

RESOLUTION NO. 5825

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

**Gary and Patricia Davenport**

Purpose


A permanent public utility easement along Patrick Lane and Maier Lane as required by a condition of approval for the Fabian Estates development.

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

DATED AND EFFECTIVE THE 12TH DAY OF AUGUST, 2009.

  
\_\_\_\_\_  
Mayor

ATTEST

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

**Grantor:**

Gary and Patricia Davenport  
P.O. Box 3184  
Albany, OR 97321

**After Recording Return To:**

City of Albany Recorder  
P.O. Box 490  
Albany, OR 97321

**EASEMENT FOR PUBLIC UTILITIES**

THIS AGREEMENT, made and entered into this 31<sup>st</sup> day of July, 2009 by and between **Gary and Patricia Davenport**, husband and wife, herein called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

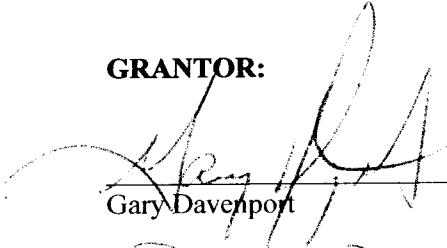
That for and in consideration of the total compensation to be paid by the City, the Grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, to maintain and repair public utilities for the purpose of conveying public utilities services 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 the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. A permanent utility easement 10 feet wide described in the attached legal description labeled Exhibit "A" and shown on the attached map labeled Exhibit "B."
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. No permanent structure shall be constructed by Grantor on this easement.

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

**GRANTOR:**

  
\_\_\_\_\_  
Gary Davenport

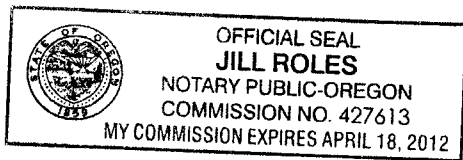
  
\_\_\_\_\_  
Patricia Davenport

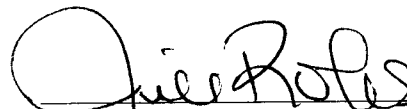
~~CITY OF ALBANY, OREGON~~

~~\_\_\_\_\_  
Wes Hare, City Manager~~

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

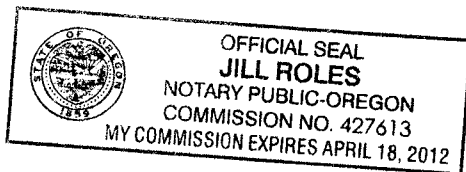
The instrument was acknowledged before me this 31<sup>st</sup> day of July, 2009, by Gary Davenport.




  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 4-18-2012

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

The instrument was acknowledged before me this 31<sup>st</sup> day of July, 2009, by Patricia Davenport.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 4-18-2012

**(NOTARY BLOCK CONTINUED ON NEXT PAGE)**

**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 No. 5825 do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 14 day of August, 2009.

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

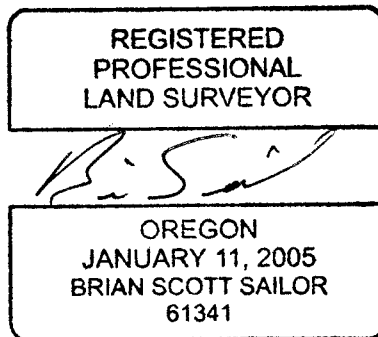
ATTEST:

Debbie Langmuir  
\_\_\_\_\_  
City Recorder

LEGAL DESCRIPTION FOR 10 FOOT WIDE UTILITY EASEMENT

Commencing at a 3/4 inch iron rod at the Northeast corner of that property conveyed to Gary and Patricia A. Davenport in Benton County Deed Record Microfilm 2009-448051 and being located in Section 36 of Township 10 South, Range 4 West of the Willamette Meridian, City of Albany, Benton County, Oregon; thence along the East line of said Davenport property South 00°15'42" East 255.80 feet to a 3/4 inch iron rod at an angle point in said East line; thence South 00°07'30" East 7.23 feet to a 5/8 inch iron rod at the Southeast corner of said Davenport property, also being on the North right-of-way line of NW Maier Lane (a 50 foot right-of-way); thence along the South line of said Davenport property South 61°03'13" West 359.53 feet to a 5/8 inch iron rod at the Southwest corner of said Davenport property; thence along the most Westerly line of said Davenport property North 00°08'02" West 4.57 feet to the TRUE POINT OF BEGINNING; thence continuing along said Westerly line North 00°08'02" West 11.41 feet; thence North 61°03'13" East 268.54 feet; thence along a 90.00 foot radius curve to the left 96.31 feet (the long chord of which bears North 30°23'46" East 91.78 feet); thence North 00°15'42" West 182.97 feet; thence South 45°05'04" East 14.19 feet; thence South 00°15'42" East 172.91 feet; thence along a 100.00 foot radius curve to the right 107.02 feet (the long chord of which bears South 30°23'46" West 101.98 feet); thence South 61°03'13" West 274.04 feet to the point of beginning.

The basis of bearings for the above described legal description is Benton County Survey No. 10356.



# 10' WIDE UTILITY EASEMENT EXHIBIT

LOCATED IN THE SW 1/4 OF SECTION 36,  
TOWNSHIP 10 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN,  
CITY OF ALBANY, BENTON COUNTY, OREGON

DATE: JULY 29, 2009

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

B. S.

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

PATRICK LANE



SCALE: 1" = 60'

GARY AND PATRICIA A. DAVENPORT  
MICROFILM 2009-448051  
BENTON COUNTY TAX MAP 10-4-36CC  
TAX LOT 3311

S45°05'04"E  
14.19'

N00°15'42"W 182.97'  
S00°15'42"E 172.91'

S00°15'42"E 255.80'  
BASIS OF BEARINGS

RAD=100.00'  
LENGTH=107.02'  
CHORD=101.98'  
CHORD BEARING=S30°23'46"W

RAD=90.00'  
LENGTH=96.31'  
CHORD=91.78'  
CHORD BEARING=N30°23'46"E

S00°07'30"E  
7.23'

N00°08'02"W  
11.41'  
POINT OF  
BEGINNING

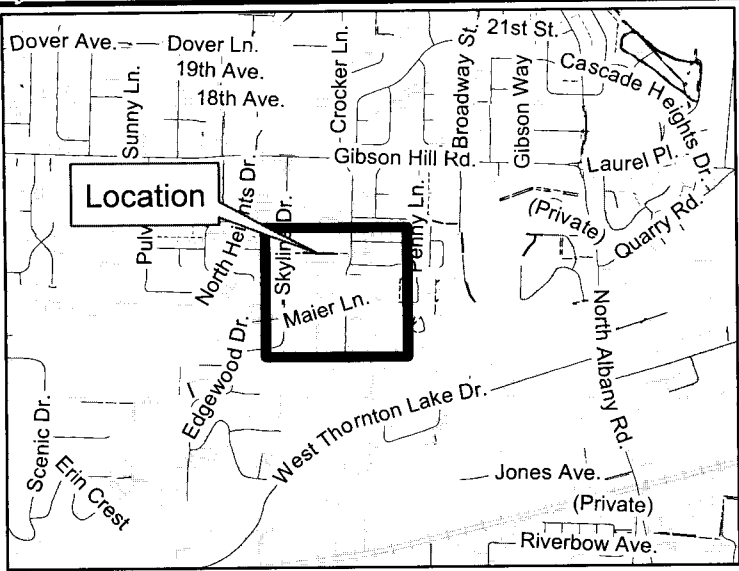
N00°08'02"W  
4.57'

N61°03'13"E 268.54'  
S61°03'13"W 274.04'

S61°03'13"W 359.53'  
MAIER LANE  
50' EXISTING RIGHT OF WAY

9863PUE1

Exhibit B Page 1 of 1



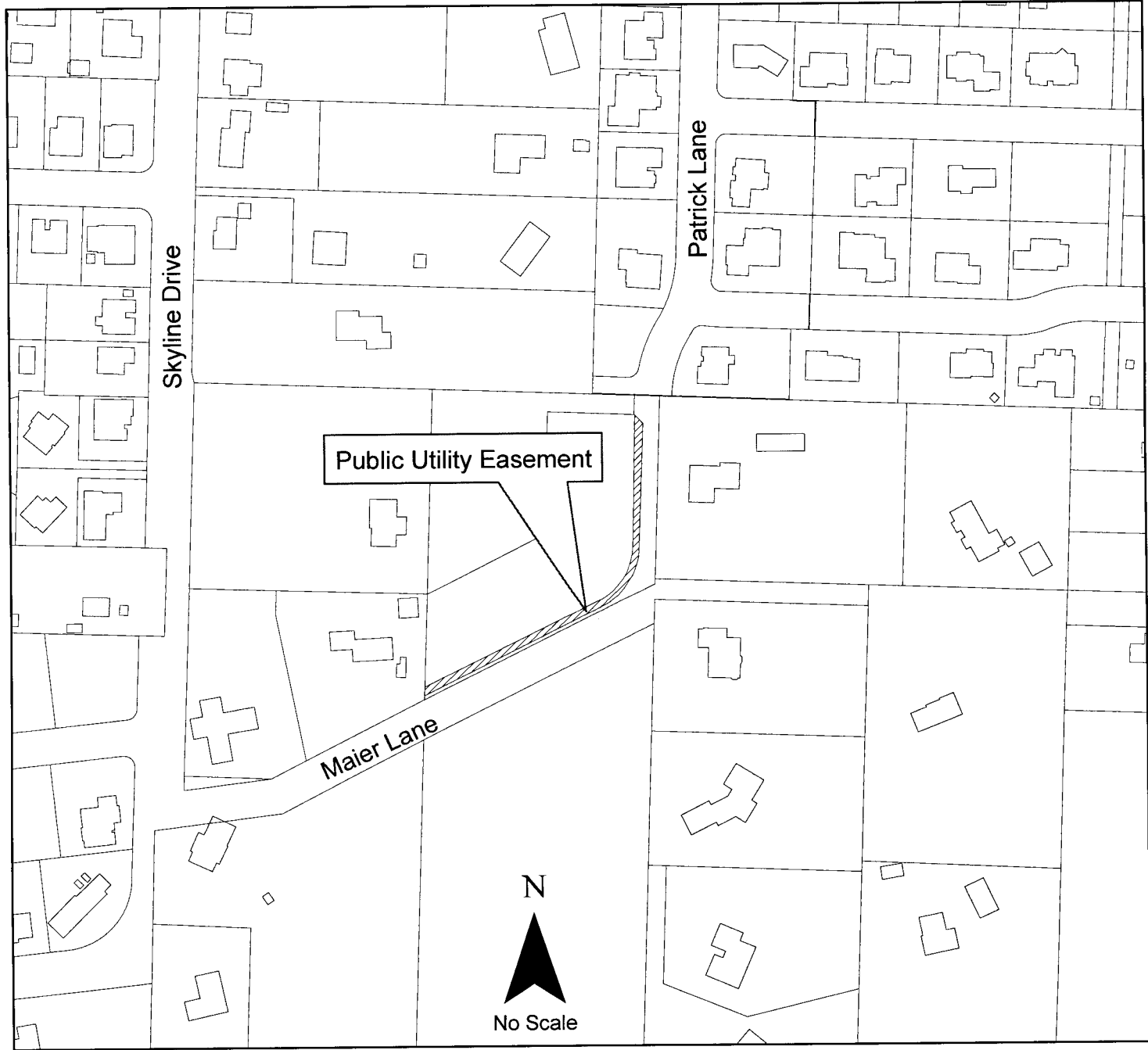
# EXHIBIT C

10SO4W36CC03311

A permanent public utility easement along Patrick Lane and Maier Lane as required by a condition of approval for Fabian Estates development.



Geographic Information Services



**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.

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**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)

EASEMENT FOR PUBLIC UTILITIES

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

Gary and Patricia 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 \_\_\_\_\_

BENTON COUNTY, OREGON **2009-455787**  
DE-EAS **08/19/2009 01:51:56 PM**  
Cnt=1 Str=9 KH  
\$35.00 \$11.00 \$10.00 \$15.00 **\$71.00**



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





Resolution No. 5825

Recorded Document Recorder File No. 5368