

RESOLUTION NO. 4786

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

James K. Barton and Karen Madsen-Barton

A 10.0-foot wide permanent public utility easement as shown on attached EXHIBIT B and described in attached EXHIBIT A.

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

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 22 DAY OF JANUARY 2003.



Mayor

ATTEST:



City Recorder

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 23 day of December 2002, by James K. Barton and Karen Madsen-Barton, herein 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 right-of-way hereby granted consists of:
 A 10.0-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. After construction for replacement of the sewer service lateral, the City shall return the site to original or better condition
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 on the public sewer main, the City shall return the site to original or better condition.

Return to: City of Albany - Recorder
P.O. Box 400, Albany, OR 97321

- 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 his hand and seal the day and year above written.

GRANTOR:

James K. Barton
James K. Barton

GRANTOR:

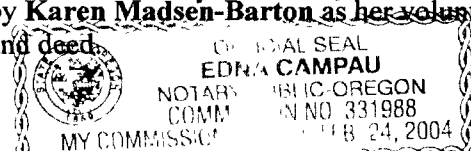
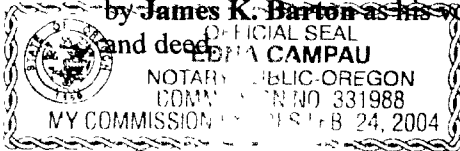
Karen Madsen-Barton
Karen Madsen-Barton

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 23rd day of December, 2002, by James K. Barton as his voluntary act and deed.

The foregoing instrument was acknowledged before me this 23 day of December, 2002, by Karen Madsen-Barton as her voluntary act and deed.



Edna Campau
Notary Public for Oregon
My Commission Expires Feb. 24, 2004

Edna Campau
Notary Public for Oregon
My Commission Expires Feb. 24, 2004

CITY OF ALBANY:

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

I, Steve Bryant as City Manager of the City of Albany, Oregon, pursuant to Resolution Number 4786, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this 22 day of January, 2003.

Steve Bryant
City Manager

ATTEST:

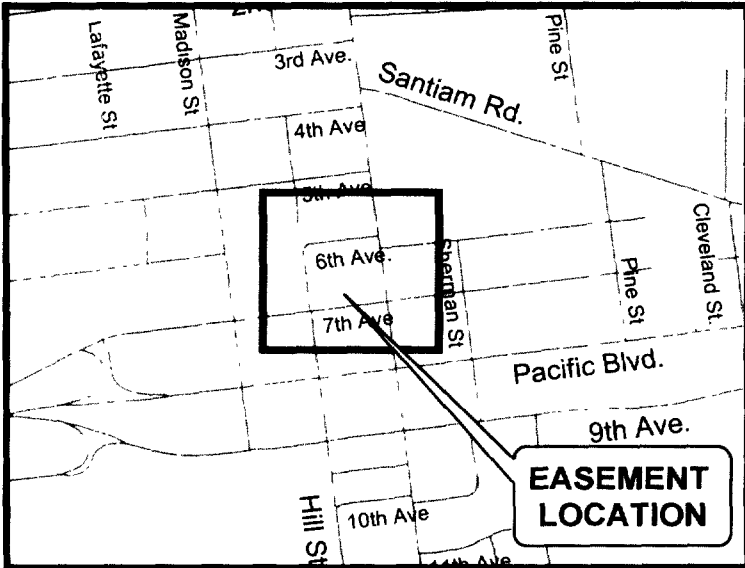
Ken Thompson
City Recorder

EXHIBIT A

PERMANENT UTILITY EASEMENT

A permanent public utility easement across that property conveyed to James K. Barton and Karen Madsen-Barton, described in Volume 834, Page 627, and Volume 834, Page 629, 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 10 feet of Lot #7 of Block 52, Hacklemans Second Addition to the City of Albany, Section 07, T. 11S, R. 3W, Willamette Meridian, Linn County, Oregon, recorded June 29, 1882.

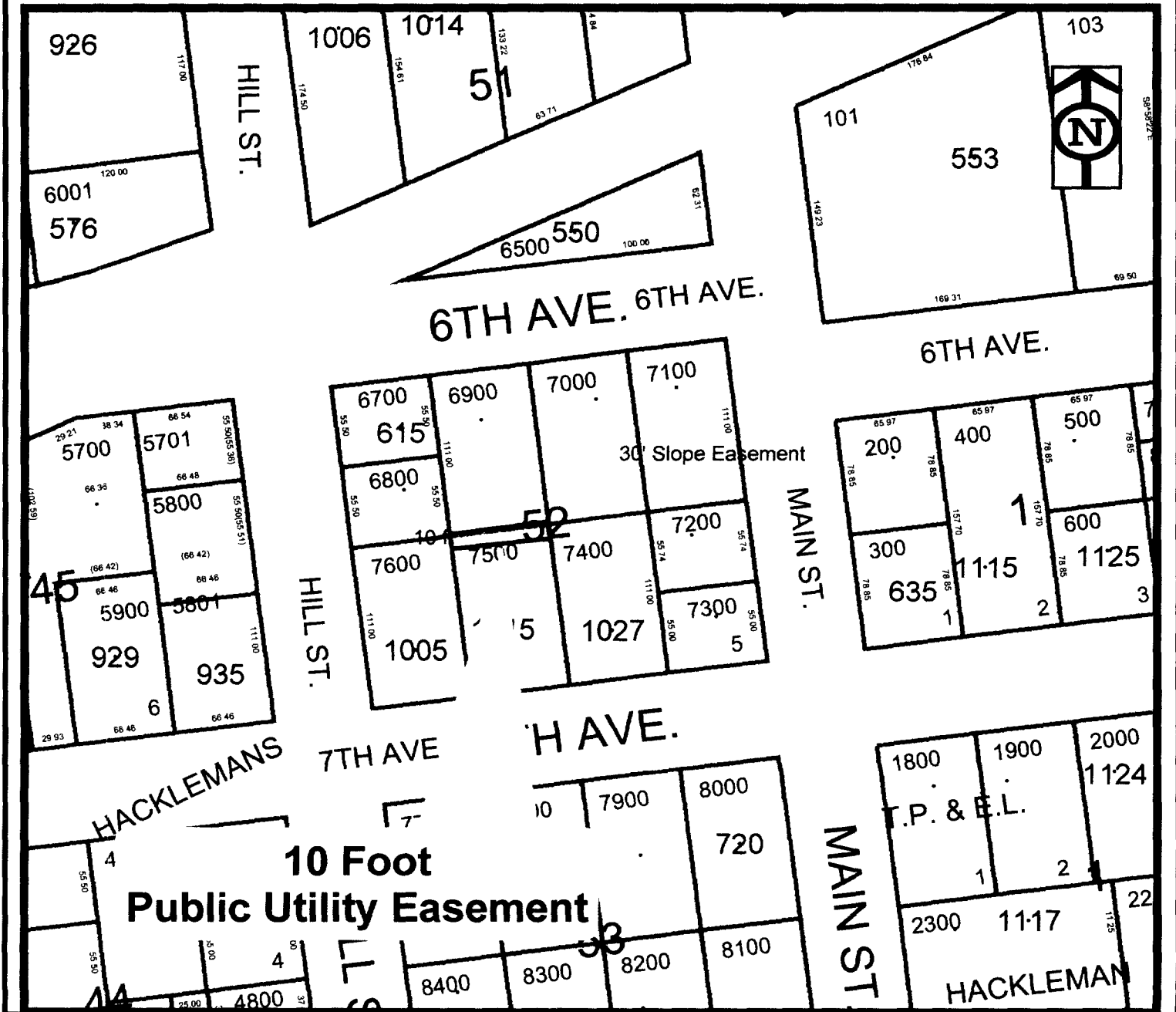


James K. Barton
 Karen Madsen Barton

11S03W07AA07500
 Hacklemans Second Addition
 1015 7th Ave SE
 City of Albany, Linn Co., OR

10' Public Utility Easement
 Sewer Lateral Replacment
 Project Manager John Downing

1 inch equals 100 feet



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 1379
Linn County Clerk MF

By SW, Deputy PAGE 97

M
R 20
S 10
A 11
O

2003 JAN 27 P 1:54

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Resolution No. 4786

Recorded Document Recorder File No. 4192