

RESOLUTION NO. 5863

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

Gary Davenport and Patty Davenport

A public water line easement for new water meters serving new commercial buildings south of Hickory Street.


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

DATED AND EFFECTIVE THIS 28TH DAY OF OCTOBER 2009.



Mayor

ATTEST:



City Clerk

PUBLIC WATER EASEMENT

THIS AGREEMENT, made and entered into this 21st day of October, 2009, by and between Gary Davenport and Patty Davenport, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, an easement and right-of-way, including the right to enter upon the real property hereinafter described, and to place, maintain and repair public water lines for the purpose of conveying public water service 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 water lines and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public sidewalk, storm drain and 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 Exhibit B and C.
2. 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.
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 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. Permanent structures may not be constructed on this easement.

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

GRANTORS:

[Signature]

Gary Davenport

[Signature]

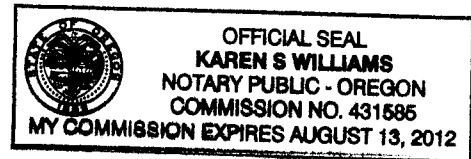
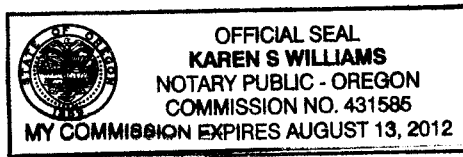
Patty Davenport

[Initials]
STATE OF OREGON)
County of ~~Linn~~ Benton) ss.
City of Albany)

STATE OF OREGON *[Initials]*)
County of ~~Linn~~ Benton) ss.
City of Albany)

The foregoing instrument was acknowledged before me this 21st day of October, 2009, by Gary Davenport as his voluntary act and deed.

The foregoing instrument was acknowledged before me this 21st day of October, 2009, by Patty Davenport as her voluntary act and deed.



[Signature]

Notary Public for Oregon
My Commission Expires: 8-13-2012

[Signature]

Notary Public for Oregon
My Commission Expires: 8-13-2012

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 5863, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 29 day of October 2009.

[Signature]

City Manager

ATTEST:

[Signature]

City Clerk

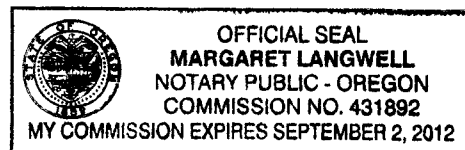


Exhibit A

LEGAL DESCRIPTION FOR WATER EASEMENT

Commencing at the Southwest corner of Parcel 6 of Partition Plat 2008-18, a Partition Plat of record in the A.M. Rainwater DLC No. 39 located in Section 1 of Township 11 South, Range 4 West of the Willamette Meridian, City of Albany, Benton County, Oregon; thence along the south line of said Parcel 6 North $82^{\circ}19'01''$ East 25.11 feet; thence North $13^{\circ}04'39''$ West 198.49 feet to the TRUE POINT OF BEGINNING; thence North $76^{\circ}55'21''$ East 15.07 feet; thence North $13^{\circ}04'39''$ West 35.43 feet; thence South $76^{\circ}55'21''$ West 15.07 feet; thence South $13^{\circ}04'39''$ East 35.43 feet to the true point of beginning.

The basis of bearings for the above described legal description is from Partition Plat 2008-18. The area contained within this description consists of 534 square feet of land, more or less.

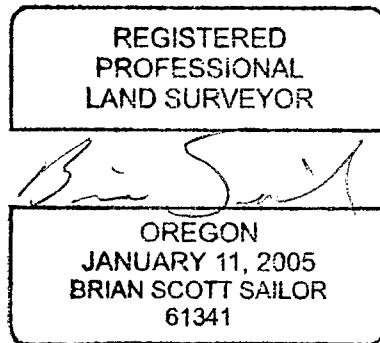


Exhibit B

WATER EASEMENT SKETCH

LOCATED IN THE A.M. RAINWATER DLC No. 39 IN THE EAST 1/2 OF SECTION 1 OF
TOWNSHIP 11 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN,
CITY OF ALBANY, BENTON COUNTY, OREGON

DATE: OCTOBER 20, 2009



SCALE: 1" = 60'

N.W. HICKORY STREET

EXISTING 40' WIDE
PUBLIC UTILITY EASEMENT

25'

PARCEL 6 OF
PARTITION PLAT 2008-18

S76°55'21"W
15.07'

N13°04'39"W
35.43'

S13°04'39"E
35.43'

N76°55'21"E
15.07'

N13°04'39"N
198.49'

BASIS OF BEARINGS

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 11, 2005
BRIAN SCOTT SAILOR
61341

EXPIRES 6/30/10

BRIAN SCOTT SAILOR, PLS
COLE SURVEYING, LLC
6765 S.W. PHILOMATH BLVD.
CORVALLIS, OREGON 97333
(541) 929-5500

POINT OF
COMMENCEMENT

N82°19'01"E
25.11'

BASIS OF BEARINGS

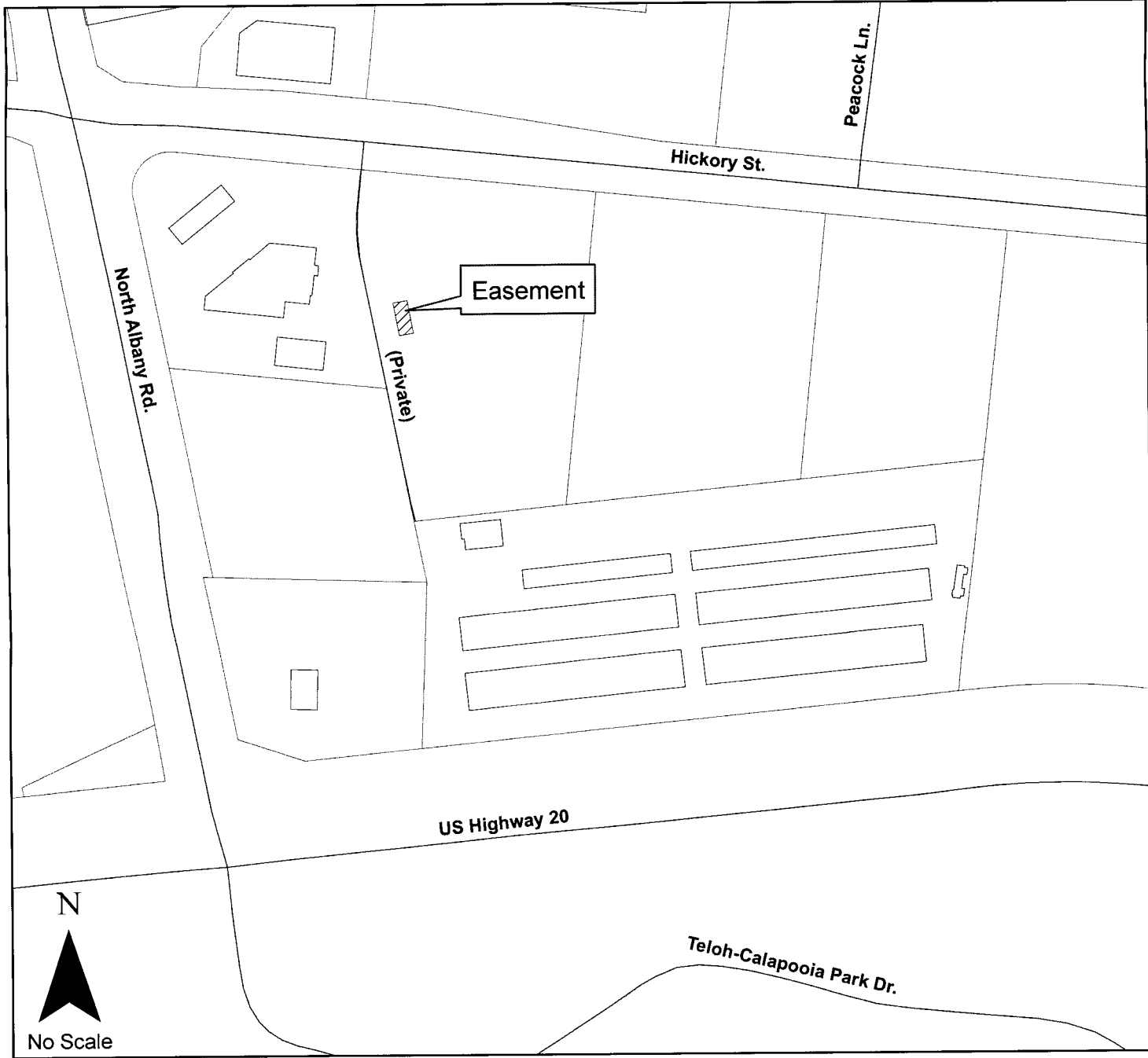
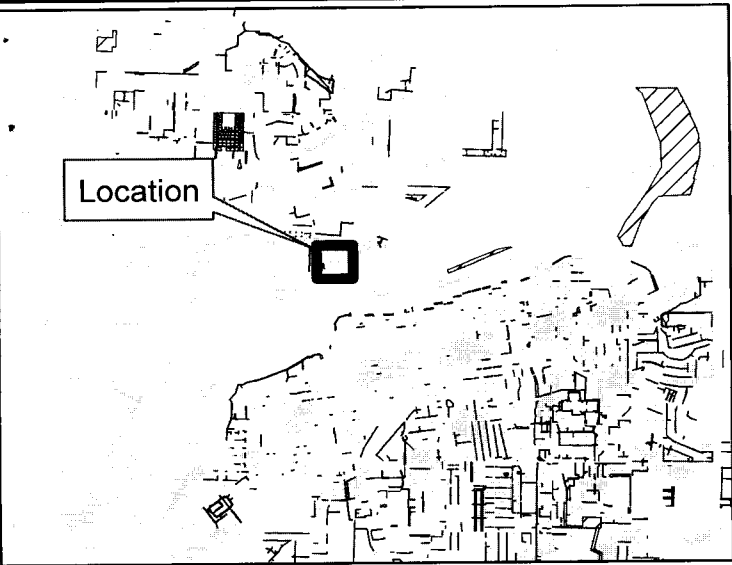
EXHIBIT C

11SO4W01DA00900

A public water line easement for new water meters serving new commercial buildings south of Hickory Street.



Geographic Information Services





00189289200904586900060063

I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



RECORDING COVER SHEET (Please Print or Type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

AFTER RECORDING RETURN TO:

City of Albany Recorder _____

PO Box 490 _____

Albany, OR 97321 _____

All Tax Statements Should Be Sent To:

NA _____

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

PUBLIC WATER EASEMENT

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

Gary and Patty Davenport

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

\$1.00

Resolution No. 5863

Recorded Document Recorder File No. 5417