

RESOLUTION NO. 5555

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

James D. Gutierrez II

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; and

DATED AND EFFECTIVE THIS 13TH DAY OF FEBRUARY 2008.



Mayor

ATTEST:



City Clerk

LINN COUNTY

Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON **2008-03976**
E-UT
Cnt=1 Stn=1 COUNTER **02/28/2008 03:08:12 PM**
\$20.00 \$11.00 \$10.00 **\$41.00**



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:

City of Albany - 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

James D. Gutierrez II

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 _____

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 10th day of December 2007, by and between **James D. Gutierrez II**, 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 one inch shaft, as described in Linn County Survey No. 11633, said point being the southeast corner of Lot 2, Block 3, of the Bacon's Addition to the City of Albany, and conveyed to **James D. Gutierrez II** as described in DN2007-26171, Linn County Deed Records, Linn County, Oregon; thence Northerly 50-feet more or less along the eastern property line of the said property to a half inch iron rod, said point being 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.

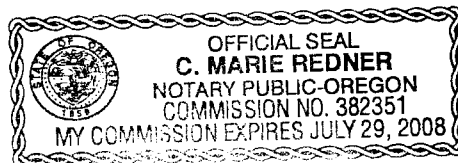
GRANTORS:

James D. Gutierrez II
James D. Gutierrez II

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

The foregoing instrument was acknowledged before me this 10th day of December, 2007, by **James D. Gutierrez II** as his/her voluntary act and deed.

C. Marie Redner
Notary Public for Oregon
My Commission Expires: July 29, 2008



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 5555, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 18 day of February 2007.

Wes Hare
City Manager

ATTEST:

Betty Longwell
City Clerk

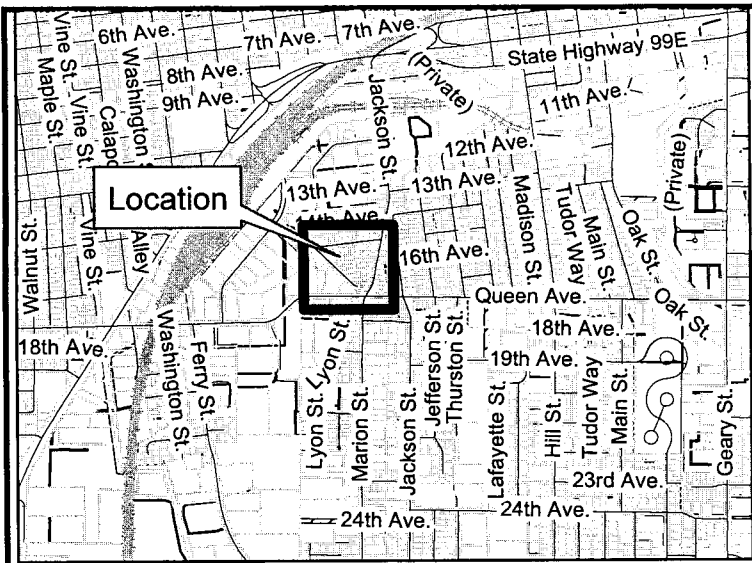


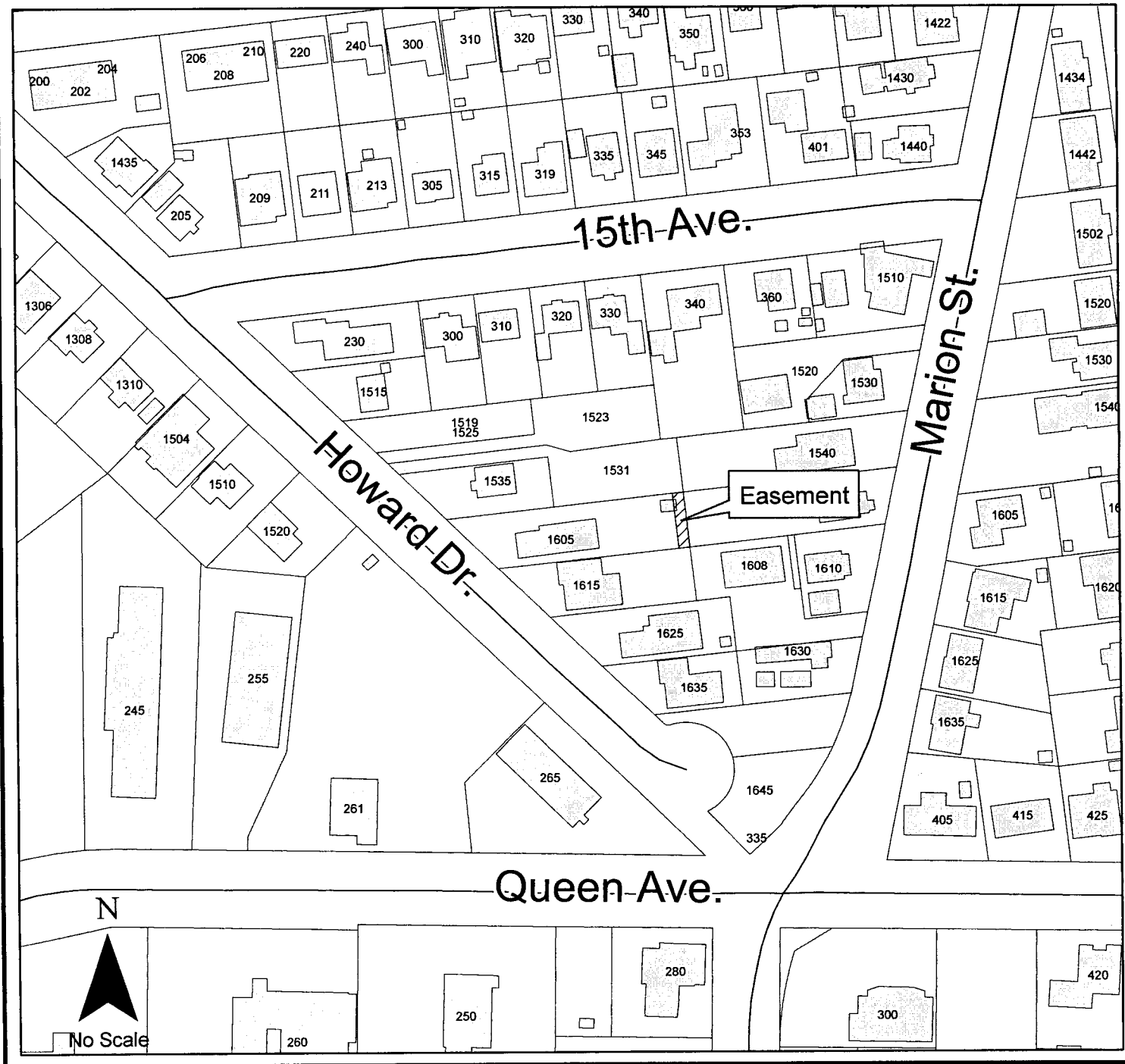
EXHIBIT A

11SO3W07CA06703

A 10-foot wide easement over existing sewer main as part of the sewer lateral replacement program.



Geographic Information Services



Resolution No. 5555

Recorded Document Recorder File No. 5038