchmark.

1750 SW Skyline Blvd. Suite 105
Portland, Oregon 97221
Phone : (503) 292-8083
Fax : (503) 292-0938
Email : weddle@integraonline.com

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
ANTHONY B. RYAN
58833

RENEWAL DATE: DEC. 31, '06

January 13, 2006
Job No. 3699WTE

PUBLIC WATERLINE EASEMENT LEGAL DESCRIPTION:

Exhibit "A"

A tract of land for waterline easement purposes being a portion of Parcel 1 and Parcel 2, Partition Plat No. 1999-100, in the Southwest 1/4 of Section 1, Township 3 South, Range 1 West of the Willamette Meridian, in the City of Wilsonville, County of Washington and State of Oregon, being a strip of land 15.00 feet in width, lying 7.50 feet on each side of the following described centerline:

Commencing at the Southeast corner of aforementioned Parcel 1, being a point on the arc of a 569.00 foot radius curve to the left, a radial line bears South 65°28'13" East to said point; thence along the Easterly line of said Parcel 1 and Northeasterly along the arc of said curve 231.79 feet through a central angle of 23°20'25" (the long chord bears North 12°51'36" East, 230.19 feet); thence continuing along said Easterly line North 01°11'24" East, 276.50 feet to the True Point of Beginning of the herein described easement centerline; thence leaving said Easterly line North 88°48'39" West, 17.39 feet to a point hereinafter referred to as point "E"; thence South 00°00'00" West, 16.50 feet; thence South 56°56'55" West, 182.00 feet; thence North 88°35'27" West, 164.47 feet to a point hereinafter referred to as point "A"; thence North 88°35'27" West, 163.61 feet to a point hereinafter referred to as point "O"; thence South 01°24'33" West, 200.59 feet to a point hereinafter referred to as point "B"; thence South 01°24'33" West, 94.20 feet to a point hereinafter referred to as point "C"; thence South 86°10'52" East, 251.05 feet; thence South 63°40'52" East, 159.38 feet to a point hereinafter referred to as point "D"; thence South 63°40'52" East, 54.48 feet to said Easterly line of Parcel 1 and the terminus of this centerline description.

ALSO, beginning at the aforementioned point "A"; thence South 00°00'03" East, 22.60 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "B"; thence South 88°35'27" East, 18.00 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "C"; thence South 01°24'33" West, 72.00 feet; thence South 88°52'51" East, 24.63 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "D"; thence South 26°19'08" West, 24.28 feet to the terminus of this centerline description.

(Waterline Easement Exhibit "A" cont.)

ALSO, beginning at the aforementioned point "E"; thence North $88^{\circ}48'39''$ West, 14.18 feet; thence North $43^{\circ}48'39''$ West, 22.75 feet; thence North $01^{\circ}11'21''$ East, 30.00 feet to a point hereinafter referred to as point "F"; thence North $01^{\circ}11'21''$ East, 26.00 feet to a point hereinafter referred to as point "G"; thence North $01^{\circ}11'21''$ East, 115.15 feet to a point hereinafter referred to as point "H"; thence North $01^{\circ}11'21''$ East, 8.00 feet; thence North $20^{\circ}18'33''$ West, 125.86 feet to a point hereinafter referred to as point "K"; thence North $20^{\circ}18'33''$ West, 105.85 feet; thence North $88^{\circ}47'43''$ West, 27.40 feet to a point hereinafter referred to as point "L"; thence North $88^{\circ}47'43''$ West, 304.43 feet; thence South $47^{\circ}25'25''$ West, 29.00 feet to a point hereinafter referred to as point "M"; thence South $47^{\circ}25'25''$ West, 12.57 feet; thence South $01^{\circ}19'22''$ West, 409.31 feet to a point hereinafter referred to as point "N"; thence South $01^{\circ}19'22''$ West, 90.50 feet to the aforementioned point "O" and the terminus of this centerline description.

ALSO, beginning at the aforementioned point "F"; thence North $88^{\circ}48'39''$ West, 46.00 feet; thence South $01^{\circ}11'21''$ West, 22.25 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "G"; thence North $88^{\circ}49'39''$ West, 20.00 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "H"; thence North $88^{\circ}48'39''$ West, 32.00 feet to a point hereinafter referred to as point "I"; thence North $88^{\circ}48'39''$ West, 111.82 feet to a point hereinafter referred to as point "J"; thence South $01^{\circ}11'21''$ West, 40.46 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "I"; thence North $01^{\circ}11'21''$ East, 19.41 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "J"; thence North $01^{\circ}11'21''$ East, 34.54 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "K"; thence South $69^{\circ}41'27''$ West, 29.77 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "L"; thence South $01^{\circ}12'17''$ West, 26.68 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "M"; thence South $42^{\circ}34'35''$ East, 18.76 feet to the terminus of this centerline description.

ALSO, beginning at the aforementioned point "N"; thence South $88^{\circ}40'38''$ East, 30.94 feet to the terminus of this centerline description.

The bearings for this description are based on Partition Plat No. 1999-100, Washington County Plat Records.



SCALE: 1" = 100'
DATE: 01-13-06

Exhibit "B"

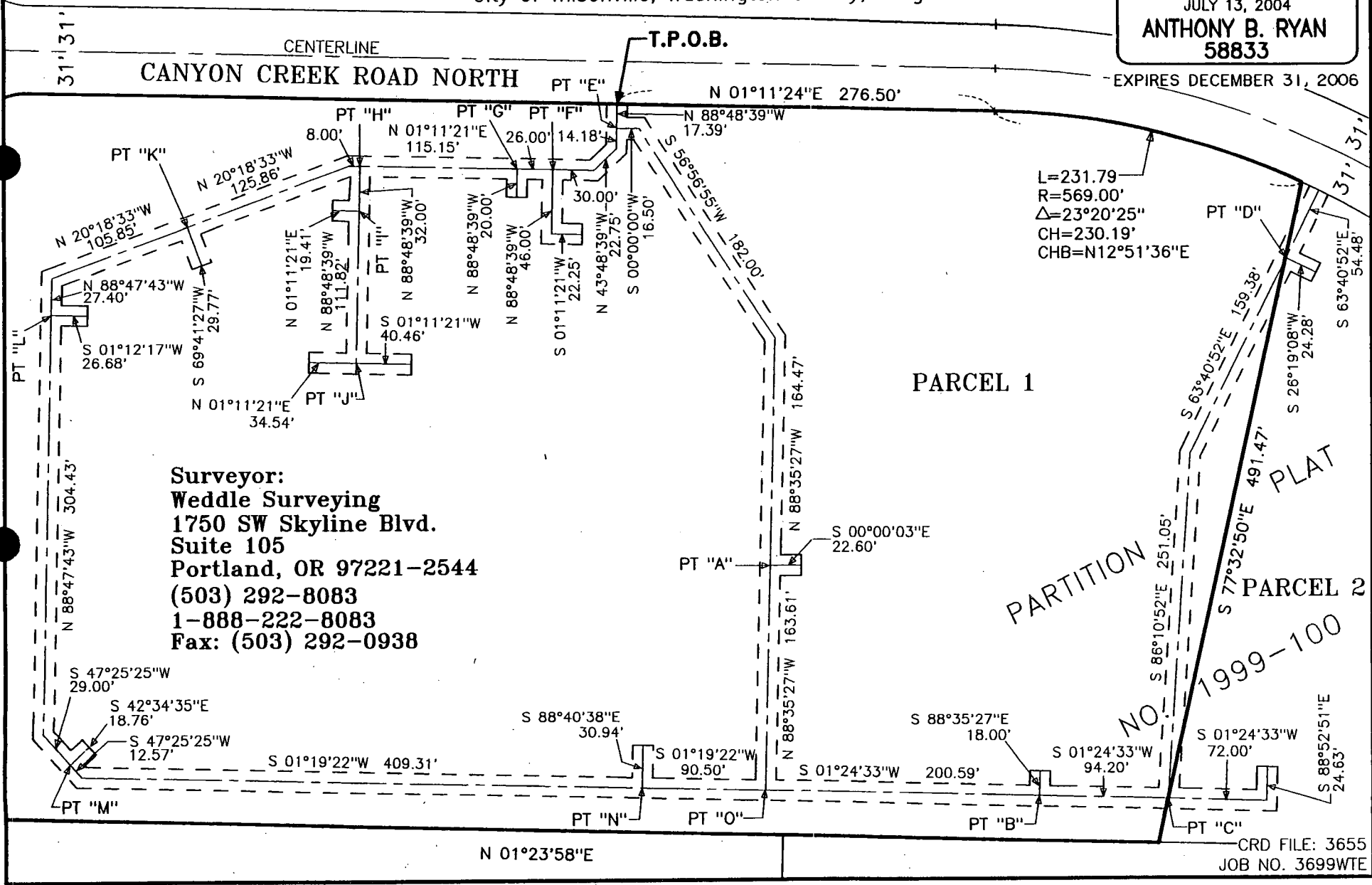
PUBLIC WATERLINE EASEMENT

PARCEL 1 AND 2, PARTITION PLAT NO. 1999-100
SW 1/4 SEC. 1, T.3S., R.1W., W.M.
City of Wilsonville, Washington County, Oregon

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Anthony B. Ryan

OREGON
JULY 13, 2004
ANTHONY B. RYAN
58833



CANYON CREEK ROAD NORTH

T.P.O.B.

EXPIRES DECEMBER 31, 2006

PARCEL 1

PARTITION
PLAT
NO. 1999-100
PARCEL 2

Surveyor:
Weddle Surveying
1750 SW Skyline Blvd.
Suite 105
Portland, OR 97221-2544
(503) 292-8083
1-888-222-8083
Fax: (503) 292-0938

CRD FILE: 3655
JOB NO. 3699WTE



MEMORANDUM

DATE: February 23, 2006

TO: Honorable Mayor and City Council

FROM: Dee M. Staten *DS* Senior Engineering Technician

RE: Reconveyance and Quitclaim of Easement – Canyon Creek Business Center Phase II

The project site known as Canyon Creek Business Center Phase II, owned by John Seibert and Joseph P. Tennant, Co-Trustees of the Michael James Berrey and the Andrew Wayne Berrey Irrevocable Trust, removed and relocated a portion of the existing Public waterline as part of their building project. The owner has installed a new Public water line to serve the just constructed buildings located on the northern portion of this site. As required under the permitting process, the owner shall grant the City of Wilsonville a Pipeline Easement over the relocated Public waterline as well as any new Public water line. In turn, the City of Wilsonville shall Reconvey and Quitclaim the existing Easement over the area where the Public waterline has been removed.

The attached Pipeline Easement, Reconveyance and Quitclaim of Easement documents are a required component of final approval. When executed by the City of Wilsonville and recorded by Washington County, this component will be considered complete.