

RESOLUTION NO. 5742

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor:

David Shumaker & Kristine Shumaker

Purpose

A 10-foot wide easement along eastern property line over an existing sewer main as part of the sewer lateral replacement program.

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

DATED AND EFFECTIVE THIS 11th DAY OF FEBRUARY 2009.



Mayor

ATTEST:



City Clerk

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 18 day of November 2008, by and between David Shumaker & Kristine Shumaker, hereinafter called Grantor, 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 easement hereby granted consists of:

A 10-foot wide easement lying west of the following described line:

Beginning at a half-inch rod in the southeast corner of Lot 4, Block 29, of the Rodgersdale Addition to the City of Albany, and conveyed to David Shumaker & Kristine Shumaker as described in Volume 95, Page 116 & 117, Linn County Microfilm Deed Records, Linn County, Oregon; thence northerly 88-feet more or less along the eastern property line of the said property to a half-inch rod at the northeast corner of the herein described property, as shown on the 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 Grantor 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.

- 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 their hand and seal the day and year written below.

GRANTORS:

David Shumaker
David Shumaker

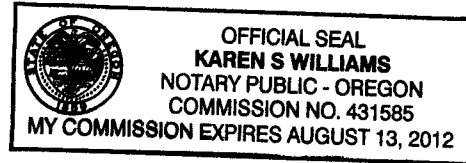
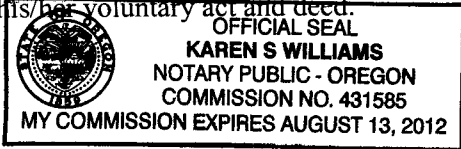
Kristine Shumaker
Kristine Shumaker

STATE OF OREGON
County of Linn

STATE OF OREGON
County of Linn

The foregoing instrument was acknowledged before me this 18th day of Nov., 2008, by David Shumaker as his/her voluntary act and deed.

The foregoing instrument was acknowledged before me this 18th day of Nov. 2008, by Kristine Shumaker as his/her voluntary act and deed.



Karen S. Williams
Notary Public for Oregon

Karen S. Williams
Notary Public for Oregon

CITY OF ALBANY:

STATE OF OREGON
County of Linn

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 5742, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 13th day of February 2008.

Wes Hare
City Manager

ATTEST:

Debbie Langhelle
City Clerk



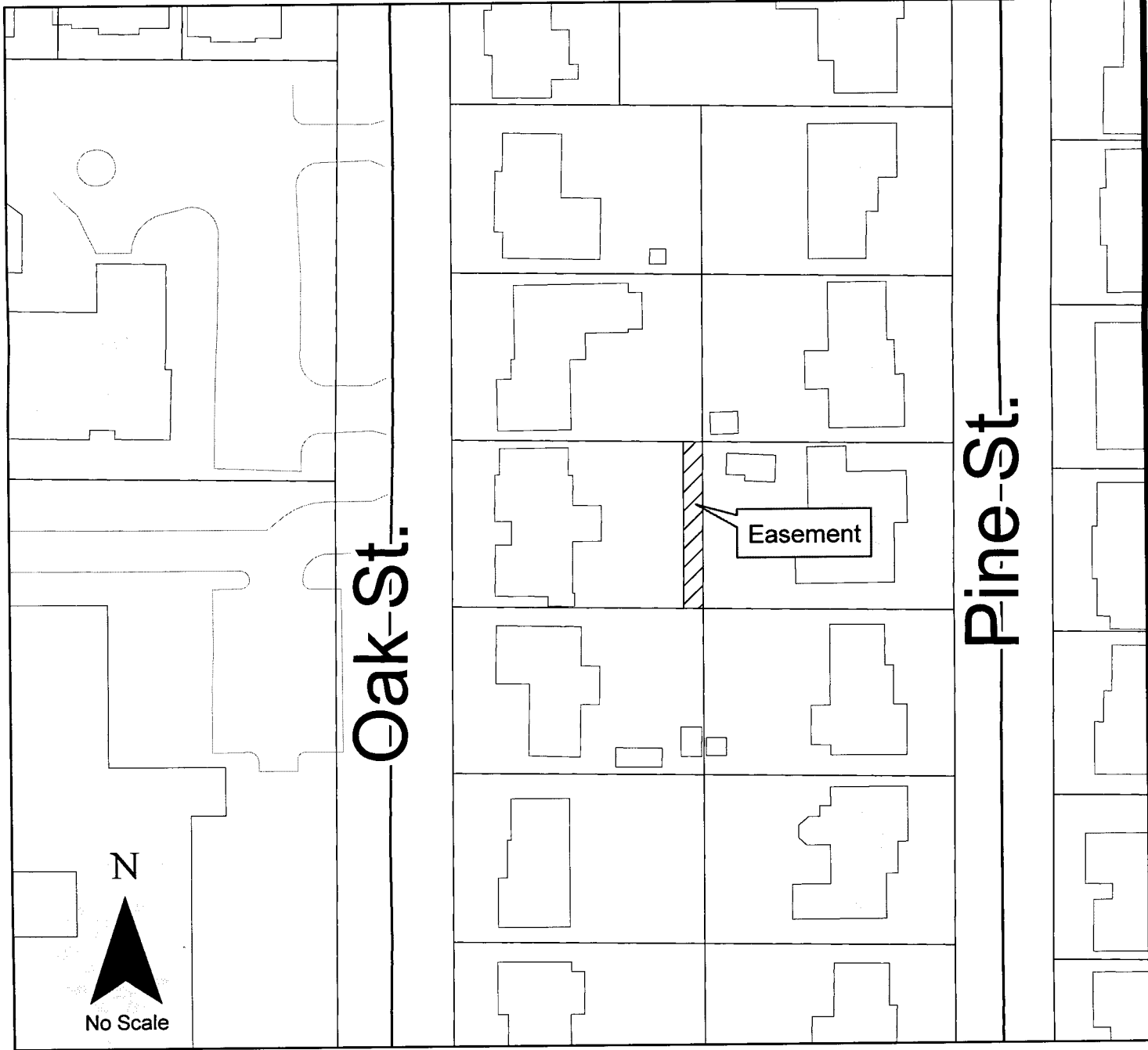
EXHIBIT A

11SO3W17CC03107

A 10-foot wide easement along northern property line over an existing sewer main as part of the sewer lateral replacement program.



Geographic Information Services



LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON **2009-03393**
E-UT
Cnt=1 Stn=1 COUNTER **02/25/2009 02:58:33 PM**
\$20.00 \$11.00 \$10.00 **\$41.00**



00103450200900033930040045

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



Steve Druckenmiller - County Clerk

After Recording Return To:

City of Albany City Clerk

PO Box 490

Albany, OR 97321

All Tax Statements Should Be Sent To:

Exempt _____

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

David Shumaker & Kristine Shumaker

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

\$0.00 _____

Resolution No. 5742

Recorded Document Recorder File No. 5294