

RESOLUTION NO. 5199

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

Barbara R. Lowder and Carl L. Smith

Sewer Lateral Replacement Program

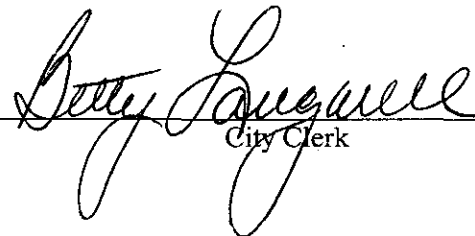
NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the Council and approval by the Mayor.

DATED AND EFFECTIVE THIS 12TH DAY OF OCTOBER 2005.

  
\_\_\_\_\_  
Mayor

ATTEST:

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

## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 21 day of JUNE, 2005 by and between **Barbara R. Lowder and Carl L. Smith**, herein called Grantors, and the **CITY OF ALBANY**, a Municipal Corporation, herein called "City."

## WITNESSETH:

That the Grantor has this day granted unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and 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. The right-of-way hereby granted consists of:
  - A 12.0-foot wide permanent public utility easement as shown on attached EXHIBIT B and described in attached EXHIBIT A.
2. In order that the work may be done in a timely and complete manner, we hereby agree to grant and allow a temporary right of entry for construction access to the City, its representatives and to the Contractor, for access to, upon and over our property for planning and construction of a sanitary sewer, service connection, and such appurtenances as are required to make the project complete. It is understood and agreed that this access agreement shall terminate on the date that such work has been satisfactorily completed and accepted by the City of Albany.
3. 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.
4. The City agrees to replace the sanitary sewer service lateral one time only. The purpose of the replacement is to reduce infiltration to the public sanitary sewer system and protect the public health.
5. 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.
6. Upon performing any maintenance, the City shall return the site to original or better condition.
7. The Grantors and the City acknowledge that if a structure exists on the public utilities easement described herein either additional permanent structures or additions to the existing structure may not be constructed on the public utilities easement. If the existing structure is removed from the public utility easement, no permanent structure may be reconstructed in its place.

Please return to:  
 City of Albany  
 City Treasurer  
 P.O. Box 490  
 Albany, OR 97321

8. Should the City determine that maintenance, repair, or reconstruction of the utilities located under the structure requires the removal or alteration of said structure, the City may undertake such removal or alteration as may be needed. In such event, however, the City shall, upon completion of said maintenance, repair, or reconstruction, restore the structure at City expense to its original or better condition.

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

GRANTORS:

Barbara R. Lowder  
Barbara R. Lowder

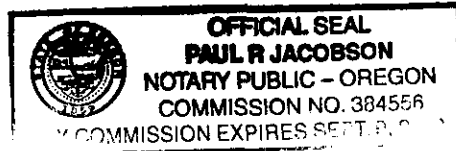
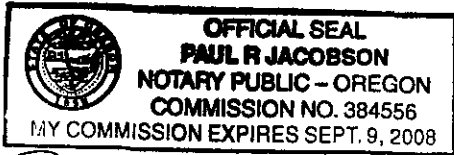
Carl L. Smith  
Carl L. Smith

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 21<sup>st</sup> day of June, 2005, by Barbara R. Lowder as her voluntary act and deed.

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of June, 2005, by Carl L. Smith as his voluntary act and deed.



Paul R. Jacobson  
Notary Public for Oregon  
My Commission Expires: 9/9/08

Paul R. Jacobson  
Notary Public for Oregon  
My Commission Expires: 9/9/08

CITY OF ALBANY:

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

I, ~~Steve Bryant~~ WES HARE as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 5199, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 12 day of October 2005.

Wes Hare  
City Manager

ATTEST:  
Betty Langwell  
City Recorder

## EXHIBIT A

### PERMANENT UTILITY EASEMENT

A permanent public utility easement across that property conveyed to **Barbara R. Lowder and Carl L. Smith**, described in Volume 1667, Page 914, Linn County Microfilm Deed Records, said easement being more particularly described as follows and as shown on the attached map labeled "EXHIBIT B".

The Northern 12 feet of Lot 19, Block 1, Liberty Addition to the City of Albany, Section 13, T. 11S, R. 4W, Willamette Meridian, Linn County, Oregon, recorded August 6, 1956.

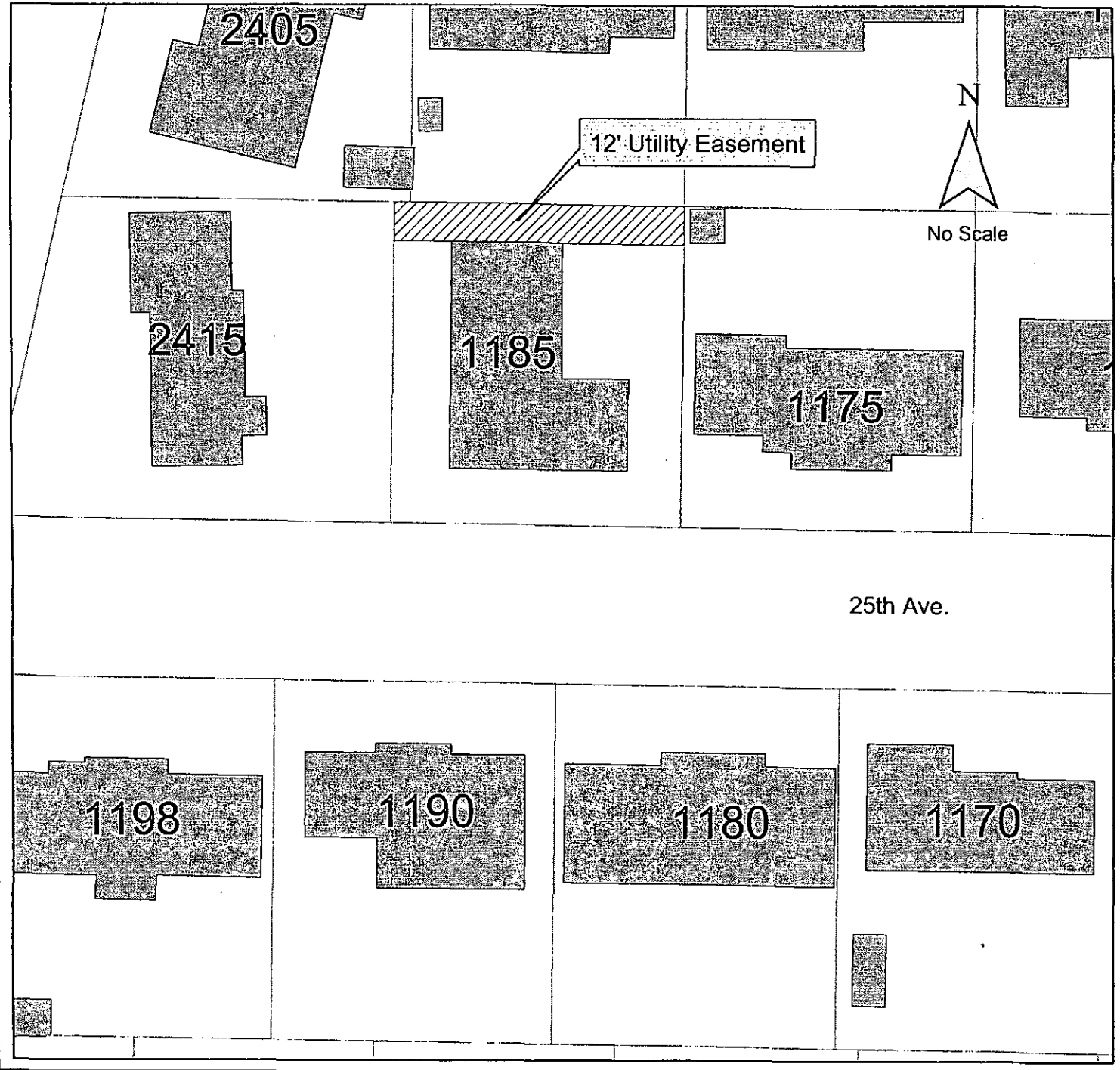
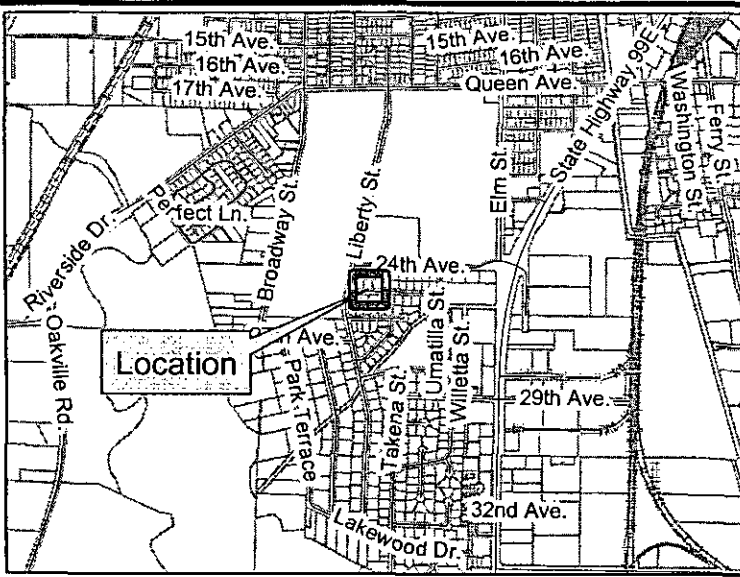
# EXHIBIT B

1185 25th Ave. SW  
11S04W13AB02200  
Barbara R. Lowder  
Carl L. Smith

Easement for sewer

## Sewer Lateral Replacement Program

Geographic Information Services



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 SW, Deputy

M  
R 20  
S 10  
A 11  
O

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Resolution No. 5199

Recorded Document Recorder File 4681